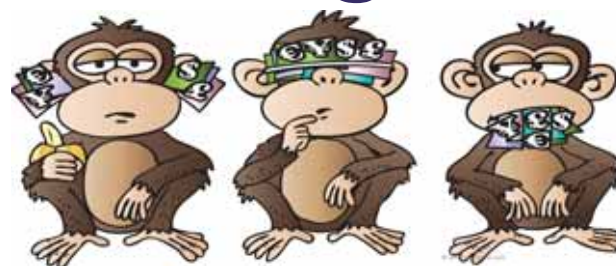


Stop criminals misusing real estate services



Ron Pol and Ashley Balls - principals at specialist consultancy amlAssurance.com - explain new business risks and share practical tips.

From 30 June 2013, new laws required banks and finance businesses to cut their vulnerability to money laundering and terrorist financing. Most real estate agents are temporarily exempt from the detailed process requirements of the Anti-Money Laundering and Countering Financing of Terrorism Act (REINZ is monitoring planned removal of the exemption), but the new law reinforces current duties and adds new elements.

In practical terms, real estate has become more attractive to criminal activity; but there are pragmatic ways to protect your business.

1. Money laundering offences remain

Being temporarily exempt doesn't give immunity from prosecution. The main offences are not in the new Act (which adds more processes), but in laws that already apply. Money laundering is such a serious offence it's in the Crimes Act.

What is money laundering?

Money laundering is not confined to criminals or offshore funds. It involves legitimate businesses and "gatekeeper" professionals; real estate agents, lawyers and accountants facilitating financial transactions.

Basically, money laundering transforms the proceeds of criminal activity into legitimate funds. Processes obscuring the true ownership of criminal proceeds include transfers, loans and asset sales and purchases. Between \$1.5-10 Billion is laundered annually in New Zealand.

2. Low threshold and raised bar expands risk

Even without actual knowledge that funds come from serious criminal activity, failing to spot well known "red flags" or ask obvious questions could land you in hot water. Failure to "lift the lid" on transactions that a reasonable businessperson would investigate may increasingly be regarded as negligent or reckless.

Can you assume real estate agents will stay under the radar?

Speaking about the forfeiture of a drug dealer's houses, farm and vehicles, valued at nearly \$6 million (purchased with cash, without mortgages), a senior Police official said: "Who was the real estate agent? Who did the conveyancing? I'd like to speak with them. [Big criminal enterprises] can't operate these schemes without professional help. If there's wilful blindness, that's where it resides. [These professions aren't] covered by the legislation. It astounds me that professionals like that can be involved and not see what's going on. It's a reality we can't ignore any more."

3. Criminal money finds weak links

Property transactions are already a popular way to launder criminal proceeds. Other popular money laundering channels - banks, casinos and money remitters - now have extensive systems and close supervision, unlike the real estate industry; and agents may not always know what to look for. This means that a property's attractiveness as a "washing machine" for local and international criminal operations has just moved up a notch.

4. Duty to report suspicious transactions

Agents receiving funds settling real estate transactions are already subject to the Financial Transactions Reporting Act with existing duties to ask questions and report suspicious transactions. But enforcement officials confide that reporting seems "patchy" - some do so diligently, others in similar circumstances not at all. If the new Act raises the bar on existing obligations, it might pay to check that all staff know about these duties before enforcement ramps up a level.

5. Business reputation risks

Facilitating serious money laundering or terrorist financing has an obvious reputational impact on all involved and the industry.

Practical ways to cut your risk

The additional rules that will apply when the exemption is removed have not been finalised, but will be based on well-known fundamental rules. This means that agencies can use globally recognised standards to cut their risks and enter the new regime with no hidden surprises. A practical interim solution is also available (see "Stop criminals misusing your services"). Some agents may choose to improve their own processes ahead of the game, but in the meantime all firms at least need to be confident that they can meet their existing duties; which have just been reinforced by the new laws and business practices.

Stop criminals misusing your services

Internationally recognised techniques are used by criminals targeting real estate. You can turn these to advantage by training staff to recognise combinations of key red flag indicators and build a virtual wall protecting your business. Examples include:

- Use of cash, or disproportionate amounts of cash.
- Purchasers acting through or introduced by intermediaries, with no personal contact without reasonable explanation.
- Transactions where the price does not reflect local valuation data/trends.
- Urgency for no apparent reason - quick commissions are tempting, but may be 'too good to be true.'
- Multiple transactions with significant change in value in short timeframes.
- Doubts about the real ('beneficial') ownership of funds or assets.
- Purchasers unusually willing to pay the asking price or apparent lack of concern about price.