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Points to Ponder by The AML Shop's Abhishek Desai

Money Laundering and the Real Estate Sector

The Real Estate sector contributes more than 10% of the GDP in Canada – estimated to be worth 225 billion in 2022.

A report produced by the Criminal Intelligence Service Canada (CISC), a national intelligence agency of the RCMP, focused on the scope and extent of money laundering in Canada. The agency found real estate was used extensively as a tool for criminal activity. According to the report, the proceeds of crime are used to buy the property through various schemes. Using illicit funds for down payments or mortgage payments are two straightforward methods. More sophisticated schemes involve concealment of ownership and control through opaque corporate structures. This technique was widely discussed in the Transparency International Canada report which stated that between 2008 and 2018, corporations acquired nearly $30 billion in local housing in the GTA, the majority of which was privately owned with no information on beneficial owners provided, and that $9.8 billion in GTA housing was acquired by companies through cash, or non-financed purchases, much of it bypassing statutory Anti-Money Laundering checks on the source of funds and beneficial owners. A link to the Transparency International Canada report can be found here: https://transparencycanada.ca/news/billions-in-unknown-funds-flow-through-toronto-real-estate-shows-new-ti-canadas-report.

At the federal level, Canada is taking steps to reduce its vulnerabilities to money laundering, and with the upcoming measures like beneficial ownership registries planned for 2023, and , and the application of anti-money laundering measures to non-bank mortgage and other private lenders.

Real estate brokers or sales representatives, and real estate developers that required by the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA) and associated Regulations to help combat money laundering and terrorist activity financing in Canada. Compliance in the sector has been the focus of Canada's financial intelligence unit – with a disproportionate number of examinations and penalties. Penalties have been levied for ineffective anti-money laundering programs, and notably, for the failure to identify risks and report suspicious transactions. The brokerages impacted by penalties, and the nature of their alleged failures are published here: https://www.fintrac.gc.ca/pen/4-eng.

The foundation of any effective anti-money laundering program is good intelligence about the ways that illegal money is generated and what laundering methods are known used in the sector in which a company operates. A great source of that information is the recent Public Consultation on the FATF Risk-Based Guidance for the Real Estate Sector which provides guidance on the general risks, assessing risks and managing ML/TF risks. Follow the link here for more details. https://www.fatf-gafi.org/publications/fatfrecommendations/documents/public-consultation-guidance-real-estate.html

To learn more about effective program design and how to prevent penalties, reach out to The AML Shop at https://www.theamlshop.ca/get-intouch