

Mitigating the risk of Proliferation Financing

A practical guide for law firms



Proliferation Financing (PF) is an international crime which facilitates the movement and development of illegal goods in order to provide weapons of mass destruction for rogue states like Iran and North Korea. It has become an increasing cause of global concern over the last decade, and its potential consequences can be severe – from global instability to a catastrophic loss of life.

The UK's position in the global economy and international financial system makes it a prime location to raise funds to develop chemical, biological, radiological, and nuclear programmes that threaten international peace and security. UK law firms are vulnerable to being used for PF due to their involvement in transactions such as mergers and acquisitions, capital raising and other business activities as well as providing legal advice and assistance to clients in high-risk jurisdictions.

The emergence of new regulations and tools designed to disrupt PF means that law firms need to be aware of the dangers of PF and adopt appropriate policies and procedures to identify and manage the risks.

What exactly is proliferation financing?

As defined by the Financial Action Task Force (FATF), PF is the provision of funds or financial services used for the manufacture, acquisition, possession, development, export, trans-shipment, brokering, transport, transfer, stockpiling or use of nuclear, chemical or biological weapons and their means of delivery and related materials (including dual-use technology – meaning it could be used for either civil or military purposes) and dual-use goods in connection with such weapons.

A key focus here is on the threats posed by rogue states, and the strict implementation of

a sanctions regime on North Korea and Iran to prevent bringing certain restricted goods or funds to these states. Sanctions laws apply to all businesses. Any firm that breaches the UK sanctions regime could be fined or subject to criminal prosecution. Breaching sanctions was recently made a strict liability offence, which means a firm only has to breach the law to be liable; there is no requirement for intent.





Legislative background

A series of amendments to the UK Money Laundering Regulations 2017 came into force September 1, 2022. The Money Laundering and Terrorist Financing Regulations 2022 include an obligation for regulated entities to identify, assess and mitigate the risk of PF.

Regulated entities have the flexibility to create a new risk assessment on PF or to incorporate proliferation financing into their existing money laundering and terrorist financing risk assessments.

What's new?

From April 1, 2023, the Money Laundering and Terrorist Financing Regulations 2022 introduced changes that affect firms. These involve:

A requirement to carry out PF risk assessments

This means that firms must carry out PF risk assessments either as part of the existing practice-wide risk assessment or as a standalone document. Practice areas that have been identified as higher risk include trade finance, commercial contracts and shipping.

Changes to the duty to report discrepancies to company registries

This only applies if the business relationship being established is with a company, a limited liability partnership, a Scottish partnership, a trust which is required to register with HMRC's trust registry or an overseas entity that needs to register due to ownership of UK real property. In addition, if the discrepancy is "material" and/or could be considered to:

- be linked to money laundering or terrorist financing, or
- conceal details of the customer's business

Preventing proliferation

The main sanctions regimes related to PF in the UK are:

- Sanctions on North Korea
- Sanctions on Iran
- Sanctions to prevent chemical weapons proliferation
- Sanctions on military and dual-use items

There is a wide array of specific rules under these sanctions regimes. These should be consulted or reviewed in any PF risk assessment. It is also critical for sanctions compliance policies and resources to be consulted in any PF risk assessment. It is not only anti money laundering (AML) procedures which may have to change but sanctions compliance ones as well.

This is particularly relevant for firms that may be providing professional services for higher-risk businesses, such as exporters and manufacturers.





What should law firms do now?

Review your firm's business for PF risks. Key risks could include:

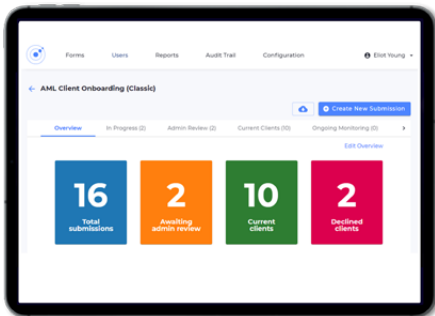
- Exposure to Iran or North Korea, including entities or individuals
 - Exposure to oil, coal and sand in relation to China and Syria
 - Involvement with exporters or manufacturers of defence, dual-use or other proliferation-related goods
 - Review your AML policies and sanctions policies in light of PF risks
- Amend your risk assessments to incorporate PF risks
- Implement specific controls and measures highlighted by the PF risk assessment
- Record these controls and analyse their effectiveness

How to counter proliferation financing: checklist

- ✔ Adequate and effective onboarding processes and procedures for customers
- ✔ Enhanced customer due diligence procedures
- ✔ Maintaining and managing lists of customers/associated parties/ships/aircraft/entities/persons identified as potentially related to the TFS-PF designations
- ✔ Adequate controls to ensure the effectiveness of procedures for sanctions screening to identify and mitigate potential sanctions evasion
- ✔ Providing staff training that includes training on PF risks, risk mitigation measures, policies and procedures
- ✔ Demonstrating awareness of entities and persons who are not designated, but who are known from reliable and independent third-party sources to have connections to proliferation activities
- ✔ Tailored sanctions training
- ✔ Supplementing reliance on list-based screening by enhanced customer due diligence measures to also capture indirect relationships and underlying assets which may be included on a sanctions list.
- ✔ Maintaining documentation which clearly sets out who is responsible for screening systems



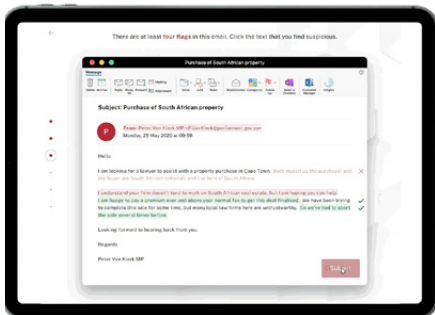
AML client onboarding solution



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.

You won't need to worry about dedicating extra time and internal resources to this critical process and you'll be free to enhance your compliance controls and fully adhere to regulatory requirements. Once the audit is completed, you'll receive a detailed report as well as an action plan that will be critical in helping your firm address any weaknesses



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