



Money Laundering: Risk factor for the real estate industry

Effectively protecting the real estate market against potential money laundering accusations is a challenging task

According to a study conducted by the University of Halle, real estate is a high-risk segment in terms of money laundering. Real estate transactions are frequently used for money laundering. The possibilities for money laundering in the real estate industry are quite varied. According to the study, the real estate industry is part of the so-called non-financial sector to which a total of 28,000 suspected cases of money laundering are attributed per year. This corresponds to a volume of 30 billion euros.

December 2016, Prof. Dr. Peter Fissenewert

Prevention: Avoid the appearance of acting in bad faith

More and more real estate companies are committed to the issue of compliance and to the fight against money laundering. This clear commitment is not only an explicit competitive advantage for a company, but also a way to better its image. Foreign investors require clear structures if the business relationship is to be maintained. Apparently, the industry is completely reforming itself and those who do not join in could arouse suspicion in regards to money laundering. That could be disadvantageous. One of the aspects of compliance is to avoid appearing as if one is acting in "bad faith". The accusation of money laundering can completely and very quickly ruin the reputation of a real estate company. This can result not only in the loss of long-term customers, but also considerable fines of up to 1 million euros and even imprisonment.

The Money Laundering Act applies to real estate companies

It is generally known that real estate agents as well as the lawyers and notaries involved in real estate transactions have obligations pursuant to the Money Laundering Act (MLA). It is sometimes overlooked that these obligations are also faced by the realtors and therefore every real estate company that not only manages real estate, but also buys or sells it. This applies to both private and public companies, regardless of size and turnover. It is not necessary that real estate be sold on a "large scale", e.g. apartments. It is sufficient enough even if the company only partially deals in real estate as part of its business.

Al Capone invented money laundering

The term "money laundering" comes from the 1920s, when the notorious gangster Al Capone invested his money from criminal activities into laundromats to conceal the true origin of the money. With this, he coined the term money laundering.

Money laundering is the process of introducing illegally generated money (or illegally generated assets) into the legal financial and economic cycle. Since the money to be "laundered" comes from illegal activities, such as corruption, robbery, blackmail, drug trafficking, gun trafficking or tax evasion, its origin should be obscured. The fight against money laundering, which is oftentimes very lucrative, is also seen as an important element in the fight against organized crime, and now also in the fight against the financing of terrorism.

The acquisition of real estate is a way to conceal or "launder" the origin of the money.

The United Nations (UN) distinguishes between the following three stages in regards to money laundering:

1. Placement: Any illegally acquired money must be reintroduced into the legal financial or economic cycle, so that law enforcement or tax authorities do not suspect any illegal activity. This is done through so-called smurfing: The money from the illegal activity, which was originally a very large amount, is divided into several smaller amounts.
2. Layering: Now, through various transactions, such as foreign payments, sham transactions or the use of offshore bank accounts, the tracks are blurred.
3. Integration: The "laundered money" now flows back into the legal economic cycle, as if it had been earned in the course of a legitimate business activity.

The implementation of all phases of the money laundering cycle in the real estate sector is conceivable. Thus, in the first phase, it is possible to include "debt-burdened" assets in the financial cycle by way of acquisition, creation or leasing of real estate. In this context, for example, services, usage fees or real estate can be paid for in cash or on the basis of fictitious basic transactions.

In the second phase, concealment of the origin of the money from the predicate offences is conceivable, in particular, through the utilization of non-transparent markets as well as through transfers of ownership in connection with the manipulation of the

value of the property.

This occurs either through “laundering the deposit” after a short leasing of the property and retransferring, thus “laundering”, the deposit or by the buyer wanting to enter a lower purchase price into the notarized purchase agreement than the agreed-upon price. The seller will receive the difference in cash. In this way, notary fees or real estate transfer taxes are reduced. The seller may, however, in such cases be liable for tax evasion and possibly for aiding and abetting money laundering as well.

In a third step, the “laundered” money can be used for the renewed investment in real estate (which appears legal).

In some cases, a money laundering officer must be appointed, who is “... the contact person for the prosecutorial authorities, the Federal Criminal Police Office – the central authority for suspicious activities and transactions – and the competent authorities pursuant to § 16 para. 2 ...” (MLA § 9 para. 2 no. 1). If due diligence is not met, the company may face a fine of up to 100,000 euros.

Recommendations for the protection of real estate companies against money laundering

Every company has to make sure that it is not used for money laundering. It is therefore necessary to communicate guidelines for compliance with legal requirements within the company. This is a typical compliance process. This includes:

Due diligence

- Identification obligation for cash amounts starting from 15,000 euros
- Storage of this data for 5 years
- Reporting of suspected cases of money laundering
- Training of employees about money laundering and fraudulent dealings

In order to provide companies in the real estate industry with ‘first aid’ for employee awareness, we recommend using our checklist for employees on the topic of money laundering.

Training checklists for employees on the topic of money laundering

	Yes	No
Do you and/or your employees know the requirements of the Money Laundering Act in regards to your company?		
Can your employees properly balance legal behavior and economic behavior in such a way that it does not hurt the company?		
Do your employees know the current methods of money laundering in the real estate industry?		
Do your employees know other methods associated with money laundering?		
Do your employees know how one becomes liable for aiding and abetting money laundering?		
Do your employees know how to adequately store customer data as defined and wanted by the legislator?		
Do your employees know which data this is and how long it must be stored?		
Do your employees know whether the customer must agree to a copy being made of his/her personal identification card?		
If you cannot answer all of the questions with a resounding yes, your company is at considerable risk.		

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