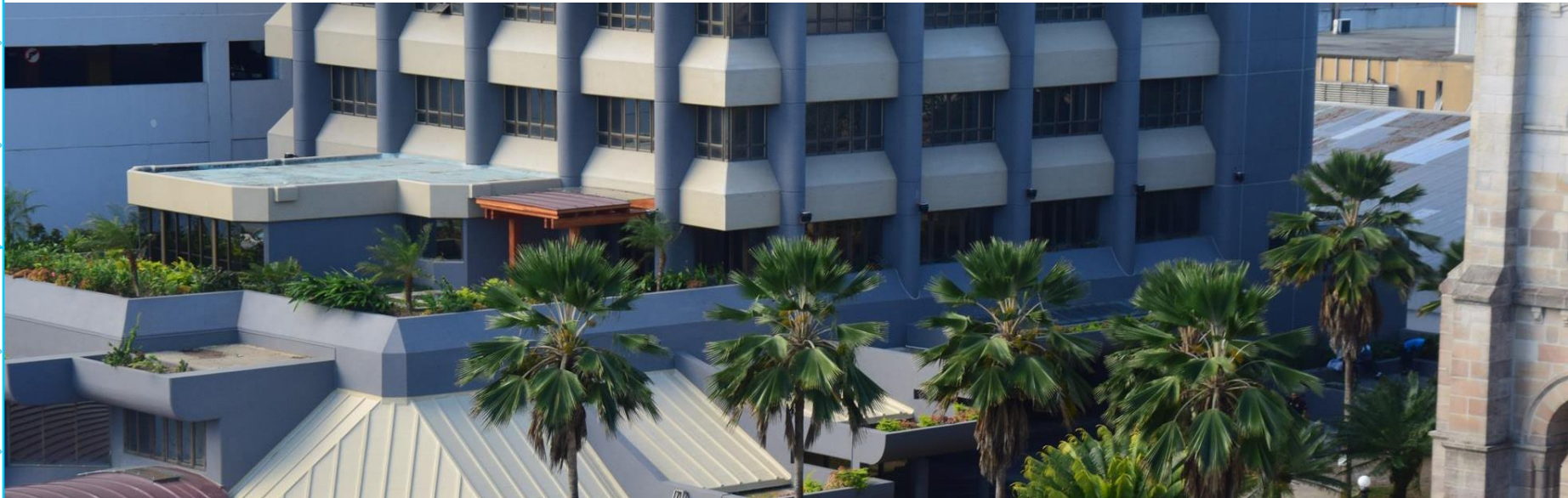


Financial Transactions Reporting Act, Money Laundering Risks & the Real Estate Sector



30 August 2018

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Link Between Money Laundering & Real Estate

- The use of real estate is an established method of money laundering globally and in Fiji;
- Disguising the source of funds through a chain of financial transactions;
- Concealing and integrating funds into the legitimate economy through real estate;



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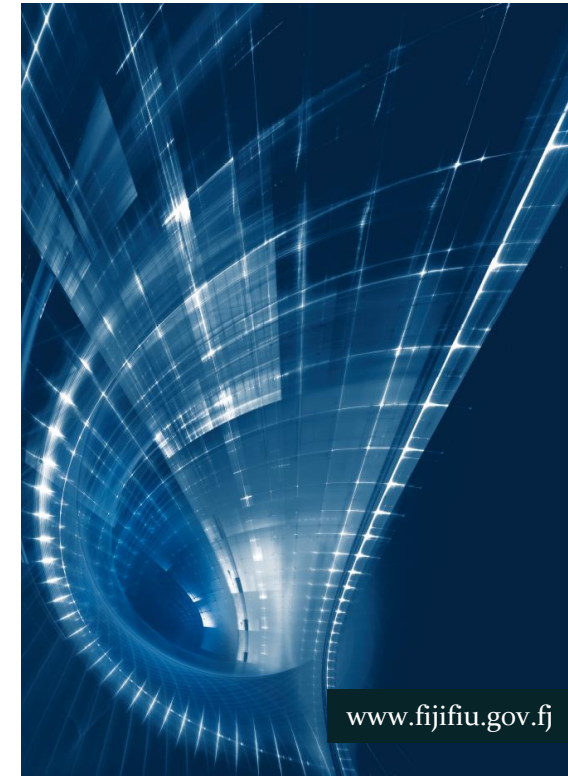
What is Money Laundering?

Process of making illegally gained assets (dirty money) appear legitimate.



Objective:

1. Disguise the true origin of the assets;
2. Prevent the construction of an audit trail leading back to the proceeds of the original crime and its perpetrators;
3. Use and reinvest the criminal wealth.



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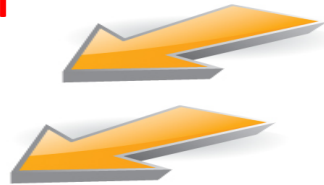
A TYPICAL MONEY LAUNDERING SCHEME

Collection of Dirty Money

1. PLACEMENT



Dirty Money Enters Financial System



3. INTEGRATION

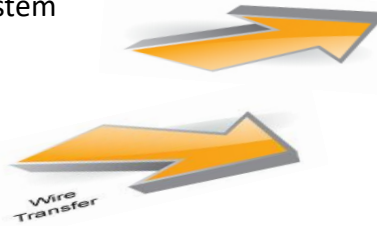


Purchase of Assets, including real estate, Financial Investments Commercial / Industrial Investments

2. LAYERING



Transfer Funds between various accounts, institutions and parties



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Risks of the Real Estate Sector: Why Attractive for Money Laundering?

1. Ability to buy real estate using cash.
2. Ability to disguise the person that ultimately owns the real estate.
3. Relative stability and reliability of real estate investment (compared to other investment options).
4. Ability to renovate & improve real estate, thereby increasing value of investment.
5. Lifestyle reason (enjoy proceeds of crime).



Regulatory Reach of the FTR Act



Why Regulate the Real Estate Sector under the FTR Act?

Real estate agents are vulnerable to the risk of money laundering through illicit real estate property transactions.

1. To widen the scope of money laundering preventive measures to “non-traditional” financial services sectors (called the Designated Non-Financial Businesses and Professions - DNFBPs);
2. To ensure that all aspects of real estate transactions involving buyers and sellers (including foreign investors) are adequately regulated;
3. To protect the real estate agents and to provide them legal mandate to “know your client” (KYC) and to check the source, legitimacy and ultimate beneficiary of funds;
4. To protect the real estate agents when they report dodgy clients.



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Money Laundering through Fiji's Real Estate Sector



Case Studies Involving the Fijian Real Estate Sector

Case Study 1

The case involved a foreign national who wanted to set up a business in Fiji. He was able to find a local contact to assist in establishing the business. The business partners decided to purchase a property and the local contact was to facilitate everything. The local (Person X) inflated the price of the property and was able to get his foreign business partner to send approximately \$2 million extra to the bank account of the shell company that he (local) owned. This shell company posed as a real estate agent and the funds received were alleged to be commission. The shell company was set up solely to facilitate the transfer in and subsequent transfers out as the local contact attempted to conceal the stolen funds.

The local contact transferred money to another shell company and to his wife and purchased two properties that are held under the names of his wife and the shell company. Both properties are currently restrained. Total laundered funds: \$1.2Million.



Case Studies Involving the Fijian Real Estate Sector

Case Study 2

In this case an individual (Person A) was employed as an accountant at a resort. He altered company cheques and made them payable to himself, family members, other associates and a shell company. The shell company was established by his friend (Person B) who also worked at the resort. The funds were then withdrawn and used to **purchase 6 vehicles and a property**. The property was held in the name of Person A's mother. The property was restrained and forfeited to state. Total laundered funds: \$0.8Million.



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Case Studies Involving the Fijian Real Estate Sector

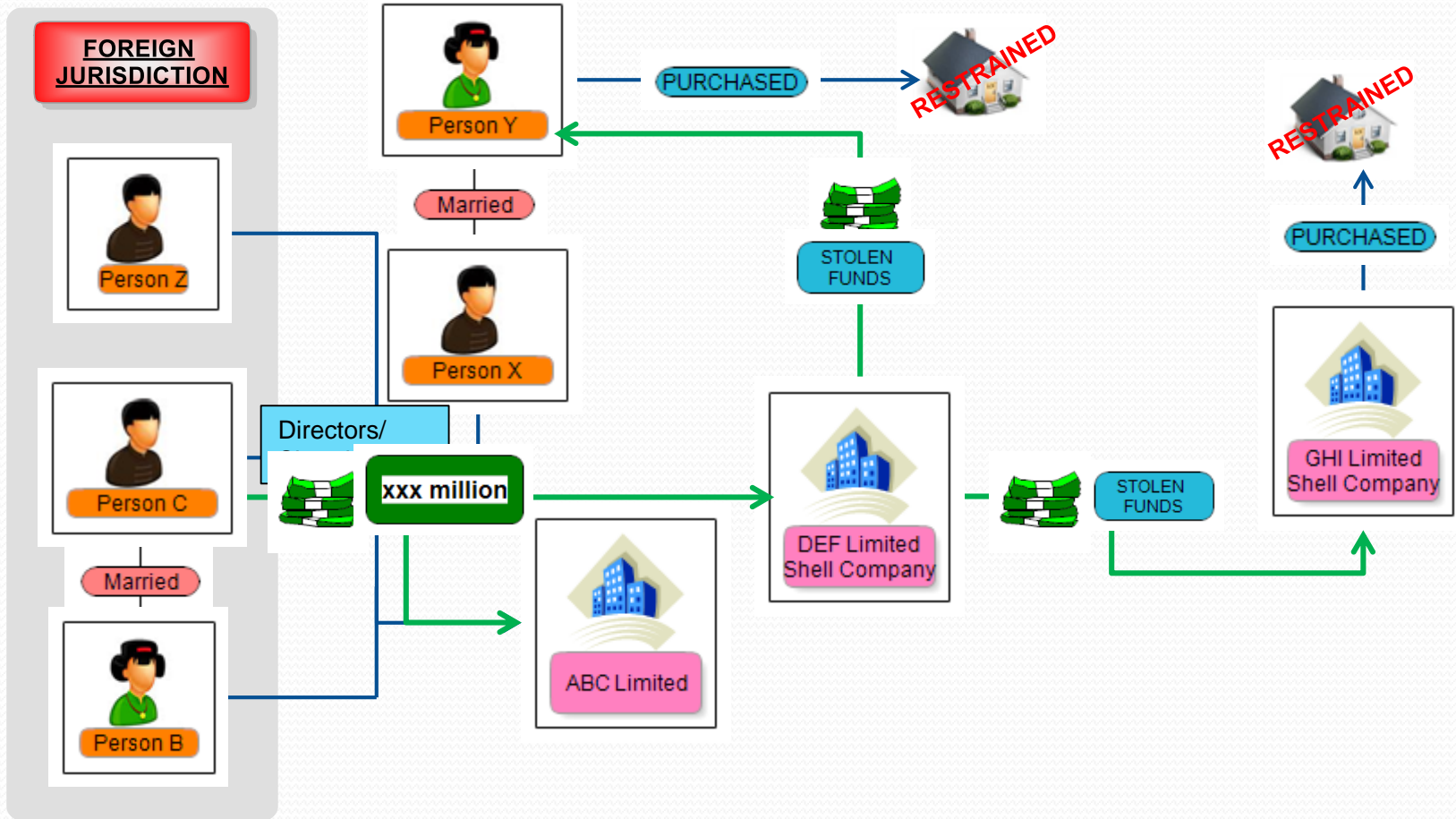
Case Study 3

In this case there were uncertainties regarding the owner of one particular property. Person B (a foreign national) sent approximately \$100,000.00 to a real estate agent with the narration “for Person A” (another foreign national). The real estate agent advised that the funds were payment for commission and that Person A was the **purchaser of the property** as per sale and purchase agreement. Titles checks revealed that Person A did not have any properties. Checks on the title revealed that it was owned by a company. This company is owned by a local individual who is a person of interest to the FIU and other law enforcement agencies (involving cross-border drug trafficking). Total laundered funds: Several Million Dollars.





CASE STUDY 1



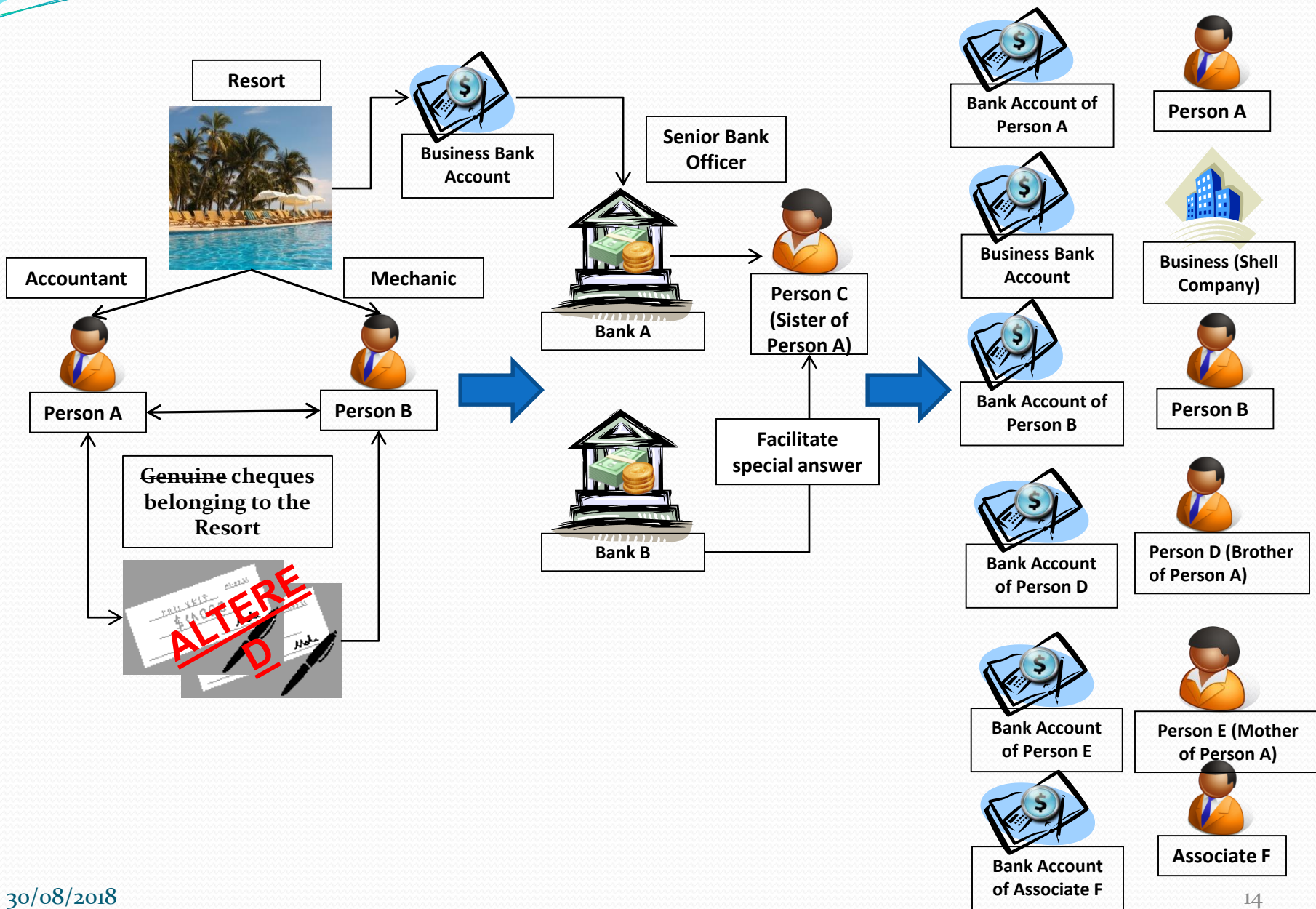


Possible Offence:

- Money Laundering;
- Obtaining Property by Deception

Indicators:

- Properties held in the name of wife and shell company;
- Large overseas remittances from a third party;
- Legal entity structures are used in transactions for no apparent commercial or other reason.





Bank Account of Person A



Business Bank Account



Bank Account of Person B



Bank Account of Person D



Bank Account of Person E



Bank Account of Associate F



Person A



Business (Shell Company)



Person B



Person C (brother of Person A)



Person E (Mother of Person A)



Associate F



Cash Withdrawals



Cash Withdrawals

4 Other ML Charges

Purchase of 6 motor vehicles

Purchase of a residential property under Person E's name



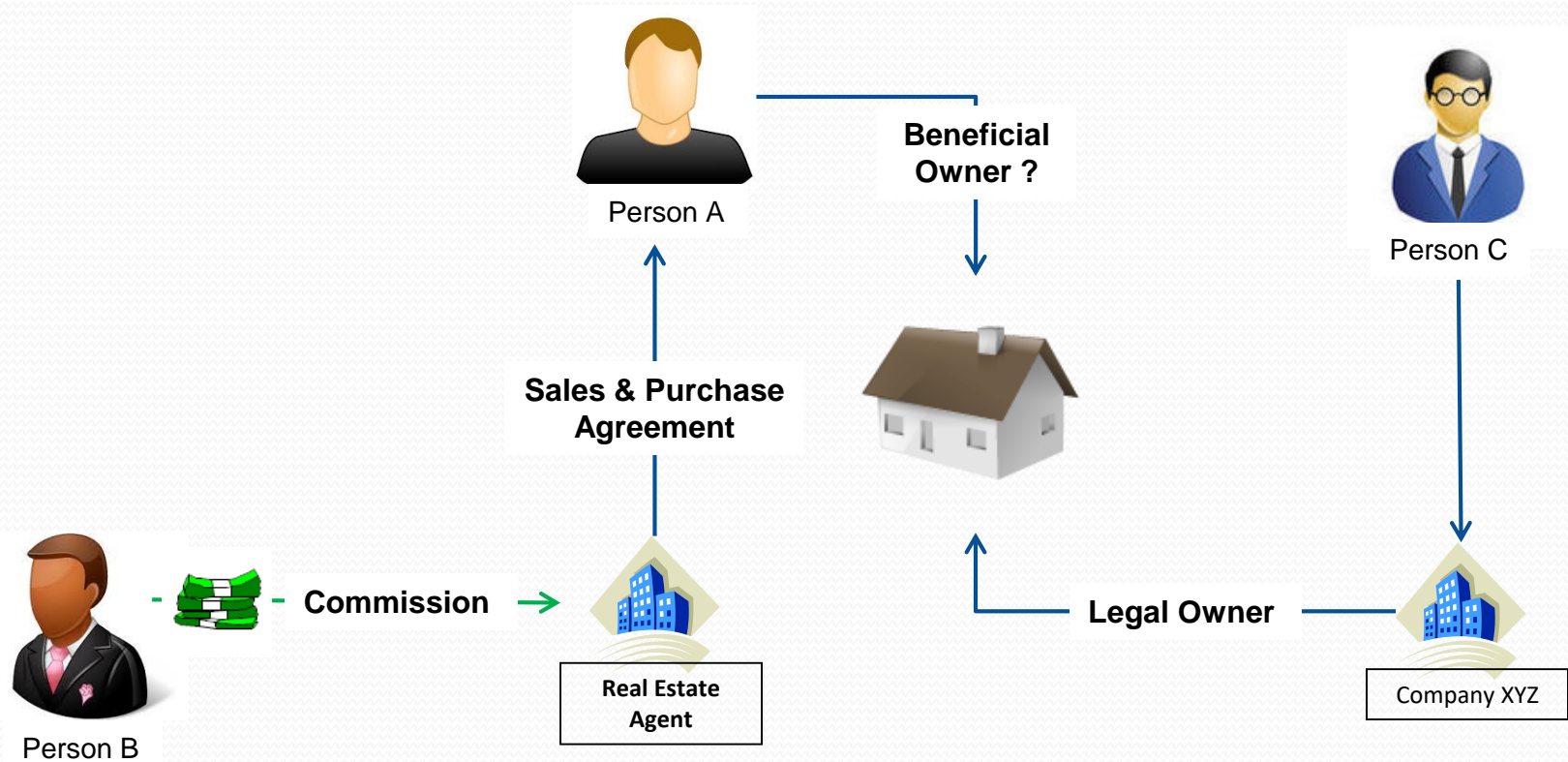
RESTRAINED THEN FORFEITED TO THE STATE IN SEPTEMBER 2010



CASE STUDY 2



***Forfeited Asset
Nadi***



Mitigating the risk of Money Laundering in the Real Estate Sector



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Financial Transactions Reporting Act & Regulations

1. financial institutions & businesses must **adopt internal controls**;
2. **prevent** & **detect** money laundering/terrorist financing.



Real Estate Agents/Businesses covered under the Financial Transactions Reporting Act

A real estate agent or company when such a person/company is involved in a transaction for a customer in relation to the **buying or selling of real estate.**

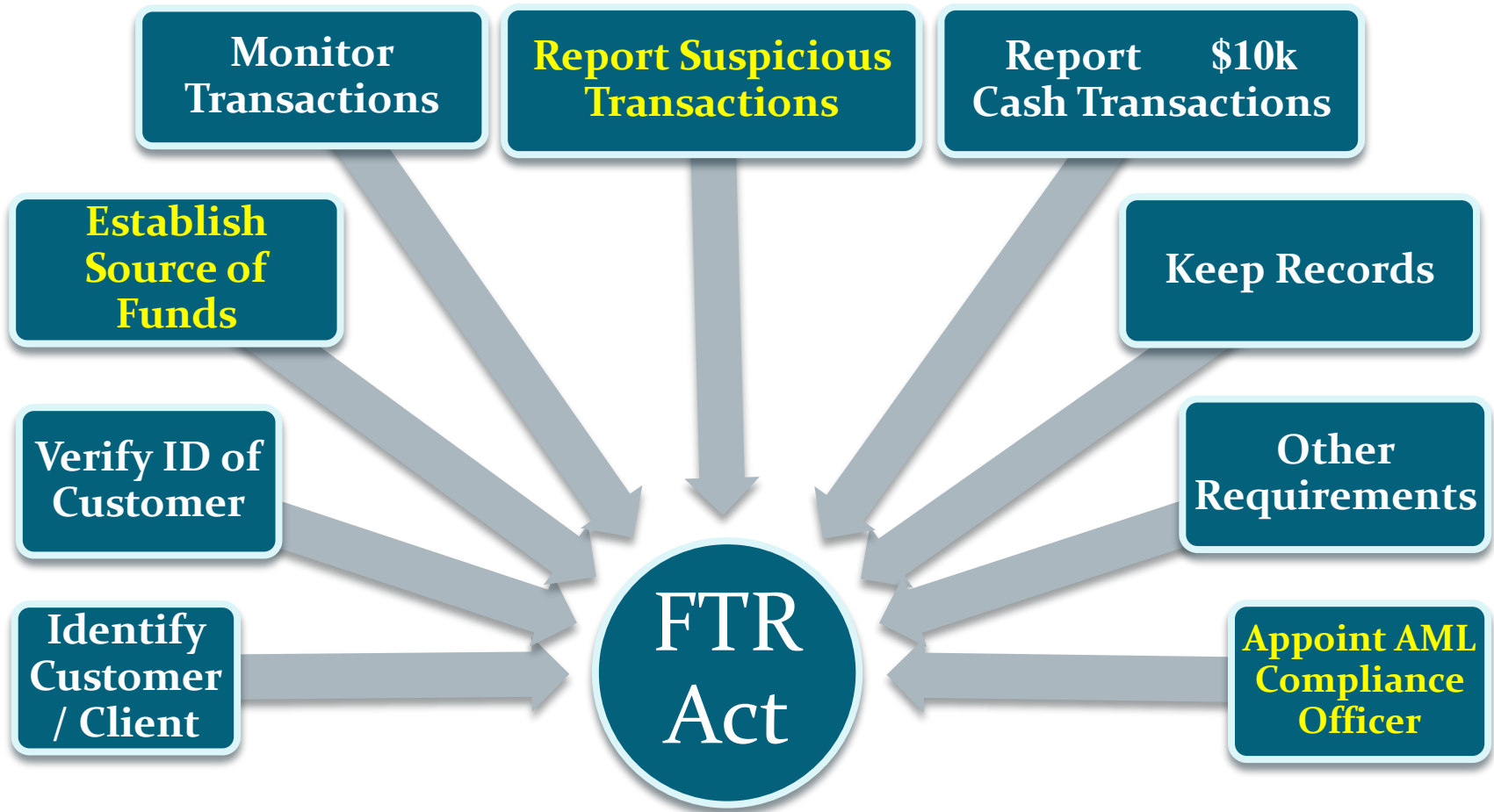


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Obligations of Real Estate Agents: FTR Act & Regulations



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For further guidance on your obligations refer to:

- Obligation Summary on FIU website

- FIU Guidelines and Policy Advisories on FIU website:

www.fijifiu.gov.fj

The screenshot shows the Fiji Financial Intelligence Unit (FIU) website. At the top, there is the Fiji coat of arms and the text "FijiFIU Fiji Financial Intelligence Unit". A navigation bar includes "Home", "FTR Act Obligations", "Laws & Regulations", "Publications", and "Events". Below the navigation bar is a carousel of various reports and documents, including the "2009 ANNUAL REPORT". On the left side, there is a vertical menu with links: "About FijiFIU", "Case Laws", "Guidelines and Policy Advisories", "News & Media", "Information for the General Public", "APIFIU", "Photo Gallery", "Other", and "Links". The main content area features a "Welcome to Fiji FIU" section with a brief description of the unit's role. Below this is a "Latest News" section with two entries: "Fiji FIU Issues Guideline 7 - Politically Exposed Persons" (dated Tuesday, 27/09/2018) and "Fiji FIU Issues Two New Guidelines" (dated Friday, 19/01/2018). On the right side, there is a "Money Laundering Convictions" section listing several cases, and a "Sign in to ODOOS" section with a login form and a prominent "Online Reporting" button.



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22

Penalties for Breaches of FTR Act

- Penalties will be imposed for breaches of requirements of the FTR Act and Regulations
 - Fine and/or imprisonment term on employees, directors, agents, etc.
 - Fine on business entity



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Penalties for Non-Compliance

	Real Estate Company	Staff and Real Estate Agents
Client identification/ verification	Fine not exceeding \$150,000	Fine not exceeding \$30,000 or imprisonment not more than 5 years (or both)
Record keeping	Fine not exceeding \$30,000	Fine not exceeding \$12,000 or imprisonment not more than 2 years (or both)
Monitor transactions	Fine not exceeding \$150,000	Fine not exceeding \$30,000 or imprisonment not more than 5 years (or both)
Reporting of suspicious transactions	Fine not exceeding \$150,000	Fine not exceeding \$30,000 or imprisonment not more than 5 years (or both)
Disclosure of suspicious transaction reports and other information	Fine not exceeding \$60,000	Fine not exceeding \$12,000 or imprisonment not more than 2 years (or both)
Reporting of cash or electronic fund transfer transactions	Fine not exceeding \$150,000	Fine not exceeding \$30,000 or imprisonment not more than 5 years (or both)



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THANK YOU!



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