



Financial Monitoring Unit (FMU)
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RED FLAG INDICATORS FOR LAWYERS, NOTARIES AND INDEPENDENT LEGAL PROFESSIONALS

RED FLAG INDICATORS FOR LAWYERS, NOTARIES AND INDEPENDENT LEGAL PROFESSIONALS:

Lawyers, notaries, other independent legal professionals are subject to AML/CFT obligations when, on behalf of or for a client, they prepare for or engage in a financial transaction in relation to the following activities:

- buying and selling of real estate;
- managing of client money, securities or other assets;
- management of bank, savings or securities accounts;
- organization of contributions for the creation, operation or management of companies;
- creation, operation or management of legal persons or arrangements, and buying and selling of business entities.

Lawyers, notaries, other independent legal professionals are also subject to AML/CFT obligations when they are acting as a Trust and Company Service provider by preparing for or engaging in financial activities in relation to the following:

- acting as a formation agent of legal persons;
- acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;
- providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;
- acting as (or arranging for another person to act as) a trustee of a trust or performing the equivalent function for another form of legal arrangement;
- acting as (or arranging for another person to act as) a nominee shareholder for another person.

The Lawyers, notaries, other independent legal professionals providing above mentioned services are required to promptly report Suspicious Transaction Report (STR) under Section 7(1) of AML Act 2010 which states that for transaction conducted or attempted, at their counter or through such Lawyers, notaries, other independent legal professionals, if it knows, suspects or has reason to suspect that the transaction or a pattern of transactions of which the transaction:

(a) involves funds derived from illegal activities or is intended or conducted in order to hide or disguise proceeds of crime.

(b) is designed to evade any requirements of this section.

(c) has no apparent lawful purpose after examining the available facts, including the background and possible purpose of the transaction; or

(d) involves financing of terrorism, including fund collected, provided, used or meant for, or otherwise linked or related to, terrorism, terrorist acts or organizations and individuals concerned with terrorism.

In order to identify some of the circumstances that could be suspicious in nature or that could be indicative that money is being laundered (ML) or used for terrorism financing (TF) purposes, below are some of the red flag indicators which are specially intended to aid the Lawyers, notaries and other independent legal professionals.

These red flags may appear suspicious on their own; however, it may be considered that a single red flag would not be a clear indicator of potential ML / TF activity. A combination of these red flags, in addition to analysis of expected financial activity, business profile and current transactional pattern may indicate a potential ML / TF activity.

Red Flags for Client Behavior:

- Political exposed client who is linked to negative news / crime or any client who is family member or close associate of such political exposed person.
- Client has relations with companies with nominee shareholders or bearer shares or shell companies which are based at foreign jurisdiction
- Client linked to negative news or crime (named in a news report on a crime committed or under Law Enforcement investigation/inquiry).
- The client or any of its associated person / entity found positive match while screening against UN Security Council Resolutions (UNSCRs).
- Client who asks for short-cuts and unexplained speed in completing the transaction or unnecessary keen about AML/CFT reporting requirements.
- Client is overly secretive or evasive (e.g. of who the beneficial owner is, or the source of funds) or provides fabricated records.
- Client insists on using an intermediary (either professional or informal) in all interactions during transactions without sufficient justification.

- Clients who appear to be acting on somebody else's instructions without disclosing the identity of such person.
- Unexplained delegation of authority by the client by using powers of attorney.
- Client is actively avoiding personal contact without any plausible reason.
- Client or transaction is from country or jurisdiction in relation to which the FATF has called for countermeasures or enhanced client due diligence measures or jurisdiction known to have inadequate measures to prevent money laundering and the financing of terrorism.
- Company has a long period of inactivity following incorporation, followed by a sudden and unexplained increase in financial activities.
- Company is registered at an address that is also listed against numerous other companies or legal arrangements, indicating the use of mailbox service.
- Company beneficial owners, shareholders or directors are also listed as beneficial owners, shareholders or directors in multiple other companies.
- Clients who appear to be acting on somebody else's instructions without disclosure.
- Clients who offer to pay unusually high levels of fees for services that would not ordinarily warrant such a premium.
- Reason for client choosing the legal professional is unclear, given the firm's size, location or specialization.
- Frequent or unexplained change of client's professional adviser(s) or members of management.
- Clients who change their means of payment for a transaction at the last minute and without justification (or with suspect justification).
- Situations where advice on the setting up of legal arrangements (trusts/waqf) may be misused to obscure ownership or real economic purpose or where the legal arrangement holds the shares of a company.
- Instructions by the client for the creation of complicated ownership structures where there is no legitimate or economic reason.

Red Flags for Transactional Pattern:

- Complex or unusual transactions, possibly with unrelated parties.
- Unauthorised or improperly recorded transactions; inadequate audit trails.
- Instructions to a legal practitioner from the client to conduct transactions without legitimate or economic reason or when such transactions are conducted by the client.
- Services where legal practitioners are asked to assure the client's standing, reputation and credibility to third parties, without a commensurate knowledge of the client's affairs.
- Services where the legal professional are asked to act as a trustee/director that allows the client's identity to remain anonymous.
- Client makes large payments to subsidiaries or other entities within the group that do not appear within normal course of business.
- Client makes payments to other companies with similar or identical directors, shareholders or beneficial owners.
- Apparent structuring of transactions to avoid dealing with identification requirements or regulatory record-keeping and AML/CFT reporting thresholds.
- Client insist to make payments in cash without any plausible reason.
- Disproportionate amount used for the purchase of real estate/property which is inconsistent with the socio-economic profile of the client.
- Large cash payments made for purchase of interest in land whose value is far less, or the method of funding is unusual such as funding from a third party who is not a relative or known to the buyer, or there is an absence of any logical explanation from the parties why the property is owned by multiple owners or by nominee companies.
- Unusually high levels of assets or unusually large transactions in relation to what might reasonably be expected of clients with a similar profile.
- Transfers of goods that are inherently difficult to value (e.g. jewels, precious stones, objects of art or antiques, virtual assets), where this is not common for the type of clients, transaction or generally without any appropriate explanation.
- Transactions using untraceable payment methods, including bearer shares or new payment methods.
- Transactions with little commercial logic taking place in the normal course of business or transactions not related to the normal course of business.
- Transfer of real estate between parties in an unusually short time period.

- Requests by the client for payments to third parties without substantiating reason or corresponding transaction.
- Transactions with companies whose identity is difficult to establish as they are registered in countries known for their commercial secrecy or Payments for unspecified services.
- Client insist for loss making transactions where the loss is avoidable or an absence of documentation to support the client's story, previous transactions or company activities.
- Payments for services that appear excessive in relation to the services provided.

Disclaimer:

These red flags are developed for guidance purpose and may appear suspicious on their own; however, it may be considered that a single red flag would not be a clear indicator of potential ML / TF activity. A combination of these red flags, in addition to analysis of overall financial activity, business profile and current transactional pattern may indicate that the potential ML / TF activity. While every effort has been made to ensure the accuracy and check all relevant references/ resources, errors and omissions are possible and are expected. Financial Monitoring Unit (FMU), its officers and its stakeholders are not responsible for any mistakes and/or misinterpretation.