

How to mitigate the risk of financial crime in law firms

Best practices for managing anti-money-laundering





Even though the phrase “money laundering” was not coined until the early 20th century, the act of concealing income derived from illicit activities can be traced as far back as 2000 B.C. At that time, Chinese merchants cycled money through numerous businesses and complex financial transactions to hide their income from the government.^{1,2}

Historians often mark the early 1900s as a prominent period for the progression of money laundering, the practice of obtaining cash gained through criminal means appear as if it came from legitimate business activities.³ The origin of the expression for the practice of money laundering comes from the Prohibition era, when the infamous Al Capone opened laundromats around Chicago to “wash” large amounts of cash.

Today, various types of businesses – from small family shops to large institutions – risk falling prey to money laundering criminals. The repercussions of money laundering are not only damaging to the business involved, but it can have serious economic, security, and social consequences for society at large.⁴ Therefore, business owners are accountable for implementing and following processes that pledge compliance with all local and federal regulations, which can vary depending on where the business operates, and in which industry.

The risk of financial crime in law firms

Over the past few decades, financial crimes have increasingly become a top concern of government officials around the world. These crimes include fraud, cyber-crime, money laundering, terrorist financing, bribery, corruption, market abuse, and insider dealing, and they have become a multitrillion-dollar industry for criminal organizations. As to money laundering specifically, the United Nations Office on Drugs and Crime estimates between \$800 billion and \$2 trillion – or 2% to 5% of global gross domestic product – is washed annually.⁵

While money laundering is not a new type of financial crime, it has significantly evolved with the advancement of technology and the globalization of the economy. It's been able to become more prevalent because of the inconsistent ways that inspections and regulations are carried out and the lack of coordination among regulators.¹ Since the early pioneering days of Capone and other gangsters, the approach to money laundering has gradually become more sophisticated. According to the International Bar Association's Anti-Money Laundering Forum, this shift is due to a few reasons:¹



Globalization of the financial system

Concealing crime and its proceeds became easier when communications and travel between countries became easier. Wiring money from one institution to another can occur instantly.



Globalization of crime

Law enforcement is tasked with a practically impossible responsibility: to look beyond their jurisdiction, coordinate with other jurisdictions, and anticipate wrongdoing that can occur at a rapid speed.



Boundary-less crimes

Criminals and crime organizations benefit when they are willing to part with their money across boundaries, by taking advantage of laxer rules in other countries and safe havens for concealing wealth. Some countries, in fact, become “dead ends” when investigators go after money trails.

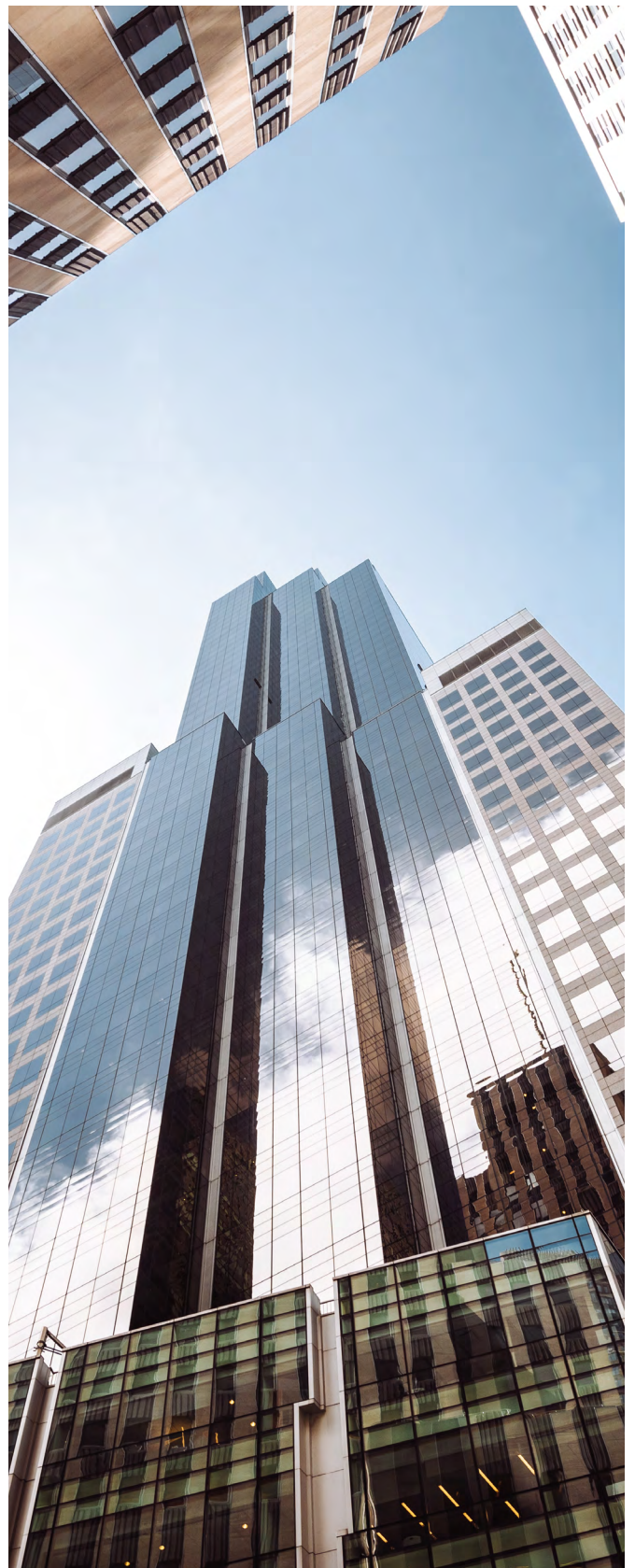
While a probability of risk always exists whenever money is exchanged, certain industries and types of businesses face a higher chance of getting targeted by money-laundering criminals. In recent decades, global organizations and governments started to focus on lawyers as enablers of money laundering because they fall under a designated non-financial business and profession.⁶ In 2001, the Financial Action Task Force (FATF), an international organization tasked with creating and promoting global policies to combat the threat of money laundering, identified lawyers as potential gatekeepers to money laundering.⁷

Law firms of all types and sizes are vulnerable to the risk of money laundering because of the varied nature of services they provide. For example, firms can provide services similar to the methods criminals use to hide money, like the creation of trusts and private companies, and firms regularly handle large amounts of money on behalf of clients. After all, the involvement of a licensed law firm adds an appearance of legitimacy, and lawyer-client confidentiality may pose an ethical dilemma to some lawyers if financial crime is suspected.⁸ According to FATF's publication for legal professionals called "Guidance for a Risk-Based Approach," other services may include:⁹

- Advising on the purchase, sale, leasing, and financing of real property
- Giving tax advice
- Advocating before courts and tribunals
- Representing clients in disputes and mediations
- Advising clients during divorce and custody proceedings
- Giving advice on the structuring of transactions
- Providing advisory services on regulations and compliance
- Providing advisory services related to insolvency/receiver-managers/bankruptcy
- Administering estates and trusts
- Assisting in the formation of entities and trusts
- Providing trust and company services
- Acting as intermediaries in the trade of citizenship and residency or acting as advisers in residence and citizenship planning
- Providing escrow services and token custody services in connection with legal transactions involving an initial coin offering or virtual assets
- Legitimizing signatures by confirming the identity of the signatory (in the case of notaries)
- Overseeing the purchase of shares or other participations (also in the case of notaries)

A lawyer’s services may be used by criminals for money laundering with or without the knowledge of the lawyer. For example, a criminal may ask a lawyer to hold money in a client trust account, pending completion of the purchase of real estate, equipment, or another similar transaction.⁶ The FATF stated, “lawyers are vulnerable to complex money-laundering schemes due to their ability to easily switch between advising on financial and fiscal matters, establishing trusts and corporate entities, and completing property and other financial transactions, such as investments.”⁷

Subsequently, criminals tend to target lawyers as victims of money laundering, especially if they work at a firm known for a weak policy. Law professionals are held to high standards in society – above all else, they are required to uphold the rule of law – so there is a critical need for AML guidance. In addition, every lawyer has the ethical and legal obligation to comply with regulations to prevent corrupt money from getting washed and put back into the economy.



Complying with evolving AML regulations

All law firms must establish an AML program that complies with the guidelines in their jurisdiction. Depending on where a law firm operates, practicing lawyers are required to follow domestic and international AML laws, regulations, and standards. According to “A Lawyer’s Guide to Detecting and Preventing Money Laundering,” all lawyers must know and continuously educate themselves about the relevant legal and ethical obligations that apply to their home jurisdiction and other jurisdictions in which they practice, and the relevant risks to their practice area and their clients in those jurisdictions.¹⁰ Although AML regulations differ by location, they all have the same goal – to avoid facilitating criminal activity and thus prevent a threat to society.

In the United States, the primary AML regulations include the Bank Secrecy Act and the Money Laundering Control Act, which made money laundering a federal crime. The U.S. Department of Treasury created the Financial Crimes Enforcement Network (FinCen) to implement, administer, and enforce compliance with the Bank Secrecy Act.¹¹ Despite these laws, the approach to AML legislation in the U.S. is quite lax compared to the rest of the world. The American Bar Association (ABA) has a

conflicting view on AML. While the ABA claims to “support reasonable and necessary domestic and international measures designed to combat money laundering and terrorist financing” it also believes in honoring the integrity and independence of lawyers and therefore, “oppose[s] legislation and regulations that would impose burdensome and intrusive gatekeeper requirements on small businesses or their lawyers or that would undermine the lawyer-client privilege, the confidential lawyer-client relationship, or the right to effective counsel.”⁶

Unless a U.S.-based firm has a global presence or was previously stung by a money laundering criminal, it is unlikely going to voluntarily choose to implement and follow AML procedures. Around the globe, the U.S. is commonly viewed as a haven for money laundering and there’s a general concern for the adverse effects of noncompliance.

Outside of the U.S., mainly in the United Kingdom and the European Union, AML standards are much stricter. For instance, if a U.K.-based firm is caught participating in money laundering, it not only puts the lawyers in financial jeopardy, but they could also be accused of a federal crime. In 1990, to prevent financial market abuse, the E.U.

adopted the first AML directive, which required entities to follow due diligence requirements when entering into a business relationship.¹² To this day, the European Commission enforces amendments to the directives and continues to impose robust legislation on law firms.

The Solicitors Regulation Authority (SRA), the regulatory body for solicitors in England and Wales, exists to protect the public and ensure solicitors comply with regulations. Firms supervised by the SRA must follow a long list of AML obligations. In 2021, SRA had to investigate a 72% increase in suspected breaches of the money laundering regulations – demonstrating that law firms are still struggling to comply with the legislation.¹³ A recurring problem with AML regulation is that the requirements frequently evolve, and firms must stay up to date with the changes or face potentially damaging consequences.



Reforming the client due diligence process

Efficiently taking on new clients and matters is critical to the growth of law firms. Today, a number of market trends are putting pressures on firms to transform the way they evaluate and engage new business, and how they manage those relationships throughout the client lifecycle, including:

- Clients are increasing customer service expectations and demand a swift response to more stringent pricing requirements, terms of engagement, and outside counsel guidelines.
- Firms are looking to increase the sophistication and agility of intake processes to better align client selection with overall business strategy, service models, and internal policies.
- Risks are proliferating, driven not only by professional standards and client mandates but also by evolving regulatory rules that increasingly extend compliance requirements to law firms.

In the practice of law, ethical obligations require lawyers to carefully evaluate new clients and their motivation before entering into an engagement — also known as the process of client due

diligence (CDD). Performing a multistep client acceptance process is necessary to comply with AML obligations. The foundation of AML compliance is a risk-based approach, or an understanding of exposed risks and how to apply measures to ensure mitigation of those risks. Widely accepted by FATF and regulators, a risk-based approach is believed to be an effective way to fight money laundering.¹⁰ For law firms, the risk assessment is a core aspect of their due diligence before they take on a new client. A firm is obligated to determine and document the risk level, and ultimately, decide if they want to move forward with an engagement.

Most midsize to large global firms have developed and refined a process to perform CDD and continuously monitor client relationships — some are built on a bespoke basis, either paper-based or within a system. Either way, under a recommendation from the FATF, law firm management should appoint a compliance officer such as a money-laundering reporting officer (MLRO) or anti-money-laundering officer (AMLO) to oversee the firm's AML framework.¹⁵

For smaller firms or single practitioners that may not have an AML-focused employee or team, the FATF recommends the following framework:¹⁶



Adopt client acceptance and know-your-client policies: Identify the client, its beneficial owners, the true “beneficiaries” of the transaction, the source of funds, and the transaction’s purpose.



Adopt engagement acceptance policies: Understand the exact nature of the work and how it could facilitate the movement or hiding of criminal proceeds. Do not accept work if you lack the requisite experience.



Understand the rationale for the work: You should be reasonably satisfied that a commercial or personal rationale exists. But you are not required to objectively assess that rationale.



Exercise vigilance for red flags: Identify and carefully review aspects of the transaction where you have reasonable grounds to suspect that funds are criminal proceeds. Such circumstances may trigger reporting obligations.



Consider appropriate action: Determine what, if any, actions must be taken.



Document: Adequately document and record the previous steps.

Technology can help minimize AML risk

For years, the legal industry has lagged behind other industries in terms of technology adoption, as many legal professionals continue to work manually in an array of disparate systems. Firms often address potential AML concerns – risk assessments, verification of ultimate beneficial owners, directors, and potentially exposed persons, and revalidation – using semimanual processes, external data sources, and rekeyed data.

The SRA recommends firms leverage technology to improve business operations, such as the risk assessment process. Especially due to the growing complexity of risk assessment standards and processes, firm leaders are encouraged to invest in risk and compliance technology, which can help professionals track a wide range of information, from client firmographics to the specific practice services provided by the firm.¹⁷ For critical business tasks, like evaluating and engaging new business, technology can support law professionals by eliminating some of the manual, time-consuming processes that cause delay and errors.

In 2021, the SRA published an encouraging report that indicates law firms are increasing their adoption of technology to improve practice operations, with expectations that use of legal-specific technology will increase as well,

despite lagging to date.¹⁷ Regarding general technology applications, most firms surveyed were using at least one form of technology to deliver legal services, and half said their use of technology increased due to the COVID-19 pandemic. According to the research, 87% use videoconferencing for client meetings, two-thirds store data in the cloud, and more than half used practice management or legal research software. While firms are embracing technology as a whole within their practice, only about a third of law firms said they are using legal-specific technology, and instead have opted for technology that is industry agnostic and thus are missing out on potential benefits of technology tailored to serve the legal industry. Interestingly, that number will likely increase as one quarter of survey respondents indicated they are planning to invest in legal-specific technology in the future.¹⁷

One way to address and efficiently manage the requirements of AML is to invest in advanced technology designed specifically for the legal industry. The SRA has stated that one of its core strategic objectives is to support the adoption of technology and other innovations in the legal sector. While introducing new technology can be a significant lift for a firm, the potential benefits should outweigh the costs.

Investing in intapp intake to streamline AML

A major benefit to investing in technology for new business acceptance is that law firms do not have to create a framework from scratch. Intapp Intake provides law firms with a framework they can use to determine the risk level of engaging with a new client. The application provides a flexible approach to managing client and matter onboarding, automating due diligence, and demonstrating compliance throughout the client and matter lifecycle.

Intapp Intake is designed specifically for new business acceptance and delivers on common sense principles, squarely focused on enabling law firm success.

The principles

Puts firms in control – fast, responsive, cost-effective

Intapp Intake delivers on the simple notion that business users should be able to quickly and intuitively design, implement, and change business processes – without having to pay for vendor consultants, issue change orders, wrestle with external tools, or wait for IT to custom code updates. The business landscape changes rapidly – intake needs to be able to do the same.

Built specifically for intake – not a “build your own adventure”

Intapp Intake allows users to create and change processes, while preserving the IT team’s ability to set and enforce necessary ground rules. To support leading practices, it also includes templates and a rich question library developed by an advisory group of law firms, insurance providers, and industry experts.

Makes broad adoption easy – made for everyone to use

Intapp Intake provides management, lawyers, and risk staff with the consumer-grade experience they expect from modern software. It’s attractive and intuitive. And it delivers information intelligently, with role-specific views and to-do lists.

Intelligently manages information – integrates people, process, and data

Intapp provides the industry standard for application and data integration. Intapp Intake leverages this experience and technology to connect with key firm business applications, to eliminate double data entry and to automate post-inception setup of workspaces and tools used by lawyers to collaborate and create work product.

Extends beyond inception– offers complete client lifecycle management

Business acceptance doesn’t end at inception. Intapp Intake enables firms to identify and respond to changes to client or matter disposition that could affect the financial, ethical, regulatory, or strategic alignment of the engagement with firm standards. Intapp Intake provides a fully configurable monitoring rule designer and native support for common use cases.

Intapp recognizes that law firms face significant administrative and compliance burden to comply with AML legislation. The Intapp AML Compliance Solution supports law firm AML processes with configurable functionality that integrates with Intapp Intake. It was developed using knowledge gained from implementing the Intapp OnePlace Risk & Compliance platform in law firms in the UK and Europe.

The solution provides a templated AML and risk assessment form to collate and review relevant AML information and documents and to facilitate risk assessment at client and matter levels. It also integrates with a firm's key systems, third-party data, and a reputable ID verification partner that supports efficient and accurate intake and AML compliance processes.



Intapp AML compliance solution

Core capabilities of the Intapp AML compliance solution

Initiate AML risk assessment

Capture client and matter data into pre-built configurable forms and workflows

Risk assessment and scoring

Risk scoring to assess the risk of new clients or matters and either escalate or resolve

Continuously monitor

Automate real-time monitoring and notifications

Demonstrate compliance

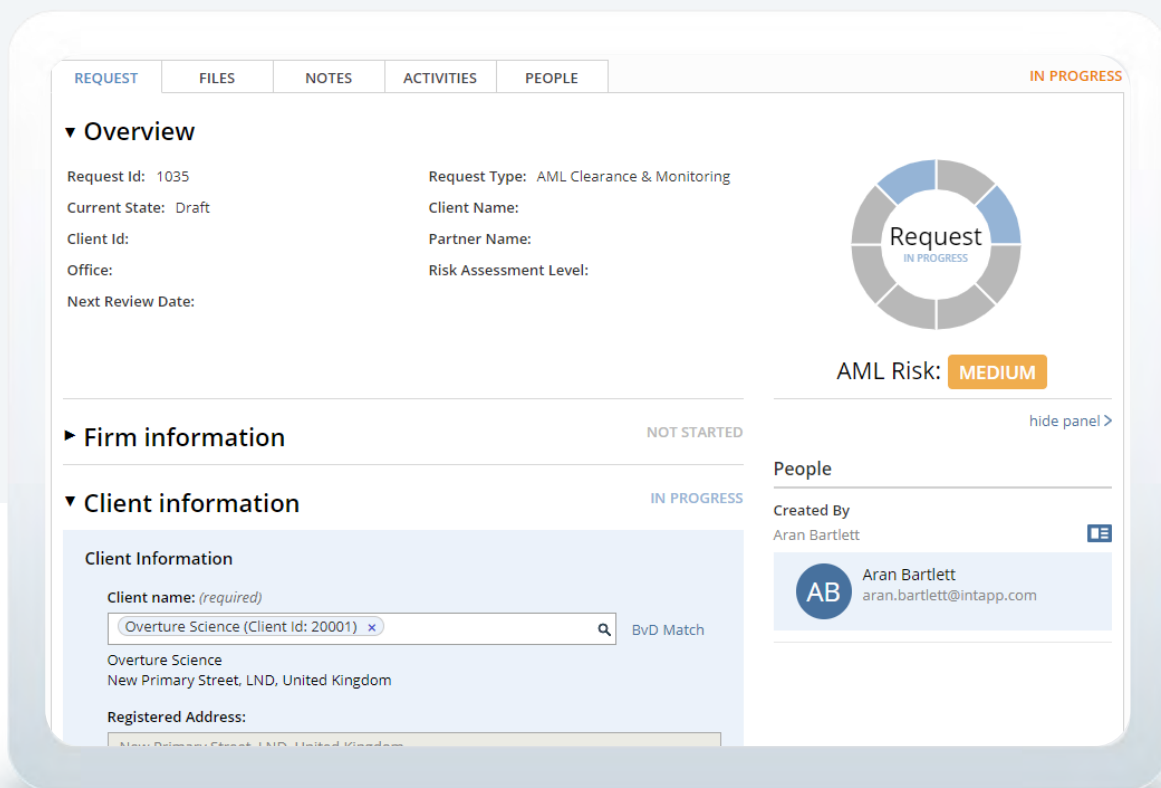
Generate audit or escalation reports according to your firm or regulatory requirements

Connect data and systems

Integrate with ID verification, third-party data, Intapp products, and core firm systems

Collaborate securely

Secure document and information exchange via an external client portal (additional licensing and services required)



More than 200 leading firms use Intapp Intake for faster, more efficient, information-driven client evaluation processes that align new business intake with the firm's own strategic goals – and position their client engagements for success.

Looking ahead

Considering the relatively recent emergence of digital currency and ongoing geopolitical events, managing the risk of AML will only get more complicated for the legal industry. Firms must stay current and invest in a practices and procedures that help to combat sophisticated financial criminals.

Ultimately, every law professional is solely responsible for satisfying AML obligations, but a tool like Intapp Intake provides practical support for a risk-based approach suited to their individual and practice needs. Whether you are a managing partner, law firm executive, or paralegal, the risk of money laundering needs to be addressed.

To learn more about Intapp Intake, [visit our website](#).

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