

# Land Registries

as a weapon in the fight against

# Money - Laundering



# what is money laundering?

A process through which criminals transfer money to wash, legitimise, or launder their illicit funds. They usually keep dirty money in an asset or account in ways that don't raise any suspicions and pass the financial transparency reporting requirements.

( terrorist financing )



- **why LR has to be involved in the fight**
  - Real estate transactions are very vulnerable
  - LR is the ultimate point, and often the only one, where legal security is offered to the dealing parties
  - ML decreases the legal security to the citizen
    - distortion and destabilization of the market
    - penalty risks for the contracting parties
  - strive for an honest society
  - the future for LR



# a bit of history



Al Capone





# HOW DOES MONEY LAUNDERING WORK?



# The importance - some figures

- IMF and other leading sources estimate 2 to 5% of the world GDP is effectuated with illicit money
- a dramatic increase in the last decade
- 30% of the confiscated criminal assets in Europe was RE related( 2011- 2013 )
- only the top of an iceberg
- socio- economic effects on legal economy are enormous
- example Belgium ( 2010-2019): 75.000 suspicious transactions-11.000 sent to procecuter- 630 judgements  
- only 300 million € fines and confiscation



# Instruments at international level

- At global level
  - FATF (Financial Action Task Force)
    - sets standards
    - generates political will
    - founded in Paris 1989 during a G7 summit
    - 39 member states - the EU+ 14MS
  - Moneyval ( committee of Experts on the Evaluation of anti-ML Measures and Financial Terrorism)
    - an independent body within the Council of Europe
    - FATF - style regional body



# Instruments at international level

- At EU level
  - Fifth anti-ML directive (843/2018) -prevention of the use of the financial system for the purposes of ML or TF
    - into force June 2018
    - improve the transparency in ownership of companies and trusts
    - strengsten checks on third countries with a riks
    - co- operation in financial intelligence





## At EU level

- Fourth anti- ML directive (849/2015)
  - the obligation for MS to organise an “Ultimate beneficial ownership register for companies”
- Directive 1673/2018 - Combating ML by criminal law
  - penalties for offenders, co- operating and assisting parties
  - confiscation



# Still a lot to do to fight ML by RE

- too much emphasis on the financial market signals
- reporting of suspicious transactions in RE is limited, leaving ample room for improvement.  
(source: FATF)
- isolation of data
  - LRI
  - but also interconnection with other databases as UBO
  - data mining



# patterns of ML in RE

- multiple transactions
- over or under valuation of the price
- front companies
- general pattern - 3 stages
  - placement \* depositing funds in the financial system
  - layering \* hide trails using lots of transactions
  - integration \* integrate money into the legal economy



# Risk factors

- geographical risk
- means of payment
- use of difficult traceable intermediaries
- nature of the legal person
- private mortgages
- complex and apparently useless transactions with big price fluctuations
- etc.



# Risks for RE professionals

- facilitate ML operations due to a lack of information
- accountability



# The potential of LR in anti - ML

- the asset and the consecutive holders of real rights as starting point for the detection of ML versus the financial component of transactions
- FATF report on ML in RE (2007) - conclusions

“together with notaries, registrars are the weakest link in the RE transaction process; due to their position in the legal system in relation to real estate transactions they also could play a role in centralising and filtering information ... identify & analyse patterns of risky transactions”



# How can it be done?

- interconnection and harmonization of LR (respecting the legal autonomy of states..)
- connection with other relevant databases (UBO, .....
- datamining



# Remarkable evolution

- art 32b 5th directive on anti ML

Article 32b1. Member States shall provide FIUs and competent authorities with access to information which allows the identification in a timely manner of any natural or legal persons owning real estate, including through registers or electronic data retrieval systems where such registers or systems are available.

2. By 31 December 2020, the Commission shall submit a report to the European Parliament and to the Council assessing the necessity and proportionality of harmonising the information included in the registers and assessing the need for the interconnection of those registers. Where appropriate, that report shall be accompanied by a legislative proposal.’

- study ordered by dg FISMA

- ELRA contribution





# Recent study by “Deloitte” on behalf of EC - DG FISMA

## Real Estate Registries Questionnaire

Fields marked with \* are mandatory.



Please refer to the official cover letter from the European Commission for more details about the objectives and the mandate of the study.

[EC Cover Letter - Deloitte Land Registers Study.pdf](#)



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Brussels,  
fisma.ddg.d.2(2020)6336129

To whom it may concern

**Subject: Study on the harmonisation and interconnection of real estate registers**

Dear Sir / Madam,

The Directorate-General for Financial Stability, Financial Services and Capital Markets Union (DG FISMA) is launching a study to gain knowledge into the necessity and proportionality of any harmonisation of the information contained in national real estate registers for the purpose of preventing money laundering and terrorist financing.

The analysis has been commissioned to Deloitte. Its aim is in particular to:

- Evaluate what information is contained in national real estate registers, and
- Analyse what information would allow FIUs, competent authorities and obliged entities to mitigate money laundering risks relating to real estate and investigate money laundering cases involving real estate sales/purchases, and
- Understand the necessity and proportionality of introducing changes to national registers to improve their relevance and interconnection.

In order to carry out this work, the consultants in charge of the study may contact you between October and November 2020. DG FISMA attaches great importance to this study and would highly appreciate if you could collaborate and provide the consultants with all the information needed to successfully accomplish their task

Should you wish to obtain further information about the study, you may contact:

- Ms Chiara BACCI, European Commission, DG FISMA, [Chiara.BACCI@ec.europa.eu](mailto:Chiara.BACCI@ec.europa.eu)
- Ms Bernadette RAPP, European Commission, DG FISMA, [Bernadette.RAPP@ec.europa.eu](mailto:Bernadette.RAPP@ec.europa.eu)
- Mr Harold VAN DOORSLAER DE TEN RYEN, Deloitte, [hvandoorslaerdetenryen@deloitte.com](mailto:hvandoorslaerdetenryen@deloitte.com)

I would like to thank you in advance for a swift cooperation.

(e-signed)

Raluca PRUNĂ  
Head of Unit

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Electronically signed on 20/10/2020 01:22 (UTC-02) in accordance with article 11 of Commission Decision C(2020) 4482

# conclusion

- LR can play a more important role in the fight against ML



# Action plan

- questionnaire
  - suggestions
- findings in a final report
- inform and encourage the relevant authorities
- reminder: copy of the Deloitte questionnaire



thank you!

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