

SUPERSEDED

**PRACTICE
CIRCULAR ON
THE
PREVENTION
OF MONEY
LAUNDERING
AND
COUNTERING
THE FINANCING
OF TERRORISM**

01-15

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CEA Council for
Estate Agencies

Practice Circular on the Prevention of Money Laundering and Countering the Financing of Terrorism

Background

1 On 22 November 2013, CEA issued a Practice Circular (PC) 08-13 to the industry which sought to improve the awareness and understanding of issues relating to anti-money laundering (AML) and countering the financing of terrorism (CFT), and to inform estate agents and salespersons of the appropriate preventive measures to be adopted against such activities that might be conducted through property transactions. There are two main legislations against money laundering and terrorism financing; The Corruption, Drug Trafficking and other Serious Crimes (Confiscation of Benefits) Act and The Terrorism (Suppression of Financing) Act. The Practice Circular highlighted the key provisions, offences and the obligations for compliance by estate agents and salespersons. CEA has reviewed PC 08-13 as part of our regular review to align the requirements in the PC with existing AML/CFT practices. This Practice Circular (PC 01-15) supersedes PC 08-13.

Overview of Money Laundering and Terrorism Financing

2 Money laundering is a problem of international proportion. The laundering of proceeds of crime allows criminals to legitimise their ill-gotten gains, and in turn provides them with greater incentive to commit financial crime. In addition, terrorist attacks in countries and cities in many parts of the world have increased the focus of governments worldwide on countering terrorism and the financing of terrorism.

3 The Financial Action Task Force (FATF) is an international task force established in 1989 to develop international standards to combat money laundering, terrorism financing and the financing of proliferation. The FATF published a revised set of 40 recommendations on anti-money laundering measures in February 2012. As a member of the FATF, Singapore has an obligation to implement these recommendations.

4 FATF's recommendations are applicable to the real estate agency sector. The other professional sectors that need to comply include the financial sector as well as the designated non-financial business and professions such as the public accountants, casinos, moneylenders, pawnbrokers, company service providers, developers and lawyers. These professions have been identified as important gatekeepers to counter the threat of money laundering and terrorism financing.

Description of Money Laundering and Financing of Terrorism

5 Money Laundering and Financing of Terrorism are illegal activities under Singapore law and a description is provided at **Annex A**.

Singapore's Main Legislation against Money Laundering and Terrorism Financing

A) Corruption, Drug Trafficking and other Serious Crimes (Confiscation of Benefits) Act

6 The Corruption, Drug Trafficking and other Serious Crimes (Confiscation of Benefits) Act, commonly known as the CDSA is the primary legislation enacted to combat money laundering in Singapore. The CDSA criminalises the laundering of proceeds derived from drug dealing, corruption and other serious offences and also allows for the confiscation of such proceeds.

7 According to the provisions in the CDSA, under sections 43 and 44, it is an offence for any person to assist another to retain benefits of drug dealing/to retain benefits from criminal conduct. It is an offence to enter into or otherwise facilitate an arrangement knowing or having reasonable grounds to believe that another person has been/is involved in, or has benefited from drug dealing or criminal conduct and that by that arrangement:

- a) It will facilitate the retention or control of that person's benefits of drug trafficking or criminal conduct; or
- b) Such benefits of drug trafficking or criminal conduct are used to secure funds or acquire property (by way of investment or otherwise) for that person.

8 Under sections 46 and 47 of the CDSA, all persons, including estate agents and salespersons, shall not or facilitate to acquire, possess, use, conceal, convert, transfer or remove from jurisdiction any property which, directly or indirectly, represents another person's benefits of drug dealing or criminal conduct.

9 Persons who are found to have committed the offences set out in sections 43, 44, 46, and 47 of the CDSA are liable to be punished with a fine not exceeding \$500,000 or imprisonment for a term not exceeding 10 years, or to both. If the offence is committed by an entity other than an individual e.g. a company, the penalty is a fine not exceeding \$1 million.

Lodging a Suspicious Transaction Report (STR) as a Legal Obligation

10 Suspicious Transaction Reports play an important role in combating money laundering and terrorism financing. The Suspicious Transaction Reporting Office (STRO) of the Commercial Affairs Department (CAD) is Singapore's Financial Intelligence Unit, the main agency for receiving and analysing Suspicious Transaction Reports (STRs) made pursuant to the CDSA.

11 Section 39(1) of the CDSA makes it mandatory for a person, in the course of his business or employment, to lodge a **Suspicious Transaction Report (STR)** if he knows or has reason to suspect that any property may be connected to a criminal activity. This includes the situation where he knows or may have reasonable grounds to suspect that the property, directly or indirectly, represents proceeds of drug dealing or criminal conduct.

12 Failure to disclose such knowledge, suspicion, or other related information constitutes an offence which is punishable by a fine not exceeding \$20,000. Estate agents and salespersons may refer to **Annex B** for a list of common suspicious transactions.

13 It is to be noted that under section 39(6) of the CDSA, where a person discloses his knowledge or suspicion of a suspicious transaction or a property linked to terrorism, the disclosure is not treated as a breach of any restriction imposed by law, contract or rules of professional conduct. The person is also not responsible for any loss resulting from such disclosure. Further, the identities of the STR lodger(s) are kept confidential. Section 56 of the CDSA prohibits the disclosure of any information or matter, which has been obtained by the STRO officer in the performance of his duties or the exercise of his functions under the CDSA, unless lawfully required to do so by any court or by any provisions of the law.

How to Lodge a Suspicious Transaction Report (STR)

14 If in the course of carrying out estate agency work, any estate agent or salesperson suspects or has reason to believe that any property and/or property transaction (or proposed transaction) may be connected to money laundering, estate agents and salespersons must make a report to the STRO in accordance with the law. They can lodge a STR in writing (addressed to Head, Suspicious Transaction Reporting Office) or via email to STRO@spf.gov.sg. More details are available on CAD's website at the following url.

<http://www.cad.gov.sg/aml-cft/suspicious-transaction-reporting-office/suspicious-transaction-reporting>

Estate agents and salespersons can use the STR form provided at **Annex C** of this Practice Circular.

Tipping Off Offences

15 Under section 48 of the CDSA, it is an offence for any person including estate agents and salespersons, knowing or having reasonable grounds to suspect that an investigation under the CDSA is taking place/to take place, to make a disclosure which is likely to prejudice such an investigation. Tipping off constitutes an offence punishable by a fine not exceeding \$30,000, or imprisonment for a term not exceeding 3 years, or to both.

B) Terrorism (Suppression of Financing) Act

16 The Terrorism (Suppression of Financing) Act (also known as TSOFA) not only criminalises terrorism financing but also imposes a duty on everyone to provide information pertaining to terrorism financing to the Police. The obligation is laid out under sections 8 and 10 of the TSOFA. The failure to do so may constitute a criminal offence. The penalty is a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 5 years, or to both. No criminal or civil proceedings shall lie against a person for any disclosure made in good faith.

17 According to sections 3, 4, 5 and 6 of the TSOFA:

- a) All persons shall not provide, use, possess or collect property, or make available any financial or other related services if they know or have reasonable grounds to believe that such property or services are to be used for terrorist acts or purposes, or to benefit any terrorist or terrorist entity; and
- b) All persons shall not deal in any terrorist's property. This includes entering into or facilitating any financial transaction relating to a dealing in such property, or providing any financial services or any other related services in respect of such property, knowing or having reasonable grounds to believe that the property is owned or controlled by or on behalf of any terrorist or terrorist entity, including funds derived or generated from property owned or controlled by any terrorist or terrorist entity.

If convicted, individuals who commit the above offences are liable to be punished with a fine not exceeding \$500,000 or imprisonment for a term not exceeding 10 years, or to both. If the offence is committed by an entity other than an individual e.g. a company, the penalty is a fine not exceeding \$1 million. Information on the designations and de-listings of terrorists can be found on the Inter Ministerial Committee-Terrorist Designation (IMC-TD) website:

http://www.mha.gov.sg/basic_content.aspx?pageid=310. Estate agents are encouraged to subscribe to MHA's RSS News and Publications feed, which includes timely updates on designations and de-listings of terrorists and general terrorism matters.

18 Estate agents and salespersons shall lodge an STR with STRO if they have possession, custody or control of any property belonging to any terrorist or terrorist entity or if they have information about any transaction or proposed transaction in respect of any property belonging to any terrorist or terrorist entity.

Customer Due Diligence

19 Estate agents and salespersons shall undertake the following customer due diligence (CDD) measures when there is suspicion of money laundering or terrorism financing or when there are doubts about the veracity or adequacy of previously obtained customer identification data:

- a) Identify the customer and verify the customer's identity using reliable, independent source documents, data or information; and
- b) Where there is reason to believe that the customer is not the beneficial owner, to take reasonable measures to verify the identity of the beneficial owner. If the beneficial owner(s) is/are a legal person or entity e.g. a company, to take reasonable measures to understand the ownership and

control structure of the entity involved in the transaction. The objective is to identify the natural person or individual behind the entity¹.

20 As part of CDD measures, estate agents and salespersons shall screen clients against publicly available lists of individuals and entities known or suspected to be related to a terrorist or a terrorist organisation. The purpose is to determine if there is any money laundering or terrorism financing risks. Examples of these would be the lists obtained from the United Nations website, which include but are not limited to:

<http://www.un.org/sc/committees/1267/pdf/AQList.pdf>

<http://www.un.org/sc/committees/1988/pdf/1988List.pdf>

21 Estate agents and salespersons shall also screen clients against the following lists to report individuals or entities which may be involved in the proliferation of weapons of mass destruction and its' financing:

<http://www.un.org/sc/committees/1737/pdf/1737ConsolidatedList.pdf>

http://www.un.org/sc/committees/1718/pdf/List_Entities_and_Individuals_English.pdf

22 With reference to paragraphs 20 and 21, estate agents and salespersons should report any full or partial name match to STRO using the STR form at **Annex C**.

23 In cases where estate agents and salespersons are aware that they are dealing with individuals or entities known to be involved in terrorism financing (for e.g. as shown in the above designated lists), they should cease any dealing and refrain from further dealing with the property or property transaction of the client.

On-going Due Diligence

24 Estate agents and salespersons shall conduct ongoing due diligence on their clients whom they have an on-going business relationship with. Such due diligence, on an appropriate risk basis, may involve scrutinising transactions undertaken throughout the course of the business relationship to ensure that the transactions being conducted are consistent with the knowledge of the client, its business and risk profile and where necessary, the source of funds.

Enhanced Customer Due Diligence - Politically Exposed Persons (PEPs)

25 A "Politically Exposed Person" (PEP) refers to a domestic PEP, a foreign PEP or an international organisation PEP. A domestic PEP refers to a person who is or has been entrusted domestically with prominent public functions. A foreign PEP refers to a person who is or has been entrusted with prominent public functions by a foreign country. An international organisation PEP refers to a person who is or has been entrusted with prominent public functions by an international organisation. "Prominent public functions" includes the roles held by a Head of State or government, government ministers, senior civil or public servants, senior judicial or military officials,

¹ The process to do this could be to identify the person who has controlling stake in the company. If this is not possible, identify the most senior executive or managing official in the company.

senior executives of state owned corporations or senior officials of political parties, members of the legislature and senior management of international organisations.

26 Estate agents shall implement appropriate internal policies, procedures and controls to determine if the customer or beneficial owner is a PEP². For foreign PEPs (whether as customer or beneficial owner), estate agents shall:

- a) Establish a process for salespersons to obtain approval from the estate agent's senior management to establish or continue the business relationship; and
- b) Establish, by appropriate and reasonable means, the source of wealth and source of funds of such PEPs.

27 For domestic and international organisation PEPs, estate agents shall consider the measures set out in paragraphs 26a) and b) if it is assessed to be a higher risk business relationship or transaction.

- Higher risk areas

28 Estate agents and salespersons shall consider enhanced CDD measures for complex, unusually large transactions, or when there are unusual patterns of transactions which have no apparent economic or lawful purpose. Such measures include obtaining additional information on the customer (e.g. occupation, source of funds/wealth, purpose of transaction, information available through public databases, internet, etc) by appropriate and reasonable means. In such cases, salespersons shall obtain the approval of senior management to commence or continue the business relationship.

29 Estate agents shall pay particular attention to business relations and transactions with individuals and companies from countries where the FATF has called for countermeasures, and perform enhanced CDD measures for such business relationships and transactions that the estate agent assesses to present a higher risk for money laundering or terrorism financing. Please refer to the attached FATF public list of high-risk and non-cooperative jurisdictions.

<http://www.fatf-gafi.org/topics/high-riskandnon-cooperativejurisdictions/>

² If an estate agent has reason to suspect that a customer or beneficial owner is a PEP, they can use an Internet based search engine to obtain news or information on the individual, or consider if it is appropriate to conduct an electronic search through a reputable international electronic identity verification provider.

Follow-up

30 If there are reasons to be suspicious of the client or the beneficial owner, or where CDD cannot be completed, estate agents and salespersons shall not deal with the client or the beneficial owner, terminate the relationship and consider lodging an STR.

Reliance on Third Parties

31 Estate agents may rely on third parties to perform elements of the CDD measures. However, where estate agents rely on third parties, the responsibility for complying with the CDD measures mentioned in this Practice Circular remains with the estate agent.

New Services and Technologies

32 Estate agents shall identify and assess the money laundering and terrorist financing risks that may arise in relation to the development of new services and business practices and b) the use of new technologies for new and existing services and business practices. Estate agents shall take appropriate measures to manage and mitigate the identified risks.

Record Keeping

33 Estate agents shall retain originals or keep copies of documents relating to property transactions for at least 5 years. The current 3-year record keeping requirement in the Code of Practice will be revised to 5 years when the Regulation is amended in 2015.

34 Estate agents and salespersons shall also retain records pertaining to cases under investigation or which have been the subject of a suspicious transaction report, for such longer period as may be necessary in accordance with any request or order from the STRO or other relevant competent authorities. All records may be retained in electronic form.

Assessing Risks and Internal Compliance Procedures

35 KEOs shall:

- a) Take appropriate steps to identify, assess and understand money laundering and terrorism financing risks in relation to its customers;
- b) Develop and implement internal policies, procedures and controls to effectively manage and mitigate any identified money laundering and terrorism financing risks, to comply with the measures mentioned in this Practice Circular and communicate these to their salespersons; and
- c) Develop appropriate compliance management arrangements through internal checks or audits.

Training

36 KEOs shall take all appropriate steps to ensure that salespersons are regularly trained on:

- a) Anti Money Laundering(AML)/Countering the Financing of Terrorism (CFT) laws and regulations, and in particular, CDD measures, and detecting and reporting of suspicious transactions;
- b) Prevailing techniques, methods and trends in money laundering and terrorism financing; and
- c) Internal policies, procedures and controls on AML/CFT and the roles and responsibilities of salespersons in combating money laundering and terrorism financing.

Real Case Narration

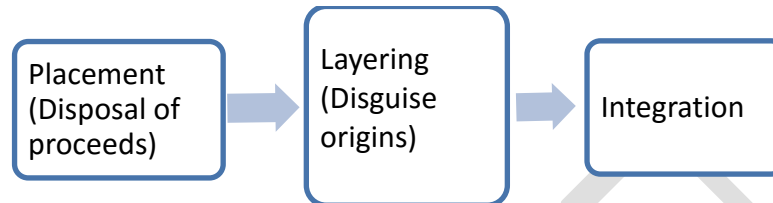
37 Estate agents and salespersons should be aware that salespersons could be used as conduits to transfer proceeds of crime to Singapore bank accounts and remit them to third parties. A real case narration is provided at **Annex D**.



Annex A – Description of Money Laundering and Financing of Terrorism

Description of Money Laundering

Money laundering is a process intended to mask the benefits derived from drug dealing or criminal conduct so that it appears to have originated from a legitimate source. Generally speaking, an act of money laundering involves three stages:



- (a) **Placement:** The placement stage of money laundering takes place when there is physical disposal of the benefits (such as cash proceeds) derived from illegal activities of drug dealing or criminal conduct. Here, the money launderer introduces his illegal profits into the financial system. This might be done by breaking up large amounts of cash into less conspicuous smaller sums that are then deposited direct into a bank account, or by purchasing a series of monetary instruments (cheques, money orders etc.) that are then collected and deposited into the accounts at another location.
- (b) **Layering:** After the funds have entered the financial system, the layering stage takes place. Layering refers to separating illicit proceeds from their source by creating layers of financial transactions designed to disguise the source of money and subvert the audit trail. The funds might be channelled through the purchase and sale of investment instruments/properties, or the money launderer might simply wire the funds through a series of bank accounts across the globe. In some instances, the money launderer might disguise the transfers as payments for goods and services/properties, giving them a legitimate appearance.
- (c) **Integration:** Integration is the provision of apparent legitimacy to benefits of drug trafficking or criminal conduct. If the layering process succeeds, integration schemes place the laundered funds back into the economy so that they re-enter the financial system appearing to be legitimate business funds. The money launderer might choose to invest the funds into real estate, luxury assets, or business ventures.

Description of Financing of Terrorism

2 Terrorists require funds to carry out acts of terrorism and terrorism financing provides the funds needed. Sources of terrorism financing may be legitimate or illegitimate. It may be derived from criminal activities such as kidnapping, extortion, fraud or drug trafficking. It may also be derived from legitimate income such as membership dues, sales of publications, donations from persons or entities sympathetic to their cause and sometimes income from legitimate business operations belonging to terrorist organisations.

3 Terrorism financing involves amounts that are not always large and the associated transactions may not necessarily be complex given that some sources of terrorism funds may be legitimate.

4 However, the methods used by terrorist organisations to move, collect, hide or make available funds for their activities remain similar to those used by criminal organisations to launder their funds. This is especially so when the funds are derived from illegitimate sources, in which case, the terrorist organisation would have similar concerns to a typical criminal organisation in laundering the funds. Where the funds are derived from legitimate sources, the terrorist organisations would usually still need to employ the same money laundering techniques to obscure or disguise the links between the organisation and the funds.

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Annex B: List of Common Suspicious Indicators

This list of indicators is meant to assist estate agents and salespersons to determine the money laundering or terrorism financing risk of both new and existing clients. It is not an exhaustive list and the existence of any indicator(s) does not imply that the real estate transaction is necessarily linked to such money laundering or terrorism financing activities. If there is any suspicion, estate agents and salespersons are advised to submit a report to the STRO.

Client Behaviour - Natural Persons (Individuals) and/or Legal Persons (e.g. Companies, Businesses, Trusts, Foundations, Societies and Cooperatives)

- Client is traced to negative news or crime (e.g. he is named in a news report on a crime committed.)
- Client appears hesitant or declines to put his name on any document that would connect him with the property.
- Client uses different names on Offers to Purchase, closing documents and deposit receipts.
- Client purchases property in the name of a nominee such as an associate or a relative (other than a spouse), or on behalf of minors or incapacitated persons or other persons who lack the economic capacity to carry out such purchases.
- Client attempts to hide the identity of the true client or requests that the transaction be structured to hide the identity of the true client.
- Client provides an address that is unknown, believed to be false, or simply a correspondence address.
- Client inadequately explains the last minute substitution of the purchasing party's name.
- Client (buyer) takes on a debt significantly higher than the value of the property.
- Client appears unconcerned about the economic or investment value of the property he is purchasing.
- Client purchases property without inspecting it.
- Client purchases multiple properties in a short time period, and seems to have few concerns about the location, condition and anticipated repair costs, etc., of each property.
- Client queries about the AML/CFT reporting requirements.
- Buyer is a shell company and representatives of the company refuse to disclose the identity of the true owners.
- Client is a recently created legal entity and the amount of the transaction is large compared to their assets.
- Client's known business activity and purpose does not match the real estate transaction. For example, the client is a non-profit organisation but the property is purchased for investment and the client intends to have a large loan.

Transaction Patterns

- Client arrives at a real estate closing or makes a real estate purchase with a significant amount of cash, or negotiable instruments which do not state the true payer (e.g. bank drafts).
- Client pays substantial down payment in cash and the balance is financed by an unusual source or offshore bank.
- Client pays rent or the amount of a lease in advance using a large amount of cash.
- Transaction is entered into at a value significantly different (much higher or much lower) from the real or market value of the property.

- Property is sold in a series of successive transactions; with each transaction at a significantly higher or lower price than a recent market price. In particular, if the transactions were conducted between the same parties.
- Transaction uses unusual or unnecessarily complex legal structures without any economic logic.

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Annex C – Suspicious Transaction Reporting Form and completing instructions

- (1) Reporting of Suspicious Money Laundering Transactions pursuant to Section 39, *Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act*
- (2) Reporting of Suspicious Terrorist Financing Activities pursuant to Section 8, *Terrorism (Suppression of Financing) Act*

Reporting Estate Agency (EA) Firm	
Name:	
Address:	
Contact No:	
Email Address:	
Business Relationship with Subject of Interest	

Reporting Officer	
Name :	
Designation:	
Report Reference Number (if any):	
Contact Officer: (if different from Reporting Officer)	
Designation:	

Customer's Particulars (for entities e.g. corporations or societies)	
Name:	
Country of Registration:	
Registration Number:	
Registration Date:	
Address:	
Foreign Address (if any):	
Contact Number:	
Name of CEO/Partners/Sole-Proprietors or Trustees (if available):	
Main Business Activity:	

Customer's Particulars (for individuals)	
Name:	
NRIC/Passport No./Other ID:	
Date of Birth:	
Nationality:	

Address:	
Foreign Address (if any):	
Contact No:	
Occupation:	
Employer Details (if available):	
Bank Account Details (if applicable):	

Details of Property	
Address:	
Tenure: Leasehold/Freehold	
Type: HDB/Private/Residential/Office/Industrial	
Type of Transaction	Sale / Lease
Transaction/Rental Price:	
Valuation Price (for sale transaction):	
Lease Period (for lease transaction)	
Deposit Amount	
Name of Salesperson:	
NRIC of Salesperson:	

Suspicious Transaction(s)		
Amount	Date	Description of Transaction

Reason (s) for Suspicion:

Other Relevant Information (including information on other accounts that may be linked to the transaction(s) and any actions taken by the reporting EA in response to the transaction):

List of Documents attached (please add on to list if there are other documents):	
1	Customer Identification Documents

2	Relevant Documents Supporting the Suspicious Transaction (s)
3	
4	

X

X

(Signature of Reporting Officer)
Date:

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Annex D – Real Case Narration

Salesperson A received an email purportedly from Client B, expressing his interest to rent a private property in Singapore. Client B claimed that he was an American citizen who chanced upon Salesperson A's real estate advertisement online.

2 Subsequently, a rental contract was drawn up by Salesperson A after the terms of contract was agreed upon by both parties. The rental contract will take effect upon Client B's transfer of the first month of rental deposit to Salesperson A's designated bank account. However, Client B failed to transfer the monies within the stipulated timeline.

3 A few weeks later, Client B contacted Salesperson A and informed him that his business associate/relative had 'accidentally' transferred money into Salesperson A's bank account in Singapore. Salesperson A was then instructed to withdraw the money and hand it over to a person claiming to be Client B's friend in Singapore. There was no good explanation of how Client B's associate/relative had obtained Salesperson A's bank account number, why the sum transferred bore no relation to the agreed rent, and why Salesperson A was not asked to request his bank to simply reverse the transfer. Subsequently, Salesperson A turned down the client's request when approached for assistance on another money transfer.

4 Investigation revealed that the monies transferred to Salesperson A's bank account were proceeds of crime originating from fraud perpetrated in a foreign country. By transferring proceeds of crime, Salesperson A may have wittingly or unwittingly facilitated money laundering in Singapore.

5 In the abovementioned scenario, when instructed to pass the funds to an unrelated individual, Salesperson A should have lodged a STR with STRO as the remittance and subsequent instruction are deemed suspicious. He should have also considered asking his bank to reverse the transfer of funds (i.e. to return the funds to the originating bank account).

6 Under Section 39(2) of the CDSA, failure to lodge a STR when a person knows or has reason to suspect that any property may be connected to a criminal activity constitutes an offence punishable by a fine not exceeding \$20,000.