



**Anti-Money Laundering and Terrorist Financing  
Working Group**

# **Risk Advisories for the Legal Profession**

**Advisories to Address  
the Risks of  
Money Laundering  
and Terrorist Financing**

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## About These Risk Advisories

The nature of legal practice makes it vulnerable to targeting by criminals seeking to launder the proceeds of crime or facilitate the financing of terrorist activities. Canadian legal professionals assist clients with the purchase and sale of real estate, the creation of corporations and trusts, and the acquisition and sale of businesses. They act as intermediaries for a wide range of financial transactions. Millions of dollars in client funds flow through lawyer trust accounts every year.

Criminals seek out legal professionals because their services may be required to complete certain transactions and to access specialised legal and notarial skills and services which could assist the laundering of the proceeds of crime and the funding of terrorism. The involvement of legal professionals can also lend an air of respectability to transactions undertaken by criminals seeking to convert the proceeds of crime into “clean” money.

Members of the legal profession in Canada are subject to a number of rules and regulations designed to mitigate the risks of becoming involved in money laundering and terrorism financing. These include requirements to identify and verify the identity of clients and third parties, manage risks, and understand the client’s financial dealings in relation to the retainer. Lawyers and Quebec notaries also must comply with rules that limit how much cash they may receive, and restrict the use of trust accounts. Members of the legal profession are also prohibited from assisting with or facilitating illegal conduct and have a positive duty to withdraw if continuing to act for a client would breach this rule.

To address the money laundering and terrorism financing vulnerabilities they may face legal professionals need to be aware of the risks that may be inherent in legal practice. Some risks may be related to the clients and their activities; others may arise from the nature or circumstances of a transaction. Some risks may be more likely to arise in specific practice areas, others may arise regardless of the area of practice.

The following advisories address risks arising in five areas: real estate, trusts, private lending, shell corporations, and litigation. They are intended to highlight specific client and transaction risks. While not exhaustive, the lists of risks will assist legal counsel in recognizing situations where additional due diligence may be required. The advisories also remind lawyers and Quebec notaries of the need to be satisfied, on an objective basis, that the transaction or other activity for which a client is seeking assistance is legitimate before acting or continuing to act on the matter.

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## AML Risk Advisory: Real Estate

### When does this risk advisory apply?

Real estate is a popular vehicle for those engaged in fraud and money laundering. It is generally an appreciating asset and its sale can lend legitimacy to the appearance of funds.

Consequently, the purchase of real estate is a common outlet for criminal proceeds. Fraudsters and other criminals often go to great lengths to ensure that real estate transactions used to launder funds look legitimate, masking the true intent of the transaction, which could be a purchase, sale or refinancing.

Given the significant role members of the legal profession play in real estate transactions, to avoid assisting or furthering illegal activity, they must be aware of the risks associated with providing legal services in this area. Where there are suspicious circumstances, a legal professional must be satisfied on an objective basis that the transaction is legitimate, prior to acting or continuing to act.

Fraud in real estate generally occurs as:

- Fraud for shelter - to obtain a property for legitimate purposes, but by misrepresenting facts to obtain financing or to mask the identity of the beneficial owner.
- Fraud for profit – to acquiring large sums of money from different parties including a registered owner, a mortgagee or a bona fide purchaser by fraudulent means.

The proceeds of real estate fraud are the proceeds of crime. Laundering of the funds occurs when they are provided for the transaction, often flowing through the trust account of a lawyer or notary, and are disbursed at the direction of the fraudster.

Criminals will also attempt to use funds earned from other illicit activities to purchase and eventually sell real property, converting the illicit funds into legitimate funds. They may also use the property to house illegal activity, or as a vehicle to launder additional funds.

### What are risk factors?

While the indicators of fraud and indicators of money laundering activity often overlap, it is important to be aware of the risks of both and develop mitigation strategies. Many of the common risks are identified in the table below, but these lists are not exhaustive. While it is not possible to completely eliminate all of the risks, lawyers and Quebec notaries must conduct proper due diligence. This involves taking into consideration the indicators of fraud and money laundering and relying on prior experience in these types of transactions. Even if not handling the money, a legal professional engaged on a transaction will be aware of the financial details and in many cases will be in a position to ask further questions about the transaction. If satisfied that a transaction is legitimate, lawyers and notaries must comply with all requirements to properly identify and verify the identity of clients, record this information and ensure proper accounting for the transactions.



<b>Client Risks</b> (Real Estate)	<b>Real Estate Fraud</b>	<b>Money Laundering</b>
The company or individual has no e-mail address, physical address, home or business telephone number (disconnected or fake), company logo, contact person.	<b>X</b>	<b>X</b>
The client uses a post office box or general delivery address where other options are available.	<b>X</b>	<b>X</b>
A party to the transaction is a foreign buyer, either an individual or company, notable especially if on a watch list, whose only connection to Canada is the real estate transaction.		<b>X</b>
The client refuses to provide their own name on documents, or uses different names on offers to purchase, closing documents and deposit receipts.	<b>X</b>	<b>X</b>
The legal advisor experiences difficulty obtaining necessary, reliable information to identify the client and verify the client's identity.	<b>X</b>	<b>X</b>
The client insists on choosing the agent where an agent is being used to verify identity.	<b>X</b>	<b>X</b>
The client changes instructions regarding amounts or payees just before closing, or fails to bring in funds as promised.	<b>X</b>	
The client does not care about the property, price, mortgage interest rate, legal and/or brokerage fees, and offers to pay higher than usual legal fees for the legal services for the transaction.	<b>X</b>	<b>X</b>
The client does not appear familiar with property.	<b>X</b>	
The client will not permit contact with a prior legal counsel.	<b>X</b>	
The client is "out of sync" with the property (e.g. occupation, personal wealth, level of sophistication).	<b>X</b>	<b>X</b>
A stranger who appears to control the client attends to sign documents.	<b>X</b>	<b>X</b>
One spouse or business partner is mortgaging equity in a property owned by both.	<b>X</b>	
The client buys and sells often, preferring to deal in cash.	<b>X</b>	
The client contact is only or primarily by email.	<b>X</b>	<b>X</b>
The client has owned vacant, disused or run-down properties for a long time, without activity on title or visible use of land.	<b>X</b>	
Corporate client officers and directors were appointed very recently.	<b>X</b>	
The company purchasing real estate has a complex ownership structure.		<b>X</b>
The head office of a corporate client is or has been recently changed to a non-existent address or one that is highly unusual or lacks credible explanation.	<b>X</b>	<b>X</b>
The client pushes for a fast closing.	<b>X</b>	
The client who has been named in the media as being involved with criminal organizations is purchasing a residential property.	<b>X</b>	<b>X</b>



<b>Transaction Risks</b> (Real Estate)	<b>Real Estate Fraud</b>	<b>Money Laundering</b>
The same legal advisor is acting for all parties, except legitimate vendor.	<b>X</b>	
Funds are directed to parties with no apparent connection to the borrower or the property.	<b>X</b>	<b>X</b>
Repeat activity occurs on a single property or for a single client. The title shows one or more recent transfers, mortgages, or discharges.	<b>X</b>	<b>X</b>
Frequent and quick mortgage discharges occur on the property.	<b>X</b>	
The transaction location is distant from the lawyer's office.	<b>X</b>	<b>X</b>
A buyer of income-generating property has no concern for generating profit by filling vacancies or by adjusting rent/lease rates.		<b>X</b>
The client produces a small deposit relative to price, or pays little or nothing from their own funds.	<b>X</b>	
The sale is presented as a "private agreement" – no agent is involved, or the named agent has no knowledge of the transaction.	<b>X</b>	<b>X</b>
The municipality or utility companies have no knowledge of the client's ownership.	<b>X</b>	
Unusual adjustments are made in favour of the vendor; the transaction involves a large vendor take-back mortgage or an existing mortgage on a purchased property is assumed by another individual without involvement of a financial institution.	<b>X</b>	<b>X</b>
Payments from the client are received by way of counter cheques, bank drafts and/or cash.	<b>X</b>	<b>X</b>
The transaction involves purchase of personal use property through a business.		<b>X</b>
Transactions involve a Power of Attorney or are carried out on behalf of minors, incapacitated persons or others who may not have sufficient economic capacity.	<b>X</b>	<b>X</b>
Behaviour or transactions are unusual compared to other similar clients (e.g. high levels of assets, volume of transactions, nature of business activity).	<b>X</b>	<b>X</b>
The transaction involves legal entities, when there does not seem to be any relationship between the transaction and the activity carried out by the buying company, or when the company has no business activity.		<b>X</b>
Last-minute transfers contemplating "Trustee" arrangements such as "Trustee to beneficial owner" are made at NIL consideration followed immediately by the registration of a mortgage and the advance of mortgage proceeds.	<b>X</b>	
An accelerated repayment of a loan/mortgage occurs shortly after the deal is completed even if penalties are incurred.		<b>X</b>
Transactions are not completed in seeming disregard of a contract clause penalizing the buyer with loss of the deposit if the sale does not go ahead.		<b>X</b>
The client makes a deposit for a house, reneges on the deal shortly thereafter, then obtains a legitimate cheque from the legal advisor for the value of the deposit. non-existent address or one that is highly unusual or lacks credible explanation.		<b>X</b>

## AML Risk Advisory: Shell Corporations

### When does this risk advisory apply?

Lawyers and Quebec notaries must be alert to the risks of becoming involved with a client engaged in criminal activity such as money laundering. Vigilance is required because the means for these, and other criminal activities, may be transactions for which lawyers commonly provide services.

Criminals are increasingly turning to shell companies to facilitate money laundering. Anonymous shell companies allow criminals to hide their identities, conceal the origin and flow of money, hide the identities of true beneficiaries or enhance the perception of legitimacy. They are typically used during the “layering phase” of money laundering involving often complex financial transactions designed to hide the illegal source of funds.

Legal advisors must be aware of the risks when dealing with clients looking for assistance with products or transactions that would facilitate anonymity and allow beneficial owners to remain hidden without a reasonable explanation. While client identification and verification rules are essential to ensure that lawyers know their clients, it is imperative that lawyers and notaries also understand the facts relating to their retainers, particularly when a shell corporation is involved.

They must ask probing questions to ensure that they understand the subject-matter and objectives of their retainers, including:

- i) whether there is a legitimate business or legal reason for using a particular corporate structure;
- ii) who are the legal and beneficial owners of the property and business entities;
- iii) who has control of the business entities; and
- iv) where it is unclear, what is the nature and purpose of complex or unusual transactions.

Legal advisors must be satisfied on an objective basis that every transaction is legitimate, prior to acting or continuing to act.

### What are risk factors?

To address the risks, lawyers and Quebec notaries should be on the lookout for suspicious circumstances, including the following when setting up or representing shell corporations:



Description of Risk (Shell Corporations)	Client Risks	Transaction Risks
The retainer involves a non-face-to-face transaction where the legal advisor has not previously met the client seeking to establish a shell corporation or the agent of the corporation in person.	<b>X</b>	
The client or corporation's reasons for selecting the lawyer are unclear given the lawyer's geographic location or practice area.	<b>X</b>	
The lawyer is not asked to provide any legal services other than assisting with the creation of the shell corporation.	<b>X</b>	
The corporation is transacting with a party that has a suspected or known history of drug trafficking, money laundering, actions resulting in civil forfeiture, loansharking, fraud, high-stakes gambling or similar activity.	<b>X</b>	
The lawyer experiences difficulty obtaining necessary, reliable information to identify an agent of the corporation or verify the agent's identity.	<b>X</b>	
Insufficient information is provided by the client to identify the beneficial owners of the corporation.	<b>X</b>	
Third parties or intermediaries are involved, including in providing instructions.	<b>X</b>	
The corporation has been refused counsel or changed counsel recently or several times without apparent good reason.	<b>X</b>	
The corporation has no or nominal assets, or assets consisting solely of cash and cash equivalents.	<b>X</b>	
The corporation was incorporated in a jurisdiction that might enable anonymity.	<b>X</b>	
The corporation's financial transactions occur in a jurisdiction that minimizes transparency or provides an environment more amenable to money laundering.	<b>X</b>	
Gaps or red flags in the corporation's online presence are evident. One spouse or business partner is mortgaging equity in a property owned by both.	<b>X</b>	
Inconsistent information exists relating to the corporation; e.g. a corporation doing business in one jurisdiction has an address and contact information in one or more other jurisdictions.	<b>X</b>	
The lawyer encounters contact concealment, e.g. a generic email address, no physical address, etc.	<b>X</b>	
The client offers to pay an unusually high fee for the legal services.	<b>X</b>	
The lawyer is not asked to provide any substantial legal services in connection with the transaction.		<b>X</b>
The lawyer cannot obtain information necessary to identify the originator or beneficiary of a transaction.		<b>X</b>
The corporation's transactions appear inconsistent with the corporation's or the other party's profile/circumstances (e.g. age, income, geographic location or occupation).		<b>X</b>



<b>Description of Risk</b> (Shell Corporations)	<b>Client Risks</b>	<b>Transaction Risks</b>
The corporation transacts through a foreign bank and exceeds the anticipated volume projected in its client profile for wire transfers in a given time period, or the corporation exhibits a high level of sporadic activity that is inconsistent with normal business patterns.		<b>X</b>
A corporation makes payments that have no stated purpose, do not reference goods or services, or identify only a contract or invoice number.		<b>X</b>
The goods or services of the company do not match the company's profile based on information provided by the client.		<b>X</b>
The corporation transacts with businesses sharing the same address.		<b>X</b>
The client's business discloses the frequent involvement of beneficiaries located in high-risk, offshore financial centers.		<b>X</b>
Multiple high-value payments or transfers are made or instructed between shell companies with no apparent legitimate business purpose.		<b>X</b>
The client attempts cash transactions with an inability to explain the source of funds/wealth.		<b>X</b>
The client uses partial signatures on contracts and/or invoices		<b>X</b>
The lawyer is retained to complete a transaction after funds have already been advanced or after a loan agreement or a security agreement has been signed.		<b>X</b>
Transaction documents are unusual or inconsistent with the client's explanation of the transaction.		<b>X</b>
The corporation transacts from an offshore jurisdiction that is known to be secretive or restrictive.		<b>X</b>



## AML Risk Advisory: Private Lending

### When does this risk advisory apply?

Criminals may attempt to use private lending transactions to launder the proceeds of crime, and may engage the services of lawyers for the transactions.

Members of the legal profession must know their clients and properly understand the facts relevant to their retainers. Where there are suspicious circumstances, a legal professional must be satisfied on an objective basis that the transaction is legitimate, prior to acting or continuing to act.

All lawyers and Quebec notaries should be alert to and appropriately consider risk factors associated with illegal activity when retained to do any of the following:

- Drafting, reviewing or advising on a loan agreement, promissory note, guarantee, mortgage, security agreement or other loan documents;
- Registering a security agreement for a private loan; or
- Taking any steps to assist with the advance or recovery of funds related to a private loan.

### What are risk factors?

In addressing the risks, legal counsel should be on the lookout for suspicious circumstances, including the following for private lending transactions:

Description of Risk	Client Risks	Transaction Risks
The retainer involves a non-face-to-face transaction where the legal advisor has not previously met the client in-person.	X	
The client's reasons for selecting the lawyer or Quebec notary are unclear given the geographic location or practice area.	X	
A party to the transaction (or a family member or close associate) has an alleged or known history of drug trafficking, money laundering, civil forfeiture, loansharking, fraud, high-stakes gambling or similar activity.	X	
The lawyer or notary experiences difficulty obtaining necessary, reliable information to identify the client and verify the client's identity. Conversely, the client appears unusually familiar with client identification and verification requirements.	X	
The transactions Involves third parties or intermediaries, including in providing instructions.	X	



Description of Risk (Private Lending)	Client Risks	Transaction Risks
The client has been refused counsel or changed counsel recently or several times without apparent good reason.	<b>X</b>	
The client offers to pay an unusually high fee for the services.	<b>X</b>	
The client's instructions change unexpectedly and for no logical reason.	<b>X</b>	
There is no clear or plausible reason for the borrower not borrowing from a commercial lender.		<b>X</b>
The loan seems inconsistent with the client's or the other party's profile/ circumstances (e.g. age, income, geographic location or occupation).		<b>X</b>
The lawyer or notary is not asked to provide any substantial legal services in connection with the transaction.		<b>X</b>
Funds are exchanged between the parties in cash but the parties are unable to explain the source of funds/wealth.		<b>X</b>
The borrower named in the loan documents is not the actual recipient of the funds.		<b>X</b>
There is no security registered for the loan, without explanation, or the security is a subsequent mortgage or charge on a fully or near-fully encumbered property.		<b>X</b>
The actual or agreed-to repayment period is unusually short.		<b>X</b>
The legal professional is retained after the funds have already been advanced or after the loan agreement or security agreements have been signed.		<b>X</b>
The loan documents are unusual or inconsistent with the client's explanation of the transaction.		<b>X</b>
The interest rate exceeds the criminal rate or is substantially above/below market rates.		<b>X</b>
The funds are received from or paid out to an offshore jurisdiction that is known to be secretive or restrictive.		<b>X</b>
The entity providing the loan proceeds (or receiving the loan payout) is not the party named in the loan documentation and the relationship between the entity and the named party is not apparent.		<b>X</b>

## AML Risk Advisory: Trusts

### When does this risk advisory apply?

While there are many legitimate uses of trusts for matters such as estate planning and asset management, members of the legal profession must be on guard against clients who wish to use such instruments for an improper or fraudulent purpose. Some criminals see trusts as potentially useful vehicles to hide the origin and ownership of assets.

Disguising the real owners and parties to a transaction is a necessary requirement for money laundering to be successful, and although there may be legitimate reasons for hiding ownership, it should be considered a red flag.

The use of trusts to purchase real property poses an increased risk that the trust will be used to obscure ownership and launder the proceeds of crime. Legal counsel who are asked to become involved in the management of a trust should be extremely wary, as this is a technique used by criminals to provide respectability and legitimacy to their activities.

Lawyers and Quebec notaries must strictly comply with client identification rules including the requirement to know their client and the source of the client's funds, and to understand the nature and scope of the retainer. Legal counsel must be satisfied on an objective basis that every transaction is legitimate, prior to acting or continuing to act.

### What are risk factors?

To address the risks, lawyers should be on the lookout for suspicious circumstances, including the following when asked to create or be involved in the management of trusts:

Description of Risk	Client Risks	Transaction Risks
The retainer involves a non-face-to-face transaction where the legal advisor has not previously met the client in-person.	X	
The client's reasons for selecting the legal advisor are unclear given the geographic location or practice area.	X	
The client offers to pay an unusually high fee for the services or to provide a substantial retainer that is excessive considering the scope of the retainer.	X	
The client or a party in the matter (or a family member or close associate) has a suspected or known history of drug trafficking, money laundering, actions resulting in civil forfeiture, loansharking, fraud, high-stakes gambling or similar activity.	X	
The legal advisor experiences difficulty obtaining necessary, reliable information to identify the client and verify the client's identity, or the client appears unusually familiar with the client identification and verification requirements.	X	



Description of Risk (Trusts)	Client Risks	Transaction Risks
Third parties or intermediaries are involved, including in providing instructions, without good reason.	<b>X</b>	
The client has been refused counsel or changed counsel recently or several times without apparent good reason.	<b>X</b>	
A complicated ownership structure is created when there is no legitimate or economic reason for it.		<b>X</b>
There is no sensible reason for the transaction.		<b>X</b>
The client changes instructions without explanation, especially at the last minute.		<b>X</b>
The legal advisor is not asked to provide any substantial legal services in connection with the transaction.		<b>X</b>
The proposed retainer relates to keeping documents or other goods, holding large deposits of money or otherwise using the trust account of the lawyer or notary without the provision of legal services.		<b>X</b>
An existing trust agreement contains minimal details regarding the arrangement or is poorly drafted.		<b>X</b>
Beneficiaries are difficult to identify; beneficiaries are minors.		<b>X</b>
The relationship between individual people named in the trust agreement suggests that there may be no legitimate purpose to the transaction.		<b>X</b>
The transfer of funds is not consistent with the known legitimate income of the client.		<b>X</b>
The client is evasive about the source of funds for the trust.		<b>X</b>

## AML Risk Advisory: Litigation

### When does this risk advisory apply?

To avoid assisting or furthering illegal activity, lawyers must be aware of the risks associated with providing certain types of legal services. Litigation, particularly debt recovery actions, may pose risks. Criminals may attempt to launder proceeds of crime by filing and recovering on civil claims. This could, for example, involve using fabricated documents to misrepresent transactions or claim an interest in property. A lawyer should not assist a client in enforcing a contract that may be based on criminal activity.

Lawyers must know their clients and properly understand the facts relevant to their retainers. Where there are suspicious circumstances, a lawyer must be satisfied on an objective basis that the transaction is legitimate, prior to acting or continuing to act.

Lawyers should be alert to and appropriately consider risk factors when retained to assist with the recovery of funds including:

- a private loan (secured or unsecured);
- a builder's lien claim;
- a claim for recovery of capital investment;
- a claim for defective goods, including intellectual property; or
- a claim for unpaid commercial invoices.

### What are risk factors?

In addressing the risks, legal counsel should be on the lookout for suspicious circumstances, including the following for private lending transactions:

Description of Risk	Client Risks	Transaction Risks
The retainer involves a non-face-to-face transaction where the legal advisor has not previously met the client in-person.	X	
The client's reasons for selecting the lawyer or Quebec notary are unclear given the geographic location or practice area.	X	
The client or a party in the matter (or a family member or close associate) has a suspected or known history of drug trafficking, money laundering, actions resulting in civil forfeiture, loansharking, fraud, high-stakes gambling or similar activity.	X	
The lawyer experiences difficulty obtaining necessary, reliable information to identify the client and verify the client's identity. Conversely, the client appears unusually familiar with client identification and verification requirements.	X	



Description of Risk (Litigation)	Client Risks	Transaction Risks
The transactions involve third parties or intermediaries, including in providing instructions.	<b>X</b>	
The client has been refused counsel or changed counsel recently or several times without apparent good reason.	<b>X</b>	
The client offers to pay an unusually high fee for the services or to provide a substantial retainer that is excessive considering the scope of the retainer.	<b>X</b>	
Client instructions change unexpectedly and for no logical reason.	<b>X</b>	
The claim settles quickly with little or no work being done by the lawyer. The defendant does not contest the claim, resulting in default judgment with the claim paid immediately.		<b>X</b>
The debt relates to a contract based on criminal activity.		<b>X</b>
The claim seems inconsistent with the client's or the other party's profile/ circumstances (e.g. age, income, geographic location or occupation).		<b>X</b>
The claim asserts that funds were exchanged between the parties but the client is unable to satisfactorily explain the source of funds/wealth..		<b>X</b>
The claim is against an individual/entity that is not the actual recipient of the funds in question.		<b>X</b>
The documents supporting the claim are unusual or inconsistent with the client's explanation of the transaction or with other documents.		<b>X</b>
No security is registered for the loan, without explanation, or the security is a subsequent mortgage or charge on a fully or near-fully encumbered property.		<b>X</b>
The actual or agreed-to repayment period for the debt is unusually short.		<b>X</b>
The interest rate for the loan exceeds the criminal rate or is substantially above/below market rates.		<b>X</b>
The funds to settle the claim are received from or paid out to a third party whose relationship to the parties is unknown, or to an offshore jurisdiction that is known to be secretive or restrictive.		<b>X</b>