

AML-CFT red flags



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I'm sitting here and wondering how it's possible that the sun can still be shining despite all the new AML compliance we must now grapple with daily.

No doubt, like me, you will be lamenting the loss of past freedoms as we face an ever-increasing compliance burden with these new rules.

I've certainly rolled my sleeves up and am in the thick of trying to make the best of it.

So, what part of this important legislation affects real estate agents?

Over the last few years, the Financial Action Task Force has been concerned that criminal organisations may be using the real estate sector to launder money. Investment in this sector offers opportunities for misuse by criminals if they can obscure the true source of funds and the identity of the (ultimate) beneficial owner of the real asset. These are two key elements of the money laundering process.

The objective of this article is to highlight some of the indicators (or red flags) you need to be aware of.

A number of methods, techniques, mechanisms and instruments have been identified from past case examples of money laundering and terrorist financing. These include:

Use of complex loans or credit finance

Examples include intercompany loans, back-to-back loans and loan back schemes where criminals lend themselves money to

create the appearance the funds are from a legitimate source.

Use of non-financial professionals

Here, criminals use lawyers, accountants, tax advisors, financial advisors, and notaries to create structures to cover the beneficial owner or provide trust accounts for funds transfers.

Use of corporate vehicles

All types of legal persons; in particular, the use of trusts.

Manipulation of the appraisal or valuation of a property

- Use of monetary instruments
- Use of mortgage schemes
- Use of investment schemes and financial institutions
- Use of properties to conceal money generated by illegal activities.

Red flags you should look for when determining your agency's risks:

Client risks

- Significant or unexplained geographical distance between you and your client



- Client's structure is unusually complex
- Prices are not in line with the market
- It is difficult to identify the true beneficial owner/a nominee is used by the client
- Client is a shell company
- Client has a cash-intensive business
- Client is reluctant to provide all the relevant Customer Due Diligence information, or you have reasonable doubt that the information provided is not correct
- Buyers and sellers colluding to create a legitimate transaction to hide the proceeds of crime.

Service or delivery method risks

- There is no ability for face-to-face business relationships
- Payments received from unknown or unrelated third parties
- New products and new business practices are involved, including new delivery mechanisms and the use of new or developing technologies.

Other red flags

- Property is bought and sold in quick succession

- Client is selling for less than the purchase or market price and is not interested in obtaining a better price
- Little interest is shown in the purchase price
- Unusual involvement of third parties – lawyers, accountants, tax advisors or financial institutions
- Unexplained urgency
- Client offers to pay extraordinary fees for services that would not ordinarily warrant such a premium
- Payments are received from unknown or unrelated third parties
- Gatekeepers (lawyers, accountants) appear to have full control of activity
- Real estate agency work is started in one name and completed in another without a logical explanation.

Research to date has shown that in almost all cases, wire transfers to channel the money have been involved at some stage.

Nobody wants to become involved in a regulatory breach. Being aware of these warning signs can help you and your agency to comply with the Anti-Money Laundering and Countering Financing of Terrorism Act 2009, so it's important that you are alert to them. ▲

Sources:

1. *Money Laundering and Terrorist Financing through the Real Estate Sector* published by the FATF.
2. *Guideline: Real Estate Agents Complying with the Anti-Money Laundering and Countering Financing of Terrorism Act 2009* published by the DIA.

 **Detecting signs of illegal activity is part of our role at McGregor Bailey Audit, and we publish regular newsletters containing updated information on this and other issues that might affect the real estate industry. If you would like your Compliance Officer to be added to our mailing list or details of our audit services, please contact Cynthia Forbes on 09 378 8388 or email cynthia@mgbca.co.nz.**