Regulating Property And Probate Lawyers

Anti-money laundering red flags

in conveyancing transactions

It is important to be aware of, and act properly upon, red flags that cause you to have suspicions about a transaction.

One red flag indicator may provide a basis for making further enquiries of your client. Several red flags together, without reasonable explanation, are more likely to provide grounds for suspicion. You must also bear in mind that Enhanced Due Diligence (EDD) is mandatory if a transaction has been identified as high risk under Regulation 33(1)(a)(i).

Your practice should have appropriate risk assessments and policies in place to identify red flags both at (a) the practice wide level and (b) at the client/matter level. The CLC would strongly recommend that you also have a clear process to follow should you come across red flags.

You should consider carrying out additional checks and enquiries to resolve your concerns so that you are comfortable in continuing to act. If you do decide to continue to act, you should document your decision-making including what additional enquiries you have made.

If you still have suspicions, you should refer the matter to your practice's Money Laundering Reporting Officer (MLRO) and they will determine whether a Suspicious Activity Report (SAR) needs to be filed with the National Crime Agency (NCA).

Business source

- Unusual introducer.
- The client is not local to you and there is no reasonable explanation as to why your practice has been chosen.
- Unexplained changes of legal advisers/conveyancers prior to instruction.

Client Characteristics

- Client is secretive or evasive about who they are, the reason for the transaction, or the source of funds.
- Unexplained urgency, requests for short cuts or changes to the transaction particularly at the last minute.
- The client refuses to provide information or documentation and/or the documentation provided to the practice is incomplete.
- Remote client (email contact only).
- Recently issued ID documents.
- Client is a company that has been recently formed and the purchase price is large compared to assets or company is not one that typically purchases property.
- Client is a shell company that is being used to disguise ownership or there is a complex corporate structure that contains many layers.
- Client is a company that is based in an offshore jurisdiction (for example tax havens).
- Where the client is a company, it is not clear if those instructing the practice directly are

empowered to act in the name of the company.

- The client or a donor is a politically exposed person (PEP) (or is a family member or known associate of a PEP).
- The client or a donor is on the sanctions list or is an associate/family member of someone who is on the sanctions lists.
- The client requests that you hold money for a prolonged period of time with no underlying transaction or without proper justification.
- Scottish Limited Partnerships[1], which are more lightly regulated British incorporated vehicles, are being used to carry out the transactions.
- Use of intermediaries without adequate reasons.

Seller Characteristics

- Absent owner or landlord.
- Sole proprietor.
- Owner/seller living abroad.
- Lack of knowledge about the property.
- Long-time owners (high equity).
- Where the seller lives at a different address from the property and has no documentary evidence such as bills or buildings insurance linking the seller to the property.
- The seller is a developer and it is a "private sale"[2] that is not within the scope of the AML regulations, which may mean that fewer ID checks may have been undertaken.

Property Characteristics

- Empty.
- Tenanted.
- Unencumbered (no mortgage).
- High value.
- Unregistered.
- No restrictions on the register.
- Low value without a reasonable and verified explanation.

Transaction characteristics

- Matters that go abortive after the practice has received client monies and/or requests to make payments to third parties or back to the source.

[1] These entities were used extensively in the Azerbaijani laundromat which siphoned large amounts of money out of the country improperly into the UK property market: https://www.amlc.eu/the-azerbaijani-laundromat-a-new-money-laundering-machine-in-a-familiar-guise/ (See paragraph 2.1 for an explanation of the role that SLPs played). Please also note that the vast majority of SLPs are not established by actual residents of Scotland.
[2] A private sale is where a developer sells to a client that they source themselves. If the developer uses an estate agent to locate clients, then they must be registered for AML supervision and would fall under HRMC's supervision.

- The transaction is unusual for the client's profile.
- Quick sale required**.**
- Back to back transactions (with property rapidly changing value).
- Funds going abroad or to an unusual destination**.**
- Transactions being carried out on another's behalf (such as an incapacitated person or a minor) and/or use of powers of attorney in unusual situations.
- Early repayment of mortgages/loans.
- Short repayment periods for borrowing.
- Loans from non-institutional lenders.
- Unexplained payments from a third party and/or large cash payments.
- Use of multiple accounts or foreign accounts without good reason.
- Use of cryptocurrency without adequate explanation of the source of funds being used.
- Use of cryptocurrency that is unregulated under the FCA's registration regime[3].
- Property being sold at auction and it is unclear whether the auction house involved has performed the necessary AML client due diligence (CDD) on monies they have received.
- Funds coming from a country where there has been recent notable unrest such as the government falling to protests[4].
- Funds coming from high risk third countries (HRTC) or from countries known to have high corruption or are subject to HMT sanctions.
- Funds coming from jurisdictions which have currency exchange controls such as China or Vietnam[5].
- The funds have been "split" in order to circumvent currency exchange controls.
- Informal money transfer systems (IVTS) being used such as hundi or hawala.
- Changes in the source of funds during a conveyancing transaction.
- Requests to pay the proceeds of a sale to an unusual destination (not to the client directly).

This list is not intended to be a tick-box exercise nor is it exhaustive. It aims to provide guidance as to what issues or circumstances may suggest a greater risk of money laundering taking place.

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[3] The FCA's register can be accessed here: https://register.fca.org.uk/s/search?predefined=CA
[4] An example of this is the fall of the Sheikh Hosina regime in Bangladesh where it has been identified in investigations that former members of the regime siphoned large amounts of public money out of the country and into the UK property market using companies registered in the British Virgin Islands. More information here.
[5] Some countries have very strict controls in place regarding what they can take funds out of the country for. In China, for example, this is confined to limited purposes such as training, study, travel or family support and is limited to $50,000 per individual per year. Buying real property overseas for the purposes of investment, for example, is strictly prohibited unless leaving the country permanently. An entire underground banking system has developed to circumvent these controls which practices should be aware of. A useful explainer is here.