



"The standards of supervision over the legal and accountancy sectors in the UK have been very variable. We need to see robust action to prevent professionals being used to launder money"

Alison Barker, Director of Specialist Supervision, OPBAS – March 2019

DNFBPs and Financial Crime

Alan Paterson

Managing Director
E-mail: alan.paterson@plenitudeconsulting.com

Asad Choudhary

Partner
E-mail: asad.choudhary@plenitudeconsulting.com

John Pool

Manager
E-mail: john.pool@plenitudeconsulting.com

Designated Non-Financial Businesses and Professions ("DNFBPs") are businesses that are considered to pose a money laundering risk but cannot be classified as a financial institution. They are seen as 'gatekeepers' to the financial system and include professions such as accountants, lawyers, estate agencies, casinos, high value dealers, and trust or company service providers.

In the UK, these professions are subject to the requirements of the Money Regulations 2017. Each industry's regulatory oversight bodies (e.g. Solicitors Regulation Authority, Institute of Chartered Accountants in England and Wales, Chartered Institute of Management Accountants) are required to act as Anti-Money Laundering supervisors.

The 22 professional bodies overseeing the legal and accountancy sectors in the UK are, in turn, overseen by the Office for Professional Body Anti-Money Laundering Supervision (OPBAS), a regulator housed within the FCA and charged with strengthening the UK's Anti-Money Laundering supervisory regime and ensuring that professional body AML supervisors provide consistently high standards of AML supervision.

DNFBPs – Key Facts

- Considered high risk of money laundering in the UK's National Risk Assessment of Money Laundering and Terrorist Financing 2017
- Traditionally involved in 'high end' money laundering
- Key risks include complicit professionals facilitating money laundering, coerced professionals targeted by criminals, creation of structures and vehicles that enable money laundering, and the misuse of client accounts by complicit or negligent professionals

What Has Happened?

In March 2019, Alison Barker (Director of Specialist Supervision at OPBAS) gave a speech at the Royal United Services Institute on the role of OPBAS and its first annual assessment of the 22 professional bodies it supervises.

Highlights of the Assessment

OPBAS found generally poor standards of supervision; the professional bodies focus more on representing their members than robustly supervising standards.

Some of the bodies did not fully understand their role as an AML supervisor. 23% had no form of supervision, and 18% had not even identified who they were required to supervise. Over 90% hadn't fully developed a risk-based approach and had not collected the data they needed to form a view about their riskiest members and their services.

Only 50% of accountancy bodies took enforcement action for AML failings last year; the bodies reported that they believed their members would leave if any enforcement action were taken. Given the high risk activities of lawyers and accountants, that rate of enforcement is surprisingly low.

The professional bodies were provided with a list of desired outcomes by OPBAS, including:

- risk-based supervision of the professions, i.e. focused on the riskiest types of business or clients such as tax, conveyancing, company formation
- supervision which is properly resourced
- robust enforcement outcomes that show professional body supervisors mean business

The Impact on DNFBPs

Given the deficiencies highlighted in the assessment, we expect to see increased AML supervision and reviews by the professional bodies. By example, the Solicitors Regulation Authority (SRA) published the results of a review conducted across 59 law firms on the 7th May 2019 which concluded "that a significant minority of law firms are not doing enough to prevent money laundering, with some falling seriously short". As a result of the review the SRA has put 26 firms into its disciplinary processes. It has also published a warning notice reminding the profession of their obligations, particularly in relation to firm risk assessments. It has begun a further review of 400 other law firms to check compliance with the Government's 2017 Money Laundering Regulations. This review will be led by a new dedicated anti-money laundering unit, being set up to bolster resources to prevent and detect money laundering.

DNFBPs can therefore expect to be placed under greater scrutiny with the risk of disciplinary or enforcement action if they cannot evidence full compliance with the Money Laundering Regulations 2017. DNFBPs that do not have an established AML framework are most at risk. Our experience is that firms generally lack the required subject matter expertise and therefore benefit from external support, adopting a proven approach and methodology which has been implemented at other DNFBPs. This significantly reduces the time spent on developing the framework and provides assurance the firm is fully complying with regulatory requirements.

Given the heightened risk, it is our view that DNFBPs may also come under greater scrutiny from the banks they use who may ultimately decide to exit relationships or restrict banking services as part of 'de-risking' activity if they become aware of AML failings.

Supervisory roles need to be better understood

Supervision needs to be properly resourced

Robust enforcement actions need to be taken

DNFBPs can expect increased scrutiny

What Do DNFBPs Need To Do?

In order to ensure compliance with the Money Laundering Regulations 2017, DNFBPs must ensure that they have a robust financial crime control framework in place. We would typically recommend an assessment to evaluate the effectiveness of the financial crime framework and controls with reference to UK laws and regulatory requirements, which can typically be conducted in a 2-3 week timeframe. This will help to identify any deficiencies and will result in a set of recommendations to meet regulatory requirements. As part of the assessment we will establish if the DNFBP has the following in place:

- A defined risk appetite that articulates the level of risk they are willing to assume when taking on new clients
- An approach and methodology to undertake practice-wide money laundering and terrorist financing risk assessments, considering the risks posed at a minimum by the firm's clients, geographic areas of operation, products and services, transactions, and delivery channels
- An approach and methodology to assessing individual client risk taking into consideration multiple factors including the country the client operates or is resident in, occupation or industry, entity type, and products and services
- Internal controls appropriate to the size and nature of the firm, including appointing an individual at senior management level to be responsible for compliance with the regulations, and establishing an independent audit function to examine, evaluate and make recommendations about the adequacy of the firm's policies controls and procedures and monitor compliance with them
- A complete suite of risk-based AML policies and procedures covering:
 - Customer due diligence and enhanced due diligence, including customer screening
 - Politically Exposed Persons (PEPs);
 - Staff training;
 - Record keeping and retention, etc.
- Robust, well-developed and well-documented monitoring and screening controls to meet regulatory obligations with regards to ongoing monitoring, following a risk-based approach
- A framework for internal and external escalation and disclosure

Additional obligations exist for firms acting as trustee of relevant trusts, including requirements regarding record keeping and the provision of beneficial ownership information – these must also be met in order to comply.

Guidance for DNFBPs on compliance with the Money Laundering Regulations 2017 is provided by two key bodies:

- The Legal Sector Affinity Group (a collective of AML regulators across the legal sector)
- The Consultative Committee of Accountancy Bodies (an umbrella group of chartered professional bodies)

All aspects of a firm's financial crime control framework should be designed and maintained in accordance with the relevant guidance (depending on the sector in which the firm operates).

Plenitude Capability

Plenitude's 'AML Framework for DNFBPs' is a proprietary set of AML framework components that can be leveraged to accelerate the design, enhancement and implementation of a DNFBP's AML framework. It has been developed taking into consideration the requirements set out in the Money Laundering Regulations 2017 and European Union Fourth and Fifth Money Laundering Directives, as well as Anti-Money Laundering Guidance for the Legal Sector (LSAG) and Anti-Money Laundering Guidance for the Accountancy Sector (CCAB).

Our services include:

- Current state assessment of a client's financial crime control framework against regulatory requirements, with advice and recommendations on how to address any gaps;
- Definition of risk appetite statements with supporting metrics and Key Risk Indicators;
- Design and execution of AML and other financial crime risk assessments;
- Assessments of key financial crime systems and controls, including sanctions screening and transaction monitoring tools;
- Review and enhancement of policies and procedures;
- Provision of robust, objective consideration of geographical risk through Plenitude's **Compass subscription service**;
- Provision of financial crime regulatory obligations for DNFBPs with monthly 'Horizon Scanning' updates through Plenitude's **Obligations Register subscription service**; and
- Provision and delivery of bespoke financial crime training.

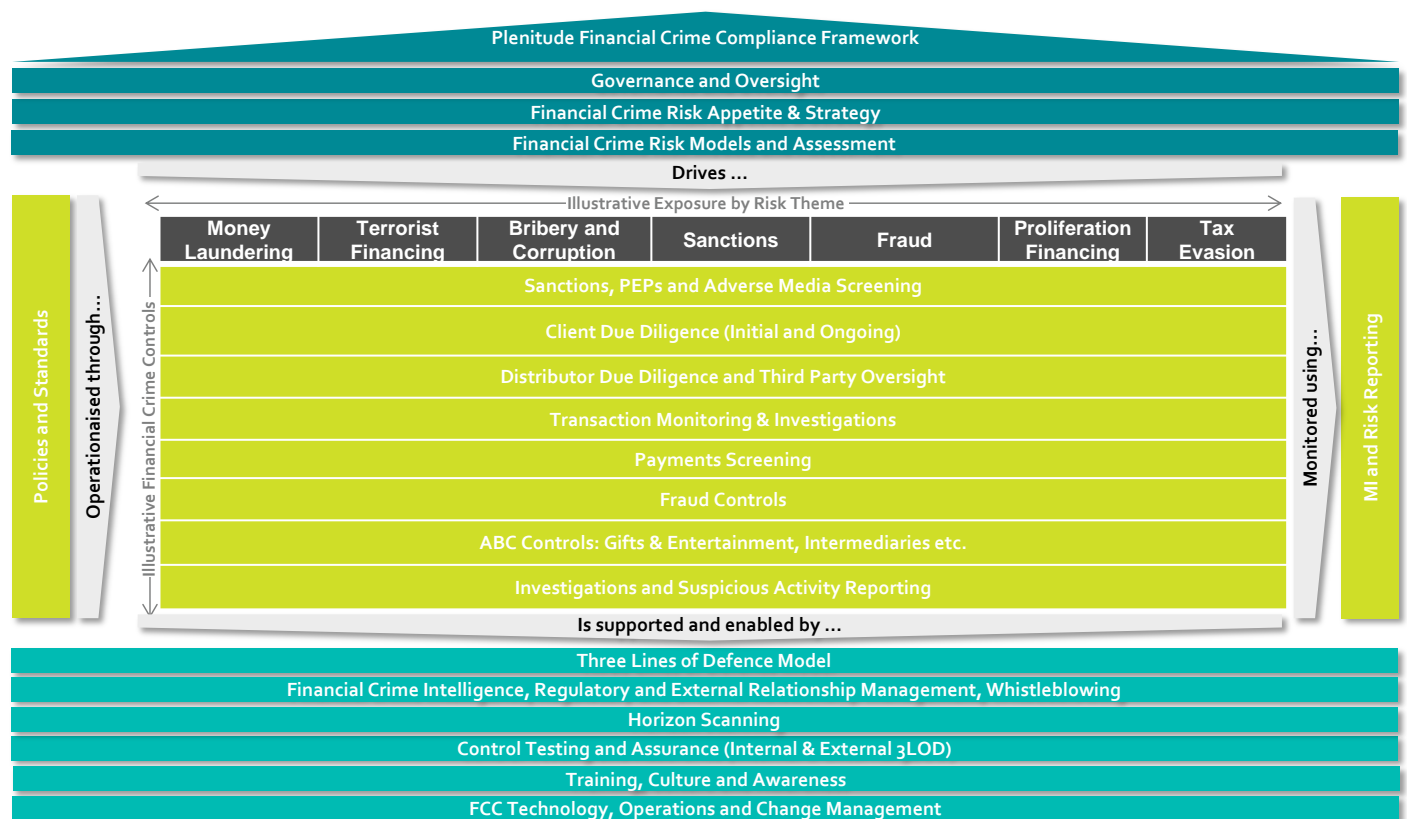
About Plenitude

Plenitude is a niche consultancy, specialising in Financial Crime Risk and Compliance. Our focus is firmly on addressing the legal, regulatory, reputational and social imperative for financial institutions and DNFBPs to take diligent and rigorous steps to mitigate financial crime risks.

We help our clients meet their regulatory obligations and reduce their financial crime risk exposure by providing deep subject matter expertise, advisory and transformation services. Our services are augmented with subscription products that gives our clients enhanced insight into the vast array of Financial Crime Compliance ("FCC") laws, regulations, guidance and risk indicators, to more effectively manage financial crime risk while reducing overall costs.

Our consultants come from a variety of backgrounds and disciplines across consulting, in-house financial crime compliance, regulators and law enforcement. This blend of skills and perspectives guarantees a practical and proven approach based on deep industry expertise.

Our capabilities address the full spectrum of financial crime risks. We have extensive experience our assisting our clients assess the effectiveness of their financial crime framework and implement strategic changes to ensure more effective financial crime risk management.



Plenitude Financial Crime Framework and Capabilities

Please contact us for more information about our services to arrange an introductory meeting.

Email: enquiries@plenitudeconsulting.com

Tel: +44 203 102 9526