
RED FLAG INDICATORS FROM
THE FATF REPORT OF ML & TF
VULNERABILITIES OF LEGAL
PROFESSIONALS

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RED FLAG INDICATORS adapted from the FATF Report of Vulnerabilities from the Legal Sector

As outlined in Chapter 4 the methods and techniques used by criminals to launder money may also be used by clients with legitimate means for legitimate purposes. Because of this, red flag indicators should always be considered in context. The mere presence of a red flag indicator is not necessarily a basis for a suspicion of ML or TF, as a client may be able to provide a legitimate explanation. These red flag indicators should assist legal professionals in applying a risk-based approach to their CDD requirements of knowing who their client and the beneficial owners are, understanding the nature and the purpose of the business relationship, and understanding the source of funds being used in a retainer. Where there are a number of red flag indicators, it is more likely that a legal professional should have a suspicion that ML or TF is occurring. SRBs and law enforcement may also find these red flag indicators to be useful when monitoring the professional conduct of or investigating legal professionals or their clients. Where a legal professional has information about a red flag indicator and has failed to ask questions of the client, this may be relevant in assessing whether their conduct was complicit or unwitting. This chapter contains a collection of red flag indicators identified through the case studies, literature reviewed, and existing advice published by FIUs and SRBs which were provided in response to the questionnaire.

RED FLAGS ABOUT THE CLIENT

- **Red flag 1:** The client is overly secret or evasive about:
 - who the client is
 - who the beneficial owner is
 - where the money is coming from
 - why they are doing this transaction this way
 - what the big picture is.
- **Red flag 2:** The client:
 - is using an agent or intermediary without good reason.
 - is actively avoiding personal contact without good reason.
 - is reluctant to provide or refuses to provide information, data and documents usually required in order to enable the transaction's execution
 - holds or has previously held a public position (political or high-level professional appointment) or has professional or family ties to such an individual and is engaged in unusual private business given the frequency or characteristics involved.
 - provides false or counterfeited documentation
 - is a business entity which cannot be found on the internet and/or uses an email address with an unusual domain part such as Hotmail, Gmail, Yahoo etc., especially if the client is otherwise secretive or avoids direct contact.
 - is known to have convictions for acquisitive crime, known to be currently under investigation for acquisitive crime or have known connections with criminals
 - is or is related to or is a known associate of a person listed as being involved or suspected of involvement with terrorist or terrorist financing related activities.
 - shows an unusual familiarity with respect to the ordinary standards provided for by the law in the matter of satisfactory customer identification, data entries and suspicious transaction reports – that is – asks repeated questions on the procedures for applying the ordinary standards.
- **Red flag 3:** The parties:

- The parties or their representatives (and, where applicable, the real owners or intermediary companies in the chain of ownership of legal entities), are native to, resident in or incorporated in a high-risk country
- The parties to the transaction are connected without an apparent business reason.
- The ties between the parties of a family, employment, corporate or any other nature generate doubts as to the real nature or reason for the transaction.
- There are multiple appearances of the same parties in transactions over a short period of time.
- The age of the executing parties is unusual for the transaction, especially if they are under legal age, or the executing parties are incapacitated, and there is no logical explanation for their involvement.
- There are attempts to disguise the real owner or parties to the transaction.
- The person actually directing the operation is not one of the formal parties to the transaction or their representative.
- The natural person acting as a director or representative does not appear a suitable representative.

RED FLAGS IN THE SOURCE OF FUNDS

- **Red flag 4:** The transaction involves a disproportional amount of private funding, bearer cheques or cash, especially if it is inconsistent with the socio-economic profile of the individual or the company's economic profile.
- **Red flag 5:** The client or third party is contributing a significant sum in cash as collateral provided by the borrower/debtor rather than simply using those funds directly, without logical explanation.
- **Red flag 6:** The source of funds is unusual:
 - third party funding either for the transaction or for fees/taxes involved with no apparent connection or legitimate explanation
 - funds received from or sent to a foreign country when there is no apparent connection between the country and the client
 - funds received from or sent to high-risk countries.
- **Red flag 7:** The client is using multiple bank accounts or foreign accounts without good reason.
- **Red flag 8:** Private expenditure is funded by a company, business or government.
- **Red flag 9:** Selecting the method of payment has been deferred to a date very close to the time of notarization, in a jurisdiction where the method of payment is usually included in the contract, particularly if no guarantee securing the payment is established, without a logical explanation.
- **Red flag 10:** An unusually short repayment period has been set without logical explanation.
- **Red flag 11:** Mortgages are repeatedly repaid significantly prior to the initially agreed maturity date, with no logical explanation.
- **Red flag 12:** The asset is purchased with cash and then rapidly used as collateral for a loan.
- **Red flag 13:** There is a request to change the payment procedures previously agreed upon without logical explanation, especially when payment instruments are suggested which are not appropriate for the common practice used for the ordered transaction.

- **Red Flag 14:** Finance is provided by a lender, either a natural or legal person, other than a credit institution, with no logical explanation or economic justification.
- **Red Flag 15:** The collateral being provided for the transaction is currently located in a high-risk country.
- **Red flag 16:** There has been a significant increase in capital for a recently incorporated company or successive contributions over a short period of time to the same company, with no logical explanation.
- **Red flag 17:** There has been an increase in capital from a foreign country, which either has no relationship to the company or is high risk.
- **Red flag 18:** The company receives an injection of capital or assets in kind which is notably high in comparison with the business, size or market value of the company performing, with no logical explanation.
- **Red flag 19:** There is an excessively high or low price attached to the securities transferred, with regard to any circumstance indicating such an excess (e.g. volume of revenue, trade or business, premises, size, knowledge of declaration of systematic losses or gains) or with regard to the sum declared in another operation.
- **Red flag 20:** Large financial transactions, especially if requested by recently created companies, where these transactions are not justified by the corporate purpose, the activity of the client or the possible group of companies to which it belongs or other justifiable reasons.

RED FLAGS IN THE CHOICE OF LAWYER

- **Red flag 21:** Instruction of a legal professional at a distance from the client or transaction without legitimate or economic reason.
- **Red flag 22:** Instruction of a legal professional without experience in a particular specialty or without experience in providing services in complicated or especially large transactions.
- **Red flag 23:** The client is prepared to pay substantially higher fees than usual, without legitimate reason.
- **Red flag 24:** The client has changed advisor a number of times in a short space of time or engaged multiple legal advisers without legitimate reason
- **Red flag 25:** The required service was refused by another professional or the relationship with another professional was terminated.

RED FLAGS IN THE NATURE OF THE RETAINER

- **Red flag 26:** The transaction is unusual, e.g.:
 - the type of operation being notarized is clearly inconsistent with the size, age, or activity of the legal entity or natural person acting
 - the transactions are unusual because of their size, nature, frequency, or manner of execution
 - there are remarkable and highly significant differences between the declared price and the approximate actual values in accordance with any reference which could give an approximate idea of this value or in the judgement of the legal professional
 - a non-profit organization requests services for purposes or transactions not compatible with those declared or not typical for that body.
- **Red flag 27:** The client:

- is involved in transactions which do not correspond to his normal professional or business activities
- shows he does not have a suitable knowledge of the nature, object or the purpose of the professional performance requested
- wishes to establish or take over a legal person or entity with a dubious description of the aim, or a description of the aim which is not related to his normal professional or commercial activities or his other activities, or with a description of the aim for which a license is required, while the customer does not have the intention to obtain such a license
- frequently changes legal structures and/or managers of legal persons
- asks for short-cuts or unexplained speed in completing a transaction
- appears very disinterested in the outcome of the retainer
- requires introduction to financial institutions to help secure banking facilities
- **Red flag 28:** Creation of complicated ownership structures when there is no legitimate or economic reason.
- **Red flag 29:** Involvement of structures with multiple countries where there is no apparent link to the client or transaction, or no other legitimate or economic reason.
- **Red flag 30:** Incorporation and/or purchase of stock or securities of several companies, enterprises or legal entities within a short period of time with elements in common (one or several partners or shareholders, director, registered company office, corporate purpose etc.) with no logical explanation.
- **Red flag 31:** There is an absence of documentation to support the client's story, previous transactions, or company activities.
- **Red flag 32:** There are several elements in common between a number of transactions in a short period of time without logical explanations.
- **Red flag 33:** Back to back (or ABC) property transactions, with rapidly increasing value or purchase price.
- **Red flag 34:** Abandoned transactions with no concern for the fee level or after receipt of funds.
- **Red flag 35:** There are unexplained changes in instructions, especially at the last minute.
- **Red flag 36:** The retainer exclusively relates to keeping documents or other goods, holding large deposits of money or otherwise using the client account without the provision of legal services.
- **Red flag 37:** There is a lack of sensible commercial/financial/tax or legal reason for the transaction.
- **Red flag 38:** There is increased complexity in the transaction or the structures used for the transaction which results in higher taxes and fees than apparently necessary.
- **Red flag 39:** A power of attorney is sought for the administration or disposal of assets under conditions which are unusual, where there is no logical explanation.
- **Red flag 40:** Investment in immovable property, in the absence of any links with the place where the property is located and/ or of any financial advantage from the investment.
- **Red flag 41:** Litigation is settled too easily or quickly, with little/no involvement by the legal professional retained.
- **Red flag 42:** Requests for payments to third parties without substantiating reason or corresponding transaction.