

# SOF and SOW Checklist and Guidance

May 2023



COUNCIL FOR LICENSED CONVEYANCERS

# SOURCE OF FUNDS/WEALTH CHECKLIST AND GUIDANCE

## MAY 2023



### 2017 AML Regulations

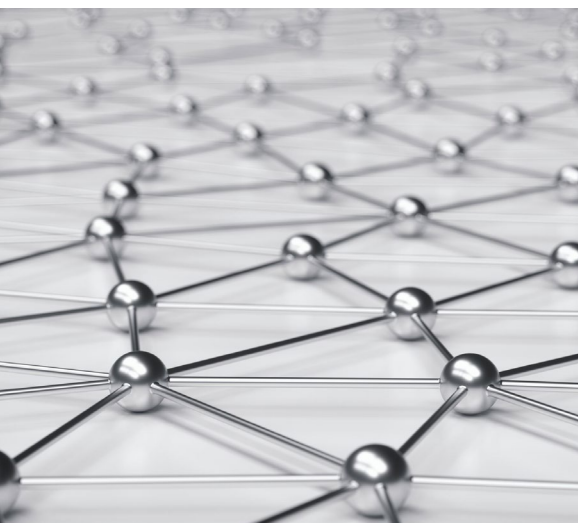
The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 came into force on 26 June 2017 and built on the 2007 Regulations.

### 5MLD:

The Fifth Money Laundering Directive came into force on 10 January 2020 and was implemented into UK law by the Money Laundering and Terrorist Financing (Amendment) Regulations 2019.

### 2023 LSAG Guidance:

This guidance, published on 28 March 2023, fully incorporates the changes from the MLR Amendments Regulations 2022. This guidance has been approved by the Treasury and has full standing under the 2017 AML Regs.



### RELEVANT AML LEGISLATION

**Regulation 28(1)(a)** The relevant person must conduct ongoing monitoring of a business relationship, including—

(a) scrutiny of transactions undertaken throughout the course of the relationship (including, where necessary, the source of funds) to ensure that the transactions are consistent with the relevant person's knowledge of the customer, the customer's business and risk profile

### RELEVANT CLC CODES

**AML/CTF Code: 11(c).** Be satisfied that the Client's economic position, wealth and lifestyle correspond with the proposed transaction.

**SOURCE OF FUNDS CHECKLIST**

LSAG Guidance 2023: "Source of Funds refers to the funds that are being used to fund the specific transaction in hand – i.e., the origin of the funds used for the transactions or activities that occur within the business relationship or occasional transaction. The question you are seeking to answer should not simply be, "where did the money for the transaction come from," but also "how and from where did the client get the money for this transaction or business relationship." It is not enough to know the money came from a UK bank account." (Page 91)

Source	Amount	Other information	Supporting evidence obtained and on file
Property sale	£.....		
Mortgage obtained	£.....	Does the mortgage cover the whole purchase price? .....	
Settlement from a divorce	£.....	Where are the funds located? .....  Who acted for the client? .....  What was the date of divorce? .....	
Client savings	£.....	How were these savings accumulated and over what period of time? ..... ..... If from employment the name and address of your employer: ..... ..... Client salary/salaries (annum): ..... .....	

<p>Money from inheritance</p>	<p>£.....</p>	<p>Are the funds in an account in the client's name? ..... .....</p> <p>What was the date of the inheritance? ..... .....</p>	
<p>Loan from a private source</p>	<p>£.....</p>	<p>Name of lender .....</p> <p>Are there any restrictions on how the loan is to be used? .....</p>	
<p>Third party gifts</p>	<p>£.....</p>	<p>Has a gifted deposit letter been obtained from the donor? .....</p> <p>Have full SDF/SOW checks been done on the amount being gifted and donor? .....</p>	
<p>Investment income or sale of shares</p>	<p>£.....</p>	<p>Sale value of shares sold: ..... .....</p>	
<p>Maturity/Surrender of life policy</p>	<p>£.....</p>	<p>Amount received: .....</p> <p>Policy provider: .....</p> <p>Policy number/reference: .....</p> <p>Date of surrender: .....</p>	
<p>Other (e.g company dividends, lottery win, cryptocurrency**)  [Specify other source here]</p>	<p>£.....</p>	<p>Please provide as much information as possible: ..... .....</p>	<p>**Please note that insurers may not provide PII cover for transactions involving crypto. It would be prudent to check with your insurer first and then assess whether you have the resources and knowledge to evaluate the SDF and SOW.</p>
<p>Totals</p>	<p>Total of declared source of funds: £.....</p>	<p>Total required to complete the transaction: £.....</p>	<p>If these totals do not match please provide an explanation and provide a description of the next steps: ..... ..... .....</p> <p>Date difference was resolved: [insert date]</p>

**SOURCE OF WEALTH CHECKLIST:**

LSAG Guidance 2023: "SoW describes the economic, business and/or commercial activities that generated, or significantly contributed to, the client's overall net worth/entire body of wealth. This should recognise that the composition of wealth generating activities may change over time, as new activities are identified, and additional wealth is accumulated." (Page 92)

Low/Medium risk cases: "To check SoW in a low/medium risk transaction, you may be comfortable identifying the SoW by asking and recording how the client has accrued their wealth or by verifying the client's business interests through public searches." (Page 92)

High risk cases: "An important additional EDD measure should include understanding the financial situation of the client – in practice this means taking additional measures to understand the SoW as well as the SoF of the client." (See pages 94 – 95 for more)

Source of client's wealth	Other information	Supporting evidence obtained and on file
.....		For example – company information, payslips, letter from employer etc.

**Source of Funds/Wealth Guidance:**

- 1. Setting clear expectations for the client:**
  - a. Explaining requirements for SOF/SOW clearly and unambiguously in the practice's Terms or letter of engagement.
  - b. Providing a SOF/SOW questionnaire and/or checklist with the terms to explain SOF/SOW in detail.
  
- 2. Matter Risk assessment:**
  - a. It is critical that practices conduct a client/matter risk assessment at the outset of every transaction to determine the extent of checking required. This risk assessment should take into account the Practice Wide Risk Assessment and also consider source of funds.
  - b. Risk assessments should also be conducted at later stages in the process or if circumstances change (Such as the SOF changing midway through the transaction).
  
- 3. Timing the request and obtaining the evidence:**
  - a. SOF/SOW should be conducted as early in the process as possible to remove pressure on the transaction in later stages which may lead to incomplete evidence being obtained.
  - b. DO NOT request SOF/SOW just before exchange as this creates pressure on the conveyancing process.
  
- 4. Appropriate evidence:**
  - a. Address every aspect of what the client is contributing and leave nothing unexplained.
  - b. Going beyond proof of funds: Money in a UK bank account is not sufficient by itself. It addresses where the money is (**proof of funds**) but not where it ultimately comes from (**source of funds**).
  - c. Giftors should be subject to the same level of scrutiny as normal clients.
  - d. Do not rely on self-reports from clients or donors: independent evidence should be obtained where possible.
  
- 5. Appropriate further enquiries:**
  - a. Follow up unexplained funds (such as money arriving from another bank account and which clearly contributes to the total).
  - b. Ask questions if necessary and frame requests with appropriate references to AML legislation to reassure clients.
  
- 6. Knowledge of the client:**
  - a. Even if the client is known to the practice, the CLC will expect you to obtain SOF/SOW documentation as in a usual case and to understand the SOF in every discrete transaction.