



AMLC

Newsletter January 2021

Anti Money Laundering Centre

Dear Colleague,

Please find below the first AMLC newsletter of 2021.

This newsletter features an in-depth item on tackling mala fide real estate agents. This approach shows that cooperation makes for additional impact. Colleague Marrit Ganzinga: 'We thus pool Motus' information and experience in the field of this phenomenon, and our knowledge and expertise from the financial side. By an approach that is less incident-oriented (a house) and more intelligence driven, you achieve a higher impact.'

Additionally, the newsletter has links to an AMLC article on money laundering through online gambling and to the digital book titled 'Memoires of Ed van Utrecht', containing many creative ways of money laundering. Why do we share this information with everyone? AMLC colleague Dick Crijns explained this in a recent interview in the Volkskrant (newspaper): 'I would rather have 17 million Dutch people who notice when something is wrong so that they will not be abused for money laundering purposes than 1,650 FIOD staff members.'

As is customary, we conclude with recent case law.

If you have gained any experiences or encountered any issues that you would like to share, please e-mail AML.Centre.Postbus@belastingdienst.nl. If you have colleagues who are also interested in receiving this newsletter, they may use the above e-mail address to join. The Dutch version of this newsletter is available [here](#). And finally, if you want to be kept up to date: follow us on LinkedIn.

Enjoy reading the newsletter,
The AMLC



News

Online gambling

How to launder money through online gambling? AMLC colleague Noortje Boere wrote a memo on this subject, which can be read [here](#).

Workshop Ed van Utrecht

Ed van Utrecht is a well-known name by now in the fight against money laundering in the Netherlands. For a number of years, Edje asks workshop participants to help him 'legalize' his criminal money. From finding a bag of cash money in the forest to using a court decision to collect a penalty payment, many solutions have been considered.

On 13 January, the workshop was hosted online for the first time. Colleagues from the Public Prosecution Office and the Dutch Central Bank, but also private parties such as banks and insurance companies were present. Following an introduction on money laundering, the group got mixed to come up with creative solutions to help Edje launder his money. The groups rejoined to discuss even more possible solutions. The purpose of the workshop was not to remember all those solutions, but to 'look at it with fresh eyes'. This can help identify money laundering at an earlier stage.

Niels Noordraven, Compliance Officer at Nationale Nederlanden: "I really enjoyed participating in the workshop. It was very interesting to think like a money launderer in a group with other participants, each of whom brought their own expertise. This gave rise to all kinds of creative money laundering constructions within the groups. Finally, it was nice that Edje himself joined to explain ways of laundering his criminal income."

The next digital workshop is Tuesday afternoon on **13 April 2021**. If you are interested in joining this workshop (in Dutch!), please let us know via AML_Centre_Postbus@belastingdienst.nl. There is a maximum of 3 participants per organisation.



Memoires of Ed van Utrecht

Speaking of Ed van Utrecht... AMLC-colleague Dick Crijns and journalist Map Oberndorff wrote a spectacular digital book: the memoires of Ed van Utrecht. Ed thus being the character used in our money laundering training sessions. The book describes Ed, as well as a whole variety of money laundering possibilities. You can get the book (only available in Dutch) for free via <https://lnkd.in/e-M7QcC>.

If you are planning to join the workshop, you might just want to postpone reading it until afterwards, to better enjoy the workshop ;-)

Cooperating to combat the criminal use of real estate

By Victor Ross, AMLC

The comprehensive and multidisciplinary approach to combating crime is consistently gaining ground. This is done, for example, at Regional Information and Expertise Centres (RIECs) and the recently established Multidisciplinary Intervention Team (MIT). This approach has been used by various public – and sometimes private – organisations, each having their own perspective and information position for jointly combating all kinds of crime. Jointly, you know more and you are also able to do more. The collaborating organisations often have their own resources to tackle part of the problem and this makes it possible to make smart choices when to use which resources.

In the region of Rotterdam, cooperation takes place based on the RIEC-related 'Motus reinforcement pillar' in the approach to criminal real estate. Motus' knowledge and experience were very handy when the Fiscal Intelligence and Investigation Service (FIOD) started an investigation into a suspected rogue letting agent in the port city, who was going to provide (unlawful) housing to criminals. The investigating parties soon discovered each other and this led to great results. On 18 November 2020, 300 FIOD officials and police officers searched 18 buildings (16 houses and 2 business premises). In doing so, 10 arrests were made which included 3 letting agents, and the property seized included a house, about €150,000 in cash, 42 kilos of cocaine, 2 cars, cartridges, 2 knives, 2 swords, a stiletto, 2 safes and remnants of cannabis cultivation sites.

The Anti Money Laundering Centre (AMLC) talked to Nick¹ (Motus) and Marrit Ganzinga (FIOD) about criminal investigations, the comprehensive collaboration, and the transition into tackling the phenomenon of rogue letting agents.

Name: **Nick**

Organisation: Motus

Work history: 16 years of policing 'from uniformed work to detective work'

Quote: *'Subversion has always intrigued me. This makes Rotterdam fascinating with its port where many drugs enter our country. These can be traced back to the suburbs because drugs need to be stored somewhere. It is great to find new ways to combat this subversion, by focusing on the phenomenon of criminal real estate as such.'*



Name: **Marrit Ganzinga**

Organisation: FIOD, concealed assets team (location Zwolle)

Position: Operational Analyst

Work history: analyst at SZW Inspectorate and FIOD Amsterdam

Quote: *'I like to establish links. Gathering relevant data from an amount of information, and then determining what we can do with the results. What smart interventions are possible and which approach is appropriate? It is nice to have a helicopter view within a team and to help give direction in an innovative way from that vantage point.'*

What triggered the criminal investigation?

Marrit: The Financial Intelligence Unit (FIU) sent us a suspicious transaction about a letting agent in Rotterdam. It concerned a report from a bank about cash deposits and we decided to tackle it. We soon sought contact for collaboration with the police in Rotterdam and then Motus was identified.

¹ Without surname, as requested

What does Motus stand for?

Nick: 'Motus' literally means 'putting something in motion'. The main objective is to strengthen the real estate sector together with partners and to bring about a more equitable real estate market. We do this together with all kinds of public bodies but also private partners, including parties within the housing sector, housing foundations and Associations of Owners (VvE). In this, Motus distinguishes three pillars:

- creating awareness and resilience among those in the sector and in politics²;
- disrupting criminal abuse of real estate; and
- encouraging action to be taken as a single public authority.

How did 'Motus' come about?

Nick: Motus came about in pursuance of subversion reinforcement funds. In this context, the government has made €100 million available. Within the RIEC in Rotterdam, the real estate reinforcement pillar (Motus) was launched with the police acting as the driving force. The police have staffed the Motus team with a wide variety of expertise, from a scientific researcher, a multimedia and design specialist, a former bank employee and an intelligence investigator to a data scientist. This makes the team fully self-sufficient.

In Rotterdam, Motus started to further develop an already existing approach to unlawful occupancy. This ensued from a perception that had arisen at the Rotterdam police unit of city homes being used by criminals. More and more premises are discovered that are being used for drug storage. To be able to stay in the city anonymously, for instance, criminals regularly make use of luxurious homes in one of the residential towers. Such residential towers offer a certain degree of anonymity, simply because there are plenty of people living there and everything is under one roof – for example, an indoor garage. Occupying housing anonymously is called 'unlawful occupancy'. The police often find such homes by chance, but they do not make this phenomenon a priority. The subversion reinforcement funds give us an opportunity to actually focus on the phenomenon and to investigate who facilitates unlawful occupancy. These are, for example, crucial links such as the letting agent – who is subject to the Money Laundering and Terrorist Financing (Prevention) Act (*Wet ter voorkoming van witwassen en financieren van terrorisme*, Wwft).³

What was the impact for the criminal investigation when Motus appeared to exist?

Marrit: Because of its information position, Motus was able to draw up a portfolio overview of which properties were being managed by the investigated estate agents. Then the FIOD examined the financial side: is it logical that the tenants can afford such housing? We combine Motus' information and experience of the phenomenon and our knowledge and expertise on the financial side. A greater effect is achieved by looking at it from a more intelligence-driven perspective rather than being incident-oriented (a house). This clearly came to the fore in this investigation by focusing on facilitating letting agents, which led us to find dozens of thought-provoking houses and business premises.

What does Motus actually understand as being criminal real estate and does it happen often?

Nick: That is a broad concept. The lion's share of it is 'speculation' and there is also some 'exploitation'. We focus on 'exploitation' and then specifically on the role of the letting agent as a potential facilitator of unlawful occupancy, for example. However, crime is also common within the premises themselves. For example, there are stash premises and safe houses, houses with cannabis farms, illegal gambling joints, houses where illegal prostitution takes place, etc. Premises used for unlawful occupancy or criminal purposes are collectively referred to as 'criminal real estate'.

To give an impression: in the past year, the Rotterdam Unit alone found more than 300 homes where punishable offences had been observed in the homes. However, I think we have only seen the tip of the iceberg. We are getting

² The effect of this is gradually becoming visible. For instance, Motus was recently mentioned in a letter to parliament by Minister Grapperhaus (Letter dated 13 November 2020 'Combating organised crime' (Parliamentary Paper 29 911, No 292)).

³ Since 21 May 2020, letting agents have been subject to the Wwft (Section 1a(4)(h)) for acting as a professional or commercial intermediary in establishing and concluding real estate agreements and rights attached to real estate. This includes establishing and concluding lease agreements as referred to in Section 201 of Book 7 of the Dutch Civil Code, insofar as it concerns a monthly rental that amounts to €10,000 or more. This includes the (intermediary) letting agent receiving this rental amount (or other types of transactions) of €10,000 or more in cash, or using bearer cheques, a prepaid payment instrument (prepaid card) or similar means of payment; such transactions must always be reported by the letting agent (who has an objective reporting obligation) to FIU Netherlands. (source: fiu-nederland.nl)

an increasingly complete picture of the extent of criminal real estate, precisely by constantly focusing on it. To get back to the letting agent as a potential facilitator: in the RIEC region of Rotterdam alone, there are about 10,000 people who are active as a letting agent, of which about 7,000 are registered as such at the Chamber of Commerce. So this is a huge group and the problem is that this concerns an independent profession, a profession that does not have a licensing requirement. Introducing a licensing requirement could probably act as a barrier to malicious intent and would also give a better picture of the profession. A licensing requirement would also offer municipalities a better grip to intervene in a corrective way, for instance, by withdrawing licenses.

What worthwhile kinds of services do letting agents provide for criminals?

Marrit & Nick: To name a few examples: they mediate between landlords and tenants and can thus introduce criminal clients; they register certain main services for housing in their own name (including television and internet) and collect the rent due in cash. To illustrate this: in the criminal investigation, the letting agents were suspected, among other things, of money laundering of rent due received by them.



In addition, letting agents sometimes deliberately forget to check certain matters. For instance, they do not check who actually registers as the occupant of the house and they do not screen the tenants. In six houses that were searched by the police and the FIOD, other people were living there than were registered as the occupant at the municipality and one of the premises was being used for illegal prostitution.

What could landlords do to prevent letting to criminals?

Nick: Various things. We regularly provide information about this to letting agents, housing foundations who let many homes, but also to Associations of Owners (VvE). Some tips that we always share are:

- do not accept cash;
- check whether the people who register at the address match with the tenancy agreement;
- the agreement should include the provision that you may inspect the premises at any time on appointment. We always recommend what is known as the 'ROZ model'⁴ (Real Estate Council of the Netherlands), which contains a subversion clause. It deters potentially malicious people if a landlord can inspect the house every now and then. It is also useful to mention the subversion clause when signing the contract;
- ask for and check payslips of potential tenants;
- don't just indiscriminately accept any intermediary;
- be cautious if an intermediary mentions "I already have a tenant for the house";
- make sure there is face-to-face contact with the tenant when signing the tenancy agreement and handing over the key.

In addition, it is important to point out to landlords/property owners the potential disadvantages of renting to criminals; they are often not aware of this. For example, the municipality may impose an order subject to a penalty or close down premises if drugs are found there, if there is a risk for residents in the vicinity or if a lot of cash is found in a house. Associations of Owners can also arm themselves against homeowners by including an order subject to a penalty in the articles of association. Finally, it is good that owners understand that by accepting cash they could be guilty of money laundering.⁵

Are there private parties other than landlords who have instruments to tackle criminal rentals?

Nick: Banks and the notarial profession hold a key position. For example, banks are able to see cash flows and they could, for example, point out to their letting agent clients that they prefer not to see any cash deposits. Moreover, civil-law notaries can also recommend that a rental restriction could be included in the deed of transfer of houses. In addition, the Chamber of Commerce could provide information when an estate agent registers in the trade register. Finally, trade organisations can play a role too. Furthermore, we regularly give presentations of this kind to relevant private parties.

⁴ <https://roz.nl/de-roz-modellen/>

⁵ In this context, for example, see the ruling by the Amsterdam Court of Appeal: ECLI:NL:GHAMS:2017:5601

Citizens can also play their part. By making them aware of the signs of criminal use of real estate, they can report suspicious situations to “Report Crime Anonymously” (*Meld Misdaad Anoniem*, MMA). This has also been the focus of an MMA campaign about rogue tenants.

In addition to Motus' own campaign, the investigation has brought the problem to the attention of the press. Criminal real estate, however, also exists outside the Rotterdam region. Is attention being paid to that?

Nick: We have been reporting this to politicians on an ongoing basis. In the meanwhile we are continuing dialogue with RIEC Amsterdam, who is very interested in our approach, given the problem that they have there with criminal real estate. In 2019, a captivating report on this subject was published called ‘De Achterkant van Amsterdam’⁶ (The flip side of Amsterdam). If we act as a single public authority, this could also make a useful contribution over there in combating criminal real estate.

Want to know more about Motus? Check out [the LinkedIn page](#) of ‘Versterkingspijler Vastgoed’ (real estate reinforcement pillar).

Case law

Civil-Law Notaries Disciplinary Board in the Jurisdiction of ’s Hertogenbosch, 07-12-2020:
[ECLI:NL:TNORSHE:2020:28](#)

Several complaints were filed against a junior civil-law notary, some of which pertain to acts in breach of the gatekeeper function according to the obligations ensuing from the Dutch Money Laundering and Terrorism Financing (Prevention) Act (hereafter: Wwft).

The junior civil-law notary is reproached for not having complied with his training obligations on the basis of Section 35 of the Wwft⁷. The junior civil-law notary took one training course in 2012 and two training courses in 2017. The civil-law notary of the firm took a training course on the Money Laundering and Terrorism Financing (Prevention) Act in 2016 and gave an account of this to the whole firm. There are contingency plans as well as an elaborate risk policy. The Disciplinary Board rules that he did not comply with the obligation to take periodic training courses within the meaning of Section 35 of the Wwft.

The junior civil-law notary failed to conduct any research into the origin of cash payments in four dossiers, though required by the Dutch Financial Supervision Office (BFT). The transactions took place in 2013/2014. At that time, a civil-law notary was obliged to conduct a client screening if he carried out an incidental transaction for a client in the sum of at least €15,000 in cash. The cash payments all remain under the amount of €15,000. The Disciplinary Board considers the junior civil-law notary’s viewpoint, which entails that the risk profile was low in the four dossiers, to be understandable. Today, the cash limit is €10,000 (Section 3(6) of the Wwft).



Next, there is a transaction whereby the costs of the transfer were paid by someone other than the purchaser. This was added in handwriting on the statement for settlement. The address was ‘abroad unknown’. The purchaser and seller were mother and son and the intermediary was a mutual relation of the family members. Mother and son were abroad, which is why they both appointed an intermediary. The Disciplinary Board is of the opinion that the

⁶ <https://www.binnenlandsbestuur.nl/Uploads/2019/8/onderzoeksrapport-de-achterkant-van-amsterdam.pdf>

⁷ Section 35 of the Money Laundering and Terrorism Financing (Prevention) Act (Wwft): An institution ensures that its employees, as well as those responsible for the daily policy insofar as relevant for the performance of their duties and in taking account of the risks, nature and size of the institution, are familiar with the provisions of this Act and periodically take training courses to enable them to recognize an unusual transaction and to properly and fully conduct a client screening.

junior civil-law notary should have refused his services due to the unexplainable difference between the purchase sum of €25,000 and the assessed value of €37,000, as well as the cash payment of the purchase sum made by the intermediary. Furthermore, he should have reported the transaction to FIU-NL on the basis of the following subjective indicators: the postal address deviates from the formal address, the client wanted his correspondence to be sent to a non-formal address, it concerns a transaction with a loss that was manifest from the start and it significantly deviates from the market price.

There is also the incorporation of a private company with limited liability which the junior civil-law notary should have reported as unusual. The deed concerning the private company with limited liability was executed before the junior civil-law notary. This, too, falls within the notion of a transaction as set out in the Wwft. *'An act or set of acts performed by or on behalf of a client of which the institution has become aware in the course of providing its services to that client.'*⁸ The appointment at the notary was made by a person other than the founder. This man also came along to the appointment without it being clear what his role or function was. No client information has been recorded of the founder. The client's address is a residential care and living community for people with mental disabilities. The junior civil-law notary helped set up the incorporation and the client did the registration with the Chamber of Commerce. Later, the junior civil-law notary found out that the client was living in a care home, that is he mildly mentally disabled and whose capital was under administration. The junior civil-law notary should have disclosed this as an unusual transaction on account of the following indicators: parties to a transaction who are effectively dominated by others and who only play a role on paper, persons who formally do not perform a function that is listed in the Trade Register nevertheless *de facto* appear to be in charge, the client is involved in transactions – whether or not on a one-off basis-, which are unusual as these are not within the scope of the client's normal profession or business, while the institution cannot provide an acceptable explanation for this, transactions that are considered unusual in terms of size, nature, frequency or execution, the client prefers assets that do not leave a trace, such as cash money, bearer documents, bearer bonds and that client may be a strawman. After the junior civil-law notary found out about the founder's place of residence and administration, he prioritized the reversal of the incorporation of the private company with limited liability, however, he wrongly failed to report it.

The Disciplinary Board imposes a reprimand in combination with a financial penalty.

⁸ Section 1(1)(m) Wwft as of 01-01-2013.

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