

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有用資訊及最新消息。

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



監管局於2023年5月發出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的執業通告(編號23-01(CR))以供持牌人遵從，以下為其中一條有關遵守該通告要求的常見問題供參考：

問：如某物業的出售是由已故業主遺產的遺產代理人進行，該遺產代理人會否被視為「客戶」或「看似是代表客戶行事的人」？持牌人應如何就執行客戶盡職審查填寫身分核實表格？

答：如已故業主遺產的遺產代理人聘用或使用地產代理服務，或延聘或僱用地產代理，則根據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，就客戶盡職審查的目的而言，該遺產代理人將被視為「客戶」。持牌人應要求該遺產代理人提供由法庭授予的相關遺囑認證或遺產管理書。

由於持牌人須要識別及核實其客戶的身分，因此在填寫身分核實表格時，除了填寫身分核實表格內的第4至第6部分外，持牌人亦應填寫身分核實表格內的第1部分及問題1及2。

由於受益人在遺產管理及分配前，對已故業主的遺產沒有任何法定權益或實益權益；因此，如物業的出售是由遺產代理人進行，持牌人無須識別及核實其客戶的實益擁有人的身分。

The EAA issued Practice Circular (No. 23-01(CR)) on compliance of AML and CTF requirements for the estate agency sector in May 2013 for licensees to follow. Here is one of the frequently asked questions regarding compliance with that Circular for reference:

Q: If a property sale is carried out by a personal representative of the estate of a deceased owner, would the personal representative be regarded as a "customer" or a "person purporting to act on behalf of a customer"? How should a licensee complete the Identity Verification Form for carrying out Customer Due Diligence ("CDD")?

A: If the personal representative of the estate of the deceased owner retains or otherwise uses the service of, or otherwise engages or employs, an estate agent, the personal representative would be the "customer" for the purpose of CDD under the Guidelines on Compliance of AML and CTF Requirements for the Estate Agency Sector. Licensees should request the personal representative to provide the relevant probate or letters of administration granted by the court.

When filling out the Identity Verification Form, apart from completion of Sections 4 to 6 of the Identity Verification Form, licensees should complete Section 1 and Questions 1 and 2 of the Identity Verification Form, as they are required to identify and verify the customer's identity.

Since a beneficiary has no legal or beneficial interest in the assets of a deceased owner's estate until administration and distribution, licensees are not required to identify and verify the identity of the customer's beneficial owner if the property sale is carried out by a personal representative.