



## Setting the Tone – Policies to Prevent Money Laundering

A key compliance requirement for law practices is the development and implementation of internal policies, procedures and controls for the prevention of money laundering and the financing of terrorism.

These policies, procedures and controls should cover the following aspects:

1. Client due diligence measures
2. Record keeping
3. Suspicious transaction reporting
4. Training
5. Screening procedures for new employees

It is important that you familiarise yourself with Part VA of the Legal Profession Act on the “Prevention of Money Laundering and Financing of Terrorism” (“LPA”), the Legal Profession (Prevention of Money Laundering and Financing of Terrorism) Rules 2015 (“Rules”), and Council’s Prevention of Money Laundering and Financing of Terrorism Practice Direction (Paragraph 1 of 2015) (“PD”).

Developing appropriate policies, procedures and controls sets the tone for the manner in which your law practice ensures compliance with the regulatory framework.

Implementing these policies, procedures and controls will enable practitioners and staff in your law practice to apply the systems consistently; and if an inspection is carried out by the Council of the Law Society of Singapore, your law practice can demonstrate that procedures and controls to facilitate compliance are in place.

This article sets out an overview of the steps you could take in developing these policies, procedures and controls.

### 1. Assess your Law Practice’s Risk Profile

- a. Take into account your law practice’s size, type of clients, countries your clients are from, and your practice areas
- b. Consider all the relevant risk factors before determining the level of overall risk
- c. Document the risk assessment. You could grade the level of overall risk as low, medium, or high

There should be a regular review of the level of overall risk. If there is a change in the size of your law practice, the type of clients, the countries your clients are from, or your practice areas, you may have to adjust the level of the overall risk. This review process should be documented.

This risk assessment at a macro level is important because it informs the formulation of the policies, procedures and controls of your law practice.

## 2. Formulate Policies, Procedures and Controls

Policies, procedures and controls should be developed and implemented in a risk-based and proportionate manner, taking into account the risks that have been identified and the size of your law practice.

### a. Policies

The following is a useful explanation of what “policies” mean:

A policy is a statement of the goals of an organization, and includes the general methods that will be used to meet firm goals. Policies often are broadly worded position statements that casual observers may dismiss as platitudes. However, policies serve the important purpose of focusing the work to be done on procedures and controls. Ideally, once policies for an organization are developed, each proposed action can be examined in light of all policies.<sup>1</sup>

Policies need not be long or complicated.

The following are some examples of policies you could consider adopting or modifying to suit your law practice:

1. The law practice is committed to ensuring compliance with the prevention of money laundering

and financing of terrorism requirements in the LPA, Rules and PD.

2. The law practice is committed to ensuring that its practitioners and staff comply with the client due diligence measures in the LPA, Rules and PD.
3. The law practice is committed to ensuring compliance with the suspicious transaction reporting requirements in the LPA, Rules and PD.
4. The law practice is committed to ensuring that its practitioners and staff are made aware of the prevention of money laundering and financing of terrorism requirements; and the law practice's internal policies, procedures and controls.
5. The law practice will adopt screening procedures for new employees.
6. The law practice will maintain documents and records in accordance with the requirements in the LPA, Rules and PD.
7. The law practice will carry out regular review, assessment and updates of its policies, procedures and controls to ensure that they are adequate and they manage the money laundering and financing of terrorism risks effectively.

### b. Procedures

Procedures should be formulated in a manner that ensures that the policies are met. Generally, procedures will describe how each policy will be put into action.

Procedures could be in the form of instructions, forms, checklists, or flowcharts.

You could identify:

1. Who will do what
2. What steps they need to take
3. Which forms, checklists, or documents to use

There must be a regular review, assessment and updates of the procedures.

In developing procedures, the aspects that could be considered include the following:

1. *Procedures for client due diligence measures:*

- a. when client due diligence is to be undertaken and the circumstances in which delayed client due diligence is allowed
- b. the information to be recorded regarding the business relationship
- c. the information to be recorded on client identity
- d. the information to be obtained to verify identity of the client
- e. the information to be recorded on beneficial owners
- f. the information to be obtained to verify identity of beneficial owners
- g. the client due diligence measures for existing clients
- h. what steps need to be taken to ascertain whether your client is a politically-exposed person
- i. when basic client due diligence may be conducted
- j. when enhanced client due diligence must be conducted
- k. when ongoing monitoring is required
- l. whether there are situations where specific client due diligence is not required

- m. whether you can rely on client due diligence performed by a third party

You could consider adopting or modifying the Law Society's sample client due diligence checklist which can be found on the Law Society's website at <[http://www.lawsociety.org.sg/Portals/0/ForLawyers/AntiMoneyLaunderingCounterTerrorismFinancing/PDF/Sample\\_Client\\_Due\\_Diligence\\_Checklist.pdf](http://www.lawsociety.org.sg/Portals/0/ForLawyers/AntiMoneyLaunderingCounterTerrorismFinancing/PDF/Sample_Client_Due_Diligence_Checklist.pdf)>

2. *Procedures for record keeping:*

- a. the types of records and documents that must be maintained
- b. documents or records must be maintained for at least 5 years after completion of a matter
- c. client due diligence documents or records must be maintained for at least 5 years after termination of a business relationship
- d. the manner or form in which the documents and records will be maintained:
  - i. by way of original documents;
  - ii. by way of photocopies of original documents; or
  - iii. in computerised or electronic form including a scanned form

3. *Procedures for suspicious transaction reporting:*

- a. the circumstances in which to file a suspicious transaction report with a Suspicious Transaction Reporting Officer, a police officer or a Commercial Affairs Officer
- b. how and when a suspicious transaction report is filed
- c. how to manage a client when a suspicious transaction report has been filed
- d. the need to be alert to tipping off
- e. the basis for the determination whether to file a suspicious transaction report should be recorded
- f. records of suspicions and reporting should be maintained

#### 4. *Procedures for training:*

- a. training should cover
  - i. the laws and regulations relating to the prevention of money laundering and financing of terrorism; and
  - ii. the law practice's internal policies, procedures and controls
- b. which staff require training
- c. what form the training will take
- d. how often training should take place
- e. where possible, records of attendance, participation, or completion of training should be maintained

Training can take many forms and may include:

1. attendance at conferences, seminars, or training courses organised by the Law Society or other organisations
2. completion of online training sessions
3. law practice or practice group meetings for discussion on prevention of money laundering and financing of terrorism issues and risk factors
4. review of publications on current prevention of money laundering and financing of terrorism issues

#### 5. *Procedures for screening new employees:*

You could utilise an employment application form for the purposes of screening. The screening of new employees can be done by including relevant questions in your law practice's employment application form, for example, whether the person has been convicted of any offence of dishonesty or fraud, whether the person has been sentenced to a term of imprisonment, and whether the person is an undischarged bankrupt.

#### c. **Controls**

Controls are to monitor compliance, to ensure that the procedures are complied with and to mitigate the risks.

The type and extent of mitigation to be applied will depend on the risk factors based on the risk assessment of your law practice.

In developing controls, the aspects that could be considered include the following:

1. the level of practitioners permitted to exercise discretion on the risk-based implementation of the policies and procedures
2. the methods to monitor compliance, which may involve random file audits, and checklists to be completed before opening or closing a file
3. a review process of the policies, procedures and controls by an independent party – this process should be documented

The Rules and PD stipulate that there must be a confirmation of the implementation, and review, by an independent party of the internal policies, procedures and controls. The PD explains that this confirmation and review process by an independent party may be satisfied through (but not limited to):

1. the appointment of an external auditor to carry out the confirmation and review; or
2. the appointment of a practitioner within your law practice to carry out the confirmation and review

### 3. **Implement the Policies, Procedures and Controls**

The policies, procedures and controls should be implemented in a risk-based and proportionate manner, taking into account the risks that have been identified and the size of your law practice.

Bear in mind that there must be a regular review, assessment and updates of these policies, procedures and controls to ensure that they are adequate and they manage the money laundering and financing of terrorism risks of your law practice effectively.

### **Knowledge Management Department** The Law Society of Singapore

#### Notes

- 1 Susan Saab Fortney & Jett Hanna, Fortifying a Law Firm's Ethical Infrastructure: Avoiding Legal Malpractice Claims Based on Conflicts of Interest, Texas A&M University School of Law, Texas A&M Law Scholarship.