

Briefing on Key Changes to Estate Agents Act

Presented at CEA's briefings on the Estate Agents Act amendments
2 & 3 June 2021

This deck of slides was presented at CEA's briefings on the Estate Agents Act amendments on 2 and 3 June 2021, and was updated and accurate as at 3 June 2021.

Joint efforts by CEA and Estate Agents

To build a Professional and Trusted
Real Estate Agency Industry

KEOs



CEA Council for
Estate Agencies

To raise the professionalism of the
real estate agency industry and
safeguard consumer interests

CEA's Key Approach



Thrust 1:
Effective Regulation



Thrust 2:
Professional Development



Thrust 3:
Consumer Education

Similarly, Estate Agents have pledged to:



- Put customers' interests first.
- Upgrade the skills of real estate salespersons and support them to achieve higher standards of service.
- Pursue good governance to conduct estate agency work responsibly.

so as to build a more professional and trusted real estate agency industry.

Key Changes to Estate Agents Act

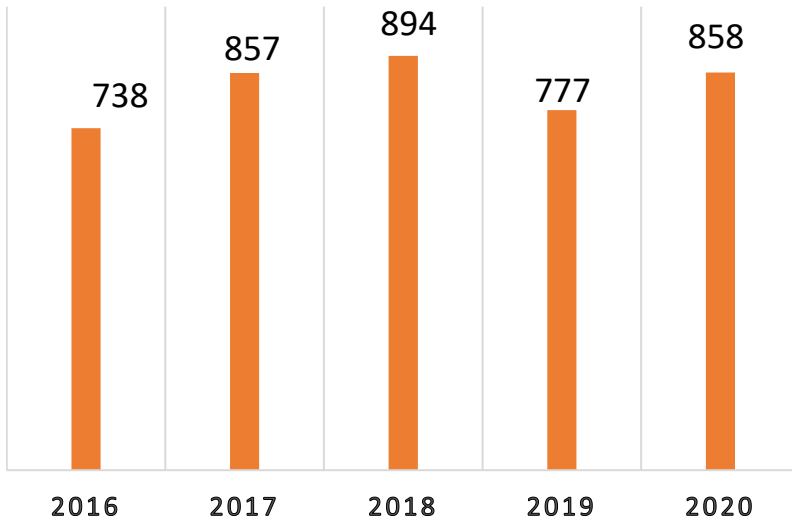
Why amend the EAA?

- The EAA has not been amended since CEA was formed in October 2010*.
- Meanwhile, the operating environment has changed with greater technology adoption by both the real estate agency industry and consumers; and changing consumer preferences.
- Majority of Estate Agents (EAs) and Real Estate Salespersons (RESs) are conducting themselves professionally and ethically, but the number of errant RESs/EAs is still high.
- Collectively, the EAA amendments aim to raise the level of professionalism amongst RESs and EAs, and continue to inspire consumer confidence in the industry, amidst the changing operating environment.
- Amendments were passed by Parliament on 5 May 2020 and will come into effect in **July 2021**.

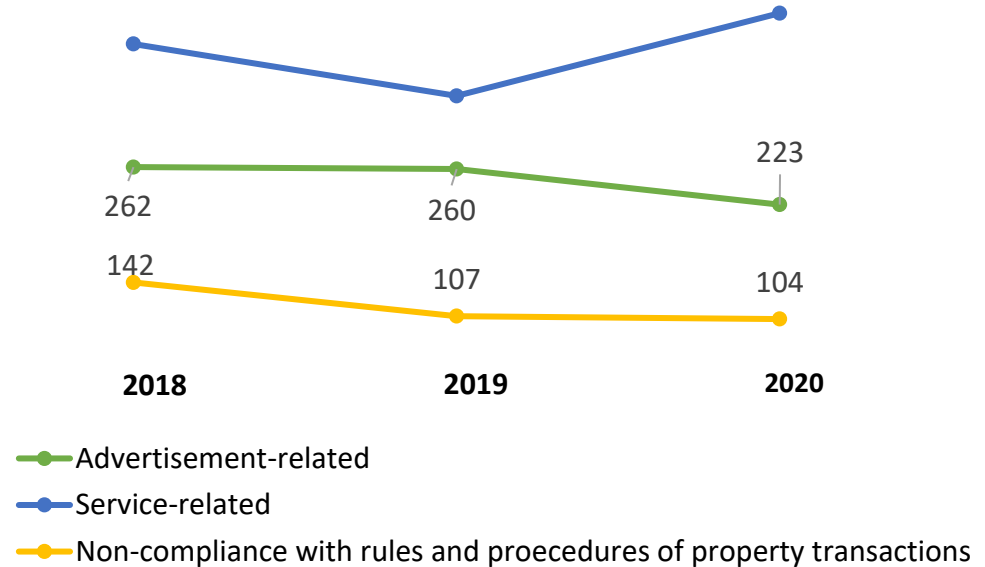
** Apart from consequential amendments as a result of the passing of the Public Service Governance Act in April 2018.*

Majority of RESs and EAs conduct themselves professionally and ethically, but the number of errant RESs/EAs is still high

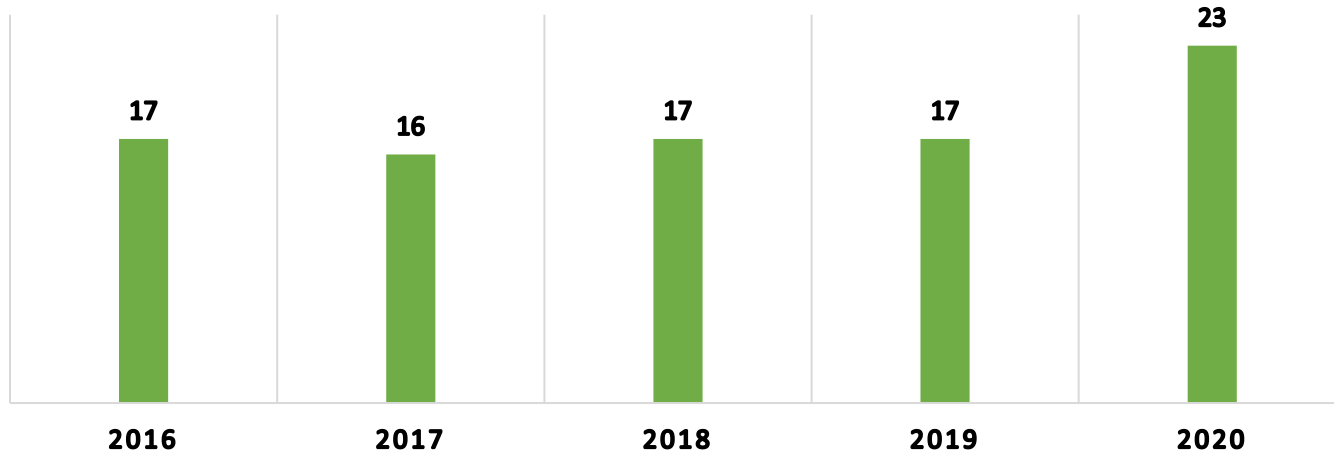
No. of Complaints



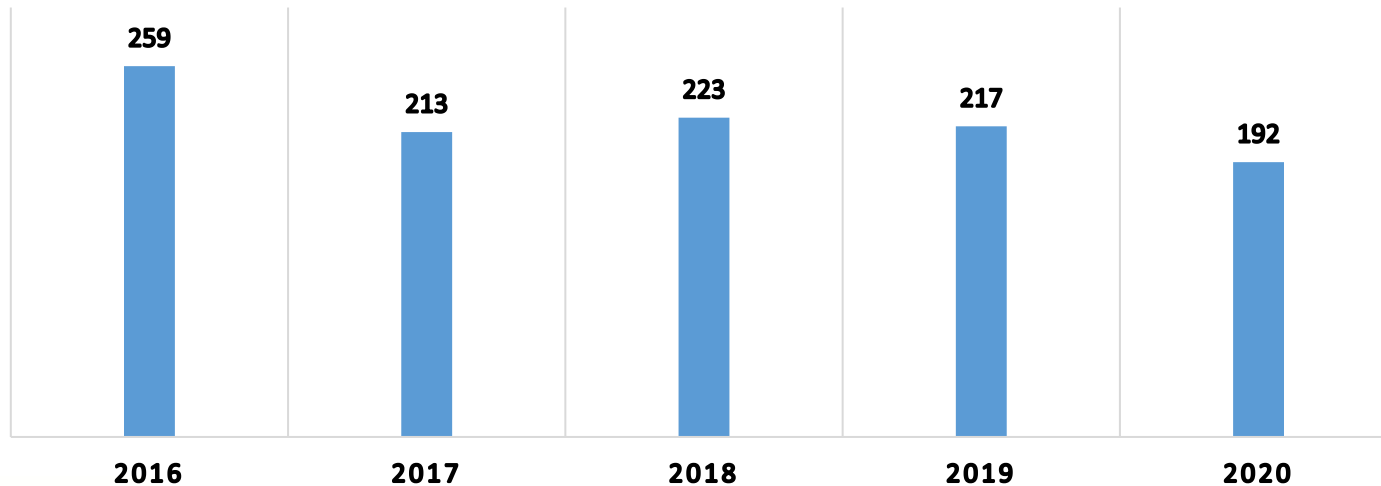
Top 3 Categories of Complaints



Disciplinary Committee (DC) cases for serious disciplinary breaches saw a 35% increase from 2019 to 2020 ...



... while the number of minor breaches (with Letters of Advice/Warning issued) remains high



Rationale for key changes to Estate Agents Act



Better deter errant RESs/EAs from committing disciplinary breaches, and ultimately, work together with the industry to raise professionalism.



Update the regulatory framework to keep abreast of technology advancements and support the Transaction Records Initiative (TRI).

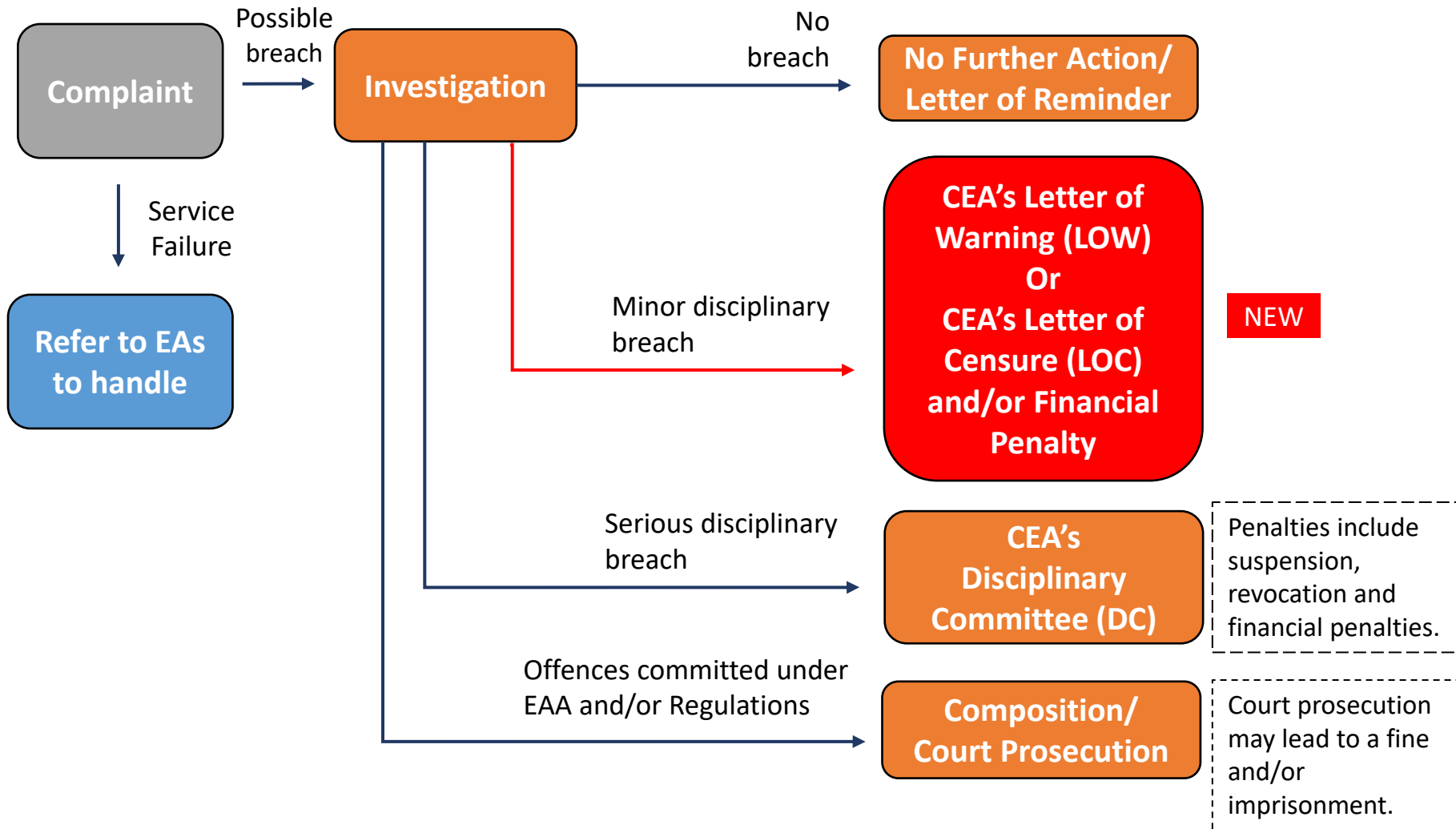


Align levers against money laundering (ML) and terrorism financing (TF) to meet international standards.



Changes to disciplinary regime to better deter errant RESs/EAs

CEA's complaint management and resolution process



Note: Disciplinary breach includes breach of CEA's Code of Ethics and Professional Client Care, Code of Practice for Estate Agents, Estate Agents (Prevention of ML/FT) Regulations, etc.

Enhanced investigation and inspection powers to keep up-to-date with technology changes and to tackle errant RESs/EAs

Key changes include:

- Enhances CEA's powers for statement-taking, to require documents to be provided and electronic devices to be furnished, for investigations of disciplinary breaches.
- Inspections can be conducted electronically (e.g. documents) and at premises under CEA's control, other than the EA's offices.



Higher maximum financial penalties in disciplinary proceedings

- Maximum financial penalty that a CEA Disciplinary Committee (DC) may impose will increase from the current \$75,000 per case for both RES and EA to **\$100,000 for RES** and **\$200,000 for EA** per case.
 - Higher limits correspond better to higher commissions that RES/EA may potentially earn, with EAs generally earning more than RESs.
 - DCs will have more flexibility to impose adequate punishment, depending on the facts of each case.
- Greater deterrence will safeguard the interest of consumers and the professional image of the industry where the majority discharge their duties diligently and responsibly.
- The new limits will apply to cases referred to the DC on or after amended EAA is operationalised.

CEA adopts a systematic approach to put up sentencing submissions to CEA Disciplinary Committee

- To assess the seriousness of each breach based on relevant factors that affect the degree of harm caused and the culpability of RES/EA such as:
 - Whether the breach was committed negligently or intentionally.
 - The actual or potential impact caused by the breach.
 - Whether the breach took place over a period of time.
 - Whether there was any intent to obtain a wrongful gain or cover up the misconduct.
- To also consider any aggravating or mitigating factors such as:

Aggravating factors

- Total number of charges.
- Total number of charges taken into consideration for sentencing.
- Antecedents.

Mitigating factors

- Actions taken to remedy situation or prevent re-occurrence of breach.
- Timely plea of guilt.
- Co-operation with investigations.

New Letter of Censure (LOC) disciplinary regime to better deter errant RESs/EAs

- For minor disciplinary breaches, CEA will cease to issue Letter of Advice (LOA).
- Under the new LOC framework, CEA can:
 - Issue a Letter of Warning (LOW).
 - Issue a Letter of Censure (LOC).
 - Impose a financial penalty of up to \$5,000 per case.
 - Publish the breach and penalties (namely, LOC and financial penalty) in the RES' "Disciplinary Action" field in the CEA Public Register.
- Majority of RESs/EAs have consistently uphold high professional standards, but the conduct of the errant minority erodes consumer confidence in the industry.
- The LOC regime is intended to send a strong deterrence signal to the errant minority so that the industry's ongoing efforts to enhance its professionalism are not negated.



Minor disciplinary breach

Possible action: Issuance of LOW, LOC with or without financial penalty up to \$5,000.

Key considerations:

- No or low financial loss or consequence caused to involved parties.
- No or low wrongful gain by errant RES/EA.
- No dishonesty, fraud or an intention to mislead on the part of RES/EA.

Examples of breaches: Advertising without owner's consent; failure to give a copy of document that client signed.



Serious disciplinary breach

Possible action: Refer to DC.

Key considerations:

- Financial loss or consequence caused to involved parties.
- Wrongful gain by errant RES/EA.
- Dishonesty, fraud or an intention to mislead on the part of RES/EA.

Examples of breaches: Failure to declare conflict of interest; doing anything that is dishonest or misleading (e.g. inducing client to enter into a transaction with false information).

Ultimately, each case will be assessed on its own facts and circumstances, and the degree of severity of the breach involved.

How LOC disciplinary regime works?

Where the RES/EA who commits a minor disciplinary breach does not have a previous record*, CEA will generally issue a LOW, unless a more severe penalty under the LOC regime is warranted.

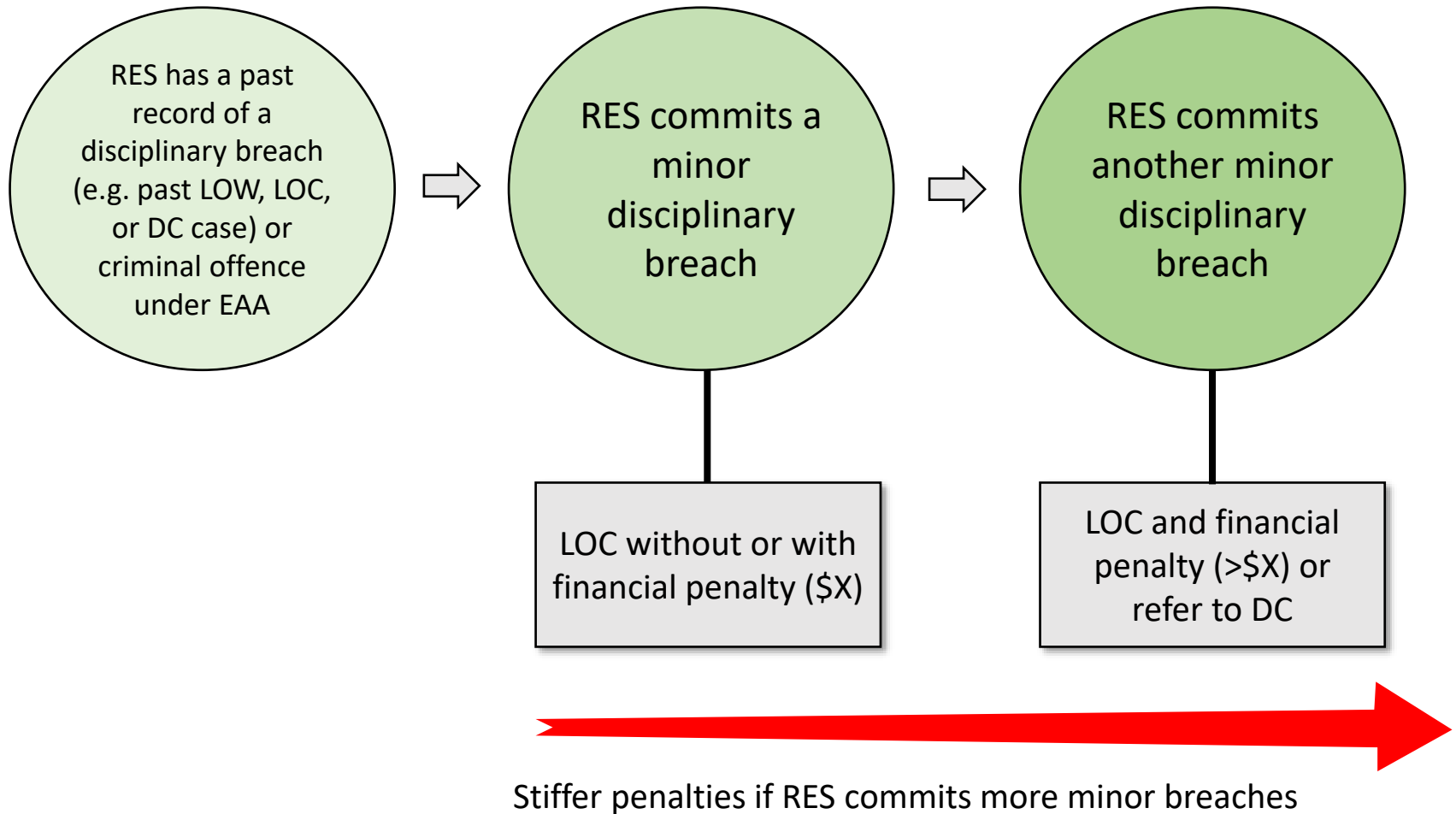
If the RES/EA has a previous record, CEA may impose a LOC with or without a financial penalty.

Penalties will generally be enhanced if the RES/EA commits another minor breach after having received a penalty under the LOC regime, e.g. the financial penalty for the next breach will be higher than that imposed for the previous breach.

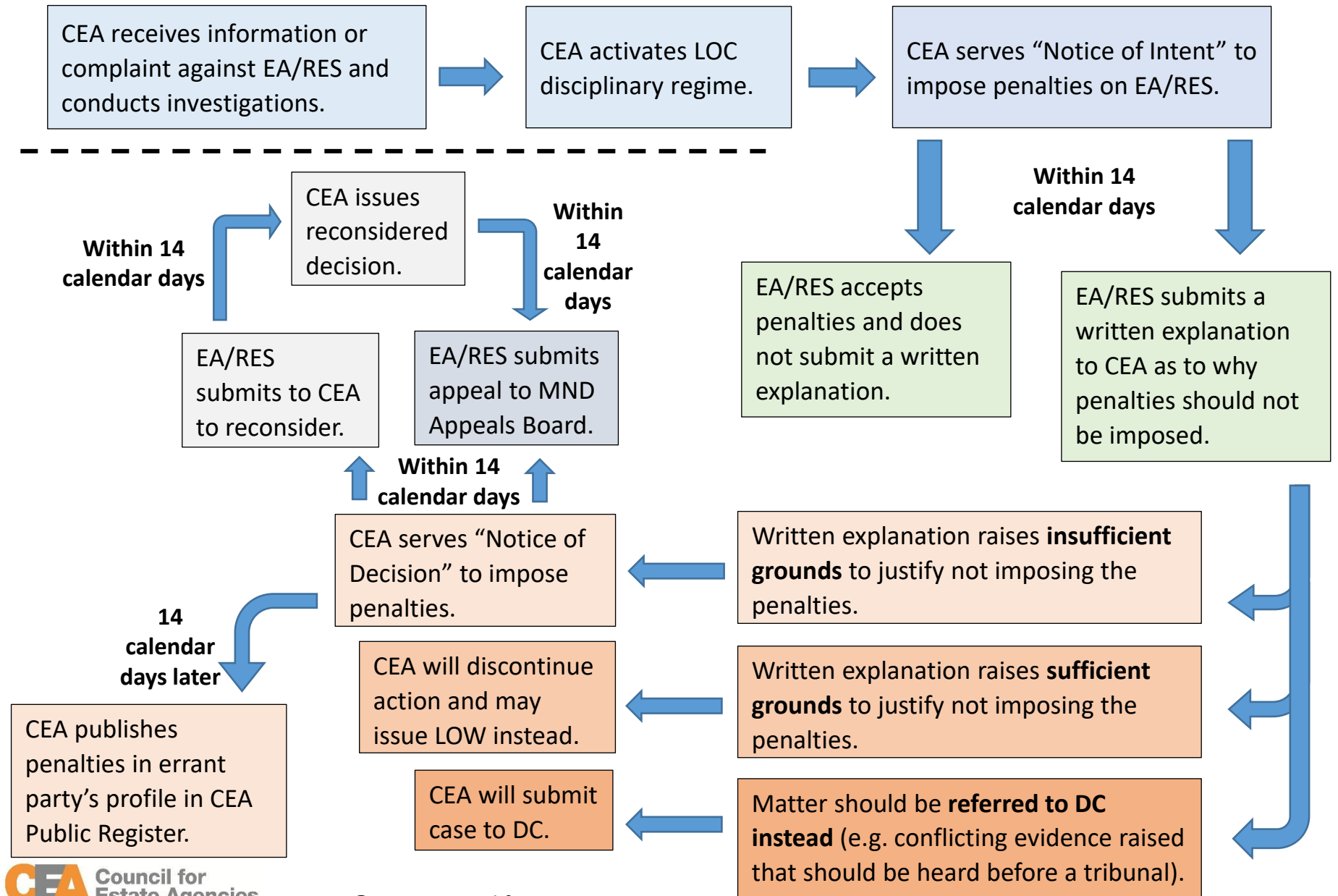
If the RES/EA repeatedly commits minor breaches or commits a minor breach despite having a track record of past DC sanctions and/or criminal offences, the case may be referred to the DC.

** Records include LOWs, LOCs with or without financial penalty, past DC actions and/or records of criminal offences under the EAA.*

How CEA may issue LOC with or without a financial penalty for minor breaches by RES



Elaboration of LOC disciplinary regime's workflow



Important points to note

- Penalties under the LOC disciplinary regime will only be applicable for complaints or information received by CEA on or after the amended EAA is operationalised.
- As this is a new disciplinary regime, in assessing whether the RES/EA has prior records, CEA will only consider records of criminal offences or disciplinary breaches resulting from complaints or information received by CEA on or after the operationalisation date.
- This is a fair and reasonable approach so that those RESs/EAs with past records will be given a “fresh start” and an opportunity to rehabilitate and improve their conduct.



Updates to regulatory framework to keep abreast of technology advancements and to support the Transaction Records Initiative (TRI)

Updating the regulatory framework to support the Transaction Records Initiative (TRI)

- TRI is part of the Real Estate Industry Transformation Map (ITM) initiative launched in 2018, which enables RESs to market their experience to their clients through transaction records published in CEA's Public Register.
- EAs are submitting their RESs' transaction records by 7th of every month, which will then be published in CEA Public Register on 15th of the month.
- Records include HDB flat resale and rental transactions, private residential rental and sale/purchase transactions.

SALESPERSON DETAILS

Name : AARON GOH
Reg. No. : R000001B
Reg. Period : 16 Sep 2019 to 31 Dec 2020
Awards : NA
Disciplinary Actions : NA
Remarks : NA
Est. Agent Name : ESTATE AGENT PTE LTD
Licence Number : L0000022A



[VIEW RECENT RESIDENTIAL TRANSACTION RECORDS](#)

 **HDB Flat**

Resale Rental

 **Private**

Sale Rental

SALESPERSON'S HDB RESALE TRANSACTION RECORDS

Name : AMY LIM
Reg.No. : R0101028
Filter By : Last 24 Months

Completion Date	Town	Represented
May 2018	HOUANG	Buyer
May 2018	HOUANG	Buyer
October 2017	ANG MO KIO	Buyer
October 2017	WOODLAND	Buyer

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Estate Agents (Transaction Records) Regulations 2021 will prescribe the information to be collected/published

- Information collected and published under the TRI:

Collected from EAs/RESs	Published in CEA Public Register
<ul style="list-style-type: none">• Property address• Property type• Party represented by RES (e.g. seller or buyer)• Transaction date• CEA Registration no.	<ul style="list-style-type: none">• Same as information collected, but general location of property will be published instead of the specific property address.

- The Estate Agents (Transaction Records) Regulations will be operationalised together with the amendments to the EAA.

Providing for service of notices and documents via email

- Amendments to the EAA will enable the service of documents under the EAA via the electronic means.
- Timely measure given the prevalent use of electronic communications, e.g. emails.
- Documents could include a notice to submit transaction records or a notice of CEA's intent or decision to impose penalties under the LOC regime.



Icons: Designed by Freepik



Alignment of levers against money laundering (ML) and terrorism financing (TF) to meet international standards

Combating money laundering and terrorism financing

- Singapore is a member of the inter-governmental **Financial Action Task Force (FATF)** which sets standards to promote the effective implementation of measures to combat money laundering and terrorism financing.
- FATF has identified the real estate agency sector, and other non-financial sectors such as lawyers, developers, money lenders, accountants as **crucial gatekeepers** against money laundering and terrorism financing.
- RESs/EAs have a critical role to play to counter these threats.



Key agencies involved in FATF

**Responsible
Person**

**Customer Due
Diligence**

**Enhanced
Customer Due
Diligence**

NEW

**Estate Agents
(Prevention of Money
Laundering
and Financing of
Terrorism)
Regulations 2021**

**On-going
Monitoring**

Screening

**Reliance on
Third Parties**

**Suspicious
Transaction
Reporting**

**Rental
Transactions**

Responsible Person

- AML/CFT Regulations refers to “**responsible person**” as the registered RES or the licensed EA that carries out the estate agency work for the client.
- **Before** carrying out any estate agency work, the responsible person must enter into a **client-agent relationship** with the client.
- The responsible person must undertake **customer due diligence (CDD) measures** before the client enters into any agreement for the **acquisition or disposal of the property.**



image: Freepik.com

Customer Due Diligence

- Responsible person to:
 - **Identify and verify the customer's identity** using reliable, independent source documents, data or information.
 - Carry out the necessary CDD measures corresponding to the client's profile (e.g. legal entity).
 - Identify **each beneficial owner (BO)** of the client.
 - Assess the risks of the client or beneficial owner engaging in ML/TF and document the risk assessment.

Enhanced Customer Due Diligence

- Responsible person to perform **enhanced CDD** measures for higher ML/TF risk circumstances below:
 - Complex or unusually large transaction.
 - No apparent economic or lawful purpose.
 - Client or BO is from higher risk countries .
 - Client or BO is a foreign Politically Exposed Person (PEP).
- Enhanced CDD measures required:
 - Establish source of funds and wealth.
 - Establish purpose of the transaction.
 - Obtaining approval of the senior management before establishing or continuing the business relationship.



Screening

- Responsible person must **perform screening** on clients/BO against:
 - **United Nations Sanctions Lists.**
 - Terrorist and terrorist entities identified under the Terrorism (Suppression of Financing) Act [**TSOFA**] under MHA.
 - Any list provided by the authorities, e.g. CEA issued **Practice Circular on Compliance with TSOFA.**
- To **cease dealing** and file a Suspicious Transaction Report (STR) if client/BO is found in any of the lists.

Rental Transactions

- Responsible person to:
 - Obtain and verify the client's identity and identify BO.
 - Screen client/BO against TSOFA and list provided by authorities.



image: Adobe Stock

- If there are doubts about the client/BO or there is suspicion of ML/TF activity, responsible person shall complete further CDD measures (e.g. determine if client/BO is PEP) and additionally, screen client/BO against UN Sanctions Lists.

Suspicious Transaction Report

- If **CDD cannot be completed**, responsible person to **cease dealing**, terminate the business relationship and consider **filing an STR**.



- If a client/BO is **suspected of, or at risk, of ML/TF**, responsible person must e-file an STR on STRO Online Notices and Reporting platform (SONAR) (<https://www.police.gov.sg/sonar>).
- RES who intends to lodge STRs has to e-file them through his EA using a CorpPass account (refer to online guide for getting started with SONAR).

Reliance on Third Parties

- Responsible person who is aware that a third party (i.e. another EA) has done CDD measures on a particular client, may rely on the CDD performed by obtaining the CDD documents from the third party without delay.



image: Freepik.com

- Note that the responsible person is **ultimately responsible** for compliance with the obligation to perform CDD.

On-going Monitoring

- Responsible person to:
 - Perform **on-going monitoring if there is** on-going business relationship with a client.
 - Periodically, review the CDD information 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.
- Reliance on a third party for on-going monitoring is not allowed.

Key EA's Responsibilities in AML/CFT Regulations

Risk Assessment

- Identify, assess and mitigate ML/TF risks.
- Document and keep your risk assessment up-to-date.

Record keeping

- Maintain for at least 5 years.
- Transactions, Risk Assessments, Compliance management and Internal controls documents.
- Original, copy or electronic format.

Estate Agents & KEOs

Internal Controls

- Develop and implement appropriate risk sensitive internal policies, procedures and controls.
- Monitor implementation and enhance (when necessary).

Compliance Management

- Conduct internal checks and audits.
- Address any non-compliance discovered.

Training

On-going programme to train RESs on AML/CFT laws, EA's internal policies, procedures and controls.

Using digital tools to automate due diligence checks under AML/CFT Regs

- SEAA's collaboration with Amicus Pte Ltd on an AML web application (realestate.amlapps.sg).



- IEA's collaboration with PropSage Pte Ltd to incorporate an AML checklist feature in PropSage's web and mobile application (propsage.com).



- RESs/EAs can consider subscribing to these services to perform CDD.
- Under SMEs Go Digital programme, CEA is working with IMDA and Enterprise Singapore to get more vendors to provide digital solutions for compliance checks which EAs can apply for Productivity Solutions Grant (PSG) support.

Conclusion

Publication of a Guide to better inform industry and consumers of CEA's regulatory approach



What is the purpose and objective of the Guide?

To outline the approach that CEA takes towards regulation of the real estate agency industry, and provide information to the industry and property consumers on CEA's regulatory and enforcement framework.

What does the Guide cover?

- How complaints are processed and handled.
- Possible outcomes from CEA's investigations.
- CEA's disciplinary levers and processes.
- Other regulatory actions taken by CEA, e.g. suspension or revocation of licence/registration for fit and proper considerations or failure to pay any financial penalty or fee imposed under the EAA.

CEA will continue to work with the industry to foster a professional and trusted real estate agency industry

- Collectively, the amendments to the EAA updates CEA's regulatory regime to keep abreast of technology advancements, reduce errant practices, raise professionalism and inspire consumer confidence in our industry.
- KEOs have to take charge and be responsible for your RESs.
- CEA will continue to work with you to foster a professional and trusted industry, and to educate consumers on their roles and responsibilities.

