



# Anti-Money Laundering & Real Estate

**Managing the Evolving  
Regulatory Landscape**

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# Introduction

**As a result of the continued push towards fighting financial crime and terrorism, regulatory focus on deterring money laundering and the financing of terrorism is on the rise.**

Canada's Proceeds of Crime (Money Laundering) and Terrorism Financing Act (the 'PCMLTFA' or 'AML Act') currently places a range of compliance and reporting obligations on a wide variety of entities, including real estate developers, brokers and sales representatives. Failure to comply with the AML Act can lead to serious consequences, including administrative penalties enforced by FINTRAC – Canada's Anti-Money Laundering ('AML') "watchdog" and damaging reputational risks. Additionally, obligations under the AML Act continue to grow, with the latest amendments to the AML Act proposed in June 2018 further tightening compliance requirements.

When considering the heightened political and public focus on money laundering in real estate, alongside the government's goal of making home ownership more accessible to Canadians, it has never been more important for real estate professionals to understand their AML obligations and ensure compliance.

While money laundering has always been widely known to be associated with criminal activity, the public has largely been unaware of the laundering process and associated laundering primarily through financial institutions. Today, the average citizen is more informed and has been increasingly associating money laundering with real estate and casinos. It is obvious that this is not the kind of reputation that the real estate community has strived to develop. What is less obvious, and less well known to the public, are the steps the industry has taken to prevent this perception and whether those initiatives are sufficient in today's world.

As recent unwanted publicity has caught the attention of several government bodies, developers can expect increased regulatory attention, requirements for compliance and, at the very least, scrutiny over their business practices. Gone are the days when a buyer's credibility was established by virtue of their relationship with a recognized financial institution. While being careful to protect their competitiveness, those who wish to maintain a solid reputation with the public and regulators need to proactively review and enhance the internal controls that they have in place in relation to Knowing Your Customer (KYC) and Anti-Money Laundering (AML).

On a wider scale, the real estate industry's ability to self-regulate, or otherwise, is likely to be key in determining whether it can avoid further substantial compliance requirements and enforcement actions imposed by the regulators who are becoming more active.

— **Lorne Burns,**  
**National Industry Leader, Building,**  
**Construction & Real Estate**

# Money Laundering and Terrorist Financing – A Primer

The purpose of money laundering is to disguise the origin of cash or property derived from criminal activity by giving it the appearance of a legitimate source. While financial institutions have long been targets of money launderers seeking unwitting accomplices in their laundering efforts, other reporting entities have also become targets for sophisticated money launderers. This can include laundering untraceable “winnings” through casinos, proceeds from fraud and the illegal drug trade channeled through the real estate market and virtual currency businesses, while leveraging a web of digitally, as well as globally connected financial institutions, credit unions and money services businesses.

Separately, the PCMLTFA also focuses on the financing of terrorism, which is any act that involves the provision or collection of funds used to commit a terrorist act or support a known terrorist organization. Unlike traditional money laundering, the money used to finance terrorism may come from either illegitimate or legitimate sources, but is then put through the financial system to disguise its ultimate destination and use.

Because money laundering and terrorist financing are intended to be concealed activities, it is difficult to accurately quantify the sums involved. However, the United Nations Office on Drugs and Crime (UNODC) estimates that on an annual basis, the amount of money laundered globally is between 2% to 5% of global GDP, or up to and beyond US\$2 trillion.<sup>1</sup> Illicit proceeds from a variety of criminal activities contribute to the ongoing money laundering environment in Canada, with drug trafficking and the associated negative social consequences, as the source of much of the money laundered.

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<sup>1</sup> UNODC, assessed at <https://www.unodc.org/unodc/en/money-laundering/globalization.html>

# Real Estate

Canada's *AML Act* places a range of compliance and reporting obligations on real estate brokers, sales representatives and real estate developers. Real estate developers that, for example, have sold five new houses or condominium units to the public in any calendar year need to have an AML and CTF program.<sup>2</sup> While this requirement is not new, there has recently been an increasing focus on AML compliance in the real estate sector, especially under the current rising house prices in both Vancouver and Toronto real estate markets as noted by *Globe and Mail* and *Toronto Star Investigations*.



## Industry Specific

**ML/TF Risk Ranking:** High

Real Estate Agents and Developers fall into a "high" risk category for money laundering per the Canadian Department of Finance's *Assessment of Inherent Risks of Money Laundering and Terrorist Financing in Canada (2015)*. The nature of the industry allows for high dollar value transactions involving a combination of client relationships that could involve high-risk individuals, including politically exposed persons (PEPs), foreign investors and individuals in vulnerable occupations. This makes the industry a haven for launderers of drug trafficking and crime proceeds. Other profit oriented crimes that relate to the real estate sector include payment card fraud, commercial (trade) fraud, mortgage fraud, and third-party money laundering.

**Regulatory Response:** In response to FATF-identified deficiencies in its last evaluation of Canada's AML regime in 2015, several amendments have been proposed as of June 2018 to further tighten Canada's AML regime. This includes more rigorous customer due diligence processes, and shortening the deadline for filing suspicious transactions reports from 30 days to 3 days among other amendments. As a result, it is especially important that real estate businesses subject to the PCMLTFA, as part of the maintenance of their AML/CTF compliance programs, keep pace with the changing AML compliance and regulatory reporting requirements, and further ensure that appropriate policies, procedures, and processes are in place and updated to facilitate adherence to the amendments and regulatory guidance once they are in effect.

<sup>2</sup> Real estate developers will also need to have an AML/CTF program if in any calendar year since 2007, if they have sold at least one new commercial or industrial building; at least one new multi-unit residential building with five or more residential units; or at least two new multi-unit residential buildings that together contain five or more residential units.

## Recent Real Estate AML News

*In February 2018, The Globe & Mail investigation into British Columbia's (B.C.) private lending and mortgages market discovered unregulated and unlicensed financiers who were granting loans in cash, which was likely dirty money derived from drug deals or other crimes.*

*The Globe identified 17 such lenders, who have collectively claimed a \$47-million stake, plus interest, in 45 Vancouver-area properties in recent years. Of this, \$20.7 million related to Ying Zhang, Zhi Guang Zhang and Wei Zhang, who the police arrested in late 2016 and seized \$660,970 worth of cash – covered with traces of deadly fentanyl and other street drugs (The Globe and Mail, Feb 16, 2018). Such third party investigations have increased the pressure to strengthen Canada's AML Regime and have been answered by Department of Finance's proposed changes to PCMLTFA as of June 8, 2018 (Canada Gazette, Part 1: Vol 152(2018).*

*Additionally, Toronto Police in March 2018 laid charges, including fraud, money laundering and forgery against four people. They were arrested for allegedly engaging in a series of sophisticated mortgage frauds collectively valued at \$17 million and involving two large properties on Toronto's Bridle Path. (Toronto Star, March 6, 2018)*



# KPMG AML and Trade Sanctions Experience

KPMG's AML and Trade Sanctions global capability has provided us with the opportunity to assist a multitude of international organizations across various business sectors to deal with the regulatory and operational challenges imposed in tackling financial crimes. We have assisted organizations in a number of ways, including:

- ✓ Designing and implementing revised AML/CTF target operating models;
- ✓ Evaluating AML and counter-terrorist financing (CTF) programs, proactively and/or reactively, and documenting recommendations for enhancement;
- ✓ Addressing AML/CTF regulatory issues (identified by audit and/or regulators);
- ✓ Reviewing and assessing AML/CTF training programs;
- ✓ Guiding the adoption of AML/CTF leading practices;
- ✓ Assistance with regulatory change management frameworks for purposes of helping organizations build a sustainable framework or library of applicable AML/CTF laws, rules, and guidance; and
- ✓ Design and deployment of automation through the use of robotics and machine learning to reduce risks through increased transparency while at the same time reducing the cost of compliance through efficiency, speed, scale and consistency.

Our experience in the Canadian regulatory market, and globally, comes with an in-depth understanding of industry leading practices, critical knowledge, and experience in dealing with particular compliance and regulatory challenges.

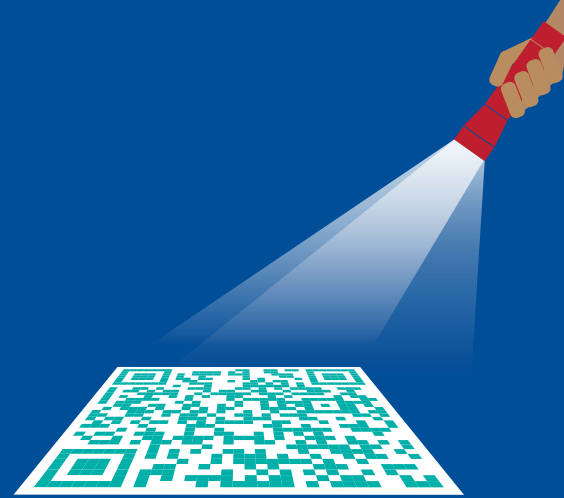
Furthermore, our professionals draw from experience with different regulatory matters locally and globally, helping us provide informed perspectives on industry issues and complex market issues faced by clients.

Our approach includes gaining a clear understanding of our clients' challenges and applying our leading subject matter and industry insight to add true business value, including detailed data analytics and cost effective technological solutions.

# How KPMG Forensic can help

## **The benefits of choosing KPMG Forensic as your organization's AML/CTF partner and advisor include:**

- Team of high calibre professionals including Certified Anti-Money Laundering Specialists, former internal and external auditors, data scientists and corporate intelligence specialists.
- Deep, relevant and award winning experience from a leading Canadian AML/CTF practice. Our local expertise benefits from KPMG's international team of talented, experienced professionals with direct and relevant AML/CTF experience.
- A single, cost effective resource for AML/CTF compliance that covers policy, training, and process management backed by the relevant financial, compliance, risk management, and forensic capabilities.
- Established global AML/CTF methodologies, knowledge sharing systems, and professional development programs.
- Experience with developing policies and procedures that reflect the latest local and international legislative and regulatory developments and industry leading practice.
- Clear, practical, results-oriented advice and reliability combined with KPMG's commitment to independence, objectivity, and professional integrity.



KPMG's AML professionals work with reporting entities to help design, build, maintain and assess robust AML/CTF programs, systems, and controls. We help companies to fulfill their compliance obligations in an effective, timely, and cost-effective manner with the aim of reducing business disruption and in a manner proportional to the level of AML/CTF risk faced.

## Contact us

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