Council for Estate Agencies

Frequently-asked questions on the Estate Agents (Amendment) Bill

As at 5 May 2020

1. Why is it necessary to amend the Estate Agents Act (EAA)?

The Council for Estate Agencies (CEA) initiated a review of the EAA to ensure its relevance and continued effectiveness amidst the changing operating environment in the real estate agency industry. The EAA has not been amended[#] since CEA was formed in Oct 2010.

The amendments to the EAA, which were passed by Parliament on 5 May 2020, aim to:

a. Align Singapore's levers against money laundering and terrorism financing with international standards.

b. Enhance productivity in taking timely disciplinary actions against errant estate agents and real estate salespersons.

c. Update the regulatory framework to enable CEA to respond more efficiently to industry stakeholders in a changing operating environment.

Collectively, the EAA amendments aim to raise the level of professionalism amongst estate agents and real estate salespersons, and gain greater trust and confidence in consumers to engage salespersons to serve them in property transactions.

[#] Apart from consequential amendments as a result of the commencement of the Public Sector (Governance) Act in April 2018.

2. When will the Estate Agents Act amendments come into effect?

The Estate Agents (Amendment) Bill was passed by Parliament on 5 May 2020. The amendments will come into force after the Bill has been assented to by the President of the Republic of Singapore, and on a date appointed by the Minister in the Government Gazette. CEA will inform the estate agency industry when the amendments take effect.

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3. What are some of the key amendments to the Estate Agents Act (EAA)?

The key amendments are:

- The duties of estate agents and salespersons on the prevention of money laundering and terrorism financing, which are already provided in CEA's Practice Guidelines 01-19 on Anti-Money Laundering and Countering the Financing of Terrorism, will be elevated to duties under the EAA, to align with international standards required by the Financial Action Task Force (FATF)*. As per current compliance requirements, estate agents and salespersons will need to conduct customer due diligence checks, report any suspicious transactions to the Suspicious Transaction Reporting Office, and keep records of the due diligence checks conducted among other documents which CEA may inspect.

- Financial penalties imposed by the Disciplinary Committee will increase from $75,000 to $200,000 per case for errant estate agents and $100,000 per case for salespersons. The increase will enable CEA to tackle more serious cases in future that may warrant higher financial penalties, and more importantly, to send the right signals to the industry to deter breaches.

- To enable CEA to deal with less serious breaches more quickly, CEA can decide and impose a financial penalty of up to $5,000 per case on errant estate agents or salespersons for less serious breaches without a Disciplinary Committee hearing. This may be published in the errant party's records on the CEA Public Register.

- CEA's statutory letter issued to errant estate agents and salespersons for disciplinary breaches will be renamed to a Letter of Censure from a Letter of Advice. Such censures may be published in the errant party's records on the CEA Public Register. For first time minor breaches, CEA will generally continue to issue administrative warning letters.

- The operating landscape of the real estate agency industry has evolved significantly because of technology and digitalisation. To improve the efficiency of CEA's investigations, the amendments will allow CEA to require any person to give statements and furnish electronic devices and their contents for gathering evidence involving disciplinary breaches. The amendments also allow CEA to serve documents through electronic means, and conduct document inspections electronically and at premises under CEA's control, other than at the estate agents' offices.

Do refer to CEA's Notice 22-20 for more details.

**The FATF is an inter-governmental body established to set standards and to 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 the recommendations of FATF.

4. How are the amendments to the Estate Agents Act (EAA) expected to impact the industry and consumers?

CEA seeks to protect consumers' interests in their property transactions involving salespersons. As a property could well be the largest investment and financial commitment some individuals will ever make, it is important that salespersons conduct their work ethically and professionally, in the best interests of their clients.

Consumers' interests are better served and protected when the industry continues to raise the professionalism of estate agents and salespersons. The stronger disciplinary measures following the EAA amendments serve to deter errant behaviour among estate agents and salespersons.

As for the Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) requirements, these are already provided for in CEA's Practice Guidelines 01-19 on AML/CFT, which also sets out a salesperson's duties for Customer Due Diligence (CDD), record-keeping, and Suspicious Transaction Report (STR) filing. CEA first issued a Practice Circular on AML/CFT duties in 2013 and the industry is familiar with the requirements for CDD, record-keeping, and STR reporting.

5. Why must the Estate Agents Act (EAA) be amended because of the Financial Action Task Force's (FATF) comments/recommendations? Why is CEA not allowed to determine its own regulations?

Singapore is a member of the FATF, which is an inter-governmental body established to set standards and promote effective implementation of legal, regulatory, and operational measures to combat money-laundering, terrorist financing, and other related threats to the integrity of the international financial system.

Apart from the financial sector, FATF has identified the real estate agency sector and other designated non-financial business and professions such as company service providers, casinos, accountants, pawnbrokers, precious stones and metals dealers, and lawyers as gatekeepers to counter these threats.

As a FATF member, Singapore is committed to comply with the "International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation" issued by FATF.

The real estate agency industry has been and will continue to be diligent in complying with these standards so as to uphold Singapore's reputation as a financial hub and to deter such illegal activities in Singapore.

6. Will the Estate Agents Act (EAA) amendments on Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) duties change the current practice of how Customer Due Diligence (CDD) and Suspicious Transaction Report (STR) filing are conducted by estate agents and salespersons?

No. The AML/CFT requirements are already provided for in CEA's Practice Guidelines 01-19 on AML/CFT, which also sets out the CDD and STR duties. CEA first issued a Practice Circular on AML/CFT duties in 2013 and the industry is familiar with the requirements for CDD and STR reporting.

The EAA amendments simply provide for the AML/CFT duties, which the industry is already subject to, in the Act. This is in compliance with the Financial Action Task Force's recommendation.

7. Why is CEA increasing the maximum financial penalties that the Disciplinary Committee can impose?

To further enhance the professionalism of the industry and gain greater consumer trust and confidence, Key Executive Officers and CEA will need to continue to work together to deter a minority group of errant estate agents and salespersons from breaching the Estate Agents Act and its regulations, which sets back the progress of the industry.

The current maximum financial penalty of $75,000 that the Disciplinary Committee can impose on errant estate agents and salespersons has been in place since CEA's inception in 2010. The increase will enable CEA to tackle more serious cases in future that may warrant higher financial penalties, and more importantly, to send the right signals to the industry to deter breaches.

8. Why does CEA require new powers of imposing a Letter of Censure and financial penalties of up to $5,000 per case?

To enable CEA to deal with less serious breaches more quickly, the amended Estate Agents Act (EAA) will allow CEA to censure errant estate agents and salespersons and/or impose financial penalties of up to $5,000 for minor breaches without a Disciplinary Committee hearing. Financial penalties and letters of censure imposed by CEA may be published on the CEA Public Register.

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In 2017 and 2018, around 25% of the Letters of Advice (i.e. written warnings that CEA issued to errant parties for less serious breaches) involved repeat offenders. Letters of Advice cannot be published in the CEA Public Register under the existing EAA.

For repeat offenders, a stronger measure is needed for deterrence. Having powers to impose a Letter of Censure (that can be published on the CEA Public Register) and financial penalties of up to $5,000 per case will enable CEA to have more effective measures to deal with such repeated minor or moderate breaches, without having to refer the matter to the Disciplinary Committee, which can then focus on and deal with the more serious cases.

9. How will CEA decide whether to impose a Letter of Censure, financial penalty, or refer the matter to the Disciplinary Committee?

CEA will adopt a calibrated approach based on the severity of the breach and whether the estate agent or salesperson is a repeated offender. For instance, where it is a repeated breach that is not very serious, CEA will issue a Letter of Censure. For further repeated breaches, CEA will consider imposing financial penalties as a stronger deterrent.

Where the estate agent or salesperson continues to commit breaches or where the breach at first instance warrants disciplinary action (e.g. a serious breach or financial loss was caused to clients), CEA may refer such cases to the Disciplinary Committee where suspension or revocation orders could be imposed.

10. Did CEA consult the industry on the amendments to the Estate Agents Act (EAA) when these were first proposed?

CEA conducted an industry consultation exercise involving stakeholders in the real estate agency industry on the proposed amendments to the EAA from 13 December 2019 to 9 January 2020.

Based on industry feedback received, the majority of respondents (about 80% of the industry) agreed with or had neutral views towards the amendments.

CEA has addressed the feedback and comments received during the consultation exercise in this document.

The Ministry of National Development and CEA have also incorporated the relevant feedback and ideas into the Estate Agents (Amendment) Bill which Parliament has passed on 5 May 2020.

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