



Money Laundering and Terrorist Financing Indicators for Legal Professionals

The Compliance Commission of The Bahamas

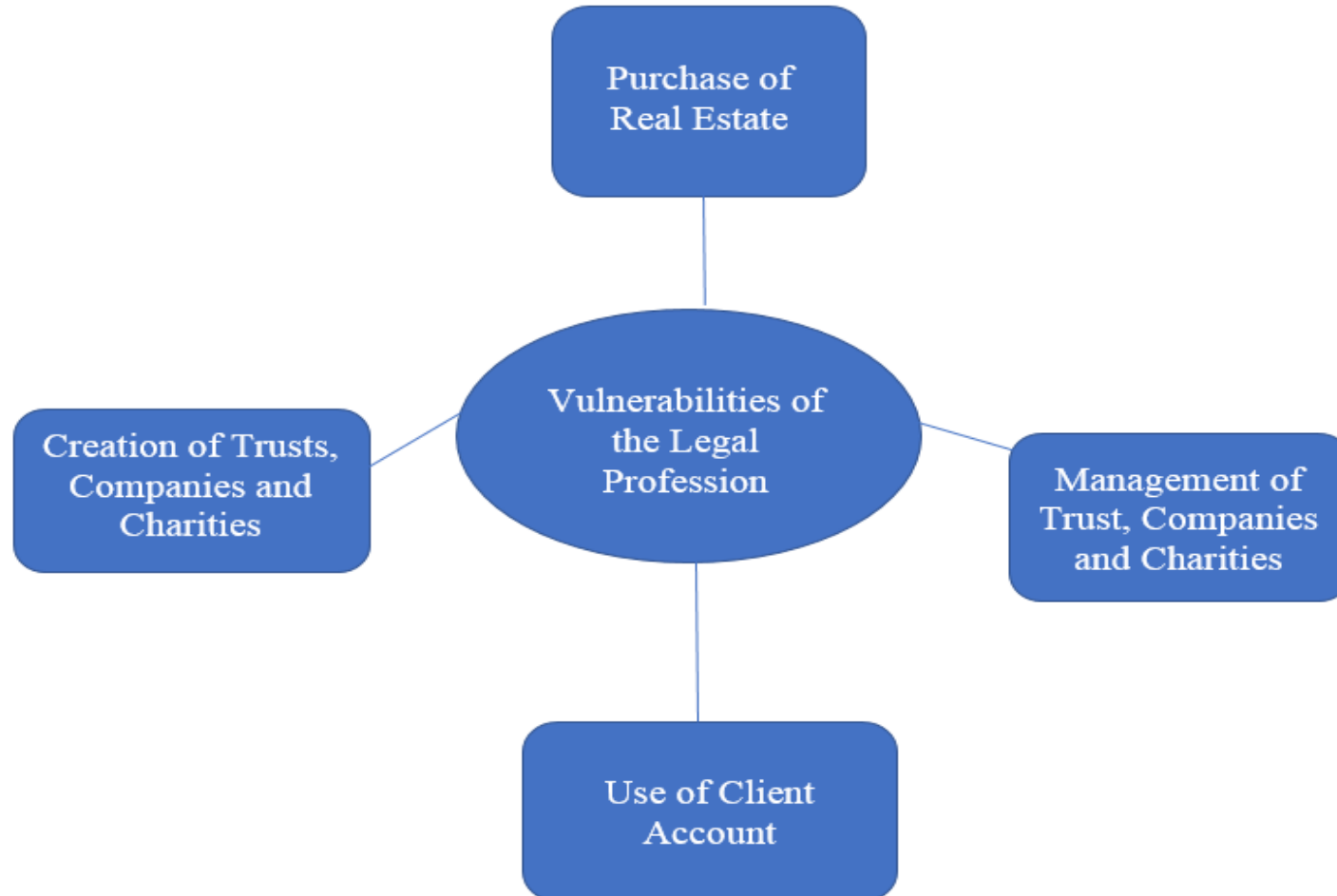
Date: December 7th, 2021

Unique Features of The Legal Profession

- Engaging a lawyer adds the appearance of legitimacy to activities being undertaken.
- Attorneys have a duty of confidentiality ... to an extent.
- Attorneys can hold client funds.
- Several services that lawyers provide are methods that criminals can use to facilitate money laundering/terrorist financing.



Vulnerabilities of the Legal Profession



Money Laundering Through Real Estate

- Purchase property using illegitimate funds.

A judge in the Brooklyn Federal Court ordered a default judgment authorizing the seizure of 5 pieces of real property located in Guadalajara, Mexico. These properties were purchased by Rafael Caro Quintero, a known fugitive who was on the FBI's list of "Ten Most Wanted" criminals. He purchased said property with drug proceeds generated by the Caro Quintero drug trafficking organization, a subset of the Mexican organized crime syndicate known as the Sinaloa Cartel.

<https://www.justice.gov/usao-edny/pr/united-states-district-court-orders-forfeiture-real-estate-purchased-mexican-cartel>

- Property value manipulation.

Jose Orlando Sanchez, a citizen of Colombia who formerly resided in Miami-Dade County, previously pled guilty to one count of conspiracy to launder money. He would recruit a straw buyer to purchase property (at an inflated price) that he already owned. When the purchase closed, Sanchez netted more than \$400,000 from the transaction, which he obtained from the loan proceeds the buyer had obtained through the application.

<https://www.justice.gov/usao-sdfl/pr/former-miami-dade-county-resident-sentenced-more-8-years-prison-bank-fraud-and-money>



Money Laundering Through Real Estate Cont'd



HOW TO LAUNDER MONEY IN REAL ESTATE



- Purchase property using the names of third party to avoid detection.

Tomas Yarrington Ruvalcaba, the former governor of Tamaulipas, Mexico, for a plea deal admitted that he accepted over \$3.5 million in illegal bribe money and used it to fraudulently purchase property in the United States. He admitted to conspiracy to commit money laundering in a pay to play type of scheme. Yarrington used the bribery money he received while governor to purchase properties in the United States. He had nominee buyers purchase property in the United States to hide his ownership of the properties and the illegal bribery money used to purchase them.

<https://www.justice.gov/usao-sdtx/pr/former-mexican-governor-and-presidential-candidate-convicted-money-laundering>

- Mortgages are taken out from a bank and repaid with smaller cash amounts, mixing in illegal and legitimate funds.

Creation and Management of Trusts, Companies & Charities



- Launder funds through a company

Luis Rodriguez was charged for his role in laundering hundreds of thousands of dollars from the proceeds of narcotics proceeds through multiple Nevada shell companies in order to send those proceeds to narcotics traffickers and money launderers based in Mexico. Rodriguez laundered drug proceeds through companies and assisted in recruiting people to act as straw-man 'managers' of shell companies for the trafficking organization.

<https://www.justice.gov/usao-sdny/pr/las-vegas-real-estate-broker-arrested-money-laundering-charges>



Use of Client Funds



Florence Yen, a Vancouver lawyer was suspended for 3 months and fined \$35,209.83 after letting a client use her firm's accounts to move more than \$14 million from other countries without providing any legal services or asking about the source of funds. Her client was based in Hong Kong and the first suspicious act came in May 2015, when the client said he wanted to wire money to her firm's trust account because his uncle's foundation was interested in investing in real estate. Yen did not ask about the source of the money, the uncle's name or foundation neither did she personally speak to her client's uncle.

A total of \$604,770.16 was wired to the account, but the client soon revealed that his uncle's offer on the property was not accepted, and the money would need to be returned. Louie Yen followed his instructions and remitted the funds, according to the decision. This pattern continued over the next 22 months, with deposits coming from places including Panama, Singapore and a Singapore bank via Luxembourg.

https://www.lawsociety.bc.ca/labc/apps/hearings/viewreport.cfm?hearing_id=1492

RED FLAGS

Red Flags Concerning the Client

Client is secretive or evasive about:

- its identity or the beneficial owner of the company;
- the source of funds
- why they are doing the transaction in a certain way.

- Use of intermediaries without good reason;
- Avoidance of personal contact for no good reason;
- Reluctance to disclose information, data and documents that are necessary to enable the execution of the transaction.

- Multiple appearances of the same parties in transactions over a short period of time
- The ties between the parties generate doubts as to the real nature or reason for the transaction.
- The parties to the transaction are connected without an apparent business reason.

Red Flags Concerning the Client's Funds

Size of Funds

There is no legitimate explanation for:

- A large financial transaction, especially if requested by a recently created company, where it is not justified by the corporate purpose.
- Receipt by the company of an injection of capital or assets that are high in comparison with the business, size or market value of the company performing.

Source of Funds

- Funds are received or sent to foreign countries when there is no apparent connection between the country and the client;
- The client is using multiple bank accounts or foreign accounts without good reason;
- 3rd party funding for the transaction or for fees involved with no apparent connection or legitimate explanation.

There is no legitimate explanation for:

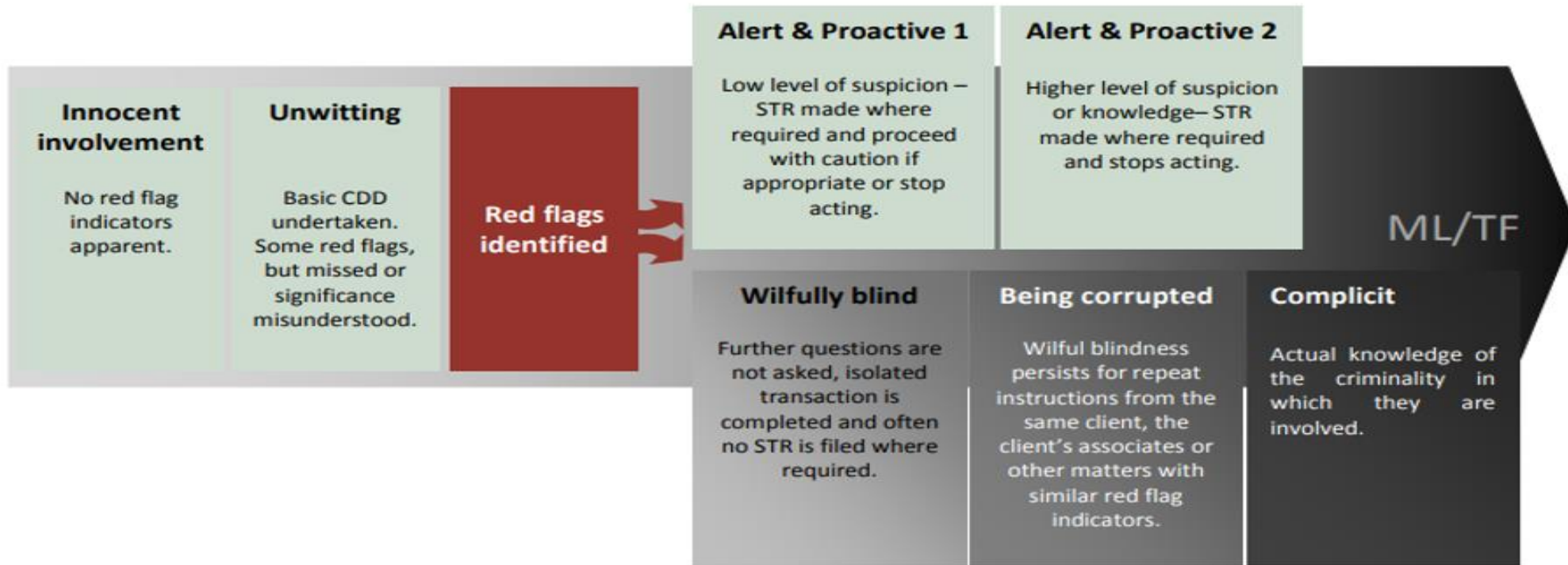
- Finance being provided by a lender, either a natural or legal person, other than a credit institution;
- An unusually short repayment period was set;
- The asset is purchased with cash and then rapidly used as collateral for a loan.

Method of Payment

Red Flags Concerning the Choice of Lawyers

- Instruction of a legal professional at a distance from the client or transaction without legitimate or economic reason.
- The client has changed advisors a number of times in a short space of time or engaged multiple legal advisers without legitimate reason.
- The required service was refused by another professional or the relationship with another professional was terminated.

How Lawyers may be involved in Money Laundering



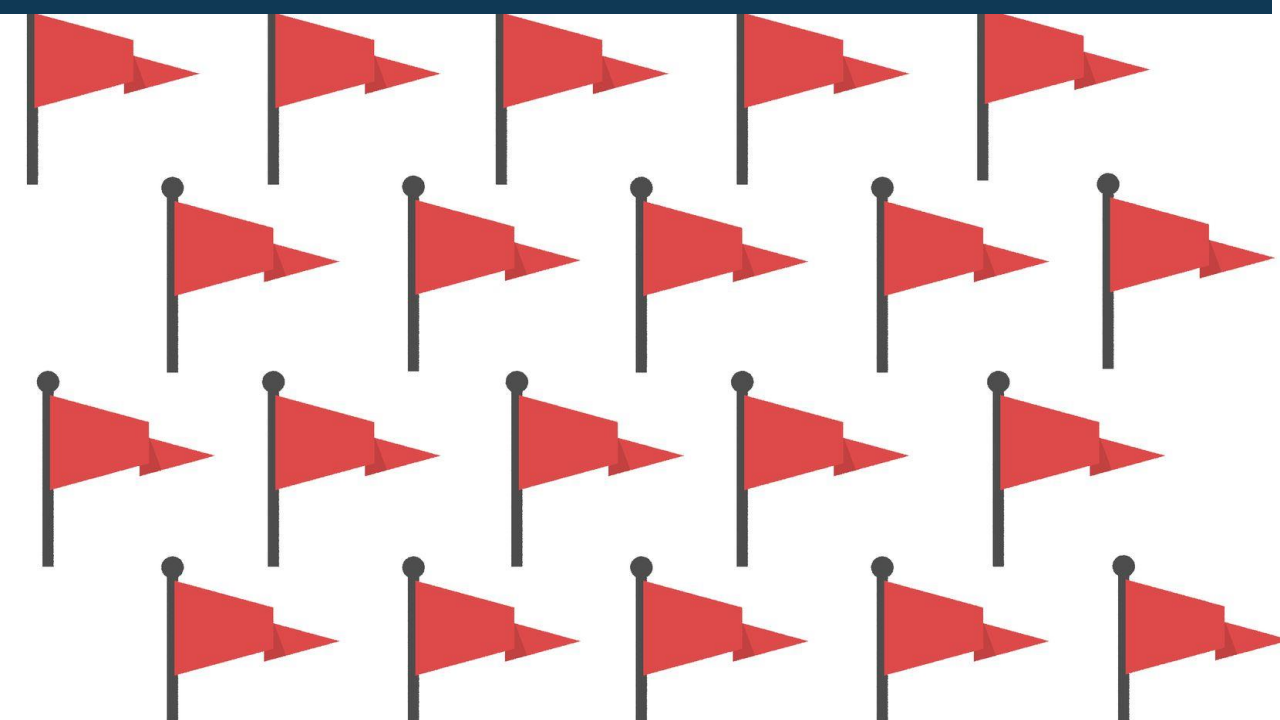
What to do when Red Flags indicate Money Laundering/Terrorist Financing?



Report a Suspicious Transaction/
Suspicious Activity Report to the
Financial Intelligence Unit and
avoid tipping-off the individual.



Ceasing to Act for the Client





TIME FOR

REVIEW

Case Study #1

A law firm was approached by a new client with instructions to assist on several asset purchases. The client requested that the firm supply her with the account details of the firm before completing CDD on the client **OR** entering into an engagement letter with her. The client did not give any further instructions following the deposit of funds. Subsequently, the client explained that she no longer intended to purchase the relevant assets and asked for the deposited money to be provided to a third party, rather than returned to her personal account.

RED FLAGS:

- Once funds were received into the client account, the transaction is aborted.
- Client requested that deposited funds were sent to a third party, rather than returned to her. The client is avoiding personal contact without good reason.
- The client used of a large amount of cash in the client account without any underlying legal work.

WHAT CAN YOU DO?:

- Do not allow clients to deposit funds in a client account until you carry out CDD, establish the purpose of the transaction, satisfy AML obligations and have satisfied yourself that there was no known suspicion of money laundering risks attaching to the funds.
- Do not send the funds to the third party but instead return them to the original source.
- File a STR.

Case Study #2

A new client Mr. A visits a Law Firm in The Bahamas, without an appointment and requests legal advice in relation to setting up a business in The Bahamas. Mr. A is from Colombia and has a company incorporated there. Mr. A states that he has obtained funding from Company C (which is in a Middle Eastern country) and the funding of \$1 million will be wired from a Swiss bank account. Mr. A says that he has lost his passport and is in the process of applying for a new one. He produces a photocopy of some temporary papers in the meantime and agrees to send copies of the new passport when it is issued. He also produces the investment agreement with Company C, this agreement looks too basic to have been drafted by a lawyer. The lawyer tries to perform an Internet search on Mr. A and his company but there is no information available.

RED FLAGS:

- Client and the investor are both located in high-risk countries;
- Funding is arriving from a Swiss bank account;
- Client has no proper identification papers;
- There is no information available on the client and his business;
- Purported legal documentation is too simplistic for the relevant transaction;
- Client's connection with The Bahamas is unclear.

WHAT CAN YOU DO?:

- Conduct enhanced CDD on the client and the other counterparties to the transaction to identify who they are.
- Ascertain the source of funds.
- Decline to act where there are multiple high-risk factors
- File a STR.

Case Study #3

A client deposited the total purchase price, in cash, with his lawyers at the very outset of the engagement with the law firm and well before the final agreement was reached on the purchase price for the property. The lawyers' CDD indicated that the sum that was deposited was a large amount relative to the client's employment income. The purchase of the property went ahead for a sum smaller than that deposited, and the remaining funds were returned to a third party indicated by the client. It subsequently turned out that the funds deposited were the proceeds of crime.

RED FLAGS:

- Unusual manner of execution – the deposit of funds for the purchase price occurred unusually early in the transaction and before the purchase price had been agreed between the parties.
- Amount being deposited large compared to client's modest income.
- Remaining funds remitted to a third party, not to the client.

WHAT CAN YOU DO?:

- When you have reason to believe that the funds the client has deposited are a large amounts compared to their socio-economic profile, you should ask the client and conduct enhanced verification of the source of funds.
- Do not allow clients to deposit such a large amount prior to a obtaining a purchase price.
- Do not send the funds to the third party but instead return them to the original source.
- When it comes to large amounts, ask the client to produce a banker's cheque or wire the funds.
- File a STR.



Do you have
any
Questions?

