

## Compliance with economic sanctions and prevention of economic crime

### Costs Lawyer risk chart

Current at: April 2024

	<b>Activities potentially carried out on behalf of a sanctioned entity (a client), or that relate to risk of economic crime</b>	<b>Risk profile</b>
1	Receiving costs from a paying party on behalf of a client	<p>Costs Lawyers are prohibited from handling client money under Principle 3.6 of the Code of Conduct. A project carried out in 2021, taking a deeper look at risks around Costs Lawyers handling client money, found no evidence of non-compliance with this regulatory requirement and encouraged the use of third party managed accounts (TPMAs) to allow Costs Lawyers to more readily facilitate client transactions. The use of TPMAs is now expressly permitted under the Costs Lawyer Code of Conduct, updated in April 2024. TPMA providers are regulated by the Financial Conduct Authority (FCA) and institute full KYC checks.</p> <p>Even when using a TPMA there is some residual risk of economic crime. Criminals may attempt to use legal transactions as a way of moving criminal property from one individual to another without attracting the attention of law enforcement. Costs Lawyers should be alert to any attempt to pay funds into, or out of, a TPMA account without a genuine reason or underlying transaction, and ensure they are familiar with the <a href="#">CLSB's economic crime guidance note [guidance note to be updated]</a>.</p> <p>Increasing and more sophisticated use of technology by criminals presents risks. Criminals could use weak cyber-security to gain access to Costs Lawyer client systems and data for the purposes of laundering criminal property. Costs Lawyers should ensure that their TPMA account provider is sufficiently defended against risks such as ransomware and cyber attacks.</p> <p>The use of cryptocurrencies to make payment, or the use of crowdfunding to cover litigation costs, can also be vehicles for masking the true source of funds. Costs Lawyers should consult the guidance note for advice on extra checks that may be warranted where these risks are present.</p>
2	Passing funds from a client who is a paying party to the receiving party	
3	Taking money on account of fees and disbursements	

4	Advising or advocating for a client on costs matters, upon instruction from another professional (solicitor, legal executive etc)	<p>Findings from our 2022 innovation project show that the vast majority of Costs Lawyers' instructions are received through a professional intermediary. While the CLSB does not regulate entities (firms), in such cases the solicitors' firm acting as the intermediary will be subject to the Solicitors Regulation Authority's (SRA's) Code of Conduct for Firms, anti-money laundering regime and any sanction enforcement interventions.</p> <p>Note that foreign legal professionals might themselves be subject to sanctions. Costs Lawyers should proceed as set out in the box below when dealing with foreign lawyers.</p>
5	Advising a client on sanctions issues, upon instruction from another professional (solicitor, legal executive etc)	
6	Advising or advocating for a client on costs matters, upon direct instruction from the client	<p><i>Sanctions compliance</i></p> <p>While the volume of such instructions is low, we identified this as the highest risk area for non-compliance with sanctions due to the lack of entity oversight (e.g. by the FCA or SRA). In 2022, when economic sanctions against Russia and Belarus had recently been implemented by the UK, we contacted each individual Costs Lawyer working in an organisation that is not regulated by the SRA to: (i) provide information and resources about sanctions, (ii) seek assurance that they were familiar with their sanction obligations, and (iii) check whether they had any clients with a Russian nexus and/or had applied for a licence. We received the requisite assurance and no new risks or areas for intervention were identified through this process.</p> <p><i>Money laundering risks</i></p> <p>Instructions in this area may present risks associated with economic crime, including money laundering, proliferation financing and terrorist financing. The 2020 National Risk Assessment carried out by HM Treasury and the Home Office (NRA) identified the risk of legal services being abused for money laundering purposes as high overall, with conveyancing as well as trust and corporate services providers identified as the areas of highest risk.</p> <p>The ordinary course of litigation does not in itself attract money laundering risks. However, NRA highlighted that sham litigation (i.e. litigation or settlement negotiations created for the purpose of laundering criminal property, or claims of loss fabricated to launder criminal property) is an area of risk for legal professionals. For example, criminals may agree to sue each other in English courts and use the payment of damages to launder criminal proceeds. The same risk could arise in relation to the payment of adverse costs.</p> <p>The CLSB's economic crime guidance note sets out Costs Lawyers' obligations in this area. Costs Lawyers should familiarise themselves with that guidance note, and the Legal Sector Affinity Group guidance for the legal sector, which includes</p>
7	Advising a client on sanctions issues, upon direct instruction from the client	

		<p>advice on assessing the risk of proliferation finance and terrorist financing (see further below).</p> <p><i>Proliferation and terrorist financing risks</i></p> <p>Many of the risk indicators of proliferation financing are similar to those of money laundering. For this reason, Costs Lawyers will be able to assess their proliferation financing risk as part of their anti-money laundering risk assessments. The NRA rated the legal sector as being low-risk for terrorist financing and found no evidence of legal services being abused for terrorist financing purposes. Consequently, we consider the risk of Costs Lawyers being used to facilitate proliferation financing and terrorist financing to be extremely low.</p> <p>Regardless of the low risk, Costs Lawyers should familiarise themselves with the CLSB’s economic crime guidance note, which touches upon this issue, as well as the Legal Sector Affinity Group guidance for the legal sector, which includes advice on assessing the risk of proliferation finance and terrorist financing.</p>
8	Advising a sanctioned employer as an in-house lawyer	Our data confirms that no Costs Lawyers work in-house in entities that have any nexus to Russia or sanctioned entities. Employers include the UK government, global insurance conglomerates and so on.