**Investment real estate**

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| **Product**  |
| *Investment real estate*   |
| **Sector**  |
| *Real estate sector, independent legal professionals, notaries, credit institutions*   |
| **Description of the risk scenario**  |
| Perpetrators are laundering the proceeds of crime in the country by investing in the real estate sector. Perpetrators purchase an asset at below market price, paying the difference to the seller under-the-table in cash. Under or over valuation of property: back-to-back loan which may involve financial institutions or mortgage schemes Perpetrators may invest, as non-resident, in a country (through visa systems) and develop ML/TF network (including via the complicit legal professionals)  |
| **Threat**  |
| **Terrorist financing** The assessment of the TF threat related to investment in real estate has been considered in conjunction with ML schemes related to investment in real estate in order to hide the illegal origin of the funds. In that context, the TF threat does not benefit from a separate assessment. **Conclusion: in that context, the assessment of the TF threat related to investment in real estate of activities is considered as very significant (level 4)**  |
| **Money laundering** The assessment of the ML threat related to investment in real estate has highlighted the recurrent use of real estate sector by organised crime organisations to launder proceed of crime. The real estate sector is mostly used in combination with other sectors, such as TCSPs or legal advice, but presents some threat exposure in itself. Reliance on real estate does not require specific expertise or knowledge, and may be rather financially attractive depending on the services provided. **Conclusions: based on the strong evidence gathered by LEAs identifying real estate as recurrently used in ML schemes and due to the fact that their services may be combined with those provided by other non-financial professionals, the level of TF threat related to real estate is considered as very significant (level 4).**  |
| **Vulnerability**  |
| **Terrorist financing** The assessment of the TF vulnerability related to investment in real estate has been considered in conjunction with ML schemes related to investment in real estate in order to hide the illegal origin of the funds. In that context, the TF threat does not benefit from a separate assessment. **Conclusion: in that context, the assessment of the TF vulnerability related to investment in real estate of activities is considered as very significant (level 4)**  |

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| **Money laundering**  The assessment of the ML vulnerability related to investment in real estate shows that:  1. **risk exposure**

Even if it is a decreasing phenomenon, the use of cash is still possible to finance real estate transactions, which increases the risk of anonymous transactions. More substantially, the risk exposure is increased by the fact that real estate agents are most of the time involved in a business relationship together with other professionals which hinder the effective monitoring of the business relationship (each sector relying on each other to conduct the controls). Real estate activities may be based on financial flows coming from outside the EU and high risk customers, such as PEPs.  1. **risk awareness**

The level of awareness is uneven throughout the sector, and depends in particular on the size of the structure concerned. Bigger structures seem more aware of their risks to be misused and consider that they have a role to play in monitoring their customers. They are developing information and training tools, as well as risk assessments. Members of the sector are well aware about their legal obligations, such as cases where increased due diligence is required. As far as small entities are concerned, this level of awareness is drastically lower because: (i) they are not necessarily integrated in a centralised organisational framework where guidance and training may be delivered; (ii) while they deal with a lower level of sales, they may have difficulty in understanding and applying a complex AML framework (this is the case in particular for single entrepreneurs); (iii) they tend to rely on other sectors to conduct the CDD. This last element tends to be a common feature of the whole sector, where real estate agents may consider that they are the sole responsible for the monitoring of the transactions as other professionals are involved. The same information may not be available at all stages of the transaction (for instance if the identity of the buyer changes for practical or commercial reasons) and this change does not appear at the beginning of the business relationship. The level of awareness of small entities depends on the extent of the training available. In any case, the "scattering" of obliged entities involved does not simplify the implementation of controls and the understanding of the CDD to be applied. The supervision of the sector is also incomplete and based on weak information trails (no written contracts, solicitors used only to stamp a document).  1. **legal framework and controls in place**:

Real estate agents are subject to AML requirements at EU level. However, it appears that controls in place are not efficient enough. The involvement of several obliged entities in real estate transactions makes it more difficult for competent authorities to identify the role played by a real estate agent and in drawing red flags. On that matter, there are differences between countries as to the legal practices and procedures followed in a real estate transaction. In some countries, the estate agent is able to prepare the preliminary legal documentation (although a legal professional may be required to finalise the transaction), while in other countries, a solicitor prepares the legal documentation including the contract. The level of STRs is uneven, and when it's rather satisfactory, it is due to the reporting of obliged entities other than real estate agents (some real estate agents seem to consider that as they are not involved in the transfer of funds they are not in charge of the STR). The consequence is that investigative authorities may conduct their analysis but not on the basis of the real estate information. It is also important to mention that private sector representatives tend to consider that identification of the beneficial ownership remains an  |
| important challenge as the registration of such information is, at this stage, not mandatory. This is particularly the case when seller and buyer transact in "trust".  **Conclusions: the real estate sector is not sufficiently organised to ensure raising a correct level of risk awareness. The involvement of different kinds of obliged entities in a real estate transactions/ business relationships tend to dissuade the sector to conduct its own customer due diligence. The level of STR is not satisfactory; the controls difficult to implement and there is a weak information trail. In that context, the level of ML vulnerability related to real estate sector is considered as significant/very significant (level 3/4).**   |
| **Mitigating measures**  |
|  1. for competent authorities
	* Member States should ensure that competent authorities/self-regulatory bodies supervising real estate sector produce an annual report on supervisory measures put in place to ensure that the sector accurately apply its AML/CFT obligations. When receiving suspicious transaction reports, self-regulatory bodies shall report annually on the number of reports filed to the FIUs.

 * + On-site inspections commensurate the population of the real estate representatives in the Member State's territory.

 1. for Member States
	* Member States should provide guidance on risk factors arising from real estate transactions and specific training to face situations where several professionals are involved in the real estate transaction (estate agent, legal professional, financial institution).
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