Typologies and Red Flags: Indicators of Financial Crime within the UAE's Legal Sector

THEMIS

The UAE's legal sector is exposed to a range of financial crime risks, particularly through potential connections to criminal activity via clients and their financial transactions. To mitigate these risks, legal professionals should adhere to thorough risk management frameworks and perform comprehensive due diligence on clients. This process should include understanding the common tactics used by illicit actors and recognising red flag indicators to detect crimes in real-time.

As identified in the Central Bank of the UAE's rulebook, financial criminals may utilise 'professionals', which, amongst others, include lawyers, to act as 'gatekeepers' thereby lending an appearance of legitimacy to their activities.

Possible indicators of this typology may include:

- Unusual requests made by the client;
- Opaque ownership structures: client is frequently requesting to register companies or trusts in offshore jurisdictions known for secrecy;
- Setting up shell companies, trusts, and other corporate structures to conceal the true owner of assets;
- Client is reluctant to provide information.

VULNERABILITIES AT THE REAL ESTATE-LEGAL SECTOR INTERSECTION

The United Arab Emirates 2020 Mutual Evaluation Report undertaken by FATF identified the real estate sector as one of the sectors most vulnerable to significant money laundering and terrorist financing risks. Due to this elevated risk, and due to the role the legal sector plays in facilitating real estate transactions and services, lawyers and other legal professionals should be particularly vigilant when conducting business in the real estate sector and screen for associated risks, typologies, and red flags.

According to the FATF (2022) Guidance for a Risk-based Approach to the Real Estate Sector, lawyers, notaries, and other independent legal professionals, are placed under the umbrella of real estate professionals, due to their role in carrying out or preparing transactions for clients involving the buying and selling of real estate. There is a risk that individuals may rely on lawyers to obscure purchases of real estate, either by knowingly aiding in the concealment, or by simply adhering to professional rules requiring confidentiality about their clients.

CLIENT RISK INDICATORS

Determining the potential ML/TF risks posed by a client or category of clients is critical to the development and implementation of an overall risk-based framework. Based on their own criteria, law firms and legal professionals should seek to determine whether a particular client poses a higher risk and the potential impact of any mitigating factors on that assessment.

Categories of clients whose activities may indicate a higher risk, as identified in FATF's Guidance for legal professionals about a risk-based approach:

- The legal professional's client base includes industries or sectors where opportunities for ML/TF are particularly prevalent (which, in the UAE's case, includes sectors such as money value transfer services, real estate, or dealers in precious metals or stones).
- The client is a PEP (Politically Exposed Person), or is closely associated with or related to PEPs, or belongs to a high-risk country or with an office in a country under the sanctions list of various countries or international organisations.
- Clients where the structure or nature of the entity or relationship makes it difficult to identify in a timely manner the true beneficial owner or controlling interests or clients attempting to obscure understanding of their business, ownership or the nature of their transactions, such as:
    - Unexplained use of shell and/or shelf companies, front company, legal entities with ownership through nominee shares or bearer shares, control through nominee and corporate directors, legal persons or legal arrangements, splitting company formation and asset administration over different countries, all without any apparent legal or legitimate tax, business, economic or other reason.
    - Unexplained use of informal arrangements such as family or close associates acting as nominee shareholders or directors.
    - The client is unaware of the transaction's size, nature, and purpose.
    - Unusual complexity in control or ownership structures without a clear explanation, where certain circumstances, structures, geographical locations, international activities or other factors are not consistent with the legal professionals' understanding of the client's business and economic purpose.
- The client communicates solely through online means or uses an unknown or unrelated intermediary.
- The client has a history of criminal activities, including in terrorism financing or money laundering, or any other financial crime.
- The client lacks the necessary proof for previous transactions, company operations, or presence in different geographies.
- The client's company operates in many countries without logical association or activities in those locations.

TRANSACTION/SERVICE RISK INDICATORS

Transaction/service risks that may indicate a higher risk, as identified in FATF's Guidance for legal professionals regarding a risk-based approach:

- The transaction funding is unusual and does not match the client's profile or typical transactions.
- Transactions using unusual means of payment (e.g. precious metals or stones). The Central Bank of the UAE has reported that the characteristics of precious metals and stones are attractive to criminals seeking to launder funds and others engaged in illicit behaviour.
- Transactions are conducted without any logical legal, commercial, taxation, or financial rationale.
- The source of funds comes from an unrelated third party, high-risk countries, or countries with no logical connection to the client.
- Payments are made to and from multiple bank accounts or foreign accounts without any office or branch in those countries.
- The transaction with the client is inconsistent with the client's size, business type, value, activity, frequency of dealings, or execution manner.
- Commercial, private, or real property transactions or services to be carried out by the client with no apparent legitimate business, economic, tax, family governance, or legal reasons.
- Transfer of real estate or other high value goods or assets between parties in a time period that is unusually short for similar transactions with no apparent legal, tax, business, economic or other legitimate reason.
- Services that have deliberately provided, or depend upon, more anonymity in relation to the client's identity or regarding other participants, than is normal under the circumstances and in the experience of the legal professional.
- Transfers of goods that are inherently difficult to value (e.g. jewels, precious stones, objects of art or antiques, virtual assets), where this is not common for the type of client, transaction or with the legal professional's normal course of business, such as a transfer to a corporate entity, or generally without any appropriate explanation.

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About Themis

Themis helps clients identify and manage their specific financial crime risks, through a combination of innovation, insight and intelligence.

Our cutting edge platform helps organisations understand these strategic threats through an ESG and socio-economic lens and protects their clients, suppliers and 3rd parties from criminal attacks or association. Founded, developed and delivered by financial crime subject matter experts.

WE ARE MORE THAN A PLATFORM.
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Tech for Good
How we measure our impact

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