

**Preparing the European Commission 4th Supra National Risk Assessment (SNRA) -  
Designation of representatives and input request  
Comments from Propertymark  
March 2024**

**Background**

1. Propertymark is the UK's leading professional body for estate and letting agents, property inventory service providers, commercial agents, auctioneers and valuers, comprising over 17,800 members representing over 12,800 branches. We are member-led with a Board which is made up of practicing agents and we work closely with our members to set professional standards through regulation, accredited and recognised qualifications, an industry-leading training programme and mandatory Continuing Professional Development.<sup>1</sup>

**Overview**

2. As established by Article 6 of Directive (EU) 2015/849 on the prevention of money laundering and terrorist financing, the European Commission conducts every two years an assessment of the risks of money laundering and terrorist financing affecting the internal market of the European Union and relating to cross-border activities. The European Commission adopted and published the three previous Supra-National Risk Assessments (SNRA) in 2017, 2019, and 2022.

**Comments from Propertymark**

**III NON-FINANCIAL SECTOR - Section 8: Investment and real estate**

*Purchase and sales of real estate*

Description of the risk scenario

3. As highlighted in this section of the document, purchasing property in the UK is a common method that can be used by serious organised criminals to launder the proceeds of criminal activity. The sheer size of the property market in the UK and the high value of property assets means that extremely large amounts of criminal funds can be 'cleaned' in a single transaction. The sales and lettings sectors, property auctioneers and high value dealers are all attractive targets for those looking to launder money. Both small and large agencies are susceptible to

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<sup>1</sup> [www.propertymark.co.uk](http://www.propertymark.co.uk)

criminal activity. While the property sector remains largely unregulated in the UK, and without minimum standards to operate in many European countries, the property industry is vulnerable to attack. Property bought with laundered money often sit empty, taking homes away from the market that could be used for families and having a further negative impact on the wider community. To maintain integrity in our housing market it is vital to know who the ultimate owner of a property is. Consequently, we do consider that the money laundering threat related to real estate should be considered as very significant.

4. In March 2022, the Economic Crime (Transparency and Enforcement) Act introduced powers for the UK Government to create a public register of the beneficial owners of overseas entities that own property or land in the UK.<sup>2</sup> A public Register of Overseas Entities is important because criminal funds can be concealed and made to look legitimate through an untraceable 'company' and subsequently the purchasing of property. When property agents try to determine the true, or 'beneficial' owners, they find only documents listing shell companies. To maintain integrity in our housing market it is vital to know who the ultimate owner of a property is. The UK's Overseas Territories and Crown Dependencies must open their registers of beneficial ownership. This would allow property agents, to know who is behind companies, and stop people being able to hide illicit activities behind them. For instance, Gibraltar has already introduced public access to its beneficial ownership register, which is behind a paywall. Others, including the British Virgin Islands, have moved very slowly and offered only vague timelines as to when they will make changes.<sup>3</sup>
  
5. To further enhance action against economic crime the Beneficial Ownership Registers Interconnection System should be better utilised to coordinate information, pool resources to ensure national data bases are up to date and costs to access are reduced. This System can then be linked to other Beneficial Ownership Registers in countries outside of the European Union including the UK. Greater international coordination within and outside the European Union can also help create other asset registers and aid enforcement and sanctions through digital linking.

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<sup>2</sup> <https://www.legislation.gov.uk/ukpga/2022/10/contents/enacted>

<sup>3</sup> According to The Centre for Public Data, the number of homes in England and Wales owned by foreign buyers has almost tripled since 2010, with close to 250,000 residential properties being registered to individuals based overseas. Three-quarters of the titles are registered to individuals with addresses in just 20 countries, with the main groups being the Crown dependencies and British Overseas Territories (Jersey, Guernsey, Isle of Man and the British Virgin Islands), South-East Asia and the Middle East, and English-speaking countries.

6. Although the document on page 182 references cash continuing to be “intensively used by construction companies and freelance professionals,” by not extending the Money Laundering Regulations to fully include all lettings activity the property sector is vulnerable to criminal activity. In the UK for example in the last 15 years the size of the private rented sector has grown. For instance, in England alone according to the English Housing Survey 2019-20 just over 4.4 million households live in the private rented sector, which is 19% of all households.<sup>4</sup> Furthermore, the UK Government estimate that there are 19,000 letting agents in England.<sup>5</sup> Between 2012 and 2020 the number of Europeans renting their home increased by over 9% from 18.7% to 20.4% of the population. In the EU in 2022, 69% of the population lived in a household owning their home, while the remaining 31% lived in rented housing.<sup>6</sup>
7. Unlike estate agents, letting agents hold a significant amount of money from deposits, rents and service charges which highlight the opportunities for cash payments to be made. For example, a letting agent had a tenant explain that they could not pay through a bank account but was able to pay 12 months’ rent in advance, in cash. This amounted to £26,000. Although it is best practice to do so and letting agents operating in England must carry out Right to Rent checks, they have no statutory obligation to carry out Customer Due Diligence. Alarming, in circumstances as outlined above, letting agents would not be committing a criminal offence by not submitting a Suspicious Activity Report.
8. It is relatively easy for someone to obtain a rented property and then use it for a cash-based business. Individuals may then subsequently use criminal money to buy property and/or launder money through various layers of activity. This is highlighted by the case of Aqeel Khan who in December 2014 used profits from laundering millions of pounds for criminals and conned financial institutions to fund a property portfolio and buy a fleet of luxury sports cars. Mr Khan’s network included his brother who controlled and co-ordinated the distribution of cash into third party bank accounts. He then used one of his employees to launder money through his accounts and had property assets put into his name.<sup>7</sup> In January 2021, nearly 50 properties seized in action against money laundering in Italy and Spain. Thirteen provisional arrests were made. A luxurious real estate property and 52 plots of land were seized in Cuneo,

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<sup>4</sup> <https://www.gov.uk/government/statistics/english-housing-survey-2019-to-2020-headline-report>

<sup>5</sup> <https://www.gov.uk/government/publications/a-fairer-private-rented-sector>

<sup>6</sup> <https://ec.europa.eu/eurostat/web/interactive-publications/housing-2023>

<sup>7</sup> <https://www.yorkshirepost.co.uk/news/crime/bradford-money-launderers-fleet-luxury-cars-1827971>

with an estimated value of EUR 5 million, while in Malaga 47 properties were seized and over 100 bank accounts were frozen by the Spanish judicial authorities.<sup>8</sup>

### The impact of COVID-19

9. Homeownership provides an increased sense of stability and security to people's lives and the local communities in which they live. The UK Government introduced reduced rates of Stamp Duty Land Tax (SDLT) for residential properties purchased from 8 July 2020 until 30 June 2021 and from 1 July 2021 to 30 September 2021 to restart the property market and boost the economy. Since the introduction of the cut to Stamp Duty Land Tax the housing market across the UK excelled. Figures from our member survey in July 2020 show that an average of 13 sales were agreed per branch, which is the highest figure recorded since June 2007. Furthermore, year-on-year, housing demand for August 2020 was up by 33 per cent and an average of 12 sales were agreed per branch, the highest figure recorded for August in 13 years.<sup>9</sup> Furthermore, the Bank of England reported that up to the end of 2021, annual housing price inflation peaked at 13.2% in the UK, its highest level in over a decade.<sup>10</sup> According to the European Central Bank, year-on-year house price growth increased from 4.3% at the end of 2019 to stand at 5.8% in the last quarter of 2020 – the highest growth rate since mid-2007.<sup>11</sup> Even before the cut to Stamp Duty Land Tax for England and Wales and subsequent cuts to property taxes by the governments in Scotland and Wales, more than one million homes are bought and sold every year in the UK, which means at least a million buyers, each working with professional support from estate agents, solicitors, conveyancers and mortgage lenders. Additionally, property sales have a knock-on effect on the wider economy as people buy white goods and furniture as well as spend on decorating and home improvements.

### Threat and vulnerability

10. It's an offence to trade as an estate agent in the UK unless you're registered with HM Revenue and Customs (HMRC) for AML supervision.<sup>12</sup> The Fifth Money Laundering Directive expanded the scope of regulated businesses for AML supervision within the UK's property sector to

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<sup>8</sup> <https://www.eurojust.europa.eu/news/nearly-50-properties-seized-action-against-money-laundering-italy-and-spain>

<sup>9</sup> <https://www.propertymark.co.uk/news-reports/research.html>

<sup>10</sup> <https://www.bankofengland.co.uk/financial-stability-paper/2022/how-much-of-the-housing-price-increase-during-covid-was-driven-by-a-change-in-household-preferences>

<sup>11</sup> [https://www.ecb.europa.eu/pub/economic-bulletin/focus/2021/html/ecb.ebbox202104\\_05~681f95e295.en.html](https://www.ecb.europa.eu/pub/economic-bulletin/focus/2021/html/ecb.ebbox202104_05~681f95e295.en.html)

<sup>12</sup> <https://www.gov.uk/guidance/register-or-renew-your-money-laundering-supervision-with-hmrc>

include the letting agency sector but only for high value transactions with a monthly rent of EUR 10,000 or more. HM Treasury appoints AML supervisors to ensure compliance with the requirements of the Money Laundering Regulations. The UK has 25 supervisors: three statutory supervisors (the FCA, HMRC and the Gambling Commission) and 22 legal and accountancy Professional Body Supervisors (PBSs). Having 25 PBSs, ranging from large public organisations to small professional bodies, this is leading to confusion, a varying quality of supervision as well as a lack of standardised guidance. HMRC, currently the supervisory authority for seven business sectors, issuing separate guidance for each specific business type is potentially overburdened. Propertymark has suggest to the UK Government that the consolidation of supervision, with fewer supervisory bodies, particularly around the Accountancy and Law Sectors and the creation of more sector specific PBSs.

11. Under the Money Laundering Rules, property agents must be able to prove the identity of both the buyer and seller, and any beneficial owner of the customer, to the property sale. For property agents, Customer Due Diligence means taking steps to identify their customers and checking they are who they say they are. The level of due diligence depends on the agent's risk assessment of each customer. It is a cumulative process and means obtaining the customer's: Full name; Official documentation which confirms their identity (preferably a form of photo ID); Residential address and date of birth; Details of any resulting beneficial owners. Whilst the beneficial owner is likely to own or control the customer, it may also be the person on whose behalf a transaction or activity is carried out. The level of due diligence is down to the agent to decide, but if the agent has any doubts about a customer's identity, they must cease activities with them until doubts are resolved.
  
12. Enhanced Due Diligence often involves seeking a better understanding of the source of funds, requiring the payment to be carried out through an account in the customer's name with a bank subject to Customer Due Diligence measures and senior-management approval. Agents must also apply Enhanced Due Diligence on a Politically Exposed Person (PEP). These are individuals that are entrusted with prominent public functions (senior political figures or their immediate family and close associates), held in the UK or abroad. Their position may make them vulnerable to corruption. However, most property agents or senior managers will not know how to define a middle-ranking or more junior official to distinguish whether enhanced due diligence is necessary. Property agents need more support in how to establish the necessary mechanisms to carry out enhanced due diligence and be able to recognise whether a customer is a Politically Exposed Person.

## Mitigating measures

13. In addition to the recommendations for the European Commission, competent authorities, Member States and multilevel governance and local government, improving knowledge-exchange and cooperation, we believe the European Commission and national governments should be doing more in the following areas:

- **Regulation** - where property agents (or the equivalent) play a substantial role in facilitating property transactions, they should be regulated. This regulation would include qualification and CPD requirements to ensure that professionals within the housing sector are more able to identify money laundering risks. Whilst a CEPI report in 2022, *The Regulatory Situation of Real Estate Professions Across Europe*, outlines that of 25 national regulations of real estate agents only seven countries (including the UK) do not have elements of state regulation, less than 10 countries have requirements for compulsory association membership, lifelong learning requirements or compulsory code of ethics.<sup>13</sup> In November 2023, HMRC in the UK said that more and more property agents are seeing their AML applications for supervision rejected for not having risk assessment measures in place.
- **Property ownership** - where risks have been identified, require Member States to promote greater collaboration and cooperation between organisations involved within the real estate industry. For example, the UK has recently introduced the Economic Crime and Corporate Transparency Act<sup>14</sup>. One of the measures introduced provides protections for estate agents from civil legal action being taken against them if they inform another estate agent that they ended a business relationship with an individual or business if they believed that individual or business posed a money laundering risk. Such measures should be promoted in order to ensure industries crack down on suspected individuals who would garner a reputation for laundering money.
- **Enforcement** - in addition to improving the ability for property agents to share experiences with organisations and individuals who present money laundering risks, those convicted of money laundering and other economic crimes should be made public. This

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<sup>13</sup> <https://cepi.eu/en/regulation>

<sup>14</sup> <https://www.legislation.gov.uk/ukpga/2023/56/contents/enacted>

would help property agents to carry out enhanced checks on these individuals as previous criminal activity would act as a serious indication of risk. We would also recommend that any fines given to organisations or individuals who have been found guilty of economic crime should be made public and widely circulated.

- **Public Registers** - another aspect of the UK's approach to tackling economic crime in the real estate sector has been to increase powers for Companies House, which is a public organisation that records and holds information on companies that is made available to the public. The EU Commission should promote increased powers to similar organisations across the EU. Beneficial owners should be required information that is published through these organisations, with powers to investigate where data and information on registers is incomplete.
- **Reporting suspicious activity** – policy makers must consider that much of the current information seeking to be collected is geared towards financial institutions such as asking for bank account details which property agents won't always know depending on when suspicion is formed. A simplified route for estate agents when making a report would be more helpful and involve priority and non-priority reporting as well as a standard form for reporting for the property sector. Ultimately, a property transaction is fast moving, and agents need a quick response when reports that have been submitted whereas it is easier and less time sensitive for financial institutions to wait for a response.