



ICAS Monitoring

Anti-Money Laundering (AML)
Annual Report 2019



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Foreword from the ICAS Regulation Board

This report sets out the key outcomes arising from our Anti-Money Laundering (“AML”) monitoring activities. References made in this report to the ‘Money Laundering Regulations’ refer to the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, as amended by the Money Laundering and Terrorist Financing (Amendment) Regulations 2019.

Whilst it continues to be a challenging time for firms in terms of regulatory compliance matters, including ensuring compliance with the Money Laundering Regulations, there are positive signs of improvement when compared to prior years.

Since the introduction of the Money Laundering Regulations ICAS has introduced a more robust follow-up process and implemented “Regulatory Actions Guidance”, which has served to further encourage improvements,

Many firms are to be commended where we have identified an increased focus and level of compliance. However, a number of compliance results in this report still remain disappointing and the Board remains concerned by the overall number of firms requiring follow up checks. ICAS will continue to review its regulatory approach to ensure that standards are being met, and maintained between visits.

The Board encourages firms to reflect on the key themes set out in this report and to take timely measures now.

Our AML monitoring activity is conducted as part of our Practice Monitoring visits. This AML report is intended to reflect the increased and continued government and public interest in the proper operation of the UK AML regulatory regime, and provide information about into our AML monitoring activities with reference to our AML supervision.

Overall no firms reviewed during the period of this report were considered to be ‘non-compliant’ with the Regulations, albeit you will see from this report that a similar number of firms year on year are considered to be ‘generally compliant’. As such, there remain a number of areas where improvements need to be made, and we would encourage firms to reflect once again on the key themes in this report. Please make the report available to all partners and staff and consider the key messages when conducting your own compliance review process.

What we do

ICAS is an Anti-Money Laundering (AML) supervisor recognised under the Money Laundering Regulations. We aim to deliver developmental regulation, which means that our AML monitoring activities are designed to both:

- Support the work of our AML supervised firms;
- Uphold standards; and
- Provide re-assurance to the public and regulators.

Our primary role is to monitor our supervised population to ensure that they meet the required standards. In the first instance we will seek to work with, and to support, firms to ensure compliance with the Regulations. Nevertheless, we have an obligation to act in the public interest, and will take robust regulatory action where a firm fails to meet the required standards.

What we review

We conduct AML monitoring reviews of all ICAS AML supervised firms and the AML monitoring review is part of a wider Practice Monitoring review.

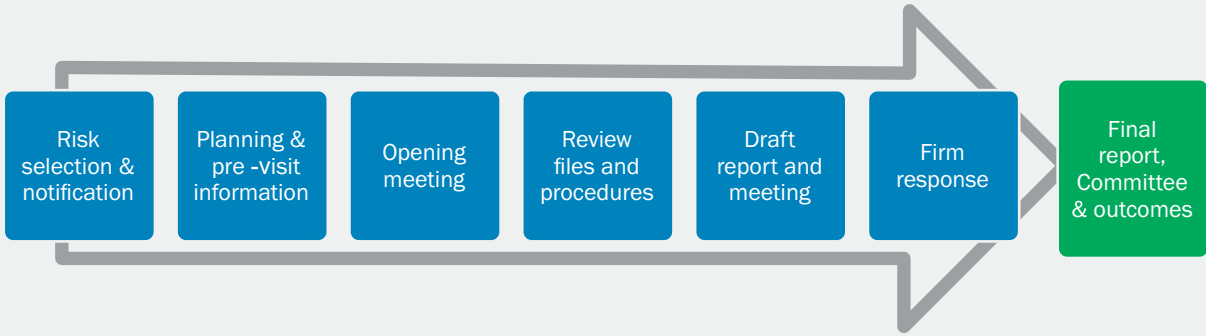
A risk assessment is conducted on all firms, and this contributes to the timing and frequency of reviews, and we use different delivery methods appropriate to the size and types of practices. Most firms will receive an onsite visit and ordinarily we will only conduct desktop reviews for smaller practices assessed as having a low AML risk.

Pre-Covid, visits were almost always an on-site visit, and we will adopt this approach again as soon as permitted.

Whilst the primary checking of AML compliance is conducted as part of Practice Monitoring, we also conduct engagement file AML checks during Audit Monitoring and Insolvency Monitoring visits to ensure that these specialist engagements also cover the appropriate AML procedures. From a wider firm context, we ensure that our Practice Monitoring teams and the firm's AML senior compliance team are kept informed of any audit or insolvency visit AML findings.

How we review

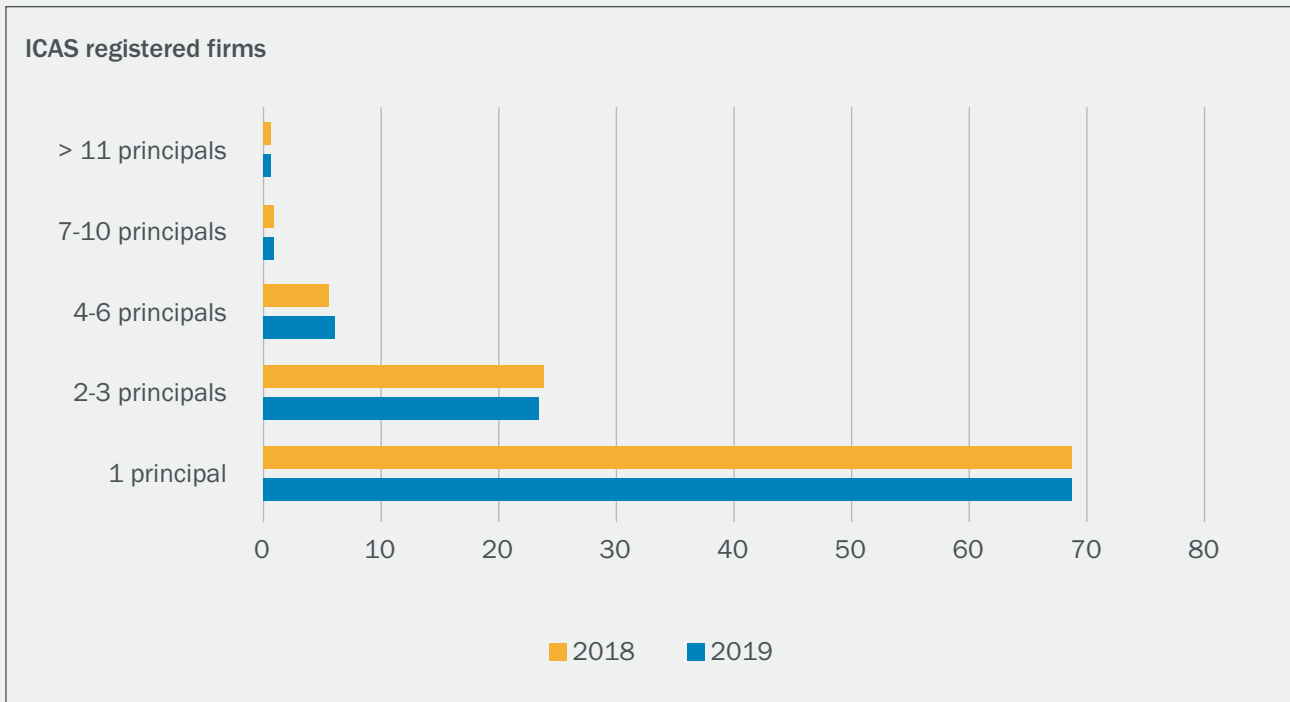
Our AML review process is, as follows, for on-site visits:



For desk-top reviews, firms submit their files and procedures for the monitoring team to review off-site and a telephone call is held with the firm to go over the findings, after which the draft report is sent to the firm.

Who we review

As at 31 December 2019 there were 947 firms registered with ICAS (2018: 965). Whilst firms vary in size, the majority are sole practitioners and 2-3 partner firms.



Monitoring results

Overview

We understand that 2019 continued to be a tough time for firms, with regulatory changes having a significant impact on general practice, including maintaining compliance with relevant regulations and legislation, and in particular due to changes in relation to the Money Laundering Regulations; GDPR; UK GAAP; and 'Making Tax Digital'.

Despite these challenges, there are positive signs of improvement with regards AML compliance, when compared to prior years.

That being said, there continue to be areas for improvement, and the increased focus on AML compliance year on year will require Firms to ensure sufficient and significant attention is maintained.

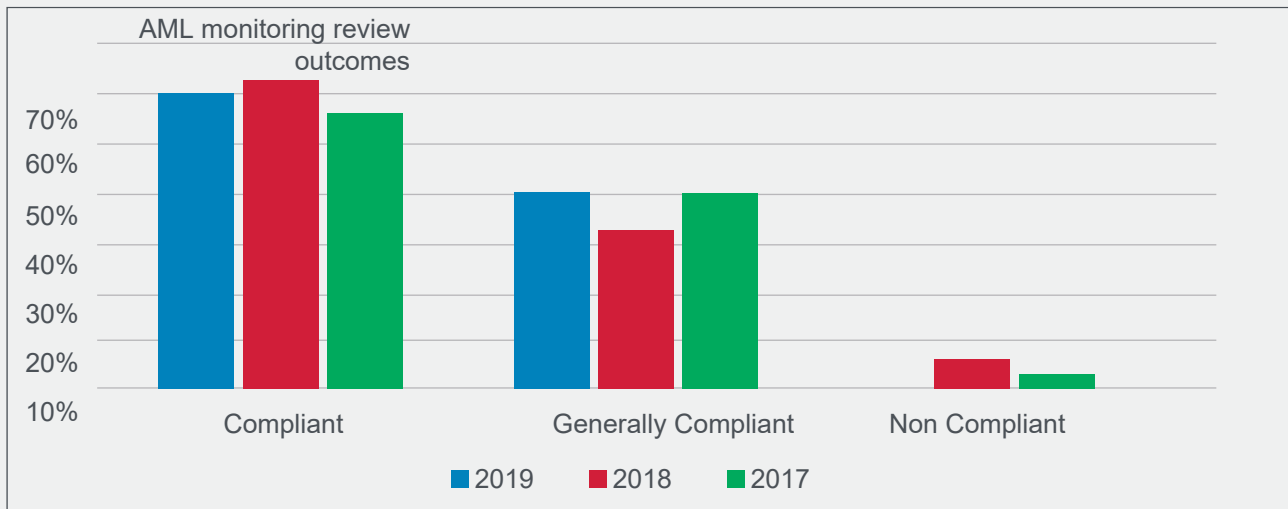
Reviews

During 2019, 89 firms (2018: 161, 2017: 182, 2016: 220, 2015: 166, 2014: 189) received an AML monitoring review, and we also undertook in the region of 55 follow-up reviews. 71 reviews were performed on site, whilst the remaining 18 were carried out remotely as desktop reviews.

AML monitoring outcomes

ICAS is required to report to HM Treasury, and OPBAS, as to whether firms subject to a monitoring review are:

- Compliant;
- Generally Compliant;
- or
- Non-Compliant.



Whilst it is difficult to make comparisons year-on-year as different firms are visited each year, it is positive to note that 100% of firms were assessed as compliant or generally compliant.

Approximately 40% of firms that receive an AML review are subject to follow-up checks, as we follow-up on generally or non-compliant firms. We take a robust approach to following up on issues because we want to ensure that firms get to grips with the new regulations quickly.

The most serious failings we see are in relation to customer due diligence and ongoing monitoring. Approximately 30% of firms reviewed still need to improve their approach to assessing and evidencing risk based customer diligence, and ensuring that these risk assessments are reviewed (and updated if necessary) on a regular basis. This is explained later in "Key Themes".

Follow-Up Checks

As part of the developmental regulation approach, generally-compliant and non-compliant firms receive follow-up checks to ensure that the required improvements are made, as follows:

- Three-month follow-up checks: firms are scheduled for a follow-up check around three months of the Committee outcome letter following their monitoring visit.
- Practice Support: firms on follow-up are offered support from our Practice Support team before they receive their follow-up check. This support is free of charge unless significant assistance is required to implement changes required.
- Regulatory sanctions: firms failing to improve quickly may be faced with regulatory penalties or referrals to the Investigation Committee. During 2019 ICAS introduced Regulatory Actions Guidance in relation to AML compliance, and this can be accessed on the ICAS website. The application of the Regulatory Actions guidance would not be considered to be the norm, but it represents an increased level of robustness to the regulation of AML. The ICAS focus remains to get firms to achieve compliance, rather than going direct to applying penalties or discipline.

Key themes

Firms are required to assess the money laundering risk for the whole firm. The risk assessment is required to be carried out at least annually, but updated for any new and changing risks, when they are identified.

Using the risk assessment should assist practitioners to determine the areas of most risk, and hence dedicate sufficient resources and activities to minimise and mitigate the risks identified.

ICAS has produced a risk template, guidance and case-studies to help you complete your risk assessment.

Of the 89 firms reviewed, 67% had carried out such a risk assessment (32% in 2018). In 2019, 90% of firms completing the firm wide-risk assessment had submitted it to ICAS.

If your firm has not yet completed a firm-wide risk assessment it is important that this is done as soon as possible, and that this is submitted to ICAS.

AML Approvals & Disclosure Checks

The Regulations require that Business Owners Officers & Managers (BOOMs) are approved by ICAS, and this includes a basic disclosure check to be obtained for each BOOM. In each visit carried out in 2019 the firm has completed the AML approval. However, 22% of firms had not obtained the required basic disclosure check for some or all of the associated BOOMs.

In addition, Firms are reminded that:

- ICAS must be informed of all legal entities in the firm, or connected to the firm, conducting accountancy or Trust & Company Service Provider (TCSP) services;
- All BOOMs in each entity must be approved by ICAS using the AML approval process;
- The firm must conduct a disclosure check (i.e. Disclosure Scotland in Scotland, DBS in England) for each BOOM and ensure that the BOOM has no relevant offences. Any relevant offences must be notified to ICAS.

Customer Due Diligence and AML Risk Assessment

This area covers a range of aspects, including Know Your Client (KYC) procedures; identification; risk assessment; and ongoing monitoring. These aspects are often the most common discussions during monitoring reviews.

The emphasis for firms and regulators remains focused on sufficient KYC information and client identification, and there have been improvements identified in these areas, however risk assessments and ongoing monitoring are equally significant, and firms are reminded of the requirement to undertake a full and informed client AML risk assessment, and identify measures to reduce, manage or eradicate the risk, and that this process is not a 'one-off', but should be ongoing and changes identified and recorded on a timely basis.

As noted, the extent of KYC documentation is improving, however it is often the case that there is insufficient client details recorded to support the AML client risk assessment.

AML Procedures and Compliance Reviews

Firms are required to conduct a regular AML compliance review. During 2019, 26% of firms reviewed had not conducted such a review, compared to 42% in the prior year, and it is positive to note this improvement.

The purpose of this review is to act as a “health check” on a firm’s AML compliance and identify weaknesses in policies and procedures which you can improve on a timely basis, and before a monitoring review.

The key to the above is ensuring that procedures are appropriate and up to date. During 2019, 11% of firms reviewed were required to make improvements to existing procedures, compared to 16% in the prior year.

Firms are reminded that the Regulations require that the AML policies and procedures:

- are regularly reviewed and updated;
- must be appropriate to the size and nature of the firm;
- must be approved by senior management;
- must be in writing and include a record of any changes as a result of the review and update and the steps taken to communicate those policies, controls, & changes within the firm;
- must include risk, internal controls, Customer Due Diligence (“CDD”), reporting and records, compliance monitoring; internal communication; policies for enhanced risk situations (EDD); and
- take into account sector guidance, such as CCAB guidance.

AML Training

AML training is a key requirement and generally most firms are devoting sufficient time and resources to training staff.

Given the importance of this area, we encourage all firms to ensure that all principals and staff are trained on:

- the main requirements of the Money Laundering Regulations;
- the firm’s AML policies and procedures: and
- the AML risks facing the firm and the action required, such as has been demonstrated in the firm’s firm-wide risk assessment.

Reporting

The Monitoring team conduct a review of a firm’s SARs (Suspicious Activity Reports) and SAR procedures on monitoring visits.

Our monitoring includes checks to ensure that:

- Records are being maintained of any matters reported by staff to the MLRO and of action taken to such reports.
- Reports made by staff to the MLRO are held separately by the MLRO and not on the client file.
- There is evidence that the MLRO has considered reports made by staff within a reasonable timescale following the report being made.
- Appropriate procedures are in place covering external reports to the National Crime Agency (“NCA”).
- Firms have followed the appropriate Defence Against Money Laundering (“DAML”) procedures, where required.
- Where reports have been made, that appropriate glossary codes are quoted as part of the report.
- There are procedures in place for suitable secure storage and retention of internal reports and SAR’s.

The frequency and number of SARs is reviewed as part of the visit and where delays in dealing with SAR reporting are noted, these are investigated by the monitoring team to establish the reasons.

ICAS Support

ICAS response to the COVID-19 pandemic

HM Treasury and OPBAS have made clear that despite the upheaval associated with the Covid-19 crisis, firms and regulators are expected to continue business as usual in terms of AML compliance. Firms should remain alert to specific Covid-19 risks such as the abuse or exploitation of the various furlough and self-employed Covid-19 financial support provided by HM Government.

As part of the ICAS commitment to supporting the welfare of our members, students and staff, relevant resources and information is available on the ICAS Coronavirus hub on [icas.com](https://www.icas.com)

Technical Support

If you have a question about auditing, or indeed other matters (such as: accounting and auditing; ethics; anti-money laundering; practice support; insolvency; ICAS regulation or tax), then technical support is available through a helpdesk, which can be accessed on the website by searching "ICAS Technical Helpdesk".

ICAS General Practice Manual

In February 2020 ICAS launched a replacement to the previous General Practice Procedures Manual. This revised General Practice Manual (GPM) service seeks to address previous user experience issues identified and provide a focused, relevant and accessible set of resources for general practice.

The GPM is available directly through [icas.com](https://www.icas.com) and linked with members logins. The GPM is also accessible to anyone within an ICAS firm.

GPM will remain a free resource to ICAS Firms. Engagement letters and AML resources continue to be the most popular subject matters.

AML checklists have been updated to comply with the amended Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 following legislative changes to implement the 5th Money Laundering Directive which became effective on 10 January 2020.

Money Laundering confidential helpline

If you have any potential AML issues, please contact our confidential helpline on 0131 347 0271.

The ICAS Practice Support Service

This service provides support to all ICAS registered firms. It offers a variety of services on all aspects of practice, which can be tailored to meet the needs of your firm. For more information on any of these services, contact practicesupport@icas.com

Appendix One: The Regulatory Framework

Who is regulated?

The following roles conducted by our firms are regulated;

- auditor;
- external accountant;
- insolvency practitioner;
- tax adviser; or
- trust or company service provider (TSCP).

Accountancy services are defined by the HMRC as “the recording, review, analysis, calculation or reporting of financial information”.

We provide a more detailed definition of accountancy services in the ICAS guidance called Guidance: When is a Practising Certificate required?.

If you are in doubt whether any of your entities require to be supervised, please contact our Regulatory Authorisations team who can advise you.

What is the legislative framework?

There is significant legislation involved in AML supervision, including:

- The Money Laundering Regulations;
- The Proceeds of Crime Act 2002 (POCA) as amended by the Serious Organised Crime and Police Act 2005 (SOCPA) and relevant statutory instruments;
- The Terrorism Act 2000 (TA 2000) (as amended by the Anti-Terrorism Crime and Security Act 2001 (ATCSA) and the Terrorism Act 2006 (TA 2006)) and relevant statutory instruments.

POCA and TA 2000 contain the offences that can be committed by individuals or organisations.

OPBAS

OPBAS (“the Office for Professional Body Anti-Money Laundering Supervision”), is the oversight body charged with ensuring consistent supervision in the legal and accountancy sectors.

OPBAS is housed within the Financial Conduct Authority.

Its powers are wide and include the powers to:

- Publicly censure /remove AML supervisors;
- Request information/annual questionnaires/returns;
- Commission skilled third parties to report on body’s AML effectiveness;
- Accompany professional bodies on monitoring visits;
- Conduct desk-top reviews;
- Conduct onsite supervisory visits;
- Request staff attendance at interview;
- Conduct thematic reviews;
- Issue directions; and
- Facilitate information sharing.

TCSP Register

HMRC holds a register of firms which offers TCSP services. This register is not available for public inspection and will only be available to law enforcement agencies.

It is a criminal offence to conduct TCSP services without being disclosed on the register. It is also a criminal offence to conduct accountancy or TCSP services without being AML supervised.

If you have not notified ICAS of all legal entities connected to your practice which conduct accountancy or TCSP services please ensure you contact Regulatory Authorisations.

Approval of beneficial owners, officers and managers “BOOMs”

The Money Laundering Regulations require all Beneficial Owners, Officers and Managers in each firm to be approved by their AML supervisory authority.

The regulation further requires that no BOOM should be guilty of a “relevant offence”. HM Treasury and OPBAS required all supervisors to ensure that firms conducted “disclosure checks” on their BOOMs (i.e. via Disclosure Scotland checks in Scotland and DBS checks in England and Wales).

Firms are reminded that BOOM approval is an ongoing requirement and that any impending changes to the Beneficial Owner, Officers or Managers in your firm must be notified in advance to Regulatory Authorisations (regulatoryauthorisations@icas.com).

It is a statutory breach to omit to apply for BOOM approval and the Authorisation Committee is required to take robust regulatory action.



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