

ANTI-MONEY LAUNDERING: THE BASICS

Installment 4: Asset Transfers



One of the primary ways in which criminals layer or integrate the proceeds of crime into the legitimate economy is via asset transfers, particularly of real estate and other high-value assets. The relationship with the client may be limited to that asset transfer only and be short lived. This makes it more important that accountants effectively apply a risk-based approach to not be unwittingly involved in illegal activity.

How do criminals use asset transfers?

Criminals often move value between people or jurisdictions by purchasing, selling or moving high value assets. Sometimes criminals will seek to layer their illegal proceeds by linked transactions where one asset is bought, and another is sold, in quick succession (e.g., selling an apartment and buying a boat). This can work to obscure the source of funds and hide the truth from people who can only see one of the transactions. Regardless of how the (series of) transaction(s) is structured, or which assets are involved, the ultimate purpose is to obscure the link to the underlying criminal activity.

Professional accountants can inadvertently help a criminal to move proceeds of crime by structuring an asset transfer or providing tax advice on transactions.

What does a Risk Based Approach look like?

When advising a client on an asset sale or purchase, professional accountants should consider the following:

- Do you know who the beneficial owner of the asset is? Is this different to the person in whose name the asset is held?
- Do you know who the beneficial owner of the asset will be after the transaction? Is this different to the person in whose name the asset will be held?
- What is the purchaser's source of wealth and source of funds for the purchase? Does this make sense based on what you know about the purchaser?
- Does the rationale for the asset transfer make sense? Where the transaction is commercial, does it make commercial sense? Where the transaction is charitable, does it make sense from the perspective of the charitable aims?
- Is this transaction part of a series of linked transactions that are being dealt with by other professionals?
- Does the transaction involve an asset transfer to or from a jurisdiction that is considered high risk for money laundering – FATF publishes a [list](#) of such countries.

The extent of due diligence you need to perform will be greater if the answers to the above questions suggest there is an elevated risk of money laundering. As always, accountants should take reasonable steps to document their risk assessments.

Case Study on Asset Transfers*

A senior government official in a Central Asian country, Shohrat Alperen, has awarded a state funded infrastructure contract worth \$2 billion to a large contractor company in their jurisdiction. In a seemingly unconnected event, a UK subsidiary of the overseas contractor company engages a UK lawyer and accountant to advise them on the purchase of a £5 million apartment in central London. They tell their professional advisers that this apartment is for one of their new senior executives to stay in when they are working in London – her name is Anna Ericsson.

As part of their client due diligence on the UK subsidiary company, the accountant identifies that the parent company is based in the Central Asian country. There are a lot of news stories about the company being awarded a high value government contract, to much criticism of cronyism.

The accountants conduct their own background research on Anna Ericsson and notice that things do not seem to add up. While sensitive to multi-cultural societies, the accountants repeatedly come up across small clues that indicate that Anna appears to be from that country (and not from Scandinavia as her surname would suggest) – and they notice in their open-source research that someone of that name is pictured at a society event with Shohrat Alperen. There is no mention of Anna having any background in infrastructure businesses, only as a personal stylist to the wealthy.

With so many suspicious details, and lack of clarifying information from the potential client, the accountant politely declines the engagement and submits an SAR to the financial intelligence unit. It turns out “Anna” is the official’s niece, and the property is a bribe in return for the award of the contract.

*Note: names and jurisdictions have been changed to preserve confidentiality.

Key Red Flags

- The client seeks to inject undue complexity into the structure of the deal
- Desired anonymity of parties with a beneficial ownership in the asset, especially if using nominee arrangements
- A purchaser or seller who is or is linked to a Politically Exposed Person
- Transactions that involve virtual assets (e.g., Bitcoin or other similar products) or involve other unusual means of payment (e.g., precious metals or stones)
- Transactions where it is readily apparent to the accountant that there is inadequate consideration (financial or otherwise)
- Territories involving secrecy
- Details that just don’t add up

When to Walk Away

- If you are not satisfied that the client is being honest with you about the current and proposed beneficial owner of the asset.
- If your source of wealth and source of funds enquiries suggest that the money being used to purchase the asset is of criminal origins or otherwise cannot be explained.
- If the seller, purchaser, or the country in which the asset is located is subject to financial sanctions by the government in your jurisdiction.
- If the transaction just doesn’t make sense.

Filing a Suspicious Activity Report (“SAR”)

If you become suspicious that there may be criminal activity or proceeds of crime involved in the asset transfer, then you may wish to report your suspicions to the local Financial Intelligence Unit. In some jurisdictions this is a legal obligation for professional accountants.

Tipping Off?

If you make a Suspicious Activity Report about suspected money laundering activity, then you must be careful not to tip off the person who you have reported by telling them about the report. The FATF Standards require that governments make “tipping off” prohibited by law. As a result, in many countries, it is a criminal offence to tip off the subject of a SAR because this can prejudice a criminal investigation. While this provision has not been enacted in all jurisdictions, it remains best practice for professional accountants not to disclose the filing of a SAR.

It is important to remember that there is also a risk of unintentionally tipping off a client while conducting Client Due Diligence (CDD). When in doubt, contact your Professional Accountancy Organization (PAO) or the local financial intelligence unit.

ADDITIONAL ASSISTANCE



For general guidance, see the FATF’s *Guidance for a Risk-Based Approach for the Accountancy Profession*. For detailed local information, including applicable regulatory requirements, contact your Professional Accountancy Organization.



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