



Law Council
OF AUSTRALIA

National Legal Profession Anti-Money Laundering & Counter-Terrorism Financing Guidance

Red Flags List for Legal Practitioners

28 June 2024



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Notes:

- References to 'the client' should be taken to include a prospective client.
- A red flag is not a signal to stop and immediately decline the instructions or terminate the retainer. Indeed, some experts call for red flags to be renamed to capture the idea of slowing down as, for example, 'amber flags' similar to an amber traffic light. A red flag is a sign to pause and consider your next step, which might be to ask further questions. If there are several 'red flags' of sufficient seriousness in combination then that might be grounds for you to decide to decline or end instructions. For an outline of the criminal law and your professional obligations see *Guidance Notes No 2 and 3* and for a flow-chart of what to do when you encounter a red flag, see p 3 of *Guidance Note No 4 - What Does Money Laundering Look Like?*
- Some red flags listed below under a given heading may reflect a combination of traits (such as both client identity and behaviour).
- Some of these red flags are adapted from the Financial Action Task Force report, *Money Laundering and Terrorist Financing Vulnerabilities of Legal Professionals*, 2013, chapter 5 'Red Flag Indicators.'

As to the Client's Identity

- The client is associated with a higher risk country (eg as a citizen and/or resident, or having obtained their wealth in that jurisdiction or by receiving funds from or sending funds to the jurisdiction) where the source of funds is unusual;
- The client is a politically exposed person (PEP);
- The client is the subject of allegations of corruption;
- The client provides identification documents or information that is misleading, vague or difficult to verify;
- Apparent attempt to disguise identity (including reluctance to assist you to verify identity);
- A client operating a business with no online presence where you would reasonably expect there to be a website/information;
- A client who appears to avoid direct contact and uses a domain or email suffix not typically associated with businesses (especially if they also do not have an online presence);
- The client may be associated with criminals (eg an outlaw motorcycle gang);
- The client has criminal convictions (or their family members have criminal convictions) for serious crimes, or are under investigation for a serious crime;
- The client or their family members are involved in court or administrative proceedings related to serious crime or asset confiscation;
- The client is related to or is known to be associated with a person on the Department of Foreign Affairs and Trade Consolidated List;
- The client purports to represent other people with whom you have had no contact;
- The client represents an entity or another person, but does not appear to be a suitable representative;



- The client is seeking to act as an intermediary for someone whose motives or identity are unclear;
- The party for whom the client is acting as an intermediary is charged with or convicted of a criminal offence.

As to the Client's Behaviour

- Reluctance to supply identity documents;
- Supplying false or forged identity documents;
- Client suddenly becomes difficult to reach (for example, following the deposit of funds);
- Documents do not support (or there is insufficient support for) the client's background story;
- Unusual or unnecessary secretiveness by the client about their identity, beneficial ownership information, the transaction or activity, why they wish for the activity or transaction to be undertaken in a particular way, or other aspects of the instructions or context;
- Requesting that individuals with no apparent relation to the client be included in communications or meetings;
- The client's decisions and instructions appear to be coming from a third party;
- Attempts to disguise the owner of their own entity or another party to the transaction;
- The client operates a cash-intensive business;
- The client is involved in an activity (such as mining and natural resource extraction in a country with high corruption) that may pose a higher risk for money laundering;
- The client is a PEP (or is a close associate or has family ties to a PEP) and their instructions or behaviour relating to private business matters are unusual;
- As a prospective purchaser of real estate, the client has no plans to visit and inspect;
- Vagueness about the nature of their business;
- Apparent haste without good reason (eg urgency to deposit funds);
- Interest in off-shore financial arrangements without giving a logical reason;
- Having contradictory aims (eg to utilise legal practitioner's services for personal reasons potentially under cover of a retainer for legal services for commercial purposes);
- Desire to place significant funds in trust before seeking any legal services;
- Desire to use your trust account for no discernible legal services;
- Obtaining your trust account details from a third party;
- Depositing funds into your trust account without permission;
- Offering an amount as your fee that is significant and out of proportion to the service sought, especially if it is designed to have you complete a transaction very quickly;
- Lacking interest in the outcome to which the retainer is directed.

As to the Relationship With Your Practice

- You are being sought out to practise in an area of law outside of your expertise;
- The client fails to give permission for you to contact the person who referred them to you;
- The client seeks to use your trust account as if it were a banking facility;
- The same client or other persons repeatedly feature as parties to transactions in unusually short timeframes;



- The litigation settles too quickly or on remarkably favourable terms without much input sought from you;
- The client appears to have concurrently retained other solicitors for other matters;
- The client has changed solicitors repeatedly without good grounds;
- You become aware that the client's previous relationship with another solicitor or other professional adviser was terminated, or that instructions were declined.

As to Funds or Assets

- Small payments of less than \$10,000 (suggesting 'structuring');
- Real estate purchases that are located in countries to which the buyer has no connection and where the investment does not appear to be commercially advantageous;
- Real estate purchases that are largely or wholly privately funded without sound explanation, including third-party funding;
- The type, or the fact of third-party funding does not appear logical or legitimate;
- Large amounts of private funding arriving in Australia via off-shore accounts without sound explanation;
- Funds are being used for private purposes but are sourced from government, or a company or business;
- Large amount of private funding is inconsistent with the socio-economic profile of the party;
- High-value assets are acquired by, or there are large inflows into, an entity, where the high value is inconsistent with the usual profile of such an entity (eg small business);
- Last-minute change of instructions as to the prospective owner's identity in an asset transfer to them;
- Payment details are left to the last minute without good reason;
- Requesting payment/s to a third party without a logical explanation;
- The client seeks a power of attorney in unusual circumstances to administer or dispose of assets;
- An apparent desire to create a disguise for funds;
- Sudden, unexplained changes in the price of an asset;
- Under-or overvaluation of an asset;
- Quick purchase and re-sales where there are sharp unexplained increases in value;
- An unusually short repayment period without good reason, suggesting a potential sham loan/mortgage;
- The client deciding not to proceed with the transaction shortly after depositing funds;
- Requesting that the deposited funds be returned before any substantive legal work has commenced;
- Requesting that a refund of a deposited amount be made to a new account or a third party, rather than returned to the same account;
- Funds are being sent to or received by a high-risk jurisdiction or a country to which the client has no apparent connection and the source of funds or wealth is unusual;
- Source of funds is uncertain;
- An asset purportedly securing a loan is situated in a high-risk country;
- Multiple bank accounts are being used without sound reasons;
- Overseas accounts are being used without sound reasons;
- Executing parties are under-age or lack capacity without clear reason for their involvement, suggesting they may be being used as fronts.



As to Jurisdiction

- Funds for a transaction (or significant capital inflows) are received from a high-risk country without logical connection to the parties or activity;
- Client is associated with a high-risk country;
- Beneficial owner or the client's representative is connected to a high-risk country (eg through citizenship, residence or as the place of incorporation).

As to Commercial Activity, or the Use of Companies or Trusts

- The client is seeking to trade in portable, high-value goods (eg artwork);
- Operation of or investment in what may be a cash-intensive business;
- A relatively new company is receiving increased or repeated capital inflows without rational explanation;
- Not having a good business reason for the legal structures being sought;
- The type of activity (or transaction) the client is seeking is not consistent with their profile;
- Changing or seeking to change managers of companies, partnerships or trusts with unusual frequency;
- Changing or seeking to change the type of legal structure employed (whether company, trust or other entity) with unusual frequency;
- The commercial transaction sought has unusual traits, related to how it is to be carried out, or its size, or (if more than one transaction is involved) their frequency and there is no good reason for the unusual traits;
- Frequent transactions that have similar elements without there being a logical explanation;
- Seeking to use or using a trust or a series of trusts for no reason connected to business needs;
- The client is happy to pay significantly greater amounts in fees or taxes than seems necessary in apparent return for the use of more complex legal structures than appears logical or to set up a series of transactions where there are simpler solutions available;
- Transferring assets using companies and trusts in a series of transactions within a short period (without explanation);
- Seeking or achieving incorporation or acquiring shareholdings in legal entities with elements in common such as shareholders, corporate addresses or purposes, directors, without logical explanation, especially when rapidly;
- Personal (private) spending funded by a company, a business or government.

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