

# The (very) practical AML (Anti money Laundering) guide for lawyers, tax advisers and notaries

Prepare yourself for your supervisory authorities

## THE KEY NOTES

THESE ARE THE MOST IMPORTANT POINTS THAT ARE BEING ADDRESSED IN THIS WHITEPAPER

- ▷ COMPLYING WITH AML RULES AND REGULATIONS CAN BRING A LOT OF ADDITIONAL LABOUR-INTENSIVE WORK FOR LAWYERS, TAX ADVISERS AND NOTARIES.
- ▷ WHEN AML ADMINISTRATION IS NOT UNDERTAKEN PROPERLY, THE RESULT MAY BE HIGH FINES FROM THE SUPERVISORY AUTHORITIES.
- ▷ HAVING A CLEARLY SET OUT ONBOARDING PROCEDURE WILL MAKE THE CONVERSATION WITH YOUR CLIENT EASIER.
- ▷ AUTOMATING THE AML PROCESS PROVIDES THE SOLUTION FOR MOST OF THE CHALLENGES THAT LAWYERS, TAX ADVISERS AND NOTARIES FACE.

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# 1 Where does the implementation of AML rules with lawyers, notaries and tax advisers cause issues for you?

With the introduction and implementation of various AML directives your responsibilities have significantly increased. For legal professionals and their employees this means an increased amount of compliance and administrative work.

**You don't want to get dragged into this, because you want:**

- 1 to spend as much time as possible working on the interests of your client;
- 2 to have your AML administration in order for checks by the supervisory authority- without any hassle.

**In this guide you will find practical guidance for these challenges**

The in-depth client introduction in relation to the origin of wealth can sometimes feel uncomfortable.

However, this intensive onboarding process does not necessarily have to disrupt the relationship.

You are the expert in building a relationship with your client, but in this guide we also show ways to make the onboarding process as agreeable as possible by further standardising the process.

The other, equally important, side of the story is, of course, supervisory control.

In other words, are you able to provide an up to date overview including your client acceptance procedure and an audit trail?

The central question in this guide is therefore:

**How can you as a lawyer, tax advisor or notary comply with AML regulations in such a way that the client relationship is not disrupted?**



## 2 Welcome on board: this is how a flawless onboarding process looks

From the very first contact with your client you are required to identify the client and to report any unusual transactions in accordance with the AML regulations. As part of the client onboarding process you are required to carry out these checks and to begin monitoring the client and the transaction.

### Verification of client identity:

- Identification and verification of the Ultimate Beneficial Owner, if applicable
- Mapping the ownership and control structure of the client
- Establishment of an AML policy and risk profiles
- Staff must be aware of applicable AML laws and regulations and be able to recognise unusual transactions
- (Continuous) monitoring of the business relationship focused on the risk profile of the client and, where appropriate, investigation of the source of funds.

### Attention points: the risks of an incomplete onboarding process

- In the Netherlands, The Financial Task Force (FTA), authorised by the Bar Association, conducted a total of 2,169 investigations in 2018. In 19 cases, this concerned substantive AML investigations after a concern was flagged. The number of reports of unusual transactions by lawyers doubled in 2018 compared to the previous year.
- The supervisor for notaries and tax advisors in the Netherlands (BFT) made 95 investigations at different notary firms in 2018, and virtually every study led to one or more findings of a deficit in the context of AML compliance. These investigations resulted in an additional 150 unusual transactions being reported. There were also a total of 224 enforcement

measures imposed by the BFT as a result of the investigations conducted.

Ergo, it's becoming increasingly challenging to onboard and keep clients in a courteous way, while also complying with AML requirements. It is important to avoid getting caught up in an endless administrative process, which impacts on the time and attention spent on your client.

### Which brings us to the question: human efforts or automation?

In practice, complying with AML regulations comes with a huge administrative burden, including research work. A legal professional will spend a significant number of hours – meaning increased costs - on this task. Investing in an automated solution will ultimately save a lot of time and money.

### When considering automating the AML procedure please consider carefully the following:

- People are not always aware of the latest developments regarding the AML regulations – but the software is.
- An automated solution can easily verify the completeness of the information provided.
- With this type of 'tick-off' exercise, people are by definition less accurate (so more error prone) than software.
- Data is saved in one central safe place. This prevents time being wasted on unnecessary searching, and the mixing of client information and KYC information – such information must be separated.



### 3 The ultimate AML checklist: things you should not forget

Apart from the fact that complying with AML regulations is time and labour intensive, it is also very subjective and can be interpreted differently. What is the “ultimate working method”?

One of the authorities in the field of AML is Birgit Snijder-Kuipers. She created an AML workbook, which is highly recommended by the authors of this guide. In this workbook you will find a comprehensive overview of all steps you need to take as a lawyer, tax adviser or notary in order to comply with all AML regulations.

**The ten-step plan of Snijder-Kuipers, in collaboration with Kolkman and Tilleman, can be summarised as follows:**

- STEP 1 Determine whether activities are subject to AML regulations.
- STEP 2 Identify your client.
- STEP 3 Verify your client's identity.
- STEP 4 Determine the (pseudo or nominated) UBO.
- STEP 5 Determine whether the client or the UBO is a PEP.
- STEP 6 Write and incorporate a risk policy.
- STEP 7 Monitor and investigate the origin of funds.
- STEP 8 Third party client referral checks.
- STEP 9 Determine if the transaction unusual.
- STEP 10 If it is, then the unusual transaction and all relevant data must be promptly reported to the relevant authorities.

### “Don't forget to centralise”

Lawyers Suzanne Hendrickx (Advius Compliance) and Bas Martens (Delissen Martens and Advius Compliance) advise law firms and other professionals about the practical design of their organisation in relation to AML. They assist with risk management, protocols and working methods, training and audits.

They advise centralising the intake procedure for AML cases (and preferably for all matters), with a designated and specialised person or department. The obligations under the AML regulations can best be centralised with a “dedicated” person, as it is a complicated and ever-changing area. In addition, the monitoring of the business relationship and the services provided is not something that should be done by the legal professional or support staff on the side.



When (part of) those tasks, relating to the KYC procedure, are centralised under the responsibility of a Compliance Officer and are digitalised, it is easier to ensure that the AML policy of the firm is safe guarded in a consistent manner. In this way the AML and CDD (Client Due Diligence) function can be arranged efficiently, without significant additional cost.

### “Integrate a good procedure and use your common sense”

Jurjan Geertsma is a lawyer at JahaeRaymakers and specialises in disciplinary and sanction list law and the issues related to reputation issues. In addition, he regularly provides training on these subjects. From these various angles he has been actively involved in the development of the AML regulations.

According to Geertsma, awareness of, and the necessity of complying with, AML regulations has reached the legal profession. “In fact this is just legislation which you cannot ignore in your practice. Although in their capacity as lawyers, tax advisers and notaries they may remain critical on the development and application of AML regulations, especially when it comes to the legal position of their client”.

AML, and especially the integrity that results from it, is high on the agenda of the EU member states, regulators and supervisors.

“Conscience is increasing everywhere,” says Geertsma. “Although there is a need for further clarification. AML regulations are in practice not always easy, if only because the standards are risk-based and open. However, with common sense, continuous attention and the support of good systems, we can comply with the AML regulations in an efficient and critical way.

## 4 Best/worst case scenarios

Examples show how not (fully) complying with AML regulations can lead to reputational damage and significant fines.

### CASE 1 THE RESEARCH OBLIGATION GOES BEYOND RELIABLE PARTNERS, EVEN IF THEY ALSO FALL UNDER THE SCOPE OF AML REGULATIONS

Nagaan wie uw cliënt is, betekent niet alleen de check uitvoeren, maar ook duidelijk bewijs dat u dit heeft gedaan.

Determining who your client is does not only mean checking but also clear evidence relating to those checks. Not fulfilling his obligations to perform research on his client was an expensive mistake for the notary in this example. He was fined EUR 10,000. The notary in question received a request for the incorporation of four entities, through a German tax advisor. It concerned car companies relating to four Greek Germans, three of whom had the same surname. The notary took on the work but had no paperwork to show that he had any contact with the founders.

The notary, however, denied that this should be an issue. According to him, he certainly did the necessary research, but he found no reason for an in-depth investigation, let alone a reason to refuse to provide the services requested. After all, the notary knew the German tax advisor, who was bound by the same AML regulations as the notary.

However, the judges still found that the notary had been negligent.

### CASE 2 INTEGRITY IS IMPORTANT IF NOT THE MOST IMPORTANT, CORE VALUE OF THE LEGAL PROFESSION

Assisting your clients, also in times of need, is the core of your business. However, this should always be done with utmost integrity. The provisions of AML regulations give clear guidance in this respect.

In the case at hand, where a lawyer assists a client in a bankruptcy case, is failure to comply with AML regulations considered whether the lawyer handled with integrity. The lawyer was charged for, among other things, not reporting two unusual transaction according to AML regulations.

NOTARY IS THE GATE KEEPER

FINED FOR NOT IDENTIFYING THE UBO

FINED FOR VIOLATING AML REGULATIONS, CLIENT INVESTIGATION.

Subsequently the case was addressed to the lawyer addressed by the dean of the bar. The statements of the lawyer are contradictory, and this is considered as not correctly informing the

dean of the bar. According to the judge, especially the integrity of the lawyer is therefore compromised.

This is an important, if not important the most important, core value of the legal profession. It may be expected from a lawyer that he or she makes every effort to cast any doubt on this take away immediately. In other words, that the methods and procedures (also with respect to AML regulations), are aligned.

## 5 Potential client or research object?

You want your relationship with the client to be as relaxed as possible. This is not always easy due to the nature of the AML regulations. On the one hand you build a relationship of trust with your client, on the other hand your client must be the object of research by you. According to a number of lawyers this “decentralisation” of supervision is something we have to be careful with. It cannot be the case that legal professionals have to take over too many tasks of the supervisors or regulators, by putting their clients under a microscope to scrutinise them. This can sometimes seem in opposition to the trusted relationship legal professionals have with their clients.

### **The solution: objectify**

In practice, it is prescribed that you have to ask your client various questions – and if you see reason to do so, investigate further. In order to make this less uncomfortable for you and your client, it is necessary and important to make this process as objective as possible. This prevents your client from feeling, any more than is necessary, that the provision of information is personal. The verification is, after all, just part of the procedure.

The process can be made neutral by presenting the various KYC questions as part of a standard procedure. This can be done via paper, but it can also be fully automated. This means an even quicker and more objective process. Providing the mandatory KYC information will then almost become a kind of fill-in exercise.

### **The icing on the cake: an even warmer relationship**

On the other side of the coin, with an intensive onboarding procedure you can demonstrate how thoroughly you perform your professional obligations. Something that instantly radiates confidence. The objective checklist (whether or not automated) is, at the same time, a very simple way to start to know your client much better and, if this process runs smoothly and efficiently, an excellent way to show how you provide your services.



## 6 The fully automated solution for an audit trail that is always in order

Have you come to the conclusion that automating your AML activities is the best solution for your practice? If so, then you might consider the solution provided by Regulatory Lab.

**GET STARTED WITH REGULATORY LAB**



ASK FOR A DEMO AND SEE HOW OUR SOLUTION CAN IMPROVE  
YOUR DAILY WORK AND COMPLIANCE WITH RESPECT  
TO AML REGULATIONS AND KYC.

PDF UBO form via email	PDF UBO form by e-mail and file notes regarding specific matters and transactions	KYC and audit trail automation
Prone to errors	Prone to errors	Uniform and consistent
Long lead time	Long lead time	Short lead time
Manual processing	Manual processing	Automated processing
No overview	No overview	Complete overview
Incomplete AML administration	Complete AML administration	Complete AML administration
Unsecure exchange of data	Unsecure exchange of data	Secure exchange of data
AML administration obligation partially fulfilled	AML administration obligation fulfilled	AML administration obligation fulfilled
Client friendly	Client friendly	Client friendly
Limited number of files: With only a few files (max 5 per month), the risks are limited and manageable.	Limited number of files: With only a few files (max 5 per month), the risks are limited and manageable.	Limited number of files: Suitable for automation
Large number of files: With many files (from 5 per month) the risks are high because the files are not manageable.	Large number of files: With many files (from 5 per month) the risks are high because the files are not manageable.	Large number of files: Suitable for automation.

## Regulatory Lab offers you (much) more than just software:

### Involved in every step

The software makes onboarding of new clients the perfect way for an excellent first impression, without hassle, for both the firm and the client. Good guidance in advance is a must; and here Regulatory Lab makes the real difference.

Through demos, workshops, tailor-made advice and training, the relevant departments are trained up so that the best results can be achieved.

### Workshops

After an initial introduction, through a free demo, Regulatory Lab offers personalised workshops. For a perfect start, all stakeholders are involved and invited to attend these practical workshops. All requests and “must-haves” are brought to light and included in the workflow.

### Consulting

AML regulations prescribe that all clients and UBOs must be identified and that unusual transactions must be reported. For this, all internal procedures must be in order. These find their start in a thorough risk analysis and the creation of a firmwide policy. Regulatory Lab can advise and assist with this in its entirety.

### Tailored to perfection

Once the internal firm policy is finished or reviewed, the flexible software can be tuned according to the specific requirements. The goal: an optimised process.

The values of the firm are reflected in a personal application that clarifies for everyone the various

roles, monitoring and workflow. Improvement always means change but we do not want to interrupt your work, so Regulatory Lab delivers a tailor-made service that can be linked flawlessly to your existing systems, so everyone can move forward with ease.

### Training

The personalised application is ready for use and everyone can get started. To familiarise everyone with the application quickly, Regulatory Lab develops and organises training courses of any size. Divided into compact teams the employees gain insight into daily AML practice and every topic will be discussed. If there is a need for multiple sessions, this can be easily arranged.



# About Regulatory Lab

We work from the conviction that a positive and efficient onboarding process is the beginning of an optimal client relationship. With our unique solution we make a valuable contribution to the integrity of the legal system and strengthen the gatekeepers thereof. We always strive to increase awareness within organisations of the importance of AML compliance.



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