

National Risk Assessment

Lawyers



Jersey Financial
Services Commission

JFSC Official

Agenda

Overview of the legal sector

Working group & Industry perspective

Sector threats & vulnerabilities,
including controls

Next steps

What is risk in a money laundering context?

$$\text{Risk} = \text{Threat} + \text{Vulnerability}$$

Threat

A person or group of people, object or activity with the potential to cause harm to, for example; the state, society, the economy etc.

- e.g. **the clients of a lawyer**

Vulnerability

Weaknesses or gaps in the defence against ML that can be exploited by the threat or that may support or facilitate its activities

- Characteristics of products and services available in the sector (inherent) e.g. **legal professional privilege**
- Strength of controls applied at national and sector level (control) e.g. **regulatory oversight, lawyers' systems and controls**



Lawyers' activities (1)

- The business of providing services by **independent legal professionals**
- ...by way of business provide legal or notarial services to third parties when **participating in** financial, or immovable property, **transactions** concerning any of the following:
 - buying and selling immovable property or business entities
 - buying and selling of shares the ownership of which entitles the owner to occupy immovable property
 - managing client money, securities or other assets





Lawyers' activities (2)

- opening or management of bank, savings or securities accounts
- organisation of contributions necessary for the creation, operation or management of companies*
- creation, operation or management of trusts, companies or similar structures*
- **participates in a transaction** by:
 - assisting in the planning or execution of the transaction or
 - otherwise acting for or on behalf of a third party in the transaction.

*Does not include trust and company services – separate registration required



Legal sector

- To practice Jersey law, must be a member of the **Law Society of Jersey**, a professional body and regulator of conduct
- Involved in large multi-national transactions (may only play a small role)
 - In 2017 and 2018: most common activity was providing legal services to third parties when transaction included creation/operation/management of trusts/companies/similar structures





Legal sector: 2018

- 3rd largest sector by revenue and number of employees
- Data collection new 2017/2018
- Over 83% of overall revenue derived from Schedule 2 business activities
- 26% - sole practitioners
- 37% - 10 employees or less
- 4 firms had more than 100 employees
 - Generated 59% of the sector's revenue
 - Employed 48% of sector staff



Legal sector

- Over 50% of clients rated as low risk
- 5% rated as higher risk
- 78% of clients reported as being from the UK or a Crown Dependency





Working group

- Chaired by JFSC, Policy
- Representatives from
 - JFCU
 - Government
 - Industry: three different legal sector firms



NRA report

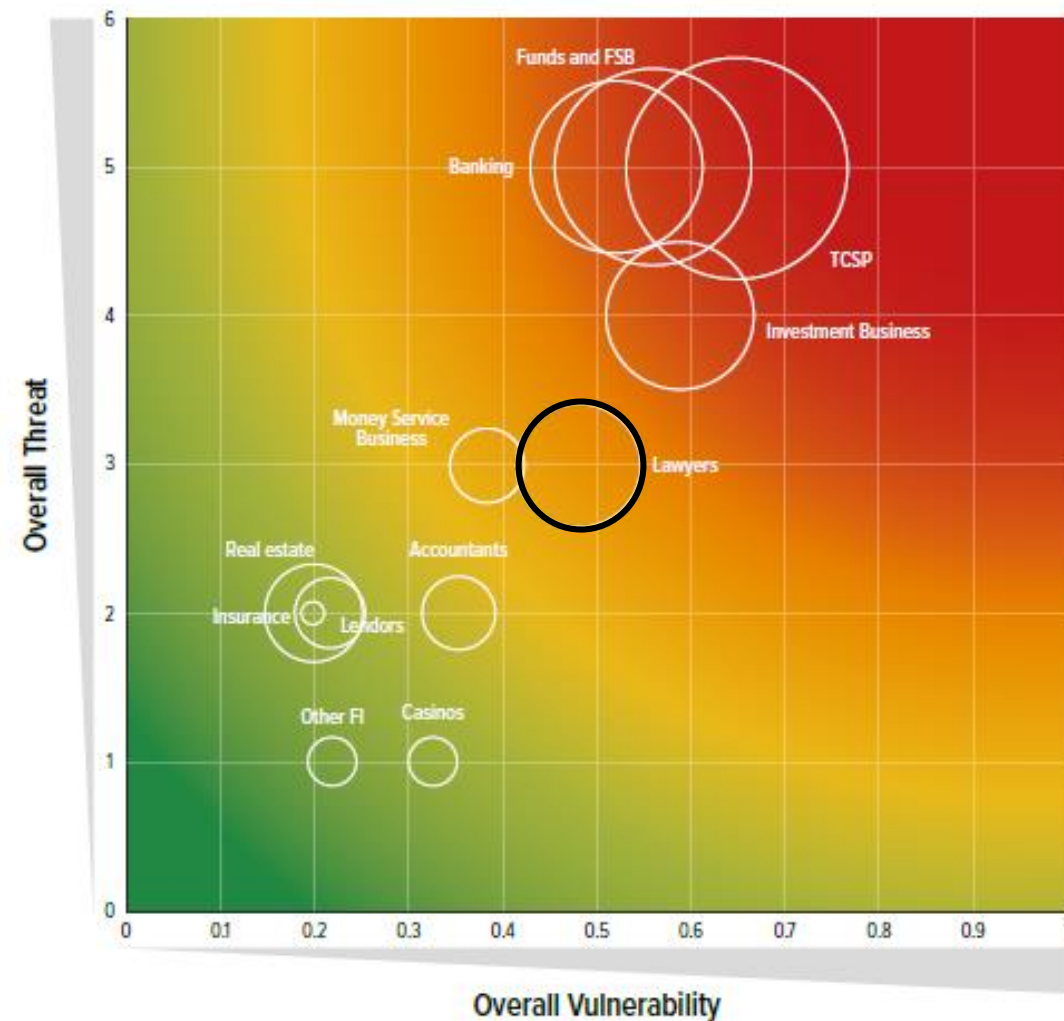
- Working group produced roughly 26 pages of report - subject to reviews
 - First draft moderated by government appointed consultant
 - World Bank review - November 2019 workshop feedback and challenge
 - External financial crime consultant
- Resulted in 12 pages of highly summarised text



Working group

- Second World Bank Workshop (November 2019)
- Legal sector rating

Residual Risk 'Heatmap' for Jersey



Reflections by working group members (1)

- Overall a valuable exercise
- Interesting and positive experience
- Sector
 - Increased understanding and insight into the breadth of the sector
 - Provision of legal services touches on every financial services sector
 - Diversity of firms means not all face the same challenges and risks
 - Obtained a broad consensus on risks, including vulnerabilities



Reflections by working group members (2)



- Opportunities/perception
 - Engagement with regulator, government and JFCU
 - Much better understanding of views/perceptions/misconceptions of how the legal sector is viewed from outside Industry/Island
 - Benchmark risks in the legal sector against other DNFBPs



Threat (1)

- Rated as Medium
- Mix of international and domestic threats – total mix of clients
- Sector is attractive to criminals as can:
 - add credibility
 - assist in integration of illicit funds
- Overlap with other financial services sectors – corporate structuring legal advice – shared threat





Threat (2)

- Domestic clients
 - Individuals – real estate transactions, including share transfer properties
 - Financial services businesses – trust companies, fund services businesses
 - More than 50% of clients reported as Jersey resident



Threat (3)

- Foreign customers
 - 20% reported as resident in UK, Guernsey or Isle of Man
 - Approx. 25% reported as not resident in UK or a Crown Dependency
 - Just over 100 countries
 - Less than 2% resident in highest risk countries per Appendix D2
 - All countries identified in National threat section represented
 - PEPs reported but concentrated in larger firms





World Bank Tool – Inherent vulnerability (1)

- Size/volume of sector
- Client base profile
- Level of cash activity
- Other, sector relevant
 - Difficulty in tracing transaction records
 - Existence of ML typologies
 - Use in fraud or tax evasion schemes
 - Availability of non-face to face services



World Bank Tool – Inherent vulnerability (2)

- Other, sector relevant cont'd
 - International transactions
 - Client accounts
 - Legal professional privilege
 - Being paid with proceeds of crime

Does not exist:

- Use of Agents
- Anonymous use of services



World Bank Tool – Inherent Vulnerability

Input variable	Lawyers
Size/volume of legal sector	Medium
Client base profile	High
Level of cash activity	Low
International transactions	High
Use of client account	Medium
Legal professional privilege	Medium
Being paid with proceeds of crime	Medium
Difficulties in tracing transaction records	Easy to trace
Existence of money laundering typologies	Exist
Use in fraud or tax evasion schemes	Exist
Availability of non-face to face service	Available

Inherent vulnerability summary

- Large, complex, international transactions – properly understand the transaction
- Client accounts – co-mingling funds:
 - Schedule 2 activities – CDD applied
 - Other services – no CDD required
 - banking exemption only applies to client accounts of registered lawyers carrying on Schedule 2 activity
- Legal Professional Privilege
- Being paid with the proceeds of crime or handling proceeds of crime
- Lawyer complicity – trust (2018 case lawyer jailed for fraud)



World Bank Tool – control variables

- Comprehensiveness of AML legal framework
- Effectiveness of supervision/oversight
- Availability and enforcement of administrative and criminal sanctions
- Availability and effectiveness of entry controls
- Integrity and AML knowledge of entity staff
- Effectiveness of compliance functions
- Effectiveness of Suspicious Activity Monitoring and Reporting
- UBO information
- ID & V measures / information sources



Control variables - vulnerability

Input variable	Score
Comprehensiveness of AML legal framework	High
Effectiveness of Supervision/oversight	Medium-Low
Availability and enforcement of administrative sanctions	Low
Availability and enforcement of criminal sanctions	Low
Availability and effectiveness of entry controls	Medium
Integrity of staff in law firms	Medium-Low
AML knowledge of staff in law firms	Medium-High
Effectiveness of compliance function (entity)	Medium
Effectiveness of SAR monitoring & reporting	Medium-High





Control framework

- One AML legal framework for all financial services businesses
- 2-tier registration, lawyers are level 2
- Low level of supervision 2015 – 2018
- Range of sanctions
- Limited typologies internationally many involve TCSP activity
- Level versus quality of SARs





JFSC expectations of Industry

- Read and consider relevant sections of NRA
- Refresh BRA
- Consider/use data you have provided to JFSC
- Tailored staff training
- Embed a compliance culture
- Continue open engagement with Supervisors



JFSC next steps

- Pooled Supervision thematic examination – Q2/Q3 2021, including
 - client risk assessments
 - use of client accounts
 - suspicious activity reports
 - employee training and knowledge
 - effectiveness of compliance systems and controls
- Industry outreach
- Increased analysis and use of data – internal/external
- Other area: customer risk assessments





Island next steps

- Section 6 – Recommended actions
- Develop and articulate updated Financial Crime Strategy
- Ongoing risk assessments - dynamic (not a big bang)
 - priority driven
 - reactive to emerging threats
- Examples
 - PEPs
 - Higher risk threat jurisdictions





Questions?



Thank you



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