

## 反洗錢

為加深持牌人對反洗錢及反恐怖分子資金籌集（「反洗錢」）議題的認知，我們會在《專業天地》這個「反洗錢專區」為大家提供有關反洗錢的不同資訊及最新消息。

To enhance licensees' knowledge on the subject of anti-money laundering ("AML") and counter-terrorist financing ("CTF"), we will provide various information and updates about AML in the "AML Corner".



鑑於《2022年打擊洗錢及恐怖分子資金籌集（修訂）條例》（「《打擊洗錢條例》」）中有關的雜項修訂，監管局於2023年5月更新了有關地產代理業遵守反洗錢及反恐怖分子資金籌集規定的指引並發出執業通告（編號23-01(CR)）（「通告」）以供持牌人遵從，以下為一些有關遵守通告要求的常見問題供參考：

問：通告所載「指引」是否適用於租賃物業？

答：否。通告所載「指引」適用於香港參與涉及為客戶買賣地產的交易的持牌人。

問：《打擊洗錢條例》下的反洗錢/反恐怖分子集資規定是否適用於在香港境外的物業買賣？

答：是。《打擊洗錢條例》第5A(6)條規定，交易的標的物（即有關物業）在香港抑或是在其他地方，並不重要。因此，如果持牌人於香港參與涉及為客戶買賣地產物業的交易，即使該物業位於香港境外，亦須遵守《打擊洗錢條例》下的反洗錢/反恐怖分子集資規定。

問：如果物業是涉及一手物業的銷售，持牌人是否需要為其客戶進行盡職審查？

答：是，若賣家及/或買家聘用或使用地產代理服務，或延聘或僱用持牌人，他/她們將被視為持牌人的客戶。不論物業的類型及無論是否涉及一手物業或是二手物業，持牌人都需要為其客戶進行盡職審查。

The EAA updated the guidelines on compliance of AML and Counter-Terrorist Financing ("CTF") requirements for the estate agency sector in May 2023 and issued Practice Circular (No. 23-01(CR)) ("Circular") in light of the relevant miscellaneous amendments under the AML and CTF (Amendment) Ordinance 2022 ("AMLO") for licensees to follow. Here are some frequently asked questions regarding compliance with the Circular for reference:

**Q: Are the guidelines set out in the Circular applicable to the leasing of properties?**

A: No. The guidelines set out in the Circular are applicable to those licensees who and when they are involved, in Hong Kong, in a transaction concerning the buying or selling of real estate for a client.

**Q: Are the AML/CTF requirements under the AMLO applicable to the sale and purchase of properties outside Hong Kong?**

A: Yes. Section 5A(6) of the AMLO provides that it is immaterial whether the subject matter of a transaction is in Hong Kong or elsewhere. Hence, if a licensee is involved, in Hong Kong, in a transaction concerning the buying or selling of real estate for a client, even though the property is situated outside Hong Kong, he has to comply with the AML/CTF requirements under the AMLO.

**Q: Does a licensee have to carry out Customer Due Diligence ("CDD") on his client if the property involved is the sale of a first-hand property?**

A: Yes, if the vendor and/or the purchaser retains or otherwise uses the services of or otherwise engages or employs the licensee, they will then be regarded as the licensee's clients. A licensee has to carry out CDD on his client regardless of the type of property and whether or not it is a first-hand or second-hand property.