

Anti-Money Laundering in real estate transactions



Dear Clients,

As a real estate agent, we are one of the obligated parties [§ 2 (1) 14] under the German Money Laundering Act (“Gesetz über das Aufspüren von Gewinnen aus schweren Straftaten” – hereinafter referred to as “GwG”) and are therefore required to obtain certain information about the principal contractual parties of the brokered property transaction.

Clients and their contractual partners have a **statutory duty to cooperate** [§ 11 (6) GwG]. All information and documents required to identify the contracting parties must be provided. The information must be submitted in full and truthfully. If one of the parties refuses to fulfill its obligation to cooperate, the GwG requires the business relationship to be terminated [§ 10 (9) GwG].

With this flyer we would like to inform you about the legal requirements and their implementation.

As a real estate services provider, we place great emphasis on integrity, ethical behaviour, responsible corporate governance and compliance with the legal obligations imposed on us, particularly in order to protect our clients. We believe that it is also your concern to work with service providers who comply with applicable laws.

We would like to thank you for the trust you have placed in us and look forward to continuing our good cooperation.

What is it about?

The German Money Laundering Act (GwG) is the local implementation of the requirements of the EU Anti-Money Laundering Directive. The aim is to prevent money laundering and terrorist financing and thus also to curb organized crime. For this reason, some players in the private sector whose industry is classified as particularly attractive for money laundering, are required to exercise special care and supervision with regard to business relationships in order to prevent anonymous transactions and report suspicious business relationships to the authorities. Real estate agents are obligated parties under the GwG and are required to apply the specified due diligence obligations. We would like to briefly outline and explain these below.

What are the legal obligations?

As part of the general due diligence obligations under §§ 10 and 11 GwG, the legislation imposes the following duties on real estate agents when acting as a broker for **sales & purchase as well as leasing/rental contracts** (with a monthly net cold rent of EUR 10,000 or more) [see also §§ 10 (6), 11 (2)]:

- ✓ Identify the contracting parties and their beneficial owners [as per § 3 (1) GwG] by means of official documents such as an excerpt from the commercial or cooperative register or an excerpt from a comparable official register [§§ 10 (1), (2), 11 (5), 12 (3), (4) GwG]
- ✓ Obtain an overview of the company structure from which the control and shareholding relationships are evident / list of shareholders [§ 10 (2) GwG]
- ✓ Obtain an extract from the transparency register (UBO register for legal entities) [§ 12 (3) GwG]
- ✓ Establish and verify the identity of the persons acting on behalf of the contracting parties by presenting valid identification and obtaining proof of authorisation to represent [see §§ 10 (1), 11 (4), 12 (1), (2) GwG]
- ✓ All information collected must be recorded (in writing or by making a copy); for data protection see section further below.

In order to comply with these statutory requirements, the **contracting party must submit the information and documents** required for the identification to the obligated party [§ 11 (6) GwG]. Also, if changes occur in the course of the business relationship, the contracting party is obligated to notify the obligated entity of these immediately.

Who is the „person acting on behalf“?

„The acting person“ as per §§ 10 (1), 11 (4), 12 (1), (2) GwG is the person acting on behalf of the contracting party vis-à-vis the real estate agent. According to the law, the person acting must be identified **by presenting an original identity document**. The ID card requirement applies **regardless of whether the person is acting on behalf of a natural person or a legal entity**.

A copy of the document presented must be made available.

Money laundering checks and data protection: What happens to the collected data?

§ 11a GwG serves as the legal basis for the processing of data. The information and documents required for the money laundering checks are only collected **for the purpose of the money laundering check** and stored in accordance with the data protection regulations. It goes without saying that we will treat your data confidentially and will not use it for any other purpose or disclose it to third parties.

Contact & further information

Should you require additional information in connection with our client questionnaire, please liaise with your personal contacts in our companies.

More detailed information on money laundering prevention can also be obtained under the following links:

Federal Bureau of Investigation:
<http://www.bka.de>

Financial Intelligence Unit (FIU):
<https://www.zoll.de>

LCI Real Estate:
www.compliance-realestate.com

Financial Action Task Force (FATF):
<http://www.fatf-gafi.org>

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