



EAA updates guidelines on compliance of anti-money laundering and counter-terrorist financing requirements for the estate agency sector

(12 May 2023) In order to address the issues identified during the mutual evaluation conducted by the Financial Action Task Force (“FATF”) in 2018-19 and assist licensees to comply with the miscellaneous amendments relevant to the estate agency sector (“Miscellaneous Amendments”) under the Anti-Money Laundering (“AML”) and Counter-Terrorist Financing (“CTF”) (Amendment) Ordinance 2022 (“Amended AMLO”), the Estate Agents Authority (“EAA”) issued a new Practice Circular (No. 23-01(CR)) today for the trade to follow. The new Practice Circular will take effect on 1 June 2023 and replace the existing relevant Practice Circular (No. 18-01(CR)).

The Miscellaneous Amendments under the Amended AMLO included (i) amending the definition of “politically exposed person” (“PEP”) in accordance with the FATF requirement and allowing more flexibility in the treatment of former PEPs who are no longer entrusted with a prominent public function; (ii) aligning the definition of “beneficial owner” in relation to a trust under the AML and CTF Ordinance (“AMLO”) with that of “controlling person” under the Inland Revenue Ordinance, by clarifying that, where a trust is concerned, a beneficial owner includes a trustee, a beneficiary and a class of beneficiaries, etc.; and (iii) allowing the engagement of digital identification systems to assist the conduct of customer due diligence in situations where a customer is not physically present for customer identification and verification purposes, etc.

Due to the Miscellaneous Amendments under the Amended AMLO,



the EAA needs to update its existing relevant Practice Circular (No. 18-01(CR)) accordingly to provide up-to-date guidelines for the trade to follow. Highlights of some of the major changes made in the new Practice Circular (No. 23-01(CR)) are listed in the **Annex**. For the full set of the new Practice Circular, please visit the EAA's website at www.eaa.org.hk (Compliance > Practice Circular).

Licenses who fail to comply with the relevant provisions in the Amended AMLO and/or the guidelines in the new Practice Circular may be disciplined by the EAA.

As the new Practice Circular No. 23-01(CR) will take effect on 1 June 2023, the existing Practice Circular No. 18-01(CR) will cease to be in force on the same day.

The EAA's Chief Executive Officer, Ms Ruby HON, said, "Since the statutory customer due diligence and record-keeping requirements under the AMLO were extended to the estate agency sector in 2018, the EAA has spared no effort in enhancing the trade's compliance with the relevant requirements. I expect that the estate agency trade will continue to comply with the Amended AMLO, while the EAA will continue to educate the trade on the subject."

The EAA will organise relevant continuing professional development seminars soon so that the trade can better understand and comply with the latest requirements. The full set of the new Practice circular, a set of detailed "Questions and Answers" and an updated checklist and identity verification forms have already been posted on the EAA's website for the trade's reference.



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Highlights of some of the major changes in the new Practice Circular on Compliance of Anti-Money Laundering and Counter-Terrorist Financing

(A) Politically exposed person (“PEP”)

- The new Practice Circular covers three types of PEPs:
 - ◆ Non-Hong Kong PEPs (e.g. individuals who are currently entrusted with a prominent public function in a place outside Hong Kong);
 - ◆ Hong Kong PEPs (e.g. individuals who are currently entrusted with a prominent public function in Hong Kong); and
 - ◆ Former PEPs (e.g. individuals who have been but are no longer entrusted with a prominent public function in or outside Hong Kong).

- Requirements on Non-Hong Kong PEPs and Hong Kong PEPs
 - ◆ As both Hong Kong PEPs and Non-Hong Kong PEPs present a high Money Laundering/Terrorist Financing risk by virtue of the positions held by them, enhanced customer due diligence requirements will automatically apply to them if licensees determine that the customer or the beneficial owner of the customer is a Hong Kong PEP or Non-Hong Kong PEP.



(B) Beneficial owner in relation to trust

- A beneficial owner in relation to a trust is a beneficiary or a class of beneficiaries of the trust entitled to a vested interest in the trust property, whether the interest is in possession or in remainder or reversion and whether it is defeasible or not; or the settlor of the trust; or the trustee of the trust; or a protector or enforcer of the trust; or an individual who has ultimate control over the trust.

(C) Digital identification systems

- With respect to identifying and verifying customer's identity, if the customer due diligence requirements are met using a reliable and independent digital identification system that is recognized by the EAA, the additional measures to mitigate the risk for identification purposes and when monitoring business relationship do not apply.

For the full set of the new Practice Circular, please visit the EAA's website at www.eaa.org.hk (Compliance > Practice Circulars).