



# Anti-Money Laundering **Annual Report 2020/21**

## Chair's Foreword

### Jonathan Rees, CILEx Regulation Chair

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The last year has seen fresh challenges for us all especially with the move to remote working both for us as an AML supervisor as well as for our supervised population. Notwithstanding this we have continued to make good progress in the development of our supervisory offering, as well as ensuring that our firms and individuals have a clear understanding of their expectations under the regulations.

We have been committed to working with the other supervisors, as well as HM Treasury and OPBAS, and law enforcement to ensure that we effectively counter the risks that are posed to this sector. We believe that this report demonstrates the collaboration that takes place and how CILEx Regulation plays an effective part.



The Board will continue to oversee the important work that is carried out.

## Background

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CILEX became an approved anti-money laundering (AML) supervisory authority on 6 February 2015 and is listed as a Professional Body in Schedule 1 of The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017. In line with other regulatory functions, under the Byelaws, CILEX delegates to CILEx Regulation the AML supervisory activities and functions, including risk assessment, monitoring and enforcement.

The 5th Money Laundering Directive required all self-regulatory bodies to publish an annual report containing information on their supervisory activity and CILEx Regulation published its first annual report in 2019.

In line with the change to the reporting requirement from HM Treasury and the Office for Professional Body AML Supervision (OPBAS) this annual report sets out the AML supervisory activity carried out by CILEx Regulation for the period 6 April 2020 to 5 April 2021. It also identifies areas for development for our AML supervision in 2021/22.

## Scope of Supervision

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Whilst the CILEX membership totalled just over 20,000 members in April 2021, the vast majority of members were working within law firms or other companies and organisations who, if required, are supervised by other AML supervisors, including HMRC and the FCA.

The role of CILEX is important in raising an awareness of individuals obligations under the regulations and ensuring that individuals and firms are correctly directed to the supervision and guidance that is appropriate to their circumstances.

CILEx Regulation supervises for AML compliance:

1. CILEX Authorised Entities; and
2. Unregulated sole practitioners (not operating through a Limited Company or LLP)

We do not supervise unregulated firms as they are not members of CILEX. As the majority of our firms hold client money, we recommend that even if they do not fall within the scope of the regulations, they put in place policies and procedures, including firm risk assessments, so they can tackle the risks of being targeted by criminals, and comply with the requirements of the Proceeds of Crime Act 2002 and Terrorism Act 2000. We welcome the continued positive approach that our new firms adopt.

However, from both our own evidence gathering and feedback from the firms we regulate, there are many unregulated law firms out there doing estate administration work, that would see them fall within the definition of 'Independent Legal Professional' given in r.12 of the Money Laundering Regulations 2017 as amended, but who do not have an AML Supervisory body. We recognise this as a real risk for the sector and have raised this with OPBAS and HM Treasury. During 2020/21, CILEx Regulation had the following supervised community (please see next page).

<b>Supervised Community</b>	
Supervised firms (Authorised Entities)	4
Sole practitioners conducting regulated activities as Authorised Entities	19
Sole practitioners conducting regulated activities operating as unregulated firms	3
Firms or sole practitioners who act solely as TCSP	0
Total beneficial owners, officers, or managers within a firm (" <b>BOOMS</b> ") as referred to in Regulation 26	31

We regulate our firms by specialism and none of them deal with work outside England and Wales.

## Office for Professional Body Anti-Money Laundering Supervision

The aim of the [Office for Professional Body Anti-Money Laundering Supervision](#) (OPBAS) is to ensure there is a consistent standard of AML/CTF supervision by Professional Body Supervisors (PBSs).

During 2020 CILEx Regulation concluded the final actions following the 2018 OPBAS supervisory assessment. OPBAS then carried out a remote assessment in September 2020 and a new action plan was agreed with OPBAS in January 2021 to address their findings. Quarterly updates of progress made, together with supporting documents, are now taking place.

The areas that we are focusing on relate to continued improvement in our intelligence gathering/sharing arrangements and how we mitigate the risks of losing AML knowledge from a small organisation when staff leave.

## Governance

The supervisory activities of CILEx Regulation are carried out under the guidance of the MLRO and the senior Management Team. Progress on the OPBAS Action plan, together with other AML activities, is reported regularly to the CILEx Regulation Board.

The Strategic Risk Committee continued to provide oversight on the new AML risk assessment tools and guidance on the approach to proactive AML supervision. We report to them on the work to meet the requirements of the OPBAS action plan.

We reviewed and implemented new governance protocols and policies with CILEX during the period to shape our joint approach to combating the risks posed by money laundering activities.

At the beginning of 2021, we agreed with CILEX to formalise joint meetings to discuss key operational issues that affected both the professional body and the regulatory body and how we can best communicate with the CILEX membership and our supervised populations matters that will affect them.

## Information to Supervised Community

CILEx Regulation continued to provide information by direct emails to its supervised community covering how they should comply with their AML requirements, resources from the National Crime Agency and UKFIU, and guidance on SARs. We continued to work with CILEX on how they communicate to members on the need to be supervised for AML compliance.

We took an active part alongside the other legal sector supervisors in the redrafting of the legal sector AML guidance which was published in January 2021

We updated our Sectoral Risk Assessment following publication of the 2020 National Risk Assessment and included for the first-time risks that we had observed following our supervisory activities. This was with the intention of making the information provided more practical and relevant to our firms.

We also published separate guidance on the role of the Tax Adviser as we believed that firms would benefit from some additional guidance on what work might fall within this definition.

Our CEO Carilyn Burman provided an update on our work to help combat money laundering by publishing a piece on our Regulation Matters website in January 2021.

## Training

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Staff across both CILEX and CILEx Regulation have access to a suite of eLearning courses which include Preventing Money Laundering, Whistleblowing and Preventing Bribery in Business. Completion of these courses is monitored to ensure that all existing and new staff complete or refresh their AML training annually.

In November 2020, we attended the Financial Crime Compliance Monitoring Skills Workshop organised by the Law Society of Scotland.

Specific training is being planned for later in 2021 by an external AML specialist focusing on risks that staff and firms may see. This is to be focused at staff with key AML responsibilities.

## Areas Developed in 2020/21

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Despite the challenges of remote working, CILEx Regulation continued to be involved in several initiatives that are connected to helping combat money laundering and the funding of terrorist activities.

These have included:

- New legal sector guidance
- Governments work on the delivery of the Economic Crime Plan
- New SARS reform programme
- [Legal Sector Intelligence Sharing Expert Working Group](#)

CILEx Regulation has continued to engage with other legal regulators and AML supervisors on shaping the approach of PBS's.

Work has commenced on the implementation of a new CRM system which will help enable us to identify better those members who may need to have supervision for compliance with the regulations.

## Supervisory Activity

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On 16 March 2020 CILEx Regulation made the decision to close its office and for staff to work from home. At that point we then commenced adapting all our AML processes and procedures to allow for remote working.

Because of our small, supervised population we were able to maintain close contact with our firms and to help them with the changes that were necessary to meet CDD requirements when face to face contact was restricted. This allowed us to discuss with them the risks that were starting to present across the sector and in the wider economy. This was particularly relevant if firms were looking to take on different work to maintain an income.

The major change to our processes was that we were not able to carry out our 6-month visits and so needed to rely more on the information supplied within the annual return. Our intention is that these visits will recommence in 2022 subject to any Government restrictions that may be in place at that time.

### Risk Profiles

Because we have a small, supervised population, we do not publish data on the risk profiles of our supervised population. This information is provided to HM Treasury as part of our Annual AML / CTF Supervision Return.

## Supervisory Inspections

CILEx Regulation requests information from its applicant firms to enable it to conduct desk-based reviews of their compliance with the regulations. This includes sight of the required policies and procedures, including their own risk assessment.

On an annual basis, questionnaires are used to collect up to date information from our supervised community to conduct desk-based reviews. These cover AML information, including a review of changes to the firm's risk assessment and the number of suspicious activity reports submitted. Where the intelligence gathered requires further investigation, then historically a visit to the firm would be arranged. During this period this was not possible.

The following relate to those firms authorised in 2020/21, who had previously had an inspection visit:

<b>Inspections - Desk Based Reviews</b>	
Desk based reviews conducted	25
Number assessed as 'compliant' rating	18
Number assessed as 'generally compliant' rating	7
Number assessed as 'not compliant' rating	0
Informal action following visit	8
Formal action following visit	0

In the past, CILEx Regulation has conducted a six month visit to new firms which they often find helpful in providing support and reassurance that they have appropriate controls in place. These visits also enable CILEx Regulation to validate decisions made from desk-based reviews. During this period this has not been possible, and we are reviewing when these visits can recommence.

If intelligence is received that indicates further investigation is required of a firm or it is felt that because of the area of work that a firm is engaged in it would benefit from a face-to-face review, then a further visit would historically have been arranged.

<b>Inspections – Onsite Visits</b>	
Visits (due to restrictions on travel)	0
Number where assessed as 'compliant' rating	0
<a href="#">Number where assessed as 'generally compliant' rating</a>	0
Number where assessed as 'not compliant' rating	0
Informal action following visit	0
Formal action following visit	0



## Areas of risk identified from supervisory activities

The following are examples of the types of risk that we have identified as part of our supervisory work where we will have issued follow up guidance to a firm. They are grouped as follows:

- Risks relating to the compliance system infrastructure of the firm.
- Risk relating to the application of the firm's systems.
- Risk relating to a firm moving into new areas of work.

### **1. Risks relating to the compliance system infrastructure of the firm:**

Prior to authorising a firm, we will ensure that its policies and systems adequately cover key areas such as anti-money laundering, but it is the responsibility of the firm to ensure not only that these policies remain up to date but that the staff to which they relate are adequately trained.

#### **Failure to keep compliance systems up to date.**

We have always believed that by ensuring that firms have their policies, procedures and risk assessments in place prior to initial authorisation, and then providing targeted information on changes, this will help the majority of firms to ensure that their compliance systems are maintained up to date and relevant to the work they carry out.

However, where we identify non-compliance through our Annual Return risk assessments of firms, we will require necessary prompt corrective action due to the risk that inadequate systems present. Where a firm fails to update policies and systems in a timely manner, it is not only a breach of the CILEX Code of Conduct, but also sees the firm in breach of the CILEX Authorisation Rules, so we have the power where necessary to revoke authorisation.

#### **Failure to provide appropriate training.**

The regulations when revised in 2017 highlighted the importance of training and required training to be recorded (both AML and Data Protection). And whilst it is recognised that regulations take into consideration, the size of a firm, the services it provides and the risk of money laundering, the inclusion of the term 'Regularly' in r.24 should have prompted at least some level of biennial training, even if it was very basic refresher training to remind staff of their obligations.

Some firms have interpreted the word 'Regularly' to encompass a somewhat wider time-period, even when staff have been taken on during the period and this is evidenced in training logs and CPD returns. In fact, it is the wider CPD returns that highlight the disproportionate focus on training relating to the areas of law being provided rather than wider compliance training.

This appears to be even more acute for firms providing specialist legal services that fall outside of definition given in r.12 and therefore outside of the regulations.

We will highlight this deficiency in the feedback we provide to firms. We have noted that some smaller firms are unsure of how to access appropriate training.

### External sourcing of policy updates

This links heavily to the issue raised above regarding appropriate training. There is a risk that if a firm does not take on the complete support and training package offered by a compliance training provider that gaps can appear in their policies.

In addition, some firms will resort to copying 'off-the-shelf' or 'internet' policies which, whilst most of the time correctly addressing legislative changes, do not marry up to the size, structure and operation of the firm in question, thus rendering them as at best unsuitable.

And where amended policies have been secured in this way there is often a lack of evidence of how these changes have been disseminated to staff.

We will direct firms to the support materials available on the CILEx Regulation website and expect policies and risk assessments appropriate to the firm to be in place.

### **2. Risk relating to the application of the firm's systems.**

Risks here are less common as a well-defined system embodied in suitably drafted policies and procedures that is well documented through regular checks on the application of the system, should minimise failures. However, failures do occur and these as a consequence to result in risks.

#### Safeguarding account details until ID checks have been completed.

Whilst less common we have had examples of firms being over eager to provide clients with bank details for advanced payments, thus enabling a client to make a payment prior to the firm carrying out its due diligence checks.

This tends to come to our attention when the client subsequently fails to provide the necessary identity documents and the client's matter can't be dealt with. This causes problems for the firm as they work out what best to do with the money that has been transferred to them and then need to consider the necessity to submit a SAR.

### **3. Risk relating to a firm moving into new areas of work.**

#### Failure to update the Regulation 18 Risk Assessment of the market a firm is working in.

Because not all areas of work are reserved legal activities, it is possible for a firm to branch out into new areas without informing their regulator / supervisory body. This has been noted in the last year as firms have sought to diversify to off-set the impact the coronavirus restrictions have had on certain sectors of the market.

So, whilst firms will tend to think about the need to update their professional indemnity insurance, they have on occasions been less good in identifying the added risks that may arise from moving into these new areas.

This is evidenced by the failure to update their Regulation 18 risk assessment of the market they are operating in. An example here was a firm that started to deal with funding from a high-risk jurisdiction, and whilst there was no evidence to suggest a failure to make adequate check, the new work was not reflected in the Regulation 18 risk assessment.

In these instances, we ask to see the updated Risk Assessment.

## Enforcement Action

There was no identified enforcement action required during 2020/21.

<b>Disciplinary measures for contraventions of the Regulations</b>	
Suspension / Fine / Reprimand / Undertaking / Warning / Action Plan	0
Referrals to Law Enforcement for ML/TF related matters	0

## Collaboration

CILEx Regulation attended meetings to discuss best practice, share information and gain sector intelligence. These included:

- The anti-money laundering supervisors' forum
- The legal affinity group
- The legal regulators group
- The Legal Sector Intelligence Sharing Expert Working Group

Whilst there was no direct engagement with law enforcement bar the meetings above, this is reflected in the limited instances of money laundering identified within the CILEX membership.

## CILEX Activity

As the named Professional Body in the regulations, CILEX retains a residual role in achieving AML compliance even though the 'business of regulation' is delegated to CILEX Regulation in accordance with the Legal Services Act 2007 and the LSB's Internal Governance Rules which sit beneath it.

<b>Activity/Delivery</b>	<b>Update for the period of report</b>
<b>Awareness raising through: - all staff Meetings knowledge sessions</b>	<ul style="list-style-type: none"> <li>• Online (Teams) AML update training session delivered to Customer Service Team in Q1 2021 focusing on the SARs process.</li> <li>• Article in staff Spring Newsletter discussing the above training, refresher on OPBAS's role and inspection regime.</li> <li>• Ongoing assessment of scores/pass rates of obligatory online AML staff training to identify any knowledge gaps and remedial action required.</li> </ul>
<b>CILEx Regulation liaison</b>	Series of formal liaison meetings between CILEX and CILEx Regulation to discuss general mutual matters of interest.
<b>Training – targeted/detailed for relevant staff teams</b>	Feb 20 - (i) Whistleblowing module on E-Learning Hub live. (ii) AML e-learning module also live. (iii) Further detailed technical training researched for 2020 following implementation of 5MLD with potential trainer approached but stymied by pandemic and deferred to 2021. (iv) Investigating complementary training in relation to the Criminal Finances Act.
<b>Access to compliance software</b>	Ongoing investigations to offer member access to AML compliance software from industry partner provider as a member.

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Activity/Delivery	Update for the period of report
<b>External Stakeholder Liaison:</b> - Legal Sector Affinity Group - AML Supervisors' Forum - Intelligence Sharing Expert Working Group	Attendance of Legal Affinity Group and AMLSF meetings. UKFIU SAR Quality Training Session remotely, facilitated by Legal Sector Intelligence Sharing Expert Working Group on 16th December.  Also attend OPBAS workshops as and when required and ISEWG meetings.
<b>AML Webpage</b>	Regularly updating CILEX AML webpage.
<b>AML Webinars</b>	Continuing exploration with external compliance software suppliers and providers of internal online training platforms. Continuing liaising with NCA about their planned schedule of webinars, signposting to members etc.
<b>Quality Assurance</b>	Internal Audit of CILEX's AML compliance scheduled for May 2021.
<b>Governance</b>	Governance arrangements required to be compliant with the LSB's IGRs completed ahead of the 23 July 2020 deadline. Certificate of Compliance obtained. As part of this work a new joint protocol included a specific AML annex addressing respective responsibilities. Has been shared with OPBAS.
<b>NCA</b>	Regular contact with both the NCA and UKFIU maintained.

## Areas for Development 2021/22

During 2021/22, CILEx Regulation will continue its work with HM Treasury and OPBAS to ensure that its AML supervisory activities are to the standard expected.

We will ensure the final issues identified under the latest action plan are addressed and the progress will continue be overseen by the Strategic Risk Committee, the Senior Management Team and the CILEx Regulation Board.

We will look to reinstate our face-to-face visits to new firms.

We will continue to develop the information available through the CRM system to identify those members and firms that require supervision for compliance with the regulations.

We will continue to build with CILEX our joint approach to combating the risks posed by money laundering activities.

## Conclusion

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- We have adapted to the change in remote working without any immediate impact on the effectiveness of our supervisory work but will be reviewing this during 2021/22.
- We have continued to engage with OPBAS on strengthening our risk-based approach and addressing the issues that they highlighted through our action plan.
- We will continue to work with CILEX on ensuring that the whole membership understands the risks of money laundering and terrorist financing, when they need to be supervised, and with improved information gathering through the development of the CRM system, identifying who needs to be supervised.

