



Financial  
Intelligence Centre

Assessment of the inherent money  
laundering and terrorist financing risks  
**REAL ESTATE SECTOR**

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## 1. INTRODUCTION

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It must be noted that, during the information collation, drafting and consultation stage of this report, the Property Practitioners Act, (Act 22 of 2019) (PP Act) was not yet in force and the Property Practitioners Regulatory Authority (PPRA) was not yet established. The findings and the principles contained in this sector risk assessment report are to be read with the understanding that the Estate Agency Affairs Board (EAAB) has, subsequent to the finalisation of this report, been replaced by the PPRA and that the role and function of these two entities in so far as regulating estate agencies and estate agents in South Africa, are the same. Estate agents or estate agencies mentioned in this report refers to a limited sector of property practitioners that deal only with real estate that were subject to the review.

The FIC is yet to consult with the wider sector of property practitioners with respect

to the amendment of item 3 of Schedule 1 to the Financial Intelligence Centre Act, 2001 (Act 38 of 2001) to broaden the scope of item 3.

Money laundering can be described as the process whereby criminals attempt to conceal the proceeds of their criminal activities from the actual crime, thereby giving the funds derived from criminal activities an appearance of legitimacy. This may be done by investing in different immovable and movable assets.

Practitioners within the sector in South Africa which include estate agencies and estate agents have been identified by the international anti-money laundering community as being potentially vulnerable for money laundering. Terrorist financing is the process by which individual terrorists and terrorist organisations obtain funds to commit acts of terrorism.

In 2019, the Financial Intelligence Centre (FIC) conducted a preliminary risk assessment of the inherent money laundering and terrorist financing (ML and TF) risks affecting the estate agency sector in South Africa.

Estate agents were surveyed to ascertain their views on the sector's vulnerability to money laundering and terrorist financing.

This report captures the feedback provided as well as open-source information on national and international money laundering

risks in the estate agency sector. In addition, the FIC's regulatory knowledge of the sector and the analysis of the regulatory reports submitted by estate agents to the FIC were also considered.

The survey offers valuable insights for estate agents, the sector supervisory body and the FIC. While it is understood the ML and TF environment may change from time to time, the risks identified from the survey feedback and from other sources are significant observations.

## 2. SCOPE, LIMITATIONS AND METHODOLOGY OF THE RISK ASSESSMENT

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This sector risk assessment report principally addresses the inherent money laundering risks that face the estate agent or estate agency sector pertaining to products, services, clients, transactions, delivery channels, and geographical location. Although it is recognised that these risks could be mitigated by introducing processes and procedures in accordance with the requirements and obligations of the Financial Intelligence Centre Act, 2001 (Act 38 of 2001) (FIC Act), such mitigation factors were not included in this report.

## 3. OVERVIEW OF THE SECTOR

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### 3.1. Nature and regulation of the sector

- 3.1.1. There are several types of property, each with a unique purpose and utility. The main categories of property transactions include undeveloped land, residential, commercial (office and retail), industrial and agricultural. Estate agents are involved in selling and buying, as well as the renting of properties on behalf of the property owners or acting on behalf of purchasers.
- 3.1.2. In terms of the Estate Agency Affairs Act, 1976 (Act 112 of 1976) (EAA Act) all estate agents and agencies are required to register with the EAAB. The EAA Act has been replaced by the PP Act with effect from 1 February 2022. However, this report has been compiled prior to this change and will make reference to the EAA Act, the EAAB and estate agencies/agents.
- 3.1.3. Estate agents in South Africa include persons and institutions who, as a regular feature of their business and on behalf of another person, buy or sell immovable property, let or lease immovable property, or collects or receives monies in respect of the purchase or lease of immovable property.
- 3.1.4. Role players in the sector can vary from large institutions with different branches and/or subsidiaries, to small family-operated businesses. While the large institutions usually operate through branches and/or franchises in different geographical areas,

the smaller agencies often operate in a limited geographical area. Accordingly, the ML and TF risks of these various role players differ considerably.

- 3.1.5. Upon their successful registration, the EAAB annually issues a Fidelity Fund Certificate (FFC) to estate agencies and individual estate agents, which allows estate agents to conduct the business of an estate agency. Currently the FFC is valid for one calendar year. Estate agency firms are audited annually on their compliance with the EAA Act and section 28, and section 43B of the FIC Act

## **4. INTERNATIONAL MONEY LAUNDERING RISKS ASSOCIATED WITH THE SECTOR**

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- 4.1. Investment in property provides a stable, high-value and secure asset, and is therefore a popular investment choice for both law-abiding citizens and criminals. Laundering money through property transactions easily integrates illicit funds into the legal economy, while providing a safe investment. It allows for criminals to enjoy assets and, in some instances, derive an income from their investment, while still camouflaging the origin of the illicit money used for payment or rental of properties.
- 4.2. Purchasing or renting property is internationally recognised as a practice employed by criminals to launder the proceeds of crime. In South Africa, property transactions usually create an audit trail involving banks, estate agencies and attorneys through conveyancing. The involvement of the other role players means that estate agencies seldom receive funds and do not register property. In most instances, they act as agents for their clients, who can either be the sellers or buyers.
- 4.3. Internationally, criminals use different techniques to launder the proceeds of their illegal activities through property transactions. This includes cash or opaque financing schemes, overvaluing or undervaluing the price of properties, using false documentation and/or cancelling property transactions with a request for a refund of deposits paid. In addition, non-transparent companies as well as trusts or third parties are often used to hide the identity of the true owners.

- 4.4. Geographical factors such as the distance between the property and the buyer can also be regarded as a possible indicator of the laundering of criminal funds. In most instances there are no international restrictions to purchasing property across borders, and money can often flow through more than one jurisdiction in this way. Often this occurs via a jurisdiction with less stringent money laundering controls.
- 4.5 Money laundering via the sector can impact negatively on the economy of a country, region or even a suburb. It can lead to distortions in property prices because of criminals being willing to pay in excess of market value to quickly finalise a transaction. Similarly, the rental market can also be distorted because criminals are willing to pay a higher rent for a property from which they can engage in criminal activities. In this way, ordinary citizens are precluded being able to afford renting or owning immovable property in certain regions or neighbourhoods.
- 4.6 To determine the existence of the risk of money laundering, estate agencies need to conduct a thorough assessment of property transactions based on their customer's profile. Such an assessment may provide indications that raise red flags and trigger estate agencies to submit regulatory reports as required by the FIC Act. In turn, this will alert the FIC to potential criminal activities taking place.

## 5. REPORTING BY ESTATE AGENCIES UNDER THE FIC ACT

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### 5.1. The volume of reports received from estate agencies

- 5.1.1. From April 2016 to March 2021 – a total of 34 549 cash threshold reports (CTRs<sup>1</sup>) were filed by estate agencies at an average of 6 910 per year. During the same period, estate agencies filed 475 suspicious and unusual transaction reports (STRs<sup>2</sup>) at an average of 95 per year.

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<sup>1</sup> Reports on cash transactions exceeding R24 999.99

<sup>2</sup> Reports on transactions that are regarded as unusual and suspicious, as explained in section 29(1) of the FIC Act

The number of regulatory reports filed by estate agents with the FIC in each financial year from 2016 to 2021 is depicted below.

Table 1: Regulatory reports filed by estate agents

Reports filed	2016/17	2017/18	2018/19	2019/20	2020/21	Total	Average number of reports
CTRs	3 753	8 285	5 032	11 351	6 128	34 549	6 910
STRs	6	22	71	214	162	475	95

## 5.2. Types of reports filed

The majority of reports filed to the FIC have been CTRs. This indicates that cash (in the form of notes and coins) are still being used in the sector. This is especially so in the renting of business and office space.

## 6. RISKS BASED ON THE SECTOR SURVEY AND RESEARCH

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The risk factors used in this report align with the FIC's Guidance Note 7, which is available on [www.fic.gov.za](http://www.fic.gov.za). Refer especially to paragraph 37 of the guidance note, which highlights risks associated with transactions and terrorist financing.

The risk factors mentioned below were taken into consideration when the inputs on the survey were analysed. Estate agencies need to consider these risk factors when conducting their daily business.

### 6.1. Products and services risks

6.1.1. Certain products and services are regarded as posing a higher risk for money laundering purposes.

6.1.2. Estate agencies can provide services in respect of sales and rental of different types of properties such as residential, undeveloped land, commercial (office and retail),

agricultural and industrial. The money laundering risks associated with these different types of properties may vary considerably.

- 6.1.3. The method of payment for property is an important criterion that can point to the possible laundering of proceeds of crime. In instances where bonds are not obtained to fund property transactions or large amounts are paid as deposits on properties, estate agencies should ask additional questions to obtain clarity on the source of their client's funding or consider submitting suspicious and unusual transaction reports to the FIC.
- 6.1.4. The deal value of property transactions might also be an indication that proceeds of crime could possibly be involved in these transactions. Internationally, crime syndicates often invest in high-value property. Estate agencies in South Africa that deal with high-value properties should take steps to obtain information on their client's source of funds and test affordability in respect of their client's profile. They must be vigilant in situations where a seller insists on a particular selling price which is not market related and then suddenly a buyer emerges who is willing to pay the exact or similar purchase price.
- 6.1.5. In respect of rentals, agencies should be aware of the purpose for which the property is required, whether the rental required and paid is market-related, whether rental payments are made in advance and/or whether there are requests for cancellation of transactions and refunds of monies already paid.

## **6.2. Client risks**

- 6.2.1. Listed as accountable institutions under the FIC Act, estate agencies are required to rate the money laundering risks associated with their clients. Some clients, such as foreign prominent public officials (FPPOs), domestic prominent influential persons (DPIPs), complex legal structures and foreigners, pose a potentially higher risk for money laundering. The establishment of complex structures, involving legal arrangements such as companies, trusts and partnerships could be aimed at concealing the identities of the ultimate beneficial owner of such legal arrangements.

This can manifest whether the clients act as sellers or purchasers, or landlords or tenants.

6.2.2. When dealing with their clients, estate agencies should be aware of, among other aspects, the following scenarios that could point to money laundering:

- Clients trying to conceal their identity
- Transactions inconsistent with clients' stated income or occupation
- Clients making use of an unusual source of funds to transact
- Properties sold or bought at prices that do not correspond with the market value of the property
- Transactions without legitimate reasons
- Clients that cease their business relationships upon a request for customer due diligence information
- Deposits paid by third parties
- Buying property in the name of a third party.

### **6.3. Transaction risks**

6.3.1. In addition to considering whether a transaction makes economic and/or business sense and whether the prices of the properties are market related, an estate agency must also consider the use of cash in the buying and renting of properties. In South Africa cash is still used to a large extent, which is evident by the number of cash threshold reports the FIC received, as mentioned under paragraph 5.1 above. In addition to the receipt of cash in their own trust accounts, estate agencies should also be aware of instances where cash is paid into the trust accounts of conveyancing attorneys in respect of transactions where they acted as an agent for the buyer, seller or landlord.

### **6.4. Risks relating to delivery channels**

6.4.1. An estate agency is most often the first point of contact in a property transaction while others in the value chain such as attorneys or finance providers become involved after the estate agency has facilitated the transaction. It is, however, possible that an estate agency could make use of another person or entity to market or promote its services or use an alternative delivery channel such as the internet or social media. In

such instances, the estate agency must be aware of the potential higher money laundering risks associated with the use of alternative delivery channels due to the possibility that parties to the transaction may conceal their identities.

6.4.2. Not meeting clients face-to-face or having other persons acting on behalf of clients, may also frustrate the customer due diligence process and conceal the identity of the true client. In such instances, estate agencies must take extra care to ensure that the parties to the transactions are identified and their identities verified.

## **6.5. Geographic risk**

6.5.1. Some jurisdictions pose a higher risk for money laundering. It is important that estate agencies are aware of the risks posed by clients from these jurisdictions and that they have the necessary risk mitigation processes in place. This risk is exacerbated by property transactions take place across regions and national jurisdictions.

6.5.2. The geographic location of an estate agency and the properties they market are also important factors that determine the ultimate money laundering risks to the estate agency. International experience has shown that criminals are attracted to high-value properties. Estate agencies must therefore be vigilant when conducting business in such areas.

6.5.3. Estate agencies must be aware of the potential higher risks posed by clients from the following areas:

- Countries that are subject to a travel ban
- Countries regarded as high risk for money laundering by the Financial Action Task Force<sup>3</sup>
- Countries that are regarded as high-secrecy jurisdictions
- Countries or jurisdictions regarded as tax havens.

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<sup>3</sup> The Financial Action Task Force is the international standard setting body for combating money laundering and the financing of terrorism and proliferation. South Africa is a member of the Financial Action Task Force and has to comply with its standards.

## **6.6. Terrorist financing risk**

- 6.6.1. Where estate agencies conduct business with non-profit and non-governmental organisations, they should ensure that the funds used and the properties involved are in accordance with the stated objectives of these organisations.
- 6.6.2. Estate agencies should also be aware of the appropriate compliance obligations referred to in section 28A as well as section 26A of the FIC Act. Estate agencies must know how to access the referenced lists of persons and institutions that are subject to United Nations sanctions and determine whether they are conducting business with individuals and institutions on such lists.
- 6.6.3. Estate agencies should be aware of landlords who give instructions to pay their monthly rental income to third parties.

## **7. INDICATORS OF MONEY LAUNDERING AND TERRORIST FINANCING ACTIVITY FOR THE SECTOR**

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The FIC has compiled risk indicators, as shown below, based on information from the Financial Action Task Force, as well as analysis of regulatory reports received from the estate agency sector.

- Customer is reluctant or refuses to produce personal identification documents for the transaction to be completed
- Customer pays rent in advance and thereafter requests a refund
- Customer makes a substantial down payment in cash and balance is financed by an unusual source, such as, a third party or private lender
- Purchases carried out on behalf of any natural person who appears to lack the economic capacity to make such purchases
- Customer is known to have a criminal background
- Customer uses or produces identification documents with different names
- Customer does not want to put their name on any document that would connect them to the purchase or rental
- Customers concerned that they may be reported to the FIC

- Customer may appear to want to finalise the purchase as a matter of urgency
- The purchase price appears to be beyond the customer’s means based on their stated or known occupation and/or income
- Structuring cash deposits below the reporting threshold, or purchasing properties with sequentially numbered checks or money orders
- Accepting third-party payments, particularly from jurisdictions with ineffective or weak money laundering controls.

## 8. CONCLUSIONS

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- 8.1. Based on international experience and the risk factors described above, it is evident that estate agents are at high risk of being potentially being exposed to money .They should therefore take all necessary precautions to reduce their risk of exposure to being abused by criminals who want to launder their proceeds of crime through the sector.
- 8.2. Overall, the risk of money laundering for the estate agency sector in South Africa, based on national and international experience is classified as high and the inherent terrorist financing risk is regarded as low.

### Summary of money laundering risk factors for estate agencies

Money laundering risk factor	Likelihood	Consequence	Overall risk rating	Priority
Products and services – renting/sales, price and nature of properties, use of properties	4	4	21	1
Risk/threats associated with clients – FPPOs and DPIPs, source of funds, complex structures	3	5	22	1
Risk/threat associated with geographical area – sales to clients outside geographic area, sales to clients in restricted area, price and nature of properties in a specific area	3	4	18	2
Transactions - use of cash, nature and size of transaction, frequency of transactions	4	4	21	1
Distribution channels – online platforms, auctions, use of third parties	5	3	20	1

## Overall money laundering risk for estate agents – Rating heat map

<b>Likelihood scale (probability)</b>	5 Almost certain likelihood/probability	11	16	20 Distribution channels	23	25
	4 Highly probable likelihood	7	12	17	21 Products/ services/ transactions (e.g. cash)	24
	3 Possible likelihood	4	8	13	18 Geographic risk	22 Clients risks
	2 Unlikely probability	3	5	9	14	19
	1 Improbable likelihood	1	2	6	10	15
		1 Low impact	2 Minor impact	3 Moderate impact	4 Major impact Significant	5 Severe impact
<b>Consequence scale (impact)</b>						