

14 ESTATE AGENTS AND HIGH VALUE DEALERS

14.1 Definition of estate agents and high value dealers undertaking Supervised Business

14.1.1 Estate agents

Overview

1. Paragraph 3 of Part B of Schedule 2 to the *Proceeds of Crime Law* defines the relevant transactions and activity of estate agents for the purposes of complying with AML requirements in the *Money Laundering Order* as:
 - › the business of providing estate agency services for or on behalf of third parties concerning the buying or selling of freehold (including flying freehold) or leasehold property (including commercial and agricultural property), whether the property is situated in Jersey or overseas
 - › the business of providing estate agency service for or on behalf of third parties concerning the buying or selling of shares the ownership of which entitles the owner to occupy immovable property, whether the property is situated in Jersey or overseas.
2. International standards require estate agents, when they are involved in transactions for their *customers* concerning the buying and selling of real estate, to be subject to AML/CFT requirements. Consequently, unlike dealers in high value goods, estate agents are automatically included within the scope of the Money Laundering Order, regardless of whether they accept cash. This is irrespective of the fact that a lawyer or advocate is always involved in a property transaction and no capital movements are overseen by estate agents.
3. The main activities conducted by Jersey estate agents concern local and overseas property transactions, and lettings. Jersey has adopted the definition of real estate agents within the *FATF Recommendations*, which covers both local and overseas property transactions, but excludes activities conducted as letting agents.
4. Guidance provided by the Association of Residential Letting Agents provides the following two exceptions:
 - › where a letting agent creates a lease/tenancy “which by reason of the level of the rent, the length of the term, or both, has a capital value which may be lawfully realised in the open market” then this transaction **does fall** within the scope of the *Money Laundering Order*. The reason given is that the lease can be reconverted into money. This would almost certainly include situations where a Premium Lease or tenancy agreement at a high value rent is created
 - › it is not uncommon for letting agents to become involved in negotiating / arranging / facilitating the purchase of a property by an existing tenant from the landlord *customer*. At that point, the letting agent becomes involved in estate agency work.



14.1.2 High value dealers

Overview

5. Paragraph 4 of Part B of Schedule 2 to the Proceeds of Crime Law defines high value dealers, for the purposes of complying with the requirements in the Money Laundering Order, as being:
 - › persons who, by way of business, trade in goods and receive, in respect of any transaction (whether executed in a single operation, or in several operations which appear to be linked), payment or payments in cash or virtual currency of at least €15,000 in total.
 - › payment refers to payment in, or by means of **Cash or Virtual currency**
 - › “Cash” includes, but is not limited to any of the following, in any currency – notes, coins, travellers’ cheques, bearer negotiable instruments
 - › “virtual currency” means any currency which (whilst not itself being issued by, or legal tender in, any jurisdiction):
 - digitally represents value
 - is a unit of account
 - functions as a medium of exchange
 - is capable of being digitally exchanged for money in any form.
6. The €15,000 threshold in the Proceeds of Crime Law is derived from the FATF Recommendations. See the FATF [interpretive note](#) on Recommendations 22 and 23.
7. In respect of high value dealers, the requirements also apply to all dealers in high value goods who wish to be able to accept payment in cash of €15,000 or more for one or more transactions, whether executed in a single operation or in several operations which appear to be linked.

Case study: Group money laundering

A group of criminals held £50,000 in cash obtained from drug trafficking operations. In order to launder their proceeds of crime, they targeted a high street jewellery business which held a high value dealer licence. Over the course of a few days, each person in the group repeatedly visited the jewellery shop to purchase items. Whilst no one person spent more than €15,000 in any one transaction, together they laundered the full £50,000 into jewellery, which could then be enjoyed or re-sold for a profit.

The staff who processed these transactions did not identify that the persons were operating together and therefore did not consider the total amount spent by the group. Nor did they realise that the transactions, whilst spread over multiple days, were linked to each other. As a result, they did not identify that the linked transactions carried out by this group exceeded €15,000.

Had the business had more effective controls in place in line with the Handbook, they would have applied *CDD* measures to the group of money-launderers and may have formed a suspicion that money laundering was taking place.



The business in this example appears to be involved in *money laundering* and may be found guilty of the offence of dealing with criminal property. The business also appears to have failed to have had adequate procedures to prevent and detect *money laundering* in line with the *Money Laundering Order*. As such, they may be found guilty of an offence of contravening or failing to comply with a requirement contained in any Order made under Article 37 of the *Proceeds of Crime Law*. In addition the business may be found to have contravened *AML/CFT Codes of Practice* within this Handbook and therefore may be subject to proceedings by the *JFSC*.

Guidance Notes

8. It is important to note that the requirement to register as a high value dealer for the purposes of the *Money Laundering Order* includes businesses that only occasionally accept such payments.
9. Businesses registered as high value dealers need to apply the requirements of the Money Laundering Order to their transactions and activities on a risk-based approach. However, as part of demonstrating good practice, high value dealers may wish to consider applying *CDD* measures to any transactions and activity that will be paid in cash or virtual currency with a value of £1,500 or more.
10. Any business that accepts cash or virtual currency over the €15,000 threshold for relevant transactions is required to register as a high value dealer. This means that any business that accepts payments in cash or virtual currency of any amount needs to be aware of the threshold. Some businesses may decide that they will simply not accept payments over the threshold amount. The fact remains, however, that businesses are vulnerable to money launderers as highlighted in the case studies above and below. Businesses that have decided not to register as high value dealers might support their decision by:
 - › A clearly documented policy known to all staff who accept payment that any significant cash or virtual currency payments will be refused with payments only being accepted by other means (for example, by debit or credit card, or by bank transfer)
 - › A reasonable threshold, appropriate to the business, below the €15,000 maximum for which payments in cash or virtual currency will be considered as significant, and refused
 - › It is the *JFSC*'s expectation that this threshold for significant transactions would be approximately £1,500 or another amount that the business is able to clearly justify in its own circumstances.
11. Although the high value dealer population is varied, it mainly consists of retailers and wholesalers of goods who accept cash payments of €15,000 or more. Some common examples of goods sold by high value dealers include:
 - › jewellery
 - › art and antiques
 - › precious metals
 - › cars and yachts
 - › agricultural goods.Other examples of high value dealers include:
 - › retailers selling high-end electronics like tablets and smartphones
 - › businesses selling alcohol and tobacco
 - › wholesale/cash and carry businesses



- › businesses which supply tools and equipment to tradespersons, such as plumbers and electricians.

Case study: Less common goods sold by high value dealers

A couple involved in the distribution and sale of illegal substances attempted to launder £20,000 worth of proceeds from their illegal activities. They were handling bundles of Jersey £20 notes whilst trying to:

1. convert the cash into English notes
2. deposit the cash into UK bank accounts
3. purchase goods to be re-sold at a later date.

The couple initially approached local banks. The banks followed their internal policies on handling cash and refused to accept a cash deposit due to the amount and unexplained/undocumented source. Similarly, the couple approached a local car dealership. The dealership was not registered as a high value dealer as its policy did not allow acceptance of significant cash payments. They refused to sell vehicles for cash. The couple then decided to approach a smaller retailer stocking a wide range of electronics. They subsequently purchased a number of expensive laptops, computers and smartphones.

Despite the bill totalling over £20,000, the staff processing the transaction did not become suspicious and did not query the origin of the cash. It was later identified that the retailer did not have policies on accepting significant cash payments. Therefore their staff were unaware of the cash value threshold set out in the Proceeds of Crime Law.

The business was willing to accept transactions that fall within the high value dealer definition in the *Proceeds of Crime Law*. As such the electronics retailer should have been registered as a High Value Dealer. If they had been registered, they should have had appropriate systems and controls in place to identify the suspicious nature of the transaction. Had they been registered and had the relevant controls in place, the apparent money laundering above should have been identified. For example, the business would have applied *CDD* measures to the couple and may have formed a suspicion that money laundering was taking place.

The business in this example appears to be involved in *money laundering* and may be found guilty of the offence of dealing with criminal property. The business also appears to be an unregistered high value dealer and may be found guilty of the offence of carrying on unauthorised *specified Schedule 2 business*. In addition, while they were not registered as a high value dealer, it appears that the business should have been registered with the *JFSC* so may be found to have contravened *AML/CFT Codes of Practice* within this Handbook and therefore may be subject to proceedings by the *JFSC*.

12. Cash includes, for example, notes, coins, traveller's cheques and bearer negotiable instruments. It does not include cheques or bankers drafts. As noted above, the €15,000 threshold may be reached in respect of a single transaction or there may be several linked transactions that together total €15,000 or more.
13. Each business should assess, within its specific circumstances, which transactions it will consider to be linked for the purposes of preventing and detecting crime.
14. Transactions may be linked in the following scenarios (note this list is not exhaustive):
 - › they are executed by the same individual or group of individuals (including third parties connected with those persons)



- › they involve the same asset
 - › they occur across a specified time period, e.g. a high value item worth €15,000 or more is initially secured with a deposit, then the total value is paid in instalments over time
 - › they appear designed to achieve an overarching objective (e.g. launder large sums of money)
 - › they do not have a commercial rationale (e.g. appear to be deliberately structured to avoid the €15,000 threshold).
15. It is important to note that whilst some transactions may appear to be linked from the outset, in other cases this may only become apparent at a later stage.
16. Each business should carefully assess and document the risks specific to its activities, traded goods, customer profiles and payment patterns.
17. Unusual sales or purchase activities may include:
- › delivery methods or payment arrangements that are not consistent with normal practice
 - › a new customer with little or no trading history and no trade references
 - › a customer travelling to Jersey just to purchase goods, when the goods are readily available near their home location
 - › a customer or representative making multiple smaller cash deposits into the business' bank account
 - › unusual enquiries regarding the business' refund policy, e.g. customer asking if a refund can be made by cheque, wire transfer or paid to a third party.

14.2 Identification measures: Finding out identity and obtaining evidence

Estate Agents and High Value Dealers

14.2.1 Obligation to find out identity and obtain evidence

Overview

18. This sector-specific section is supplementary to and should be read in conjunction with Section 4.2 of this Handbook.

AML/CFT Codes of Practice

Estate Agents

19. Following *FATF Recommendation 22*, a *supervised person* that provides *estate agency services* as defined in Paragraph 3 of Part B of Schedule 2 to the *Proceeds of Crime Law*, must comply with *CDD* obligations with respect to both purchasers **and** vendors of the property.

14.2.2 Timing of identification measures

Estate Agents and High Value Dealers

Overview



20. This section is supplementary to and should be read in conjunction with Section 4.7 of this Handbook.
21. As noted in Section 4.7, Article 13(4) of the *Money Laundering Order* allows, in certain circumstances, a *supervised person* a reasonable timeframe to undertake the necessary enquiries for obtaining evidence of identity after the initial establishment of a *business relationship*. No similar concession is available for finding out identity. Where a reasonable excuse for the continued delay in obtaining evidence of identity cannot be provided, in order to comply with Article 14(2) of the *Money Laundering Order*, a *supervised person* must terminate the relationship (see Section 4.8).

AML/CFT Codes of Practice

Estate Agents and High Value Dealers

22. A *supervised person* must not permit final agreements to be signed or pay away funds to an external party (or to another account in the name of the *customer*), other than to deposit the funds on behalf of the *customer*, until such time as evidence of identity has been obtained.

14.2.3 Timing for ‘existing customers’

Estate Agents and High Value Dealers

Overview

23. This section is supplementary to and should be read in conjunction with Section 4.7.2 of this Handbook.
24. As noted in Section 4.7.2, *FATF Recommendation 10* states that “financial institutions” should be required to apply that *Recommendation* (which deals with *CDD* measures) to “existing customers” on the basis of materiality and risk, and should conduct *CDD* measures on such existing relationships at appropriate times.
25. For the purposes of the *Money Laundering Order*, an existing customer means a *business relationship* established before the *Money Laundering Order* came into force for estate agents and high value dealers on **1 May 2008** and which continues.
26. For the avoidance of doubt, the *identification measures* (finding out identity and obtaining evidence) to be applied to existing customers include the collection of information that is necessary to assess the risk that a *business relationship* involves *money laundering* or the *financing of terrorism* (in line with Article 3(5) of the *Money Laundering Order*). This is likely to be self-evident for an existing customer on the basis that a relationship will have been established on, or before, **30 April 2008**.
27. Except with the agreement of the *JFSC* (in relation to an application from the *supervised person* made on or before 31 December 2014), the effect of Article 13(3A) of the *Money Laundering Order* is to require the identity of a *customer* to have been found out by 31 December 2014. There is no similar deadline for obtaining evidence of identity.
28. Once an existing relationship has been “remediated”, then Article 13(1)(c)(ii) of the *Money Laundering Order* will apply to such a relationship in the same way as a relationship established on or after **1 May 2008** (on the basis that documents, data or information will have been obtained under the *CDD* measures prescribed in Article 3).



14.3 Exemptions from CDD measures – Jersey property transactions

Estate Agents

Overview

29. This section is supplemental to and should be read in conjunction with Section 7.16 of the *AML/CFT Handbook*.
30. This section relates to the exemption available under Article 18(6) of the *Money Laundering Order*, which provides that a *supervised person* that is a lawyer or an estate agent, which enters into a *business relationship* or carries out a *one-off transaction* for the purpose of enabling a *customer*, directly or indirectly, to enter into a registered contract within the meaning of the [Control of Housing and Work \(Jersey\) Law 2012](#) (i.e. where it is to be passed before the Royal Court and registered in the Public Registry of Contracts), need not obtain **evidence of identity** of its *customer*.

AML/CFT Codes of Practice

Estate Agents

31. A *supervised person* that is a lawyer or estate agent must obtain and retain documentation establishing that its *customer* is entitled to benefit from the exemption set out in Article 18(6) of the *Money Laundering Order*.

14.4 Business risk assessment

Estate Agents and High Value dealers

14.4.1 Service area vulnerabilities and warning signs – Estate agents

Overview

32. Criminal conduct generates huge amounts of illicit capital and these criminal proceeds need to be integrated into personal lifestyles and business operations. Law enforcement agencies advise that property purchases are one of the most frequently identified methods of *money laundering*. Property can be used either as a vehicle for *money laundering* or as a means of investing laundered funds.
33. Criminals will buy property both for their own use, e.g. as principal residencies or second homes, business or warehouse premises, and as investment vehicles to provide additional income. The Serious Organised Crime Agency in the UK has advised that real property arises in over 85% of all confiscation cases and at least 25% of those investigated hold five or more properties both residential and commercial.
34. The business risk assessment relating to *customers* and services will depend on the *supervised person's* size, type of *customers* and the business area it engages in.
35. *Supervised persons* carrying on Estate Agency business should consider the different types of *money laundering* and *financing of terrorism* risks to which they are exposed when providing services. This service area risk assessment must also be reflected when undertaking a *customer* risk assessment.
36. Further factors to consider when evaluating the risks posed by clients and service areas are set out in Section 3.3.4 of this Handbook.



14.4.2 Criminal use of conveyancing services Estate Agents

Guidance notes

37. The estate agent is but one of the professionals who will be involved in a property transaction. Every property transaction requires a legal practitioner to undertake the conveyancing and this is one of the criminal's most frequently utilised functions. Conveyancing is a comparatively easy and efficient method of laundering money with relatively large amounts of criminal monies cleaned in one transaction. In a stable or rising property market, the *money launderer* will incur no financial loss except fees. Whilst many legal practitioners will be unwitting accomplices, some corrupt legal practitioners will provide deliberate assistance and estate agents should be vigilant for any signs that this is occurring.
38. The purchase of real estate is commonly used as part of the last stage of *money laundering*. Such a purchase offers the criminal an investment which gives the appearance of financial stability. The purchase of a restaurant or hotel, for example, offers particular advantages, as it is often a cash-intensive business, which is the preferred currency of criminals. Cash remains the mainstay of much serious organised criminal activity. It has the obvious advantage that it leaves no audit trail and is the most reliable form of payment, as well as the most flexible. Retail businesses also provide a good front for criminal funds where legitimate earnings can be mixed with the proceeds of crime.
39. Case Study 1 – Drug Trafficking funds a hotel purchase:
- › a financial intelligence unit received information that a previously convicted drug trafficker had made several investments in real estate and was planning to buy a hotel. An assessment of their financial situation did not reveal any legal source of income, and they were subsequently arrested and charged with an offence of *money laundering*. Further investigation substantiated the charge that part of the invested funds were proceeds of their own drug trafficking. They were charged with substantive drug trafficking, *money laundering* and other offences.
 - › the criminal's lawyer received the equivalent of approximately US\$70,000 cash from their *customer*, placed this money in their *customer's* bank account and later made payments and investments on the *customer's* instructions. They were charged with *money laundering* in relation to these transactions.
 - › the drug trafficker was convicted of drug trafficking, sentenced to seven-and-a-half year's imprisonment, and a confiscation order was made for US\$450,000. The lawyer was convicted and sentenced to 10 months imprisonment.
40. Case Study 2 – Tobacco smuggling funds a property empire:
- › in June 2005 the Northern Ireland Assets Recovery Agency was granted an Interim Receiving Order at the Belfast High Court for assets valued at an estimated £1.4 million.
 - › the assets in question were held by Stephen Baxter and his wife Denise. In its application to the High Court, the Agency evidenced that Mr Baxter purported to trade as an ice cream salesman with two vans. However, no street trading licence had ever been granted making the vans recoverable property. The Agency also showed that on a number of occasions police had detected Mr Baxter selling smuggled tobacco from his vans. His lifestyle and property acquisitions appeared to be far in excess of his lawful means.
 - › the assets included:
 - a principal residence in Belfast



- two apartments in Belfast city centre
 - an interest in a further eight building developments
 - a planned apartment in a prestige Belfast development.
- › the Agency advised that they had intervened to prevent Mr Baxter from extending his property portfolio shortly before the hearing.
- › the total value of the property subject to the restraint order was estimated to be £1.4 million.

14.4.3 Recognising suspicious behaviour and unusual instructions

Estate Agents

Overview

41. The following are examples of potentially suspicious events, both prior to and during the life of the property transaction.

14.4.3.1 Absence of normal commercial rationale

Guidance notes

Estate Agents

42. Activity that does not appear to make good business sense may indicate that it is linked to criminal activity. For example, where the prospective purchaser is willing to pay significantly over the market value for a property, particularly where the purchase is being undertaken by a cash-rich company.
43. A property sale or purchase that is subject to any significant last minute changes may indicate that there is an attempt to confuse the *CDD* information.
44. A *customer* that has no apparent reason for using a *supervised person* (for example the location of the property or type of business) where another business would be better placed to act, may indicate that the *customer* is trying to make it harder for *CDD* measures to be completed. Alternatively the *customer* may hope that if the transaction is outside the normal size that a *supervised person* handles, or if it is particularly lucrative, the *supervised person* may turn a blind eye to any unusual or suspicious activity.
45. Where a *customer* has declined services that a *supervised person* would normally expect them to use, or shows little interest in the transaction, this may indicate that the property deal is a sham and merely being used to confuse the audit trail for criminal money (i.e. part of the “layering” stage of the *money laundering* process).

14.4.3.2 Ownership issues

Guidance notes

Estate Agents

46. Properties owned by nominee companies or those with complex structures may be used as *money laundering* vehicles to disguise the true owner and/or confuse the audit trail. Last minute changes of instructions concerning the identity of the prospective purchaser in whose name the property is to be registered should give rise to additional due diligence.



47. Changes in the *beneficial ownership* of a company owning and managing a property where the new beneficial owners' *source of funds* for the company purchase is unclear or dubious may indicate that criminal funds have been injected into the company. This risk is heightened if known, reputable lawyers have not been appointed by either or both sides to act for them.

14.4.3.3 Property Values

Guidance notes

Estate Agents

48. A significant discrepancy between the sale price and what would be considered to be normal for such a property may indicate fraud or *money laundering*.
49. Properties sold below the market value to an associate may have the objective of obscuring the title to the property while the original owner still maintains the *beneficial ownership*.

14.4.3.4 Valuations and surveys

Estate Agents

Guidance notes

50. When estate agents provide a valuation service prior to being instructed as selling agents, or when they are providing a service as surveyors, it is important that they are vigilant. If there is any indication that the property is being used for criminal conduct, a *SAR* must be submitted to the *MLRO*. A roomful of randomly stacked high value goods or a greenhouse inexplicably filled with cannabis cannot be ignored.
51. Case Study 3 – A lucrative farming enterprise:
- › in September 2006, a Cannabis Farm was discovered by Dyfed Powys Police. Officers found a large and sophisticated infrastructure for growing cannabis which could have produced close to £2.5 million pounds worth of cannabis over the previous four years. The owner, who was convicted of producing cannabis with intent to supply, was imprisoned for three years and had £375,000 of his assets confiscated.

14.4.3.5 Funding issues

Estate Agents

Guidance notes

52. Whilst lawyers and advocates will normally handle the funds provided for a property purchase, or the sale proceeds, estate agents will often become aware of the funding arrangements. Suspicions should not be ignored merely because a lawyer is also involved and the sale or purchase funds are not passing through the estate agent's client account.
53. For example, a *customer* who advises that the funds from the sale will be going overseas and paid to an unrelated third party may indicate that the funds are being laundered on behalf of that third party. Similarly, where the *source of funds* for a purchase is obscure or appears to be unusual, this may indicate laundering of criminal funds, particularly if the funds are offered in cash or are coming in from an overseas bank account that is unconnected to the purchaser.



54. A cash deposit paid to an estate agent as part of a large property transaction, which is also to be settled in cash, may indicate tax evasion or that criminal proceeds are being used to fund the transaction. Cash is the principal currency of criminals and should always be subject to further enquiries.
55. Situations where a potential purchaser requests the estate agent to hold the potential purchase funds in their client account must be treated with extreme caution. Because large amounts of cash cannot normally be banked without suspicions being raised, criminals will use other professionals as 'gatekeepers'. Placing cash into the banking system through client accounts of professional firms is a classic *money laundering* technique. Where a *customer* withdraws from a transaction after paying money into a client account, the *customer* receives a cheque or electronic transfer from the lawyer or estate agent which makes the funds appear to be legitimate.
56. Estate Agents should be mindful that as lawyers tighten up on the circumstances in which they will hold *customer* money, other targets will be sought by criminals.

14.4.3.6 Mortgage fraud

Guidance notes

Estate Agents

57. Where prospective property purchasers overstate or misrepresent their income in an attempt to mislead mortgage lenders, this falls within the definition of mortgage fraud. Alternatively, the value of the property may be inflated with a view to obtaining a mortgage for the full inflated value. Estate agents must avoid becoming complicit in such criminal arrangements. Mortgage fraud is itself a criminal offence, but if the estate agent becomes involved they are also entering into an arrangement to further a criminal act.
58. Unexplained changes in ownership may indicate a form of *money laundering* known as "flipping", which involves a property purchase, often using someone else's identity. The property is then quickly sold for a much higher price to the same buyer using another identity. The proceeds of crime are mixed with mortgage funds for the purchase. This process may be repeated several times.
59. Fraudulent borrowers will often seek to build a portfolio of properties by obtaining many mortgages with several lenders, using fictitious and/or real names. The portfolio is then used for various purposes such as:
 - › organised letting (particularly using assisted housing schemes)
 - › property development of a site or individual properties
 - › 'rollover', where the criminal sells the properties to themselves (in various guises) at inflated prices.
60. Collusive mortgage fraud has become a significant problem in many countries with estate agents, property valuers and legal professionals acting in concert to provide all concerned with maximum benefit.
61. Case Study 4 – Operation Trooper



- › A ring of 43 professionals, including several fraudulent valuers, was broken as a result of the largest mortgage fraud investigation ever undertaken in the UK. The fraudsters bought over 200 properties, falsely inflated their values and sold them amongst themselves, fraudulently obtaining mortgages from most of the large lenders. No repayments were ever made on any of the mortgages which totalled £35 million.

14.4.3.7 Buy to let

Guidance notes

Estate Agents

62. Buy to let properties are particularly vulnerable to *money laundering* and especially so when linked to self-certification of income by the purchaser. Terrorist organisations may also purchase multi-tenanted property to provide safe haven accommodation for the operatives within their cells. The receipt of rent payments in cash also increases the vulnerabilities of letting agents.
63. To safeguard the position of letting agents who deal with buy to let properties or wish to receive payments of rent in cash, the Association of Residential Letting Agents has recommended that they voluntarily adopt the *AML/CFT systems and controls* (including *policies and procedures*) that are applicable to estate agents.
64. Case Study 5 – Operation Verge:
 - › in February 2004, following an investigation by the National Crime Squad and HMRC in the UK, four people were arrested for importing cannabis resin concealed in machines from Spain. One of the defendants offered to plead guilty if no confiscation order was brought against him. The investigation, which spanned several jurisdictions in Europe, had uncovered a property portfolio the defendant wanted to protect. The defendant had purchased several new apartments in various developments to launder the money and rent out the properties. A confiscation order was raised against the defendant amounting to around £2.7m.

14.4.4 Service area vulnerabilities and warning signs – High Value Dealers

Overview

65. The business risk assessment relating to *customers* and services will depend on the *supervised person's* size, type of *customers* and the business area it engages in.
66. *Supervised persons* carrying on the business of a High Value Dealer should consider the different types of *money laundering* and *financing of terrorism* risks to which they are exposed when providing services. This service area risk assessment must also be reflected when undertaking a *customer* risk assessment.
67. Further factors to consider when evaluating the risks posed by clients and service areas are set out in Section 3.3.4 of this Handbook.

14.4.5 Recognising suspicious behaviour and unusual transactions – High Value Dealers

Overview



68. Cash remains the mainstay of much serious organised criminal activity. It has the obvious advantage that it leaves no audit trail and is the most reliable form of payment, as well as the most flexible.
69. As illustrated in the following case study, the €500 note has become the bank note of choice for criminals, replacing the \$100 note. Consequently, High Value Dealers should always exercise additional vigilance when accepting a large number of €500 notes from any one *customer*.
70. Case Study 6 – Disappearing €500 Notes:
- › in 2005 the Bank of Spain advised that €500 notes were increasingly being drawn from high street banks and then disappearing. In March 2006, 100 million more notes were issued to Spanish high street banks than were handed in by them. This was of significant concern because at that point Spain used 26% of all €500 notes that were issued within the Eurozone.
 - › in response to the Bank of Spain’s concern, an investigation was launched by the Spanish Government into the missing notes. The result was that the Spanish Treasury identified 13,500 suspicious transactions totalling €6 billion that had taken place between 2003 and 2006 using €500 notes.
 - › by way of example, the deputy mayor of Marbella was found to have €378,000 in €500 notes in their safe when they were arrested by police in April 2006 during the investigation of eastern European crime groups operating on the Costa del Sol.
71. Those in receipt of large sums of cash have the problem of how to dispose of it. The objective of the first stage of *money laundering* – placement – is to move the criminal cash into the financial system. It is extremely difficult to place large amounts of cash into the banking system without raising suspicions. Serious organised criminals frequently launder cash through legitimate and quasi legitimate businesses, typically those with a high cash turnover. The businesses are often owned or part-owned by the criminals or by close associates, although legitimate businesses may also be targeted to provide the means for laundering criminal proceeds. Retail businesses that genuinely accumulate and bank large amounts of cash are natural targets for laundering the cash through genuine purchases.
72. Businesses which find themselves in financial difficulties may also be targeted by criminals. Cash may be placed into the financial system by persuading the owners or managers of the business to deposit criminal money along with their normal takings. The business then transfers the criminal money to the *money launderer’s* account, taking a cut along the way.
73. Case Study 7 – Disposal and Exchange of Cash:
- › a number of banks in Madrid were visited by the local drug squad.
 - › accounts had been opened for companies running cash-based businesses that received cash from *customers* and paid suppliers in cash.
 - › the businesses arranged to deliver cash to the banks in small denomination notes, which would then be exchanged for the larger €500 notes. The €500 notes were then either paid into other bank accounts or smuggled out of Spain. No SARs had been made by any of the banks concerned.



14.4.5.1 Recognising stolen cash

Guidance notes

High Value Dealers

74. Stolen cash is frequently laundered through retail outlets. Sterling, and many euro banknotes, become stained with dye when cash boxes are stolen and opened during bank or cash-in-transit robberies. Criminals frequently attempt to clean the notes, but this damages the foil and other security features.

14.4.5.2 High value cash transactions

Guidance notes

High Value Dealers

75. *Money launderers* normally want to move funds quickly in order to avoid detection. This is more easily done in large one-off transactions. The purchase of high value goods, with good portability, paid for in cash, represents an attractive target for *money launderers*. Luxury goods paid for with cash that can easily be sold on (even at a loss) for “clean money” are especially attractive.

76. Equally an asset may be purchased to support a certain lifestyle (e.g. a high performance car or a yacht). Alternatively an asset may be purchased as a form of long term investment (e.g. jewellery, an antique, a work of art etc).

77. Case Study 8 – A High Value Lifestyle:

- › In August 2007, a record £2.8 million was seized from two criminal families who made a fortune from car crime and tax evasion.
- › The Biddies and the Strettons lived a life of luxury, shopping at Harrods and wearing designer clothes and jewellery and driving top of the range cars. However, it was all paid for through crime.
- › The families made their money by dishonest car dealing – turning back the mileages of cars and then selling them on – and by selling stolen caravans. The scam involved forged documents, altered MOT certificates and fake service histories.
- › The gang of eleven, none of whom had legitimate jobs, then made the money disappear by splashing out on luxury cars, designer jewellery, clothes, perfumes, chinaware and other antiques.
- › When the homes of the gang were raided by 350 officers from four UK police forces, almost £1 million in cash, mostly in £50 notes, was found to be buried in the grounds or hidden around the various houses.
- › Members of the gang pleaded guilty to *money laundering*, criminal conspiracy, obtaining money by deception and possessing criminal property.



14.4.5.3 Gold, precious metals, precious stones and jewellery

Guidance notes

High Value Dealers

78. Criminal funds can be used to purchase gold which is then exported to other jurisdictions and sold, thus legitimising the funds as the proceeds of sale. The use of gold is attractive for many reasons – it is the only raw material comparable to money. It is a universally accepted medium of exchange which is traded on world markets and the *money launderer* can remain anonymous.
79. Case Study 9 – Gold moulded into tools:
- › A New York gold refinery owner was found guilty of laundering money for Colombian drug traffickers by selling them gold moulded into tools, screws and other bulk items that could be shipped to Colombia undetected.
80. The jewellery trade can also become involved in *money laundering*. Precious stones and jewellery are easily transportable and highly concentrated forms of wealth.
81. Case Study 10 – Operation Meltdown:
- › Operation Meltdown was a three-year investigation into drug *money laundering* in Manhattan’s diamond district. Dealers agreed to trade 220 pounds of gold and diamonds for more than US\$1 million in cash. The probe resulted in 23 arrests, including 11 jewellers and the seizure of more than US\$1.5 million in cash, US\$1.3 million in gold and 118 kilograms of cocaine.
 - › One jeweller was charged with agreeing to exchange diamonds and gold for US\$600,000 in cash. He was murdered in June 2004 less than one month before his trial.
82. Case Study 11 – Local Jersey Operation
- › Mr Pearce was convicted in December 2020 of *money laundering* in connection with the importation and supply of drugs in Jersey. The wider investigation resulted in the seizure of drugs with a street value of up to £919,000.
 - › Mr Pearce owned and ran a jewellery business which allowed him to facilitate the movement of criminal property from Jersey to the UK through the purchase and sale of bullion. This enabled cash to be removed from the Island under the cover of legitimate transactions, and without the cash being physically carried out of the jurisdiction.
 - › The process was carried out in four steps:
 - A sum of cash, *from the sale of drugs*, would be handed to Mr Pearce at his jewellery shop.
 - Mr Pearce would deposit that cash into his personal and business bank accounts
 - Mr Pearce would use the cash to purchase gold bullion from a dealer based in Hatton Garden in London.
 - The gold would be collected from the London dealer and sold for cash.
 - › The cash would then be available to UK-based members of the criminal enterprise to be used to purchase drugs, or otherwise to cover the operating costs of the enterprise.



14.4.5.4 The motor trade

Guidance notes

High Value Dealers

83. Vehicles may be either the source of the laundered money or the means by which other illegal income is laundered. *Money launderers* often make contacts within trades where the use of cash is accepted, such as dealers in expensive cars.
84. Case Study 12 – Using Cars to facilitate *money laundering*:
- › The financial intelligence unit of Country R received a SAR on large purchases of Country F currency totalling US\$263,000 and carried out by a citizen of Country R.
 - › The funds in Country F currency were used for the purchase of new motor vehicles in Country F. However, the transactions detected appeared to include only part of the funds moved by the individual and their associates.
 - › Indeed, the organisation to which the individual belonged regularly acquired new motor vehicles in Country R for payments in cash from a large dealership – which was either in collusion with the organisation or turning a blind eye to the activity.
 - › The purchased vehicles (worth around US\$30,900 each in the verified cases) were delivered and then driven to a neighbouring country where they were received by a close relative of the main individual in the scheme and known by authorities to be involved in narcotics trafficking. The vehicles were then exchanged for large quantities of drugs which were to be resold in Country R. Investigations revealed that the total amount of money involved in the scheme was in excess of US\$355,000.
85. Case Study 13 – Car Importer committing tax evasion:
- › A car importer bought and sold Porsche, BMW, Mercedes and other high value vehicles. He ordered the cars from mainland Europe and created a network of false identities and addresses to avoid paying import tax on the vehicles. Import documents gave false details and he built up a portfolio of false names and addresses from vehicle registration centres around the country. Police investigators traced the cars back to the importers. They found that numerous individuals had been paid £10 each to receive the vehicle registration documents through the post. Many of the cars were then sold for cash and were ultimately untraceable.
 - › As a result of the investigations, UK Police secured £1 million in assets following the conviction of the car importer who was jailed for two and a half years for *money laundering* and conspiracy to defraud the Revenue Authorities.
86. Outstanding finance is a big risk faced by dealers who buy second hand cars. [HPI Limited](#) have advised that 24 out of every 100 cars offered for sale that are checked by them are still subject to a finance agreement. If the loan remains unpaid when the vehicle is purchased, the second-hand dealer and any subsequent buyer will not acquire good title to it.

14.4.5.5 Behaviours indicative of suspicious transactions

Guidance notes

High Value Dealers

87. The following are examples of potentially suspicious transactions:



- › reluctance to make personal contact
- › reluctance to provide the required identification information or evidence of identity
- › the size of purchase is out of line with the appearance/age of the *customer*
- › *customers* who initially indicate that they will be paying for goods over €15,000 by credit card/cheque and then at the last minute present cash as the means of payment
- › there appear to be no genuine reasons for paying large sums of money in cash
- › cash is unusual for that type of *customer*
- › *customers* purchasing goods which are available nearer home at a similar price
- › purchases by businesses where the level of cash activity is higher than the underlying business would justify
- › the *customer* is paying in small denomination used notes.

14.4.5.6 Goods that are returned for refund

Guidance notes

High Value Dealers

88. Returning high value goods paid for in cash and obtaining a refund by way of a cheque or electronic payment enables the laundering of the “dirty money” by exchanging it for a legitimate retailer’s payment. Suspicions may be raised in the following circumstances:

- › the *customer* enquires about the *supervised person’s* refund policy prior to purchasing
- › the *customer* seeks a refund for spurious reasons
- › the *customer* seeks the repayment in the form of a cheque or electronic payment when the purchase or a deposit was made in cash.

89. Case Study 14 – The Cash Deposit Scam:

- › A professional criminal *money launderer* developed a simple technique of going into a number of high-priced West End jewellers and asking to inspect very expensive pieces of jewellery, saying that he was looking for a present for his wife. Dressed expensively and presenting himself well, he would choose various pieces and then ask to see the manager. Explaining that he wanted to give his wife the opportunity to choose for herself, he asked if the shop would be prepared to take the items off display, and hold them for his wife’s inspection. He explained that he would be prepared to deposit significant sums of cash to be held by the shop as a deposit for the items chosen, and that once his wife had chosen the item she wished, he would pay the balance. He also explained that any sums uncollected could be returned to him in the form of a cheque made payable to one of his corporate entities.
- › On five separate occasions he placed significant sums of cash, a total in excess of £100,000, as ‘deposits’ for items of valuable jewellery. On each occasion, his ‘wife’ then went into the shop on the following day and inspected the relevant items. Finding nothing to her taste, she then asked the store to make a cheque payable to her husband’s business as previously instructed.



- › Both husband and wife were later arrested after one store learned about the unusual couple with so much money to spend but with such particular tastes. They shared the information among their trade members and discovered that the tactic had been used on a number of previous occasions. They then alerted the police.

90. Case Study 15 – Cash into Wine

- › A similar technique was discovered by a leading wine trade company who discovered that a number of apparently wealthy Russian businessmen were asking to buy significant volumes of high-value wine, and keeping it held in 'bond' by the firm. The businessmen paid for their purchases in cash, but did not ask for the wine to be released from the bonded warehouse. This was not considered unusual as many wine buyers purchase investment wines in this way. Later, upon request, the businessmen asked for their wines to be re-sold back to the company, sometimes at enhanced rates, depending upon the prevailing sale-room price.

14.4.5.7 Buying second-hand goods

Guidance notes

High Value Dealers

91. High value dealers who buy high value second-hand items for trading on should be vigilant to avoid handling stolen property. A *money launderer* who has exchanged criminal cash for a high value asset and then trades it in has a cheque that can be paid into their bank account. They have therefore effectively 'placed' and 'integrated' the laundered money. Jewellers, art and antique dealers should use their networking to exchange information when stolen goods are being offered around for sale.