



Anti-Money Laundering Risk Advisory: Real Estate

When does this risk assessment apply?

Real estate is a popular vehicle for those engaged in fraud and money laundering. It is generally an appreciating asset and its sale can lend legitimacy to the appearance of funds. Consequently, the purchase of real estate is a common outlet for criminal proceeds. Fraudsters and other criminals often go to great lengths to ensure that real estate transactions used to launder funds look legitimate, masking the true intent of the transaction, which could be a purchase, sale or refinancing.

Given the significant role members of the legal profession play in real estate transactions, to avoid assisting or furthering illegal activity, they must be aware of the risks associated with providing legal services in this area. Where there are suspicious circumstances, a legal professional must be satisfied on an objective basis that the transaction is legitimate, prior to acting or continuing to act.

Fraud in real estate generally occurs as:

- Fraud for shelter - to obtain a property for legitimate purposes, but by misrepresenting facts to obtain financing or to mask the identity of the beneficial owner.
- Fraud for profit – to acquiring large sums of money from different parties including a registered owner, a mortgagee or a bona fide purchaser by fraudulent means.

The proceeds of real estate fraud are the proceeds of crime. Laundering of the funds occurs when they are provided for the transaction, often flowing through the trust account of a lawyer or notary, and are disbursed at the direction of the fraudster.

Criminals will also attempt to use funds earned from other illicit activities to purchase and eventually sell real property, converting the illicit funds into legitimate funds. They may also use the property to house illegal activity, or as a vehicle to launder additional funds.

What are risk factors?

While the indicators of fraud and indicators of money laundering activity often overlap, it is important to be aware of the risks of both and develop mitigation strategies. Many of the common risks are identified in the table below, but these lists are not exhaustive.

While it is not possible to completely eliminate all of the risks, lawyers and Quebec notaries must conduct proper due diligence. This involves taking into consideration the indicators of fraud and money laundering and relying on prior experience in these types of transactions. Even if not handling the money, a legal professional engaged on a transaction will be aware of the financial details and in many cases will be in a position to ask further questions about the transaction. If satisfied that a transaction is legitimate, lawyers and notaries must comply with all requirements to properly identify and verify the identity of clients, record this information and ensure proper accounting for the transactions.



Client Risks	Real Estate Fraud	Money Laundering
The company or individual has no e-mail address, physical address, home or business telephone number (disconnected or fake), company logo, contact person.	X	X
The client uses a post office box or general delivery address where other options are available.	X	X
A party to the transaction is a foreign buyer, either an individual or company, notable especially if on a watch list, whose only connection to Canada is the real estate transaction.		X
The client refuses to provide their own name on documents, or uses different names on offers to purchase, closing documents and deposit receipts.	X	X
The legal advisor experiences difficulty obtaining necessary, reliable information to identify the client and verify the client's identity.	X	X
The client insists on choosing the agent where an agent is being used to verify identity.	X	X
The client changes instructions regarding amounts or payees just before closing, or fails to bring in funds as promised.	X	
The client does not care about the property, price, mortgage interest rate, legal and/or brokerage fees, and offers to pay higher than usual legal fees for the legal services for the transaction.	X	X
The client does not appear familiar with property.	X	
The client will not permit contact with a prior legal counsel.	X	



The client is “out of sync” with the property (e.g. occupation, personal wealth, level of sophistication).	X	X
A stranger who appears to control the client attends to sign documents.	X	X
One spouse or business partner is mortgaging equity in a property owned by both.	X	
The client buys and sells often, preferring to deal in cash.	X	
The client contact is only or primarily by email.	X	X
The client has owned vacant, disused or run-down properties for a long time, without activity on title or visible use of land.	X	
Corporate client officers and directors were appointed very recently.	X	
The company purchasing real estate has a complex ownership structure.		X
The head office of a corporate client is or has been recently changed to a non-existent address or one that is highly unusual or lacks credible explanation.	X	X
The client pushes for a fast closing.	X	
The client who has been named in the media as being involved with criminal organizations is purchasing a residential property.	X	X



Transaction Risks	Real Estate Fraud	Money Laundering
The same legal advisor is acting for all parties, except the legitimate vendor.	X	
Funds are directed to parties with no apparent connection to the borrower or the property.	X	X
Repeat activity occurs on a single property or for a single client. The title shows one or more recent transfers, mortgages, or discharges.	X	X
Frequent and quick mortgage discharges occur on the property.	X	
The transaction location is distant from the lawyer's office.	X	X
A buyer of income-generating property has no concern for generating profit by filling vacancies or by adjusting rent/lease rates.		X
The client produces a small deposit relative to price, or pays little or nothing from their own funds.	X	
The sale is presented as a "private agreement" – no agent is involved, or the named agent has no knowledge of the transaction.	X	X
The municipality or utility companies have no knowledge of the client's ownership.	X	
Unusual adjustments are made in favour of the vendor; the transaction involves a large vendor take-back mortgage or an existing mortgage on a purchased property is assumed by another individual without involvement of a financial institution.	X	X
Payments from the client are received by way of counter cheques, bank drafts and/or cash.	X	X



The transaction involves the purchase of personal use property through a business.		X
Transactions involve a Power of Attorney or are carried out on behalf of minors, incapacitated persons or others who may not have sufficient economic capacity.	X	X
Behaviour or transactions are unusual compared to other similar clients (e.g. high levels of assets, volume of transactions, nature of business activity).	X	X
The transaction involves legal entities, when there does not seem to be any relationship between the transaction and the activity carried out by the buying company, or when the company has no business activity.		X
Last-minute transfers contemplating "Trustee" arrangements such as "Trustee to beneficial owner" are made at NIL consideration followed immediately by the registration of a mortgage and the advance of mortgage proceeds.	X	
An accelerated repayment of a loan/mortgage occurs shortly after the deal is completed even if penalties are incurred.		X
Transactions are not completed in seeming disregard of a contract clause penalizing the buyer with loss of the deposit if the sale does not go ahead.		X
The client makes a deposit for a house, reneges on the deal shortly thereafter, then obtains a legitimate cheque from the legal advisor for the value of the deposit.		X