

目錄

CONTENTS

- 01 觀點視野
A Perspective
- 02 新聞速遞
News Flash
- 07 焦點話題
In Focus
- 10 人物誌
Portrait
- 12 誠信與你
Integrity in Focus
- 15 CPD 重溫
CPD Recap
- 16 執業問與答
Practice Q&A
- 17 顧名思義
ABC in Estate Agency
- 18 活動紀要
Events and Activities
- 20 統計數字
Statistics



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“有關條例草案預計將於2018年初通過，持牌人應密切留意，並早作準備。”

“The Bill is expected to be passed in early 2018. Licensees are advised to pay close attention to the development and be prepared.”

守法循規 互利共贏

REGULATORY COMPLIANCE OFFERS
A WIN-WIN SITUATION

相信業界已知悉政府已於今年6月向立法會提交了《2017年打擊洗錢及恐怖分子資金籌集(金融機構)(修訂)條例草案》。是次修訂建議關乎要求指定非金融企業及行業人士，包括地產代理界別，在從事指明交易時須進行客戶盡職審查措施，並備存識別客戶身分及有關交易的紀錄最少六年。

雖然本港打擊洗錢及恐怖分子資金籌集的框架大致穩健有效，但隨著金融市場及安全環境不斷轉變，相關的國際標準也持續改進。而有關係例草案旨在加強香港的監管制度，使其與「財務行動特別組織」(打擊洗錢及恐怖分子資金籌集制訂國際標準的跨政府組織，簡稱「特別組織」)所公佈的國際要求一致，以履行香港作為特別組織成員的國際責任。

政府認為，打擊洗錢及恐怖分子資金籌集制度，必須訂立就客戶作盡職審查及備存紀錄規定，才能有效遏止和干擾洗錢活動。因此，該修訂建議亦包括要求地產代理在與客戶建立業務關係前，執行法定的客戶盡職審查措施，包括識別和核實客戶的身分。

就此，監管局於今年2月與主要商會及地產代理公司的代表舉行特別會議，簡介政府的修訂建議，隨後並向財經事務及庫務局反映業界的情況及處境。

據了解，按照特別組織就打擊洗錢倡議的風險為本方案，客戶盡職審查措施可根據風險為本模式進行，即該等措施的程度應視乎客戶、業務關係或交易和相關風險的類別而定。

待政府通過該條例草案後，監管局會採用風險為本方案訂定相關指引，以助業界遵從新條例。有關條例草案預計將於2018年初通過，持牌人應密切留意，並早作準備。

As the trade may be aware, the Government introduced the “Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) (Amendment) Bill 2017” (“the Bill”) into the Legislative Council in June 2017. The proposed amendment is about requiring designated non-financial businesses and professions (“DNFBPs”), including the estate agency trade, to conduct customer due diligence (“CDD”) when they engage in specified transactions, and to maintain records on customer identification and transactions for at least six years.

Although Hong Kong has in place a strong and effective anti-money laundering framework, international standards have evolved quickly because of the changing financial market and security landscapes. To fulfill Hong Kong’s international obligation under the Financial Action Task Force (“FATF”, an inter-governmental body that sets international standards on combating money laundering and terrorist financing), the Bill is intended to bring Hong Kong’s regulatory regime up-to-date and in line with international requirements as promulgated by FATF.

The Government is of the view that CDD and record-keeping requirements are the main strands of an effective anti-money laundering regime to deter and disrupt money laundering activities and to ensure integrity of a financial system. Thus, the proposed amendments also require estate agents to implement statutory CDD measures, including identifying and verifying a customer’s identity, before they engage in specified transactions.

Thus, the EAA arranged a special meeting in February 2017 to brief the representatives of major trade associations and estate agency companies about the Government’s proposals, and subsequently submitted a reply to the Financial Services and the Treasury Bureau on the views and comments of the EAA and the trade.

It is understood that in accordance with the risk-based approach advocated by the FATF for combating money laundering, the conduct of CDD measures can be operated in a risk-sensitive manner, whereby the extent of such measures to be undertaken should depend on the types of customers, business relationship or transactions and the associated risks.

To help the trade comply with the new Ordinance, the EAA will issue guidelines adopting a risk-based approach for the trade to follow when the Bill is passed by the Government. The Bill is expected to be passed in early 2018. Licensees are advised to pay close attention to the development and be prepared.