



# MONEY LAUNDERING RISK ASSESSMENT IN REAL ESTATE AND CONSTRUCTION SECTORS

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FINANCIAL INTELLIGENCE UNIT OF LATVIA



Financial Intelligence  
Unit



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## I. INTRODUCTION

1. Historically, real estate transactions have been among the most convenient and accessible schemes for ML. Considering the insufficient supervision of real estate and construction sectors, there are many ways to place, layer, and integrate PoC into the legitimate financial system. The two sectors also facilitate transfer of PoC between multiple individuals or groups involved in a crime. In addition, real estate and construction sectors are strongly associated with the shadow economy and tax crime.<sup>1</sup>
2. ML through real estate can also have a ripple effect on the overall real estate market in a country. Such regions as London (UK)<sup>2</sup> and British Columbia (Canada)<sup>3</sup> show that ML through the real estate sector significantly increases property prices, making real estate unaffordable for the majority of the population. In both cases, increasing real estate prices have a wider socio-economic impact on the populations of these countries (growing inequality, lower living standards) and also on people's trust in public authorities.
3. "Guidance for a risk based approach: Real estate sector" was published in 2022 by FATF. It highlights ML risks in the real estate sector globally. In total, 53 per cent of the countries surveyed by FATF considered ML risks in the real estate sector to be high or medium. In the same survey it was concluded that 76 per cent of those working in the real estate sector have a poor or very poor understanding of ML and TF risks.<sup>4</sup>
4. FATF Recommendations and studies, as well as the NRA, do not separately address ML and TF risks in the construction sector. In addition, the AML Law does not provide for control mechanisms to mitigate ML risks in the construction sector.
5. Given the close links between the construction and real estate sectors, the high share of shadow economy in the construction sector, its weak ML supervision, and the resulting high vulnerability, this Risk Assessment analyses both sectors together.
6. The Risk Assessment is designed to raise awareness of ML risks in the construction and real estate sectors among the responsible public authorities, the subjects of the AML Law, and other stakeholders. By identifying the risks associated with both sectors, those involved in the prevention of ML can properly manage the associated risks by applying a risk-based approach.

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<sup>1</sup> The study "Noziedzīgi nodarījumi nodokļu jomā un noziedzīgi iegūtu līdzekļu legalizācija. Robežšķirtne, tipoloģijas un tiesu prakse" [Tax Offences and Money Laundering. Boundaries, Typologies, and Case Law], report, pages 17–18. Available at:

[http://petijumi.mk.gov.lv/sites/default/files/title\\_file/Noziedz%C4%ABgi\\_nodar%C4%ABjumi\\_nodok%C4%BCu\\_om%C4%81\\_PETIJUMS.pdf](http://petijumi.mk.gov.lv/sites/default/files/title_file/Noziedz%C4%ABgi_nodar%C4%ABjumi_nodok%C4%BCu_om%C4%81_PETIJUMS.pdf); *Ēnu ekonomikas indekss Baltijas valstīs 2009.–2021. gadā* [Shadow Economy Index in the Baltic States in 2009–2021]. Page 11. Available at: [https://www.sseriqa.edu/sites/default/files/2022-05/Brosura\\_Enu\\_ekonomikas\\_indekss\\_2009\\_2021.pdf](https://www.sseriqa.edu/sites/default/files/2022-05/Brosura_Enu_ekonomikas_indekss_2009_2021.pdf)

<sup>2</sup> Transparency International UK. Faulty Towers: Understanding the impact of overseas corruption on the London property market. Pages 33–34. Available at: [https://tfl.ams3.cdn.digitaloceanspaces.com/media/documents/TIUK\\_Faulty\\_Towers\\_Web.pdf](https://tfl.ams3.cdn.digitaloceanspaces.com/media/documents/TIUK_Faulty_Towers_Web.pdf); The Economist. Why is it so easy to hide dirty money in Britain? Available at: <https://www.economist.com/films/2022/05/12/why-is-it-so-easy-to-hide-dirty-money-in-britain>

<sup>3</sup> Expert Panel on Money Laundering in BC Real Estate. Combating Money Laundering in BC Real Estate. Page 14. Available at: <https://www2.gov.bc.ca/assets/gov/housing-and-tenancy/real-estate-in-bc/combating-money-laundering-report.pdf>

<sup>4</sup> FATF. Guidance for a risk based approach: Real estate sector. Page 12. Available at: <https://www.fatf-gafi.org/content/dam/fatf/documents/recommendations/RBA-Real-Estate-Sector.pdf.coredownload.pdf>

## II. REGULATORY FRAMEWORK

### 1. Regulatory framework of Latvia

7. The subjects of the AML Law related to the real estate sector are as follows:
  - 7.1. sworn notaries, sworn advocates, other independent providers of legal services when they, acting on behalf and for their customer, assist in the planning or execution of transactions, participate therein or perform other professional activities related to the transactions for their customer concerning the buying and selling of immovable property, shares of a commercial company capital;
  - 7.2. real estate agents.<sup>5</sup>
8. The State Revenue Service is the supervisory and control authority of real estate agents and sworn notaries, sworn advocates, other independent providers of legal services when they, acting on behalf and for their customer, assist in the planning or execution of transactions, participate therein or perform other professional activities related to the transactions for their customer concerning the buying and selling of immovable property, shares of a commercial company capital.
9. In addition, most real estate transactions are conducted under the supervision of Latvian financial institutions which carry out payments between the parties involved in the sale/purchase of real estate.
10. Since 01.08.2020 the Law on the Activity of Real Estate Agents governs the operation of real estate agents in Latvia. According to the terms used in the Law on the Activity of Real Estate Agents, a real estate agent is a private person who provides the following services for remuneration (hereinafter — intermediation services):
  - 10.1. expressing of an offer of a real estate transaction;
  - 10.2. conducting of the negotiations and preparation of the documents necessary for the conclusion of a real estate transaction;
  - 10.3. preparation and explanation of the provisions of a real estate transaction (including the rights and obligations related to the transaction).<sup>6</sup>
11. Only private persons, EU citizens, or traders registered in an EU Member State who are registered in the Register of Real Estate Agents (maintained by the Ministry of Economics) may provide intermediation services.<sup>7</sup>
12. According to the AML Law, real estate agents shall apply the customer due diligence measures in relation to the person with whom the customer is concluding a transaction regarding buying, selling, or leasing real estate, and shall do it prior to concluding such transaction. In addition, real estate agents have other obligations as subjects of the AML Law (e.g. risk assessment, establishment of an internal control system, and staff training).
13. On 11 May 2023, in the 3rd reading the *Saeima* adopted amendments to the Law on the Activity of Real Estate Agents, providing for stricter control mechanisms for real estate agents. The relevant amendments have eliminated the gaps in the regulatory framework which allowed real estate agents to avoid the required annual training activities. It is

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<sup>5</sup> Section 3, Paragraph one, Clauses 4 and 6 of the Law on PMLTPF. Available at: <https://likumi.lv/ta/id/178987#p3>

<sup>6</sup> Section 1 of the Law on the Activity of Real Estate Agents. Available at: <https://likumi.lv/ta/id/315656>

<sup>7</sup> Section 4 and Section 7 of the Law on the Activity of Real Estate Agents. Available at: <https://likumi.lv/ta/id/315656>

also ensured that only natural persons who have registered their economic activity with the State Revenue Service may register in the Register of Real Estate Agents.<sup>8</sup>

14. The regulatory framework effective in Latvia does not stipulate that any subject of the AML Law must be involved in a real estate transaction as a supervisor. The only provision of the Law that provides for the involvement of the subjects of the AML Law in the monitoring of real estate transactions is the prohibition for natural and legal persons to conduct real estate alienation transactions in cash.<sup>9</sup> This implies that real estate transactions can only take place with the involvement of financial institutions. At the same time, laws and regulations do not require the financial institutions involved to be registered in Latvia or the EU which increases the risks that persons with the highest ML risk will use third-country credit institutions to settle the acquisition of real estate in Latvia.
15. Legal entities operating in the construction sector are not subjects of the AML Law and do not to follow the same requirements and obligations as the subjects of the AML Law. Nonetheless, legal entities in the construction sector are bound by Section 3.<sup>1</sup> of the AML Law which stipulates that other persons have an obligation to provide information on suspicious transactions.

## **2. Provisions of the Immigration Law with regard to the purchase of real estate**

16. As part of the Risk Assessment, it is also important to highlight the right of foreigners provided for in Section 23, Paragraph one, Clause 29 of the Immigration Law to apply for a temporary residence permit for a period not exceeding five years if they have acquired real estate worth EUR 250,000 or more in the territory of Latvia.<sup>10</sup>
17. The abovementioned provision of the Immigration Law has been supplemented with conditions mitigating ML vulnerability, including requirements that the payment for real estate must be made in the form of a non-cash payment and the real estate must be purchased from a legal person registered in the Republic of Latvia or an EU Member State, a European Economic Area State, or the Swiss Confederation, which is a taxpayer within the meaning of the laws and regulations governing the field of taxes of the Republic of Latvia, or from a natural person who is a citizen of Latvia, a non-citizen of Latvia, a citizen of the Union, or a foreigner who is staying in the Republic of Latvia with a valid residence permit issued by the Republic of Latvia.<sup>11</sup>
18. As with real estate transactions in general, the regulatory framework does not require that the subject of the AML Law must be involved in the real estate acquisition process. Although the purchase of the real estate must be carried out by means of a non-cash transfer, there is no requirement for either party to the transaction to use a credit institution registered in Latvia or the EU.
19. In view of the war against Ukraine waged by the Russian Federation and supported by the Republic of Belarus, as of 24 September 2022, neither citizens of the Russian Federation nor citizens of the Republic of Belarus are entitled to the rights laid down in Section 23, Paragraph one, Clause 29 of the Immigration Law.<sup>12</sup>

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<sup>8</sup> Amendments to the Law on the Activity of Real Estate Agents (Project ID: 22-TA-826). Available at: [https://tapportals.mk.gov.lv/legal\\_acts/2fa14f31-1a7f-4e5d-8160-a99daa288988#](https://tapportals.mk.gov.lv/legal_acts/2fa14f31-1a7f-4e5d-8160-a99daa288988#)

<sup>9</sup> Section 30, Paragraph 1.<sup>6</sup> of the On Taxes and Fees. Available at: <https://likumi.lv/ta/id/33946#p30>

<sup>10</sup> Section 23, Paragraph one, Clause 29 of the Immigration Law. Available at: <https://likumi.lv/ta/id/68522#p23>

<sup>11</sup> Section 23, Paragraph one, Clause 29 of the Immigration Law and Sub-clauses thereof. Available at: <https://likumi.lv/ta/id/68522#p23>

<sup>12</sup> Law "Amendments to the Immigration Law" of 22 September 2022. Available at: <https://likumi.lv/ta/id/335817>

### 3. International standards

20. FATF Recommendation 22 (Designated non-financial businesses and professions) requires that real estate agents when they are involved in transactions for their client concerning the buying and selling of real estate, and also lawyers, notaries and other independent legal professionals and accountants when they prepare for or carry out transactions for their client concerning buying and selling of real estate ensure conformity with the customer due diligence requirements and record retention requirements of FATF Recommendations 10, 11, 12, 15, and 17.<sup>13</sup>
21. In addition to the abovementioned Recommendations and taking into account the regulatory framework in force in Latvia, FATF Recommendations 19, 25, and 28 should also be taken into account with regard to the real estate sector and the transactions taking place in it.<sup>14</sup>
22. The FATF standards do not address the construction sector separately. Meanwhile the European Commission's Supranational Risk Assessment Report highlights the vulnerability of the construction and renovation sectors to ML, given the large cash flows in the sector. In addition, the Supranational Risk Assessment Report stresses that ML may involve a number of persons linked to the construction sector (architects, building supervisors, builders), through undeclared payments throughout the construction process, falsified invoices, or the use of illegally employed persons for tax evasion purposes.<sup>15</sup>

### 4. Conclusions


23. The AML Law and the Law on the Activity of Real Estate Agents prescribe the definitions and obligations in the field of ML for the subjects of the AML Law related to the real estate sector. It can be concluded that the current regulatory framework in Latvia imposes more obligations on real estate agents in proportion to their operational functions than the FATF Recommendations.
24. The FATF Recommendations state that customer due diligence should only be carried out in cases where the real estate agent is involved in the purchase and sale of the real estate. In contrast, the regulatory framework of Latvia requires all real estate agents providing intermediation services, which according to the Law on the Activity of Real Estate Agents do not include involvement in transactions, to conduct customer due diligence.
25. The regulatory framework in force in Latvia pertaining to sworn notaries, sworn advocates, other independent providers of legal services when they, acting on behalf and for their customer, assist in the planning or execution of transactions, participate therein or perform other professional activities related to the transactions for their customer concerning buying or selling of RE complies with the FATF Recommendations.
26. At the same time, it can be concluded that under the current regulatory framework, it is possible to acquire real estate without the involvement of the subjects of the AML Law which significantly increases the vulnerability of the real estate sector.

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<sup>13</sup> FATF Recommendation 10 "Customer due diligence", Recommendation 11 "Record-keeping", Recommendation 12 "Politically exposed persons", Recommendation 15 "New technologies", and Recommendation 17 "Reliance on third parties".

<sup>14</sup> FATF Recommendation 19 "Higher-risk countries", Recommendation 25 "Transparency and beneficial ownership of legal arrangements", and Recommendation 28 "Regulation and supervision of DNFBPs".

<sup>15</sup> European Commission. Commission Staff Working Document Accompanying the document: Report from the Commission to the European Parliament and the Council on the assessment of the risk of money laundering and terrorist financing affecting the internal market and relating to cross-border activities. Page 17. Available online at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52022SC0344&from=EN>

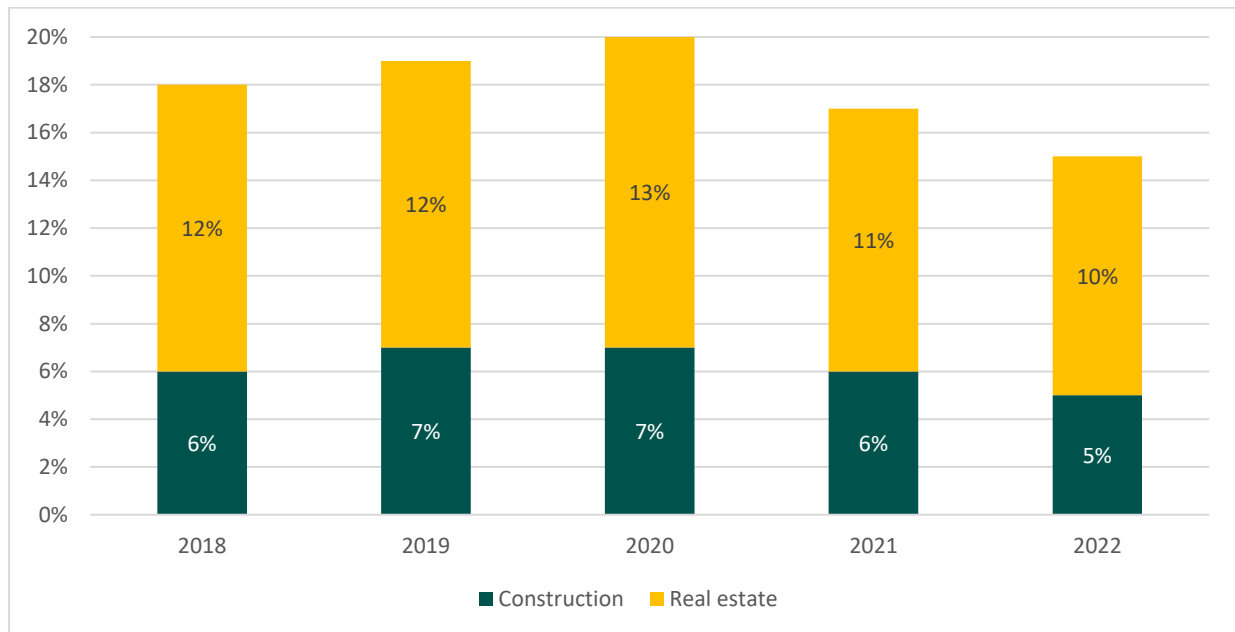


27. The vulnerability of the construction sector is highlighted in the European Commission's Supranational Risk Assessment Report. The construction sector is not addressed in the FATF Recommendations, nor is it regulated in the AML Law.

### III. ML RISKS IN THE LATVIAN RE SECTOR

28. In 2022, real estate transactions accounted for 10 per cent of total value added in the Latvian economy. When assessing the real estate sector together with the construction sector, the value both sectors added to the Latvian economy has fallen by a quarter since 2020 (see Figure 1).<sup>16</sup>

Figure 1. Share of value added of the real estate and construction sectors in the Latvian economy



29. According to the information available in the Lursoft database (as of 01.05.2023), there are 1194 registered real estate agents in Latvia<sup>17</sup> and 1829 companies buying and selling their real estate<sup>18</sup>. Real estate transactions can also take place without the involvement of real estate agents, between different persons (both natural and legal) and through unregistered brokers.

30. The Latvian Real Estate Association estimates that only 20 per cent of all real estate transactions are conducted through licensed real estate agents.<sup>19</sup> Only 15 per cent of all real estate transactions are concluded with the involvement of a sworn notary.<sup>20</sup> Since a significant part of these transactions overlap, it can be concluded that at least 70 per cent of contracts in real estate transactions are concluded without the involvement of the subjects of the AML Law.<sup>21</sup> At the same time, it should be stressed that if the subsequent transaction involves Latvian credit institutions, the persons involved are also investigated and the origin of their funds is verified.

<sup>16</sup> Official statistics portal. Gross domestic product and gross value added. Available at: <https://stat.gov.lv/lv/statistikas-temas/valsts-ekonomika/ikp-gada/2411-iekszemes-kopprodukts-un-bruto-pievienota-vertiba?themeCode=IK>

<sup>17</sup> According to NACE code 68.31 "Real estate agencies".

<sup>18</sup> According to NACE code 68.10 "Buying and selling of own real estate".

<sup>19</sup> Measures and activities restricting the activities of unregistered brokers. LV portal, 28.07.2022.


Available at: <https://lvportals.lv/dienaskartiba/343323-neregistreto-makleru-darbibas-ierobezojosie-pasakumi-un-aktivitates-2022>

<sup>20</sup> Fraud risks in real estate transactions. LV portal, 31.10.2022.

Available at: <https://lvportals.lv/norises/346045-krapiyecibas-riski-darjamos-ar-nekustamo-ipasumu-2022>

<sup>21</sup> As mentioned in the previous section, credit institutions may be indirectly involved in the execution of a transaction.



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31. The majority of companies involved in real estate development in Latvia<sup>22</sup> focus on residential development (new housing projects, renovation of pre-war houses, or private housing estates).<sup>23</sup> Companies mainly engaged in the construction of shopping centres or office buildings and companies engaged in forest trading are less represented.
  32. An assessment of the 20 largest real estate developers by annual turnover shows that almost no companies are involved in intermediation of real estate transactions. In most cases companies employ sales staff in-house rather than using the intermediation services provided by real estate agents.
  33. According to this structure, companies engaged in real estate development are not classified as subjects of the AML Law and are not subject to the obligations of subjects of the AML Law, such as the establishment of an internal control system, customer due diligence, staff training, and the development of a risk assessment. As real estate developers' sites (new apartment projects, renovated apartment buildings in Riga city centre, private houses in the Pierīga region) have historically been among the main destinations of ML, their vulnerability to ML is assessed as high (see Figure 4 and Figure 5).
  34. At the same time, Section 3.<sup>1</sup> of the Law on PMLTPF provides that even persons other than the subjects of the AML Law have an obligation to provide the information at their disposal about each suspicious transaction.<sup>24</sup> However, there is a risk that real estate developers without the obligation to invest in staff training, internal control systems, and risk assessments will not be able to identify ML in a quality manner.
  35. This is highlighted by the fact that 22 suspicious transaction reports have been received from real estate agents that, being the subjects of the AML Law, have implemented internal control systems and conducted staff training on ML risks between 2018 and 2022, and 21 of these reports have been received from only one legal person.
  36. In the same period 108 properties were frozen by orders of the Financial Intelligence Unit of Latvia. These orders were based on suspicious transaction reports from other subjects of the AML Law.
  37. The vulnerability of the real estate sector is significantly increased by the fact that the laws and regulations do not impose a mandatory requirement that an entity subject to the AML Law must be involved in a real estate transaction. For example, a Latvian credit institution can only detect a suspicious transaction if a non-cash transfer has taken place. At the same time, it is not required by laws and regulations that the participating credit institutions are registered in Latvia or the EU. This provides an opportunity for persons with an intention to launder money to acquire real estate in Latvia through credit institutions of other EU Member States or even third countries where AML systems do not conform to the requirements of international standards.
  38. It should also be noted that, despite the ban on cash purchases<sup>25</sup>, the practice of paying part of the real estate transaction amount in cash remains.<sup>26</sup> This is facilitated by the interest of both parties to the transaction to pay part of the sum in cash. The seller has an interest in fictitiously understating the amount of the sales contract, by informally receiving part of the payment in cash. This is done to avoid the payment of the relevant

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<sup>22</sup> According to NACE code 68.10 "Buying and selling of own real estate".

<sup>23</sup> Looking at the 20 companies buying and selling their own real estate, 70 per cent of the companies with the highest turnover direct all or part of their business towards residential development.

<sup>24</sup> Section 3.<sup>1</sup> of the Law on PMLTPF. Available at: [https://likumi.lv/ta/id/178987#p3\\_1](https://likumi.lv/ta/id/178987#p3_1)

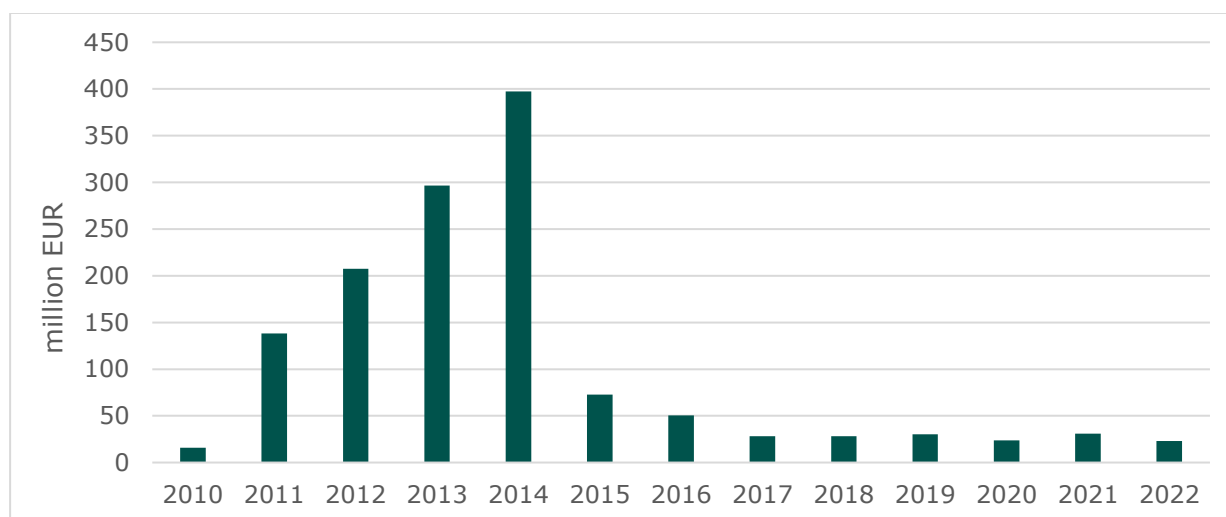
<sup>25</sup> Section 30, Paragraph 1.<sup>6</sup> of the On Taxes and Fees. Available at: <https://likumi.lv/ta/id/33946#p30>

<sup>26</sup> In 2022, the Financial Intelligence Unit of Latvia received 283 suspicious transaction reports with the typology "Purchase price of goods, property, or shares is inappropriate (significantly above or below the approximate market value)". Most of these reports concern real estate transactions.

taxes. The buyer has the option of buying the property at a lower price or using criminal proceeds to finance the purchase.

39. In total, 62 per cent of the real estate for which the Financial Intelligence Unit of Latvia has issued freezing orders are related to third-country (mainly CIS) nationals who have invested in real estate in order to obtain a temporary residence permit in Latvia. These 62 per cent of orders were issued in relation to real estate acquired between 2010 and 2016. This period is also associated with the highest level of investment by third-country nationals in the Latvian RE sector for the purpose of obtaining a temporary residence permit (see Figure 3).
40. Taking into account the trends in real estate investments in recent years, Latvia's improved AML system, and also amendments to the Immigration Law, which stipulate that from 24 September 2022 citizens of the Russian Federation and the Republic of Belarus<sup>27</sup> can no longer obtain a temporary residence permit in Latvia based on a real estate investment, it is expected that the vulnerability of the Latvian real estate sector to ML related to crimes committed in third countries will decrease significantly.

*Figure 2. Investments of third-country nationals in the Latvian real estate sector for the purpose of obtaining a temporary residence permit in Latvia, millions of EUR*



41. At the same time, the Immigration Law still contains vulnerabilities that increase ML risks in relation to real estate investments. While the Immigration Law provides that the purchase of real estate can be only made by a non-cash payment, this payment can be carried out using third-country credit institutions. Therefore, in circumstances where subjects of the AML Law are not required to be present in real estate transactions, third-country nationals can also avoid customer due diligence and inspection of the funds involved that could be provided by a credit institution registered in Latvia.
42. The most effective way to ensure that real estate transactions are verified, significantly reducing not only ML risks but also the risks of fraud, would be to provide that all real estate transactions take place under the supervision of a subject of the AML Law. This would ensure verification of the parties involved in the real estate transaction and the funds used. For example, the participation of sworn notaries in all real estate transactions is practiced in several other EU Member States (including Estonia and Lithuania), thus significantly improving supervision of the real estate sector.<sup>28</sup>

<sup>27</sup> Looking at the statistics since 2015, 98 per cent of investments in real estate to obtain a temporary residence permit in Latvia have been made by nationals of the Russian Federation and the Republic of Belarus.

<sup>28</sup> The involvement of sworn notaries in all real estate transactions is only one potential solution to mitigate ML risks. The potential costs and impact of this option on the workload of existing sworn notaries should be assessed separately.

43. Currently, only 15 per cent of all real estate transactions are concluded with the involvement of a sworn notary.<sup>29</sup> At the same time, sworn notaries are already involved in a large number of real estate transactions, ensuring the signing of the request for corroboration to the Land Register.<sup>30</sup> At the same time, it is possible to sign requests for corroboration without involving the subjects of the AML Law, because according to the Law on Orphan's and Custody Courts, if one of the requesting parties has declared his or her place of residence in the territory of operation of the relevant Orphan's and Custody Court, the Orphan's and Custody Court may also verify the signatures of the parties involved in the transaction.<sup>31</sup>
44. The possibility of acquiring real estate indirectly through a controlling stake in the legal entity that owns the real estate also increases ML risk in the real estate sector. In such cases, the actual change of ownership (from one natural person to another) is not registered in the Land Register, as the legal entity controlling the real estate remains unchanged. Moreover, the presence of the subjects of the AML Law is also not mandatory in transactions involving capital shares of legal entities. This creates the possibility of creating fictitious legal entities with the aim of selling real estate in a non-transparent manner, while potentially avoiding the payment of all the relevant taxes and the verification of the parties involved in the transaction.

#### Example 1

Person A has committed criminal offences abroad. Person A is also the beneficial owner of a legal entity incorporated in the British Virgin Islands. PoC are transferred among the accounts of different foreign-registered legal entities in banks in different countries as part of a fictitious transactions scheme. The number of transactions is large and covers a wide range of jurisdictions (both banks and legal entities), including offshore jurisdictions with non-transparent banking practices and weak public sector, law enforcement and information sharing capacity.

Following the structuring activities, PoC are initially deposited into the bank accounts of Person A and its British Virgin Islands registered legal entity in Cyprus, the origin of the funds being the repayment of loans as well as payment for the provided services. The funds are transferred from Cyprus to the accounts of Person A's spouse in Cyprus.

PoC are laundered as Person A's spouse acquires property in Latvia. A single family house is bought in the Pierīga region from a legal entity registered in Latvia by making a non-cash payment to the legal entity's account in another EU country. The real estate transaction does not involve the subjects of the AML Law (real estate agents, sworn notaries, or Latvian credit institutions).

## 1. ML risks in the real estate sector – a geographical dimension

45. An analysis of the real estate for which the Financial Intelligence Unit of Latvia has issued freezing orders in the period from 1 January 2018 to 31 December 2022 shows that PoC are mainly invested in the acquisition of RE in Riga and the Baltic Sea region.<sup>32</sup> In total, 96 per cent of all properties that have been purchased using funds without the involvement which there are reasonable grounds to suspect that they were acquired criminally are located in Riga, Jūrmala, or the municipalities located in the Pierīga statistical region.

<sup>29</sup> Fraud risks in real estate transactions. LV portal, 31.10.2022.

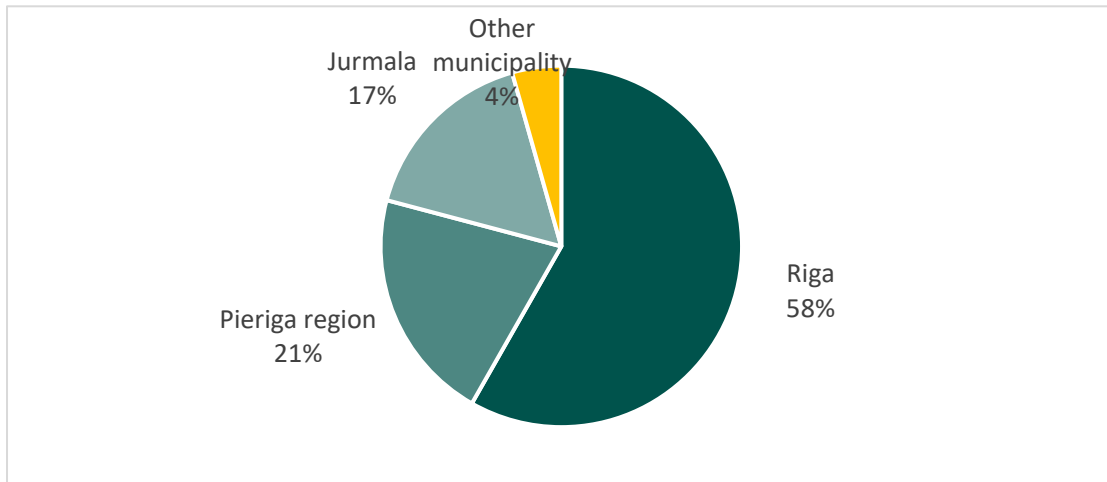
Available at: <https://lvportals.lv/norises/346045-krapniecibas-riski-darījumos-ar-nekustamo-ipasumu-2022>

<sup>30</sup> This process involves only the verification of the identity of the persons involved, not the verification of these persons or the funds used.

<sup>31</sup> In accordance with Section 61, Paragraph eight of the Law on Orphan's and Custody Courts.

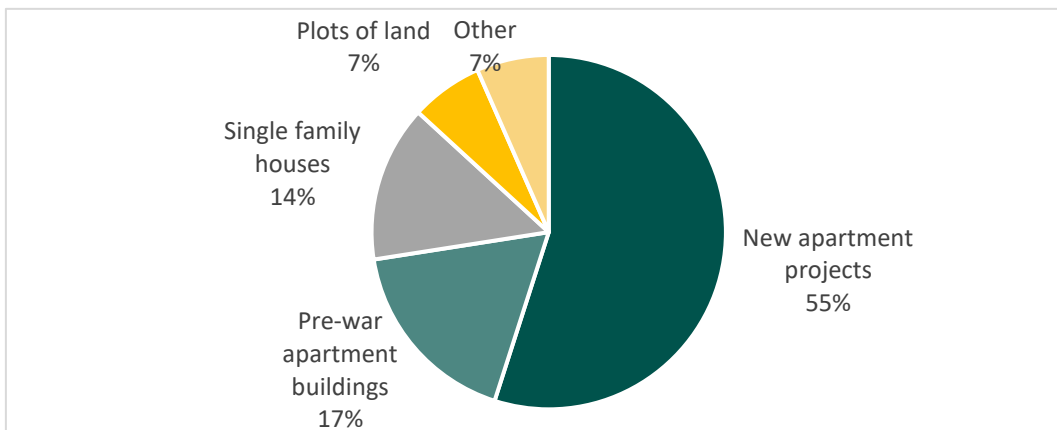
<sup>32</sup> In accordance with the units constituting statistical regions as defined in Cabinet Order No. 911 "Regarding Statistical Regions of the Republic of Latvia and the Administrative Units Containing Them". Available at: <https://likumi.lv/ta/id/328252>

Figure 3. Location of properties subject to freezing orders issued by the Financial Intelligence Unit of Latvia



46. The most frequent type of 5 in which PoC are invested are new apartment projects in Riga and Jūrmala, apartments in the centre of Riga, and also single family houses in the Pierīga region.

Figure 4. Type of property subject to freezing orders issued by the Financial Intelligence Unit of Latvia



47. Looking at the statistical trends related to regions and type of real estate, it can be observed that the purchase of high-quality real estate in the most economically dynamic region of Latvia is also an investment. According to the Central Statistical Bureau, the average value of second-hand property has increased by 49.2 per cent between the third quarter of 2018 and the third quarter of 2022.<sup>33</sup> In addition, the properties purchased are often rented out generating further profit for their owners.

48. In total, 62 per cent of the properties subject to the freezing orders issued by the Financial Intelligence Unit of Latvia during this period were related to third-country nationals who had invested in properties in order to obtain a temporary residence permit in Latvia. These properties are located in Riga (65 per cent), Jūrmala (26 per cent), or the Pierīga region (9 per cent). The properties subject to the freezing orders are apartments in new projects (both in Riga and Jūrmala), pre-war apartment buildings (Riga), and single family houses (Pierīga).

<sup>33</sup> It should be noted that this is the average increase across Latvia. Property values in Riga and Pierīga region are growing faster than in other regions of Latvia.

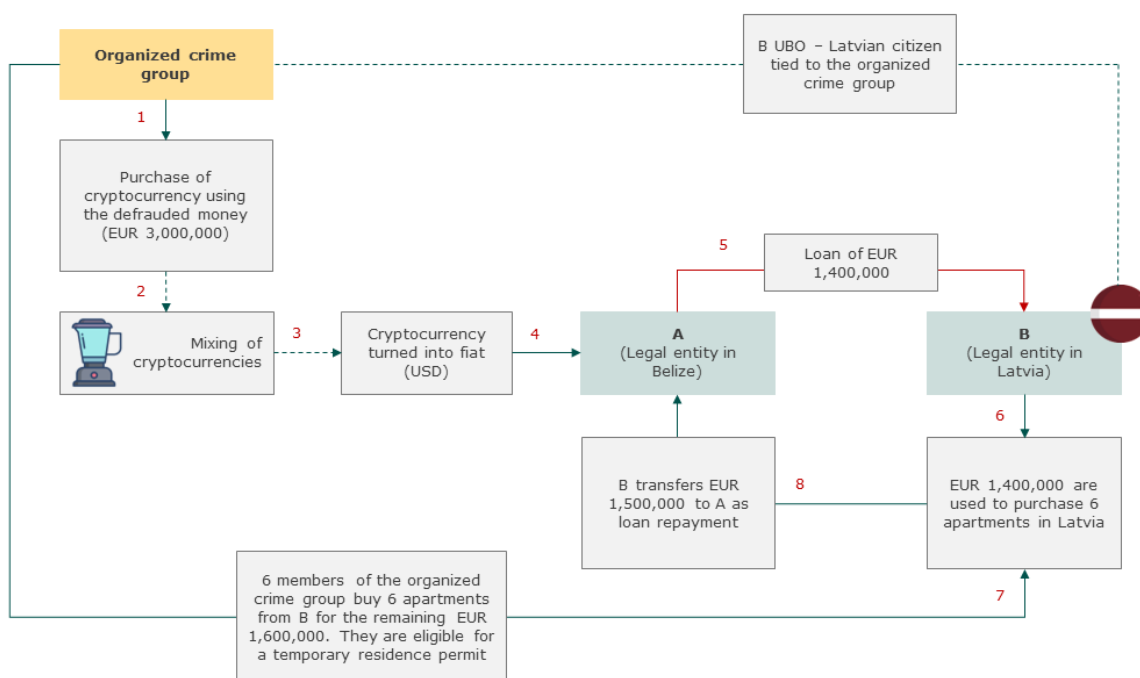
For several years, an organised crime group located in a third country has been defrauding individuals in the EU by offering to invest their money in cryptocurrency. EUR 3,000,000 worth of funds were used to purchase hard-to-trace cryptocurrencies such as Monero and ZCash which were further mixed and transferred between different cryptocurrency wallets. The proceeds are converted into US dollars and transferred to a Belize based legal person's (legal entity A) bank account in a Maltese credit institution.

Legal entity A grants a loan of EUR 1,400,000 to a legal entity (legal entity B) incorporated in Latvia and engaged in the development and management of real estate. The beneficial owner of the legal entity B is a Latvian national who has previously worked in the board of foreign companies that included members of the said organised crime group.

EUR 1,400,000 is used to purchase six apartments in new housing projects in Riga. The apartments selected for purchase are those which are still under construction (giving the possibility to pay for the apartments in several instalments) and whose construction is being carried out by a real estate developer, with its own sales staff, without the involvement of real estate agents in the transaction.

Six third-country nationals who were involved in an organised crime group purchase the relevant apartments, paying for them with the remaining EUR 1,600,000 in the accounts of the legal entity A. The purchase price of each apartment exceeds EUR 250,000, thus allowing all third-country nationals to obtain temporary residence permits in Latvia based on an investment in a property. EUR 1,600,000 is transferred to the account of the owner of the apartments, legal entity B, in Cyprus. Shortly after receiving the money transfer, legal entity B transfers EUR 1,500,000 from its account in Cyprus to legal entity A's account in Malta on the grounds of loan repayment. The remaining EUR 100,000 is retained by the beneficial owner of the legal entity B for the intermediation provided in ML and obtaining of temporary residence permits.

Figure 5. Schematic representation of Example 2



## 2. Conclusions

49. The level and quality of suspicious transaction reporting by real estate agents is assessed as low. The Financial Intelligence Unit of Latvia primarily receives suspicious transaction reports related to real estate from financial institutions, not from the subjects of the AML Law that are involved in the contracting of real estate transactions.
50. The low number of suspicious transaction reports received from real estate agents may indicate a lack of knowledge and understanding on the part of real estate agents, and also a possible deliberate desire to ignore the signs of a suspicious transaction for profit. Moreover, it should be noted that the Latvian Real Estate Association estimates that only about 20 per cent of RE transactions are concluded through RE agents.
51. When assessing the geographic risks of the real estate sector, most PoC have historically been invested in Riga, Jūrmala, or the Pierīga region, mainly focusing on the acquisition of high-value apartments (new housing projects, pre-war buildings in the centre of Riga) and single family houses. Most of the real estate that are subject to the freezing orders issued by the Financial Intelligence Unit of Latvia are associated with investments in real estate by citizens of third countries (in particular citizens of the Russian Federation and the Republic of Belarus) with the aim to obtain a temporary residence permit in Latvia.
52. Taking into account the profile of the frozen real estate and its owners and also considering the amendments to the Immigration Law<sup>34</sup>, it is expected that the use of Latvia's real estate sector for the laundering of the PoC obtained abroad will decrease in the coming years. Although the Immigration Law does not prohibit citizens of the Russian Federation and the Republic of Belarus from investing in Latvian real estate, it is expected that restrictions on obtaining a temporary residence permit will reduce the interest of the citizens of these countries to invest in Latvia.
53. Given the high vulnerability of the sector, the limited or non-existent involvement of the subjects of the AML Law and also the economic viability of real estate investments, the real estate sector will remain one of the main ways to legalise domestically acquired PoC.
54. The most effective and convenient way to combat ML through the real estate sector would be to require mandatory presence of the subjects of the AML LAW in all real estate transactions. In accordance with international best practice, sworn notaries, as the subjects of the AML Law, are one of the potential options for such supervision.
55. The amendments to the Law on the Activity of Real Estate Agents adopted by the *Saeima* on 11 May 2023, providing for stricter control mechanisms for real estate agents, are a positive development.<sup>35</sup> At the same time, measures need to be taken to strengthen the knowledge of real estate agents about ML risks in the real estate sector and their capacity to identify and address such risks.

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<sup>34</sup> Law "Amendments to the Immigration Law" of 22 September 2022. Available at: <https://likumi.lv/ta/id/335817>

<sup>35</sup> Amendments to the Law on the Activity of Real Estate Agents (Project ID: 22-TA-826). Available at: [https://tapportals.mk.gov.lv/legal\\_acts/2fa14f31-1a7f-4e5d-8160-a99daa288988#](https://tapportals.mk.gov.lv/legal_acts/2fa14f31-1a7f-4e5d-8160-a99daa288988#)

## IV. ML RISKS IN THE LATVIAN CONSTRUCTION SECTOR

56. In 2022, the construction sector accounted for 5 per cent of total value added in the Latvian economy. Since 2020, there has been a significant decline in construction activity in the Latvian economy (see Figure 1). In 2023, the construction sector is not expected to recover its pre-COVID-19 growth rate.<sup>36</sup>
57. Traders in the construction sector are not subject to the AML Law.
58. In the annual Shadow Economy Index published by the Stockholm School of Economics in Riga, construction consistently ranks as the economic sector with the highest share of shadow economy (31.2 per cent in 2021 (+2.5 per cent compared to the previous year)).<sup>37</sup> It is important to stress that although the share of the shadow economy in the construction sector has fallen from 40 per cent in 2015, the increase over the last year reflects a number of external factors that make it more difficult to combat shadow economy in the sector.
59. Since 2020, construction costs have risen significantly<sup>38</sup>, and demand for real estate has increased, especially in the Pierīga region<sup>39</sup>. Despite a number of measures aimed at reducing the share of the shadow economy in the sector in recent years, market trends like increasing demand, rising construction and labour costs, falling economic activity in the sector as well as the gradually declining purchasing power of the population<sup>40</sup> create conditions in which a high share of shadow economy in the construction sector persists. This is most often the case when those involved in construction choose to cut costs by avoiding the payment of the relevant labour and value added taxes.
60. Good governance, competitiveness, and reputation of the Latvian construction sector are also affected by infringements of competition law among large Latvian construction companies, through price fixing and the allocation of procurements for construction projects. Construction cartels have been identified several times in recent years, carrying out projects for both private and public sectors, some of which have received EU funding.<sup>41</sup>
61. Historically, the construction sector has had three dimensions to its shadow economy: 1) paying workers in the sector in cash to avoid payment of the relevant labour taxes ('envelope wages'), 2) not reporting company income, and 3) not reporting the number of employees.<sup>42</sup> In addition, the tendency to avoid payment of the value added tax in

<sup>36</sup> Jānis Kincis (LSM). "With construction costs on the rise, difficulties in the sector are forecast for next year". Available at: <https://www.lsm.lv/raksts/zinas/ekonomika/pieaugot-buvniecibas-izmaksam-grutibas-nozare-prognoze-ari-nakamgad.a489164/>

<sup>37</sup> Shadow economy index in the Baltic States 2009–2021. Page 11. Available at: [https://www.sseriga.edu/sites/default/files/2022-05/Brosura\\_Enu\\_ekonomikas\\_Indekss\\_2009\\_2021.pdf](https://www.sseriga.edu/sites/default/files/2022-05/Brosura_Enu_ekonomikas_Indekss_2009_2021.pdf)

<sup>38</sup> InnoMatrix. "Pētījuma par ikgadējām izmaksu dinamikas prognozēm un pārkaršanas riskiem Latvijas būvniecības nozarē ziņojums" [Report on the study on annual cost dynamics forecasts and overheating risks in the Latvian construction sector]. Pages 30–32. Available at: <https://www.em.gov.lv/lv/media/15509/download?attachment>

<sup>39</sup> Second-hand house prices in Latvia have increased by almost 30 per cent between the beginning of 2020 and the end of 2022, reflecting rising demand and the value of existing real estate in an environment where construction costs and new-build prices are rising rapidly. Taking into account the demographic trends in Latvia, a disproportionate increase in the value of real estate is observed in Riga and the Pierīga region, while the value of real estate in more distant regions is increasing at a slower pace, remaining stable or decreasing according to the specifics of each region. Source for changes in real estate prices: [https://data.stat.gov.lv/pxweb/lv/OSP\\_PUB/START\\_VEK\\_PC\\_PCI/PCI050c/table/tableViewLayout1/](https://data.stat.gov.lv/pxweb/lv/OSP_PUB/START_VEK_PC_PCI/PCI050c/table/tableViewLayout1/)

<sup>40</sup> Inese Helmane. "Rutkaste: Daju inflācijas nespējam izskaidrot ar standarta faktoriem" [Rutkaste: We cannot explain part of inflation by standard factors.] Available at: <https://lvportals.lv/viedokli/348311-rutkaste-dalu-inflacijas-nespejam-izskaidrot-ar-standarta-faktoriem-2023>

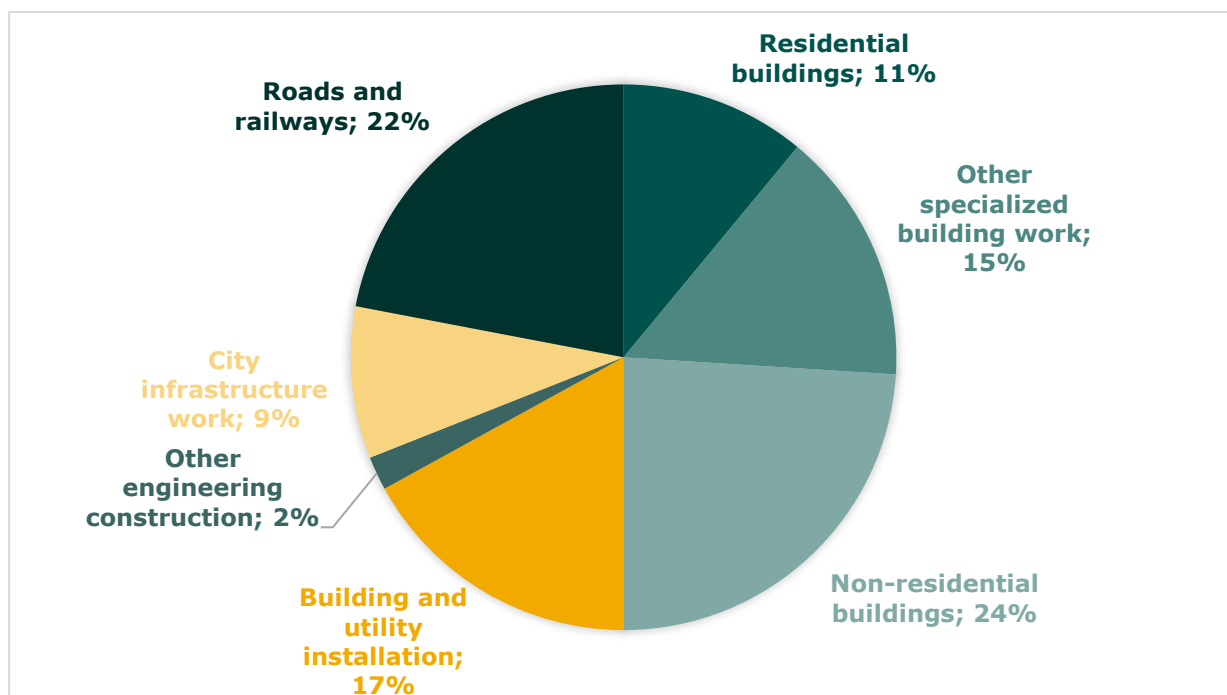
<sup>41</sup> Competition Council "Competition Council fines 10 construction companies for cartel". Available at: [https://www.kp.gov.lv/lv/jaunums/konkurences-padome-soda-10-buvniecibas-uznemumus-par-dalibu-karteli?utm\\_source=https%3A%2F%2Fwww.google.com%2F](https://www.kp.gov.lv/lv/jaunums/konkurences-padome-soda-10-buvniecibas-uznemumus-par-dalibu-karteli?utm_source=https%3A%2F%2Fwww.google.com%2F)

<sup>42</sup> Arnis Sauka. "Ēnu ekonomika un reputācija Latvijas būvniecības nozarē. COVID-19 ietekme un iespējamie risinājumi tās mazināšanai" [Shadow economy and reputation in the Latvian construction sector. The impact of

the construction process when purchasing construction/improvement materials should be also highlighted. All of these factors have a direct negative impact on national tax revenues. In addition, the normalisation of cash in the construction sector in the context of tax evasion also increases the associated ML risks.

62. According to the data at the disposal of the Partnership of Latvian Constructors, 75,000 natural persons were employed in the construction sector in 2022. The approximate number of companies operating in the sector is 10,000. Among the companies operating in the construction sector, 80 per cent employ no more than 10 people and pay 30 per cent of the sector’s total taxes.<sup>43</sup>
63. The estimated amount of undeclared mandatory State social security contributions and personal income tax in 2021 for both small contractors (up to 10 employees) and medium-sized contractors (between 10 and 50 employees) is around EUR 102,000,000. In other words, 39 per cent of the amounts paid in wages and salaries by these contractors are undeclared. Among large contractors, the share is 12 per cent.<sup>44</sup>
64. Looking at the structure of the construction sector (see Figure 5), residential and non-residential construction as well as specialised construction and building assembly activities are the most vulnerable segments of the construction sector. If construction in these parts of the sector is not contracted out to the public sector or to large traders, the construction service providers involved are likely to be small or medium-sized enterprises which are most at risk of working partly or entirely in the shadow economy.

Figure 6. Structure of the construction sector, January–September 2022 (%)<sup>45</sup>



Example 3

COVID-19 and possible solutions for mitigation thereof] Page 6. Available at: [https://www.latvijasbuvnieki.lv/wp-content/uploads/2020/04/15042020-zinojums-buvnieciba-2020\\_publ.pdf](https://www.latvijasbuvnieki.lv/wp-content/uploads/2020/04/15042020-zinojums-buvnieciba-2020_publ.pdf)

<sup>43</sup> Partnership of Latvian Constructors. Measures to reduce the shadow economy in the construction sector. Page 11. Available at: <https://www.em.gov.lv/lv/media/14681/download>

<sup>44</sup> Partnership of Latvian Constructors. Measures to reduce the shadow economy in the construction sector. Page 10. Available at: <https://www.em.gov.lv/lv/media/14681/download>

<sup>45</sup> Ministry of Economics “Latvian Economic Development Review”. Page 54. Available at: <https://www.em.gov.lv/lv/media/15783/download?attachment>



An organised crime group imports and sells contraband goods in Latvia. On average, the annual illicit profits amount to EUR 200,000.

The money is used to buy land for a private house in the Pierīga region. A transaction worth EUR 50,000 takes place between a natural person (a member of an organised crime group) and a natural person (a landowner). Both parties have an interest in the transaction mainly using cash. A member of an organised group may thus be able to legalise part of the PoC without supervision. It is in the interest of the seller of the land to fix a value in the sale contract that does not correspond to the market value of the land, thus avoiding the payment of personal income tax (as capital gains).

The contract includes the sales price of EUR 15 000 which is the approximate cadastral value of the land. The remaining amount, i.e. EUR 35,000, is paid in cash without being declared.

After purchasing the land, the remaining amount of EUR 150,000 is invested in the construction of a private house, the construction of engineering communications and landscaping, using the services of construction workers working in the shadow economy, and paying for the construction materials in cash, thus avoiding payment of value added tax.

Due to the increasing demand for single family housing in the Pierīga region and also the value factor of the real estate required for a temporary residence permit, the newly built house is officially sold for more than EUR 250,000, allowing the proceeds of crime to be integrated into the legal financial system and also generating a profit in the process.

65. Legal entities operating in the construction sector are not bound by the obligation to conduct customer due diligence and verify the origin of their funds. Given the size of the construction sector and the large number of small and medium-sized businesses operating in it, additional requirements for construction companies to carry out customer due diligence and supervision would be impractical, significantly increase the administrative burden on the activities of small construction companies in particular, reduce their competitiveness and encourage greater involvement thereof in the shadow economy.
66. Latvian legislation does not require persons to disclose the origin of funds used to finance construction at any stage of the construction process. Only persons who finance construction using a mortgage from a credit institution are to secure a lien in the Land Register which clarifies the origin of the funds used for construction.<sup>46</sup>
67. After issuing the mortgage, credit institutions have limited control over the funds used in the construction process. In practice, credit institutions providing mortgages for the construction of buildings disburse the loan to the borrower in several instalments after each phase of construction is completed. The credit institution inspections establish whether the works have been completed in accordance with the estimates for the works, not the funds by which this result has been achieved.<sup>47</sup> This creates a significant risk of tax crime, with borrowers potentially using the loans to pay for construction services or construction materials received without paying the applicable taxes. Limited monitoring of the use of mortgages also increases ML risks by masking this activity with fictitious mortgages (see Example 4).
68. Given that monitoring the use of each construction mortgage loan would be impractical and would create an unnecessary administrative burden for credit institutions, other measures to reduce the risks of tax crime in the construction sector should be

<sup>46</sup> Section 18 of the Land Register Law. Available at: <https://likumi.lv/ta/id/60460#p18>

<sup>47</sup> Credit institutions do not request invoices, payment orders, construction contracts, acceptance certificates, receipts or other documents to prove that the result has been legally achieved by the payment of all mandatory taxes.

encouraged, for example, by providing for the use of mortgage proceeds only in the form of non-cash payments. Such mechanisms would reduce the circulation of cash in the construction sector, thus potentially also reducing the share of the shadow economy in the sector.<sup>48</sup>

#### Example 4

A councillor in a municipality has received a cash bribe of EUR 200,000 for taking political decisions in favour of a company. According to his declaration as a public official, the councillor has a legitimate annual income of EUR 35,000 and has no cash or non-cash savings. In order to avoid suspicions about the rapid increase in his wealth, the official applies to a credit institution for a mortgage loan for the construction of a single family house (total amount of the loan: EUR 180,000). The pledge is registered in the Land Register for the full amount, giving the impression that the construction is fully financed by the mortgage alone.

The construction of a private house is carried out over a two-year period using contractors working in the shadow economy. The construction works are financed with EUR 150,000 of the bribe money, while the rest of the construction and landscaping is paid for with funds received from a credit institution (EUR 80,000).

The remaining EUR 50,000 of the bribe money is gradually deposited by the first-degree relatives of the municipal councillor and his wife over a period of two years into their accounts at various credit institutions and transferred in small amounts to the credit institution accounts of the councillor and his wife.

A year after commissioning of the building, the councillor pays 90 per cent of the mortgage loan, explaining to the credit institution that he carried out the construction work himself over a period of two years and received several donations from family members which went towards the construction of the building and the repayment of the mortgage loan. EUR 80,000 used from the bank loan was used only for the purchase of materials.

#### Example 5

A dishonest public official receives a bribe of EUR 20,000 for taking a favourable decision in a public procurement procedure. The amount is directly and indirectly invested in the development of the official's real estate. The official uses EUR 15,000 to pay for building materials in cash and to pay a contractor to carry out work at the official's real estate. Since the contracted construction company pays its employees in the form of 'envelope wages', all parties involved avoid any documentation of the work. The Construction Information System indicates that all construction work at the official's real estate is carried out by the official himself.


The remaining EUR 5000 in bribes is used by the official to pay for daily expenses over several months, using salary earned in the public service and not spent on daily expenses to develop the property in question, potentially employing the same contractor, paying for the services received officially.

The gradual development of the real estate, with the official also investing therein his own legitimate income and explaining the development of the real estate with his own hard work, makes it more difficult to establish and prove the existence of ML.

## Conclusions

69. The high share of shadow economy in Latvia's construction sector makes it an accessible and convenient way to launder money. Residential and non-residential construction and also related specialised construction and building assembly activities are exposed to a

<sup>48</sup> Similar measures to reduce the use of cash in the construction process should also be envisaged for construction projects commissioned by the public sector, including the involvement of EU funding.



higher ML risk, as these are the construction sectors where small and medium-sized construction companies are more exposed to the risk of working in the shadow economy.

70. If a person does not take out a mortgage from a credit institution for construction, the origin of the funds used in the construction process cannot be traced which significantly increases ML risks in the sector.
71. In addition, credit institutions are not bound by an obligation to carry out supervisory and control measures in order to verify the use of funds provided as part of mortgages. Currently, there are risks that part of these funds can be used in partnership with companies that are partly or fully operating in the shadow economy.

## V. CONCLUSIONS AND PROPOSALS TO MITIGATE ML RISKS IN REAL ESTATE AND CONSTRUCTION SECTORS

72. Historically, real estate transactions have been among the most convenient and accessible schemes for ML. Considering the insufficient supervision of the real estate and the construction sector, there are many opportunities for placing, layering, and integrating PoC into the legitimate financial system. The two sectors also facilitate transfer of PoC between multiple individuals or groups involved in a crime.
73. Both real estate and construction sectors in Latvia have a medium-high vulnerability to ML.
74. The level and quality of suspicious transaction reporting by real estate agents is assessed as low. FIU Latvia mainly receives suspicious transaction reports from credit institutions. The low number of suspicious transaction reports received from real estate agents reflects the insufficient knowledge real estate agents have about ML risks in the real estate sector, the ability of real estate agents to identify them, and also the generally low involvement of real estate agents in real estate transactions.
75. The vulnerability of the real estate sector is contributed to by the current regulatory framework which allows the acquisition of real estate in Latvia without the involvement of any subject of the AML Law. Most transactions in the real estate sector involve the subjects of the AML Law only indirectly.
76. Third-country nationals investing in real estate in order to obtain a temporary residence permit also have the possibility to avoid supervision by the subjects of the AML Law. Historically, this group has been associated with the largest share of ML through the real estate sector in Latvia.
77. The vulnerability of the real estate sector to ML is mitigated by amendments to the Immigration Law, stipulating that as of 24 September 2022, citizens of the Russian Federation and the Republic of Belarus will be prohibited from obtaining a temporary residence permit in Latvia through an investment in real estate. Citizens of the Russian Federation and the Republic of Belarus are the most frequent buyers of real estate in Latvia using PoC. Although the regulatory framework of Latvia does not prohibit citizens of the Russian Federation and the Republic of Belarus from investing in Latvian real estate, it is expected that restrictions on obtaining a temporary residence permit will reduce the interest of the citizens of these countries in investing in the Latvian real estate market.
78. The vulnerability of the construction sector to ML is closely linked to its high share of shadow economy. Despite positive trends between 2015 and 2020, the share of the shadow economy in the sector increased in 2021. A number of external economic and political factors have significantly increased construction costs. As people's purchasing power falls, tax evasion and cash transactions become increasingly normalised as a means absorb rising costs. This in turn gives more opportunities for ML.
79. The vulnerability of the construction sector is also increased by the uncertain origin of the funds used for construction. There are also risks related to the legal use of funds granted as mortgage loans.
80. In view of the Financial Intelligence Unit of Latvia, the most important steps to reduce ML risks and tax crime in real estate and construction sectors would be:
  - 80.1. changes in the regulatory framework, envisaging that all real estate transactions should involve a subject of the AML Law to act as a 'gatekeeper';

- 80.2. further efforts to eradicate unregistered brokers while strengthening the awareness of real estate agents of ML risks in the real estate sector and their conformity with the requirements relevant to the subjects of the AML Law;
- 80.3. increased monitoring of the construction process, identification of the origin of funds used, and reduced circulation of cash in the construction sector.
81. In order to significantly increase supervision of the real estate sector and mitigate ML risks, presence of the subjects of the AML Law in all real estate transactions should be ensured. For example, the involvement of sworn notaries in real estate transactions is a common and State-regulated practice in other EU Member States (including Estonia and Lithuania) which helps to ensure conformity with AML standards and also to reduce tax crime. In addition, the involvement of sworn notaries in all real estate transactions would significantly reduce the risks of fraud in the real estate sector.<sup>49</sup>
82. Although from 24 September 2022 the Immigration Law no longer provides a path for the citizens of the Russian Federation and the Republic of Belarus to obtain a temporary residence permit in Latvia through investments in real estate, the risks associated with the citizens of other third countries remain. As historically the largest amount of the PoC invested in real estate has involved third-country nationals, the monitoring of these transactions by the subjects of the AML Law should also be strengthened. The aforementioned option to involve sworn notaries in all real estate transactions is one option.
83. In circumstances where the presence of the subjects of the AML Law in all real estate transactions is not ensured, risks also remain in relation to the possibility under the Immigration Law to purchase real estate in Latvia by making transfers between two third-country (with potentially lax AML regimes) banks.<sup>50</sup> If such transactions are carried out without the involvement of real estate agents or sworn notaries as subjects of the AML Law, it is possible to obtain a temporary residence permit and launder money through an investment in Latvia without any supervision.
84. Further work is also needed to eradicate unregistered brokers. The amendments to the Law on the Activity of Real Estate Agents adopted by the *Saeima* in May 2023 can be regarded as a positive step towards this goal.<sup>51</sup>
85. At the same time, additional work is required to improve the understanding of real estate agents of ML risks in the real estate sector and also to strengthen the capacity and skills of real estate agents to fulfil their responsibilities as the subjects of the AML Law.
86. Reducing shadow economy in the construction sector is a national priority. This is also highlighted in the Shadow Economy Restriction Plan for 2021–2022.<sup>52</sup> Reducing shadow economy of the overall sector also goes hand in hand with reducing ML risks in the sector. Therefore, in view of the Financial Intelligence Unit of Latvia, the measures included in the Shadow Economy Restriction Plan for 2021–2022 in relation to the facilitation of the


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<sup>49</sup> The involvement of sworn notaries in all real estate transactions is only one potential solution to mitigate ML risks. The potential costs and impact of this option on the workload of existing sworn notaries should be assessed separately.

<sup>50</sup> Currently, Section 23, Paragraph one, Clause 29, Sub-clauses (b) and (c) of the Immigration Law stipulate that the payment is to be made in the form of non-cash settlements and that real estate is purchased from a legal person registered in the Republic of Latvia or an EU Member State, a European Economic Area State, or the Swiss Confederation, which is a taxpayer within the meaning of the laws and regulations governing the field of taxes of the Republic of Latvia, or from a natural person who is a citizen of Latvia, a non-citizen of Latvia, a citizen of the Union, or a foreigner who is staying in the Republic of Latvia with a valid residence permit issued by the Republic of Latvia.

<sup>51</sup> Amendments to the Law on the Activity of Real Estate Agents (Project ID: 22-TA-826). Available at: [https://tapportals.mk.gov.lv/legal\\_acts/2fa14f31-1a7f-4e5d-8160-a99daa288988#](https://tapportals.mk.gov.lv/legal_acts/2fa14f31-1a7f-4e5d-8160-a99daa288988#)

<sup>52</sup> Cabinet Order No. 201 of 23 March 2022, Hidden Economy Restriction Plan 2021/2022. Available at: <https://likumi.lv/ta/id/331018>



payment of labour taxes and electronic accounting can be assessed as aimed at reducing the shadow economy in the construction sector. It is encouraging that the reduction of shadow economy in the construction sector remains a priority in the development of the Shadow Economy Restriction Plan for 2023–2025.<sup>53</sup>

87. In order to promote the integrity of the construction process and to verify the origin of the funds used in the construction process, the owners of the construction process should indicate in the Construction Information System the amount and origin of the funds required in the construction process when applying for a building permit. This information, in the context of other information available to the competent authorities, would allow the identification of construction sites and related undertakings at a high ML risk.
88. In order to ensure that funds provided by credit institutions as mortgage loans are not used to pay for construction services and materials in a tax-avoiding manner, credit institutions should consider ways to reduce the movement of large amounts of cash in the objects they finance. Such solutions could include restrictions on large cash withdrawals from accounts linked to the borrower. Similar measures to reduce the use of cash in the construction process could be envisaged for construction projects commissioned by the public sector, including with EU funding.

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<sup>53</sup> Cabinet Order No. 178 of 30 March 2023, Regarding the Development of the Hidden Economy Restriction Plan 2023–2025. Available at: <https://likumi.lv/ta/id/340718>

## ABBREVIATIONS AND TERMINOLOGY

<b>AML</b>	Anti money laundering
<b>EU</b>	European Union
<b>FATF</b>	Financial Action Task Force
<b>PoC</b>	Proceeds of crime
<b>ML</b>	Money laundering
<b>CIS</b>	Commonwealth of Independent States
<b>AML Law</b>	Law on the Prevention of Money Laundering and Terrorism and Proliferation Financing
<b>Risk Assessment</b>	Money laundering risk assessment in real estate and construction sectors
<b>TF</b>	Terrorism financing

## Annex 1. Analysis of court decisions related to ML in the real estate sector

As a whole, ML cases in which assets have been declared as criminally acquired property and confiscated for the benefit of the State are related to ML cases of the first risk profile, i.e. criminal offences that take place abroad, but the funds end up in Latvia and are laundered through the Latvian financial sector. Most third-country nationals abroad used PoC to obtain a temporary residence permit in Latvia.

### Analysis of Court Decision No. 1

A third-country national (A) purchased a property in Latvia for EUR 251,000 and obtained a temporary residence permit in the EU. The property was purchased using ~ EUR 60,000 deposited in a short period of time in A's and her husband's (B) credit institution accounts. The remaining amount was paid by B using funds received as two separate loans from a company registered in Cyprus, whose authorised person is B's brother (C). Both loans, totalling ~ USD 475,000, were transferred to A for the purchase of real estate.

The investigation revealed that A and B did not have sufficient income in Latvia or in a third country to explain the legality of the origin of the funds required to purchase the real estate. In addition, it was discovered that another brother of B (D) was involved in an organised crime group in a third country which carried out large-scale criminal financial activities with the help of bank employees. The scheme involved cash withdrawals which were subsequently laundered by the organised group.

The company registered in Cyprus has been inactive for several years and there is limited information available on other persons associated with the company. A and B have not provided the original loan agreements and no interest payments for the use of the loan have been observed in either A or B's credit institution accounts, suggesting that the loan agreements are fictitious. The agreement between B and the company registered in Cyprus on the discharge of the debt submitted by B is not credible as no evidence of repayment was provided. The repayment was settled in cash, according to the documents provided.

The Court held that the totality of the circumstances and the evidence provided by the competent authorities established a mutually logical and reliable set of facts and circumstances which, taken as a whole, proved that A had acted with the intention of laundering the proceeds of an unknown criminal offence when acquiring the property. A decision was taken to declare the property belonging to A as criminally acquired property and to confiscate it for the benefit of the State.


### Analysis of Court Decision No. 2

A third-country national (A) has made large cash deposits (in the amount of approximately EUR 200,000) into his accounts with Latvian credit institutions over several years and has received large cash transfers from his account in a third country (EUR 153,000) and from his mother (B), a national of an EU Member State (in the amount of approximately EUR 295,000). A used the funds to buy a property in Latvia and obtain a temporary residence permit.

A attributed the origin of the funds used for his cash deposits to the sale of real estate in a third country (a transaction for a total value of USD 285,000 in cash in a third country) and EUR 150,000 received as loans (in cash) from two persons in a third country. The large amount of cash brought into Latvia has been attributed to distrust in the stability of the banking system in a third country.

The origin of B's funds, also transferred to A, relates to savings and remuneration for work. B also has accounts in Latvian credit institutions where cash deposits are regularly made. Cash has not been declared at the border because the person has entered Latvia





more than 30 times over several years and has never exceeded the threshold for cash declarations. B has also previously purchased property in Latvia.

A and B have regularly exchanged funds over several years. A has also made several transfers between accounts belonging to him in different Latvian credit institutions. B's accounts were mainly used as transit accounts, as incoming funds were forwarded to A shortly after their receipt.

The Court concluded that A's explanations as to the origin of the funds were theoretical, unreliable, and unverifiable. The loan agreements are suspected to be fictitious, as there is no record of repayment and the agreements are not collateralised. It is not possible to verify that the origin of the money transferred from the third country was legitimate, as the money was credited to A's account in a third country five years after the sales transaction took place. A's distrust in the banking system of the third country to justify the cash transfer is inexplicable as well since EUR 153,000 had been kept in the credit institution of the third country for a long time.

The Court decided to declare A's real estate and funds held in the Latvian credit institution as criminally acquired property and to confiscate them for the benefit of the State.