

**LEGAL COMPETENCE TO PREVENT MONEY  
LAUNDERING AND FINANCING OF TERRORISM.  
LIGHT: LEGAL COMPETENCY ILLUMINATING DARK CORNERS**

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# **SOME MONEY LAUNDERING TYPOLOGIES WITHIN LEGAL SERVICES – RED FLAGS**

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1. Real Estate services & OTC real estates companies (property management), corporate structures used illegally
2. Offshore companies
3. Loan back schemes
4. Special bank accounts for lawyers & notaries (escrow accounts)
5. Legal (nominal) ownership instead of beneficial ownership



# Real estate services & Property management

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- Exploration of Feasibility & Economic purposes of the deal/transactions/value chain
- Exploration of different jurisdictions and potential conflicts between domestic rules
- OTC real estate services companies (**SCI - Société civile immobilière France**) – difficulty in definition of beneficial owner/controller, no initial capital or establishment act; subject to registration only in the Commercial Register; company shares are easy to be sold out without a certificate, the beneficial owner cannot be identified
- Legal entities established as legal agreements: family trusts, memorial funds & trusts
- Multiple lawyers/notaries in multiple jurisdictions
- Location: Lago Maggiore, Lago di Como, Palma de Mallorca, Genève lake, different islands, Val de Loire etc.



# Offshore companies

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- Distribution stations for various infringements between different jurisdictions
- Easy to hide/conceal beneficial owner or end controller
- Escape of banking/tax secrecy
- Tax optimization reasons?
- Location: tropical islands (over 35 destinations worldwide – 3<sup>rd</sup> high - risk countries)
- Reputational risk (damages) – Panama/Pandora/Paradise Papers, Offshore Leaks
- Number of companies – 12 0000 offshore companies @one lawyer



# Loan back (back to back) schemes

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- Bi/trilateral loan agreement between different companies controlled (indirectly) by borrower – real estate, industrial companies & factories, stock exchange operations, crypto assets
- Purpose of the loan - to give apparent legal source of funds, to hide identity of parties, to mix dirty & clean money to appear to have been derived from legal activities
- Red flags:
  - Fictitious loan agreement for the purpose of money laundering, suspicious clauses (collateral, installments, schedule, maturity, interest rates...)
  - Fictitious real estate assessment – artificially inflated price compared to the market ones or tax assessment
  - Opening bank accounts, incl. in offshore zones only for the specific transaction which will be closed very soon afterwards in order not to follow the movements on them
  - Use of proxies for the realization of the transaction
  - Use of *ad hoc* transition bank accounts closed hours after the deal





**Credit by a company,  
incl. offshore  
company  
(lender)**



**Personal entity -  
borrower**



**Real estate purchase**



# Special escrow bank accounts for lawyers & notaries

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- Accumulation of funds within a trust account until relevant instructions received: initial deposit, contractual financing, transfer of rights, debts, local taxes and fees, utility bills payments, purchase of real estate
- Red flags:
  - Origin of funds – lawyers/notaries must investigate financial exposition of the client and ask for evidences
  - Why a lawyer/notary as a payment agent instead of (money free) direct debit by a bank?



# Nominal ownership instead of beneficial ownership

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- **Direct role for the lawyer/notary in financial transactions & value chain:** through an administrative access to the company's financial information, the lawyer/notary acquires a direct role in the client`s financial transactions and could be difficult to prove that they were not aware of the nature of their involvement in the company's activity (most often as a result of criminal activities such as drugs/weapons trafficking, smuggling, contraband etc.)
- **Red flag:** origin of funds for company establishment, sources of incomes, tax relations! You must investigate the client's financial situation and ask the company for evidence of it

