Money Laundering & Terrorist Financing Risks

RISKS WITHIN THE REAL ESTATE SECTOR IN THE BAHAMAS

Overview

- Brief Background on Money Laundering & Terrorist Financing Risks in The Bahamas
- Stages of Money Laundering
- Vulnerabilities in the Real Estate Sector
- Red Flag Indicators
- 2 Typologies with Red Flag Indicators
- Involvement of Real Estate Agents

What is Money Laundering & Terrorist Financing?

- Money laundering is the process by which criminals attempt to conceal the true origin and ownership of the proceeds of their criminal activities.

- Its purpose is to allow them to maintain control over those proceeds and, ultimately, provide a legitimate cover for the source of their income.

- Terrorist financing (TF) is the act of soliciting, collecting or providing funds from both legal and illicit sources, with the intention of supporting terrorist activities or organizations.

- While a money launderer's main aim is to conceal the source of funds, a terrorist financer aims mainly to conceal the use of funds. To date there is very little evidence of TF in The Bahamas.


Now, you know you need to launder
your money, right?

Stages of Money Laundering

- Money Laundering is used to turn the proceeds of crime into cash or property that looks legitimate and can be used without suspicion.
- Each day the methods used by money launderers become more sophisticated and the financial transactions more complex.
- It generally involves three stages:

  1. **Placement,**
  2. **Layering, and**
  3. **Integration.**

Source: Market Business News


Reputation

Placement Stage

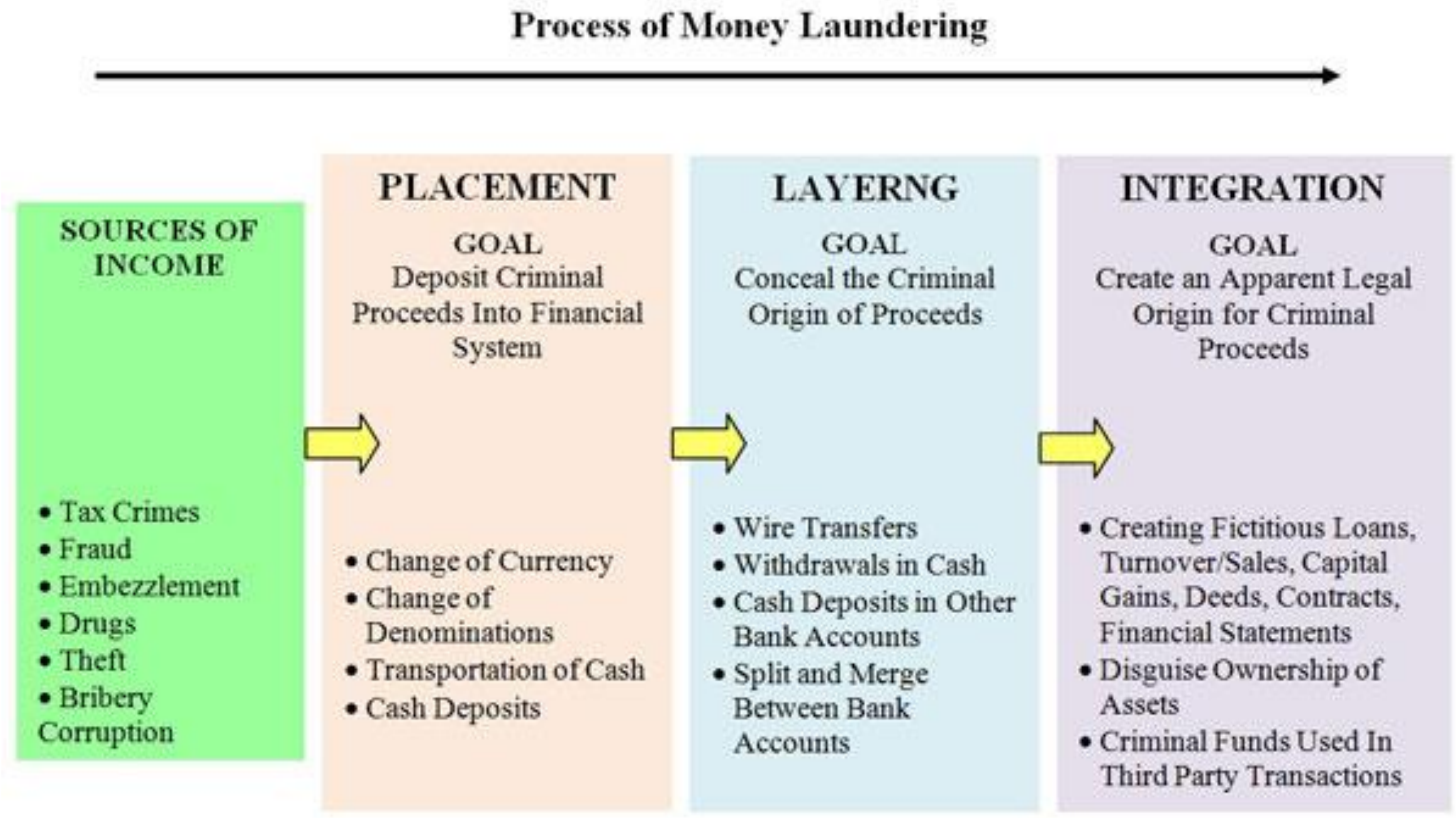
- This is the first stage in the washing cycle.
- The process of placing, through deposits or other means, unlawful cash proceeds into traditional financial institutions.
- The placement makes the funds more liquid since by depositing cash into a bank account can be transfer and manipulated easier.
- The aims of the launderer are to remove the cash from the location of acquisition so as to avoid detection from the authorities and to then transform it into other asset forms

Layering Stage

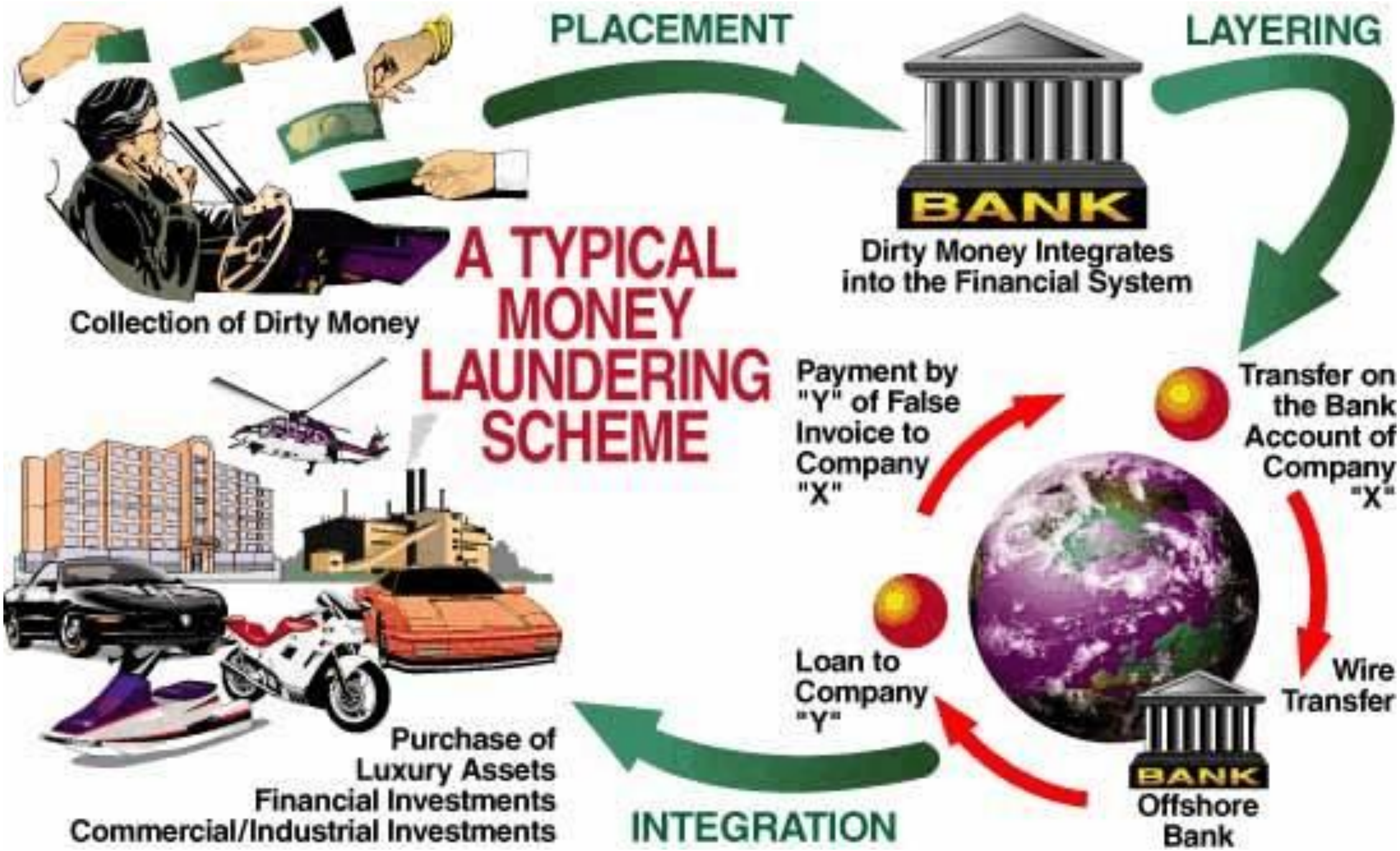
- Layering usually involves a complex system of transactions designed to hide the source and ownership of the funds.
- Once cash has been successfully placed into the financial system, launderers can engage in an infinite number of complex transactions and transfers designed to disguise the audit trail and thus the source of the property and provide anonymity.
- One of the primary objectives of the layering stage is to confuse any criminal investigation and place as much distance as possible between the source of the ill-gotten gains and their present status and appearance.

Integration Stage

- The final stage is integrating the money into the system so it can be used without attracting attention from law enforcement or the tax authorities.
- Integration of the “cleaned” money into the economy is accomplished by the launderer making it appear to have been legally earned.
- By this stage, it is exceedingly difficult to distinguish legal and illegal wealth.



Source: Compliance Alert



Source: Compliance Alert

Why Real Estate?

- Abuse of the real estate sector (property in the form of land or buildings) has long been described as one of the oldest known ways to launder ill-gotten gains. Real estate provides a veneer of respectability, legitimacy and normality. This applies to both residential and commercial properties as part of a reliable and profitable investment strategy.
- Real estate money laundering schemes are estimated to reach $1.6 trillion a year worldwide, according to a report from Accuity, a global risk and compliance company.

Why Real Estate?

- It's simpler to launder money through real estate than other avenues because the related governance regulations are not robust in many jurisdictions.
- Here are 2 main examples of significant regulatory weaknesses in three major countries:
  - Australia: There are no reporting requirements over the real estate brokers and lawyers
  - United Kingdom: Any foreign company can buy property in the UK without having an in-country presence.
- Compared to other methods, money laundering through real estate – both residential and commercial – can be relatively uncomplicated, requiring little planning or expertise. Large sums of illicit funds can be concealed and integrated into the legitimate economy through real estate.

Why Real Estate?

- **Ease of cash conversion** — All cash deals for real estate aren't uncommon and can be done without involving many parties beyond an agent and a lawyer.
- **Potential for appreciation** — Buying a high-end condo in Manhattan, for example, means there's a good chance a fraudster could sell it for a profit later. There's also the potential of earning legitimate rental income via the property.
- **Prestige** — If you're an oligarch in Russia looking to move money out of the country, why not also be able to boast you have property in an exclusive market? It's also practical: you can stay in the place when you're visiting the area.

Example of Money Laundering

- There have been prominent examples of real estate being used for money laundering and financing criminal or terrorist activity –
- such as the Iranian government, via a shell corporation, buying and managing a New York skyscraper and using the rent money to fund terrorist operations. It's one reason why the European Union (EU) included a beneficial ownership disclosure requirement in its Fourth AML Directive in 2017.

Vulnerabilities in Real Estate Sector

- According to The National Risk Assessment the real estate sector was assessed as highly vulnerable to ML risks due to high value property sales to international buyers, the purported non-compliance with legal provisions by some real estate developers, and the need to strengthen the sector' governing legislation.
- Also, some land developers are not caught in the regulatory net of BREA, and the existence of possible unlicensed foreign and local brokers.
- Trust or escrow accounts held by developers can also pose some ML risk. These accounts can conceal the identity of the true beneficiary in addition to the source and or destination of the illicit funds.

- Source – NRA of the Bahamas

Involvement of Real Estate Agents & Brokers in ML/TF

Real Estate Brokers & Agents involvement in money laundering and terrorist financing can range from innocent involvement to complicity.

- Innocent involvement could be when none of the red flag indicators are apparent.
- Complicity occurs when the real estate agent has actual knowledge of the criminality in which they are involved.

RED FLAGS

- These "red flag" indicators when available can assist financial institutions and others in the conduct of customer due diligence for new and existing clients.
- They also may help in performing necessary risk-analysis in the more general sense for the sector.
- Thus, valid indicators may help in identifying suspicious activity that should be reported to competent national authorities according to AML/CFT legislation.
- Where there are a number of red flag indicators, it is more likely that a broker and agent should have a suspicion that ML or TF is occurring.

Identifying Unusual Transactions

- Buying or selling real estate property at a price not commensurate with its actual value, whether by increase or decrease, in comparison with the market prices or the prices of similar real estates in the same area.
- Repeated buying of real estate properties whose prices do not suit the buyer's usual capacity according to the information available on him or as expected from him (due to the nature of his profession or business), which causes doubts that he is carrying out these transactions for other persons.
- Trying to register the real estate property at a price less than the actual value or the amount that will be paid, and pay the difference "under the table".
- Client's disinterest in inspecting the real estate to check its structural condition prior to the completion of the purchase operation.

Identifying Unusual Transactions

- Client's disinterest in verifying the legal status of the real estate property he intends to buy.
- Purchase of a number of real estate properties in a short period of time without expressing any interest in their location, condition, costs of repair and otherwise.
- Sale of the real estate property directly after buying it at a price less than the price of purchase.
- Client's disinterest in putting his name on any file that may relate him to the property, or use of different names when submitting purchase offers.
- Buying real estate properties in the name of another person who is not clearly or justifiably connected to the client.
- Replacing the buyer's name shortly before the completion of the transaction without sufficient or clear justification.
- To arrange the financing of purchase transactions, partially or in full, through an unusual source or an offshore bank.

Typology: Proceeds of drug trafficking laundered into real estate

(Predicate offence: money laundering forged loan agreement)

An individual set up three companies. For one of the companies he held bearer shares. To hide his involvement in the companies he used a front-man and a trust and company service provider as legal representatives. For each of the companies, the legal representatives opened bank accounts with three different banks in different jurisdictions. The individual used the three companies to set up a loan-back scheme in order to transfer, layer and integrate his criminal money. He then co-mingled the criminal funds with the funds that originated from the legal activities of one of his companies. Next the front man then bought real estate. To finance that transaction he arranged for a loan between the two companies. - FATF

Typology: Red Flag Indicators

- The source of the funds used to finance the real estate transaction was from abroad, in particular from offshore jurisdictions and jurisdictions with strict bank secrecy.
- The lender of the money, an offshore company, had no direct relation with the borrower of the money
- A financial institution was not involved in the loan structure.
- There was no loan agreement between the lender and borrower.
- The loan agreement was legally invalid.
- The information in the loan agreement was inconsistent or incorrect.
- The conditions in the loan agreement were unusual (for example, no collateral was required).
- No payment of interest or repayment of the principal.
- Transaction monitoring by financial institutions showed payable-through accounts, by which incoming payments from abroad were immediately transferred abroad without a logical reason.

Typology: Use of illegal funds in mortgage loans and interest payments

(Predicate offence: forgery, deception, fraud, money laundering)

An individual used a front-man to purchase real estate. The value of the real estate was manipulated by using a licensed appraiser to set up a false higher but plausible assessment of the market value of the property after renovation. The bank was willing to grant a mortgage on the basis of this false assessment. After the disbursement of the loan the real estate was paid for. The remaining money was then transferred by the owner to bank accounts in foreign jurisdictions with strict bank secrecy.

Typology: Red Flag Indicators

Indicators and methods identified in the scheme:

- Applying for a loan under false pretenses.
- Using forged and falsified documents.
- The client persisted in representing his financial situation in a way that was unrealistic or that could not be supported by documents.
- The loan amount did not relate to the value of the real estate.
- Successive buying and selling transactions of the real estate were involved
- The client had several mortgage loans concerning several residences

SINGAPORE

A real estate agent and conveyancing lawyer were charged in November 2017 with failing to report to the authorities a suspicious property deal involving a Chinese businesswoman convicted in China for financial fraud.

Investigations established that the real estate agent and conveyancing lawyer had reasonable grounds to suspect that more than S$5,000,000 used by the Chinese businesswoman in her purchase of a property in Sentosa Cove might represent the proceeds of her criminal conduct. The arrest of the Chinese businesswoman for her involvement in one of China's biggest Ponzi schemes had been widely reported by various international and local media platforms. Despite the adverse news reported on their client, they failed to file any suspicious transaction reports on the said private property purchase.

Both the real estate agent and conveyancing lawyer were convicted and fined S$10,000 in April 2018 and June 2018 respectively.

APG Typologies Report 2018

The End

Hopefully you are now aware of some of the red flag indicators for potential misuse of real estate brokers and agents for ML/TF purposes.

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