

2024

Source of Funds & Wealth 2024

Top Tips and Guidance



Millar & Bryce



HiveRisk.co.uk

Source of Funds



Kate Burt

Founder & CEO of HiveRisk

Solicitor with over 20 years' experience in the legal sector. Qualifying as a solicitor in 2007, Kate practiced as a senior litigator in 3 Top 50 law firms before finding her niche in law firm risk and compliance in 2016.

Kate and her team work with law firms across the UK on all aspects of risk and compliance from one off independent AML audits and and technical referrals and workshop style training to fully 'embedded' compliance teams offering services from compliance analyst to director of risk and *Compliance as a Service*.

Kate co-founded and co-hosts Compliance for Law Firms, a weekly discussion forum.



The legislative framework

- ▶ Money Laundering Terrorist Financing and Transfer of Funds (information on the Payer) Regulations 2017 (The Regulations)
 - ▶ Money Laundering Terrorist Financing (Amendment) Regulations 2019
 - ▶ Money Laundering and Terrorist Financing (Amendment) (EU Exit) Regulations 2020
 - ▶ the Money Laundering and Terrorist Financing (Amendment) Regulations 2023
- ▶ Proceeds of Crime Act 2002 (POCA) and Terrorism Act 2000 (TACT)

The Legal Sector Affinity Group (LSAG) guidance

- ▶ LSAG is comprised of all of the UK's AML legal sector supervisors
- ▶ Covers a law firm's obligations in relation to anti-money laundering legislation and also provides guidance in relation to sanctions
- ▶ 36 high level compliance principles
- ▶ Considered the definitive guide to AML for the Legal Sector



Source of Funds Obligations

Regulation 28 of MLRs provides an obligation is to:

- “scrutinise transactions undertaken throughout the course of the relationship (including, where necessary, the source of funds) to ensure that the transactions are consistent with the relevant person's knowledge of the customer, the customer's business and risk profile”

Regulation 33 provides that you:

carry out enhanced due diligence and enhanced ongoing monitoring (in addition to client due diligence under regulation 28): where a high risk of money laundering has been identified under your risk assessment or from information provided by your supervisor.

6.17 Legal Sector Affinity Group (LSAG) Guidance:

A fundamental element of client due diligence is understanding the nature, background and circumstances of the client, including their financial position – and making an assessment as to whether the legal services provided to the client are in keeping with your understanding of that background and circumstances

Source of Funds & Wealth

Source of Funds & Source of Wealth



Source of funds refers to the specific source of the funds used in a specific transaction, whereas Source of Wealth refers to a full assessment of the individual or entity's income and earnings.



An assessment of the Source of Funds and the Source of Wealth of a client is key in determining the level of risk associated with the relationship particularly when Virtual Assets are involved.

Source of Funds & Wealth

What
documents
do I need?

- Bank statements may or may not be enough?
- It's in the details? What can you see?
- What is the Risk Profile?
- Source of Wealth checks- You will need more.
- Payslips, Completion Statements, Wills, Investment Documents,
- Overseas Clients- Where, Who, What, When, How?
- Use your Compliance Function or MLRO!

Source of Funds & Wealth

How much is
enough?

- Use a Risk Based Approach.
- It's not about accounting for every penny.
- You're not Accountants or Police Officers.
- Does it fit with your client's profile?
- Do you still have concerns?
- Use your Compliance Function or MLRO!

Source of Funds - Things to Consider



Source of Funds should be evidenced in line with risk grading (and may have an effect on your risk grading!)



It is not just about collecting documents: Consider what you have been given e.g. Is the client's explanation and evidence sensible/feasible?



Document your rationale and decision making. Would you be comfortable explaining and evidencing the decisions made, why you made them, what you had done to satisfy requirements?

Source of Wealth - Things to consider

Does the matter involve High Risk or a PEP?

What is the value of the client's overall body of wealth and where/what activity is it generated/derived from?

What types of information, evidence or documentation would help you gain comfort that the client's wealth is not derived from criminal activities. What extent do you feel you need to go to satisfy the risk?

Is the client's explanation and evidence sensible/feasible?

Document your rationale and decision-making. Would you be comfortable explaining and evidencing the decisions you had made, why you made them, what you had done to satisfy requirements?

Tricky areas

Crypto Assets

**Funds from
China**

Trusts

**Funds held
Offshore**

Gifts

Cash

Investments

**Complex
Structures**

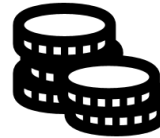
High Value

Funds from China

“Chinese Money Laundering is currently the No. 1 ML risk in the Scottish legal sector at the moment”

Graham MacKenzie

Head of Anti Money Laundering Law Society of Scotland, June 2023



National Currency Controls



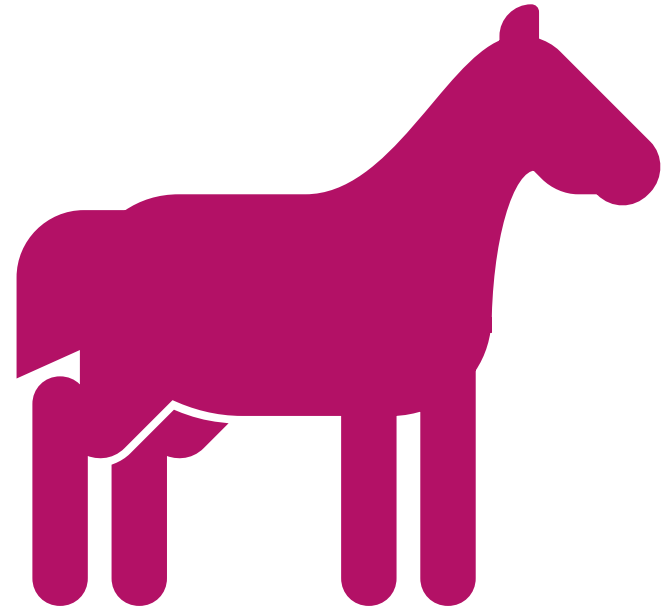
Underground Banking



Daigou

Money Mules

- ▶ Chinese students are targeted and recruited to act as money mules.
- ▶ One high-profile cash confiscation in the U.K involved a Chinese student who was stopped at Edinburgh airport with around £100,000 worth of euros and dollars and was 'Unable to provide a reasonable explanation' with regards to the origins of the money.
- ▶ £100,000 confiscated from Chinese student 'acting as cash-mule' The Scotsman



Red Flags relating to Trusts

- The purpose of the trust is unclear (trusts can be used to evade tax and hide criminal property)
- unusual structure or jurisdiction
- unexplained use of express trusts, and/or incongruous or unexplained relationships between beneficiaries and the settlor
- settlor was accused or convicted of acquisitive criminal conduct, improperly claimed welfare benefits or had evaded the due payment of tax during their lifetime
- assets earned or obtained in a high-risk jurisdiction
- unexplained or incongruous classes of beneficiaries in a trust; or
- discrepancy between the supposed wealth of the settlor and the object of the settlement.

LSS on funds derived from Crypto

Using a source of **funds that derives from crypto is entirely legitimate**, however it **remains inherently high risk** and the profession should consider the following information to support potential enhanced due diligence requirements across such matters.

- ▶ The **decision to act** for a client whose funds derive from crypto should be considered and **documented in detail within the client/matter risk assessment** and in the context of the practice's risk appetite.
- ▶ The practice should have in place **appropriate controls to mitigate** any risks present and document these accordingly. Overarching crypto risks include:
 - ▶ Pseudo anonymity, particularly where **anonymised coins**
 - ▶ Its continued use in **underlying/predicate crimes**, e.g., its use on the dark web including for the purchase of illegal drugs, arms and weapons and certain types of consumer investment frauds such as Ponzi schemes.
 - ▶ **Crypto remains unstable and highly volatile** This advisory note is in respect of whole or partial private funding of conveyancing purchases where this funding has already been converted from crypto to fiat currency



Common Pitfalls and Issues – SoF/SoW



Common issues may include:

- ▶ Obtaining old documents, insufficient documents or irrelevant documents.
- ▶ Missing key details in the documents.
- ▶ Not creating an audit trail.
- ▶ Over diligent and Under Diligent checks.
- ▶ Not managing client expectations.
- ▶ Not advising the client early enough
- ▶ Last minute requests.
- ▶ Not referring complex enquiries

How can you be proactive in your compliance?



Ensure your AML officers understand their obligations and are properly resourced



Ensure your PCPs are up-to-date and reflect your PWRA



Test the effectiveness of your PCPs e.g file review, 121s



Ensure staff training is up-to-date and effective



Make sure your documents are readily accessible, is there a single source of truth?



Independent Audit

HiveRisk's core services for AML compliance



Review and
Repair



AML (R21)
Audit



Retainer
Support

Leadership Team



Kate Burt
Founder & CEO



Gavin Ball
Technical Director



Justine Westwell
Operations Director



Tom Blandford
Finance Director



Hayley Caine
Strategic Director



Jo Adongo



Kash Hussain



Kim Rawlings-Smith



Helen Mizrahi



Daniel Burt



Ailsa Smith



Nina Dayal



Peter Taylor



Colin Solomon



Tony Brown



Zoe Upson

Specialist Consultants

Who are Armalytix?

- ❖ **Our mission is to create a hugely positive impact on society. With our digital checks, we believe we can help stem the rise in financial crime, stop the vulnerable being exploited and protect consumers from making poor financial decisions. To do this, we are building extraordinary experiences that make complicated forms and processes simple.**
- ❖ **Armalytix is a data intelligence firm that allows consumers to safely share open banking and other data to deliver financial insights to firms, helping those firms conduct faster and more effective Source of Funds and Source of Wealth checks.**
- ❖ **We give you the data, evidence and answers you need. Get better insights, reduce risk and retain the right clients.**
- ❖ **Armalytix works with the firms who are responsible for 1 in 8 Conveyancing Transactions in England**

Armalytix Features

Dedicated SoF journey for Scottish Transactions including LBTT, Shared Equity and appropriate evidence requirements

Upfront Financial Fact Finds lock clients into proving an amount to prove figure. This feature is unique to Armalytix

Open Banking & document uploads to prove that amount. Armalytix are regulated by the FCA as an AISP (Account Information Services Provider)

Legal Eye endorsed SoF questionnaire or Customisable ones available to explain how money has been accrued, substantiating claims and highlighting inaccuracies

No App or Software download. We are a web-based solution

Flexible journeys for different types of clients i.e., giftors or commercial property

Risk Insights to identify Red Flags

Live Chat to support and help consumers

Armalytix Benefits

Significant Time Saving

O'Neil Patient Solicitors:

“The project has seen the ONP average time to complete the Source of Funds collection and approval process go down from 45 days down to 11, whilst 58% of reports are returned within the first 48 hours.”

Woodford Stauffer Emma Fairbairn Partner:

“It is ultimately saving us both time and money – it probably saves us at least 1-2 hours per conveyancing purchase transaction. We have found the data accurate and I would say 99% of clients have found it easy to use”

Chadwick Lawrence:

Chadwick Lawrence’s clients have successfully completed over 1000 Source of Funds checks, with an average completion time of 3.44 days, with 65% completed within the first 48 hours.

Armalytix Benefits

Reduce Risk

- 👤 **Customisable Risk Insights will allow you to identify Red Flags earlier and escalate issues more efficiently**
- 👤 **Armalytix will help you create a consistent and robust approach that raises the standard of your SoF review process**
- 👤 **The beauty of using Open Banking to conduct this check over historical methods is that it is a central source of truth with no room for manipulation. More accuracy, more confidence and less fraud**
- 👤 **Clear audit trail on file to support file reviews and AML Audits.**
- 👤 **Product is used by a number of CLC firms. CLC and Stephen Ward visited Armalytix offices in 2022. CLC Auditor Sebastian Harrison is familiar with our product from AML Audits**

Armalytix Benefits

Improved Customer Experience

- 🍷 No printing bank statements, reduce the back and forward and get the report done early as per CLC guidance 2023.
- 🍷 Flexible approach, can be done on mobile phone or laptop
- 🍷 Quick and easy experience compared to manual processes
- 🍷 Here's what some of our Consumers say:

“Very easy to use and highly sophisticated”

“Connection to banks was extremely smooth and the live chat customer support was fantastic. Very quick, kind and clear responses”

“Really smooth and open banking was great; nice to see that tech maturing”

Armalytix Example Report



armalytix

Capitulum & Shell Analysis

www.armalytix.com



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