



FACULTY OF ADVOCATES

ANTI-MONEY LAUNDERING SUPERVISORY REPORT 2020/21

Foreward

Faculty of Advocates is pleased to present its first annual report on our Anti-Money Laundering (AML) Supervisory activities. Although the AML Regulations apply to a very limited sub-set of our members, several years ago Faculty established an AML Committee, which I currently chair, to monitor our supervisory activity. That activity is carried out by the Faculty's Chief Executive Officer who acts as AML Officer. Further details of our supervisory activity are provided in this report but I would highlight the collaborative work undertaken with the Bar Council of England & Wales and the Bar of Northern Ireland in producing specific AML Guidance for barristers and advocates. The nature of an advocate's work and the manner in which we receive instructions mean that the AML challenges for members of a referral bar are different from other areas of the legal profession and we believe that this guidance, published in April 2021, will be a very useful source of additional support for our members.

Faculty will continue to participate fully in government and professional initiatives to combat money laundering and terrorist financing.

Ruth M Innes QC

Chair, Faculty of Advocates Anti-Money Laundering Committee

Background

Faculty of Advocates regulates the training and professional practice, conduct and discipline of advocates in Scotland. All advocates are independent sole practitioners. Advocates are typically qualified solicitors who then undergo further training and examinations before calling to the bar. Once doing so they can represent clients in Scotland's highest courts and can be instructed to give written opinions on complex legal issues.

Approach To AML Supervision

In devising its approach to AML Supervision the Faculty carried out an AML risk assessment of its membership. Unlike other branches of the legal profession advocates are not permitted to hold client monies and they do not conduct transactions, such as conveyancing, on behalf of clients. The majority of their instructions come from solicitors rather than directly from the client. For these reasons Faculty classified advocates generally as being low risk in terms of non-compliance with the AML regulations. Faculty identified non-contentious tax advice as the area of work which would most likely to bring its members within the scope of the AML Regulations.

Any Advocate who wishes to carry out work covered by the AML Regulations is required to register with Faculty. Registered members are required to complete an AML Risk Assessment which identifies and assesses potential AML risks that may arise from their practice and records how these risks will be managed. These risks may arise from the type of work they undertake, the geographic areas in which they work or the source of their instructions. All registered members are interviewed annually, whether they have carried out work covered by the regulations or not. During the interview members will be asked to demonstrate their compliance with the Regulations in terms of record-keeping and client identification and due diligence.

Supervisory Activity in The Year to 5th April 2021

As at 5th April 2021 Faculty had a total of six registered members out of a total of 423 practising members and all six were interviewed during the preceding 12 months. As a result of the interviews two members were asked to provide further information in relation to specific pieces of work or were asked to consider revising elements of their AML documentation. Satisfactory responses or revised documents were subsequently received.

None of our registered members reported having raised a Suspicious Activity Report (“SAR”) in the year to 5th April. This is consonant with the inherently low AML risk in an advocate’s work.

Future Supervisory Activity

In the period since 5th April 2021 the AML Committee has reviewed and updated the Faculty’s AML risk assessment and has also developed a formal policy on the provision of information by registered members.

Our AML Supervisory activities have also recently been reviewed by OPBAS and we are implementing a number of suggested improvements arising from that review.