

Anti-money Laundering in Property Sales and Purchases

Estate Agents and Customers Have Their Respective Responsibilities

The relationship between property sales and purchases and anti-money laundering

The Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) (Amendment) Ordinance 2018 specifying the requirements on customer due diligence and record-keeping in specified transactions conducted by designated non-financial businesses and professions (including estate agents) was passed by the Legislative Council in January 2018. In view of this, the Estate Agents Authority (“EAA”) has issued relevant guidelines (practice circular No. 18-01(CR)) requiring the estate agency trade to comply with the guidelines as from 1 March 2018.

According to the guidelines, when handling the sale and purchase of properties, estate agents must take various measures to mitigate the risk of money-laundering (“ML”) and terrorist financing (“TF”), which include implementing customer due diligence measures. Hence, estate agents must obtain relevant information and documents from customers. In order to combat money-laundering and terrorist financing in Hong Kong, property purchasers or vendors should also be cooperative in meeting related requests as much as possible.

Duties of estate agents

According to the EAA’s guidelines, estate agents must take all reasonable measures to mitigate ML/TF risks:



Risk assessment: Estate agents should identify, assess, understand and determine the ML/TF risks of a customer by considering different risk factors (e.g. background of the customer, etc.).



Customer due diligence (“CDD”) measures: Estate agents must apply CDD measures before establishing any business relationship with the customer, in order to identify and verify the identity of the customer, the customer’s representative and/or beneficial owner. If estate agents fail to complete the CDD process, they must not establish a business relationship with the customer or they must terminate the business relationship.



Record-keeping: Estate agents must keep the relevant records throughout the continuance of the business relationship with the customer and for at least five years beginning on the date on which the business relationship ends.



Report suspicious transactions: Estate agents should report suspicious transactions to the Joint Financial Intelligence Unit (email: jfiu@police.gov.hk) of the HKSAR Government once a transaction is identified or suspected to be related to ML/TF activity.

In cases of doubt, please visit the EAA website for more details:
www.eaa.org.hk



How should customers cooperate with estate agent in CDD measures?

Estate agents must identify and verify the customer’s identity (whether the customer is a purchaser or vendor) before arranging for the customer to enter into an agreement for sale and purchase. For this, estate agents may fill out the identity verification form. Customers should provide estate agents with the following documents according to different situations.

- If the customer carries out a transaction as an **individual**, estate agents must obtain the customer’s Hong Kong Identity Card or travel document.
- If the customer is represented by a **representative** or there is a **beneficial owner** in relation to the purchaser/vendor, estate agents must obtain the representative’s and the beneficial owner’s Hong Kong Identity Card or travel document.
- If the customer has never been physically present for identification, estate agents must further verify the customer’s identity by using additional documents not previously used.
- If the customer is a **company / corporation**, whether the company/corporation is incorporated in/outside Hong Kong, estate agents must obtain the customer’s company information such as certificate of incorporation or the certified copy of similar documents.
- If the **shareholder** of a corporate customer is another company/corporation, estate agents must obtain a director’s declaration and an ownership chart describing the structure of the company/corporation in order to ascertain its beneficial owner(s).