

Anti-Money Laundering and Countering Financing of Terrorism

Legal Sector Risk Assessment 2024



Table of Contents

Executive Summary	2
Background Information on ML/TF/PF	3
Methodology	4
Assessment of Threats	6
Red Flags	10
Interpretation of Data	12
Sector Risk	13
Summary of Risk	14
Inherent Characteristics	15
Nature of Products	17
Nature of Clientele	18
Geographic Reach	21
Delivery Channels	22
Glossary	23

Executive Summary

This sectoral risk assessment (SRA) provides a comprehensive analysis and update from the previous assessment conducted in 2019, of potential Money Laundering (ML), Terrorism Financing (TF), and Proliferation Financing (PF) risks, threats, and vulnerabilities in the legal sector. The assessment aims to identify and re-evaluate key areas of concern, enabling proactive measures to mitigate risks, enhance regulatory compliance and foster sustainable business practices.

A clear understanding of the SRA methodology empowers attorneys-at-law to make well-informed choices regarding the ongoing enhancement of anti-money laundering/combating financing of terrorism/countering proliferation financing (AML/CFT/CPF) practices. Data collected from various sources assisted with the SRA and the sector was evaluated against the variables outlined in the Money Laundering and Financing of Terrorism Act (Prevention and Control) Act 2011-23 (MLFTA). While specific business characteristics may expose individual entities within a sector to varying risks, it is crucial to have a clear understanding of the overall segment. As such, the SRA does not focus on the residual risks identified by individual entities but offers a more extensive evaluation of the risks associated with the industry sector.

Throughout the examined period, no instances of TF were confirmed in Barbados. Furthermore, money laundering within the Attorneys sectors predominantly occurred at low levels.

The information gleaned from attorneys-at-law who participated in the Compliance Unit's risk assessment exercise has led to a better understanding of the inherent risks within the legal sector. This has significantly contributed the changes seen between the 2019 and 2024 risk assessments, which have led to an overall reduction in the risk rating of the sector from very high in 2019 to high 2024. Additionally, the level of confidence in the information provided, improved from a rating of low to a rating of moderate.

Background Information on ML/TF/PF

Money laundering is a three-step process where persons attempt to disguise the source of money or assets derived from criminal activity. The aim of ML is to transform illegal or dirty proceeds of crime into legal or clean money. The three steps involved in the process are:

- 1) Placement - The placement of the proceeds of crime into the financial system, sometimes by techniques such as structuring currency deposits in amounts to evade reporting requirements or co-mingling currency deposits of legal and illegal enterprises.
- 2) Layering - The layering of these proceeds by moving them around the financial system, often in a complex series of transactions to create confusion and complicate the paper trail.
- 3) Integration - Integrating the funds into the financial and business system so that they appear as legitimate funds or assets.

Terrorism Financing is the act of providing finances to support terrorists or terrorist organisations to enable them to carry out their activities.

Terrorists have the ability to source funds and develop means to obscure the links between the funds sourced and how they are used. In some cases, persons accused of terrorism may commit crimes to finance their activities and hence transactions related to terrorism financing may resemble money laundering.

It is worth emphasizing that while ML is concerned with funds generated from unlawful sources, funds used for terrorist activities are often legitimate in nature. The source of funds is, therefore, not the sole consideration for attorneys-at-law. The conversion of assets into money and the subsequent direction of that money must be observed.

Proliferation Financing is the act of providing funds or financial services which are used, in whole or in part, for the manufacture, acquisition, possession, development, export, trans-shipment, brokering, transport, transfer, stockpiling or use of nuclear, chemical or biological weapons and their means of delivery and related materials (including both technologies and dual use goods used for non-legitimate purposes) as defined by the Financial Action Task Force (FATF).

Methodology

This section indicates the techniques and tools used for gathering data in addition to the scope of the SRA. A clear understanding of the SRA methodology allows designated non-financial businesses and professionals (DNFBPs) to make informed decisions based on the sector wide risk assessment and supports a culture of continuous improvement in AML/CFT/CPF practices.

Background Information in the SRA

Information was gathered from several sources to assist with the SRA. These include:

- Questionnaires
- Risk Assessment data
- Desk Based Reviews
- Onsite Examinations
- Polls in Outreach Sessions
- Statistics provided by law enforcement agencies (LEAs) and the Financial Intelligence Unit (FIU)
- Report on Assessment of National Money Laundering and Terrorist Financing Risk, 2019.

The legal sector has been assessed against the variables set out in the MLFTA. These include:

- Inherent Characteristics
- Nature of products and services
- Nature of the Clientele
- Geographic reach of sector's activities
- Nature of Delivery Channels

Scope

The Compliance Unit is responsible for supervising the following four (4) sectors.

- Attorneys at Law
- Real Estate Agents
- Accountants
- Dealers in Precious Metals and Stones

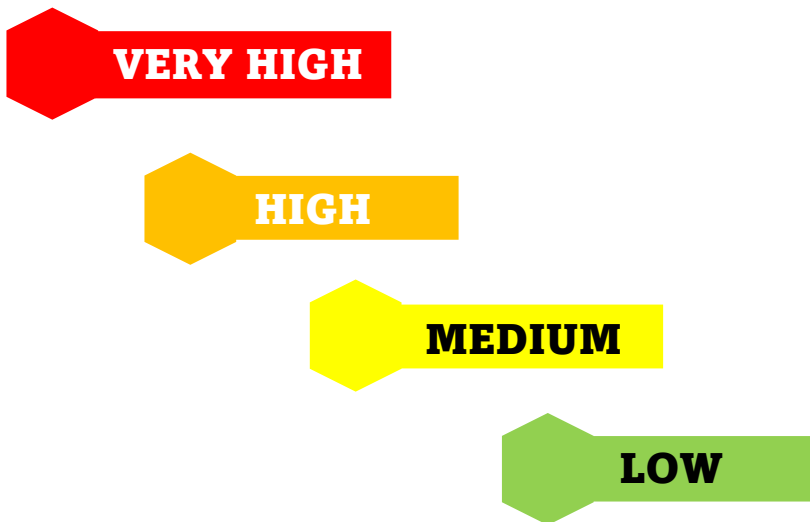
The scope of this report is focused on the attorneys-at-law sector.

Limitation

The goal of the SRA is to verify the probable inherent ML/TF/PF risk across the sectors, acknowledging that individual entities within a sector may face different risks due to specific business characteristics. Therefore, the SRA does not focus on the residual risks identified by the individual entities; however, it does provide a broader assessment of risks associated with different industry sectors.

Risk Scale

The risk scale below indicates the risk scale applied to all sectors.



Assessment of Threats

The Compliance Unit applies a risk-based approach to the monitoring of the DNFBP sector in Barbados on a continuous basis in compliance with our regulatory demands under the MLFTA.

An attorney-at-law is an attorney who is registered on the roll of the Registrar of the Supreme Court of Barbados and therefore, entitled to practice law under section 4 of the Legal Profession Act 1972-35 (LPA) or admitted and entitled to practice law under section 5 of the LPA. Attorneys captured under Part 3 of the Second Schedule of MLFTA refer to those engaged in the following activities:

- 1) The purchase, sale, or other disposal of real property;
- 2) The management of money, securities, or other assets of a customer;
- 3) The management of bank savings or securities accounts;
- 4) The organisation of contributions for the creation, operation, or management of bodies corporate;
- 5) The creation, operation or management of legal persons or arrangements; or
- 6) The purchase or sale of business entities.

To date, five hundred and forty-six (546) attorneys-at-law are estimated to be practicing the activities listed within the Second Schedule of the MLFTA.

Uniquely Intrinsic Characteristics

Intrinsic to the legal sector are those attorneys-at-law who offer real estate services as defined by Part 1 of the Second Schedule of the MLFTA and those who operate as Corporate Trust Service Providers as defined by Part 4 of the Second Schedule. The Compliance Unit treats individuals or firms who practice in multiple sectors separately and distinctly. Each segment of the business that is engaged in any of the business activities listed under Part 3 of the Second Schedule of the MLFTA is subjected to compliance monitoring and risk management oversight by the Compliance Unit.

Global Trends

Ransomware: The main prevailing trend during the period under review was ransomware, and it showed a significant increase as compared to previous years. This increase could be attributed to the Covid-19 pandemic and the prevailing circumstances at the time. Ransomware refers to malware which subjects the individual's data to ransom by online hackers. Critical data is encrypted preventing access to files, data, and applications by the user.

Fraudulent Ultimate Beneficial Owner (UBO) Checks: Another prevailing trend was significant increases in false beneficial ownership (BO) information being provided by clients. The impact of Covid-19 on the restricting movement of persons led to significant transactions being conducted digitally and/or virtually. The resulting impact being the attempted movement of illicit funds through legitimate businesses and the identity of the true BOs shrouded. The framework for BO requires legal arrangements; corporations and partnerships, to disclose the relevant ownership registry of their beneficial owners. The general requirement in Barbados requires the disclosure of all UBOs with 20% share interest or greater.

Internet Scams: Numerous persons were defrauded of funds by schemes such as the Nigerian 419 Fraud Scam. Monies were diverted to foreign countries by hackers who posed as fictitious individuals in one jurisdiction while actually having no presence in the country in which the transaction was being conducted.

Unusually Large Cash Deposits: certain business enterprises were the recipients of several unusually large cash deposits not in keeping with usual cash transactions. The funds were alleged to have come from suspected smuggling of foreign currency by various criminal enterprises through DNFbps.

Barbados Trends

The requirement for increased monitoring by the FATF of the DNFbP sector placed significant demands on Barbados to ensure that the DNFbP sector was in compliance with AML/CFT/CPF requirements. The legislation mandates that DNFbPs conduct know your customer/client (KYC) and on-going customer due diligence (CDD) especially for individuals classified as politically exposed persons (PEPs) and/or when doing business with High-Risk jurisdictions, maintain business transactions records, apply a risk-based approach to their business, maintain a training program, designate a compliance officer for the business and report suspicious transactions to the FIU.

However, challenges arose as despite legislative obligations being applicable to financial institutions and DNFbPs alike the DNFbP sector was significantly under monitored especially given that the Compliance Unit had only been established in December 2019. The legal sector was underperforming in relation to their compliance obligations for AML/CFT/CPF. As a result of the sector being largely unregulated it left the sector prone to abuse by criminal enterprises who sought to manipulate the financial and non-financial sectors for their own gain.

The Report on Assessment of National Money Laundering and Terrorist Financing Risk for Barbados 2019 suggested that most of the ML seen in Barbados was related to self-laundering largely linked to drug trafficking or fraud-related offences. Based on the matters reviewed and

investigations commenced in 2019 the sum of BDS\$45.2 million was involved. Statistics compiled by the Financial Crimes Investigation Unit for the period under review indicated that twenty (20) complaints were laid against attorneys-at-law. Ten (10) required no further action, eight (8) of which remain under investigation while 2 were pending trial for theft of client funds and ML. The total loss to the sector amounted to BD\$802, 220.28.

Complaints made prior to the review period, saw two (2) attorneys-at-law convicted of theft of client funds and ML, during this current review period. Based on the matters reviewed and investigations commenced in the relevant period, a sum of BD\$1,086,048.75 was involved.

When compared to the statistics compiled in the 2019 period alone, that amount is but a small portion of the total ML figure of BD\$45.2 million.

There were no instances of TF and PF revealed in Barbados for the period in review. The suspicious transaction reports (STRs) for the period did not reveal any likely instances of TF or PF. The involvement of attorneys-at-law as actors in TF and PF was likely to be very limited to non-existent garnering minimal to no local support.

The threats which emerged from the National Risk Assessment of 2019 were uncorrelated to the legal sector, bar ML, which is linked to the theft of client funds as opposed to other predicate offences. Drug trafficking, porous borders and human trafficking remain largely unconnected to this sector. By ensuring that potential vulnerabilities are reduced and that risks are sufficiently mitigated we are more likely to reduce threats.

Typologies

Data produced by the FIU suggests various typologies that can be aligned to the sector notably structured deposits or smurfing. Smurfing or structured deposits occurs where numerous cash deposits are made to “smurf” or shroud the large nature of a onetime cash deposit. The money is deposited in a structured way to avoid detection of ML or to avoid declaring the source of funds.

Deposit activity not in keeping with the customer’s profile occurs where a large cash transaction is made that appears as an irregularity or fails to conform to the usual depositing pattern of the individual. Accompanying this typology is the practice of a reluctance to declare the source of funds or fictitious information being provided as to the source of the monies. Of particular interest was the number of large cash deposits made during the lockdown periods of the Covid-19 pandemic where most businesses were closed or in operational and therefore could not have generated large sources of funds.

Vulnerabilities

As the AML/CFT/CPF regime extended, a significant financial and regulatory burden was placed on sole practitioners and small firms as compared to large firms with greater resources to comply with regulatory demands. It is imperative for attorneys-at-law to begin to employ an AML narrative and risk approach to their daily routines.

In addition, it is necessary to routinely make enquiries about a client's source of wealth especially for clients who have been onboarded for significant periods of time or are considered as known to the attorney. It is notable that the risk will increase depending on the geographical location of the client and client funds.

Red Flags

Money laundering is a serious financial crime, and attorneys-at-law play a crucial role in preventing and detecting potential money laundering activities. While not all activities may indicate money laundering, certain red flags should prompt attorneys to conduct further due diligence and, if necessary, report suspicious transactions to the appropriate authorities. Keep in mind that these are general guidelines, and specific circumstances may vary. Here are some common money laundering red flags for attorneys:

1. Unusual Transaction Patterns:

- Sudden, large cash transactions.
- Frequent and rapid movement of funds between accounts.

2. Lack of Economic or Legal Justification:

- Transactions that seem inconsistent with the client's known business activities.
- Unexplained or implausible reasons for transactions.

3. Use of Third Parties:

- Clients using third parties to conduct transactions without a clear reason.
- Unexplained involvement of multiple entities in a transaction.

4. Incomplete or Inconsistent Information:

- Missing or inconsistent client information, such as identification details or business documents.
- Unverifiable or false information provided by the client.

5. High-Risk Jurisdictions:

- Transactions involving countries with a high risk of money laundering or known as tax havens.
- Unexplained connections to PEPs.

6. Unusual Payment Methods:

- Use of cash for high-value transactions.
- Rapid movement of funds through digital currencies or prepaid cards.

7. Real Estate Transactions:

- High-value real estate transactions with no apparent economic justification.
- Complex and opaque real estate deals involving multiple entities.

8. Client Behaviour:

- Unwillingness to provide information or reluctance to answer questions.
- Attempts to avoid or resist enhanced due diligence procedures.

9. Legal Structure Complexity:

- Unusual legal structures, such as complex trust arrangements, that seem designed to obscure beneficial ownership.
- Multiple layers of ownership or transactions without clear business rationale.

10. Large Retainers or Unexplained Legal Fees:

- Large upfront payments or retainer fees without reasonable justification.
- Payment of legal fees in cash.

11. Rapid Movement of Funds:

- Rapid movement of funds through client accounts with no clear business reason.
- Layering or structuring transactions to avoid detection.

12. Inconsistent Business Activities:

- Business activities inconsistent with the client's industry or usual transactions.
- Unexplained changes in the nature or volume of business.

It's important for attorneys-at-law to stay informed about AML/CFT/CPF regulations and continually assess their clients' transactions for potential red flags. If suspicions arise, attorneys should consider reporting the activities to the FIU. Attorneys-at-law can use the STR link on the Compliance Unit's website, complianceunit.gov.bb, to submit their STRs.

Interpretation of Data

Scope

In this SRA, we have used data which was gathered between the years 2020 – 2023. This data was gathered in the form of questionnaires sent to entities, and risk assessments data as well as information gathered during desk-based reviews and on-site examinations.

Attorneys-at-Law

This sector was determined to be the largest with respect to the entities which fell under the scope of the Compliance Unit. The structure of the sector included sole proprietorships, partnerships, chambers, and firms. The number of entities used in this data set was five hundred and forty-six (546) and was derived from the pool of attorneys-at-law registered with the Supreme Court of Barbados. This figure is not to be taken as total number of DNFBPs in the legal sector since distributed questionnaires have only yielded two hundred and fifty (250) responses from attorneys-at-law for the reporting period. Therefore, 250 responses to the questionnaires formed the basis for the statistics included in this report. The average annual reported income for the sector was greater than \$250,000 for 34% of the representative sample.

Sector Risks

Attorneys-at-Law



Summary	Risk Rating 2024	Risk Rating 2019
Inherent Characteristics	High	High
Nature of Products and Services	High	Very High
Nature of Clientele	High	Very High
Geographic Reach	Medium	Very High
Delivery Channels	Medium	High
Level of Confidence in Information	Moderate	Low



Summary of Ratings

HIGH

At the date of the completion of the 2019 assessment the legal sector was unsupervised, and the ratings were based on the typologies provided by FATF. The 2019 assessment was therefore conducted more at a macro level.

Subsequently, the legal sector is currently being supervised by the Compliance Unit. The risk rating changes are a direct result of the information gathered from the attorneys-at-law who took part in the Compliance Unit's risk assessment exercise. The information gleaned has led to a better understanding of the sector and its inherent risks, which has led to the overall improvement in the sector's risk rating.

Using the assumption that the five (5) rating factors are being weighted equally, and the level of confidence in the information is taken into consideration, it was determined that the overall rating for the attorneys-at-law is reducing and is now rated as high.

The rating for the level of confidence in the information provided improved from a rating of low to a rating of moderate.



Inherent Characteristics

HIGH

The sector is large comprising of five hundred and forty-six (546) attorneys-at-law. This number fluctuates as persons enter and leave the sector. Most of the sector’s operations are conducted in Barbados but some of the larger businesses have branch operations within the Caribbean. Therefore, the sector is well accessible to customers in Barbados and to customers worldwide. The legal sector has a complex structure and is well integrated with other financial and non-financial sectors. Integration of the Attorneys DNFBP sector occurs with the following sectors:

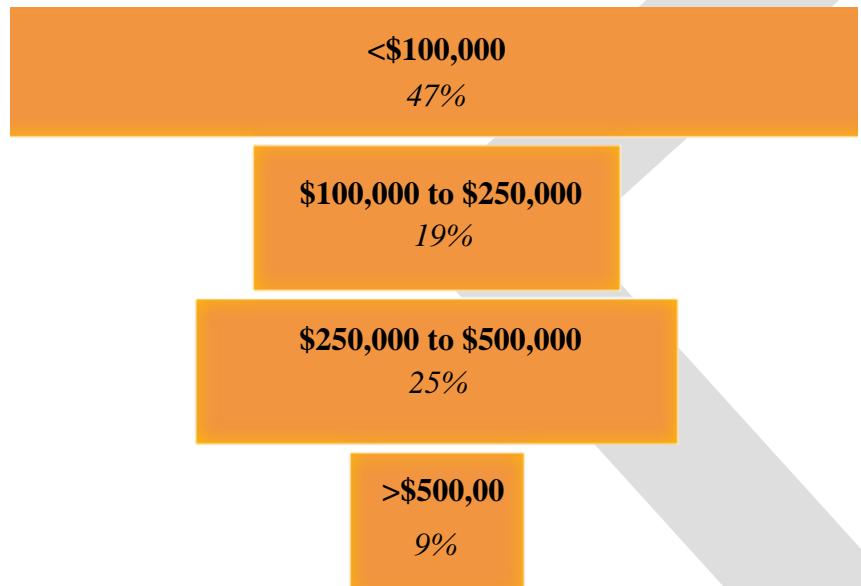
- Accountants
- Real Estate Agents
- Corporate Trust Service Providers (CTSPs)
- Banking Sectors

Due to the attorneys-at-law ability to integrate with other sectors, coupled with the overall importance of their sector in the domestic economy, the sector’s inherent characteristics received a rating of high in 2024. This is the same rating previously achieved in 2019.

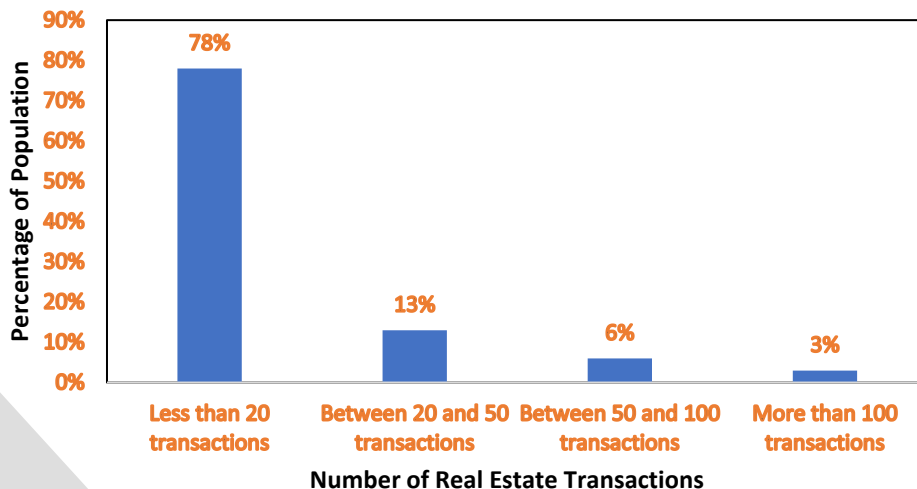
Size of the Sector

As illustrated in the chart to the size, the population exhibits a diverse distribution of annual average income. The majority, 47%, earns less than \$100,000, while 19% earn between \$100,000 and \$250,000 and 25% report incomes between \$250,000 and \$500,000. A smaller 9% represents entities with incomes surpassing \$500,000.

Attorneys-at-Law Annual Average Reported Income



Annual Average Number of Real Estate Transactions by Attorneys-at-Law

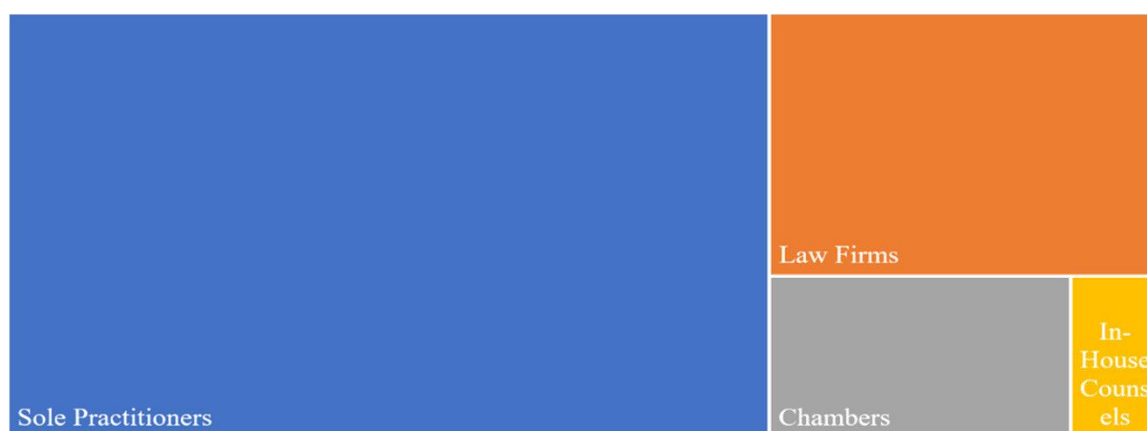


As previously stated, the most popular activity practiced by the attorneys-at-law is the purchase, sale, or other disposal of real property. The population’s involvement in real estate transactions is varied, with 78% engaging in less than 20 transactions annually. A noteworthy 3% are involved in more than 100 transactions, indicating a small but active segment. Additionally, 13% fall between 20 and 50 transactions and 6% between 50 and 100 transactions. This information is seen depicted in the chart above.

Complexity of the Sector’s Structure

The attorneys-at-law has a complex structure and the firms range in size from small to large. Some firms are local while others are internationally based. Sole practitioners in private practice dominate at 66% which accounts for two thirds of the total sector, followed by Chambers Arrangements at 10%, In House Counsels at 3% and Law Firms at 21%.

Business Types of Attorneys-at-Law



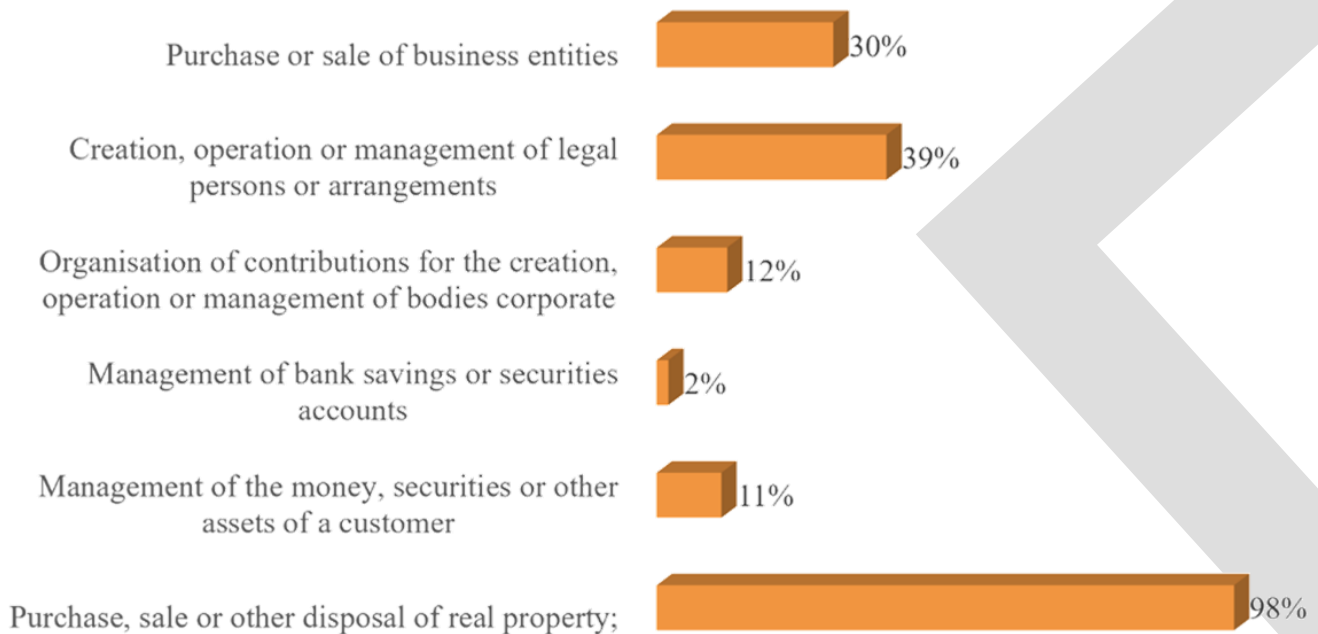
 **Nature of Products and Services**

HIGH

Certain products and services provided by attorneys-at-law, classified as DNFBPs, make them more susceptible to money laundering such as conveyancing, the management of the money, securities, or other assets of a customer, and the formation and management of legal entities. Even though these activities make attorneys-at-law more susceptible to money laundering, the overall risk rating for the nature of products and services they provide was downgraded to high in 2024 from very high in 2019.

Of the six (6) activities practised which would cause an attorney-at-law to be considered a DNFBP, 98% of the respondents engage in the purchase, sale, or other disposal of real property. Even though this is the most popular activity practiced by this sector, it was reported that it accounts for less than twenty percent of the total business activities carried out by 78% percent of Attorneys surveyed. The next most popular activities practised by this sector are the creation, operation, or management of legal persons or arrangements (39%) and the purchase, or sale of business entities (30%). The below chart highlights the nature and scope of the products and services offered by this sector and provides the full breakdown by percentage for each of the six activities practised.

Business Types of Attorneys-at-Law





Nature of Clientele

HIGH

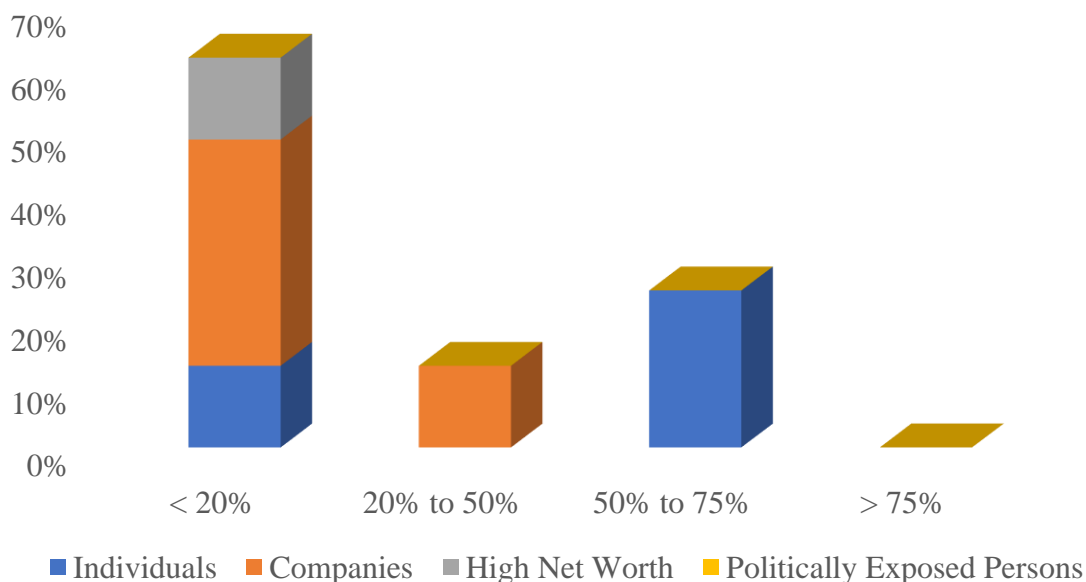
The three most popular activities practiced by attorneys-at-law, were analysed according to the category of clients with whom they interact. The nature of the clientele is wide ranging and includes:

- Individuals
- Companies and Businesses
- High Net worth Individuals
- Politically Exposed Persons

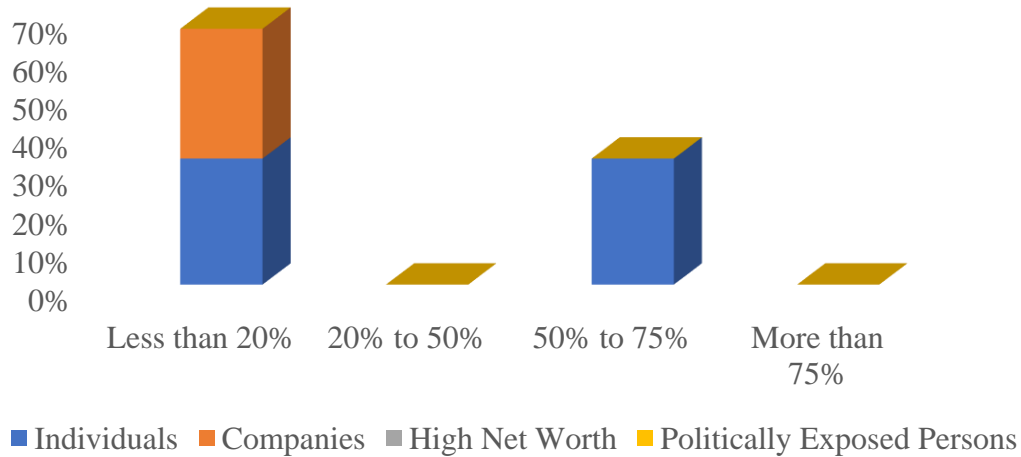
This category’s overall risk rating was downgraded from very high in 2019 to a risk rating of high in 2024.

A majority of the clientele that attorneys-at-law who engage in the purchase, sale, or other disposal of real property conduct business with are individuals and companies as seen in the chart below. 50-70% of clientele were shown to be individuals and accounted for 25% of the business for the attorneys-at-law assessed. Less than 20% of clientele are companies and account for 36% of business.

Attorneys-at-law who engage in the purchase, sale, or other disposal of real property

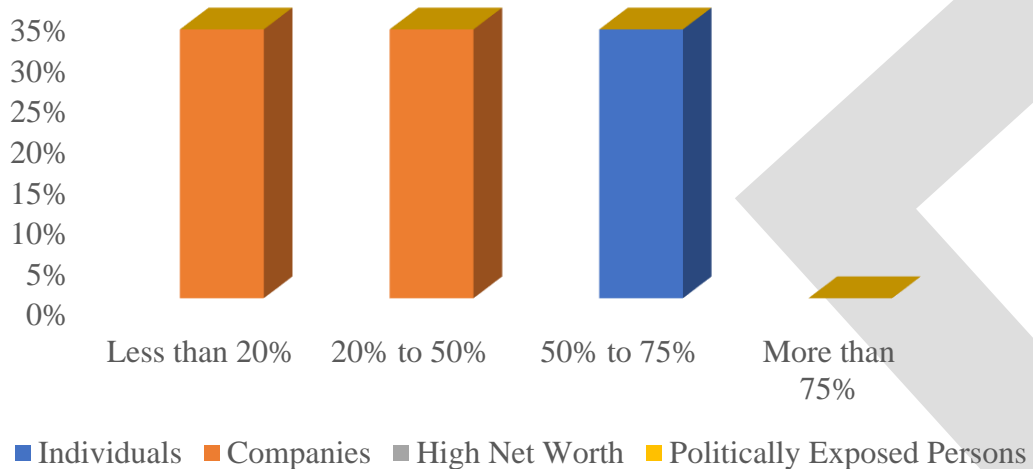


Attorneys-at-law who engage in the management of bank savings or securities accounts



Individuals and companies were the main clients for attorneys-at-law who engage in the management of bank savings, or securities accounts. Less than 20% of the clients are companies and account for 34% of business. A number of attorneys-at-law indicated that less than 20% of their clients are individuals and account for 33% of their business. Another set of attorneys-at-law indicated that 50-70% of their clients are individuals and account for 33% of their business. 34% of business for this activity is generated by companies who account for less than 20% of the clientele for attorneys-at-law.

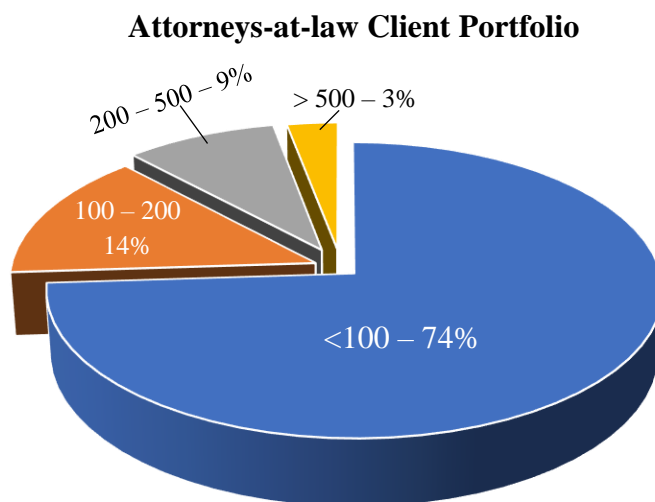
Attorneys-at-law who engage in the creation, operation or management of legal persons or arrangements



The chart above shows that sixty-six percent of business for Attorneys who engage in the creation, operation, or management of legal persons or arrangements is generated from companies. Half of

this sixty-six percent accounts for less than twenty percent of clientele for some attorneys, and the other half accounts for twenty to fifty percent of clientele for another set of attorneys. Thirty-three percent of business is generated from individuals who account for fifty percent to seventy-five percent of their clientele for this activity.

As depicted in the above chart, the majority of the of the sector’s client base manages small portfolios with 74% handling fewer than 100 clients. It is noted that 14% of the respondents manage portfolios between 100 and 200 clients, while 9% deal with portfolios between 200 and 500 clients. A smaller 3% have substantial client bases exceeding five hundred (500) clients.



The main categories for this sector’s client base are depicted below.



Overall, most of the business for this sector was generated by individuals. The clientele did not comprise of any PEPs. It has therefore been concluded that only a small portion of clients may be PEPs and probably captured in the ‘high net worth individuals’ and the ‘professionals’ categories.

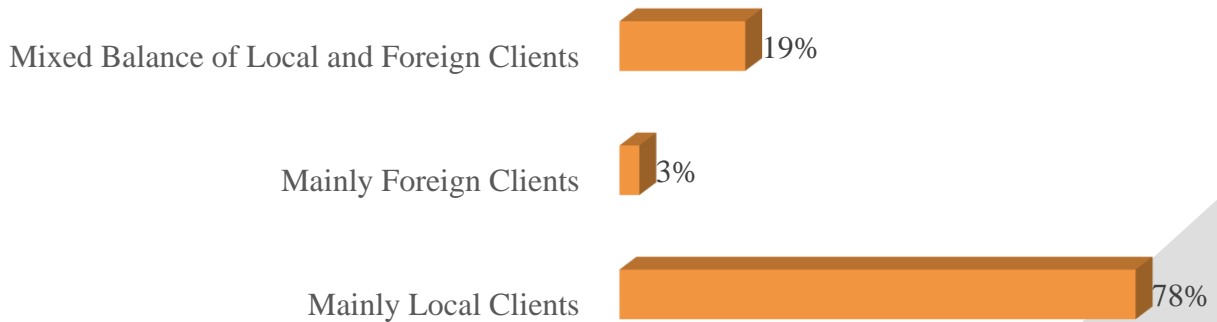


Geographic Reach

MEDIUM

Majority of the activities within this sector are conducted on a domestic level. Activities which are conducted regionally and/or internationally, or which involve countries of concern, constitute a relatively small volume of the overall business activities for the sector. However, the aforementioned activities are not conducted on an ongoing and regular basis. Due to these factors, the risk rating for the geographic reach of this sector’s activities was downgraded from very high in 2019 to medium risk in 2024.

Attorneys-at-law Geographic Reach



In Barbados, there are no restrictions imposed on the country of origin of clientele with whom an attorney-at-law can service. However, the majority of the client base of 78% consists of mainly local clients. A small percentage of 3% are mainly foreign clients, while 19% are a mixed balance of local and foreign clients, showcasing a diversified clientele as seen in the chart above. It must be noted that the responses from the representative sample for the Attorneys-at-law exposed that there were no countries of concern for ML/TF risks, or of strategic interests or concern, through which they conducted business.



Delivery Channels

MEDIUM

The representative sample for the Attorneys-at-law indicated their delivery channels are mainly of a face-to-face nature, both in person and virtual. They also stated they occasionally conducted non-face-to-face transactions for businesses and individuals. As they interact directly with their clients, no transactions are conducted with intermediaries which indicates there is no complexity with their delivery channels.

Glossary

AML/CFT/CPF	Anti-Money Laundering/Combating Financing of Terrorism/Countering Proliferation Financing
BO	Beneficial Ownership
CDD	Customer Due Diligence
CTSPs	Corporate Trust Service Providers
DNFBPs	Designated Non-Financial Businesses and Professionals
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
KYC	Know Your Customer/Client
LEAs	Law Enforcement Agencies
LPA	Legal Profession Act 1972-35
ML	Money Laundering
MLFTA	Money Laundering and Financing of Terrorism Act (Prevention and Control) Act 2011-23
PEPs	Politically Exposed Persons
PF	Proliferation Financing
SRA	Sectoral Risk Assessment
STR	Suspicious Transaction Reports
TF	Terrorism Financing
UBO	Ultimate Beneficial Owner



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