

VinciWorks



Busting the myths

Source of funds &
Source of wealth

Source of funds / Source of wealth

A fundamental element of client due diligence (CDD) is understanding the nature, background, and circumstances of the client - which includes their financial situation. This knowledge lets you assess if the legal services provided to the client are in keeping with your understanding of that background and circumstances.

The extent to which you should obtain and review your client's financial position is dependent upon the risk profile of the client or matter. In enhanced due diligence (EDD) situations this requirement is, of course, more stringent.

The financial circumstances of a client are broadly categorised into two elements: source of funds (SoF) and source of wealth (SoW). A firm must scrutinise transactions on a case-by-case basis, to understand what the source of funds is for transactions that are undertaken on behalf of a client.

SoW assessment seeks to identify how a customer accumulated their wealth and SoF information provides an understanding of how and for what purpose an account is going to be funded. These assessments enable firms to recognise any risks and note any inconsistencies, which should be addressed and then either mitigated or escalated for further review.

Get the facts

There is perhaps no other issue that vexes people in compliance more than the SoF/SoW check. Yes, it's a critical part of CDD but who wants to talk to clients about their money? Fee earners don't, neither do lawyers and compliance officers not only don't want to but often don't have the access to do it. And then there are the myriad of myths surrounding these checks. Are bank statements enough? How much effort do you need to put into getting the information? When do you need to kill the deal?

At The Law Society's Anti-money laundering and financial crime conference 2023, this issue was tackled by representatives from a number of leading firms. We developed this myth-busting guide based upon their knowledge, insights and experience in the field. There are many people in the legal sector facing challenges with their source of funds and source of wealth check. If you want to get clarity on this element of the CDD process, understand what is important - and what isn't - and challenge what you thought you knew about SoF/SoW checks, read on.

Myth: SoF/SoW is just a list of documents.



In a word, no. Of course, you need to see a bank statement but a SoF/SoW check is about getting the story. It's about understanding how your client managed to accumulate their money. As noted above, lawyers don't like to talk about money with their clients, but they need to have the conversation and that is the challenge. Some of the conversations will be easy but some won't.

Often you will have a difficult client who does not want to provide information. It's important at that moment to consider: it's in their interest to provide this information, so why aren't they providing it?

Myth: There are a clear set of rules to follow in each SoF/SoW check.



These investigations are not "fact specific." Every case could be slightly different which means there isn't a specific set of rules. But the goal is always the same, whether it's a corporate or an individual client: To achieve a level of comfort. Some of that can be achieved with Legal Sector Affinity Group (LSAG) guidance but what will make you most comfortable is your knowledge of the client.

Myth: The compliance team should be doing all the checks.



The notion that the compliance team should be doing the checks is very popular - especially among fee earners and lawyers. But they are the ones who most often know the client and can most effectively gather the information. This makes it a collective effort. Law firms need to adopt a holistic approach to Sof/SoW checks.

Myth: A lot of documents will ensure you did a thorough SoF/SoW check.



Be careful what you ask for: You need to go through all those papers - and know what you're looking for. A barrage of documents without an explanation is not helpful. Don't let it be a tick box experience that provides you with a misguided sense of comfort.

And do you actually need all the information you're asking for? At times, for medium and low risk clients the answer could be no.

Myth: Most lawyers and fee earners care about the SoF/SoW check.



They really don't. Most of them think this is the compliance team's job. And then you're telling them they have to have an uncomfortable conversation with their clients. But you can talk them through it. There's a lot of engagement with the lawyers and fee earners to make sure they understand what you are trying to achieve. And it's important to demonstrate to them that it's also in the client's interest to provide this information.

Myth: Compliance teams can do CDD completely on their own.



Compliance teams can do the vast majority of CDD but they can't do SoF/SoW checks on their own. Fee earners and lawyers need to understand that they need to help the compliance teams get the story.

Lawyers and fee earners extract information naturally, just by building a relationship. It's informal but they build a pretty good picture. There's a wealth of information stored in their heads that doesn't make it into the files. Compliance teams can empower their fee earners and reframe how they think about the information they get.

Myth: You don't need to document every detail.



Wrong! Record keeping is critical and it's all relevant - even if you know a client for just a short amount of time. Remember, law enforcement is about building a picture. Sometimes, it comes down to the conversations or thinking about behaviours. Instil in your lawyers and fee earners that they are storytellers. Sometimes even attendance notes can fill in the missing points in the story.

Often all the information is in the summaries but that doesn't make it to the risk assessments. Include a rationale box in your onboarding process to complete your story.

Myth: You can't charge clients for money laundering checks.



More firms are doing that and SoF/SoW checks can be incorporated into that.

Myth: SoF/SoW checks are all worth the time and money invested.



Here is where you might want to stop and think. Certain cases might not be worth the time and costs. It depends on the circumstances. And some clients might say, I've never been challenged on this before. In those cases, don't start with this is what I need. Start with, what's the story here? It's risk based - and they might not be worth the risk.



Myth: You need to ask the same questions with each new matter.

If it's the same source of funds, you don't need to ask every time.



Myth: Funds from another regulated law firm don't need to be checked.

If you receive funds from another regulated law firm, you can factor that into the risk but if it doesn't appear to be legitimate, you need to take a step back. If you have suspicions, you need to make an assessment. You're putting your reputation in the hands of another law firm. If you know nothing about them and their work, you might want to ask more questions. But if you don't get a good answer or any answer, you need to decide what to do. Your client might say, why did you ask the question? They're a regulated law firm? You might be killing a deal but these are important questions.

Often all the information is in the summaries but that doesn't make it to the risk assessments. Include a rationale box in your onboarding process to complete your story.



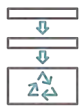
Myth: SoF/SoW checks are easy with large, listed companies.

As if. You have to look at the type of listed company and the transaction. Then you have to decide what checks to do. A listed company in a country where there is a lot of corruption can be complicated but you need these details. As always, the checks need to be risk-based.



Myth: It's only in the law firm's interests to do an effective SoF/SoW check.

Your clients will ask questions about the other side in a deal before moving ahead with the deal. It's likely we will start to see more of that. If there's something concerning you about a deal, look at it from your client's perspective. You need to act in the best interests of your client. It's not just your own interests involved.



Myth: SoF/SoW checks should adhere to the same standards in non-regulated environments.

A non-regulated environment has greater risks involved that doesn't just involve money laundering or financial crime. There are strategic lawsuits against public participation (SLAPPs) that could be involved. It's important to take a risk-based approach.



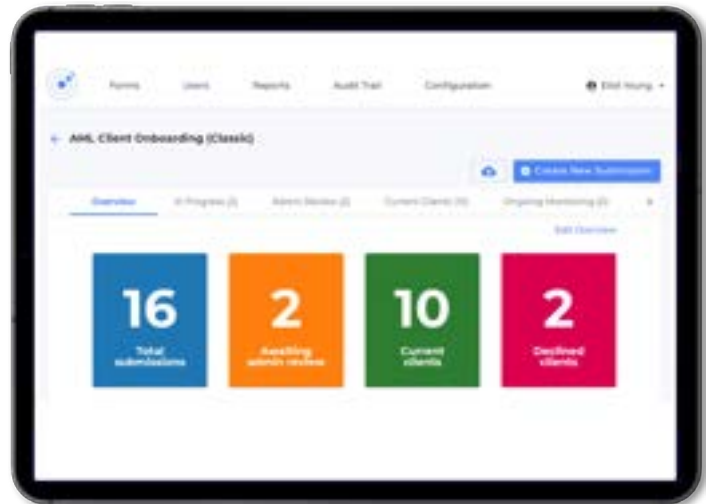
Myth: In an audit by the Solicitors Regulation Authority (SRA) you don't have to worry too much.

Most of you know that's not true. If you meet with the SRA team, you are going to need to be able to tell them every step of your investigation, including why you decided to stop at the point you did. Keep records, take a risk-based approach and remember that the level of investigation in these checks needs to be balanced with what your firm is getting out of it.

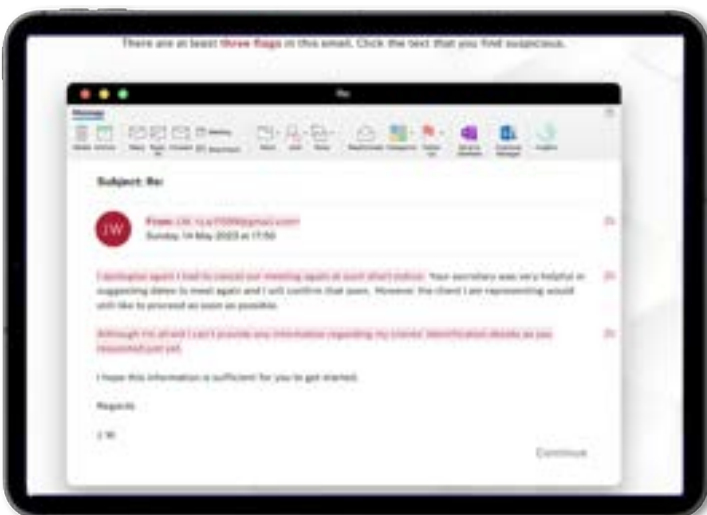
VinciWorks' AML client onboarding solution

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.



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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