



Open doors for illicit money

Money laundering gaps
in the Swiss real estate sector

Executive summary

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This report shows that significant loopholes exist in Switzerland which allow the acquisition of real estate with funds of illicit origin. It identifies the largest money laundering risks in the Swiss real estate sector, and explains how these loopholes should be closed.

There is an urgent need to address the gaps in the Swiss anti-money laundering framework in an effective manner, to prevent the acquisition of Swiss Real estate with illicit proceeds. These types of deals are illegal, harm the Swiss real estate market and the overall economy, undermine the rule of law and, all too often, also harm the development of the countries the funds originate from. As is the case in the financial sector, the real estate sector should also be legally required to prevent and sanction money laundering.

In the fight against money laundering in Switzerland, so far the financial sector has been the main area of focus. Because of the growing pressure on the financial sector, and the strengthened regulation in this area, it is plausible to assume that money laundering is increasingly being redirected to other un- or under-regulated sectors in Switzerland. Real estate is a particularly attractive form of investment for illicit wealth, representing around 30% of confiscated proceeds of money laundering worldwide. A number of current studies point to high risks of money laundering in the real estate sector, in particular in countries with large financial sectors and developed luxury asset markets, such as is the case in Switzerland.

Recent analyses show that the Swiss real estate sector proves to be attractive for money laundering, too. In addition to the high stability of the country and the attractiveness as a place of residence and vacation spot this is especially due to significant gaps in the anti-money laundering framework. These gaps have been noted internationally for quite some time, most recently by the international anti-money laundering body the Financial Action Task Force (FATF) in their fourth review of Switzerland. So far, the amount of money laundering cases in the real estate sector known to the Swiss law enforcement authorities and the public appears to be manageable. However, money laundering in the Swiss real estate sector is a fact, and experts assume a high number of unreported cases. Also taking into account the high risks of money laundering in the real estate sectors of other countries with large financial sectors, which can be seen to be largely comparable to risks in the Swiss real estate sector, the total amount of money laundering in the Swiss real estate sector might be much more widespread than assumed so far. The cases known so far may represent only the tip of the iceberg.

Main gaps and priority recommendations

The Swiss financial sector has a relatively solid legal framework to prevent money laundering compared to international standards. In the real estate sector, however, the anti-money laundering framework has significant gaps that must be addressed. Three priority areas stand out:

Overly narrow scope of the anti-money laundering legislation in the real estate sector

The scope of the current anti-money laundering law does not fully apply to the main actors in a real estate transaction, such as notaries and real estate agents. Legal due diligence and suspicious reporting requirements are generally limited to the financial intermediaries involved in the transaction. These financial intermediaries, however, are in most cases not sufficiently involved in transactions to detect money laundering. As a result, it is relatively easy to acquire Swiss real estate with

illicit proceeds and go undetected. This situation becomes more concerning when foreign financial intermediaries are involved in a transaction, in particular when the anti-money laundering measures in the country of origin of the financial intermediary are insufficient.

Transparency International Switzerland recommends that the scope of the anti-money laundering law should be aligned with international standards for the real estate sector to also cover further activities of notaries, real estate agents, lawyers and other professional intermediaries such as accountants. As recommended by the FATF standards, these professions should have due diligence and reporting requirements to prevent money laundering, and should also be subject to effective oversight by authorities.

Insufficient measures to prevent money laundering by foreign nationals and foreign entities operating in Switzerland (gaps in “Lex Koller”)

The highest money laundering risks in Switzerland can be found when real estate is acquired by foreign nationals, and specially when foreign legal entities are involved in transactions. Because Switzerland has a law to address the acquisition of real estate by foreign nationals (Lex Koller), this legislation would be well placed to include anti-money laundering requirements for the real estate sector. Currently, the Lex Koller does not provide sufficient measures to recognise and prevent money laundering through real estate.

Transparency International Switzerland recommends that in the current revision of the Lex Koller, measures to prevent money laundering be included. Authorities at the sub-national (cantonal) level should be legally obliged to establish that the proceeds of foreign investments are legal, including – as is required in the financial sector – identifying the ultimate beneficial owner. Measures should also include an obligation to file suspicious activity reports, when the authorities identify or have reason to suspect cases of money laundering. These anti-money laundering measures should also apply to properties which are acquired for business reasons.

Incomplete and opaque property register

The gaps in the Swiss anti-money laundering system are compounded by the characteristics of the Swiss property register, which has incomplete data and has a complicated system to request information.

Transparency International Switzerland recommends that the quality of data and transparency of the property register should be improved. In addition to data on the owner, the property registry (main registry) should contain data regarding the beneficial owner of the property, as well as the price for which the property was acquired. This information should be publicly available. In addition, the system should allow for data searches according to a range of criteria including the owner, the beneficial owner, the nationality/ domicile of the society or the location.

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