

Guide to AML compliance: What firms need to know about ongoing monitoring

How you can make sure your firm doesn't fall short





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Introduction

As anyone in the regulated sector knows, anti-money laundering (AML) regulations are constantly changing. It feels like one AML directive comes out and then we are already preparing for the next one.

Sanctions are also ever-evolving. One day a country is not sanctioned and you can do business with them. The next day, they are on the sanctions list and you can't do business with them. If you don't ensure your AML processes are constantly being updated, you could end up getting fined – or worse.

In addition to the ever-changing regulations, your client's circumstances are evolving. You could do your due diligence on a startup that your client wants to invest in and it all looks legitimate. Your client invests the money. Two years later, it turns out the startup used the funds to buy houses in the Bahamas.

It's moments like these when you realise that ongoing monitoring of your business relationships is not just important, but vital to your firm.

In fact, ongoing monitoring for AML compliance is critical if you want your firm to be protected from financial crime. You need to keep track of the changing risks. You need to stay on top of compliance requirements to avoid exposure to financial crime and penalties.

Ongoing monitoring takes place after you conduct your initial customer due diligence (CDD). It helps your firm stay compliant with know your customer (KYC) directives and AML regulations. Firms need to perform ongoing monitoring to capture any developments, update customer profiles and keep track of the changing risks.



Think about ongoing monitoring like a pair of shin pads in a game of football. It's an added layer in your armour in the fight against bad actors.



What exactly is ongoing monitoring?

Ongoing monitoring is the process of routinely refreshing and enriching client KYC data, reflecting current circumstances to ensure it is comprehensive and up to date for AML compliance purposes.

The process is part of the [Money Laundering, Terrorist Financing and Transfer of Funds Regulations 2017](#), which defines ongoing monitoring as:

-  The scrutiny of 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
-  Reviews of existing records and keeping the documents or information obtained for the purpose of applying customer due diligence (CDD) measures up-to-date

In addition, firms need to be aware of obligations to keep clients' personal data updated under the Data Protection Act 2018.

When do you need to think about ongoing monitoring?

Ongoing monitoring should be conducted in accordance with the risk level of the client. But it is not only your high risk clients who need to be monitored regularly; your clients' status can change easily and quickly so even low risk clients require monitoring.

What needs to be checked during ongoing monitoring?

There are a number of factors that are critical to check during ongoing monitoring: ultimate beneficial ownership (UBO), sanctions, politically exposed persons (PEPs) and adverse media. These factors will be discussed in detail in the following pages.





Ultimate Beneficial Ownership (UBO)

A beneficial owner is any person controlling or owning more than 25% of the shares or voting rights. The details of beneficial owners must be recorded and held on a central register accessible to competent authorities. The ultimate beneficial owner (UBO) refers to someone who ultimately owns or controls the customer on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a legal person or arrangement.

Firms are required to obtain and hold “adequate, accurate and current information” about their beneficial owners and identify and verify their clients’ UBOs. (The UK has or intends to have registers of beneficial ownership for companies, properties and land and trusts.) It has become a key aspect of the KYC process. Firms should maintain inter-connected, publicly available national UBO registries.

To maintain compliance, firms need to investigate ownership changes to identify those who would pose a greater risk to the business so they can take appropriate action. Firms that miss changes open themselves up to unknown risk exposure. Not knowing who your client’s UBOs are could expose you to risks. It is vital to identify the UBO – and to continually monitor any changes.

How to conduct ongoing monitoring for UBO

- ✓ Compliance regulations require that UBO information is kept up to date and monitored for change in an appropriate time frame
- ✓ Check ownership structures which are complex and are often subject to change at multiple levels
- ✓ Check for shifts in ownership ratios which can move your clients above or below the risk threshold defined in your firm’s policy
- ✓ Check whether corporate groups relocated separate entities to more high-risk countries
- ✓ Maintain an up to date view of owners for your third-parties





Sanctions

Sanctions are a diplomatic tool used to promote international peace and security and to combat violations of international law and terrorism. They do this by applying economic pressure on a country or regime by restricting dealings with the country or regime, as well as certain individuals and entities. All firms must comply with international sanctions. It's important for firms to understand what sanctions they are required to screen for and be able to prove that they are acting in compliance. Failure to do so can lead to significant fines.

Sanctions lists are essentially databases of information published by a national government or international organisation, which designate certain individuals or entities as being subject to sanction. These lists might include information such as date of birth, names or aliases, or last known locations, along with reasoning as to why the individual or entity is on the sanctions list.

How to conduct ongoing monitoring for sanctions

- ✓ When onboarding a client, check their details against various sanctions lists in order to be sure there is no match and they aren't on any sanctions lists
- ✓ These lists are constantly changing with people and entities being added and removed, so ongoing monitoring and managing your risk involves checking them regularly
- ✓ It's important to note that some countries may not feature on the sanctions lists and yet are still at high risk for exposure to money laundering (ML) and terrorism financing (TF), such as the Philippines or Uganda. These countries also require ongoing monitoring to prevent your business from being involved in financial crime.





Politically Exposed Person (PEP)

PEPs are high-risk clients who have greater opportunities than ordinary nationals to gain assets through illegal means like bribe-taking and money laundering. Among PEPs, there are different risk levels. Foreign PEPs, for instance, generally have higher risks than domestic PEPs.

An initial PEP screening involves gathering client data such as the full name and date of birth, country of political exposure and politically exposed roles, appointment dates and years – and when they left their roles, if relevant.

These are some of the factors that determine the risk level assigned to the client. A firm should consider whether it has the expertise to mitigate the risks the client poses. PEP control is part of the process that allows firms to conduct a complete risk assessment, and awareness of red flags is essential in this assessment. It's important to note that a firm is permitted to represent a PEP, as long as the firm carries out the necessary ongoing monitoring.

How to conduct ongoing monitoring for PEPs

- ✓ After the first screening process, the same scans need to be performed periodically – including checks to see if a client is now on the sanctions list (these periods vary according to the enterprises)
- ✓ A client with whom you do regular business could suddenly become a PEP thanks to a new appointment in a global company or by winning an election. Firms need to stay up to date on this information with alerts and news reviews.
- ✓ Once a risk level changes or a PEP is identified, they need to be flagged and reviewed and could be subject to enhanced due diligence (EDD)
- ✓ The firm should revisit its initial risk assessment, and make any necessary changes.





Adverse media

Adverse media is any type of negative information found in a wide range of news sources, including both conventional news channels and unstructured sources. There are real hazards in doing business with people or firms who have a negative media presence.

Adverse media might originate from a variety of sources including conventional news media such as newspapers, radio and television or blogs, web sites, social feeds and unstructured forums. Checking adverse media may identify money laundering, financial fraud, drug trafficking, human trafficking, financial threats, organised crime, terrorism and other crimes. These potential ties could endanger businesses' reputations and can result in legal consequences, especially if the firms operate in a regulated industry which they are in many cases. Firms should undertake negative news screening to detect any suggestions or tip-offs that may help their KYC process.

Ongoing monitoring the public profile of clients is critical to identify changes in their risk profile and protect the business from reputational damage. This could lead to a review of risk assessments and the compliance approach. The process is vital because:

- Adverse media screening can assist in identifying the beneficial owners of shell firms and other cases of money launderers utilising corporate structures to conceal their crimes

- Terrorism-related news reports coming from overseas channels provide an additional route via which financial institutions might address the possibility of individuals being involved in terrorist organisations
- News reports concerning PEPs may reveal instances of corruption or financial wrongdoing before the information is validated through formal procedures

How to conduct ongoing monitoring for adverse media

- ✓ Search for negative news about a person or company
- ✓ This search should be part of the client onboarding KYC and AML/CFT procedure
- ✓ Searches should be done on a periodic basis. With real-time adverse media solutions, firms can detect changes in a customer's risk profile as soon as possible.





How to comply with ongoing monitoring regulations

Legal Sector Affinity Group (LSAG) guidance states that in order to comply with the ongoing monitoring regulations you must:

- ✓ Re-evaluate your CDD at appropriate intervals
- ✓ Suspend or terminate a business relationship until you have updated information or documents (unless you are fully satisfied you know who your client is)
- ✓ Keep any request you have made for information or documents under review
- ✓ Use technology to aid your ongoing monitoring

Customer due diligence is key

For ongoing monitoring to be effective, firms need to implement a system of CDD reviews. This should involve:

- A risk-based approach
- A review of CDD upon each new matter
- If there was a significant gap between instructions there should be a refresh of the CDD
 - Anything above a year may be considered a significant gap in relation to those clients or transactions assessed as higher-risk

Any changes? It's time to review

Firms are required to apply (or reapply) CDD to existing clients when they become aware that the circumstances of the existing client have changed.

What must be considered?

Any indication that the identity of the client or beneficial owner has changed.

Example: "Your client's company was recently acquired by a company in Panama."

Any change in the purpose or nature of the relationship.

Example: "Your client, a local business, suddenly decides it wants to expand overseas. It has secured investment from a private investor."

Any other matter which may affect your assessment of the money laundering or terrorist financing risk in relation to the client.

Example: "Your client carried out work for customers who paid them in money transfers from financial firms based in Yemen."

Any transactions which are not reasonably consistent with your knowledge of the client.

Example: "You discover that your client, a local estate agent, is working with a customer in Venezuela."

At any of these points, you should undertake CDD on the client again, as well as ensuring UBOs of relevant parties are identified. It's important to note that the SRA identifies conveyancing as a high-risk area in money laundering. Firms should treat these transactions as a high-risk activity when it comes to CDD and ongoing monitoring.



When you need enhanced ongoing monitoring

Enhanced ongoing monitoring is automatically required whenever enhanced due diligence (EDD) is applied.

EDD may be required for people or situations that indicate a higher risk. These could involve:

- ✓ A business relationship that seems unusual
- ✓ A company with a beneficial ownership structure that seems excessively complex
- ✓ Non-resident customers or those subject to economic sanctions
- ✓ Legal persons or arrangements that are personal asset-holding vehicles
- ✓ Companies that have nominee shareholders or shares in bearer form
- ✓ Cash-intensive businesses
- ✓ Countries subject to sanctions or embargoes or with significant levels of corruption or criminal activity
- ✓ Countries funding or supporting terrorist activities or having designated terrorist organisations operating within their country
- ✓ Payments received from unknown or unassociated third parties

One aspect of keeping transactions under review is to ensure they are still in line with the CDD information held on the client, and information contained in the client and matter risk assessments. Whatever controls you have in place to monitor other business relationships, may be intensified in order to apply enhanced monitoring.

This may include:

- Requiring a greater level of information and explanation from the client when activity diverts from that addressed in their client risk assessment
- Greater frequency of checks on transactions
- Undertaking more frequent due diligence checks on your client

You should ensure that funds paid into your client account come from an expected source and are for an amount commensurate with the client's known wealth and with what is expected to be deposited in relation to the matters on which you act for them.





Maintaining records

Each time a firm engages in ongoing monitoring, it should record:

- What aspects of the issue they considered
- Action taken (if any)
- The reasons for that decision
- Who undertook the monitoring and the date on which it was undertaken

You are required to keep records of your CDD and EDD and simplified due diligence (SDD) documents. You must also keep information and sufficient supporting records on any transaction which is the subject of any ongoing monitoring.

An automated system will ensure that this is done efficiently and in a way that will protect your firm for the duration of your business relationship. It can also notify you, in your ongoing monitoring efforts, of any changes in status or if an individual falls under new sanctions. It is not unusual for regulators to request information about a firm's exposure to AML. Being able to extract real-time information about all clients and matters is vital and will likely be made simpler (and, in some cases, possible) with automation.





From the SRA files

SRA case studies: Firms behaving badly

Following are cases in which one of the key elements of the firms being penalised by the SRA was their failure to conduct ongoing monitoring.

Case #1: The wrong jurisdiction

A solicitor and partner of a firm worked on asset planning for one client as well as a proposed acquisition of two businesses for another client. The transactions raised concern for a previous client of the firm who reported it to the SRA.

Over the course of their investigation, the SRA discovered that inadequate CDD had been carried out. It was found that the proposed acquisitions presented a 'higher risk of money laundering or terrorist financing' under the money laundering legislation.

Why? The transactions involved companies in offshore – and therefore potentially high-risk – jurisdictions. EDD and ongoing monitoring should have taken place. The partner admitted to money laundering breaches and to providing banking facilities through the firm's client account, also in breach of SRA rules. A regulatory settlement agreement was reached.

The result: The solicitor was fined £17,500.

What they missed:

- CDD
- EDD
- Ongoing monitoring





Case #2: Poor CDD leads to suspension

The SRA assessed a firm's compliance with money laundering regulations as part of a thematic review. The review found initial failings of:

- A lack of understanding of fundamental concepts of AML
- No AML systems or processes
- Poor customer due diligence practices including ID and verification, source of funds and source of wealth checks
- Poor record keeping.

An in-depth forensic inspection of the firm revealed that this inadequate approach to AML at the firm level had caused failings and breaches in individual cases. It was discovered that among other failings, the partner had failed to conduct adequate ongoing monitoring. She also failed to apply enhanced customer due diligence (EDD) measures and enhanced ongoing monitoring of her clients.

Ultimately, the partner admitted to allegations including:

- Failing to have in place a firm-wide risk assessment and an adequate AML policy
- Failure to provide and undertake AML training
- Failure to identify politically exposed persons
- Failure to undertake enhanced customer due diligence
- Failure to conduct ongoing monitoring and scrutiny of transactions including source of funds checks
- Inadequate record keeping

- Using the firm's client account as a banking facility with other associated Accounts Rules breaches

The result: The firm closed following the inspection. The partner was suspended from practising as a solicitor for nine months, and for two years thereafter agreed to not be a manager or owner of a firm, not hold a compliance role at a firm, and not hold or receive client money. She also had to complete training on AML and SRA Accounts Rules.





The importance of ongoing monitoring to AML efforts

Ongoing monitoring means that a firm is taking every precaution to ensure that they are not involved in financial crime or connected in any way to ML/TF. It involves checking customers' reputations and their consistency with expected behaviour patterns. Unlike the initial screening, AML ongoing monitoring can be a daily matter, depending upon a client's risk level. It lets you determine whether your firm's customers' activities are consistent with customer risk assessment and KYC.

This process controls your firm's business relationships by monitoring frequently renewed sanctions, media, PEPs, and watchlists. Ultimately, it is the key to ensuring the health and safe future of your firm.

Ongoing monitoring – Automating the process is key

Ongoing monitoring is the key to a successful AML programme. Whether it's UBOs, sanctions, PEPs or adverse media, consistent, continuous checking is necessary to ensure that your firm is not connected to financial crime.

Given the scale of the task, businesses working with manual systems are at a disadvantage when handling their ongoing monitoring process. As is evident, ongoing really does mean ongoing, and manual systems will simply have a hard time keeping pace. Compliance teams with limited resources may find themselves struggling to prioritise, especially as front-line business teams heap on the pressure to onboard new customers quickly.

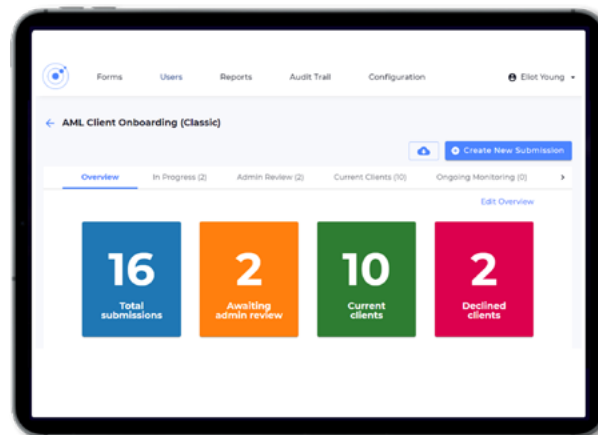
An automated ongoing monitoring system helps you review the changes in the PEP status, sanctions and adverse media reports. Sanctions lists are often revised, news about PEPs and political representatives are published in the media daily and new regulations are frequently updated. The media can also expose criminal behaviour making it helpful to screen the news. An automated solution lets you do that and screen customers against dynamic global databases to check for any changes in client risks and exposure. If any unusual risks are detected, the business receives an alert informing about the change in reputation.

The bottom line: Firms need to screen their customers regularly in order to check for changes in databases or status. The reason many companies opt for automated solutions is that manual monitoring is an arduous, nearly impossible task. A robust ongoing monitoring program is what will help you keep track of the changing risks, stay on top of compliance requirements and avoid exposure to financial crime and administrative penalties.



VinciWorks' AML client onboarding solution

Omnitrack, VinciWorks' [AML client onboarding solution](#) enhances both the risk assessment and document collection aspects of client onboarding. Our template workflows adapt to the specific risks posed by each client, based on factors such as jurisdiction, type of entity and industry. This allows you to make informed choices about each client using the risk-based approach. Our comprehensive workflows incorporate industry-specific guidance such as LSAG for law firms.

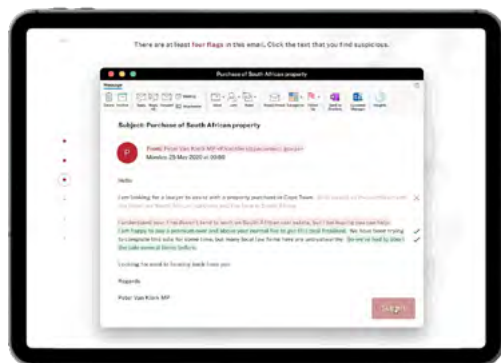


The flexibility of Omnitrack lets you choose the default workflow most appropriate to your business. The workflow can be customised to suit your own areas of practice and risk scoring system. Our team will guide you through every step of the process.

- ✓ All the stages of client onboarding, including client identification, client verification, integration with PEPs / sanctions checkers, source of wealth and funds checks, risk assessments and ongoing monitoring, are in a centralised location
- ✓ You can set a client or matter file to 're-open' after a period of time, depending on the risk level assigned to the client or matter, ensuring that no client or matter is left without periodic review. The time-based automations allow admins in Omnitrack to fully automate the ongoing monitoring process.
- ✓ You can complete a risk assessment on a client based on the scores generated from a series of risk-related questions
- ✓ When carrying out a client or matter risk assessment you have the ability to review the specific red flags in a dedicated tab (or within the workflow) thereby focusing on those clients and matters that require immediate attention



AML training suite – Relevant training for all staff



VinciWorks strives to make its [AML training](#) more than simply a tick-box exercise. Our courses are packed with realistic scenarios, real-life case studies and every customisation option you can think of. We have everything from in-depth induction training to refresher courses and five minute knowledge checks. Whichever industry, jurisdiction or job role you work in, a course can instantly be built just for your staff.

AML audit



Our partners at [Compliance Office](#) have the expertise needed to help you conduct an independent, tech-enhanced AML audit, in accordance with the latest Legal Sector Affinity Group (LSAG) guidance. Their team keeps their pulse on the latest AML requirements and your audit will be completed by former practising solicitors with many years of experience in law firm regulation, often former SRA staff.



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