

Red Flags of Fraud, Money Laundering, Terrorist Financing, and Other Illegal Activity

Created: September 2021

About this Worksheet

Lawyers and paralegals must not facilitate fraud or any other illegal activity when rendering legal services.

This duty

- begins at the outset of the professional relationship and continues throughout the retainer
- includes not doing, or omitting to do, anything that a lawyer or paralegal knew or ought to know would assist in, encourage, or facilitate dishonesty, fraud, crime, or illegal conduct by a client or any other person, and
- requires an ongoing assessment of potential risk of fraud, money laundering, terrorist financing, and other illegal activities.

Use this Worksheet to

- Learn more about red flags generally
- Identify red flags in a client matter, and
- Document your due diligence in identifying red flags, and then either resolving them or declining or withdrawing from representation when necessary.

This Worksheet is adapted from the Financial Action Task Force's Chapter 5: Red Flag Indicators in [FATF Report, Money Laundering and Terrorist Financing Vulnerabilities of Legal Professionals](#) (June 2013) at pp. 77-82, and the Federation of Law Societies of Canada's Red Flag Quick Reference Guide in the [Risk Assessment Case Studies for the Legal Profession](#) at pp. 24-28.

Remember...

- The presence or absence of a red flag is not definitive. Other circumstances may signal that a particular client or transaction poses risk.
- Use this tool to support the exercise of your professional judgment.
- This Worksheet applies to all practice areas.
- [Risk advisories](#) are available with practice area specific information for
 - Real Estate Transactions
 - Shell Corporations
 - Private Lending
 - Trusts
 - Litigation

Consider reviewing or using these documents alongside this Worksheet.

Step-by-Step Instructions

If you are using this document as a Worksheet, complete the following steps, taking into consideration all the information you have about the matter:

1. Review all the red flags below and indicate in the chart each red flag that is present in your matter
2. Ask your client questions or conduct other research or due diligence to determine if there is a legitimate explanation for the red flag(s) identified
3. Indicate in the chart whether the red flag is resolved (i.e., whether there is a legitimate explanation for the red flag) and on what date you made this assessment
4. Use the Notes section to set out the steps that you take to resolve the red flag(s) and any other details
5. If some or all the red flags are not resolved, determine if you will decline or withdraw from the representation
6. Consider reviewing new developments in client matters against this Worksheet and making further notations in the Notes section of the Worksheet or use a new copy to track these issues and how you resolved them
7. Retain a copy of this completed Worksheet in your file to support your due diligence

Terms Used in this Worksheet:

Politically Exposed Person (“PEP”)

A person who holds or has previously held a public position (political or high-level professional appointment) or has professional or family ties to such an individual and as such may be in a position that could be abused for the purpose of money laundering, corruption, bribery, and activities related to terrorist financing.

High-Risk Country

A country identified by authorities as posing a high risk for money laundering. Indicia of high-risk countries include prevalence of corruption and financial crime and weakness of anti-money laundering laws and measures. For more information, licensees should review the advisories on the [Government of Canada](#), [FATF](#), [FINTRAC](#) and [United Nations Security Council](#) websites.



Questions?



Contact the [Practice Management Helpline](#).

To do so, call the Law Society at 416-947-3315 or 1-800-668-7380 extension 3315, Monday to Friday, 9:00 a.m. to 5:00 p.m. EST, and select the Helpline option.

Red Flags Worksheet

Client Name(s)	
File or Matter Number	
Brief Description of Matter	
Date(s) Red Flag(s) Assessed	

SECTION 1: THE CLIENT

A. IDENTITY OF THE CLIENT		
Red Flags	Check if Present	Resolved (Y/N, Date)
The client is known to have convictions or to be currently under investigation for acquisitive crime or has known connections with criminals		
The client is or is related to or is a known associate of a person involved or suspected of being involved with terrorist or terrorist financing-related activities		
The client is a domestic or international PEP		
The client is originally from, a resident of, or owner of a company incorporated in a high-risk country for money laundering		
The client is of an age or capacity that is unusual for the matter or transaction, especially if the client is under legal age and there is no logical explanation for their involvement		
The structure for the client organization makes it difficult to identify its beneficial owner or controlling interests (e.g., the unexplained use of legal persons or legal instruments)		
The client's business is in a cash-intensive industry that is not usually cash-rich but generates substantial amounts of cash (e.g., restaurants, variety stores, personal services, small retailers, etc.)		
The client is or is involved in a business entity that has no Internet presence at all, cannot be found in corporate registries, and/or is only using an email address from a free web-based email provider (e.g., Hotmail, Gmail, Yahoo), especially if the client is otherwise secretive and avoids direct contact		

A. IDENTITY OF THE CLIENT		
Red Flags	Check if Present	Resolved (Y/N, Date)
The client is a not-for-profit organization that requests legal services for purposes or transactions not compatible or typical with those associated with this type of organization		
NOTES		
B. BEHAVIOUR OF THE CLIENT		
Red Flags	Check if Present	Resolved (Y/N, Date)
The client is overly evasive or secretive about <ul style="list-style-type: none"> Who they are What their address or contact information is/are Who the beneficial owner(s) is/are Where the funds for the matter or transaction is coming from (i.e. source of funds) Why the transaction is being done in a specific way What the overall reason for or purpose of the transaction is 		
The client provides false or counterfeited documentation in relation to the retainer or transaction or to their identity and/or the identity of the beneficial owner or controlling interest		
The client is evasive or actively avoiding personal contact without good reason		
The client is reluctant or refuses to provide information, data, or documents usually required to execute the matter or transaction		
The client is using an agent or intermediary without good reason		
The client appears disinterested in the outcome of the retainer		

Red Flags	Check if Present	Resolved (Y/N, Date)
The client is using financial intermediaries that are neither subject to adequate anti-money laundering laws nor adequately supervised by authorities		
The client shows unusual familiarity with the ordinary standards provided for by the law in the matter of satisfactory customer identification, data entries, and suspicious transaction reporting or asks repeated questions on the procedures for applying these ordinary standards		
The client changes settlement or execution instructions multiple times or in a short period of time without good reason		
The client asks for short cuts, demonstrates an excessive desire to expedite the matter or transaction, and/or offers an incentive to complete the matter or transaction by a certain date (e.g., pay higher legal fees or bonus) without good reason		
The client changes instructions without reason, especially at the last minute		
The client requests that payments be made to third parties without a substantiating reason and/or corresponding transaction		
The client is a non-profit organization that requests services for purposes or transactions not compatible or typical for that body		
NOTES		

SECTION 2: PARTIES

Red Flags	Check if Present	Resolved (Y/N, Date)
The parties or their representatives (and, where applicable, the real owners or intermediary companies in the chain of ownership of legal entities) are originally from, resident in or incorporated in a high-risk country		
There is no apparent business reason connecting the parties to the retainer or transaction		
The ties between the parties of a family, employment, corporate, or any other nature generate doubts as to the real nature or reason for the retainer or transaction		
There are multiple appearances of the same parties in matters or transactions over a short period of time		
Business entities cannot be found and/or have no presence on the Internet and/or in corporate registries		
There are attempts to disguise the real owner or parties to the retainer or transaction		
The person directing the retainer or transaction is not one of the formal parties to the retainer or transaction or their representative		
The person acting as the director or representative of the client does not appear to be a suitable representative		
NOTES		

SECTION 3: CHOICE OF LAWYER OR PARALEGAL

Red Flags	Check if Present	Resolved (Y/N, Date)
The client has changed lawyer or paralegal numerous times in a short time or engaged multiple lawyers or paralegals without a legitimate reason		
The client resides in or operates from a location that is distant from the location where the legal services are being provided without legitimate reason		
The client has retained a lawyer or paralegal who does not have experience in the particular practice area or in providing services in complicated or especially large matters or transactions		
The legal services requested by the client were previously refused or terminated by another lawyer or paralegal		
NOTES		

SECTION 4: NATURE OF RETAINER OR TRANSACTION

Red Flags	Check if Present	Resolved (Y/N, Date)
There is a lack of sensible commercial, financial, tax, or other legal reason for the retainer or transaction		
The transaction is unusual because of its size, nature, frequency, or manner of execution or is inconsistent with the size, age, or activity of the client		
The transaction does not correspond with the client's normal professional or business activities		

Red Flags	Check if Present	Resolved (Y/N, Date)
There are remarkable and highly significant differences between the declared price and the approximate or actual values of the transaction		
The client requires introduction to financial institutions to help secure banking facilities in the context of the transaction		
The client lacks suitable knowledge of the nature, object, or purpose of the legal services requested		
The client wishes to establish or take over a legal person or entity with a dubious description of the aim and which is not related to the client's normal professional or commercial activities		
The client frequently changes legal structures and/or managers without legitimate reason		
The transaction(s) is abandoned with no concern for the fee level or after receipt of funds		
The client instructs the creation of complicated ownership structures when there is no legitimate business or economic reason		
Entities in multiple countries are involved in the transaction even though there is no apparent link to the client or transaction, or no legitimate or economic reason for their involvement		
There is an incorporation and/or purchase of stock or securities of several companies, enterprises, or legal entities within a short time with elements in common (one or several partners or shareholders, director, registered company office, corporate purpose etc.) with no logical explanation		
There is an absence of documentation to support the client's story, previous transactions, or business activities		
There are several common elements between transactions in a short period of time without a logical explanation		
The retainer relates exclusively to keeping documents or other goods, holding large deposits of money, or otherwise using the lawyer or paralegal's trust account without the provision of legal services		
There is increased complexity in the transaction, or the structures used for the transaction that result in higher taxes and fees than are apparently necessary		

Red Flags	Check if Present	Resolved (Y/N, Date)
A power of attorney is sought for the administration or disposal of assets under conditions that are unusual, and no logical explanation is provided		
There is an investment in immovable property without any links to the place where the property is located and/or without any financial advantage from the investment		
There are back-to-back property transactions, with rapidly increasing value or purchase price		
Litigation is settled too easily or quickly, with little to no involvement by the lawyer or paralegal		
NOTES		

SECTION 5: SOURCE OF FUNDS

Red Flags	Check if Present	Resolved (Y/N, Date)
Client funds are provided for a transaction that appears to be large relative to the client's income and no logical explanation is provided		
A high value transaction that does not require financing		
The transaction involves a disproportionate amount of private funding, bearer cheques, bank drafts, or an attempt to use cash, especially if it is inconsistent with the socioeconomic or economic profile of the client		
The client is using multiple bank accounts and/or foreign bank accounts without good reason		

Red Flags	Check if Present	Resolved (Y/N, Date)
The funds are received from or sent to a foreign country when there is no apparent connection between the country and the client		
The funds received are from or sent to high-risk countries		
The collateral being provided for the transaction is currently located in a high-risk country		
Third party funding is provided for the transaction or for fees and taxes related to the transaction and there is no apparent connection between the third party and the client or the transaction and no legitimate explanation for same		
Financing is provided by a lender, either a natural or legal person, other than a bank or credit institution, with no logical explanation or economic justification		
A personal private expenditure is funded by a company, business, or government		
The client or third party is contributing a significant sum in cash as collateral provided by the borrower/debtor rather than simply using those funds directly, without logical explanation		
The method of payment has been deferred to a date very close to execution, in a jurisdiction where the method of payment is usually included in the contract, particularly if no guarantee securing the payment is established, without a logical explanation		
There is a request to change the payment procedures previously agreed upon without logical explanation, especially when payment instruments are suggested that do not align with common practices used for the transaction		
An unusually short repayment period is set without logical explanation		
Mortgages are repeatedly repaid well before the initially agreed maturity date, with no logical explanation		
The asset is purchased without financing and then rapidly used as collateral for a loan		
There has been a significant increase in capital for a recently incorporated company or successive contributions over a short period of time to the same company, with no logical explanation		

Red Flags	Check if Present	Resolved (Y/N, Date)
There has been an increase in capital from a foreign country, which either has no relationship to the client or is high risk		
The client suddenly receives an injection of capital or assets and/or the capital or assets are notably high in comparison to the business, size, or market value of the company and no logical explanation is provided		
There is an excessively high or low price attached to the funds transferred in respect of the transaction or the sum declared in another operation		
There is no legitimate explanation for a large financial transaction, especially if requested by recently created companies where these transactions are not justified by the corporate purpose, the activity of the client, or the possible group of companies to which it belongs or other justifiable reasons		
NOTES		

Assessment of Next Steps

Based on the red flag(s) identified above and due diligence conducted to resolve them (if any), I will be

- Declining or withdrawing from representation in accordance with the Rules of Professional Conduct or Paralegal Rules of Conduct
- Accepting the retainer or continuing to represent the client(s)

Reason(s) for Assessment:

Responsible Lawyer/Paralegal:

Date: