



OPERATIONAL BRIEF:

Indicators of Money Laundering
in Financial Transactions Related

to **REAL ESTATE**





Indicators of Money Laundering in Financial Transactions Related to **REAL ESTATE**



Operational Briefs are intended to provide clarification and guidance on issues that impact the ability of reporting entities to maintain a strong compliance regime. More specifically, these products are focused on risk and vulnerabilities associated with exploitation for money laundering and terrorist activity financing, and on meeting reporting obligations with respect to suspicious transaction reports.

1. PURPOSE

This Operational Brief provides indicators that are intended to assist reporting entities involved in real estate transactions to meet their obligations to report suspicious transactions or attempted suspicious transactions that are related to the commission or attempted commission of a money laundering or terrorist activity financing offence. Included are real estate brokers, agents¹ and developers, as well as other types of reporting entities such as banks, securities dealers, trust/loan companies, life insurance companies/brokers/agents, credit unions, “Caisses Populaires”, British Columbia notaries, and accountants that are also involved in financial transactions related to real estate.

2. HIGHLIGHTS

- Reporting entities dealing with real estate related transactions are vulnerable to exploitation for money laundering purposes, either wittingly or unwittingly.
- Suspicious transaction reports submitted to the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) describe indicators of suspected money laundering through real estate financial transactions that mirror those reported internationally.
- Minimal filings of suspicious transaction reports regarding real estate transactions indicate a clear need for operational guidance to all relevant reporting entities.
- FINTRAC provides indicators of money laundering in real estate in order to support all relevant reporting entities in meeting their obligations to report on suspicious financial transactions or attempted financial transactions.
- These indicators will be used by FINTRAC, along with other sources of information, to assess compliance with reporting obligations.

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1 In the province of Quebec, the term used is “courtiers immobiliers” reflecting a unique set of requirements as set out in the Quebec Real Estate Broker Act and By-law and Regulation. For more details please see guidance provided by the Organisme d'autoréglementation du courtage immobilier du Québec (OACIQ) at <https://www.oaciq.com/en/pages/by-laws-and-regulations>

3. BACKGROUND

3.1 Canadian Real Estate: A Large and Susceptible Market

The Canadian real estate industry is extensive, consisting of approximately 100,000 brokers and sales representatives working through many real estate boards and associations across the country. In addition, a large number of developers and builders also sell real estate. The actual size of the real estate market is difficult to determine precisely, but as an order of magnitude, Canadian Mortgage and Housing (CMHC) statistics indicate that in a 10-year period, over \$9 trillion of mortgage credits were negotiated² and up to approximately 5 million sales took place through Multiple Listing Services (MLS)³. In contrast, FINTRAC received, during approximately the same 10-year period (2003 to 2013), 127 suspicious transaction reports nationally by real estate brokers, agents or developers, and 152 by other types of reporting entities also involved in real estate transactions, such as banks, securities dealers, trust/loan companies, etc.

The exploitation of real estate by criminals for money laundering purposes is well recognized internationally and underscores the importance of quality reporting on relevant suspicious transactions. Many countries are increasing their efforts to implement counter measures following the Financial Action Task Force (FATF)'s work on this topic indicating that the real estate sector is highly susceptible for many reasons: for example, easy price manipulation and a variety of complex options for selling/purchasing/financing with anonymity⁴. Although illicit funds seem to be laundered primarily through residential homes, corporate properties also play a role⁵. FINTRAC, through its compliance examinations, has observed deficiencies in most aspects of the real estate sector's compliance programs that render it more vulnerable of being used by criminals to launder illicit funds.

FINTRAC provides guidance on indicators in order to improve quality reporting on suspicions of money laundering related to relevant real estate transactions, and to dispel misunderstandings related to the nature of money laundering methods and their complexity. For example, indicators may be misattributed to more easily identifiable forms of crime, such as fraud, or may be simplistically applied only when cash is involved. Misunderstandings may also be reinforced by the misconception among real estate brokers and agents that potential money laundering risks are non-existent due to the involvement of heavily regulated financial institutions. Furthermore, financial institutions and securities dealers may under-report because of an erroneous belief that brokers/agents/developers have already submitted suspicious transaction reports. In fact, real estate involves many distinct types of financial transactions that may warrant the reporting of suspicious transaction reports. For example, the suspicions surrounding deposits for a purchase may be primarily visible to and reported by real estate agents, brokers and developers, whereas those related to loans may be more visible to and reported by financial institutions.

3.2 The Importance of Reporting Suspicious Transactions

Money laundering is a crime that further reinforces criminal activities because it provides a means by which illicit funds can be enjoyed by criminals in a normal way. It affects society in many ways, from individual level impacts like coercion, threats and business risk to societal impacts on security and on the stability of the Canadian financial system. As an example, in the real estate sector, the injection of illicit funds into the housing market can artificially inflate selling prices thus making homes unaffordable, and increase the risk of investment losses when criminals move their operations to other markets⁶.

Reporting suspicious financial transactions or attempted suspicious financial transactions is a key part of a financial intelligence system which enables FINTRAC to meet its mandate to detect, deter and prevent money laundering and terrorist financing activity. Using this information, FINTRAC produces financial intelligence relevant to investigations of

2 Canadian Mortgage and Housing Corporation, *CHS Mortgage Lending 2014*.

3 Canadian Mortgage and Housing Corporation, *Housing Market Outlook: Canada Highlights Edition*, 4th Quarter 2015.

4 Financial Action Task Force, *Money Laundering and Terrorist Financing Through the Real Estate Sector*, June 29, 2007 (<http://www.fatf-gafi.org/publications/methodsandtrends/documents/moneylaunderingandterroristfinancingthroughtherealestatesector.html>).

5 Stephen Schneider, *Money Laundering in Canada: An Analysis of RCMP Cases*, Nathanson Centre for the Study of Organized Crime and Corruption, York University, March, 2004.

6 *Latin American Urban Development into the Twenty First Century: Towards a Renewed Perspective on the City*. Editors, D Rodgers, J. Beall, R. Kanbur. Palgrave Macmillan. 2012.

money laundering, terrorist activity financing and threats to the security of Canada. In addition, research and analysis of this information along with a variety of other sources shed light on trends and patterns in money laundering and terrorist financing for domestic and international partners, reporting entities and the general public.

Under Section 7 of the PCMLTFA, **all reporting entities subject to the Act must report suspicious transactions, and attempted suspicious transactions, to FINTRAC** when there are reasonable grounds to suspect that a transaction or an attempted transaction is related to the commission or attempted commission of a money laundering or a terrorist activity offence. This Operational Brief is primarily concerned with informing reporting entities that deal with financial transactions related to real estate in some way. These include the real estate brokers and sales representatives acting as agents for the purchase and/or sale of real estate, as well as developers who sell property to the public⁷. Also included are other sectors of reporting entities such as banks, securities dealers, trust/loan companies, life insurance companies/brokers/agents, credit unions, “Caisses Populaires”, British Columbia notaries, and accountants that may also be involved in financial transactions or attempted financial transactions related to real estate. Failure to report suspicious transactions may result in serious civil or criminal penalties (up to \$2 million and/or 5 years imprisonment).

Businesses and individuals not subject to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA) – which includes lawyers, notaries outside of British Columbia, and the general public – especially buyers and sellers, are strongly encouraged to send a [voluntary information record](#) to FINTRAC⁸ using the indicators listed in this Operational Brief. Suspicious transaction reports and voluntary information records, when brought together by FINTRAC, may provide a more complete picture of how money laundering may be occurring in the real estate sector.

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7 For more details on the obligations of the real estate sector, please consult: <http://www.fintrac-canafe.gc.ca/re-ed/real-eng.asp>
8 For more details on submitting a voluntary information report, please consult: <http://www.fintrac.gc.ca/reporting-declaration/vol/1-eng.asp>

4. INDICATORS OF MONEY LAUNDERING IN REAL ESTATE

Criminals bring illicit funds into the Canadian financial system through methods and techniques that disguise them as legitimate financial transactions. This allows criminals to purchase assets and eventually sell them in order to enjoy the funds generated by what otherwise appear as honest activities. They may also keep an asset purchased with illicit funds for investment, housing of illegal activity or as a mechanism for future laundering activities. Some examples of common methods used by criminals to launder illicit funds through real estate related transactions may include the under-valuing or over-valuing of property value, rapid successive buying and selling, use of third parties or companies that distance the transaction from the criminal source of funds, witting participation by some lawyers, accountants, real estate agents and financial advisors, cash from criminal sources, and private sales. Criminal organizations often combine methods in novel ways in order to avoid the detection of money laundering. As a result of the appearance of legitimacy provided by money laundering methods, reaching reasonable grounds to suspect that a transaction or attempted transaction is related to the commission or attempted commission of a money laundering offence, and submitting a suspicious transaction report to FINTRAC, requires more than a “gut feel” or “hunch”, but does not require evidence that money laundering is actually occurring.

What is required is to consider the facts related to a transaction and its context that can, when taken together, stand out as unusual. Potential indicators of money laundering can include, for example, a customer’s business, financial history, background and behaviour, even information that one may not be able to confirm. The trail of indicators may follow various scenarios and lead to different conclusions. A transaction that originally appeared to be normal could increase suspicion of money laundering upon consideration of other relevant factors and lead to enhanced due diligence; for example, lack of concern over the quality of the property one intends to purchase. Conversely, new information may remove an initial suspicion of money laundering. A single fact may have an overriding effect, for example, a purchaser identified as the subject of a criminal investigation related to proceeds of crime would increase suspicion of money laundering regarding a financial transaction that otherwise appeared normal. Finally, it is important to note that in reaching reasonable

grounds to suspect, real estate agents, brokers and developers who sell property should consider any aspect of the transaction as potentially relevant, even those for which they are not directly involved; for example, a real estate broker who receives reliable information that a real estate client negotiated a suspicious mortgage, even if that client is a client of another agent, brokerage or developer that sells homes. This information should be considered as a potential indicator along with other available information in determining whether reasonable grounds to suspect exist⁹.

Appendices 1 and 2 provide examples of a residential and a commercial scenario to illustrate how the trail of suspicion might start with one or two indicators, and then expand to include other indicators resulting in reasonable grounds to suspect that a real estate transaction may be related to the commission or attempted commission of a money laundering or terrorist activity financing offence. In reporting suspicious transactions to FINTRAC, the facts related to the indicators should be included along with the indicators. The appendices also link the relevant elements of the stories to indicators listed in the table below by referencing in-text relevant themes from column 1, for example, anonymity, transaction speed, geography and inconsistency.

9 For more details on reporting suspicious transactions, consult *Guideline 2: Suspicious Transactions* (<http://www.fintrac-canafe.gc.ca/publications/guide/Guide2/2-eng.asp>).

The table below lists indicators that were compiled by FINTRAC¹⁰ and should be consulted by reporting entities that deal with real estate related financial transactions¹¹ in order to recognize, assess and report suspicious financial transactions. FINTRAC will use these indicators, along with other sources of information, to assess compliance with reporting obligations. In addition, reporting entities should build and maintain training programs that ensure the submission of high quality suspicious transaction reports. The first column labelled as "Theme" is intended to suggest meaningful groupings of indicators.

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- 10 Indicators related to money laundering through real estate transactions are based on an analysis of FINTRAC's holdings of suspicious transaction reports, and a number of publicly available sources from the Australian Transactions Reports and Analysis Centre (AUSTRAC), the Financial Crimes Enforcement Network (FinCEN), the Criminal Intelligence Service of Canada Central Bureau, and the Organization for Economic Co-operation and Development; other sources include the Report of the Standing Senate of Canada Committee on Banking, Trade and Commerce (*Follow the Money: Is Canada Making Progress in Combatting Money Laundering and Terrorist Financing? Not Really*, March 2013: A-28); Schneider, Stephen. *Money Laundering in Canada: An Analysis of RCMP Cases*. York University, March 2004; Schneider, Stephen. "Organized Crime, Money Laundering, and the Real Estate Market in Canada." *Journal of Property Research* (2004), 21(2) June; Stowell, Nicole, et al. "Mortgage Fraud: Current Trends and Issues". *Real Estate Issues* (2012), 37(2-3).
- 11 Included are real estate brokers and sales representatives acting as agents for the purchase and/or sale of real estate, developers who sell property (please see FINTRAC <http://www.fintrac-canafe.gc.ca/re-ed/real-eng.asp>), but also other sectors of reporting entities such as banks, securities dealers, trust/loan companies, life insurance companies/brokers/agents, credit unions, "Caisses Populaires", British Columbia notaries, and accountants that may also be involved in financial transactions or attempted financial transactions related to real estate.

4.1 TABLE OF INDICATORS

THEME	INDICATOR
Value	Client negotiates a purchase for the market value or above, but requests that a lower value be recorded on documents, and pays the difference "under the table".
Value	Loan/mortgage amount is above the market value of the property/real estate.
Anonymity	Client purchases property in someone else's name such as an associate, nominee, from a company, corporation, trust or a relative (other than a spouse).
Anonymity	Client inadequately explains the last minute substitution of the purchasing party's name.
Anonymity	Client pays initial deposit with a cheque from a third party, other than a spouse or a parent.
Anonymity	Transaction is completed anonymously, in collusion or innocently, through lawyer or notary. Deposits are made into lawyer's or notary's trust account.
Anonymity	Use of real estate brokers/agents/developers, lawyers or notaries, wittingly or unwittingly, to accept false personal or financial information related to any aspect of a real estate deal, or to mortgage/loans.

THEME	INDICATOR
Anonymity	Company purchasing real estate has a complex ownership structure.
Anonymity	Company or individual has no e-mail address, physical address, home or business telephone number (disconnected or fake), company logo, contact person.
Anonymity	Client refuses to provide own name on documents, or uses different names on offers to purchase, closing documents and deposit receipts.
Anonymity	Client insists on providing signature on documents by fax only.
Anonymity	Client uses a post office box or general delivery address where other options are available.
Flipping	Client buys back a property that he or she recently sold.
Flipping	Successive buying and selling transactions of the same real estate.
Transaction Speed	Client shows strong interest in quickly completing the transaction without good cause, or without interest in property characteristics, price negotiations, risks, commissions or other related details, or may offer unusually high bids relative to current value/industry standard.
Transaction Speed	Clients show considerable interest in transactions relating to buildings in particular areas without caring about the price they have to pay.
Transaction Speed	Accelerated repayment of loan/mortgage shortly after deal is completed even if penalties are incurred.
Loan	The information in the loan agreement is inconsistent or incorrect.
Loan	The conditions in the loan agreement are unusual (for example, no collateral was required) or the complex nature of the loan scheme could not be justified.
Loan	Underlying collateral is either not referenced in a loan agreement, is insufficient or fictitious or the collateral provider and other parties involved in the loan structure are not known.
Loan	Company lending the money for the purchase of real estate, possibly an offshore company, has no direct relation with the borrower.
Renovations	Invoices for real or phantom large remodelling or renovations are paid with cash.
Income generating	Buyer of income-generating property shows no interest in generating profit by filling-in vacancies or by adjusting rent or lease value based on market value.
Flow through	Incoming payments from abroad possibly linked to a trust account, followed immediately by wire transfers abroad without a logical reason.
Structuring	Multiple transactions involving payments in cash or in negotiable instruments (for example, bank drafts) which do not state the true payer and where the accumulated amount is considered to be significant in relation to the total amount of the transaction.
Geography	Foreign buyer, either an individual or company, or source of funds are from a jurisdiction with strict bank secrecy laws, weak anti-money laundering regimes, or with a high level of political corruption ¹² .

12 Various authoritative lists identify relevant individuals, businesses and countries of interest that may be used to further operationalize these indicators. Although not exhaustive, here are some common examples: Global Affairs Canada lists sanctions on countries, organizations, or individuals administered for a variety of reasons (<http://www.international.gc.ca/sanctions/countries-pays/index.aspx?lang=eng>); the Financial Action Task Force (FATF)'s list of high-risk and non-cooperative jurisdictions (<http://www.fatf-gafi.org/countries/#high-risk>) and FINTRAC Advisories on financial transactions related to countries identified by the Financial Action

Task Force (FATF), which focus on countries requiring increased diligence for money laundering and terrorist financing (<http://www.fintrac-canafe.gc.ca/new-neuf/1-eng.asp>); Public Safety Canada's Listed Terrorist Entities (<http://www.publicsafety.gc.ca/cnt/ntnl-scr/cntr-trrrsm/lstd-ntts/index-eng.aspx>); CBSA's list of individuals subject to a Canada-wide arrest warrant, issued pursuant to the *Immigration and Refugee Protection Act* (<http://www.cbsa-asfc.gc.ca/wc-cg/menu-eng.html>) and the RCMP's list of individuals wanted domestically and internationally for various crimes (<http://www.rcmp-grc.gc.ca/en/wanted>).

THEME	INDICATOR
Geography	Foreign buyer, either an individual or company, especially if on a watch list, whose only connection to Canada is the real estate transaction.
Inconsistency	Client purchases personal use property through his or her company when this type of transaction is inconsistent with the client's ordinary business practice.
Inconsistency	Client persists in representing his financial situation in a way that is unrealistic or that cannot be supported by documents.
Inconsistency	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.
Inconsistency	A transaction 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.
Inconsistency	Unusually large cash amounts used to fund any financial aspect of a real estate transaction; for example, deposits, down payments, loans/mortgages, etc.
Defaulting	Transactions which are not completed in seeming disregard of a contract clause penalizing the buyer with loss of the deposit if the sale does not go ahead.
Defaulting	No payment of interest or repayment of the principal.
Defaulting	Place a deposit for a house, renege on the deal shortly thereafter, then obtain a legitimate cheque from the solicitor's office for the value of the deposit.
Direct	Direct sale or purchase without using a real estate broker or sales agent.
Direct	There was no loan agreement between the lender and borrower.
Direct	Existing mortgage on a purchased property is assumed by another individual without involvement of a financial institution.
Direct	A financial institution was not involved in the loan structure and may involve multiple unknown investors.

5. CONTACT US

For more information on these indicators, please feel free to contact FINTRAC and specify "Operational Brief" as the subject.

- Email: guidelines-lignesdirectrices@fintrac-canafe.gc.ca
- Facsimile: 613-943-7931
- Mail: FINTRAC, 24th floor, 234 Laurier Avenue West, Ottawa, ON, K1P 1H7, CANADA
- Telephone: 1-866-346-8722 (toll free)

To provide voluntary information to FINTRAC about money laundering or the financing of terrorist activities, please contact us as follows:

- **Facsimile:** 1-866-538-0880
No long distance charges will apply.
- **Mail:** FINTRAC, 24th floor, 234 Laurier Avenue West, Ottawa, ON, K1P 1H7, CANADA
- **Web form:** <https://www15.fintrac-canafe.gc.ca/vir-drtv/public/>

Illustration of How Indicators Might Raise Suspicions

in **RESIDENTIAL REAL ESTATE**



Background

Jane Doe contacted real estate broker Mary Smith to enquire about two properties she was considering for a purchase. Jane stated that she worked as a server in a restaurant. Mary conducted research into the two properties and emailed Jane with pros and cons for each. They made appointments for viewings.

Initial Suspicion Is Triggered

On the day in question, Jane advised Mary by email that she was unable to attend due to illness, and that in any case she had already decided to purchase the \$800,000 home. Jane explained that she was in the middle of a custody battle and was in a rush to buy a house in order to demonstrate that she was capable of providing for her two children. Mary was taken slightly aback by her choice of the most expensive home and her willingness to buy without first viewing the house or having anyone else inspect it first [Trigger: Transaction speed, Inconsistency]. Concerned about this choice, Mary pointed out that the selling price was overvalued by \$50,000 and that she was in a good position to benefit by making a first offer under the asking price, but that in any case it would be important for Jane to visit the house in order to ensure that it met her needs. Jane emailed Mary to let her know that given her pressing need to find a home for her children that she had already made up her mind and directed Mary to offer the asking price [Escalation of suspicion: Value; Transaction speed, Inconsistency].

Trail of Additional Indicators and Decision to Report Suspicions to FINTRAC

Mary explained that in order to write up an offer, Jane would have to provide a deposit and identification. At this point, Jane emailed Mary and unexpectedly advised her that her brother would actually be mortgaging the house because he would be living with them [Anonymity – last minute third party]. Mary offered to make the 45 minute drive to meet them and write the offer, however Jane requested that she be emailed the form with the purchaser's name blank in order to enter the brother's name [Anonymity]. Her brother was arriving from Iran [Geography] on May 1 and would fill in the details when he got there. They would then scan the offer and email it back to Mary [Anonymity].

Given the rise in suspicion, Mary explained that the brother's ID would need to be checked personally. She offered to drive over to pick-up the deposit cheque and validate her brother's identification at the same time. Mary also requested bank and lawyer information as part of the standard financing and legal steps. Jane explained that they preferred to mail out the deposit cheque because her working hours at the restaurant were unpredictable [Anonymity].

Along with the deposit cheque signed by her brother on April 25 (several days before he was actually scheduled to arrive) [Inconsistency], Jane faxed a copy of her brother's driver's license [Anonymity], and provided only mortgage pre-approval with none of the required details.

When Mary called Jane and started to explain once again that the brother's identification document would have to be validated in person in order to proceed, Jane became very defensive and threatened to find another real estate

agent. At this point, Mary explained that without proper ID validation, it would not be possible to go through with the deal. Jane informed Mary that her brother had decided to cancel the deal and requested that her brother's deposit be put into his bank account [Defaulting].

As a result of the overall level of suspicion raised by the combination of observable factors linked to indicators of suspicion, a suspicious transaction report was submitted to FINTRAC.

Illustration of How Indicators Might Raise Suspicions

in **COMMERCIAL REAL ESTATE**



Background

Fictitious Real Estate Broker Ltd. represented a developer that was interested in selling an office tower called Generic Park. A two-step process was used to first select a subset of the highest bidders who would then be given the opportunity to provide revised bids in a second step. The bid from Unrealty Investors Group, \$200 million, was rejected as too low.

Initial Suspicion Is Triggered

Suspicion was initially raised because the bidder had never made a request to conduct any form of due diligence related to the property [Transaction speed]. Suspicion was further reinforced when, despite having been excluded from the second step of the process, the purchaser's real estate representative insisted on holding a meeting to position Unrealty Investors Group as a desirable purchaser by increasing the value of their original bid by approximately \$40 million. This increase was very unusual according to industry standards [Value]. In addition, when asked if approval was required by their board of governors, Unrealty Investors Group said that it was not [Anonymity; Transaction speed]. The overall level of suspicion triggered a review of current facts and to seek additional contextual information surrounding the event for other indicators of suspicion.

Trail of Additional Indicators and Decision to Report Suspicious Transaction to FINTRAC

The bidding company was owned by a university student who had described it as specializing in the purchase of real estate in Canada by investors in the Caribbean [Inconsistency]. This was the company's first real estate purchase. Details regarding the nature and corporate structure of the bidding company were vague and authored directly by its owner without corroborating official documentation [Anonymity]. The law firm handling the purchaser's bid was a small multi-purpose firm with no specialization or previous history in corporate real estate [Anonymity, Inconsistency]. The lawyer's name was not listed as a member on the firm's website nor in the relevant lawyers' directory [Anonymity, Inconsistency]. Multiple businesses held the same address [Anonymity]. Funds appeared to be originating from an individual with no connection to Unrealty Investors Group [Anonymity].

As a result of the overall level of suspicion raised by the combination of observable factors linked to indicators of suspicion, a suspicious transaction report was submitted to FINTRAC.



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