



GOVERNMENT OF THE REPUBLIC OF TRINIDAD AND TOBAGO



FINANCIAL INTELLIGENCE UNIT OF TRINIDAD AND TOBAGO

Ministry of Finance

AML/CFT/CPF GUIDANCE FOR REAL ESTATE BUSINESS

UPDATED 15 SEPTEMBER 2022

Purpose

This Guidance is intended to provide assistance to persons engaged in the business of real estate in Trinidad and Tobago on their AML/CFT/CPF obligations.

FIUTT REFERENCE: GN/002/2022

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1. INTRODUCTION

This Guidance is intended to provide assistance to persons or entities, carrying on the business of real estate supervised by the Financial Intelligence Unit of Trinidad and Tobago (the FIUTT), in complying with their Anti-Money Laundering, Counter Financing of Terrorism and Counter Proliferation Financing (“AML/CFT/CPF”) legal obligations.

In accordance with the Financial Intelligence Unit of Trinidad and Tobago Act and the Proceeds of Crime Act the FIUTT is the Supervisory Authority over all listed businesses. These listed businesses are itemised in the First Schedule of the Proceeds of Crime Act, within which the business of real estate is included.

Every individual or entity conducting the business of real estate, as described in the First Schedule of the POCA, is required to honour his/its AML/CFT/CPF obligations set out in the following Acts and Regulations:

1. The Financial Intelligence Unit of Trinidad and Tobago Act, Chapter 72:01 (“FIUTTA”)
2. The Financial Intelligence Unit of Trinidad and Tobago regulations, 2011 (“FIUTT Regulations”)
3. The Proceeds of Crime Act, Chapter 11:27 (“POCA”)
4. The Financial Obligations Regulations, 2010 (“FORs”)
5. The Anti-Terrorism Act, Chapter 12:07 (“ATA”)
6. The Financial Obligations (Financing of Terrorism) Regulations, 2011
7. Economic Sanctions (Implementation of United Nations Resolutions on the Democratic People’s Republic of Korea) Order, 2018
8. Economic Sanctions (Implementation of United Nations Resolutions on the Islamic Republic of Iran) Order, 2018

N.B. This Guidance is a general, informative document and is not intended to replace any of the above mentioned AML/CFT/CPF Acts and Regulations. This Guidance should not be construed as legal advice and should be read in conjunction with the said laws.

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2. WHY SUPERVISE THE REAL ESTATE SECTOR?

Financial Action Task Force (FATF) Recommendation 22 requires real estate agents to comply with AML/CFT/CPF requirements for the purpose of preventing, detecting and addressing ML/TF/PF risks associated with related business transactions.

In its 2007 guidance¹, FATF expressed that the real estate sector is one which merits closer consideration given the large scope of monetary transactions and the continuous fluctuations in prices of property which create distortion in whether property is overpriced or underpriced.

FATF further emphasized in its updated guidance dated July, 2022², that criminals gravitate toward the real estate sector because the purchase of real estate allows for the movement of large amounts of funds all at once as opposed to multiple transactions. The nature of transactions in this sector also reduces the level of understanding of customer profiles since, unlike other industries, buyers and sellers of real estate do not tend to maintain a relationship over a period of time with the regulated real estate agent and therefore, limiting the depth of information required to be shared during transactions.

FATF considers real estate agents to be “gatekeepers” of the financial system as they provide a means through which illegitimate money can be invested and integrated into legitimate sources. Real estate agents are sometimes used by suspected criminals on account of their central role in carrying out real-estate transactions. These agents can also knowingly or unknowingly, assist in the concealment of the true origin of funds by not clarifying or requiring further information on source of funds and client identification.

FATF considers, that persons working within the real-estate sector can be **key players in the detection** of schemes that misuse the sector to conceal the true source, ownership, location or control of funds generated illegally, as well as the companies involved in such transactions.

The requirement for real estate agents to register with the relevant supervisory body and comply with AML/CFT/CPF obligations enables real estate agents to satisfy this function as a key player and ultimately avoid potential misuse.

For scenarios demonstrating the misuse of the real estate sector for money laundering, please see [Appendix 1](#)

You are encouraged to visit [FATF's Website](#) to view various guidance documents published to aid the real estate sector in identifying, assessing and mitigating associated ML/TF/PF risks. In particular, the following guidance documents may be of assistance:

- I. [Risk-based Approach Guidance for the Real Estate Sector](#),
- II. [RBA Guidance for Real Estate Agents](#),
- III. [Money Laundering & Terrorist Financing Through the Real Estate Sector](#).

¹ “Money Laundering and Terrorist Financing through the Real Estate Sector”, dated 29th June, 2007

² FATF (2022), Guidance for a Risk-Based Approach to the Real Estate Sector, FATF

3. DO THESE OBLIGATIONS APPLY TO YOU?

These obligations apply to you if you are an individual or company, partnership or firm carrying on the business of buying, selling or leasing land or any interest in land or any buildings thereon and appurtenances thereto (“the business of real estate”).

- **Carrying on the business of real estate**

You are considered to be **carrying on the business of** “buying, selling or leasing land or any interest in land or any buildings thereon and appurtenances thereto” where such transactions occur **habitually for the purpose of livelihood or gain**. A one off transaction does not qualify as “carrying on” such business activities for the purpose of these obligations.

You are also considered to be carrying on the business of buying, selling or leasing land or any interest in land or any buildings thereon and appurtenances thereto, if you are an **individual, company, partnership or firm acting as an agent on behalf of others regarding the purchase, sale or lease of real estate**.

If you are an employee of a person, company, partnership or firm, who conducts the business of real estate, these obligations are the responsibility of your employer.

- **The activity of “Leasing”**

Please note that leasing of real estate refers to any such agreement where the lessee or tenant has exclusive possession of the property for a fixed or periodic term in consideration of a payment in a lump sum and/or periodically³. There is no stipulated timeframe which determines the existence of a lease as a lease may vary from one month to five years. In fact, the Real Property Act, Chapter 56:02, does not define what arrangement qualifies as a lease agreement but rather requires a memorandum of lease to be executed for leases for a duration greater than three years and makes such a requirement optional for leases less than three years in duration⁴. As such, a tenancy agreement i.e. between landlord and tenant for monthly payments of rent, regardless of the duration of the lease, can be classified as the act of leasing within the definition of real estate business in the POCA and will require adherence to these obligations if you are carrying on such leasing as a business.

- **Real estate development**

If you are a real estate developer, these obligations apply to you when you sell or lease to the public, a newly developed house, condominium unit, townhouse, commercial or industrial building, or multi-unit residential building. Please note you are subject to these obligations in this guideline whether you sell those buildings on your own behalf or on behalf of your subsidiary or affiliate.

³ *Bruton v London & Quadrant Housing Trust*, [1999] UKHL 26, *Street v Mountford* [1985] 2 All ER 289

⁴ Section 80(1) of the Real Property Act, Chapter 56:02

- Property management

If you deal only in property management transactions, **not** in purchases or sales or leases, the obligations explained in this guidance do not apply to you. You will not be subject to these obligations if your business activities are solely related to property management.

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4. WHAT ARE YOUR AML/CFT/CPF LEGAL OBLIGATIONS?

The AML/CFT/CPF laws of Trinidad and Tobago impose the following obligations:

- I. [Registration with the FIUTT](#)
- II. [Appoint a Compliance Officer and Alternate Compliance Officer](#)
- III. [Assessing AML/CFT/CPF Risks](#)
- IV. [Develop and implement a Compliance Programme](#)
- V. [Conducting Customer Due Diligence](#)
- VI. [Conducting Internal and External Audits](#)
- VII. [Submission of Reports to the FIUTT](#)
- VIII. [Keep Records](#)

Please note that this is not an exhaustive list of obligations and each entity is required to consult the AML/CFT/CPF laws referred to at the [Introduction](#) of this Guidance to ensure compliance.

I. REGISTRATION WITH THE FIUTT

You **must** register with the FIUTT if you are in the business of real estate as explained at [Section 3](#) herein. Your application for registration must be received within three months of commencing this business activity or upon your incorporation as a company or registration as a business under the laws of Trinidad and Tobago, whichever is the **earlier** date. (See *Section 18B of the FIUTTA and Regulation 28(1) of the FIUTT Regulations*).

To register with the FIUTT, you may visit the FIUTT's website to access the [FIUTT Registration of Supervised Entities Form](#) and [relevant instructions](#).

Please note that pursuant to Regulation 28(2) of the FIUTT Regulations, failure to register with the FIUTT within the time stipulated is an offence for which you are liable on summary conviction to a fine of \$50,000 and to a further fine of \$5,000 for each day the offence continues.

- **Change of address or change of Directors**

You are required to notify the FIUTT where there is a change of Directors, Owners, Partners or Compliance Officer within thirty (30) days of such change.

You must also notify the FIUTT of a change of address of your registered office or principal place of business within thirty (30) days of such change. (See *Regulations 29A and 29(1) of the FIUTT Regulations*)

Submissions of such changes can be made manually or electronically.

To make a manual submission, visit the FIUTT at Level 25, Tower D, International Waterfront Complex, 1A Wrightson Road. Electronic submissions can be made via fiucompliance@gov.tt

Failure to notify the FIUTT of a change of address of your registered office or principal place of business within thirty (30) days is an offence and you are liable on summary conviction to a fine of twenty thousand dollars (\$20, 000).

Additionally, failure to notify the FIUTT of a change of Directors, Owners, Partners or Compliance Officer within thirty (30) days is an offence and you will be liable on summary conviction to a fine of twenty thousand dollars \$20,000. (See Regulations 29(2) and 29A (2) of the FIUTT Regulations).

- **De-registration**

In the circumstances where your entity is no longer performing the business activities of real estate as described above, it is advised that an application for de-registration be made to the FIUTT (See Section 18BA of the FIUTTA). In order to deregister with the FIUTT, you must first ensure that your business is **not** engaged in **any** business activity listed on the FIUTT's List of Supervised Sectors.

To deregister with the FIUTT, you must submit:

- ✓ a completed Deregistration Form to the FIUTT (click here to access the De-registration of Listed Business Form); and
- ✓ evidence that you are no longer performing the activities which required you to be registered with the FIUTT.

Such evidence may include, in the case of a Company, your letter of request to the Registrar General's Department to be struck off the Companies Registry, or, request for an amendment to the nature of business on your Articles of Incorporation.

In the case of a Registered Business, you are required to submit copy of your Notice of Cessation (Form 9), as the legal presumption is that the business is being carried on, as long as the business name remains on the Register of Business Names⁵.

Submissions for deregistration can be made manually or electronically.

To make a manual submission, visit the FIUTT at Level 25, Tower D, International Waterfront Complex, 1A Wrightson Road. Electronic submissions can be made via fiucompliance@gov.tt

⁵ See guidance from the Registrar General's Department under the heading "Businesses Registered Under the Registration of Business Names Act Chap. 82:85" at the following link: <http://legalaffairs.gov.tt/faqs.php>.

Once the FIUTT is satisfied that you are no longer performing the activities which requires you to be registered, your application for deregistration will be accepted and you will be issued with a Notice of De-registration.

II. APPOINT A COMPLIANCE OFFICER AND ALTERNATE COMPLIANCE OFFICER

Regulation 3(5) of the FORs requires you to designate a Compliance Officer for the purpose of securing compliance with AML/CFT/CPF obligations. Regulation 3(8) of the FORs requires you to also appoint an alternate compliance officer who will be required to undertake the functions of the Compliance Officer should the Compliance Officer be absent from duty whether it be a short or extended period of time.

Please note that Regulations 3(8) and 3(10) of the FORs mandate that you seek the written approval of the FIUTT after designating persons as the business' Compliance Officer and Alternate Compliance Officer, respectively.

For guidance on designating a Compliance officer and alternate compliance officer, and receiving approval from the FIUTT, please [click here](#).

III. ASSESSING RISK

Regulation 7 of the FORs requires you to adopt a risk-based approach to monitoring financial activities within your business. Essentially, you are required to take steps to identify, assess, understand and document the ML, FT and PF risks of your business to determine those clients /transactions that are of low, medium or high risk.

FATF advises in its updated guidance, dated July 2022, that a risk assessment will aid in identifying the ML/TF risks that your business is potentially exposed to during the course of its activities. Further, a documented assessment should include current and emerging ML/TF/PF trends while considering how such issues may impact the business.

Your risk assessment ought to follow an approach that considers, amongst other things, the size of your business, the financial value of transactions involving your business and the nature of the transaction itself in accordance with Regulation 14 of the FORs.

When identifying potential risks to your business, the primary risk categories may include:

1. **Geographical factors**- this includes noting the country/jurisdiction where your clients, parties to the transactions and/or the property involved, are from. You must consider the effectiveness of that country's AML/CFT/CPF regime, identified deficiencies, whether the country is subject to sanctions by international organisations. This can be done through conducting checks on the FATF's list of High-Risk Jurisdictions subject to a Call for Action and jurisdictions under increased monitoring. The FIUTT regularly publishes FATF public statements of jurisdictions who have been added to and removed from these lists [here](#).

Geographical risk should also be considered when the funds to be used in the transaction have been generated from abroad and the transaction is conducted without face-to face contact.

2. **Client risk**- this includes considering the degree of ML/TF/PF risk posed by your client and the parties involved in the transaction including any beneficial owners.

Higher risk circumstances for clients include, but are not limited to, whether the parties are from a higher risk jurisdiction, (as identified in point 1 above), whether they are listed on any list of targeted financial sanctions, whether they have any connection to industries associated with higher ML/TF/PF risks, use an unverifiable source of funds, and whether they may use foreign companies to conduct the real estate transaction.

3. **Transaction risk**- This type of risk considers the methods of financing used by clients and other parties to a transaction. In Trinidad and Tobago, real estate purchasers generally make use of mortgages and other financial arrangements with financial institutions to finance their purchases. In assessing this risk, you should take into consideration your regular business practices and encourage use of the regulated financial system when conducting real estate transactions.

Circumstances which may indicate higher transaction risk includes, but are not limited to, the use of third parties, overseas accounts or persons/entities from higher risk jurisdictions to send or receive funds, the use of complex loans or other unusual means to financing the transaction, or unexplained and abrupt changes in financing arrangements.

Please see FATF's Guidance for a [Risk-Based Approach to the Real Estate Sector](#) dated July 2022, for further details and examples of risk indicators to be considered when undertaking a risk assessment.

Upon completion of your risk assessment, your compliance program should be tailored to provide for the specific policies, procedures and controls to mitigate against the risks identified. These include documenting the appropriate Customer Due Diligence measures which ought to be applied in normal, higher and lower risk circumstances. Entities are required to make available its documented risk assessment to the Supervisory Authority upon request in accordance with Regulation 7 (2) (C) of the FORs.

Please also visit our website for further guidance on [adopting a risk based approach](#).

IV. DEVELOP AND IMPLEMENT A COMPLIANCE PROGRAMME

Regulation 7 of the FORs requires you to develop a written Compliance Programme (CP) to include specific policies, procedure and controls necessary for meeting the entity's AML/CFT/CPF obligations.

The CP is a written document which should include the risk assessment that you have conducted for your particular business, as well as your system of internal policies, procedures, and controls which

are intended to mitigate the vulnerabilities and inherent risks identified in your risk assessment, which can be exploited by money launderers and terrorism financiers.

After development of your CP, you are required to ensure that it is effectively implemented and the appropriate procedures are followed in a timely manner. As the AML/CFT/CPF Supervisory Authority, the FIUTT is empowered to examine the effectiveness of the implementation of the measures outlined in your Compliance Program.

Please click here for the FIUTT's guidance on [Compliance Programme](#).

V. CONDUCTING CUSTOMER DUE DILIGENCE

Your CP should contain policies and procedures for conducting Customer Due Diligence ("CDD") in the appropriate circumstances. This includes setting out the specific procedures which must be followed when conducting transactions with higher and lower risk customers.

Part III of the FORs sets out the necessary approach to conducting customer due diligence which supervised entities must follow when entering into a business relationship with a customer or when conducting transactions with customers.

The FIUTT has issued detailed guidance on measures which should be taken when conducting CDD, this guidance can be found [here](#).

Please note that in addition to the general ML/TF/PF risk factors contained in the CDD guidance, risk factors specific to the business of real estate should be considered when risk ranking clients for the purposes of CDD.

VI. CONDUCTING INTERNAL AND EXTERNAL AUDITS

Regulation 10 of the FORs requires that the CP of your business be reviewed by internal and external auditor (s).

In reviewing the CP, the external auditor is required to evaluate your business' compliance with relevant AML/CFT/CPF legislation and guidelines, submit reports and recommendations annually or with such frequency as specified by the relevant Supervisory Authority. The internal auditor must ensure that policies, procedures and systems are in compliance with the FORs and that the level of transaction testing is in line with the risk profile of your client.

Please note that in the circumstances where you fail to engage the services of an external or internal auditor, the FIUTT shall assign a competent professional, at your cost, to perform the relevant functions highlighted above.

Further guidance on engaging auditors to conduct the internal and external audits can be found [here](#).

VII. SUBMISSION OF REPORTS TO THE FIUTT

As a supervised entity, you are required to submit three (3) types of reports to the FIUTT:

- **Suspicious Transactions Reports or Suspicious Activities Reports (STRs/SARs);**
- **Terrorist Funds in your possession; and**
- **Economic Sanctions Reports (ESR).**

The relationship between supervised entities and the FIUTT is a key one given that the FIUTT can only perform its analytical function to produce financial intelligence if the various supervised entities report critical information they may have.

- **Reporting Suspicious Transactions and Activities**

You **MUST** submit a Suspicious Transaction Report or Suspicious Activity Report (STR/SAR) to the FIUTT where ***you know or have reasonable grounds to suspect***:

- i. that funds being used for the purpose of a transaction are the proceeds of a criminal conduct (*See S55A of the POCA*);
- ii. a transaction or an attempted transaction is related to the commission or attempted commission of a Money Laundering offence; or
- iii. that funds within the entity are linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisations or those who finance terrorism (*See S22C (3) of the ATA*).

The STR/SAR must be submitted to the FIUTT within fourteen (14) days of the date the transaction was **deemed** to be suspicious (*See S55A (3) of the POCA S22C of the ATA*)

- **Defining Knowledge and Suspicion**

The first criterion above provides that, before you become obliged to report, you must **know** or **have reasonable grounds for suspecting**, that some other person is engaged in Money Laundering or Financing of Terrorism.

If you actually 'know' that your client is engaged in Money Laundering, then your situation is quite straightforward – the first criterion is met.

Reasonable grounds to suspect

Having reasonable grounds to suspect requires you to have more than mere suspicion, meaning that there is a possibility that a ML/TF/PF offence has occurred.

To have reasonable grounds to suspect, you are expected to have considered the facts, context and ML/TF/PF indicators related to a financial transaction and, after having reviewed this information, you concluded that there are in fact reasonable grounds to suspect that this particular financial transaction is related to the commission of an

ML/TF/PF offence. You need not verify the facts, context or ML/TF/PF indicators that led to your suspicion.

You do not need to prove that an ML/TF/PF offence has actually occurred. Your suspicion however must be reasonable and not biased or prejudiced.

Attempted Transactions

If a client attempts to conduct a transaction, but for whatever reason that transaction is not completed, and you think that the attempted transaction is suspicious, you must report it to the FIUTT.

An attempt is only when concrete action has been taken to proceed with the transaction.

o How to identify a Suspicious Transaction or Activity

Determining whether a transaction or activity is suspicious is based on your knowledge of the customer and of the industry. You and your employees, if any, are better positioned identify transactions which lack justification or do not fall within the usual methods of legitimate business. While there may be general indicators of suspicious transactions, there are also indicators specific to the business of real estate which would help you and your employees to better identify suspicious transactions whether completed or attempted.

For examples of Suspicious Indicators as it relates to the Real Estate Sector, see [APPENDIX 2](#)

For further guidance on Reporting STRs/SARs as it relates to procedure and associated offences, [click here](#).

- **Terrorist Property/Funds Reporting**

You are required to complete and submit a Terrorist Funds Report (“TFR”) to the FIUTT upon screening the [Consolidated List of High Court Orders](#) and the [United Nations Security Council List](#) (See Section 22AB of the ATA)

For Guidance on reporting Terrorist Property or funds as it relates to the relevant form and procedure please click [here](#).

- **Economic Sanctions Reporting**

The **Economic Sanctions** (Implementation of United Nations Resolution on the Democratic Republic of Korea) **Order, 2018** and the **Economic Sanctions** (Implementation of United Nations Resolution on the Islamic Republic of Iran) **Order, 2018** aim to prevent and disrupt the financing of the proliferation of weapons of mass destruction which constitutes a substantial threat to both domestic and international peace and security.

Pursuant to these Orders, you are required to **IMMEDIATELY** inform the FIUTT, when the Attorney General circulates the list of entities which have been the subject of a freezing Order by the Supreme Court of Judicature of Trinidad and Tobago, of the following circumstances:

1. Where you have knowledge or reasonably suspect that any entity named in the Court Order has property or funds within your business;
2. Where a transaction is being conducted by a person involving property or funds owned or controlled, whether directly or indirectly, by an entity named in the Court Order

These reports are to be submitted to the FIUTT using an [Economic Sanctions Reporting Form](#).

For further guidance on Submitting ESRs as it relates to obligations, procedure and associated offences, [click here](#).

VIII. RECORD KEEPING

As a supervised entity, you are required to retain records, including those related to transactions and client identification for a period of six (6) years in electronic or written form. Retention of these records and the exercise of proper record keeping practices will enable you to comply with lawful requests for information from auditors, other competent authorities and law enforcement authorities that request these records for the purposes of criminal investigations or prosecutions (*See Regulation 31 of the FORS*). For further guidance on your record keeping obligations, click [HERE](#).

4. GENERAL OFFENCE FOR FAILURE TO COMPLY WITH REGS AND FORS

Non-compliance with your obligations under the AML/CFT/CPF laws and regulations may result in criminal and or administrative sanctions.

Contravention of the POCA

A FI or LB which does not comply with Sections 55, 55A and 55C or any regulations made under Section 56 of the POCA, commits an offence and is liable on summary conviction, to a fine of five hundred thousand dollars and to imprisonment for a term of two years and on conviction on indictment, to a fine of three million dollars and to imprisonment for a term of seven years. *(See Section 57 of the POCA)*

Contravention of the FORS

A FI or LB which does not comply with the FORs, commits an offence and is liable on summary conviction, to a fine of five hundred thousand dollars and to imprisonment for a term of two years and on conviction on indictment, to a fine of three million dollars and to imprisonment for a term of seven years. *(See Section 57 of the POCA and Regulation 42 of the FORs)*

Contravention of the FIUTT Regulations

Where a FI or LB commits an offence under the FIUTT Regulations where no penalty is specified, it shall be liable on summary conviction, to a fine of twenty-five hundred thousand dollars and to a further fine of twenty-five thousand dollars for each day that the offence continues; and on conviction on indictment, to a fine of one million dollars and to a further fine of fifty thousand dollars for each day that the offence continues. *(See Regulations 36 and 37 of the FIUTT Regulations)*

Contravention of the ATA

A FI or LB which fails to comply with Section 22AB or Section 22C (1), (2) or (3) of the ATA commits an offence and is liable on summary conviction to a fine of five hundred thousand dollars and to imprisonment of two years and on conviction on indictment, a fine of three million dollars and imprisonment for seven years. *(See Section 42(1) of the ATA)*

Where a company commits an offence under Section 22AB or Section 22C (1), (2) or (3) of the ATA, any officer director or agent of the company who directed, authorized, assented to, or acquiesced in the commission of the offence or to whom any omission is attributable, is a party to the offence and is liable in summary conviction or conviction on indictment in the same manner as the above paragraph. *(See Section 42(2) of the ATA).*

Contravention of the ATA Regulations

A FI or LB which does not comply with the ATA Regulations commits an offence and is liable on summary conviction to a fine of five hundred thousand dollars and to imprisonment of two years. *(See Section 42(1) of the ATA and Regulation 7 of the ATA Regulations).*

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APPENDIX 1 - CASE STUDIES⁶

Scenario A

- Ms. X is a national from a country outside of the EU. She is not a resident in France for tax purposes. She wanted to buy a three million-euro property in the South of France. In the course of negotiation, she said that the funds would be paid from her husband's bank account which is located in a country known as a tax shelter. Formalities were completed by a natural person born in a country – known to present ML/TF risks - according to the French financial intelligence unit (TRACFIN). This person had a power of attorney to sign the deed of sale. After an investigation on open data bases, TRACFIN found out that Ms. X was the wife of a politically exposed person who was known for embezzlement in his country. This information was corroborated by the FIU of the country Ms X was from. In addition, this couple had been the subject of freezing of assets.

Scenario B

- In February 2021, a real estate attorney in Kentucky pleaded guilty to money laundering charges for purchasing real estate with the intention of using the purchases to disguise the proceeds of illegal sports betting. The attorney conspired with another individual engaged in illegal betting to disguise the illicit proceeds through investments in commercial real estate. As part of the scheme, the attorney used funds which he knew were derived from illegal betting to purchase companies that held real estate properties. When purchasing these properties, the attorney deliberately concealed the involvement and ownership of the individual involved in illegal gambling.

Scenario C

- Entity E was operating as an online peer-to-peer lending finance company in Country C until the authorities uncovered that it was conducting a large-scale Ponzi scheme. Among others, proceeds from Entity E's Ponzi scheme were intended to be used to purchase a private residential property in Singapore worth more than S\$23 million. An estate agent referred a foreign customer who was interested in purchasing a property in Singapore to a Singapore lawyer for conveyancing. The lawyer subsequently discovered that the foreign customer had been arrested in their home country in relation to Entity's E Ponzi scheme and was under investigation for fraud. The lawyer and real estate agent had suspected that the monies provided by the customer for the purchase of the property were illicit proceeds but did not file a Suspicious Transaction Report required under the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act. Eventually the property and other relevant proceeds were seized, amounting to S\$27 million. These proceeds have been successfully returned to Country C.

⁶ FATF (2022), Guidance for a Risk-Based Approach to the Real Estate Sector

APPENDIX 2 - AML/CFT/CPF SUSPICIOUS INDICATORS FOR THE REAL ESTATE SECTOR

Natural persons

- Transactions involving persons residing in tax havens or risk territories, when the characteristics of the transactions match any of those included in the list of indicators.
- Transactions carried out on behalf of minors, incapacitated persons or other persons who, although not included in these categories, appear to lack the economic capacity to make such purchases.
- Transactions involving persons who are being tried or have been sentenced for crimes or who are publicly known to be linked to criminal activities involving illegal enrichment, or there are suspicions of involvement in such activities and that these activities may be considered to underlie money laundering.
- Transactions involving persons who are in some way associated with the foregoing (for example, through family or business ties, common origins, where they share an address or have the same representatives or attorneys, etc.).
- Transactions involving an individual whose address is unknown or is merely a correspondence address (for example, a PO Box, shared office or shared business address, etc.), or where the details are believed or likely to be false.
- Several transactions involving the same party or those undertaken by groups of persons who may have links to one another (for example, family ties, business ties, persons of the same nationality, persons sharing an address or having the same representatives or attorneys, etc.).
- Individuals who unexpectedly repay problematic loans or mortgages or who repeatedly pay off large loans or mortgages early, particularly if they do so in cash.

Legal persons

- Transactions involving legal persons or legal arrangements domiciled in tax havens or risk territories, when the characteristics of the transaction match any of those included in the list of indicators.
- Transactions involving recently created legal persons, when the amount is large compared to their assets.
- Transactions involving 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. Transactions involving foundations, cultural or leisure associations, or non-profit-making entities in general, when the characteristics of the transaction do not match the goals of the entity.
- Transactions involving legal persons which, although incorporated in the country, are mainly owned by foreign nationals, who may or may not be resident for tax purposes.

- Transactions involving legal persons whose addresses are unknown or are merely correspondence addresses (for example, a PO Box number, shared office or shared business address, etc.), or where the details are believed false or likely to be false.
- Various transactions involving the same party. Similarly, transactions carried out by groups of legal persons that may be related (for example, through family ties between owners or representatives, business links, sharing the same nationality as the legal person or its owners or representatives, sharing an address, in the case of legal persons or their owners or representatives, having a common owner, representative or attorney, entities with similar names, etc.).
- Formation of a legal person or increases to its capital in the form of non-monetary contributions of real estate, the value of which does not take into account the increase in market value of the properties used.
- Formation of legal persons to hold properties with the sole purpose of placing a front man or straw man between the property and the true owner.
- Contribution of real estate to the share capital of a company which has no registered address or permanent establishment which is open to the public in the country.
- Transactions in which unusual or unnecessarily complex legal structures are used without any economic logic.

Natural and legal persons

- Transactions in which there are signs, or it is certain, that the parties are not acting on their own behalf and are trying to hide the identity of the real customer.
- Transactions which are begun in one individual's name and finally completed in another's without a logical explanation for the name change. (For example, the sale or change of ownership of the purchase or option to purchase a property which has not yet been handed over to the owner, reservation of properties under construction with a subsequent transfer of the rights to a third party, etc.).
- Transactions in which the parties:
 - Do not show particular interest in the characteristics of the property (*e.g.* quality of construction, location, date on which it will be handed over, etc.) which is the object of the transaction.
 - Do not seem particularly interested in obtaining a better price for the transaction or in improving the payment terms.
 - Show a strong interest in completing the transaction quickly, without there being good cause.
 - Show considerable interest in transactions relating to buildings in particular areas, without caring about the price they have to pay.
- Transactions in which the purchaser:
 - purchases property without inspecting it.
 - purchases multiple properties in a short time period, and seems to have few concerns about the location, condition, and anticipated repair costs, etc. of each property.

- wishes to purchase property in someone else's name such as an associate or a relative (other than a spouse) or makes a last minute substitution of the purchasing party's name without a reasonable explanation.
- does not want to put his/her name on any document that would connect him/ her with the property or uses different names such as on Offers to Purchase, contract for sale and deposit receipts.
- pays initial deposit with a cheque from a third party, other than a spouse or a parent.
- pays substantial down payment in cash and balance is financed by an unusual source for example a third party or private lender.
- provided a home or business telephone number which has been disconnected or there is no such number
- Transactions in which the parties are foreign or non-resident for tax purposes and:
 - their only purpose is a capital investment (that is, they do not show any interest in living at the property they are buying, even temporarily, etc.).
 - they are interested in large-scale operations (for example, to buy large plots on which to build homes, buying complete buildings or setting up businesses relating to leisure activities, etc.).
- Transactions in which any of the payments are made by a third party, other than the parties involved. Cases where the payment is made by a credit institution registered in the country at the time of signing the property transfer, due to the granting of a mortgage loan, may be excluded.

Intermediaries

- Transactions performed through intermediaries, when they act on behalf of groups of potentially associated individuals (for example, through family or business ties, shared nationality, persons living at the same address, etc.).
- Transactions carried out through intermediaries acting on behalf of groups of potentially affiliated legal persons (for example, through family ties between their owners or representatives, business links, the fact that the legal entity or its owners or representatives are of the same nationality, that the legal entities or their owners or representatives use the same address, that the entities have a common owner, representative or attorney, or in the case of entities with similar names, etc.).
- Transactions taking place through intermediaries who are foreign nationals or individuals who are non-resident for tax purposes.

Means of payment

- Transactions involving payments in cash or in negotiable instruments which do not state the true payer (for example, bank drafts), where the accumulated amount is considered to be significant in relation to the total amount of the transaction.
- Transactions in which the party asks for the payment to be divided in to smaller parts with a short interval between them.
- Transactions where there are doubts as to the validity of the documents submitted with loan applications.

- Transactions in which a loan granted, or an attempt was made to obtain a loan, using cash collateral or where this collateral is deposited abroad.
- Transactions in which payment is made in cash, bank notes, bearer cheques or other anonymous instruments, or where payment is made by endorsing a third-party's cheque.
- Transactions with funds from countries considered to be tax havens or risk territories, according to anti-money laundering legislation, regardless of whether the customer is resident in the country or territory concerned or not.
- Transactions in which the buyer takes on debt which is considered significant in relation to the value of the property. Transactions involving the subrogation of mortgages granted through institutions registered in the country may be excluded.

Nature of the Transaction

- Transactions in the form of a private contract, where there is no intention to notarise the contract, or where this intention is expressed, it does not finally take place.
- Transactions which are not completed in seeming disregard of a contract clause penalising the buyer with loss of the deposit if the sale does not go ahead.
- Transactions relating to the same property or rights that follow in rapid succession (for example, purchase and immediate sale of property) and which entail a significant increase or decrease in the price compared with the purchase price.
- Transactions entered into at a value significantly different (much higher or much lower) from the real value of the property or differing markedly from market values.
- Transactions relating to property development in high-risk urban areas, in the judgement of the company (for example, because there is a high percentage of residents of foreign origin, a new urban development plan has been approved, the number of buildings under construction is high relative to the number of inhabitants, etc.).

Please note that this is not an exhaustive list of suspicious indicators.

-END OF DOCUMENT-