

Strategic analysis brief

Money laundering through **real estate**



Australian Government

AUSTRAC



Strategic analysis briefs

AUSTRAC strategic analysis briefs provide insights for government and industry on money laundering and terrorism financing (ML/TF) risks, trends and methods.

These briefs aim to assist Australian businesses by providing information that may be helpful in identifying and mitigating the risk of their business being misused by criminals. This information can

- » be relevant to their AML/CTF programs, policies and procedures
- » help to inform their management and mitigation of ML/TF risk
- » enhance the quality of reporting to AUSTRAC.



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PURPOSE

To provide information about money laundering methods, vulnerabilities and indicators associated with money laundering through real estate in Australia.

KEY POINTS

- » The laundering of illicit funds through real estate is an established money laundering method in Australia.
- » As an established money laundering channel, criminals are likely to continue to launder money through real estate.
- » Money laundering through real estate may be identified where transactions intersect with the regulated AML/CTF sector.



BACKGROUND

The use of real estate is an established method of money laundering internationally.¹ Criminals buy high-value goods such as real estate as a way of laundering or concealing illicit funds.

AUSTRAC has identified high-value goods, including real estate, to be a significant money laundering channel in Australia.² Asset confiscation cases show the breadth of criminal investment in high-value goods and the scale of criminal wealth that can be laundered and invested this way.

The Commonwealth Director of Public Prosecutions recovered approximately AUD10 million in assets and the Australian Federal Police (AFP) restrained AUD62.5 million in assets between 1 July 2012 and 30 June 2013.³ The AFP restrained residential property valued at AUD5 million as part of an investigation in March 2013 and approximately AUD8.1 million in property was restrained as part of Project Wickenby in 2012–13.⁴



5 million

restrained by
AFP



8.1 million

restrained as part
of Project Wickenby

Criminals may be drawn to real estate as a channel to launder illicit funds due to the:

- » ability to buy real estate using cash
- » ability to disguise the ultimate beneficial ownership of real estate
- » relative stability and reliability of real estate investment
- » ability to renovate and improve real estate, thereby increasing the value.

Criminals are also motivated to buy property for further profit or lifestyle reasons.

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.

1 Financial Action Task Force (FATF) (2007), *Money laundering and terrorist financing through the real estate sector*, June 2007 <www.fatf-gafi.org/topics/methodsandtrends/documents/moneylaunderingandterroristfinancingthroughtherealestatesector.html>.

2 AUSTRAC, *Money laundering in Australia 2011*, p. 25, <www.austrac.gov.au/money_laundering_in_australia_2011.html>.

3 *Commonwealth Director of Public Prosecutions, Annual Report 2012–13*, pp. 61, and Australian Federal Police (AFP), *Annual Report 2012–13*, p. 34. Note – this does not include assets restrained and recovered by state and territory governments.

4 *Australian Federal Police, Annual Report 2012–13*, pp. 73 and 75.

REAL ESTATE AND AML/CTF REGULATION

Real estate agents are not subject to the provisions of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act). However, real estate transactions most commonly go through a financial institution – for example, as loans, deposits or withdrawals.

At this stage, real estate transactions intersect with the regulated AML/CTF sector. Reportable transactions which intersect with the regulated sector (banks and other financial institutions) provide authorities with some visibility of potential money laundering through real estate.



Real estate fraud and vendor identification initiatives

The New South Wales Government introduced updated fraud prevention guidelines for the real estate industry in October 2012. These guidelines were introduced to combat identity fraud and scams in the industry.

The guidelines provide a set of practices and procedures for agents to confirm the identity of vendors or their appointed representatives, as well as a list of possible fraud warning signs and a proof of identity checklist.⁵

The guidelines were developed following two publicised incidents in 2010 and 2011 that resulted in properties being sold in Western Australia without the knowledge and consent of the lawful property owners.⁶

In response, the Western Australian Government strengthened the real estate industry's verification of identity practice. The practice recommends that conveyancers and other property professionals take reasonable steps to verify the identity of their clients and confirm their clients' authority to give instructions when dealing with a particular property.⁷

5 NSW Government, '*Real Estate Fraud Prevention Guidelines*', NSW Fair Trading, April 2013, <www.fairtrading.nsw.gov.au/ftw/Property_agents_and_managers/Agency_responsibilities/Fraud_prevention_guidelines.page>.

6 ABC News, '*Taskforce to investigate real estate scam*', 11 August 2011, <www.abc.net.au/news/2011-08-11/new-taskforce-to-investigate-scam/2835030>.

7 Government of Western Australia, '*Verification of Identity – Taking action against land title fraud*', Western Australian Land Information Authority (Landgate), viewed 11 February 2015, <www.landgate.wa.gov.au/corporate.nsf/web/Verification+of+Identity>. See also, '*Guidance notes: Code of Conduct for Agents and Sales Representatives: client identification verification and real estate fraud prevention*', Department of Commerce, Government of Western Australia, 2011 <www.commerce.wa.gov.au/publications/code-conduct-agents-and-sales-representatives>.

MONEY LAUNDERING METHODS

An examination of domestic and international money laundering cases reveals some common methods of money laundering through real estate. These are listed below. In Australia, criminals are known to use a combination of these methods to launder illicit funds through real estate.

Method 1 – Use of third parties

To avoid direct involvement in the money laundering process, criminals may seek to buy property using a third party or family member as a legal owner. Criminals provide illicit funds to a third party to purchase real estate on their behalf. In some cases, third parties may be 'cleanskins' – complicit third parties who have no criminal record.

Criminals may use a third party's bank account to deposit and withdraw illicit funds to buy property. Alternatively, criminals may use third parties to transact on their behalf. The use of third parties distances criminals from the illicit funds, disguises ownership and complicates asset confiscation efforts by authorities.



Case study 9 in the *AUSTRAC typologies and case studies report 2010* provides an example of the use of a third party to buy property.

Instances have been reported of individuals providing false employment and income documentation to financial institutions in support of home loan applications.⁸



Case study 39 in the *AUSTRAC typologies and case studies report 2007* highlights the use of false documents and references in support of loan applications to buy real estate.

Method 2 – Use of loans and mortgages

Criminals use loans or mortgages to layer and integrate illicit funds into high-value assets such as real estate. Loans or mortgages are essentially taken out as a cover for laundering criminal proceeds. Lump sum cash repayments or smaller 'structured' cash amounts are used to repay loans or mortgages.⁹ This allows illicit funds to be commingled with legitimate funds. 'Loan-back' schemes are an example of this method.

Loan-back schemes involve criminals borrowing their own illicit funds. Foreign offshore companies controlled by criminals are used as an apparently 'arms-length' lender. The loan is then used to buy real estate and repayments are made using illicit funds. This process hides the true nature of the funds and gives the loan repayments an appearance of legitimacy.



Case study 28 in the *AUSTRAC typologies and case studies report 2009* illustrates the use of a mortgage to launder money through real estate.

8 Crime and Misconduct Commission (CMC) (2009), *Money laundering and organised crime in Queensland*, Crime Bulletin Series, no. 11, December 2009, p. 23, <www.cmc.qld.gov.au/research-and-publications/browse-by-type/bulletins-and-papers>.

9 'Structuring' is a money laundering technique which involves the deliberate division of a large amount of cash into a number of smaller deposits to evade threshold reporting requirements. Under section 142 of the AML/CTF Act, structuring is punishable by up to five years imprisonment and/or fines of up to 300 penalty units. Structuring can also involve the layering of funds for international funds transfers in an effort to avoid the transfers attracting undue scrutiny from authorities.

Method 3 – Manipulation of property values

Manipulation of property values involves criminals buying and selling real estate at a price above or below market value. Buyers, sellers and/or third parties (for example, real estate agents) collude to under or overestimate the value of a property. The difference between the actual and stated values is settled with undisclosed cash payments.

Part A – Under-valuation

Under-valuation involves recording the property value on a contract of sale which is less than the actual purchase price. The difference between the contract price of the property and its true worth is paid secretly by the purchaser to the vendor using illicit funds. The criminal (purchaser) is able to claim that the amount disclosed in the contract as having been paid is consistent with their legitimate financial means. If the property were sold at the market or higher value, the apparent profits would serve to legitimise the illicit funds. This method is also used to pay less stamp duty. The lower a property value, the less stamp duty payable.



Case study 9 in the *AUSTRAC typologies and case studies report 2012* illustrates the under-valuation of real estate.

Part B – Over-valuation

Criminals may overvalue real estate with the aim of obtaining the largest possible loan from a lender. The larger the loan, the greater the amount of illicit funds that can be laundered to service the debt. When applying for a loan, criminals may submit false documentation about the true value of the property. The loan and interest is then repaid, either as a lump sum payment or in instalments, using illicit funds.

Part C – Successive sales at higher values

Criminals may further confuse the audit trail by reselling property in quick succession. The property is sold at a higher value, either to related or acquainted third parties, or to companies or trusts controlled by the criminal. This gives an appearance of seemingly legitimate profits while the criminal maintains ultimate control over the property.



Case study 39 in the *AUSTRAC typologies and case studies report 2007* highlights the use of this method.

Method 4 – Structuring of cash deposits to buy real estate

The deliberate structuring of cash deposits has been observed in money laundering through real estate.¹⁰ Criminals deposit cash below the AUD10,000 reporting threshold, often at different banks or bank branches, to avoid triggering threshold transaction reports to AUSTRAC. This method often involves high volumes of transactions to numerous accounts to avoid detection. The funds are then used to obtain bank cheques to buy real estate.



Case study 9 in the *AUSTRAC typologies and case studies report 2012* involves the buying of property partially financed through a series of structured cash deposits.

Method 5 – Rental income to legitimise illicit funds

Criminals lease out properties to generate rental income. In an effort to legitimise illicit funds, criminals provide the tenant with illicit funds to cover rent payments, either partially or in full. Criminals can also deposit their illicit funds into an account as 'fictitious' rent which gives the appearance of legitimate rental income. These illicit funds disguised as 'rental payments' are deposited on a regular basis or in advance. In doing so, criminals commingle legitimate rental income with illicit funds and successfully integrate illicit funds into the financial sector.

Criminals may also buy property in a third party's name and pay that third party rent using illicit funds. By 'renting' their own property via a third party, criminals can disguise illicit funds and ownership.

Method 6 – Purchase of real estate to facilitate other criminal activity

Criminals may buy property using illicit funds with the intention of conducting criminal activity at the property; for example, cultivating cannabis or producing synthetic drugs. Funds generated from this criminal activity may then be used to buy additional properties. By investing illicit funds in real estate, criminals aim to disguise the original source of the funds.



Case study 1 in the *AUSTRAC typologies and case studies report 2010* highlights the purchase of property to facilitate criminal activity.

¹⁰ See footnote 9 for a definition of 'structuring'.

Method 7 – Renovations and improvements to property

Criminals use illicit funds to pay for renovations, thereby increasing the value of property. Additionally, contractors and tradespeople may not declare cash payments received for the renovations, to evade tax. The property is then sold at a higher price. The use of illicit funds to pay for property renovations enables layering and integration.¹¹



Case study 28 in the *AUSTRAC typologies and case studies report 2009* shows how illicit cash was used to pay for property improvements.

Method 8 – Use of front companies, shell companies, trust and company structures

Front companies, shell companies, trusts and company structures established domestically or offshore are used to launder money through real estate.¹² Property titles held in the name of a company or a shell company distance the criminal from ownership, with control vested in the hands of third parties to avoid any obvious links to criminals.¹³



Case study 28 in the *AUSTRAC typologies and case studies report 2009* illustrates the use of a front company to buy property using company accounts.

11 Layering – Moving, dispersing or disguising illegal funds or assets to conceal their true origin (for example, using a series of complex transactions involving multiple banks and accounts, or corporations and trusts).

Integration – Investing these now distanced funds or assets in further criminal activity or legitimate business, or purchasing high-value assets and luxury goods. At this stage the funds or assets appear to have been legitimately acquired.

12 Shell company – a company that, at the time of incorporation, has no significant assets or operations. Shell companies can be set up domestically or offshore and the ownership structure of a shell company can take several forms. Shell companies have no physical presence, employees or products and may be owned by corporations, nominee owners and bearer shares, obscuring financial ownership.

13 Europol has found that shell companies are used to integrate laundered funds through the purchase of real estate. See Europol, EU Organised Crime Threat Assessment: OCTA 2011, May 2011, p. 43.

Method 9 – Use of professional facilitators or ‘gatekeepers’

The process of buying real estate in Australia usually involves the services of professional facilitators such as real estate agents and a conveyancer or solicitor.

Professionals such as lawyers, accountants, real estate agents, financial advisers and trust and company service providers are known as ‘gatekeepers’ because, either wittingly or unknowingly, they can provide an entry point for those seeking to misuse legitimate financial and corporate systems for money laundering.

Services provided by professionals may assist criminals to launder money through real estate by:

- » establishing and maintaining domestic or offshore legal entity structures – for example, trusts or companies
- » facilitating or conducting transactions on behalf of the criminal
- » receiving and transferring large amounts of cash
- » establishing complex loans and other credit arrangements
- » introducing criminals to financial institutions
- » facilitating the transfer of ownership of property to nominees or third parties.

Criminals may use multiple professionals or gatekeepers to further complicate the money laundering process in an effort to avoid detection.

The use of a professional provides a veneer of legitimacy to criminal activity and a buffer between criminals and their financial activities and assets.



Case study 49 in the *AUSTRAC typologies and case studies report 2007* is a case where criminals used the services of an accountant to buy real estate.

Method 10 – Overseas-based criminals investing in Australian real estate

Overseas-based crime groups and individuals may buy real estate in Australia using illicit funds to conceal assets from authorities in their home jurisdiction. Criminals may seek to integrate their funds into Australian assets in an attempt to avoid confiscation in their home jurisdiction. Purchases may be funded through overseas-based personal, company or trust accounts. Criminals may also use third parties to buy and sell property to further conceal ownership.

INDICATORS

The following indicators may assist to identify potential money laundering. Although the existence of a single indicator does not necessarily indicate illicit activity, it should encourage further monitoring and examination. In most cases it is the existence of multiple indicators which raises suspicion of potential criminal activity.

- » Cash deposited in structured amounts into home loan accounts
- » Cash deposited into an account in structured amounts, then withdrawn via transfer or bank cheque to a payee that is a real estate firm, conveyancer or legal trust account
- » Cash deposits used to make rental payments months in advance
- » Cash used to make a significant deposit for the purchase of a property and the balance is financed by an unusual source – for example, a third party, private lender or offshore bank
- » Complex transactions in which multiple properties are bought, re-sold or exchanged
- » Customer appears to be acting on behalf of another person and is reluctant to identify those they represent
- » Customer arranges for proceeds of sale of property to be transferred directly to an account in a high-risk jurisdiction¹⁴
- » Customer buys multiple properties in a short period of time
- » Customer buys or sells property above or below market value while apparently unconcerned about the economic outcome of the transaction
- » Customer buys property in the name of a third party, relative or minor
- » Customer deposits cash to buy a property but then pulls out from the transaction and requests a refund by cheque
- » Customer repays loan early, or is significantly in advance on their payments
- » Deposits to buy a property have been sourced from an offshore bank
- » Introduction of unknown parties at a late stage of a transaction
- » Low-value property bought with subsequent improvements paid for in large cash amounts before re-selling
- » Non-individual purchasers whose corporate or legal entity structures are complex for no apparent commercial or other reason
- » Ownership of property is the customer's only link to Australia
- » Source of deposits to buy a property cannot be easily identified – for example, international funds transfer where the ordering and beneficiary customers are the same
- » Transactions in which the parties are foreign or a non-resident for tax purposes
- » Transactions where there are doubts about the validity of the documents submitted with loan applications

14 'High-risk jurisdictions' are jurisdictions known to be a source of narcotics or other significant criminal activity, any jurisdiction subject to sanctions, jurisdictions known to be a secrecy haven or preferential tax regime, or jurisdictions linked to proscribed terrorist organisations.

CONCLUSION

As an established money laundering method, criminals are likely to continue to use real estate to launder illicit funds. Money laundering through real estate may be identified where transactions intersect with the regulated AML/CTF sector. This provides AUSTRAC with a degree of visibility over possible money laundering through real estate.

WHERE CAN I GET MORE INFO?

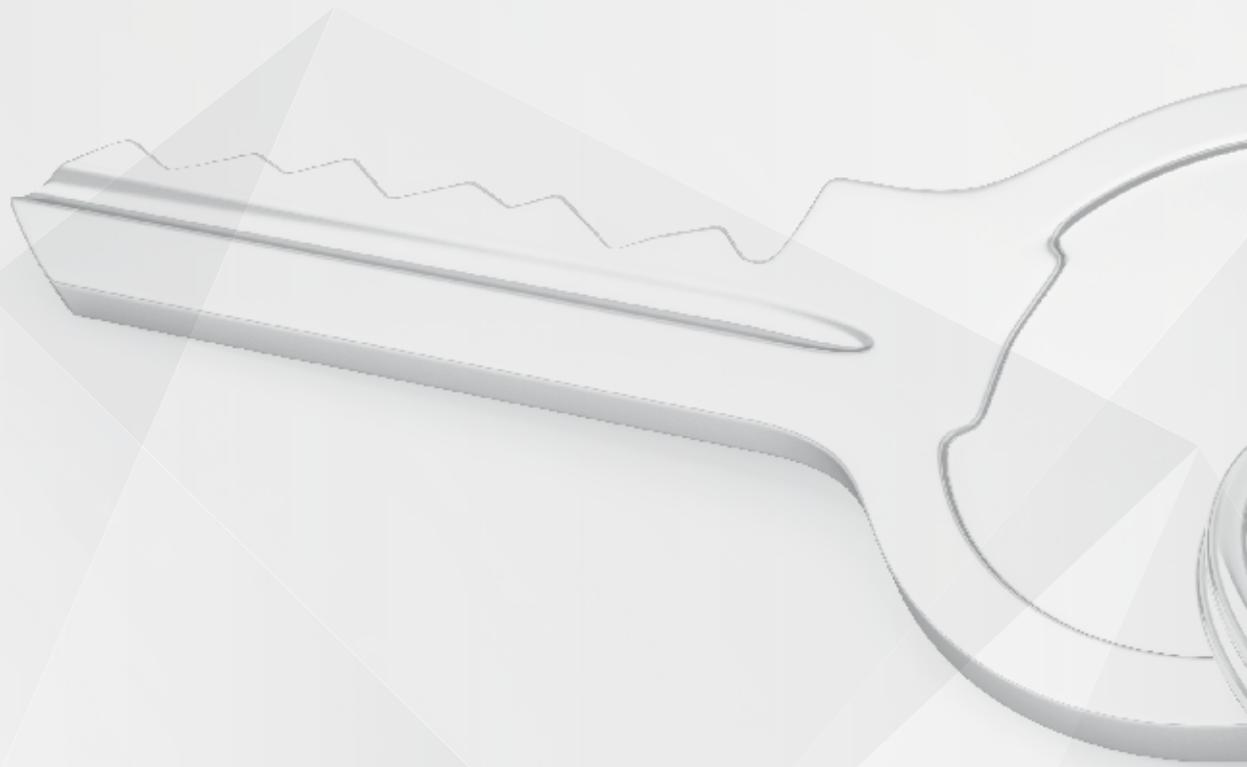
You can contact your AUSTRAC Relationship Manager or the AUSTRAC Contact Centre:

- » Telephone: 1300 021 037
- » Email: help_desk@austrac.gov.au

Information is also available on the AUSTRAC website at www.austrac.gov.au.

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