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Effective sentinels or unwitting money launderers?

The policy effectiveness of combatting illicit financial flows through professional facilitators (lawyers, accountants and real estate agents).

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Abstract

As ‘gatekeepers’ to the financial system, lawyers, accountants and real estate agents play an indispensable role, intentionally or unwittingly, when criminals use their services to facilitate real estate transactions with illicit funds. Recognised as a high-risk, high-value sector for money laundering, empirical research in this area is, however, scarce. The important question then becomes how effective is the policy objective to detect and deter money laundering through professional facilitators in the real estate market?

This thesis answers that question with new empirical evidence drawn from New Zealand criminal proceeds real estate transactions facilitated by professionals. Unlike other countries where professionals are partly or wholly exempt from anti-money laundering regulations, obligations to detect and report suspicious real estate transactions have applied to professional facilitators in New Zealand since 1996, yet inexplicably there is almost no objective evidence in this area. This thesis uses primary sources including court records to fill a knowledge gap in the use of professionals enabling financial transactions with illicit funds. It concludes that policies to detect and deter laundering through professional facilitators achieved intended outcomes in just four percent of research cases over a 20-year period. It found that when presented with property transactions involving proceeds of crime, professionals were more often enablers than inhibitors. This thesis also maps characteristics empirically associated with criminal investment in real estate found to be more, and less, susceptible to masking by criminal actors. These new empirical findings represent a significant advance in knowledge because they point to policy, enforcement and regulatory settings to help transform professionals unwittingly enabling financial transactions with criminal proceeds into more effective sentinels.

This thesis also constructively critiques a new global framework for evaluating the effectiveness of anti-money laundering regimes against defined ‘outcomes’. With surprisingly little dialogue at the intersection of policy effectiveness/outcomes and money laundering scholarship and practice, the obvious question is whether the new methodology reflects an outcome-oriented effectiveness framework, as it purports. This thesis finds that it does not yet do so. This represents a significant contribution if it helps advance policy, regulatory and enforcement strategies and further research to improve crime detection and prevention capabilities and outcomes.