



March 4, 2019

Expert Panel on Money Laundering

Submitted by email: RealEstate.MoneyLaundering@gov.bc.ca

RE: British Columbia Real Estate Association submission to Expert Panel

The British Columbia Real Estate Association (BCREA), the professional association for BC's 11 real estate boards and 23,000 REALTORS®, is committed to supporting the government's efforts to better understand where real estate transactions may be vulnerable to money laundering.

Thank you for giving us extra time to make our final submission. When we met with you in December, we proposed a vulnerability assessment to examine typical residential and commercial real estate transactions, and that work is now complete. With this letter, we offer you the findings of that research plus recommendations.

Vulnerability assessment

BCREA commissioned Deloitte to identify vulnerabilities for money laundering in BC commercial and residential real estate transactions. To understand typical transactions, Deloitte conducted interviews with nine BC REALTORS® and carried out a search of open source media. However, Deloitte did not corroborate the information provided and found.

Key findings:

- There is a difference in the perceived available information compared to the actual information available to the REALTOR® during a transaction with respect to identifying potential money laundering and/or terrorist financing.
- Many REALTORS® perceive that, because they generally do not handle cash, they are not exposed to money laundering; however, the REALTOR®'s knowledge of the client buying or selling real estate is a crucial piece of information to the real estate transaction, because it is information not available to other parties.

- REALTORS® operating in “community-based” brokerages are typically more concerned with the reputational risk of transacting with potential money launderers or criminals than those in brokerages that are less connected to their communities.
- An inherent existing gap is that, besides the client, no single party sees the entire real estate transaction. Real estate transactions involve not just REALTORS® but also notaries, lawyers, appraisers and mortgage brokers. That makes identifying any potential laundering of funds challenging.
- Residential properties considered to be high risk include pre-sale assignments and short-term resales.
- Commercial properties considered to be high risk include the sale of operations and business, especially when one party is unrepresented, because there are many ways to hide money by underreporting income.
- In general, financing of properties is between the client and the lender, which includes mortgage brokers and private lenders. REALTORS® are simply not involved with that aspect of the transaction.
- The fact that lawyers are not subject to Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) requirements is a significant gap.
- The overwhelming majority of brokerages do not accept cash deposits.
- Even though both roles are often performed by the same person, managing brokers are tasked with ensuring sales growth and managing client risk, while FINTRAC compliance officers are focused on monitoring money laundering and terrorist financing risk.
- The real estate brokerage’s compliance officer relies on REALTORS® to identify, rate risks and conduct ongoing monitoring of clients to meet anti-money laundering (AML) requirements.
- REALTORS® would benefit from focused training and resources to help them create effective policies and procedures, separate money laundering risks from business risks and identify suspicious transactions.
- Canada’s *Proceeds of Crime (Money Laundering) and Terrorist Finance Act* and regulations do not set any minimum threshold of training.
- Inconsistency in FINTRAC examinations causes confusion for REALTORS®.

As a result of the vulnerability assessment and many conversations with REALTORS® and real estate boards, BCREA is placing significant emphasis on training and education.

We are hiring a temporary contractor—an AML specialist—to focus on anti-money laundering issues, including developing resources, liaising with CREA, FINTRAC and

other reporting entities, answering questions from REALTORS® and providing training.

BCREA is already developing training for FINTRAC compliance officers to increasingly foster and maintain a culture of compliance. We understand the Canadian Real Estate Association (CREA) is updating existing resources, which will be incorporated into our training.

Best practices

Through our AML specialist, workshop and other communications methods, we will reinforce best practices. Real estate brokerages vary widely, and the best practices listed below are general in nature. Each brokerage will have to adapt these best practices based on their specific context.

BCREA's 11 real estate boards commit to work towards the following best practices:

- Brokerages avoid accepting cash deposits aside from exceptional circumstances.
- Educating brokerages so they can accurately and effectively report suspicious transactions, according to AML legislation.
- Brokerages engage outside, independent professionals to conduct their two-year reviews.
- Compliance officers participate in AML knowledge sessions, such as the Association of Certified Anti-Money Laundering Specialists.

These were recommended by Deloitte:

- Where possible, the roles of managing broker and FINTRAC compliance officer should be clearly defined and separated, and the role of compliance officer expanded to include managing the brokerage's inherent risk for money laundering and terrorist financing rather than simply ensuring regulatory compliance. Part of the expansion of the compliance officer role should also include centralizing the ongoing monitoring and client risk rating responsibilities and enhancing processes for documentation and review.

Upon BCREA review, feedback from multiple real estate boards across the province challenged this finding as impractical as a "best practice". The added cost and complexity would not be workable for many brokerages, who already devote significant resources toward complying with an array of legislation at all levels of government.

- Brokerages monitor past real estate transactions for known or alleged criminal activity and consider submitting suspicious transaction reports.

BCREA board feedback challenged this finding as impractical and setting an expectation that cannot be met. If suspicion wasn't raised at the time of the original transaction, it is unlikely a review in the aftermath would yield any new findings.

Regulatory recommendations

Our investigations have uncovered several opportunities for improvements in federal and provincial regulatory frameworks. BCREA recommends that:

1. The federal government require FINTRAC compliance by lawyers, law firms and non-financial institution lenders, such as alternative and private lenders, and for private real estate transactions.
2. FINTRAC implement its own best practices, including:
 - policies to ensure consistency in its examinations, including immediate, specific suggestions for how a real estate brokerage can improve its compliance system (in early February, FINTRAC published its Assessment Manual, which explains the approach and methods used during examination; consistency has yet to be tested),
 - outreach to sector organizations to create resources—including guidelines to identify suspicious transactions—that reflect real-world situations, and
 - public reporting practices that accurately represent the results of their examinations.
3. The BC Government clarify the role of provincial real estate regulators in the area of anti-money laundering requirements. Ideally, the Real Estate Council of British Columbia will develop required anti-money laundering licensing and relicensing education for REALTORS®.
4. The federal and provincial governments, and their respective agencies, coordinate their actions and policies to create a comprehensive, efficient enforcement regime.

In addition, Deloitte recommends that the Real Estate Council of British Columbia incorporate AML into its brokerage audit program.

BCREA board feedback indicated that FINTRAC already conducts examinations, and the boards considered the above suggestion to be a duplication of efforts.

Thank you for the opportunity to provide input. We always welcome opportunities to provide information and context on this important issue. BCREA also looks forward to future opportunities to comment on draft policies and/or legislation that result from the work of the Expert Panel and Peter German.

BCREA is the professional association for about 23,000 REALTORS® in BC, focusing on provincial issues that impact real estate. Working with the province's 11 real estate boards, BCREA provides continuing professional education, advocacy, economic research and standard forms to help REALTORS® provide value for their clients.

To demonstrate the profession's commitment to improving Quality of Life in BC communities, BCREA supports policies that encourage economic vitality, provide housing opportunities, respect the environment and build communities with good schools and safe neighbourhoods.

Sincerely,

A handwritten signature in black ink that reads "Darlene K Hyde". The signature is written in a cursive, flowing style.

Darlene K. Hyde
Chief Executive Officer

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