

Circular

Circular No. 04-01 (CR)

Preventive Measures on Money Laundering

The Financial Action Task Force on Money Laundering (FATF) published a revised set of Forty Recommendations on anti-money laundering measures in June 2003. As a member of the FATF, Hong Kong has the obligation to implement these Recommendations. Consequently, the SAR Government has requested the Authority's assistance in implementing the Recommendations as applicable to the real estate agency sector in Hong Kong.

At the present stage, the Authority would ask estate agency practitioners to adopt the following measures to help prevent money laundering :

(1) Client identification

Where an agent has successfully arranged for the sale or purchase of a property by a client who is an individual, upon the client's signing of the provisional agreement for sale and purchase (whether by himself or through a company), the agent should examine the already executed estate agency agreement (or, in the case of non-residential properties, the relevant "property viewing form" or similar document) to ensure that the following information has been properly recorded :

- name of the client who is an individual;
- type and number of the client's identity or travel document (e.g. Hong Kong Identity Card, passport, two-way permit for Mainland residents, etc.); and
- client's address.

In addition, the agent should state on the agreement :

- address of the property bought or sold;
- price; and
- date of signing of provisional agreement for sale and purchase.

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ESTATE AGENTS AUTHORITY

(2) Documents retention

Estate agents should retain the estate agency agreement or “property viewing form” or similar document securely for at least 5 years from the date of the signing of the provisional agreement for sale and purchase, to be provided to the relevant authorities as required.

If practitioners fail in their practice to follow the above measures in client identification and record-keeping, they may be subject to disciplinary action by the EAA.

In accordance with the Organised and Serious Crimes Ordinance (Cap. 455) and the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405), practitioners are also under a duty to disclose to the Police and Customs any property that directly or indirectly represents proceeds of a crime. For a few pointers on such suspicious transactions provided by the Police, please refer to the Annex. Practitioners who would like to know more about money laundering are welcome to attend the seminar to be organised jointly by the Authority and the Police. Announcement will be made on the EAA website (www.eaa.org.hk) and by other means in due course.

The revised Forty Recommendations by the FATF can be viewed on the FATF homepage (www.fatf-gafi.org).

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This Circular should be made available for the
information of all staff engaged in estate agency work

Pointers on Suspicious Transactions Provided by the Police

According to the Police, where the following signs appear in a property transaction, they may be indicative of (but do not necessarily imply) the presence of money laundering activities (the list is not exhaustive) :

- cash transactions in large amounts;
- the transaction price differs substantially from the market price;
- the vendor and the purchaser know each other, but choose to act through an estate agent as if they did not know each other; and
- the person who viewed the property and the ultimate purchaser are not the same person.

The Police and Customs remind all practitioners that suspicious cases of money laundering must be reported to the Joint Financial Intelligence Unit (JFIU) in accordance with the law. Written report should be sent to JFIU at either the address, fax number, e-mail or PO box listed below. Urgent reports should be made either by fax or by telephone to 2860 3413 or 2866 3366. Confidentiality is ensured.

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The Police Headquarters
Arsenal Street, Wanchai,
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