

Stopping dirty money in Australia and Cambodia

Combatting money laundering into Australia's
real estate sector through partnership



KordaMentha

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1 About us

1.1 KordaMentha

KordaMentha is a leading advisory and investment firm that helps clients to grow, protect and recover value. KordaMentha's team provides a range of services including Financial Crime, Cybersecurity, Performance Improvement, Forensic, Real Estate, Restructuring and corporate finance. In Australia KordaMentha has presence in Melbourne, Sydney, Perth, Brisbane, Canberra, Townsville and regionally in New Zealand, Singapore and Indonesia.

Our Financial Crime team are AML/CTF experts specialising in:

- managing financial crime risk
- undertaking independent compliance reviews
- providing advice and conducting investigations into compliance issues
- designing and delivering training and capability uplift initiatives
- providing expert opinions and audit appointments

1.2 Transparency International Australia

Transparency International Australia (TIA) is part of a global movement, composed of more than 100 national Chapters worldwide. TIA is united by a shared vision: a world in which government, business, civil society and the daily lives of people are free of corruption. TIA work focuses on ways in which the Australian Government and Australian-based companies and institutions can address corruption issues, both in Australia and abroad.

2 Executive Summary

Globally, money laundering (ML) is a major driver of poverty and inequality. It erodes public trust, democracy and leads to less government revenue for essential services including health, education, and infrastructure. It also creates economic instability and social harms while enabling criminals to take advantage of legitimate actors in the private sector, hurting organisations and the community in the long term.

In this report, Transparency International Australia (TIA) in partnership with KordaMentha, consider the ML vulnerabilities that exist in Cambodia and Australia and the gaps in the relevant Anti-Money Laundering (AML) regimes that make Australia an ideal destination for regional foreign proceeds and illicit funds. The timing of this report coincides with Australia's consultation on the 'Tranche 2' reforms, the proposed amendments that would extend obligations under the AML/CTF legislation to real estate agents, lawyers, accountants, trust and company service providers and dealers in precious metals and stones.¹

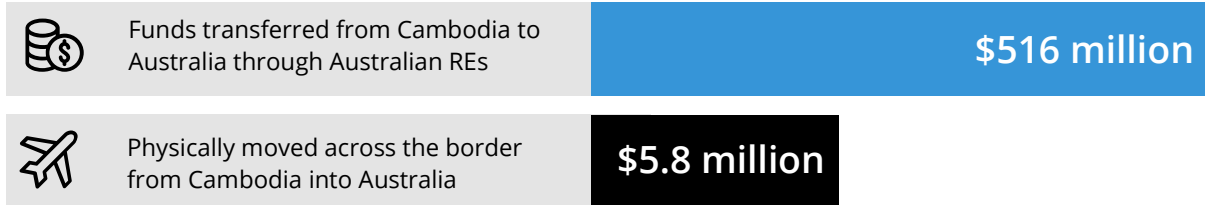
Our research suggests that Cambodia's cash economy, geographical position, perceived corruption, porous borders, and gaps in the effectiveness of its AML legislative regime are all factors leading to increased ML vulnerabilities. The effectiveness of Cambodia's AML regime is limited by a largely cash-based and partially dollarised economy that is growing on the back of industries that are vulnerable from a ML perspective such as casinos, garment manufacturing and logging.² The Cambodian AML regulators have limited capacity to oversee the regulated population, particularly in relation to the fast-growing financial and banking industries that are responsible for remitting funds domestically and internationally. A deeply politicised judicial system and reports of heightened corruption also constrain effective enforcement. Sources of funds laundered in Cambodia are widespread, most notably because of the prevalence of crimes such as human trafficking and exploitation, drug trafficking, smuggling, fraud and corruption – all of which are predicate ML offences. Cambodia is also seen as a regional ML hub for Chinese, Myanmar and Thai interests who invest funds in both legitimate and illegal industry in Cambodia, including in the casino industry, where rapid expansion prior to the COVID-19 pandemic is believed to have allowed ML to proliferate.

Our research shows that 'dirty money' flowing across transnational borders, including from Cambodia, tends to move out of poorer countries and into the economies of wealthier nations, including Australia and the United States. Australia's current Anti-Money Laundering and Counter Terrorism Financing (AML/CTF) legislative framework, and in particular its failure to implement 'Tranche 2' reforms and effectively regulate Designated Non-Financial Businesses and Professions (DNFBPs) makes Australia an attractive destination for such funds moving illegally out of the Southeast Asian Region. In general terms, the current Australian legislative regime does not sufficiently deter criminals from laundering money through Australia's real estate and the broader economy.

Australia has visibility of the flow of funds from foreign jurisdictions. Current reporting entities (REs) are required under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006 Act* (AML/CTF Act), to report all international transfers to the regulator, the Australian Transaction Reports and Analysis Centre (AUSTRAC). Furthermore, AUSTRAC collects declarations of all monetary instruments valued over \$10,000. Together these two channels in this report are referred to as the 'regulated channels', and the figures below are the indicative value of fund flows in 2022:

1 AUSTRAC, 'Consultation commences on AML/CTF reforms', 20 April 2023 < <https://www.austrac.gov.au/consultation-commences-amlctf-reforms>>. See also KordaMentha's submission to the public consultation on the 'Modernising Australia's anti-money laundering and counter-terrorism financing regime' April 2023 <<https://kordamentha.com/insights/finally,-tranche-2-is-coming-but-is-it-enough> (June-2023_KordaMentha_Modernising-Aus-AML-and-CTF-regime_Response-to-consultation.pdf)>.

2 Dollarization in Cambodia's case refers to the official and unofficial acceptance of foreign currency as its legal tender to enhance currency stability, reduce the costs of maintaining its currency, and boost investor and consumer confidence in its economy.



This report explores the significant amount of funds flowing through these ‘regulated channels’ as well as emerging typologies conducted through entities not currently captured under the AML/CTF regime (‘unregulated channels’). In particular we explore the investment Cambodian foreign persons have made into Australia’s property market. The limited dataset sourced for this report shows that between 2019 and 2023, 118 properties were settled by Cambodian foreign persons, worth a combined value of \$110 million.

This report concludes that greater partnerships are required between Cambodian and Australian law enforcement and regulatory bodies, as well as the strengthening of both regulatory regimes to mitigate the flow of illegal funds from Cambodia to Australia and minimise harms to both Cambodian and Australian communities.

“This report highlights the importance of collaboration to enrich our collective expertise and in pursuing every avenue in the fight against financial crime both domestically and abroad.”

**Alice Saveneh-Murray
Partner, KordaMentha**

We have identified ten recommendations across five key themes in this report, which if addressed would help progress the urgent need for lifting Australia’s AML/CTF legislative framework to comply with global AML/CTF standards and reduce illicit funds flows from Cambodia.

3 Scope and research methodology

In a rapidly evolving global landscape rife with financial crime, ML and terrorism financing (TF) extend beyond national borders and result in comprehensive economic and social repercussions. This report, a collaborative effort between KordaMentha and TIA builds on the mutually beneficial relationships for both jurisdictions to advocate for AML/CTF reform.

The report considers the design and operational effectiveness of the AML/CTF legislative frameworks in Cambodia and Australia, evaluating existing vulnerabilities and identifying gaps requiring legislative reform. Subsequent sections provide a comprehensive assessment, conclusions, and targeted recommendations for reinforcing AML/CTF regulations in both countries.

By employing a range of open-source research methodologies, including expert interviews and stakeholder discussions, data collected under the *Freedom of Information Act 1982* (FOI Act), advanced technology, reviewing existing literature and case studies, this report aims to offer policymakers and other stakeholders a collective insight into regulatory gaps, opportunities for legislative reform and opportunities for continued collaboration and capacity building across both public and private sectors.³ All figures in this report are in Australian dollars (AUD), unless otherwise stated.

We have relied on the global AML/CTF standards and guidance published by the Financial Action Task Force (FATF), which as the global money laundering and terrorist financing watchdog, has assessed the AML/CTF compliance of 205 jurisdictions, identifying the extent to which jurisdictions have implemented FATF's recommendations (technical compliance), and how well national legislation works to combat ML and TF (effectiveness).⁴ The FATF has four ratings for the forty Recommendations (technical compliance) and 11 Immediate Outcomes (effectiveness). For the purposes of this report, the top two of each scale – 'compliant' and 'largely compliant' (technical) and 'high' and 'substantial' (effectiveness) – are deemed a pass and the bottom two – 'partially' and 'non-compliant' (technical) and 'moderate' and 'low' (effectiveness) – are deemed a fail.

In addition to FATF, Transparency International and TRACE International separately assess countries based on the Corruption Perceptions Index (CPI), and bribery risks respectively. The CPI list ranks countries and territories based on the perceived levels of corruption, scoring on a scale between zero ('highly corrupt') and 100 ('very clean'). TRACE's assessment of bribery risk assigns a weighted score based on four domains: business interactions with government, anti-bribery deterrence and enforcement, government and civil service transparency, and capacity for civil society oversight.

The goal of the research was to establish support for the augmentation of AML/CTF frameworks in Cambodia and Australia, thus contributing to a regional financial landscape, hardened against financial crime. This report is motivated by the need to understand and mitigate the illicit financial flows between Australia and Cambodia and provides a pragmatic response that serves as a foundation for advocacy. The analysis is underpinned by engagement with multiple stakeholders, from financial institutions and law enforcement agencies to NGOs and policy experts.

The compendium of sources consulted for this research includes an array of research papers, reports, articles, and publications pertinent to vulnerabilities in ML as well as AML/CTF frameworks. These materials were accessed from databases, encompassing government publications, media organisations, international bodies. Supplementary data collected enriched the secondary information, offering a more thorough perspective on the money laundering landscape and its vulnerabilities in both Cambodia and Australia.

³ Digital Currency Exchanges and Cryptocurrency (DCE) – in order to scrutinise potential fund flows originating from Cambodia, we used a advanced blockchain investigation tool designed for comprehensive financial analysis and transaction tracking.

⁴ FATF, 'Consolidated assessment ratings' <<https://www.fatf-gafi.org/en/publications/Mutualevaluations/Assessment-ratings.html>>.

The principal methodology adopted for gathering data and evidence for this report centres on secondary data analysis. Secondary data encompasses information initially collected by other researchers or organisations for different objectives than this current study. This approach involves re-analysing the existing data to gather new insights, interpretations, and conclusions that extend beyond the original studies. Secondary data analysis has its set of limitations and inherent biases. The information utilised in this report relies on what was available from the selected sources, which may not be exhaustive in covering all facets of ML vulnerabilities in Cambodia and Australia. The dependability of the data is also contingent on the methodological robustness and quality of the original studies. Furthermore, the data may carry biases owing to the perspectives and interpretations imposed by the original researchers. To mitigate these limitations and biases, care was exercised in choosing reputable sources, and a critical lens was applied to all information selected.

The primary data was collected through stakeholder interviews, while secondary data comes from public reports, academic publications, and media outlets. Thorough investigation of persons of interest and related links to digital currency were undertaken using appropriate tools and results included where relevant. Data collected under the *Freedom of Information Act 1982* has been referenced accordingly. Limitations in data availability, particularly concerning politically sensitive or undisclosed information, are acknowledged where applicable.

Selection of information was undertaken with consideration of its relevance to the overarching research questions and objectives. Inclusion was limited to sources providing robust and reliable data specific to the ML vulnerabilities in Cambodia and Australia. The selected data underwent further critical evaluation to ascertain its accuracy, validity, and direct applicability to the research topic.

4 Findings

Despite the current AML/CTF legislative regimes in Cambodia and Australia, authorities have much work to do to strengthen Australia's defence against money laundering.

Our research has identified gaps, that can be grouped into six key themes. These have been summarised below, along with a range of mechanisms designed to address the deficiencies or vulnerabilities identified.

Themes	Gaps	Findings
AML/CTF Framework and Obligations	<p>Australia's AML/CTF regime is not compliant with global standards nor is consistent with international peers. AML/CTF legislative reform is required in Australia to capture all DNFBPs including the real estate sector and professional facilitators, in keeping with the ML/TF risk faced by those sectors.</p> <p>While Cambodia's AML/CTF legislation is technically compliant, it has not been found to be effective in managing and mitigating ML/TF risk. (see Section 5).</p>	<ul style="list-style-type: none"> Legislative reform is required to expand Australia's AML/CTF framework, making it applicable to all DNFBPs and professional facilitators. A beneficial ownership register needs to be introduced and effectively used by practitioners. Australia must strike a balance between disclosing information to prevent ML/TF and the beneficial owners' fundamental rights, by considering a tiered approach to disclosing information. In keeping with FATF's guidance on beneficial ownership of legal persons, at a minimum some or all beneficial information should be made available to financial institutions and DNFBPs. Whereas public access information should be of a general nature.⁵ Regional and international focus on the effectiveness of Cambodia's AML/CTF framework is required to support its continued AML/CTF capability.
ML/TF Risk Assessments	<p>A gap exists in assessing the ML/TF risks faced by DNFBPs, including the real estate sector in Australia (see Section 8).</p>	<ul style="list-style-type: none"> An intelligence-led approach to the design of Australia's 'Tranche 2' regulatory framework, is required to ensure it is agile and responsive to technological innovation, emerging ML/TF threats and vulnerabilities.
Australia's Real Estate Sector	<p>Australia lacks key regulatory measures, such as a property ownership register, which makes it vulnerable to ML, particularly from countries like China and the United Arab Emirates (see Section 8).</p>	<ul style="list-style-type: none"> Effective and pragmatic AML/CTF regulation and supervision of Australia's real estate sector needs to be initiated. A register for property ownership should be created to improve transparency, accountability and mitigate risks, subject to privacy considerations discussed above.
Source of wealth, source of funds and beneficial ownership	<p>Legitimate frameworks in Australia provide opportunities to obfuscate the true source of wealth, funds and beneficial owners for possible financial crime purposes.</p>	<ul style="list-style-type: none"> Structural change should be considered as part of Tranche 2 reforms to consider the gaps identified in this paper to cover typologies such as shadow banking, land banking, and significant visa investment schemes.

⁵ FATF, 'Guidance on beneficial ownership of legal persons', March 2023 <<https://www.fatf-gafi.org/en/publications/Fatfrecommendations/Guidance-Beneficial-Ownership-Legal-Persons.html>>.

		<ul style="list-style-type: none"> • ML/TF risk should be considered as part of the significant visa investment (SIV) process, particularly during the proposal review stage. • Source of wealth (SOW) and source of funds (SOF) requirements should be key to the changed legislation in relation to real estate agents given it provides critical information to understand the risks associated with real estate transactions.
Domestic and Transnational Partnerships	<p>Domestic and transnational partnerships should be better leveraged to achieve operational outcomes and harms reduction (see Section 10).</p>	<ul style="list-style-type: none"> • The broader role of Public-Private Partnerships and Private-Private Partnerships should be considered in the detection and prevention of ML. • International collaboration between domestic, regional, and international collaboration, particularly with ASEAN and regional AML/CTF regulators and financial intelligence units (FIUs) should be enhanced. • Investment in capacity-building initiatives is required to bolster the capabilities of Cambodia's AML/CTF regulators, FIU and reporting entity population.
Collaboration	<p>Current levels of criminal activity, ML and corruption originating in Cambodia will be very difficult to control and value is likely to flow across the broader ASEAN region.</p> <p>Greater cooperation and partnership between Cambodia's reporting entities and law enforcement agencies (LEAs), and other relevant agencies is needed, including effective supervision of Cambodia's RE population (see Section 10).</p>	<ul style="list-style-type: none"> • Cambodia should continue to build the effectiveness and capability of its AML/CTF regime.

5 Drivers of Money-Laundering in Cambodia and Australia

Over the past decade Australia has become a destination for ML from Cambodia. The culmination of gaps across Cambodia and Australia's AML/CTF regime creates the opportunity for illicit funds to flow from Cambodia into Australia.

5.1 The Cambodian Context

Cambodia is located on the Indochina Peninsula in Southeast Asia, bordering Vietnam, Thailand, Lao People's Democratic Republic, and the Gulf of Thailand, with a coastline of approximately 500 kilometres. Cambodia is a lower-middle-income country with a population of 16.77 million.⁶ The country has an ambitious economic agenda and has successfully achieved a drop in the poverty rate from 33.8 percent to 17.8 percent over the ten-year period to 2019/2020, with almost two million Cambodians improving living standards and escaping poverty. Notwithstanding an improvement in Cambodia's economy, ML remains prominent with fraud/scams, corruption and bribery, drug trafficking, human trafficking, illegal logging, and wildlife smuggling, identified as key ML vulnerabilities in Cambodia's National Risk Assessment (NRA).⁷ The casino, real estate and banking sectors were identified as areas likely to have the greatest exposure to ML.

In response to its 2007 FATF Mutual Evaluation Report (MER), Cambodia passed legislation to criminalise ML and TF and introduced requirements for customer due diligence, record-keeping, and suspicious transaction reporting to be performed.⁸ Despite this, further improvements in Cambodia's legislative compliance with the FATF's standards ('technical compliance') were identified as necessary in order to make Cambodia's regime effective in combatting serious ML threats and vulnerabilities. In 2019, Cambodia was 'grey-listed' by the FATF, given the significant gaps that remained within its AML/CTF regime.⁹ Cambodia was removed from the FATF 'grey-list' in February 2023, after Cambodia had improved its technical compliance sufficiently, achieving a passing level of compliance with thirty-two of the forty technical/ legislative requirements.¹⁰

However, currently Cambodia's AML/CTF regime is still not considered effective, with ten of the eleven effectiveness measures failing to meet FATF compliance. Of significance was the capacity and resourcing constraints of AML/CTF supervisors and law enforcement authorities (LEAs), which is exacerbated by the lack of AML/CTF supervision of key sectors such as casinos, real estate, lawyers, remittance, and banking. When layered with a lack of effective supervision and Cambodia's exposure to significant ML vulnerabilities, including its cash economy, geographical position, corruption, and porous borders, Cambodia is considered at significant risk of ML and misuse by criminal actors.

Despite fluctuations in Cambodia's Corruption Perceptions Index (between 2012 and 2022), Cambodia remains classified as 'highly corrupt' ranking 150 out of 180 jurisdictions.¹¹ Additionally, in 2022 Cambodia ranked 182 out of 194 jurisdictions on the TRACE's bribery risk matrix, also indicating a high likelihood of bribery. Given Cambodia's assessment as 'highly corrupt', extensive open-source research suggests that some money related to

⁶ World Bank, *The World Bank in Cambodia* <<https://www.worldbank.org/en/country/cambodia/overview>>.

⁷ FATF, *Cambodia's Mutual Evaluation Report 2017* <<https://www.fatf-gafi.org/en/publications/Mutualevaluations/Mer-cambodia-2017.html>>.

⁸ Information included in this report is dated as at the date of the MER on-site visit (4 to 16 December 2016). Cambodia has been subject to four follow up reports that effectively update the findings of the 2017 Mutual Evaluation report. FATF, *Cambodia's Mutual Evaluation Report 2017* <<https://www.fatf-gafi.org/en/publications/Mutualevaluations/Mer-cambodia-2017.html>>.

⁹ The FATF 'grey-list' are those jurisdictions under increased monitoring by the FATF. FATF, *Jurisdictions under Increased Monitoring*, 23 June 2023 <<https://www.fatf-gafi.org/en/publications/High-risk-and-other-monitored-jurisdictions/Increased-monitoring-june-2023.html>>.

¹⁰ The FATF has four rating for the 40 Recommendations (technical compliance) and 11 Immediate Outcomes (effectiveness). For the purposes of this report the top two of each scale (complaint and largely compliant (technical) and high and substantial (effectiveness)) are deemed a pass and the bottom two (partially and non-compliant (technical) and moderate and low (effectiveness)) are deemed a fail.

¹¹ Transparency International, *Corruption Perceptions Index 2022* <<https://www.transparency.org/en/cpi/2022/index/khm>>.

the political elite is likely connected to corruption (see Section 9). Corruption in Cambodia continues to be a systemic issue with members of the political elite and their families using their power and connections to generate personal wealth. Some of the areas where corruption is most prevalent, such as the forestry industry, are also associated with other negative impacts such as environmental damage and human rights abuses. There is evidence that corruption concerns in Cambodia extends past the ruling party and their families into the public sector, with the 2022 Global Corruption Barometer reporting 37% of Cambodian respondents had paid a bribe to facilitate access to public services, such as for the production of identity documents. One participant indicated that they had paid an additional 40% of the document processing fee to an official as part of the application.¹²

5.2 The Australian Context

Australia is the 6th largest country and 12th largest economy in the world.¹³ It has a population of approximately 26.1 million and occupies approximately 7,741 thousand square kilometres, 5,346 kilometres to the southeast of Cambodia.¹⁴

Australia's major predicate crimes for ML are reportedly narcotics and fraud, particularly tax fraud. Drug trafficking and tax evasion combined are reported to generate the majority of illicit proceeds investigated by authorities.¹⁵

The 2015 FATF MER of Australia, noted the significance of drug markets, which are alleged to be amongst the world's most profitable, and linked to transnational organised crime groups, particularly from Southeast Asia and South America. In terms of sector vulnerabilities, Australia's banking sector, money remitters (both licensed and underground operators), gatekeepers, and corporate vehicles were identified as being those most vulnerable to ML. Australia's biggest deficiencies related to its failure to regulate all DNFBPs. Australia was rated as non-compliant with Recommendations 22, 23 and 28 (technical compliance).¹⁶ Refer to Appendix 2 for a summary of Australia's AML/CTF technical compliance with the FATF requirements relevant to DNFBPs including the real estate sector.

Australia required major improvements in relation to Immediate Outcomes 3, 4 and 5 (effectiveness), namely its failure to appropriately supervise most higher-risk DNFBPs, and an inability to impose AML/CTF obligations on legal persons to strengthen the collection and availability of beneficial ownership information.¹⁷

Since its 2015 MER, Australia has made only minor improvements to its AML/CTF compliance with the FATF international standards relating to the regulation of non-profit organisations and high-risk jurisdictions. Despite its status as a founding FATF member, Australia is currently considered compliant with only twenty six of the forty Recommendations (technical compliance), leaving its AML/CTF legislative regime open to international rebuke unless significant progress is made prior to its next ME, which is scheduled for December 2026. Despite being called out in the 2015 MER, nothing has been done to diminish Australia's attractiveness as a destination for foreign proceeds flowing into real estate from the Asia-Pacific region.

¹² Transparency International, 'Global Corruption Barometer', Cambodia, 2022 <<https://www.transparency.org/en/countries/cambodia>>.

¹³ Australian Government, 'Why Australia Benchmark Report 2023' Australian Trade and Investment Commission, 2023 <<https://www.globalaustralia.gov.au/why-australia/benchmark-report-2023>>.

¹⁴ Australian Government, 'Australia's population grew by 1.6 per cent', Australian Bureau of Statistics 16 March 2023 <<https://www.abs.gov.au/media-centre/media-releases/australias-population-grew-16-cent>>.

¹⁵ FATF, 'Australia's Mutual Evaluation Report 2015' <<https://www.fatf-gafi.org/en/publications/Mutualevaluations/Mer-australia-2015.html>>.

¹⁶ Recommendation 22, 23 and 28 relate to customer due diligence, other measures and regulation and supervision in relation to DNFBPs respectively, whilst Immediate Outcomes 3,4, and 5 relate to the supervision of DNFBPs, applying preventative measures and reporting suspicious transactions to DNFBPs and the availability of beneficial ownership information, respectively. See FATF, 'Australia's Mutual Evaluation Report 2015' <<https://www.fatf-gafi.org/en/publications/Mutualevaluations/Mer-australia-2015.html>>.

¹⁷ FATF, 'Australia's Mutual Evaluation Report 2015' <<https://www.fatf-gafi.org/en/publications/Mutualevaluations/Mer-australia-2015.html>>.

Significantly, Australia is now one of only five FATF jurisdictions that have failed to regulate all DNFBPs.¹⁸ Even those critical of the FATF can appreciate the impact that a failure to regulate these key sectors has on Australia's ML/TF operational effectiveness and criminal threat environment, particularly as Australia's real estate sector is worth three times the value of its stock market and is not subject to any of the legislative obligations under the AML/CTF Act.¹⁹

Australia has commenced consultation on the Tranche 2 reforms and Modernisation, a set of proposed amendments that aims to modernise the AML/CTF regime in line with international standards. The reforms extend the obligations under the AML/CTF legislation to additional 'Tranche 2' high risk entities comprising of real estate agents, lawyers, accountants, trust and company service providers and dealers in precious metals and stones.²⁰ Australia has also been criticised recently by policy makers and politicians alike for failing to reduce harms to the community that is facilitated by this sector. AUSTRAC estimated that, in 2020 alone, criminals linked to China laundered \$1 billion through Australian real estate.²¹ In the same period, at least \$516 million was moved into Australia by reporting entities and at least \$5.8 million was moved physically across the border from Cambodia into Australia (see Section 6.1).

¹⁸ FATF, 'Consolidated table of assessment ratings', 03 April 2023 <<https://www.fatf-gafi.org/en/publications/Mutualevaluations/Assessment-ratings.html>>. Under the FATF Glossary DNFBPs mean: a) Casinos; b) Real estate agents; c) Dealers in precious metals; d) Dealers in precious stones; e) Lawyers, notaries, other independent legal professionals and accountants; and f) Trust and Company Service Providers.

¹⁹ ABC News, 'AFP money laundering bust highlights Australia's gaping real estate vulnerability' <<https://www.abc.net.au/news/2023-02-03/afp-money-laundering-bust-highlights-real-estate-vulnerability/101923160>>.

²⁰ AUSTRAC, 'Consultation commences on AML/CTF reforms', 20 April 2023 <<https://www.austrac.gov.au/consultation-commences-amlctf-reforms>>. See also KordaMentha's submission to the public consultation on the 'Modernising Australia's anti-money laundering and counter-terrorism financing regime' April 2023 <<https://kordamentha.com/insights/finally,-tranche-2-is-coming-but-is-it-enough> (June-2023_KordaMentha_Modernising-Aus-AML-and-CTF-regime_Response-to-consultation.pdf)>.

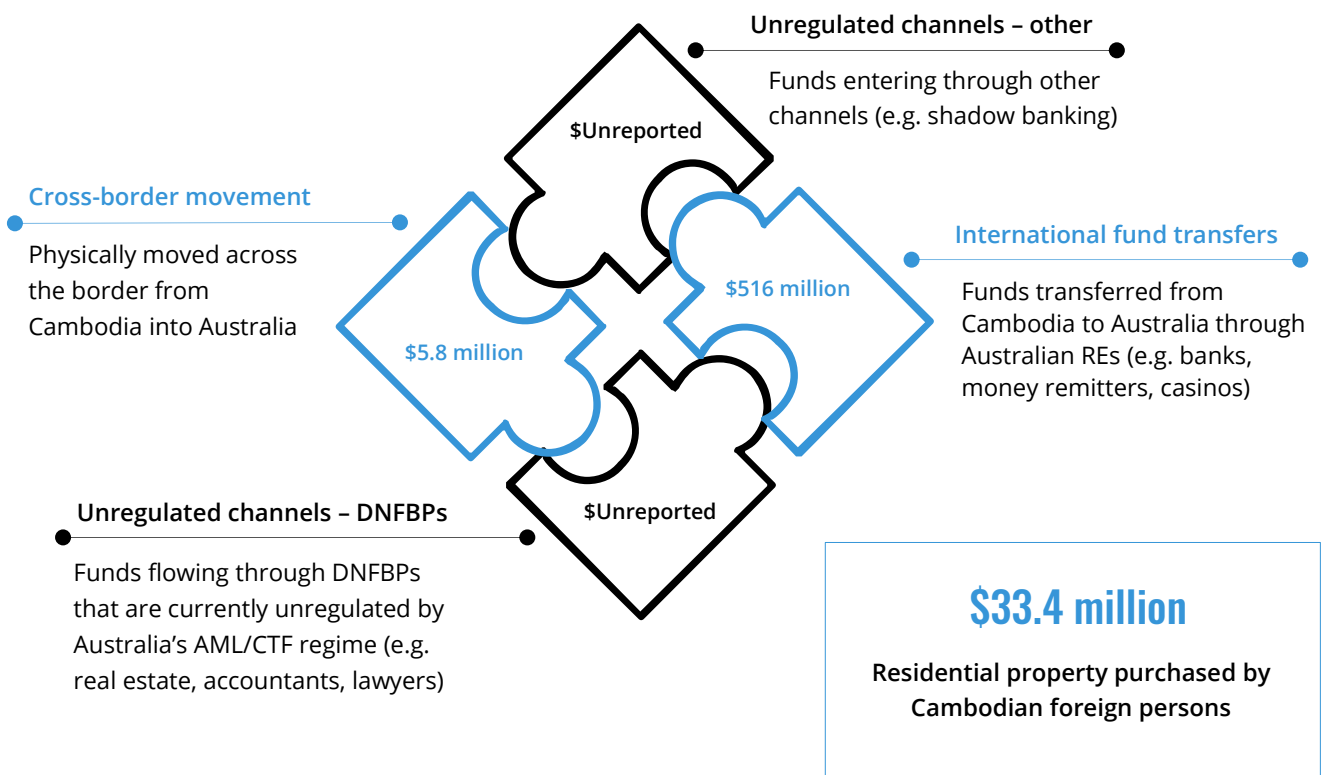
²¹ ABC News, 'AFP money laundering bust highlights Australia's gaping real estate vulnerability' <<https://www.abc.net.au/news/2023-02-03/afp-money-laundering-bust-highlights-real-estate-vulnerability/101923160>>.

6 Funds flows from Cambodia to Australia through regulated channels

Australia has visibility of the flow of funds from foreign jurisdictions into Australia given the requirement for Australian REs to report International Funds Transfer Instructions (IFTIs) of any value to AUSTRAC.

Furthermore, all monetary instruments including cash, bearer negotiable instruments (BNIs), bill of exchange, cheques, promissory notes, bearer bonds, traveller’s cheques, money orders, postal orders or similar orders, and other negotiable instruments over \$10,000 must also be declared to AUSTRAC.²²

Together, this report refers to the two channels above as ‘regulated channels’ and sets out indicative values of money flows through each below.



The above figures confirm that at least half a billion dollars entered Australia from Cambodia in 2022 through the financial system or through the physical movement of monetary instruments across the border. In FY 2022-23, \$33.4 million worth of Australian residential property was purchased by foreign nationals from Cambodia. The sections below provide insights into the amount of Cambodian funds entering Australia through ‘regulated channels’. The total figures are likely to underrepresent the total value of funds moved, given high profile cases indicate funds also enter Australia through areas not currently regulated by the Australian AML/CTF regime (‘unregulated channels’), which includes and is not limited to shadow banking and the DNFBP sectors (see Section 9).

²² AUSTRAC, ‘Cross-border movement (CBM) reports’ < <https://www.austrac.gov.au/business/how-comply-guidance-and-resources/reporting/money-brought-or-out-australia-cbm>>.

6.1 Channel 1 – Incoming IFTI statistics

REs are required to submit IFTI reports, regardless of the transaction value, within ten business days of receiving instructions to transfer funds or property incoming or leaving Australia. In response to KordaMentha’s FOI request, AUSTRAC provided the total volume and value of incoming IFTIs from Cambodia into Australia between 2016–2022. Cumulatively across the seven year period, \$2,727 billion entering Australia from Cambodia was processed through REs, with an additional \$46 million moved physically across the border from Cambodia into Australia.

Table 1 and Graph 1 below highlight the total value of incoming IFTIs submitted to AUSTRAC by REs, including online payment providers.²³

Calendar Year	Volume of IFTI reports	Value of IFTI amounts (AUD)
2016	9,515	\$325,015,757
2017	11,557	\$352,020,842
2018	14,862	\$371,409,153
2019	17,749	\$530,333,664
2020	15,853	\$343,222,654
2021	13,683	\$289,267,785
2022	18,543	\$516,400,245

Value of IFTI amounts (AUD)

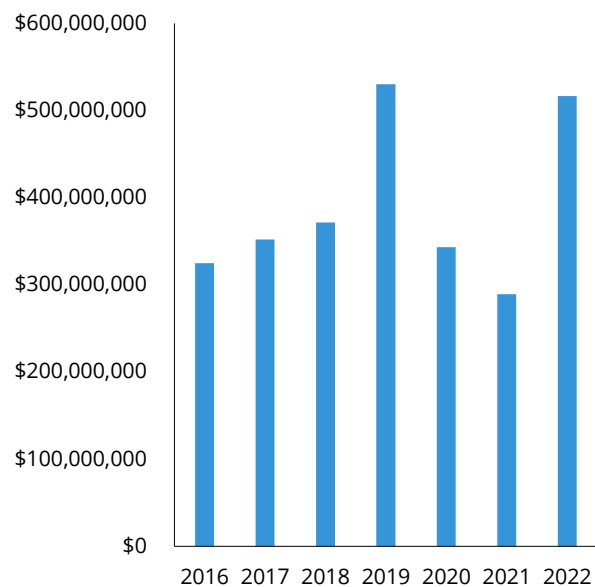


Table 1: Cambodia IFTI reports submitted to AUSTRAC over the last 7 years²⁴

Graph 1: Value of Cambodian IFTI reports submitted to AUSTRAC over the last 7 years²⁵

Insights

- The value of funds moving into Australia from Cambodia were unexpectedly large - on average the total funds flowing from Cambodia into Australia account for just under 1% of Cambodia’s Gross Domestic Product (GDP) for the corresponding years, as demonstrated in Table 2 below.
- Prior to COVID-19, money flows from Cambodia were trending upwards, peaking just over half a billion dollars in 2019. During the post-COVID economy, fund flows began increasing, again reaching over half a billion dollars in 2022.

²³ These statistics rely on the source country and destination country fields in IFTI reports. These fields are not reported but are predicted based on other reported data. The predictions may contain errors due to reporting or processing issues. To minimise the impact from errors only IFTI reports where the source and destination are predicted with high or medium confidence were provided by AUSTRAC. AUSTRAC advised that reports with medium confidence predictions are more likely to contain prediction errors, however, analysis of a sample of these reports suggests that for the requested selection criteria the predictions were typically correct.

²⁴ AUSTRAC Freedom of Information Request ‘FOI regarding IFTIs and CBMs from Cambodia’, September 2023.

²⁵ AUSTRAC Freedom of Information Request ‘FOI regarding IFTIs and CBMs from Cambodia’, September 2023.

- Given AUSTRAC has not provided data where the source and destination countries cannot be predicted as 'medium' or 'high', it is likely that the value of transfer into Australia may in fact be higher than is reported above.

Calendar Year	Value of IFTI amounts (AUD) ²⁶	Annual GDP (AUD) ²⁷	Reported IFTIs as a proportion of Annual GDP (%)
2016	\$0.33 billion	\$31.9 billion	1.02%
2017	\$0.35 billion	\$35.1 billion	1.00%
2018	\$0.37 billion	\$38.8 billion	0.96%
2019	\$0.53 billion	\$42.8 billion	1.24%
2020	\$0.34 billion	\$40.9 billion	0.84%
2021	\$0.29 billion	\$42.6 billion	0.68%
2022	\$0.52 billion	\$47.4 billion	1.09%

Table 2: Cambodian IFTI reports submitted to AUSTRAC in comparison to Cambodia's annual GDP over the last 7 years

6.2 Channel 2 – Incoming cross-border movement (CBM) statistics

In addition to IFTIs, when moving monetary instruments into or out of Australia, individuals and REs are required to report (CBM reports) when there is a combined value of \$10,000 or more in Australian Dollars or foreign currency equivalent.²⁸

In the same FOI request, AUSTRAC released the volume and value of CBMs reported between 2016 and 2022, as demonstrated in Table 3 and Graph 2. Notably, the statistics on the following page capture amounts only where a CBM report has been completed by a movement into Australia from Cambodia, either in person across a border (such as on a plane) or when someone sends or receives monetary instruments to or from overseas via mail or shipping (including by courier).

²⁶ AUSTRAC Freedom of Information Request 'FOI regarding IFTIs and CBMs from Cambodia', September 2023.

²⁷ Annual GDP figures have been converted from USD to AUD as at 13th October 2023, at a rate of 1 USD = 1.58 AUD. Trading Economics 'Cambodia GDP', <<https://tradingeconomics.com/cambodia/gdp>>.

²⁸ Monetary instruments include cash, bearer negotiable instruments (BNIs), bill of exchange, cheque, promissory note, bearer bond, traveller's cheque, money order, postal order or similar order, and other negotiable instruments. AUSTRAC, 'Cross-border movement (CBM) reports' <<https://www.austrac.gov.au/business/how-comply-guidance-and-resources/reporting/money-brought-or-out-australia-cbm>>.

Calendar Year	Volume of CBM reports	Value of CBM amounts (AUD)
2016	255	\$1,876,930
2017	289	\$7,077,029
2018	426	\$10,243,475
2019	539	\$14,800,136
2020	232	\$5,673,909
2021	28	\$585,761
2022	259	\$5,751,004

Value of CBM amounts (AUD)

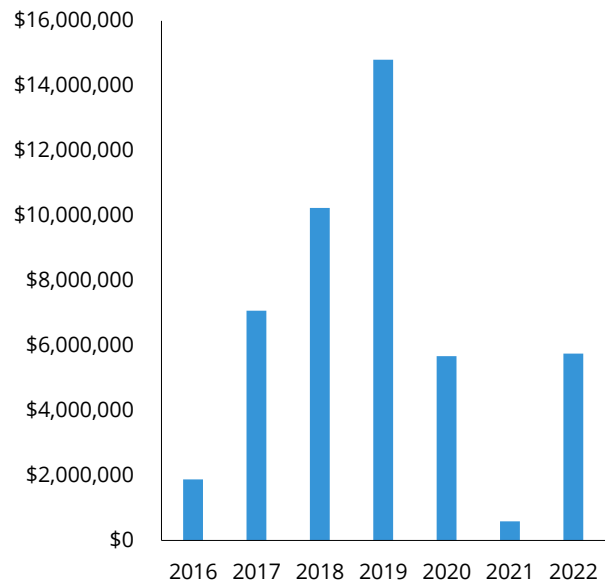


Table 3: Cambodian cross-border movement reports submitted to AUSTRAC over the last 7 years²⁹

Graph 2: Value of Cambodian cross-border movement reports submitted to AUSTRAC over the last 7 years³⁰

Insights:

- Similar to IFTIs, pre-COVID volume and value of CBMs from Cambodia into Australia trended upwards, peaking just under \$15 million in 2019.
- The sharp drop in CBMs across 2020 and 2021, is likely attributable to several factors:
 - Firstly, during the COVID-19 pandemic the Australian government implemented a series of travel bans between mid-March 2020 up until December 2021. During the restrictions, air and sea travel and foreign nationals entering Australia (inward travel) were impacted.³¹ From November 2021, fully vaccinated citizens, permanent residents and immediate family were allowed to leave and enter Australia.³² Australia subsequently opened its international borders fully on 21 February 2022.³³
 - Secondly, Australia’s largest casinos ceased all junket operations in 2021, largely in response to a series of allegations made against Crown Resorts.³⁴ Junkets and casino-based tourism were identified as ML vulnerabilities ‘as they involve the cross-border movement of people and funds and often target high net-worth/VIP clients’.³⁵

²⁹ Although the reported figures may contain errors, AUSTRAC has analysed the top ten reports containing the largest CBM amounts, and no clear indications of error were identified.

³⁰ AUSTRAC Freedom of Information Request ‘FOI regarding IFTIs and CBMs from Cambodia’, September 2023.

³¹ Australian Government, ‘Management of International Travel Restrictions during COVID-19’, 8 December 2021 <<https://www.anao.gov.au/work/performance-audit/management-international-travel-restrictions-during-covid-19>>. See also: Executive Traveller ‘Australia’s international travel ban extended to December 2021’ 2 September 2021 <<https://www.executivetraveller.com/news/australia-s-international-travel-ban-extended-to-december-2021>>.

³² ABC News, ‘When is international travel to and from Australia allowed? Can non-residents enter the country?’ 18 October 2021 <<https://www.abc.net.au/news/2021-10-18/international-travel-overseas-australia-border-when-rules/100546986>>.

³³ AeroTime Hub ‘Australia’s borders fully reopen after two years’ closure due to COVID-19’ 21 February 2022 <<https://www.aerotime.aero/articles/30284-australia-borders-reopen-after-two-years>>.

³⁴ Business News Australia ‘Cashless casinos, no junkets as Crown appeases NSW regulator’ 13 May 2021 <<https://www.businessnewsaustralia.com/articles/cashless-casinos--no-junkets-as-crown-appeases-nsw-regulator.html>>. See also: True Blue Punter, ‘The Biggest Casinos in Australia (and what’s inside them)’

³⁵ FATF, ‘Vulnerabilities of Casinos and Gaming Sector’ March 2009 <<https://www.fatf-gafi.org/content/dam/fatf-gafi/reports/Vulnerabilities%20of%20Casinos%20and%20Gaming%20Sector.pdf.coredownload.pdf>>.

- In 2022, CBMs trended upwards from 2021 likely attributable to Australia lifting all COVID-19 border restrictions from 6 July 2022.
- Unlike IFTIs, a \$10,000 threshold is applied, thereby creating an opportunity for cross-border movements less than \$10,000 to remain unmonitored, particularly where persons may make multiple movements that may aggregate to more than \$10,000.

In 2022 alone, the total amount of incoming funds reported through IFTIs was just over \$500 million. Coupled with this, another \$5.7 million was reported as CBMs from Cambodia. We are confident that at a minimum, half a billion dollars of funds flowed from Cambodia into Australia through regulated channels.

Whilst much of this may be considered legitimate financial activity/investment, AUSTRAC and other LEAs have repeatedly highlighted the influx of illicit cash into Australia, particularly for real estate investments.³⁶ It is also unclear the extent to which that source of wealth for significant investment in Australia by wealthy Cambodian individuals has been identified or verified, particularly where it relates to the political elite.

An analysis conducted by US think tank, Global Financial Integrity suggests 'at least \$USD 1.8 billion was laundered out of Cambodia' in 2016.³⁷ It is unclear what proportion of those funds was destined for Australia. Although not directly connected to Cambodia, AUSTRAC estimated that \$1 billion was illegally invested in Australian real estate in 2020, highlighting the pattern for large illicit funds to make its way into Australia.³⁸

Notably, the figures above do not incorporate typologies that currently fall outside the regulated channels, including real estate and shadow-banking. There remains a substantial gap in available data, particularly relating to typologies in which criminals use agents or other third parties to hide the beneficial owner of the real estate purchase. These typologies are considered further in Section 9.

³⁶ FATF, 'Australia's Mutual Evaluation Report 2015' <<https://www.fatf-gafi.org/en/publications/Mutualevaluations/Mer-australia-2015.html>>.

³⁷ Radio Free Asia, 'The 'Respectable' Faces that Help Cambodia's Elite Loot the Country', 5 June 2020, <<https://www.rfa.org/english/news/special/hunsen-family/analysis.html>>.

³⁸ ABC News, 'AFP money laundering bust highlights Australia's gaping real estate vulnerability' <<https://www.abc.net.au/news/2023-02-03/afp-money-laundering-bust-highlights-real-estate-vulnerability/101923160>>.

7 Nature and scale of the problem

Australia and Cambodia have vulnerabilities that lend themselves to being exploited by criminal organisations to facilitate the laundering of funds through Australian real estate. In this section the key ML/TF risks that may result in this behaviour are explored and consideration is given to the social, economic, and political vulnerabilities present within Cambodia likely to result in the acquisition of Australian real estate.

There are limited data sources available to identify the nature and scope of money from Cambodia/Cambodian nationals, so this section sets out the drivers that may push money to flow from Cambodia for investment in the broader region and the pull factors that make Australia, and in particular Australian real estate, a desirable destination for these fund flows. The Foreign Investment Review Board (FIRB) confirmed 118 properties cumulatively worth \$110 million were purchased by Cambodian nationals between FY19 and FY23 (see Section 7.3).³⁹

It is our opinion that given the levels of corruption and investment from potentially illegal sources combined with generally accepted research on ML means that at least some of the funds flowing from Cambodia into Australia are likely to come from illicit origins. The question that remains is - to what extent?

7.1 Assessing the ML/TF risk and source of illegal funds in Cambodia

In recent years, Cambodia has made significant improvements in reducing poverty and improving the living standards of Cambodian nationals. The Cambodian government has been able to achieve this success through targeted economic policies, including subsidies and tax breaks for foreign owned companies to encourage international investment into the country. The benefits of such a policy are widespread, however, industries that have also flourished under this investment strategy include those such as garment manufacturing (often linked to human rights abuses), logging and casinos, wildlife trafficking, modern slavery and ML. This was highlighted in Cambodia's National Risk Assessment (NRA)⁴⁰ that identified fraud/scams, corruption and bribery, drug trafficking, human trafficking, illegal logging, wildlife crime and goods and cash smuggling as key ML risks.

A 2023 report by the US State Department noted that despite favourable investment conditions created by the Cambodian Government, it has not been successful in encouraging large numbers of US investors into the country, largely due to ongoing concerns around corruption. The report states that Cambodia has seen 'an increase in foreign investment from investors willing to engage in corrupt practices, [this] combined with sometimes opaque official and unofficial investment processes, further drives the overall rise in corruption.' The report also nominates China as the predominant source of foreign investment into Cambodia in 2021.⁴¹ An Organised Crime Index publication suggests that Chinese criminal syndicates are able to invest in legitimate businesses and enjoy protection from the political elite.⁴² This creates an environment that, despite the Cambodian Government's publicised efforts to reduce drug related crime in recent years, allows an ongoing infiltration of foreign crime syndicates to operate in the very valuable Southeast Asian drug market.

Cambodia allegedly has a large black market for smuggled goods including drugs and substances imported for local methamphetamine production. Both legal and illegal transactions are generally conducted outside official financial institutions and are difficult to track. Cash from crime is then easily invested in land, residential buildings,

³⁹ ATO Freedom of Information Request 'Foreign Investment into Australia from Cambodia', 13 October 2023.

⁴⁰ FATF, 'Cambodia's Mutual Evaluation Report 2017' <<https://www.fatf-gafi.org/en/publications/Mutualevaluations/Mer-cambodia-2017.html>>.

⁴¹ U.S. Department of State, '2023 Investment Climate Statements: Cambodia' <<https://www.state.gov/reports/2023-investment-climate-statements/cambodia/>>.

⁴² Global Organized Crime Index, 'Cambodia Criminality Score' 2023 <https://ocindex.net/assets/downloads/2023/english/ocindex_profile_cambodia_2023.pdf>.

luxury goods, vehicles, and other property types without having to go through the formal banking sector.⁴³ The Centre for International studies estimated that in 2022 the drug trade in the Asia Pacific region was worth \$61.4 billion annually and more than 90% of the 1 billion Methamphetamine tablets manufactured that year originated from just four countries; Cambodia, Thailand, Myanmar and Laos.⁴⁴

The flourishing casino industry on the Thai/Cambodian border has created additional risks relating to ML of drug related profits. These largely Chinese owned casinos attract both Thai, Vietnamese and Chinese gamblers who are unable to participate in gaming in their home countries and limited regulation allows for the laundering of large volumes of cash both in Thai Baht and Cambodian Riel. As of September 2023, Cambodia had eighty seven active casino licences, (a reduction from the pre-COVID number of 150 in 2018), in a jurisdiction where all forms of gambling by Cambodian nationals is prohibited.⁴⁵ According to the United Nations Office on Drugs and Crime (UNODC), more than 90% of patrons in casinos in Poipet, on the Cambodia/Thailand border, are Thai.⁴⁶ Thai citizens do not require visas to cross the border and enter these casinos where the Thai Baht is accepted. Pre-COVID it was estimated that \$USD 12 million in cash crossed the border in Poipet alone every day.⁴⁷ In January 2023, a Chinese court convicted thirty six individuals connected to an illegal gambling empire, which processed at least \$160 million in illegal cross-border payments through VIP rooms and online gambling sites from Cambodian and Vietnamese casinos.⁴⁸

While we understand that many Cambodian casinos did not survive the COVID-19 pandemic, the industry remains reliant on international tourists, including those from neighbouring countries such as Myanmar, Thailand, Vietnam and China. Post the COVID-19 pandemic, the number of reports of modern slavery and cyber related crimes perpetrated in the casino region of Cambodia increased.⁴⁹ Human rights related issues at the Naga World Casino were raised in Australian Parliament when a prominent Cambodian Union leader was jailed after lobbying for workers' rights. It is alleged that Chinese criminal syndicates were seeking to gain income from other sources now that the legal casino industry has been curtailed.⁵⁰

7.2 Australia as an attractive destination for Cambodian funds

Australia has strong and historical links to Cambodia, beginning after 1975, when Australia began accepting refugees who were fleeing the Khmer Rouge. Australia increased its refugee intake throughout the 1980s and now more than 66,000 (2016 census data) people of Cambodian descent live in Australia.⁵¹ The Department of Foreign Affairs and Trade (DFAT) has reported 39,390 diasporas in Australia (in 2021) coupled with 2,868 students (in

⁴³ Centre for Strategic & International Studies, 'Ice and Instability: Illicit Financial Flows Along Thailand's Borders', 22 September 2022 <<https://www.csis.org/blogs/new-perspectives-asia/ice-and-instability-illicit-financial-flows-along-thailands-borders>>.

⁴⁴ Centre for Strategic & International Studies, 'Ice and Instability: Illicit Financial Flows Along Thailand's Borders', 22 September 2022 <<https://www.csis.org/blogs/new-perspectives-asia/ice-and-instability-illicit-financial-flows-along-thailands-borders>>.

⁴⁵ Business 2 Business Cambodia, 'Licenced casinos in Cambodia see massive decline', 15 September 2023, <<https://www.b2b-cambodia.com/news/licenced-casinos-in-cambodia-see-massive-decline/>>.

⁴⁶ United Nations, 'Cambodia, Thailand and Viet Nam target bulk cash smuggling and money laundering in the casino industry', 5 October 2015 <<https://www.unodc.org/roseap/en/vietnam/2015/10/money-laundering/story.html>>.

⁴⁷ United Nations, 'Cambodia, Thailand and Viet Nam target bulk cash smuggling and money laundering in the casino industry', 5 October 2015 <<https://www.unodc.org/roseap/en/vietnam/2015/10/money-laundering/story.html>>.

⁴⁸ VOA News, 'UN warns of growing money laundering, shadow banking risk from Mekong casino', 29 October 2023 <<https://www.voanews.com/a/un-warns-of-growing-money-laundering-shadow-banking-risk-from-mekong-casinos/7331663.html>>.

⁴⁹ The Guardian, 'Sold to gangs, forced to run online scams: inside Cambodia's cybercrime', 10 October 2022; <https://www.theguardian.com/world/2022/oct/10/sold-to-gangs-forced-to-run-online-scams-inside-cambodias-cybercrime-crisis>

⁵⁰ Global Initiative Against Transnational Organized Crime, 'Modern slavery in the Mekong's casinos', 25 July 2022 <<https://globalinitiative.net/analysis/modern-slavery-mekong-casinos/#:~:text=Most%20of%20Cambodia%27s%2015%20casinos,casino%20complex%20in%20Phnom%20Penh.>>.

⁵¹ Australian Embassy Phnom Penh, 'Australia celebrates Australia day and 70th anniversary of bilateral relations between Cambodia and Australia', 27 January 2022 <<https://cambodia.embassy.gov.au/files/penh/20220127-Australia-Day-Media-Release-English.pdf>>.

2022).⁵² This cultural link along with strong government ties and an established free trade agreement between Australia and Cambodia facilitates the flow of legitimate funds between the two countries but can also allow for illegal funds to be comingled into transactions relating to commerce, tourism and family connections. In 2022 the value of Australia and Cambodia's two-way trade was reported to be \$1.1 billion.⁵³

Cambodia's reporting entities must transfer funds internationally in keeping with AML/CTF regulations; however a significant number of unregistered remitters exist to transfer money internationally without complying with the regulatory requirements. It is possible that these underground banking arrangements allow for money to enter Australia without being reported to the Australian regulator and leaving criminal syndicates with significant amounts of Australian dollars in cash that need to be integrated into the Australian financial system before it can be utilised under the guise of legitimacy. Other alternative channels, such as transfers of funds through the casino sector, may also contribute to the unreported flow of money from Cambodia into the Australian financial system.

There are currently significant volumes of money in Cambodia either linked to industries that are vulnerable to ML (such as casinos, logging and garment manufacturing) or suspected of being linked to the illegal drug trade or other criminal activities outlined above. Much of this money, whether held by Cambodian nationals or international criminal organisations, needs to be laundered internationally unless the funds can be laundered domestically, for example through legitimate investments in Cambodian businesses. The high levels of corruption within Cambodia mean that investment of funds and profits from domestic laundering activities is likely to be desirable in offshore locations. Australia's geographic proximity, as well as political and financial stability make it an attractive destination for long term 'legitimate' investment.

7.3 Funds monitored through the Foreign Investment Program

Australia welcomes foreign investment through its Foreign Investment Programs managed by the Foreign Investment Review Board (FIRB). All foreign persons investing in Australian assets must apply to the FIRB for approval for foreign investment.

Under the Investment Support Program (ISP), the FIRB accepts applications for investment proposals from foreign nationals interested in investing in Australia, including commercial, residential and agricultural land.⁵⁴ An investment proposal must be submitted by foreign investors for all Australian assets, regardless of value.

A \$15 million threshold applies to agricultural land where certain conditions are met. This threshold does not apply to foreign government investors, and all investment proposals must be submitted to the ATO regardless of value, or whether the land is sensitive or vacant.⁵⁵

In FY 2020-21, 14.1% of Australia's agricultural land was held with a level of foreign ownership. This figure has remained steady at around 13-14% across a 6-year period between FY 2015-16 and FY 2020-21.⁵⁶ Information is not currently publicly available to ascertain what portion of foreign ownership is held by Cambodian nationals.

To trace the fund flows from Cambodian nationals into Australia's residential real estate sector, KordaMentha submitted an FOI to the ATO requesting information pertaining to foreign investment in Australia from Cambodia

⁵² Australian Government, 'Cambodia 2040 Country Profile Action Plan', Department of Foreign Affairs, <<https://www.dfat.gov.au/countries-economies-and-regions/southeast-asia/invested-australias-southeast-asia-economic-strategy-2040/appendixes/cambodia-country-profile-and-action-plan#outlook>>.

⁵³ Australian Government, 'Cambodia 2040 Country Profile Action Plan', Department of Foreign Affairs, <<https://www.dfat.gov.au/countries-economies-and-regions/southeast-asia/invested-australias-southeast-asia-economic-strategy-2040/appendixes/cambodia-country-profile-and-action-plan#outlook>>.

⁵⁴ Australian Government, 'Australian land investments' <<https://foreigninvestment.gov.au/getting-started/investment-information/land>>.

⁵⁵ Australian Government, 'Australian land investments' <<https://foreigninvestment.gov.au/getting-started/investment-information/land>>.

⁵⁶ Australian Government, 'Register of foreign ownership of agricultural land', ATO, 30 June 2021 <<https://foreigninvestment.gov.au/sites/firb.gov.au/files/2022-02/2021-rfo-agricultural-land.pdf>>.

over the last five years, particularly statistics regarding real estate investment.

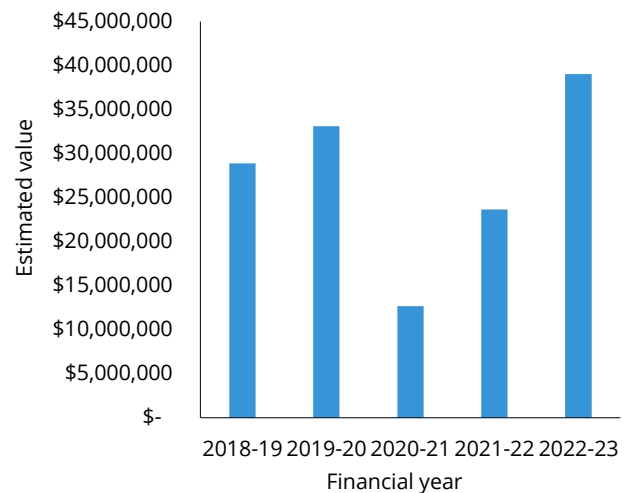
Tables 4 and 5 as well as Graphs 3 and 4 contain the aggregated investment data in relation to residential approvals and purchases made by Cambodian nationals over the last five financial years. Data in relation to all other real estate investment was not provided⁵⁷.

Residential property under the Foreign Investment Program:

Financial Year	Number of approved applications	Estimated value of applications
2018-19	35	\$28,899,253
2019-20	39	\$33,091,088
2020-21	13	\$12,686,299
2021-22	28	\$23,644,049
2022-23	37	\$39,034,499
Total	152	\$137,355,188

Table 4: Investment proposal applications submitted by

Investment proposal applications submitted by Cambodian nationals



Graph 3: Number of applications and estimated value of

Financial Year	Properties settled ⁵⁸	Settlement value
2018-19	27	\$27,336,544
2019-20	36	\$27,972,594
2020-21	11	\$8,962,900
2021-22	17	\$12,736,415
2022-23	27	\$33,366,400
Total	118	\$110,374,853

⁵⁷ The ATO did not provide statistics in relation to agricultural land, therefore, we have been unable to quantify the number and/or value of agricultural land purchased by Cambodian nationals. Notably, the purchase of agricultural land is a known typology which will be discussed later in this report.

⁵⁸ Consistent with the ATO's definition, a purchase transaction occurs where a foreign person has indicated they have settled on a residential property. See also: Australian Government, 'Insights into foreign purchases and sales of residential real estate for the period 1 July 2020 to 30 June 2022', Australian Taxation Office, <<https://foreigninvestment.gov.au/sites/firb.gov.au/files/2022-08/residential-insights-report-2020-21.pdf#:~:text=From%201%20July%202020%20to%2030%20June%202021%2C,3%2C103%2C%20with%20a%20total%20value%20of%20242.7%20billion>>.

Cambodian nationals⁵⁹

investment proposals submitted by Cambodian nationals⁶⁰

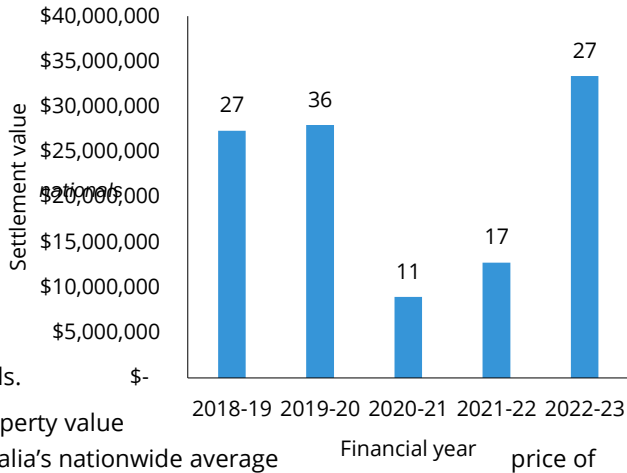
Table 5: Properties purchased by Cambodian nationals⁶¹

Graph 4: Number and value of settlements made by Cambodian

Insights:

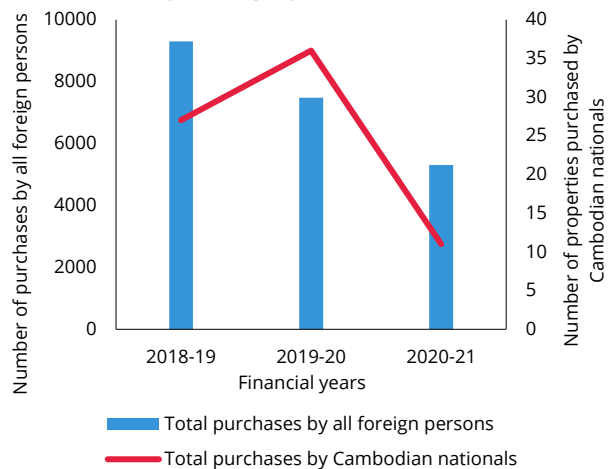
- Over the last five financial years, a total of one hundred and eighteen properties worth a total of \$110,374,853 were purchased by Cambodian nationals.
- In the last financial year (FY 2022-23), the average property value was estimated to be around \$1.2 million, above Australia's nationwide average price of \$920,100.⁶² This indicates Cambodian nationals applying under the Foreign Investment program have significant purchasing power.
- Although the total number of residential properties purchased by foreign persons declined from FY 2018-19 to FY 2019-20, the number of properties purchased by Cambodian nationals spiked. See Table 6 below.

Properties purchased by Cambodian nationals



Financial Year	Properties purchased by Cambodian nationals ⁶³	Properties purchased by all foreign persons ⁶⁴
2018-19	27	9295
2019-20	36	7482
2020-21	11	5310

Purchases by foreign persons



⁵⁹ ATO Freedom of Information Request 'Foreign Investment into Australia from Cambodia', 13 October 2023.

⁶⁰ ATO Freedom of Information Request 'Foreign Investment into Australia from Cambodia', 13 October 2023.

⁶¹ ATO Freedom of Information Request 'Foreign Investment into Australia from Cambodia', 13 October 2023.

⁶² Australian Government, 'Residential Property Price Indexes: Eight Capital Cities', Australian Bureau of Statistics, 15 March 2022, <<https://www.abs.gov.au/statistics/economy/price-indexes-and-inflation/residential-property-price-indexes-eight-capital-cities/latest-release#:~:text=The%20total%20value%20of%20residential%20dwellings%20in%20Australia,price%20of%20residential%20dwellings%20rose%20%2444%2C000%20to%20%24920%2C100>>

⁶³ Consistent with the ATO's definition, a purchase transaction occurs where a foreign person has indicated they have settled on a residential property. See also: Australian Government, 'Insights into foreign purchases and sales of residential real estate for the period 1 July 2020 to 30 June 2022', Australian Taxation Office, <<https://foreigninvestment.gov.au/sites/firb.gov.au/files/2022-08/residential-insights-report-2020-21.pdf#:~:text=From%201%20July%202020%20to%2030%20June%202021%2C,3%2C103%2C%20with%20a%20total%20value%20of%20%242.7%20billion>>.

⁶⁴ Australian Government, 'Insights into foreign purchases and sales of residential real estate for the period 1 July 2020 to 30 June 2022', Australian Taxation Office, <<https://foreigninvestment.gov.au/sites/firb.gov.au/files/2022-08/residential-insights-report-2020-21.pdf#:~:text=From%201%20July%202020%20to%2030%20June%202021%2C,3%2C103%2C%20with%20a%20total%20value%20of%20%242.7%20billion>>.

Table 6 and Graph 5: Number of properties purchased by Cambodian nationals in comparison to all properties purchased by all foreign persons⁶⁵

7.4 Assessing the likelihood of Cambodian funds with opaque links to Chinese beneficial owners flowing into Australia

Of those Cambodian funds, a portion of the funds is likely to be co-mingled with funds linked to Chinese beneficial owners. As stated previously, ongoing concerns in relation to corruption, deter US investors from investing in Cambodia, yet the level of investment from China surged over the last 5 years, dominating Cambodia's overall investment.

In 2021, China's investment accounted for 53.4% of Cambodia's total inbound foreign direct investment (FDI), mainly distributed across the transport and infrastructure sectors, making it one of the top foreign investors.⁶⁶ The Chinese companies involved in projects such as the development of the Dara Sakor resort in Cambodia, allegedly provided 'very little information about themselves, and some have dubious track records'.⁶⁷ It cannot be said with certainty that all funds that subsequently flow into Australia were free from being co-mingled with illicit funds within the Cambodian economy.

7.5 Assessing the ML vulnerabilities of the Australian real estate sector

Given Australia's absence in ML/TF regulation of the real estate sector, there are no specific risk assessments to draw upon in the region. However, in 2022 the Caribbean Financial Action Task Force produced an ML/TF risk assessment of its regional real estate sector and the typologies and vulnerabilities identified in the report could be considered common across the world.⁶⁸ This report highlighted that the real estate sector was vulnerable to ML as it provided multiple opportunities for illicit activities, which we discuss further below.

Transparency International has previously highlighted the predisposition for criminals to utilise the real estate sector as a vehicle for ML. Not only are criminals attracted to it by the ability to buy real estate using cash, and to disguise the ultimate beneficial ownership of real estate, but also the relative stability and reliability of real estate investments.

⁶⁵ ATO Freedom of Information Request 'Foreign Investment into Australia from Cambodia', 13 October 2023. See also Australian Government, 'Insights into foreign purchases and sales of residential real estate for the period 1 July 2020 to 30 June 2022', Australian Taxation Office, <<https://foreigninvestment.gov.au/sites/firb.gov.au/files/2022-08/residential-insights-report-2020-21.pdf#:~:text=From%201%20July%202020%20to%2030%20June%202021%2C,3%2C103%2C%20with%20a%20total%20value%20of%20%242.7%20billion>>.

⁶⁶ ASEAN Briefing, '2023 Foreign Investment Opportunities in Cambodia' 19 July 2022 <<https://www.aseanbriefing.com/news/2023-foreign-investment-opportunities-in-cambodia/>>. See also: Rhodium Group, 'ESG Impacts of China's Next-Generation Outbound Investments: Indonesia and Cambodia', 24 August 2023 <[https://rhg.com/research/esg-impacts-of-chinas-next-generation-outbound-investments-indonesia-and-cambodia/#:~:text=ASEAN%20statistics%20show%20%247%20billion,ahead%20of%20Myanmar%20and%20Brunei.](https://rhg.com/research/esg-impacts-of-chinas-next-generation-outbound-investments-indonesia-and-cambodia/#:~:text=ASEAN%20statistics%20show%20%247%20billion,ahead%20of%20Myanmar%20and%20Brunei.;)>; and U.S. Department of State, '2023 Investment Climate Statements: Cambodia' <<https://www.state.gov/reports/2023-investment-climate-statements/cambodia/>>.

⁶⁷ BBC News, 'The shadowy Chinese firms that own chunks of Cambodia' 25 September 2023 <<https://www.bbc.com/news/world-asia-66851049#Overview>>.

⁶⁸ Caribbean Financial Action Task Force, 'Understanding and mitigating ML/TF risks in the real estate sector', 27 April 2022 <https://www.bvifsc.vg/sites/default/files/ml_tf_risks_in_real_estate_april2022_2.pdf>.

7.6 The attractiveness of Australian real estate

In Australia, AUSTRAC's 2015 strategic analysis brief on ML through real estate, set out the factors contributing to the attraction of the real estate sector for ML/TF. When compared with other ML channels, real estate provided a straightforward option whereby ML through both residential and commercial properties was uncomplicated, required little planning or expertise, allowed large sums of illicit funds to be concealed and integrated into the legitimate economy, and was overall an attractive and expedient option for criminals.

The 2022 Caribbean Financial Action Taskforce report highlighted that there is a general perception that the real estate sector has less stringent AML/CTF controls and regulation, which serves as a significant incentive for those looking to integrate illicit money into the legal economy.⁶⁹

Cash based industry

Real estate remains an attractive ML vehicle because cash transactions, i.e. purchases paid in full without a mortgage, remain commonplace in the industry. This enables the movement of considerable sums of money with relative ease. In New South Wales, Queensland and Victoria, more than a quarter of transactions for property or land were settled with cash in the first quarter of 2023.⁷⁰ Cash transactions also significantly reduce the paper trail and therefore likelihood of scrutiny from financial institutions.

Masked ultimate beneficial owners of real estate

The 2015 AUSTRAC brief also identified the use of opaque legal entities for real estate transactions to obscure the identity of the ultimate beneficial owners. This obfuscation is often facilitated by complicit professionals, who leverage their expertise to navigate around existing controls and regulations. This circumvention is even more pronounced in instances where high-value real estate purchases do not involve mortgage lenders, effectively bypassing the checks usually carried out by financial institutions. Additionally, these ML schemes can involve a broad scale of domestic and transnational criminals and predicate crimes. This breadth of involvement makes it incredibly difficult to identify those transactions associated with ML.

Furthermore, as the real estate sector is not subject to the requirements of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act), domestic and foreign politically exposed persons (PEPs) are not subject to the customer due diligence requirements, including Source of Wealth and Source of Funds enquiries.

Example – Offshore trusts and shell companies masking ultimate beneficial owners

In 2021, an ABC investigation revealed that Australian properties — including Tasmanian dairy farms, Sydney CBD apartments, and a Hilton hotel had been secretly purchased by wealthy, sometimes controversial foreign figures. The money for those acquisitions was sourced from a range of individuals, including a corrupt Chinese steel magnate, a political power couple in Sri Lanka, and a former oil executive. Each transaction was deliberately obfuscated, involving multiple layers of offshore trusts and shell companies, making ownership almost impossible to track.

⁶⁹ Caribbean Financial Action Task Force, '*Understanding and mitigating ML/TF risks in the real estate sector*', 27 April 2022 <https://www.bvifsc.vg/sites/default/files/ml_tf_risks_in_real_estate_april2022_2.pdf>.

⁷⁰ The Guardian, '*Properties worth more than \$25 billion were bought with cash in Australia's three biggest states in early 2023*' 29 July 2023 <<https://www.theguardian.com/australia-news/2023/jul/29/houses-bought-with-cash-australia-nsw-qld-vic>>.

Such cases demonstrate how Australia's real estate sector has become an attractive venue for laundering money and concealing ownership across international boundaries.⁷¹

Source of funds

The real estate sector offers several advantages that make it attractive for ML. Most notable is the ability to easily integrate illicit funds into the legitimate economy while providing a safe investment. The inherent structure of real estate transactions allows large amounts of money to be laundered in one transaction, offering both efficiency and a reduced risk of detection.

Sound investment

Australia's real estate market is generally stable, reliable, and likely to appreciate. Furthermore, real estate investments provide the possibility of income generation as a rental property and as a channel to dispose of further illicit funds through renovation and property development which, in turn, increases the asset value and improves the potential for legal incomes streams through rental returns. This process further obscures the origins of the illicit funds by intertwining them with seemingly legitimate financial activities and provides the money launderer with a legal source of wealth for future investments.

In addition to financial incentives, criminals may also be motivated to buy property for further profit or lifestyle reasons. The purchase of property can serve dual purposes as both a financial safety net and a tangible asset that can be enjoyed and utilised. This aspect adds another layer of complexity to the motivations behind real estate ML.

Corruption

The implications of the failure to regulate the real estate sector go beyond ML, extending to corruption and foreign bribery risks. The OECD Working Group on Bribery, in 2017, stressed that Australia needed to address the risk that the Australian real estate sector could be used to launder the proceeds of foreign bribery. This statement serves as a glaring reminder that the real estate sector's vulnerabilities are not limited to domestic ML but are inherently linked to a wider remit of transnational financial crimes.

Case study – **Australian property owners allegedly linked to corruption**

The extensive implications of illicit real estate transactions extend to disrupting local traditions and economies. In the far north-west of Tasmania, farming has been a family tradition for generations. This, however, has been threatened as the area has attracted a surge of unidentified foreign buyers.

Public records indicate that locally registered entities such as Dairy Partners Pty Ltd and Redpa Dairy Partners Pty Ltd purchased multiple farms in north-west Tasmania between 2014 and 2019, however, the Pandora Papers revealed a different story. They showed that the money to purchase the farms was originally sourced from Canadian Stephen Paul Douglas de Heinrich, a former non-executive director and shareholder of international oil producer Addax Petroleum. During the late 1990s and 2000s, Addax Petroleum operated in unstable regions such as Iran and West Africa, eventually rising to become Nigeria's largest independent oil producer.

⁷¹ ABC News, 'Pandora Papers reveal big foreign money secretly behind some prime Australian real estate', 5 October 2021 <<https://www.abc.net.au/news/2021-10-05/pandora-papers-four-corners-australian-real-estate/100501062>>.

In 2007 a French court received allegations that two executives from Addax had disbursed millions of dollars in bribes in Nigeria during the late 1990s, one of whom was convicted of aiding and abetting aggravated ML for the former Nigerian oil minister, Chief Dauzia Loya Etete. Although De Heinrich was not convicted of any crime or implicated in the ML case, he benefitted from the sale of the Addax Petroleum.

This highlights how the opacity surrounding property transactions can mask not only the origin of the funds but also the identities of the real stakeholders, thereby posing significant risks to local communities and economies.⁷²

7.7 ML Methodologies

ML methodologies in real estate can be complex and multifaceted. This report does not intend to provide a complete list of possibilities, rather it highlights some of the tactics arising most commonly during our research.

Criminals may use a third party's bank account to manipulate illicit funds, disguising ownership, and hampering confiscation efforts by authorities. Some even provide false documentation to financial institutions to back home loan applications. Another tactic involves loan-back schemes in which criminals borrow their own illicit funds via offshore companies they control. This makes the money appear clean and complicates confiscation.⁷³

The manipulation of property values provides another avenue for financial crime. Collusion among buyers, sellers, or real estate agents can result in inaccurate property valuations. Any disparity between the real and stated values is then balanced with undisclosed cash payments. This technique is sometimes used to obtain large loans or to make quick, successive sales at higher values.

Other strategies include depositing cash below the \$10,000 reporting threshold across various banks. This method often involves high volumes of transactions to multiple accounts to escape detection. The funds are then used to purchase real estate using bank cheques. Additionally, criminals might lease out such properties to generate rental income or use these properties for carrying out criminal activities. Properties are often held under company names or shell companies to distance criminals from direct ownership.

Criminals engaging in transnational crime aim to integrate their funds into Australian assets to evade confiscation in their home jurisdictions. The challenge in combating these activities is not just in identifying the obvious illicit practices, but also in uncovering the concealed, making the real estate sector an intricate battlefield for financial crime.⁷⁴

See Appendix 1 for AUSTRAC ML Indicators specific to the real estate sector.

⁷² ABC News, 'Pandora Papers Four Corners Australian Real Estate', 5 October 2021 <<https://www.abc.net.au/news/2021-10-05/pandora-papers-four-corners-australian-real-estate/100501062>>.

⁷³ AUSTRAC, 'Strategic analysis brief - money laundering through real estate', 2015 <<https://www.austrac.gov.au/business/how-comply-guidance-and-resources/guidance-resources/strategic-analysis-brief-money-laundering-through-real-estate-2015>>.

⁷⁴ AUSTRAC, 'Strategic analysis brief - money laundering through real estate', 2015 <<https://www.austrac.gov.au/business/how-comply-guidance-and-resources/guidance-resources/strategic-analysis-brief-money-laundering-through-real-estate-2015>>.

8 DNFBP's and the impact of a weak AML/CTF regime

Australia continues to be criticised by the international ML/TF watchdog, FATF, for doing little to mitigate risks associated with DNFBPs, including when foreign predicate offences may be involved.⁷⁵ Australia's most recent MER (2015) stated, China, Hong Kong, Macao, Singapore and the United Arab Emirates were seen as major source, destination, and/or transit jurisdictions for proceeds of crime laundered into and out of Australia. Large amounts were suspected to be laundered out of China into the Australian real estate market. China and other countries within the Asia-Pacific region were also seen as likely sources of corruption proceeds laundered in Australia.

Cambodia's poor ranking on global transparency and corruption indexes, combined with the ongoing investment in the country from potentially questionable Chinese investors suggests that Cambodian investments in Australia's unregulated real estate sector should be considered to pose a heightened ML risk.

8.1 Weakness 1 – Unregulated Gatekeepers

While Cambodia's legislative framework captures the real estate sector within its remit, Australia does not yet regulate real estate or the following other DNFBPs, otherwise known as 'gatekeepers':

- Trust and company service providers
- Lawyers
- Accountants.

Currently some Australian DNFBPs are not required to collect or verify details of all customers or the beneficial ownership of customers, such as companies, and trusts that fund transactions. DNFBPs are also not required to report Threshold Transaction (transactions of \$10,000 or more in physical currency) or Suspicious Matters to AUSTRAC. In their 2015 strategic analysis brief into ML through real estate, AUSTRAC highlighted the importance of customer identification and verification to manage risks in the sector. It provided a case study in which properties were sold in Western Australia without the knowledge and consent of the lawful property owners. In response, the Western Australian Government strengthened the real estate industry's verification of identity practice.⁷⁶

Whether it is ML or drug trafficking, these professional sectors can add an additional layer of sophistication and obfuscation to illicit financial flows. In a 2023 report on trends and issues in crime and criminal justice, The Australian Institute of Criminology outlines that serious and organised crime involvement in ML included the collection of proceeds of crime, obtaining professional advice, transferring funds as advised, and paying a commission to those undertaking the laundering activities. These professionals can be critical to the success of a ML scheme, particularly if the schemes are complex and require the specialised knowledge and skills of lawyers or accountants to be successful. The report also notes that many professionals have extensive networks of colleagues who may be well positioned to navigate potential challenges in complicated schemes. These networks may have no knowledge of the true nature of the proposed investments.

The importance of professional enablers is recognised by Australian law enforcement who highlighted the need to take a 'strategic approach... to organised crime in Australia [that] now emphasise[s] the importance of targeting the entire 'business model' of organised crime groups, including these enablers'.⁷⁷

⁷⁵ FATF, 'Australia's Mutual Evaluation Report 2015' <<https://www.fatf-gafi.org/en/publications/Mutualevaluations/Mer-australia-2015.html>>.

⁷⁶ AUSTRAC, 'Strategic analysis brief - money laundering through real estate', 2015 <<https://www.austrac.gov.au/business/how-comply-guidance-and-resources/guidance-resources/strategic-analysis-brief-money-laundering-through-real-estate-2015>>.

⁷⁷ Australian Government, 'Enablers of illicit drug trafficking by organised crime groups', Australian Institute of Criminology, 7 March 2013 <<https://www.aic.gov.au/publications/tandi/tandi665>>.

Case study – **A real estate agency legitimising proceeds of crime**

Included in a report by the Australian Institute of Criminology is an AUSTRAC case study, in which a real estate agency that received more than \$400,000 in proceeds of crime from known criminals with a transaction description of 'loan'. The funds were then used by the real estate agency to invest in property development. In return, the real estate agency paid the criminals a weekly 'consultancy fee', thus legitimising the proceeds of crime.⁷⁸

8.2 Weakness 2 – Decentralised registers

Unlike other international jurisdictions, Australia combines a lack of regulation around DNFBPs within the AML/CTF regime with a failure to collate a centralised register of property ownership.⁷⁹ The United Kingdom for example, has a publicly available national real estate register allowing visibility of real estate ownership.

It also falls short of FATF Recommendation 24 that requires jurisdictions to have a beneficial ownership register to allow authorities to see who ultimately owns or controls a company, which does not currently exist in Australia, creating a significant lack of transparency.

These gaps coupled with the attractiveness of real estate and other investment vehicles, creates the perfect opportunity for criminals to siphon illicit funds undetected through Australia.

Case study – **Criminal syndicate money laundering**

A recent Australian Federal Police (AFP) investigation alleged that a criminal syndicate laundered \$150 million between 2018 and 2022 and used the money to amass a large collection of luxury goods and cars, as well as an extensive property portfolio. The syndicate's purchases included 20 addresses across Sydney — with two homes in the eastern suburbs worth a combined \$19 million alone — and a \$47 million block of land near the future Western Sydney Airport.⁸⁰

8.3 Opportunities for upcoming reforms

In 2006 when the AML/CTF Act became law, a second Tranche of reforms was planned to capture the remaining DNFBPs. Whether driven by the possibility of being 'grey-listed' by the FATF in 2027, or by overwhelming evidence that these ML/TF vulnerabilities and risks can no longer be tolerated, Australia's AML/CTF policy agency, the Attorney-General's Department, published its first round of public consultation in relation to Tranche 2 reform and modernisation in April 2023.⁸¹ A second paper is expected to be published in 2024. It remains to be seen if the now

⁷⁸ Australian Government, 'Enablers of illicit drug trafficking by organised crime groups', Australian Institute of Criminology, 7 March 2013 <<https://www.aic.gov.au/publications/tandi/tandi665>>.

⁷⁹ ABC News, 'Pandora Papers reveal big foreign money secretly behind some prime Australia real estate' 5 October 2021 <<https://www.abc.net.au/news/2021-10-05/pandora-papers-four-corners-australian-real-estate/100501062>>.

⁸⁰ ABC News, 'AFP money laundering bust highlights Australia's gaping real estate vulnerability', 3 February 2023 <<https://www.abc.net.au/news/2023-02-03/afp-money-laundering-bust-highlights-real-estate-vulnerability/101923160>>.

⁸¹ Note - the consultation paper consisted of two parts: Part 1 – proposing reforms to the existing regime and reporting entities and Part 2 – proposing the extension of the AML/CTF regime to certain high-risk professions, including lawyers, accountants, trust and company service providers, real estate agents and dealers in precious metals and stones (also known as tranche-two entities).

infamous, 'Tranche 2' will eventuate, and what, if any, consequences come because of such a delay, but it would be difficult to envision a future without at least some meaningful progress on this front.

While Australia has a clear need to satisfy the FATF requirements, it should make intelligence-led decisions and consider the range of current AML/CTF requirements applicable to mitigating and managing the identified risk.⁸² The research conducted for this report demonstrates the risks posed by lawyers and accountants in facilitating ML by organised crime groups, as well as the vulnerability of the real estate sector. Early engagement with relevant sectors should ensure the reforms are effective and pragmatic, to manage ML/CTF risk without unnecessarily hindering the industry's ability to conduct business.

See Appendix 2 for an overview of Australia's AML/CTF technical compliance with the FATF requirements relevant to DNFBPs (including the real estate sector).

⁸² KordaMentha's submission to the public consultation on the '*Modernising Australia's anti-money laundering and counter-terrorism financing regime*' April 2023 <<https://kordamentha.com/insights/finally,-tranche-2-is-coming-but-is-it-enough> (June-2023_KordaMentha_Moderninising-Aus-AML-and-CTF-regime_Response-to-consultation.pdf)>.

9 Emerging case studies from Cambodian investment into Australian real estate

This report draws on numerous case studies documented by the Australian Government, LEAs, international organisations, and respected publications, which detail common typologies associated with Cambodian investment into Australia's real estate sector. Key typologies include:

- Shadow-banking
- Land banking
- Investment visas
- Australian property portfolios held by Cambodian elites disproportionately larger than government salaries.

This section also includes typologies that have been reported as relevant to Cambodian investment and/or the vulnerability of the Australian real estate sector, including:

- PEPs and beneficial ownership
- Trusts, shell companies and beneficial ownership.

In several instances, Significant Investment Visas have been obtained by Cambodian nationals, especially those linked to the Cambodian People's Party (CPP). There is limited information related to the source of funds used to make significant investments and no evidence that the investments were linked to the proceeds of crime or corruption.

The disparity between Cambodian government salaries and the reported level of investment is particularly concerning, indicating that the funds might be supplemented by other, potentially undisclosed, sources. There is growing concern that the influence of Cambodia's political elite in Australia is expanding and that some members of the Cambodian community in Australia are experiencing threats and coercion to participate in wrongdoing on behalf of powerful politicians in Cambodia. Reports suggest that threats within the Cambodian diaspora aren't exclusive to Australia but are part of broader attempts by Hun Sen's opponents to identify and neutralise perceived threats.

A 2018 news article indicates possible instances of such behaviour in Australia. At that time it was reported that a prominent member of the Cambodian community in the Greater Dandenong region in Melbourne, (the home of 20% of Australia's Cambodian born population according to the 2016 census) Sameth Sao, was threatened by a powerful supporter of the CPP after he was overheard criticising the regime to his grandmother. Another community member with no relation to Mr Sao, spoke out against the regime after villages from his hometown were in a land dispute with the CPP. Reportedly, those protesting the regime in Australia have been warned against returning to Cambodia.⁸³

⁸³ ABC News, 'Cambodian regime figures splash millions on Melbourne properties as death threats escalate' 25 October 2018 <<https://www.abc.net.au/news/2018-10-25/cambodian-pm-henchmen-splash-millions-on-melbourne-property/10355246>>.

9.1 Shadow-banking

Shadow banking involves entities fully or partially offering the same services as commercial banks but operating outside the traditional regulatory environment.⁸⁴ Given the nexus to the unregulated banking market, real estate purchases by alleged shadow-banking organisations are likely to be funded by illegitimately acquired money.

Case study – **The AFP uncovers a shadow-banking organisation with a portfolio of prime Australian real estate**

In February 2023, the Australian Federal Police (AFP) uncovered a large scale ‘shadow-banking organisation’, allegedly involving a Chinese-Australian money laundering syndicate moving approximately \$10 billion offshore to countries in Asia, the Caribbean, Switzerland, America, United Arab Emirates and Australia.

Seized assets included two luxury homes in Vaucluse and Bellevue Hill, valued collectively at \$19 million, a \$22 million tower in St Leonards, and a \$21 million five-storey property adjoining Pitt Street Mall in Sydney. The combined personal wealth of the arrested individuals is estimated to exceed \$1 billion AUD. Steven Xin, the alleged syndicate leader, together with Xhaohua Ma, stands accused of amassing wealth by ‘becoming the Australian-based bankers of choice for international drug cartels and wealthy Chinese nationals seeking to circumvent the Communist Party’s capital-flight laws. The arrests also included an accountant and a lawyer.

How the syndicate utilised shadow-banking

The syndicate exploited Australia’s migration system. Xin, who was wanted for running an illegal gambling enterprise, gained Australian citizenship and partnered with Chinese businessman Ma to provide the service of moving ‘dirty cash’.

The syndicate would provide its Chinese customers access to funds to purchase real estate and other acquisitions outside of China. To pay back the syndicate, these customers would then instruct their Chinese bank to transfer the same amount of money

Police allege these ghost accounts or shell companies would then move the funds to the criminal syndicates that had provided the original funds. The money scheme also utilised casinos, cryptocurrency and daigou businesses who obtain goods in Australia for people in China, to ensure no actual funds crossed international borders, evading international law enforcement detection.⁸⁵

⁸⁴ Sydney Morning Herald, ‘AFP smashes alleged \$10 billion Chinese money-laundering operation’, 2 February 2023 <<https://www.smh.com.au/national/nsw/property-grab-afp-smashes-alleged-10-billion-chinese-money-laundering-operation-20230201-p5ch7k.html>>.

⁸⁵ Sydney Morning Herald, ‘AFP smashes alleged \$10 billion Chinese money-laundering operation’, 2 February 2023 <<https://www.smh.com.au/national/nsw/property-grab-afp-smashes-alleged-10-billion-chinese-money-laundering-operation-20230201-p5ch7k.html>>.

to another Chinese bank account or shell company that was secretly controlled by the syndicate.

Impact on Australia

This raises questions around foreign funds inflating the price of Australia's property market, along with legislative and policy gaps in the financial and visa/migration systems that have made a destination for organised criminals to operate in and invest in Australian real estate.

Connections with other convicted money laundering individuals

The head of the syndicate, Steven Xin, is a business partner with Alvin Chau, who was arrested in 2022 for running the infamous SunCity junket operation. SunCity was a large player in the junket and casino industries with international businesses in countries including Australia and Cambodia, having opened and operated Junket VIP rooms in two of Cambodia's largest casinos.⁸⁶

9.2 Land banking

Land banking emerged as a known methodology during proceedings brought by the Australian Securities Investment Commission (ASIC) against investors who allegedly used real estate as a vehicle for financial misconduct. The below case study not only aims to demonstrate how land banking works, but also demonstrate the use of opaque beneficial ownership structures.⁸⁷

⁸⁶ Sydney Morning Herald, 'AFP smashes alleged \$10 billion Chinese money-laundering operation', 2 February 2023 <<https://www.smh.com.au/national/nsw/property-grab-afp-smashes-alleged-10-billion-chinese-money-laundering-operation-20230201-p5ch7k.html>>.

⁸⁷ The Financial Review, 'Court orders wind-up of Melbourne landbanking scheme', 21 March 2019 < <https://www.afr.com/property/residential/court-orders-wind-up-of-melbourne-landbanking-scheme-20190321-p51692>>.

Case study – ASIC commences proceedings against an Australian Khmer with ties to the CPP allegedly involved in land banking

In 2019, ASIC commenced proceedings against Aviation 3030, a company founded by Hakly Lao.

Aviation 3030 was established to purchase a 240-acre patch of land in Melbourne. Pol Pisey and Sotheavy, daughters of former General Pol Saroeun, Commander in Chief of the Armed Forces, reportedly purchased a total of five million shares representing five acres of the land for a total of \$50. These allotments were subsequently sold to investors for approximately \$1,000,000. It is suspected that the sisters were allowing their names to obscure Lao's beneficial ownership of the shares from future investors although it is unclear what benefit they obtained from doing so.

What land banking involves

Land banking involves purchasing plots of undeveloped land and subsequently subdividing the land into smaller parcels to be purchased by investors in the hope that planning permission will be granted for residential development, thereby increasing the purchase price paid by investors.

Theme of obfuscating beneficial owners

The use of the Pol sisters' names to obscure Lao's beneficial ownership could potentially mask the number of land banking schemes Lao had orchestrated. He had orchestrated another land banking scheme, called 'VKK Investments Unit Trust' which was wound up in April 2018.⁸⁸

How Hakly Lao used land banking

Land banking schemes are often unregulated and 'investors have little protection if something goes wrong.'⁸⁹

Justice John O'Callaghan noted the Directors of Aviation 3030 had issued to themselves and to their associates, large numbers of shares at a gross undervalue, fabricated correspondence and invoices, provided false instructions to the company's external solicitors, duped and misled investors, entered into related party loans, and made unauthorised and exorbitant expenditures.⁹⁰

⁸⁸ The Financial Review, 'Court orders wind-up of Melbourne landbanking scheme', 21 March 2019 < <https://www.afr.com/property/residential/court-orders-wind-up-of-melbourne-landbanking-scheme-20190321-p51692>>.

⁸⁹ Australian Government, 'Federal Court orders wind up of illegal land banking investment scheme and its operation', ASIC, 20 April 2018 < <https://asic.gov.au/about-asic/news-centre/find-a-media-release/2018-releases/18-111mr-federal-court-orders-wind-up-of-illegal-land-banking-investment-scheme-and-its-operator/>>.

⁹⁰ Radio Free Asia, 'Top Cambodian General's Family Tied to \$100 Million Australian Fraud', 30 September 2020 <<https://www.rfa.org/english/news/cambodia/australia-general-fraud-09302020161441.html>>.

9.3 Wealth disproportionately larger than government salaries

9.3.1 Australian property held by Cambodian Politicians

Open sources indicate there is a trend for wealthy individuals, including Cambodia's elite to 'park' funds in Australia, including real estate in prime locations.

It has been reported that the former Prime Minister Hun Sen and his family have amassed a significant fortune, estimated in 2016 to be between \$USD 500 million and \$USD 1 billion, in a country that continues to struggle with poverty and where the average wage is \$USD 190 per month.⁹¹ Holding the highest position in Cambodia, the former Prime Minister's salary was approximately \$USD 30,000. He has rejected claims that he is involved in corruption but has also been reported to own a collection of watches worth approximately \$USD 13 million.⁹²

Most of the individuals involved in the case study below would fall under AUSTRAC's definition of a PEP, which includes people with ties to government and their families that are 'in positions that can be abused for money laundering and related offences, including corruption and bribery', and as such it is likely they would have been subject to additional due diligence measures were the real estate sector subject to AML/CTF regulation.

Based on property and company records, and a research paper which collated information from Cambodia's company register, several Australian assets have been identified as being held by CPP members.

⁹¹ Global Witness, 'Hostile Takeover', 7 July 2016 <<https://www.globalwitness.org/en/reports/hostile-takeover/>>.

⁹² Washington Post, 'Who is Hun Manet, successor and son of Cambodia's Hun Sen?' 24 July 2023 <<https://www.washingtonpost.com/world/2023/07/24/cambodia-hun-manet-sen-succession/>>.

Case study – Australian property portfolio owned by individuals linked to the CPP

Property deeds indicate Im Paulika, the wife of Cambodia’s Finance Minister, Aun Pornmoniroth, acquired a prestigious apartment in Sydney’s One Central Park, at a price of \$2.1 million for their son, Pornmonireach to live in while he was studying.⁹⁴

In 2016 Madina Tao and Mongkol Phara acquired a 3,000 square metre property in the Northern Beaches of NSW for \$11 million. In May 2023, after substantial renovations, the house has sold for \$32.18 million, almost three times the original purchase price. It is understood that there is no mortgage on the title.¹ Madina is the daughter of the late Senior Minister Seng Huor Tao, while Mongkol’s father is the Deputy Prime Minister and Minister of Land Management, Chea Sophara.⁹⁵

Dy Vichea has recently been appointed as the Head of the Interior Ministry’s Central Security Department giving him oversight for investigating money laundering as well as looking into political rivals of the CPP. Mr Dy, has owned Melbourne businesses since at least 2002. Property records indicate he owns a Point Cook property worth about \$1.5 million. In 2011, his company purchased land for \$1.3 million to build a warehouse in Dandenong South, which sold in May 2018 for \$5.08 million.⁹⁶

Due diligence on politically exposed persons (PEPs)

Whilst the link to ML cannot be explicitly documented, were the real estate sector to be subject to the AML/CTF regime in Australia, connections to the Cambodian elite would likely necessitate further due diligence and an obligation to identify the Source of Wealth and Funds for the transactions as they related to PEPs. For entities currently regulated by the AML/CTF regime, a PEP customer would be defined by AUSTRAC as those in positions that can be abused for money laundering, corruption and/or bribery and would ordinarily require additional information to be collected in relation to the nature of the transaction.⁹³ This provides entities confidence that the money used for these transactions was not the proceeds of crime or corruption.

⁹³ AUSTRAC, ‘Politically exposed persons (PEPs)’, 15 January 2024 <<https://www.austrac.gov.au/business/core-guidance/customer-identification-and-verification/politically-exposed-persons-peps>>.

Case study – **Individuals connected to Cambodia’s Political Party linked to alleged money launderers**

Thai Jackie Thi Tien is married to the former Cambodian Prime Minister’s nephew, Hun To.

Property records indicate she purchased a property for \$1.3 million in Dandenong. Ms Thai also owned another property nearby, which was subsequently transferred to her sister.¹

Connections with individuals linked to money laundering syndicates

In 2012, the Australian police suspected Hun To of being involved in trafficking a shipment of heroin from Cambodia into Australia via loads of timber. The police operation suspected Mr To oversaw the drug funds being taken to Crown Casino in Melbourne, and subsequently to Asia. The Police’s attempt to question and arrest Mr To was thwarted, given his application for a visa was denied by the Australian embassy in Cambodia, ‘with one official citing the need to avoid a diplomatic incident’.⁹⁴

Lack of due diligence requirements in relation to real estate obfuscates source of wealth and source of funds. Questions were raised surrounding whether these property purchases were subject to the level of scrutiny required by Australia’s money laundering guidelines. There were concerns that members of the CPP may have been able to exert influence to avoid the required level of scrutiny of their purchases.⁹⁵

⁹⁴ Sydney Morning Herald, *'Inquiry links Cambodian leader's nephew to drug trafficking, money laundering'*, 26 March 2012 <<https://www.smh.com.au/national/inquiry-links-cambodian-leaders-nephew-to-drug-trafficking-money-launders-20120325-1vsn8.html>>.

⁹⁵ Sydney Morning Herald, *'Inquiry links Cambodian leader's nephew to drug trafficking, money laundering'*, 26 March 2012 <<https://www.smh.com.au/national/inquiry-links-cambodian-leaders-nephew-to-drug-trafficking-money-launders-20120325-1vsn8.html>>.

Case study – Australian property held by the Head of Cambodia’s Tax Department

Kong Vibol is currently the Head of the Cambodian Tax Department. He held shares in a trust used to purchase \$21.4 million worth of property in March 2007. His lawyer said Mr Kong no longer had an interest in the land and made no profit from his share. ABC News linked Mr Kong to a number of other properties in Melbourne’s south-east, including a \$600,000 house in Noble Park.

Additionally, Mr Kong’s mother, sister and nephews reside in Australia. His lawyer maintained the properties ‘linked to his relatives were purchased legitimately, and in some cases had nothing to do with Mr Kong.’¹

Wealth amassed disproportionate to income

Questions were raised around how Kong Vibol was able to finance his international property portfolio, given he earns a government salary of around USD \$1,300 per month, with no other income sources declared.⁹⁶

Perceived corruption

In March 2018, Mr Kong told the Khmer Times, one of the biggest achievements as the Head of the Cambodian Tax Department, included increasing revenue collection by 20-25% each year.

Obfuscated source of funds

In the absence of due diligence being completed prior to the purchase of real estate, it is difficult to ascertain the true source of funds. This increases the opportunity for illicit funds to enter Australia’s economy.

Links to alleged offences committed in Australia

In 2011, Mr Kong registered himself as the sole director of a private company, Panhariddh Pty Ltd using his Noble Park address. Under the *Corporations Act 2001* (Cth), the sole director ‘must ordinarily reside in Australia.’⁹⁷ In 2018, ASIC investigated Mr Kong for falsely claiming to be a resident of Australia for seven years, despite residing in Cambodia. The business is reported to own millions of dollars’ worth of real estate in Australia.⁹⁸ In an interview with Al Jazeera, Mr Kong claimed Pannhariddh ‘closed down long time again, I got nothing to do with Australia.’⁹⁹ Mr Kong has been accused of eliminating media freedom by issuing large tax bills to media outlets who allegedly committed tax avoidance. Al Jazeera alleged Vibol established his Cambodian petroleum company, Bright Victory Mekong, and did not register for tax purposes until many years later. However, it remains unclear whether his business had paid its taxes since its incorporation in 2008, and formal registration with the tax department in 2017.¹⁰⁰

⁹⁶ Al Jazeera, ‘Cambodia’s Election Crackdown’, 12 July 2018 <<https://www.aljazeera.com/program/101-east/2018/7/12/cambodias-election-crackdown/>>

⁹⁷ Section 1.5.5 *Corporations Act 2001* (Cth).

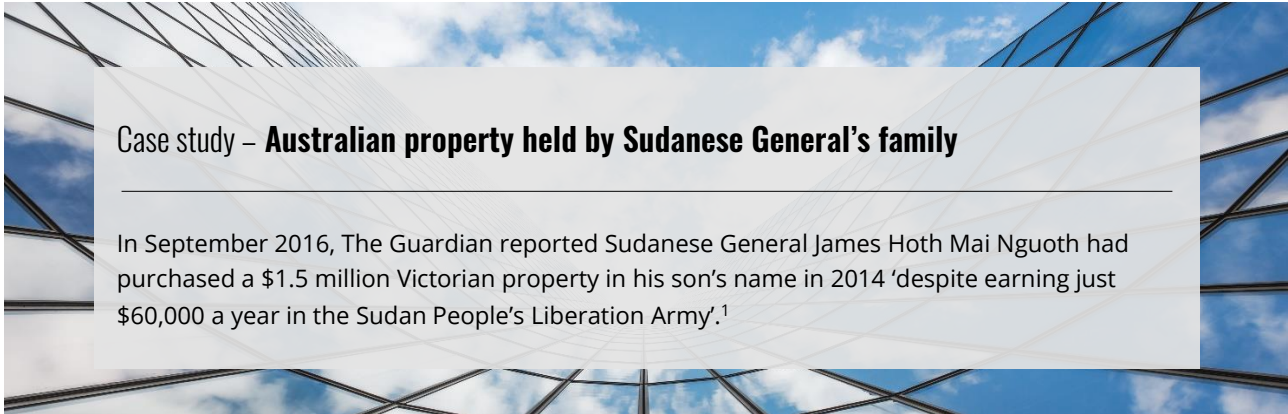
⁹⁸ SBS News, ‘Cambodian tax boss faces jail over Aussie residency claims’, 18 July 2018 <<https://www.sbs.com.au/news/article/cambodian-tax-boss-faces-jail-over-aussie-residency-claims/cnywneyu2>>.

⁹⁹ Al Jazeera, ‘Cambodia’s Election Crackdown’, 12 July 2018 <<https://www.aljazeera.com/program/101-east/2018/7/12/cambodias-election-crackdown/>>. See also Change.org ‘Investigate Cambodian elite illicit activities in Australia’ 17 July 2018 <<https://www.change.org/p/austrac-deputy-ceo-international-and-policy-chris-collett-investigate-cambodian-elite-illicit-activities-in-australia>>.

¹⁰⁰ Al Jazeera, ‘Cambodia’s Election Crackdown’, 12 July 2018 <<https://www.aljazeera.com/program/101-east/2018/7/12/cambodias-election-crackdown/>>

9.3.2 Australian property held by other Government officials

The case study below highlights the attractiveness of Australia’s real estate sector to foreign investors, outside of Cambodia, including those allegedly linked to criminal activity.



Case study – Australian property held by Sudanese General’s family

In September 2016, The Guardian reported Sudanese General James Hoth Mai Nguoth had purchased a \$1.5 million Victorian property in his son’s name in 2014 ‘despite earning just \$60,000 a year in the Sudan People’s Liberation Army’.¹

Wealth disproportionate to income

The acquisition of high-value property was observed to be disproportionate to the owner’s income, particularly those who are politicians.

Unverifiable source of funds and source of wealth

In the ‘War Crimes Shouldn’t Pay’ report, salaries of top officials in South Sudan ‘managed to accumulate fortunes, despite modest government salaries while the country was divided by a civil war.’¹⁰¹ The revelation came to light as investigative organisation, The Sentry, undertook an analysis on how armed conflict and atrocities were financed.¹⁰²

9.4 Investment visas

Australia offers visas to foreign nationals who invest within the local economy.¹⁰³ For example, the ‘Significant Investor Provisional Visa’ offers successful applications who invest at least \$5 million in Australia, the opportunity to stay in Australia for up to five years, and in turn apply for permanent residency once certain requirements are met.¹⁰⁴

SIVs are one of the ways for foreign nationals to obtain residency, and consequently gain access to an Australian citizenship. The benefits of being a citizen are likely to entice foreign investors into Australia, particularly those alleged to be involved in corruption or ML. Benefits include, and are not limited to, the removal of the requirement for investment proposals to be submitted to the FIRB prior to the purchase of real estate, ease of movement in and out of countries, and no additional purchasing fees payable by non-permanent residents or citizens, such as additional stamp duty. The Federal Government has announced that the SIV scheme will be reviewed, with Home

¹⁰¹ The Sentry, ‘War Crimes Shouldn’t Pay Stopping the looting and destruction in South Sudan’ September 2016 <https://thesentry.org/wp-content/uploads/2016/09/Sentry_WCSP_Finalx.pdf>.

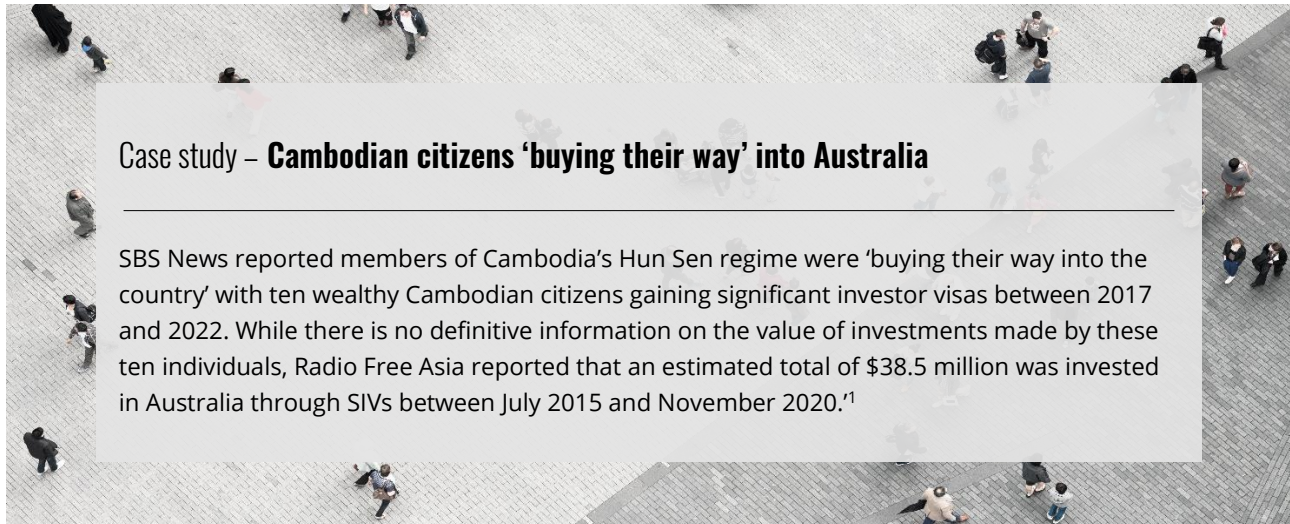
¹⁰² The Guardian, ‘South Sudanese general paid \$1.5m for Melbourne home, says war profiteering report’, The Guardian, 15th September 2016 <<https://www.theguardian.com/australia-news/2016/sep/15/south-sudanese-general-paid-15m-for-melbourne-home-says-war-profiteering-report>>.

¹⁰³ Radio Free Asia, ‘Aussie Government ‘Pathetic’ on Cambodian Dirty Money, Lawmaker Tells RFA’ 18 February 2021 <<https://www.rfa.org/english/news/cambodia/australia-money-02182021200702.html>>.

¹⁰⁴ Australian Government, ‘Significant Investor stream’, Department of Home Affairs, 31 August 2023 <<https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/business-innovation-and-investment-188/significant-investor-stream>>.

Affairs Minister Clare O'Neil describing it as a way of effectively buying your way into the country.¹⁰⁵ Since the SIV Program commenced in 2012, Department of Home Affairs figures suggest 2,349 SIV visas were granted up until June 2020.

9.4.1 Cambodian nationals acquiring Australian SIVs



The issues with this type of Visa

In 2016, the Australian Government’s Productivity Commission published an inquiry report into migrant intake in Australia. The report noted the investor visas ‘are prone to fraud’, in comparison to other visa types. Additionally, the SIV neither requires English as a language, nor does it have an upper age limit.¹⁰⁶ Given the weak case to retain the SIV program, the Commission recommended the Government to abolish these visas.

9.4.2 Cambodian nationals acquiring investment visas from other jurisdictions

Cambodians have been reported acquiring citizenship and property in other jurisdictions. Countries such as Cyprus and the United Kingdom have similar significant investment visas, which require large amounts of money, often in the millions, to be invested in the local economy. The following case studies highlight how individuals connected to Cambodia’s Political Party have acquired foreign investment visas and have been linked to questionable sources of funds.

¹⁰⁵ SBS News, ‘What is Australia’s ‘golden ticket’ visa and why is it being talked about?’ 12 September 2022 <<https://www.sbs.com.au/news/article/what-is-australias-golden-ticket-visa-and-why-is-it-being-talked-about/pvqg98lir>>.

¹⁰⁶ Australian Government, ‘Inquiry Report - Migrant Intake into Australia’, Productivity Committee, 12 September 2016 <<https://www.pc.gov.au/inquiries/completed/migrant-intake/report>>.

Case study – **Cambodian National Police Commissioner and his family’s Cypriot citizenship and wealth**

Since 2013, Cyprus’s investment program has allowed individuals who invest €2 million in its local business or real estate sectors to obtain citizenship. Although the Cypriot government does not publish a list of investors who have obtained citizenship, an investigation by Reuters identified eight individuals who have become Cypriot citizens by investment and have political connections to Cambodia.

Among the list is Hun Kimleng, former Prime Minister Hun Sen’s niece, and her husband National Police Commissioner Neth Savoeun. Cyprus interior ministry documents confirm Hun Kimleng’s citizenship was dated 21 November 2017.

Less than a month after Reuters’ investigation, the Cypriot government announced it would ‘strip Kimleng, Saviouen and 24 others of their citizenship.’¹

Savoeun’s family members obtained Investor Visas in the United Kingdom

In 1994, the United Kingdom (UK) introduced the ‘Tier 1 (investor) visa’ allowing individuals investing £2 million in the British economy to stay for 3 years and 4 months.

In 2015, Savoeun’s daughter Neth Thida Chanthima obtained an investor visa. Radio Free Asia reports Chanthima continued to live in London in 2020, pursuing a doctorate degree.¹ Radio Free Asia reports Kimleng and her daughter, Neth Vichhuna have a combined property portfolio worth in excess of \$USD 10 million.¹

The Neth family’s global property portfolio

Outside of Cyprus, Kimleng is also reportedly named on the deed to a serviced apartment purchased for \$USD 3.5 million in Singapore, in addition to a London flat purchased for \$USD 2.5 million. The London flat is ‘on the fifth most expensive street in Britain.’ It is unknown when these properties were acquired. In 2017, on the same London street, the couple’s daughter purchased two adjoining apartments for a total of \$USD 6.8 million.

Potential links to alleged corruption

In a 2018 report by Human Rights Watch, Savoeun was named as one of twelve senior Cambodian military and police officials termed the country's 'Dirty Dozen'.¹⁰⁷ The report contained a quote from a police colleague suggesting 'Neth Savoeun of the Phnom Penh Municipal Police became a big shot because he was so awfully brutal at interrogation. He even shot people during interrogation.'¹⁰⁸

Issues with the criteria to apply for Cyprus' citizenship by investment scheme

Cyprus news outlet, Phile News quoted authorities saying the investment scheme had undergone changes since its inception. *"There were mistakes, it was a mistake not to have [a] criteria, for instance, for high-risk persons."*¹⁰⁹

According to a document from Cyprus' interior ministry, Cyprus law firm, Andreas Demetriades & Co, processed 137 'citizenship by investment' applications between January 2013 and August 2018. Demetris Demetriades, a senior partner, did not confirm this figure. However, he noted some of his clients were politically exposed persons. 'That doesn't mean that they're bad people,' he said. 'It just means that you have to investigate further their source of funds.'¹¹⁰

Savoeun's family placed on the United States' 'Visa Blacklist'

In 2017, Mr Neth, Ms Hun and their three children placed on the U.S State Department's 'visa blacklist' 'for undermining democracy.'¹¹¹

Theme of obfuscating funds

Once those funds enter the local economy it is difficult to trace the fund flows given the business and property databases are often incomplete, out of date, or closed to public access.¹¹²

Issue with investor citizenship and residence schemes

In the January 2019 report from the European Commission, it was noted an area of concern with investor citizenship and residence schemes came with a range of risks ' in particular, risks to security, including the possibility of infiltration of non-EU organised crime groups, as well as risks of money laundering, corruption and tax evasion.'¹¹³

¹⁰⁷ Human Rights Watch, 'Cambodia's Dirty Dozen' 27 June 2018 <<https://www.hrw.org/report/2018/06/28/cambodias-dirty-dozen/long-history-rights-abuses-hun-sens-generals>>. See also Radio Free Asia, 'Cambodian PM Hun Sen's Niece Buys Cypriot Villas for €2.5 Million', 30 April 2020 <<https://www.rfa.org/english/news/cambodia/hunsen-wealth-04302020141314.html>>.

¹⁰⁸ Radio Free Asia, 'Cambodian PM Hun Sen's Niece Buys Cypriot Villas for €2.5 Million', 30 April 2020 <<https://www.rfa.org/english/news/cambodia/hunsen-wealth-04302020141314.html>>.

¹⁰⁹ Phile News 'Cyprus plans to strip 26 citizenships after passports uproar', 6 November 2019, <<https://in-cyprus.philenews.com/local/updated-cyprus-plans-to-strip-26-citizenships-after-passports-uproar/>>.

¹¹⁰ Reuters, 'Khmer Riche How relatives and allies of Cambodia's leader amassed wealth overseas', 16 October 2019 <<https://www.reuters.com/investigates/special-report/cambodia-hunsen-wealth/>>.

¹¹¹ Reuters, 'Khmer Riche How relatives and allies of Cambodia's leader amassed wealth overseas', 16 October 2019 <<https://www.reuters.com/investigates/special-report/cambodia-hunsen-wealth/>>.

¹¹² Reuters, 'Khmer Riche How relatives and allies of Cambodia's leader amassed wealth overseas', 16 October 2019 <<https://www.reuters.com/investigates/special-report/cambodia-hunsen-wealth/>>.

¹¹³ European Commission, 'Investor citizenship and residence schemes in the European Union', 23 January 2019 <https://commission.europa.eu/system/files/2019-01/com_2019_12_final_report.pdf>.

Case study – **Individuals linked to the CPP hold significant London property**

Cambodian Interior Ministry's Central Security Department's ex-wife, Hun Chantha, reportedly owns close to \$USD 7 million worth of London real estate. Chantha, is also the former Cambodian Prime Minister Hun Sen's niece and is now married to Belgian-Cambodian investment banker, Gerald Dupuis, who is reportedly an 'heir to a catering empire with business ties to the Hun family.'

In September 2011, the couple purchased a £3.9 million apartment a minute's walk from London's famous Hyde Park. 2.5 years later, the pair reportedly purchased the basement flat in the same building for just under £1 million.

Questionable source of funds

Dupuis is also connected to Rushmore, the 'failed tax avoidance scheme that was shut down by UK tax authorities in 2012.'¹¹⁴ The scheme involved routing high-net worth individuals' funds through a series of complex charities and offshore shell companies. In a report by the Charity Commission of England and Wales, British company Romangate, was named as a key component in the scheme and Dupuis was listed as one of Romangate's directors.¹¹⁵

9.5 Use of offshore trusts and shell companies to acquire Australian property

As mentioned in Section 8, Australia does not currently have a beneficial ownership register, making it difficult to identify the ultimate beneficial owners. The following case studies highlight how companies used to purchase Australian properties, often based offshore, have been connected to ultimate beneficial owners allegedly linked to corruption and illegitimately acquired funds.

¹¹⁴ Radio Free Asia, '\$5 Million Apartment a Launchpad to London High Society for Niece of Hun Sen' 10 December 2019 <<https://www.rfa.org/english/news/special/hunsen-family/london.html>>.

¹¹⁵ Radio Free Asia, '\$5 Million Apartment a Launchpad to London High Society for Niece of Hun Sen' 10 December 2019 <<https://www.rfa.org/english/news/special/hunsen-family/london.html>>.

Case study – **Sri Lankan politically exposed persons purchasing Australian real estate**

ABC News reported that luxury apartments in Sydney's CBD were purchased by Thirukumar Nadesan and Nirupama Rajapaksa using anonymous offshore trusts and shell companies.

Ms Rajapaksa is reported to be a former deputy minister in the Sri Lankan Parliament and the niece of Sri Lanka's president, Gotabaya Rajapaksa.

The Pandora Papers revealed how the Sydney apartments were purchased by Samoan company, Chalan Oil Exploration, whose ultimate beneficial owner was a trust that benefited the couple's children. The Papers revealed the company was also used to purchase UK properties.

'Australia provided \$28.1 million in direct aid to Sri Lanka in 2019-2020, almost half of which was to build 'effective governance.'¹

Links to individuals with potentially questionable source of funds

Ms Rajapaksa's husband, Mr Nadesan, was a real estate entrepreneur who was charged for 'misappropriating \$1.7 million in state funds in 2016 but denies any wrongdoing.'

Given 'Australia provided \$28.1 million in direct aid to Sri Lanka in 2019-2020, almost half of which was to build 'effective governance,'¹¹⁶ Sri Lanka's geopolitical context creates the opportunity for questionable source of funds.

Offshore trusts obfuscating the financial activity of ultimate beneficial owners (UBOs)

AUSTRAC guidance indicates complex and opaque trust structures 'that do not appear to have a legitimate economic purpose' are viewed to be higher risk. These structures alone create the opportunity for individual beneficial owners to move funds without being detected or monitored.¹¹⁷ Foreign trusts add an additional level of complexity given overseas beneficial ownership databases and information may be outdated, incomplete, or unavailable.

¹¹⁶ ABC News, 'Pandora Papers reveal big foreign money secretly behind some prime Australia real estate' 5 October 2021 <<https://www.abc.net.au/news/2021-10-05/pandora-papers-four-corners-australian-real-estate/100501062>>.

¹¹⁷ AUSTRAC, 'Source of funds and source of wealth', 2 November 2023 <<https://www.austrac.gov.au/business/core-guidance/customer-identification-and-verification/source-funds-and-source-wealth>>.

Case study – **Foreign tax haven companies used as vehicles to purchase Australian property**

Yeo Jiawei, a former Singaporean banker reportedly used a tax haven company to purchase at least \$8.2 million in Gold Coast property. Yeo Jiawei was reportedly accused of ML as part of ‘Malaysia’s 1MDB scandal’ – ‘the world’s biggest financial scandal.’ Police are allegedly investigating whether illegal proceeds from Malaysia’s 1MDM state development fund was parked in Australia.

In 2014, Yeo purchased a \$1.3 million apartment directly from the developers who ‘routinely obtained ‘exemption certificates’ permitting the sale of off-the-plan apartments to overseas buyers’.

How tax haven companies can be used as a vehicle to purchase property

Yeo was a director of a Seychelles-registered company called Connect Capital, which was used to purchase \$6.9 million worth of commercial properties in Surfers Paradise. In September 2015, Connect Capital registered itself as a foreign company with ASIC. In the following month Connect Capital acquired four retail premises for \$2.4 million. In December 2015, the company acquired a further two retail premises for \$3.4 million, and subsequently purchased the neighbouring shopfront for more than \$1 million four days later.

Significance of using a tax haven company

At the time Connect Capital was not required to seek approval from the Foreign Investment Review Board (FIRB) for purchasing approval, given the properties were below the \$252 million threshold for ‘regular commercial property deals involving developed land’.

Further, foreign non-residents are not ordinarily required to seek approval to purchase new dwellings.

Links to money laundering

During Yeo’s court case in which he was sentenced by Singapore’s district court for witness tampering during the ML investigation, the court heard that Yeo had ‘acquired \$6 million of Australian property while allegedly playing a central role in the illicit movement of \$SGD23.9 million of 1MDB funds when employed as a wealth manager at BSI Bank Singapore.’¹¹⁸

¹¹⁸ The Guardian, ‘Banker caught up in Malaysian 1MDB scandal went on \$8.2m Gold Coast property splurge’, 13 January 2017 <<https://www.theguardian.com/australia-news/2017/jan/13/banker-caught-up-in-malaysian-1mdb-scandal-went-on-82m-gold-coast-property-splurge>>.

Case study – **Ultimate beneficial owner of high-value Australian commercial real estate is linked to corruption**

In October 2021, ABC News reported how ‘figures with concerning backgrounds’ utilised offshore trusts as vehicles to hold Australian properties. In 2015 the Sydney Hilton Hotel was purchased for \$442 million by Bright Ruby Resources. Prior to this, the company reportedly also purchased two other Sydney office towers, for a combined total of \$263.5 million.

UBO linked to bribery and corruption

In 2010 Mr Du testified to giving ‘\$US9 million in bribes to one of the executives of the British-Australian mining giant’ Rio Tinto.

Shell companies obfuscating ultimate beneficial owners (UBO)

The Pandora Papers suggest six layers of companies and trusts sit between Bright Ruby Resources and the ultimate beneficial owner, a ‘corrupt Chinese steel magnet Du Shuanghua’.

The use of shell companies added multiple layers of ownership and can at times be used as a vehicle to obfuscate ultimate beneficial owners. A level of anonymity creates an opportunity for shell companies, for example, to hide assets held by allegedly corrupt individuals.

10 The role of partnerships in response

Both Australia and Cambodia's AML/CTF reporting entities, regulators, FIUs, LEAs and other competent authorities form a complex network of stakeholders, key to the operational effectiveness of the AML/CTF regime.

Australia and Cambodia work closely together to combat people smuggling and trafficking, irregular migration, child sex tourism, narcotics trafficking, fraud and terrorism. An Australian Federal Police liaison office in Phnom Penh cooperates with and assists Cambodian law enforcement agencies to deal with transnational crime and AUSTRAC has an officer posted to ASEAN that has responsibility for financial intelligence sharing.

Between 2018 and 2021, the Anti-Money Laundering Assistance Team in Australia's Department of Home Affairs and the Attorney General's Department provided training to Cambodian officials on the development of new laws and policies to address transnational crime. This supported Cambodia to develop new laws to more effectively share evidence internationally to prosecute transnational crime and to combat the financing of weapons of mass destruction.

In addition to their roles as members of the Asia Pacific Group on Money Laundering and the Egmont Group of Financial Intelligence Units, Cambodia and Australia share a partnership through its membership of the Financial Intelligence Consultative Group - the group of ASEAN FIUs working together to combat financial crime and share intelligence. Cambodia's and Australia's FIUs signed a Memorandum of Understanding (MOU) in 2016 for the exchange of financial intelligence.

These relationships are critical to ensure that operational outcomes are achieved in the prevention and detection of ML in Cambodia and Australia.

Cambodia's Financial Intelligence Unit (CAFIU) is small and will require capacity building in order to meet the challenges of battling financial crime and disseminating intelligence that meets the operational requirements of its domestic LEAs. Cambodia and Australia should continue to leverage this relationship to maximise the use of financial intelligence. This can then be shared with LEAs for the investigation ML/TF and/or predicate offences.

The Australian Public-Private partnership – the Fintel Alliance is another example of partnerships used, in this case, between Australian reporting entities and the Australian FIU to detect ML risks and threats and share financial intelligence in the national interest.

Partnerships both at the domestic and international level are critical to addressing the transnational ML risk and threat and reducing harms to the community.

Appendix 1: AUSTRAC indicators of possible ML through the real estate sector

- Cash deposited in structured amounts into home loan accounts.
- Cash deposited into an account in structured amounts, then withdrawn via transfer or bank cheque to a payee that is a real estate firm, conveyancer or legal trust account.
- Cash deposits used to make rental payments months in advance.
- Cash used to make a significant deposit for the purchase of a property and the balance is financed by an unusual source – for example, a third party, private lender or offshore bank.
- Complex transactions in which multiple properties are bought, re-sold or exchanged.
- Customer appears to be acting on behalf of another person and is reluctant to identify those they represent.
- Customer arranges for proceeds of sale of property to be transferred directly to an account in a high-risk jurisdiction.
- Customer buys multiple properties in a short period of time.
- Customer buys or sells property above or below market value while apparently unconcerned about the economic outcome of the transaction.
- Customer buys property in the name of a third party, relative or minor.
- Customer deposits cash to buy a property but then pulls out from the transaction and requests a refund by cheque.
- Customer repays loan early, or is significantly in advance on their payments.
- Deposits to buy a property have been sourced from an offshore bank.
- Introduction of unknown parties at a late stage of a transaction.
- Low-value property bought with subsequent improvements paid for in large cash amounts before re-selling.
- Non-individual purchasers whose corporate or legal entity structures are complex for no apparent commercial or other reason.
- Ownership of property is the customer's only link to Australia.
- Source of deposits to buy a property cannot be easily identified – for example, international funds transfer where the ordering and beneficiary customers are the same.
- Transactions in which the parties are foreign or a non-resident for tax purposes.
- Transactions where there are doubts about the validity of the documents submitted with loan applications.¹¹⁹

¹¹⁹ AUSTRAC, 'Strategic analysis brief - money laundering through real estate', 2015 <<https://www.austrac.gov.au/business/how-comply-guidance-and-resources/guidance-resources/strategic-analysis-brief-money-laundering-through-real-estate-2015>>.

Appendix 2: Application of FATF recommendations in the context of the real estate sector¹²⁰

Australia’s technical compliance

Recommendation 28 sets out the Regulation and Supervision of DNFBPs’s.

The FATF Recommendations define that customer due diligence and record keeping measures, as well as measures on politically exposed persons, new technologies and reliance on third parties apply to all DNFBPs. This recommendation sets out the obligation for real estate agents, as well as lawyers, notaries, and other independent legal professionals and accountants in the context of buying and selling of real estate. The FATF understands that countries may have different definitions and understanding of the concept of ‘real estate agent’, therefore the FATF requirement is required to be interpreted in relation to the activity. Among other obligations, real estate professionals are required to comply with due diligence obligations with respect to both the buyers and sellers of the property under transaction.

Relevant recommendation number:

- Recommendation 22 – DNFBPs: Customer due diligence

Recommendation 23 specifies conditions subject to which a select group of professions (lawyers, notaries, and other independent legal professionals and accountants, dealers in precious metals and stones and trusts and company service providers) should implement the obligations set out under Recommendations 18 to 21. Recommendations 18 to 21 apply to all DNFBPs, including real estate agents. Jurisdictions are required to consider the qualifiers presented in Recommendation 23 without prejudice to the application of Recommendations 18 to 21 on all DNFBPs, including real estate agents, who should report suspicious transactions, when involved in the buying and selling of real estate.

Relevant recommendation number:

- Recommendation 23 – DNFBPs: Other measures

Australia’s technical compliance

Recommendation No.	Factors underlying rating
Recommendation 22 – DNFBPs: Customer due diligence AU is rated as non-compliant	Scope issue: DNFBPs other than casinos and bullion dealers are not subject to AML/CTF obligations. Casinos: The identification threshold exceeds that set forth in the Recommendation 22.
Recommendation 23 – DNFBPs: Other measures AU is rated as non-compliant	Scope issue: DNFBPs other than casinos and bullion dealers are not subject to AML/CTF obligations.

¹²⁰ FATF ‘Risk-based Approach Guidance for the Real Estate Sector’, 26 July 2022 < <https://www.fatf-gafi.org/en/publications/Fatfrecommendations/Guidance-rba-real-estate-sector.html>>.

Recommendation 28: Regulation
and Supervision of DNFBP's.

AU is rated as non-compliant

Scope issue: DNFBPs other than casinos and bullion dealers are not
subject to AML/CTF obligations.

Appendix 3: Abbreviations

<i>AFP</i>	Australian Federal Police
<i>ASEAN</i>	Association of Southeast Asian Nations
<i>AML</i>	Anti-Money Laundering
<i>ASIC</i>	Australian Securities and Investments Commission
<i>ATO</i>	Australian Tax Office
<i>CAFIU</i>	Cambodia's Financial Intelligence Unit
<i>CPI</i>	Corruption Perception Index
<i>CPP</i>	Cambodian People's Party
<i>CTF</i>	Counter-Terrorism Financing
<i>CTH</i>	Commonwealth
<i>AUSTRAC</i>	Australian Transaction Reports & Analysis Centre
<i>DCE</i>	Digital Currency Exchange
<i>DNFBP</i>	Designated Non-Financial Businesses and Professions
<i>EFTI</i>	Electronic funds transfer instructions
<i>FIRB</i>	Foreign Investment Review Board
<i>FATF</i>	Financial Action Task Force
<i>FIU</i>	Financial Intelligence Units
<i>FOI</i>	Freedom of Information
<i>GDP</i>	Gross Domestic Product
<i>IFTI</i>	International Funds Transfer Instructions
<i>IFTI-E</i>	International Funds Transfers Instructions relating to electronic funds transfer instructions
<i>IFTI-DRA</i>	International Funds Transfers Instructions under a Designated Remittance Arrangement

<i>LEA</i>	Law Enforcement Agencies
<i>MER</i>	Mutual Evaluation Report
<i>ML</i>	Money Laundering
<i>MOU</i>	Memorandum of Understanding
<i>NRA</i>	National Risk Assessment
<i>PEP</i>	Politically Exposed Persons
<i>SIV</i>	Significant Investor Visas
<i>TIA</i>	Transparency International Australia

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