

Trade Based Money Laundering Risks for Law Practices

It has come to our attention that over the last few months, several law practices have been approached to act as escrow agents in respect of international sales of goods transactions, i.e. they are to hold monies from the buyer of goods as an escrow until the buyer confirms receipt of the goods, then release the monies to the seller.

In many cases, the parties have resorted to this device because banks have declined to act, or because the parties (buyer and/or seller) are reluctant to approach banks.

Law practices who are approached to act in such matters should consider them to be “unusual in the ordinary course of business” and conduct CDD on both the buyer, the seller, the underlying transaction and the country risk involved. The law practice needs to be conscious not only of the ML/ TF risk but also of the possibility of sanction evasion.

Before the law practice agrees to act, they must establish that there is a sound economic or commercial purpose for the parties not to go through the usual banking channels, and there are no issues in respect of the buyer and seller (including their beneficial owners and their country of origins, and the goods that are the subject matter of the sale (including their nature, their ultimate origin and/or destination).

The US Department of the Treasury has reported sanction evasion conspiracies involving front companies to make payments and facilitate the transfer of jet fuel to Russian forces operating in Syria in support of the Assad government. There is also the possibility that the underlying trades are seeking to evade sanctions against Iran and North Korea.

The use of trade systems for money laundering has been highlighted by the authorities in recent years and banks have been directed to improve their monitoring of this risk. There is a very real possibility that because of this increased scrutiny, criminal syndicates can no longer use traditional methods of transferring monies and are looking for alternatives, including law practices who are less familiar with the risks of trade based money laundering.

The Law Society's Anti-Money Laundering Committee

May 2020