

CEA Ref: N26-21  
Date: 26 July 2021

*By Email*

To: Key Executive Officers and Real Estate Salespersons

Dear Sir/Madam,

**[NOTICE 26-21] OPERATIONALISATION OF THE ESTATE AGENTS (AMENDMENT) ACT 2020**

1. This notice informs Key Executive Officers (KEOs) and real estate salespersons (RESs) on the details of the key changes to the Estate Agents (Amendment) Act 2020 (or Amendment Act in short).

**Background**

2. On 2 and 3 June 2021, the Council for Estate Agencies (CEA) conducted briefings to inform KEOs and the Real Estate Agency Industry Associations about the operationalisation of the Amendment Act, including changes to the disciplinary regime with the new Letter of Censure (LOC) disciplinary regime; the new Estate Agents (Transaction Records) Regulations 2021; and the new Estate Agents (Prevention of Money Laundering and Financing of Terrorism) Regulations 2021.

3. The Amendment Act will be operationalised on 30 July 2021. Parliament had passed the Estate Agents (Amendment) Bill on 5 May 2020.

**Rationale**

4. The amendments to the Estate Agents Act aim to:
- a. Better deter errant RESs and estate agents (EAs) from committing disciplinary breaches.
  - b. Update the regulatory framework to keep abreast of technology advancements and support the Transaction Records Initiative (TRI) for the real estate agency industry.
  - c. Align Singapore's levers against money laundering and terrorism financing with international standards<sup>1</sup>.

5. These amendments will support the joint efforts by the real estate agency industry stakeholders and CEA to help ensure that RESs and EAs conduct their

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<sup>1</sup> The international standards are based on the Financial Action Task Force (FATF)'s recommendations. FATF is an inter-governmental body established to set standards and promote effective implementation of legal, regulatory, and operational measures for combating money-laundering, terrorist financing, and other related threats to the integrity of the international financial system. As a FATF member, Singapore has an obligation and is committed to implement its recommendations.

business professionally and ethically, so as to protect the interest of consumers, and ultimately uplift industry professionalism. In addition, the amendments enable the industry and CEA to keep pace with greater technology adoption and digitalisation.

## Key changes

6. The key changes in the Amendment Act are as follows:
  - a. While the majority of RESs and EAs have conducted themselves professionally and ethically all these years, the number of errant RESs and EAs remains high. CEA and the industry are aligned in ensuring that the RESs have the knowledge and skillsets to best serve consumers, and aim to reduce the number of complaints against RESs and EAs in order to further boost the professional image of the industry. Hence, to send a stronger deterrence signal, the Amendment Act will have the following provisions:
    - i. CEA can issue a LOC and impose financial penalties of up to \$5,000 per case against errant RESs and EAs for minor disciplinary breaches without referring the matter to a CEA Disciplinary Committee (DC). Such penalties will be published in the errant party's records in the CEA Public Register. This new disciplinary regime will only apply to complaints or information received by CEA on or after 30 July 2021. It will allow timely resolution of minor disciplinary breaches (see [Annex A](#) for details).
    - ii. To deter RESs and EAs from committing disciplinary breaches, the maximum financial penalties that the DC can impose will be increased from \$75,000 to \$200,000 per case for EAs and to \$100,000 per case for RESs. The higher financial penalties will only apply to cases referred to the DC on or after 30 July 2021.
  - b. CEA will be able to require attendance by any person before a CEA inspector to give statements and furnish documents and electronic devices that can be inspected, copied or extracted for the investigation of disciplinary breaches.
  - c. CEA will be able to conduct document inspections electronically and at premises under CEA's control, other than the EAs' offices.
  - d. CEA will be able to serve documents through electronic means. Examples of such documents include notices to EAs to submit transaction records to CEA under the TRI; or notices to RESs or EAs on CEA's intent to impose penalties under the LOC disciplinary regime.
  - e. The Amendment Act will include provisions to support the TRI. The new Estate Agents (Transaction Records) Regulations (or TR Regulations in short) will also come into operation together with the Amendment Act on 30 July 2021. The TR Regulations prescribes the information to be collected

and published under the TRI which is one of several initiatives under the Real Estate Industry Transformation Map (ITM) launched in 2018. It enables RESs to market their experience by showing their transaction records to prospective clients. Failure to submit transaction records with the required particulars to CEA without reasonable excuse or the submission of false/misleading information knowingly is an offence under the Amendment Act.

- f. The duties of RESs and EAs on the prevention of money laundering and terrorism financing are elevated to duties under the Amendment Act, as per the FATF's recommendation. The duties include conducting customer due diligence (CDD) checks, reporting suspicious transactions to the Suspicious Transaction Reporting Office, and keeping records of relevant information and documents. CEA has prescribed the duties in the new Estate Agents (Prevention of Money Laundering and Financing of Terrorism) Regulations 2021 (or PMLFT Regulations in short) which will be effective on 30 July 2021, together with the operationalisation of the Amendment Act (see [Annex B](#) for details).

7. We have prepared a Guide on the CEA Regulatory and Enforcement Framework which provides an overview of key aspects of the framework such as complaint management and enforcement actions taken against potential criminal offences or disciplinary breaches under the Estate Agents Act and its subsidiary legislation; and CEA's sentencing approach in disciplinary and criminal proceedings. The Guide will be available on CEA's website on 30 July 2021.

## Conclusion

8. With the operationalisation of the Estate Agents (Amendment) Act 2020, CEA will continue to work together with the industry to reduce errant practices. This will in turn further inspire consumer trust and uplift the professional image of the industry.

Yours sincerely,

CHAN KWOK CHEONG  
DIRECTOR (LEGAL)  
COUNCIL FOR ESTATE AGENCIES

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[Annex A](#): New Letter of Censure (LOC) Disciplinary Regime under the Estate Agents (Amendment) Act 2020.

[Annex B](#): Information on the new Estate Agents (Prevention of Money Laundering and Financing of Terrorism) Regulations 2021.

**NEW LETTER OF CENSURE (LOC) DISCIPLINARY REGIME  
UNDER THE ESTATE AGENTS (AMENDMENT) ACT 2020**

1. The new LOC disciplinary regime is one of the key amendments to the Estate Agents Act. Under the regime, CEA can issue LOCs and impose financial penalties against errant real estate salespersons (RESs) and estate agents (EAs) for minor disciplinary breaches.

**Rationale**

2. Over the years, the majority of RESs and EAs have carried out estate agency work professionally and ethically. However, despite our continuous efforts with the industry to raise the professionalism and service standards of RESs and EAs, there are still errant RESs and EAs who commit disciplinary breaches and criminal offences under the Estate Agents Act. Both CEA and the industry are mindful that such errant behavior would tarnish the professional image of the industry. There is hence a need to send a stronger deterrence signal to the industry to prevent errant behavior by RESs and EAs.

3. With the operationalisation of the Amendment Act from 30 July 2021, CEA will roll out the LOC disciplinary regime as a new component of its overall disciplinary regime, which will now comprise:

- a. Court prosecution for criminal offences committed under the Estate Agents Act;
- b. CEA Disciplinary Committee (DC) hearings for serious disciplinary breaches where the DC can revoke, suspend, attach new conditions or vary any existing condition attached to the registration or licence of a RES or EA respectively, and/or impose a financial penalty of up to \$100,000 for RESs and \$200,000 for EAs per case; and
- c. LOC disciplinary regime for minor disciplinary breaches where CEA can issue LOCs with or without a financial penalty of up to \$5,000 per case.

4. For all three components, information on the criminal offences and disciplinary breaches committed by RESs and EAs are publishable in the CEA Public Register as a further deterrent.

5. The new penalties under the LOC disciplinary regime enable CEA to handle minor disciplinary breaches in a more effective and timely manner. This helps to better deter errant conduct, strengthen professionalism and instill greater consumer confidence in the real estate agency industry.

## LOC Disciplinary Regime

### Key features

6. The LOC disciplinary regime will be applicable for disciplinary breaches which are assessed to be minor. Where a breach is assessed to be serious, the matter will generally be referred to the DC for consideration. Some key considerations in assessing that a breach is minor are:

- a. The breach results in no or low financial loss or consequence to the parties involved in the transaction.
- b. The errant RES or EA had no or low wrongful gain.
- c. The errant RES or EA was not dishonest, fraudulent or had an intention to mislead.

7. The penalties will be imposed in a calibrated manner:

- a. CEA will consider if the errant RES or EA who committed a minor disciplinary breach had previous record(s) of committing a disciplinary breach or criminal offence under the Estate Agents Act. Records include Letter of Warning (LOW)<sup>2</sup>, LOC with or without a financial penalty imposed by CEA; past disciplinary actions taken by the DC; and/or records of criminal offences committed under the Estate Agents Act and its subsidiary legislation.
- b. For the RES or EA who committed a minor disciplinary breach without a previous record, CEA will generally issue a LOW, unless the circumstances of the case warrant a more severe penalty under the LOC disciplinary regime. The LOW will not be published in the CEA Public Register but may be taken into consideration for future breaches under the LOC disciplinary regime.
- c. If the RES or EA who committed the minor disciplinary breach had a previous LOW and/or another record of a disciplinary breach or criminal offence, a stronger deterrence signal would be sent, and CEA may issue a LOC with or without a financial penalty.
- d. Penalties will generally be enhanced if the RES or EA commits another minor disciplinary breach after having received a penalty under the LOC disciplinary regime. For example, the financial penalty imposed for the next disciplinary breach will be higher than that imposed for the previous disciplinary breach.

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<sup>2</sup> With the rollout of the LOC disciplinary regime, CEA will issue Letters of Warning (LOW) instead of Letters of Advice (LOA) for complaints or information received by CEA on or after 30 July 2021.

- e. Further, if the RES or EA repeatedly commits minor disciplinary breaches or commits a minor breach and has a track record of past DC sanctions and/or criminal offences, CEA may refer the case to the DC, where more severe penalties can be imposed.

8. CEA takes a serious view of RESs or EAs who commit disciplinary breaches and criminal offences repeatedly. This notwithstanding, since the LOC disciplinary regime is new, CEA has decided to consider only those records of criminal offences or disciplinary breaches resulting from complaints or information received by CEA on or after 30 July 2021 as a “previous record” when deciding on the penalties to be imposed under the LOC disciplinary regime. This is **a fair and reasonable consideration** as it gives RESs and EAs who have record(s) resulting from complaints received prior to 30 July 2021 a “fresh start” and more importantly, gives them an opportunity to rehabilitate and improve their conduct.

9. Ultimately, each case will be assessed on its own facts and circumstances. CEA retains discretion in determining the action that is appropriate under the LOC disciplinary regime for minor disciplinary breaches. For example, if the case involves a few disciplinary breaches, CEA may consider that it should be surfaced to a DC for consideration.

10. The new penalties under the LOC disciplinary regime will only apply to information or complaints received by CEA on or after 30 July 2021.

### Procedures

11. CEA will conduct investigations into complaints or information received to assess if action should be taken against the errant RES or EA under the LOC disciplinary regime.

12. When the case is substantiated, CEA will serve a written “notice of intent” to the RES or EA on CEA’s intent to issue a LOC with or without a financial penalty. The RES or EA will have 14 days to show cause as to why the disciplinary action should not be taken, by submitting a written explanation to CEA.

13. If CEA decides that action should be taken after reviewing the written explanation or if no written explanation was submitted, CEA will give a “notice of decision” to the RES or EA, which will take effect 14 days after the notice is served. During this 14-day period, the RES or EA may either request CEA to reconsider its decision or file an appeal to the Ministry of National Development (MND) Appeals Board. If the RES or EA has requested for CEA to reconsider its decision, an appeal to the MND Appeals Board can still be filed 14 days after the RES or EA is notified of CEA’s decision after reconsideration.

14. Please see the diagrammatic explanation of the LOC disciplinary regime at the Appendix to Annex A. You may also click [here](#) to refer to the frequently-asked questions on the LOC disciplinary regime for your information.

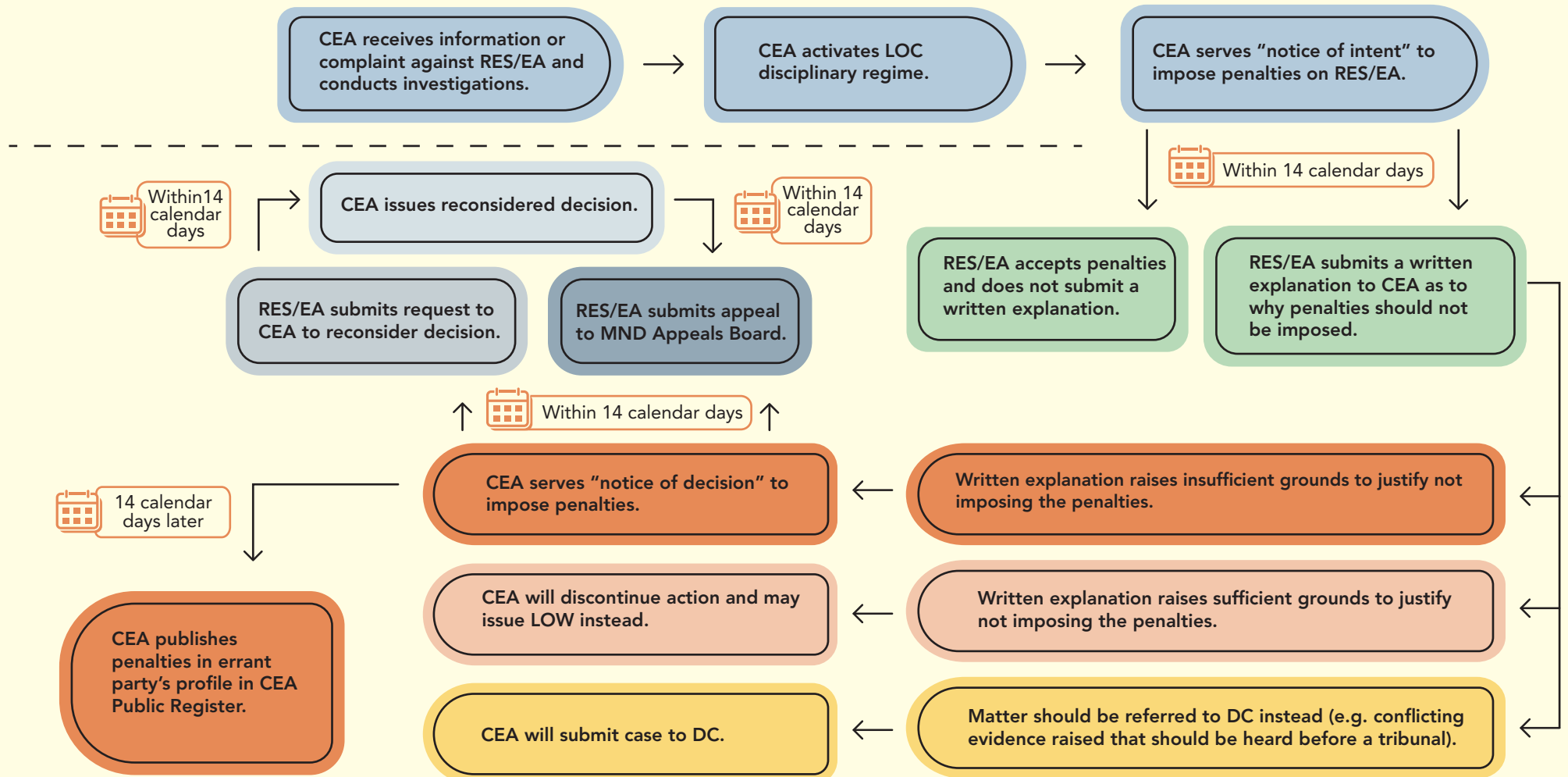
## Conclusion

15. Building a professional and trusted real estate agency industry is a collective responsibility of the EAs, RESs and CEA. The aim of the new LOC disciplinary regime is ultimately to prevent errant behavior of RESs and EAs, and to raise the service standards and professionalism of the industry over time.

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Diagram 1

# Elaboration of LOC disciplinary regime's workflow

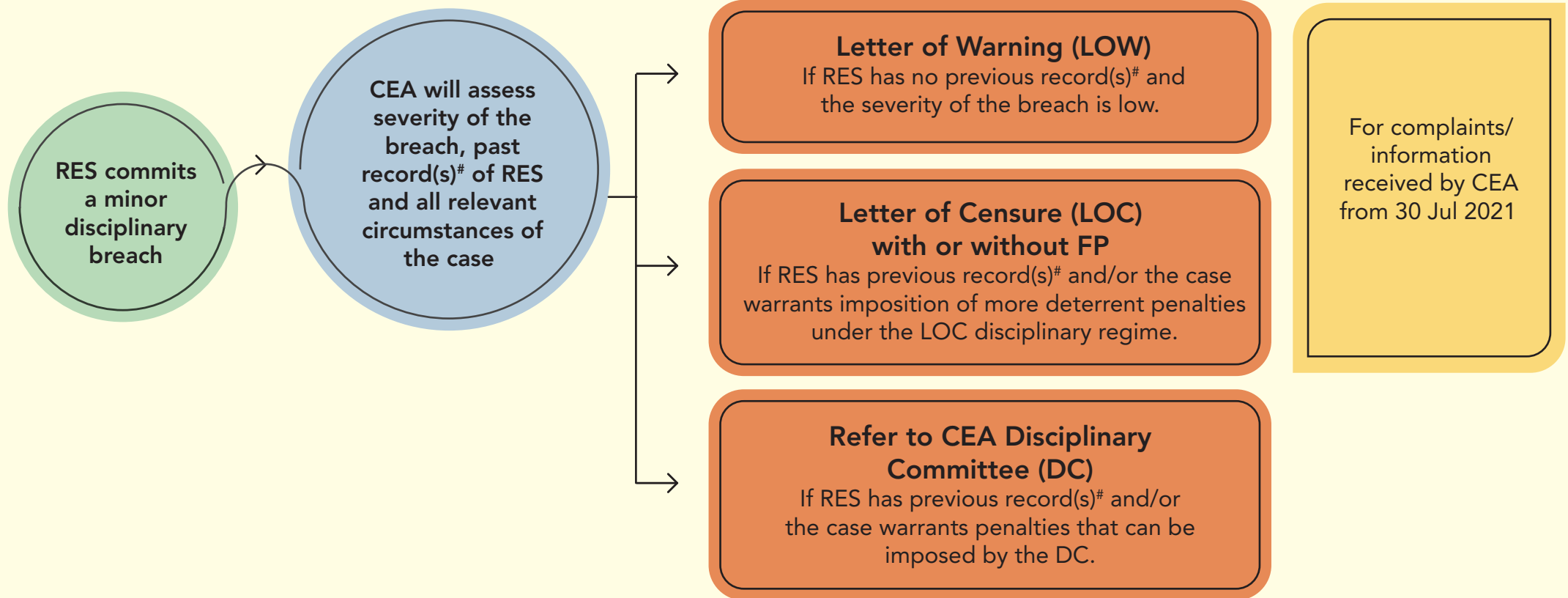


Legend:	
EA – Estate Agent	FP – Financial penalty (up to \$5,000)
RES – Real Estate Salesperson	DC – CEA Disciplinary Committee
LOC – Letter of Censure	MND – Ministry of National Development
LOW – Letter of Warning	



Diagram 2

# Possible outcomes under the LOC disciplinary regime



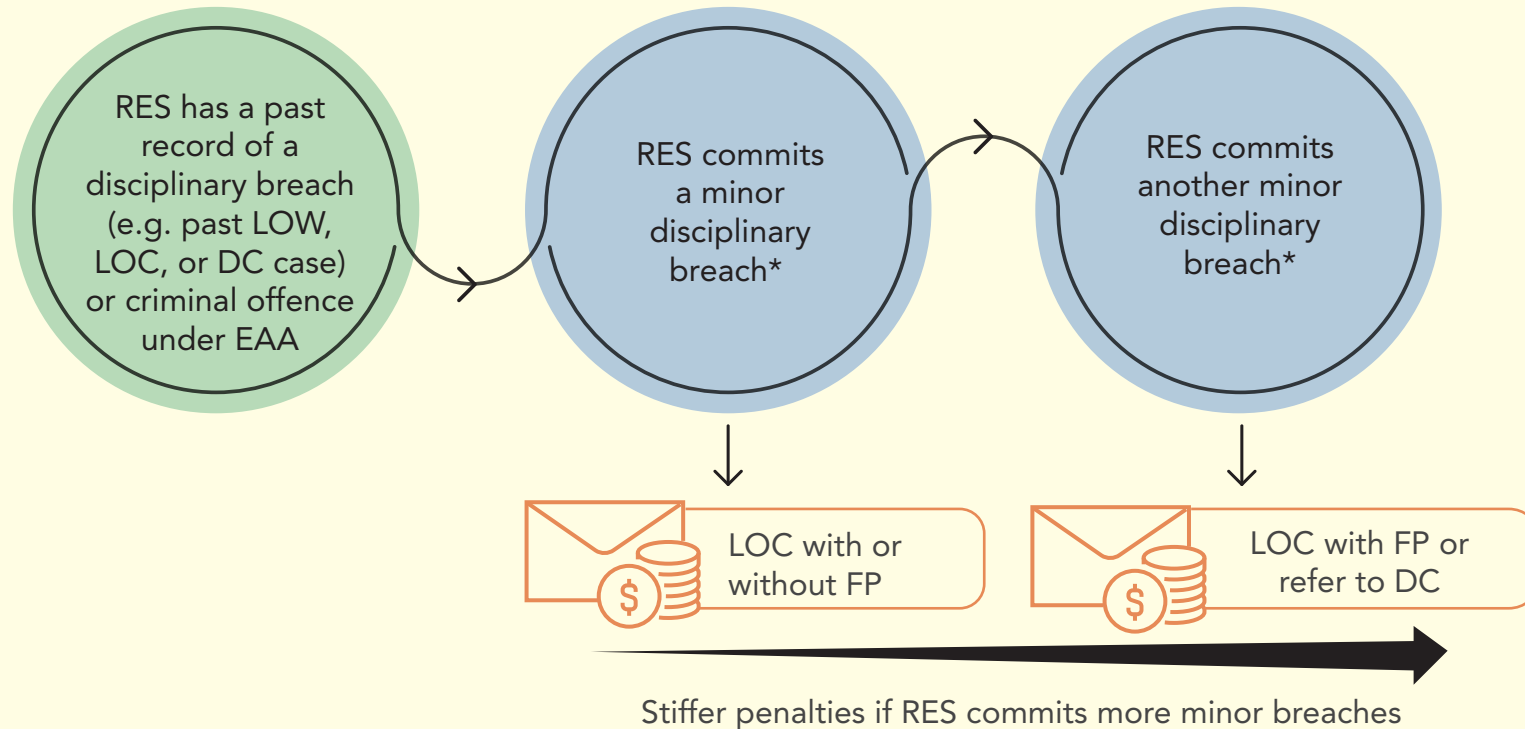
**Note:**

- # Records include LOWs, LOCs with or without financial penalty, past disciplinary actions taken by the DC, and/or records of criminal offences committed under the EAA and its regulations. To give the industry a “fresh start”, CEA will only take into account records resulting from complaints or information received by CEA on or after 30 Jul 2021.
- CEA will assess and calibrate the appropriate outcome, e.g.:
  - If the RES has a past LOW record, CEA may consider that a LOC with or without FP should be imposed for the latest minor breach.
  - If the RES received a LOC with FP for a previous breach and commits another breach, CEA may issue a LOC with FP for the latest breach, where the quantum of the FP imposed is higher than the FP imposed for the previous breach.
- The above example can also apply to minor disciplinary breaches committed by an EA.

**Legend:**

- EA – Estate Agent
- RES – Real Estate Salesperson
- LOC – Letter of Censure
- LOW – Letter of Warning
- FP – Financial penalty (up to \$5,000)
- DC – CEA Disciplinary Committee
- EAA – Estate Agents Act

# Example of how CEA may issue a LOC with or without a financial penalty on a RES for minor disciplinary breaches



**Note:**

- Disciplinary breaches (\*) may involve the same type of breach (e.g. both involving advertising without the owner’s consent) or a different type of breach (e.g. inaccurate advertising for the first breach and failure to conduct required checks on property ownership for the second breach).
- Where a FP was imposed for a previous breach and the RES commits another breach, the FP imposed for the latter breach will generally be higher.
- If the RES does not have a past record of a disciplinary breach or criminal offence but commits a minor breach that warrants a more severe penalty than a LOW, CEA may impose a LOC with or without FP.
- The above example can also apply to minor disciplinary breaches committed by an EA.

**Legend:**

- EA – Estate Agent
- RES – Real Estate Salesperson
- LOC – Letter of Censure
- LOW – Letter of Warning
- FP – Financial Penalty (up to \$5,000)
- DC – CEA Disciplinary Committee
- EAA – Estate Agents Act

**INFORMATION ON NEW ESTATE AGENTS (PREVENTION OF MONEY LAUNDERING AND FINANCING OF TERRORISM) REGULATIONS 2021**

1. The Estate Agents (Prevention of Money Laundering and Financing of Terrorism) Regulations 2021 (or PMLFT Regulations, in short) outlines the duties of real estate salespersons (RESs) and estate agents (EAs) in preventing money laundering and terrorism financing (ML/TF).

2. With the duties of RESs and EAs on the prevention of money laundering and terrorism financing elevated to the Estate Agents Act (EAA) and PMLFT Regulations, CEA will rescind the Practice Guidelines (PG 01-19) on the Prevention of Money Laundering and Countering the Financing of Terrorism, and re-issue it as a reference guide. RESs and EAs can continue to rely on the reference guide to comply with the obligations under the EAA and PMLFT Regulations, including the use of the RES's Checklist and EA's Checklist on Customer Due Diligence (CDD).

**Background**

3. As an international business and financial centre with an open economy, Singapore is inevitably exposed to risks of regional and international ML/TF threats. ML/TF compromises Singapore's economy, safety and security.

4. The real estate agency industry in Singapore can be an attractive avenue for criminals and terrorist groups to perpetuate criminal deeds and launder tainted funds given the large sums involved and our political stability. RESs and EAs help clients to transact properties and this could involve or facilitate the movement of large amounts of funds, sometimes across international boundaries.

5. The Financial Action Task Force (FATF) has identified the real estate agency industry and other non-financial sectors such as lawyers, developers, money lenders, accountants, as crucial gatekeepers against ML/TF. It is important for all stakeholders, including the real estate agency industry, to play our part to counter these threats.

**Customer Due Diligence Measures**

6. The PMLFT Regulations refers to "responsible person" as the RES or EA who carries out the estate agency work for the client.

7. Before carrying out any estate agency work, the responsible person must enter into a client-agent relationship with the client.

8. The responsible person must undertake CDD measures before the client enters into any agreement for the acquisition or disposal of the property. The CDD measures to be taken are:

- a. Identify and verify the customer's identity using reliable, independent source documents, data or information;
  - b. Carry out the necessary CDD measures corresponding to the client's profile;
  - c. Identify each beneficial owner of the client; and
  - d. Assess the risks of the client or beneficial owner engaging in ML/TF and document the risk assessment.
9. In circumstances where the ML/TF risks are higher, **enhanced customer due diligence measures** must be performed.
10. A responsible person must **perform screening** on clients and beneficial owners against United Nations' lists of designated individuals and entities, terrorists and terrorist entities identified under the Terrorism (Suppression of Financing) Act, and any list that may be provided by the authorities from time to time.
11. Where the screened individual or entity is the subject of targeted financial sanctions, or is suspected of, or at risk, of facilitating money laundering, the financing of terrorism or both; the responsible person must file a **Suspicious Transaction Report (STR)**.
12. For **rental transactions** which are assessed to be of low risk and where specified higher risk scenarios do not apply, the responsible person must obtain and verify the client's identity and identify the beneficial owner. The responsible person shall minimally screen the client and beneficial owner against the Terrorism (Suppression of Financing) Act, and any list provided by the authorities.
13. If CDD cannot be completed, the responsible person should cease dealing with the client, terminate the relationship and consider filing an STR.
14. When relying on **CDD performed by third parties**, the responsible person must obtain the CDD documents from the third party without delay and note that the responsible person is ultimately responsible for compliance with the obligation to perform CDD.
15. Where there is an ongoing business relationship with a client, the responsible person must perform **ongoing monitoring** by periodically reviewing the CDD information and documents to assess if the transactions conducted are consistent with the risk and general profile of the client, and identify transactions that are inconsistent with the profile of the client.
16. The PMLFT Regulations also outlines specific roles of EAs as follows:

### **Risk assessment internal controls and compliance management arrangements**

17. EAs must take appropriate steps to identify, assess and mitigate the ML/TF risks, document the risk assessment, and keep the risk assessment up to date.

18. EAs must develop and implement appropriate risk sensitive internal policies, procedures, and controls, including requiring enhanced measures to manage and mitigate higher risks, where identified.

19. EAs must have an ongoing programme to train its RESs on laws and its' internal policies, procedures, and controls, to prevent ML/TF.

20. EAs must develop and implement internal checks and audits and address any non-compliance discovered (e.g. CDD measures and procedures are not complied with where required).

### **Record Keeping**

21. EAs shall maintain for at least five years, all necessary records on transactions.

22. EAs must also maintain records relating to risk assessment, internal controls, and compliance management arrangements.

23. The records may be kept in its original form or as a copy (may be in electronic form).

(Note: The new PMLFT Regulations will be published on [CEA's website](#) after it comes into effect on 30 July 2021.)

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