

Corporate Real Estate

New Anti-Money Laundering and Terrorism Financing Measures for Property Developers to be Implemented from 28 June 2023

Introduction

Property developers can soon expect to be subject to new requirements regarding anti-money laundering and terrorism financing ("**AML**") measures. Earlier introduced in Parliament in 2018, these measures are now set to be implemented from 28 June 2023.

The measures seek to give effect to recommendations of the Financial Action Task Force ("**FATF**") regarding AML which are applicable to developers. The main measures are as follows:

- Introduction of requirements for developers to facilitate the detection of money laundering and terrorism financing; and
- Barring persons from being involved in developer activities if they have been previously convicted for money laundering and terrorism financing offences.

The measures were introduced in the Developers (Anti-Money Laundering and Terrorism Financing) Act 2018 ("**Developers AML Act**"), which was passed in Parliament in November 2018. The Developers AML Act will amend both the Housing Developers (Control and Licensing) Act ("**HDCL Act**") and the Sale of Commercial Properties Act ("**SCP Act**"), which regulate the sale of residential and commercial properties before they are completed by developers. We had earlier issued a Client Update on the Developers AML Act when it was first passed in Parliament, available [here](#).

It has now been announced that the Developers AML Act will come into operation on 28 June 2023. Subsidiary legislation in the form of the Housing Developers (Anti-Money Laundering and Terrorism Financing) Rules 2023 ("**HD AML Rules**") and the Sale of Commercial Properties (Anti-Money Laundering and Terrorism Financing) Rules 2023 ("**SCP AML Rules**") have been published to provide further details on the AML requirements for developers, and will also come into force on 28 June 2023. In addition, the Urban Redevelopment Authority has issued the Guidelines for Developers on Anti-Money Laundering and Counter Terrorism Financing to provide guidance on the above measures.

This Update provides a summary of the AML measures set to be implemented and highlights the key requirements which developers should be aware of.



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Overview

The new measures set out a series of AML requirements that licensed housing developers under the HDCL Act and developers under the SCP Act must undertake in the course of their business. These include the following:

- Take steps to identify, assess and understand the money laundering and terrorism financing risks in relation to the developer's purchasers, the countries in which the developer has operations, and the services the developer offers, and to document these risk assessments and keep them up to date;
- Implement programmes and measures to prevent money laundering and terrorism financing in relation to the developer's business of property development, having regard to the risk of money laundering and terrorism financing facing the developer's business and its purchasers as evaluated by the assessments carried out in accordance with the requirement above;
- Notify purchasers of the documents and information that developers must obtain to perform Customer Due Diligence ("**CDD**") measures;
- Perform appropriate CDD checks on new and existing property purchasers based on their risk profiles and the nature of the transaction, with proper records and documentation;
- Screen property purchasers against the lists of terrorists, terrorist entities and designated individuals, as required under the Terrorism (Suppression of Financing) Act 2002 and the United Nations Act 2001; and
- Submit a Suspicious Transaction Report ("**STR**") to the Suspicious Transaction Reporting Office of the Commercial Affairs Department where there are suspicious activities.

The new measures also serve to bar persons from being involved in developer activities if they have been convicted of money laundering or terrorism financing offences.

AML Duties

The Developers AML Act sets out certain key AML obligations that developers must comply with:

Prohibition against anonymous accounts – Developers should not open or maintain any account for, or hold and receive moneys from, an anonymous source or a purchaser with an obviously fictitious name.

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CDD measures – Developers must conduct the prescribed CDD measures, as well as prescribed measures relating to targeted financial sanctions and any prescribed additional measures to give effect to FATF recommendations. The prescribed CDD measures will be further elaborated on below.

Record keeping – Developers must keep all documents and information relating to a person obtained as a result of performing the prescribed CDD measures for five years from the following dates:

- For unexercised or cancelled options to purchase, the date on which the option expired or is cancelled;
- For a terminated or annulled sale and purchase agreement, the date on which the agreement is terminated or annulled; and
- For a sale and purchase of a unit, the date of completion of the sale and purchase of the unit.

Examples of documents developers are required to keep as part of their records include the Option to Purchase, the Sale and Purchase Agreement, Form 3, and records of CDD conducted.

Suspicious transaction reporting – Where a developer knows or has reasonable grounds to suspect any matter mentioned in section 39(1) of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act, he or she must disclose this via a suspicious transaction report.

AML programmes and measures – Developers must implement adequate AML programmes and measures, including the following:

- Taking appropriate steps to identify, assess and understand the relevant money laundering and terrorism financing risks;
- Developing and implementing internal policies, procedures and controls to manage and mitigate the money laundering and terrorism financing risks, including making appropriate compliance management arrangements and applying adequate screening procedures when hiring employees;
- Implementing ongoing programmes to train employees on the relevant internal policies, procedures and controls;
- Monitoring the implementation of, and having an independent audit function to test, the relevant internal policies, procedures and controls;
- For developers who have branches or subsidiaries outside of Singapore:

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- The implementation of group-level programmes to prevent money laundering and terrorism financing, including policies for the providing and sharing of information within the group required for the purposes of CDD, with adequate safeguards on confidentiality regarding this information sharing; and
- If the laws for the prevention of money laundering and terrorism financing governing these branches or subsidiaries differ from those in Singapore, the developer must require the management of that branch or subsidiary to apply the more stringent set of laws. If this is not possible, then the developer must report this to the Controller.

Prescribed CDD Measures

The HD AML Rules and the SCP AML Rules provide further detail on the prescribed CDD measures that developers must observe in relation to each of its purchasers:

Obligation to perform CDD measures – Developers must perform the prescribed CDD measures before granting an option to purchase or accepting any sum of money (including any booking fee) from a purchaser.

General CDD measures – Developers must perform the following CDD measures in relation to every purchaser:

- Ascertain the identity of the purchaser and obtain their identifying information;
- Where the purchaser is an entity or a legal arrangement, obtain the documents that constitute, regulate and bind the purchaser, as well as the identity and identifying information of the purchaser's senior management; and
- Understand and obtain information about the purchaser's purpose for purchasing the unit.

CDD for entities – Where the purchaser is an entity or a legal arrangement, developers must: (a) determine whether the purchaser has any beneficial owner; (b) take reasonable measures to ascertain the identity and obtain the identifying information of each beneficial owner; (c) understand the nature of the purchaser's business; and (d) understand the ownership and control structure of the purchaser.

Enhanced CDD – Developers must conduct enhanced CDD measures where the purchaser or a beneficial owner of the purchaser: (a) is a foreign politically-exposed person (or a family member or close associate of a foreign politically-exposed person); (b) is from a country that is subject to FATF calls for countermeasures or enhanced CDD, or the Controller of Housing ("**Controller**") has notified to be a person that presents a high risk of money laundering or terrorism financing; or (c) has been assessed by the developer to present a high risk of money laundering or terrorism financing.

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The enhanced CDD measures to be performed include the following:

- Obtaining the approval of a person holding a senior managerial or executive position;
- Taking reasonable measures to establish the purchaser's income level, source of wealth, and the source of funds;
- Ascertaining the identity of the true purchaser and obtaining their identifying information (where there is suspicion that the purchaser is not acting on his own behalf);
- Conducting enhanced ongoing monitoring of transactions;
- Taking all reasonable measures as are appropriate to the risks of money laundering or terrorism financing in relation to the purchaser.

Simplified CDD – Simplified CDD measures may be performed where:

- The developer has assessed the risk of money laundering and terrorism financing to be low;
- The simplified CDD measures are commensurate with the level of the risk identified; and
- None of the circumstances requiring enhanced CDD exist.

Existing purchasers and ongoing monitoring – Developers must perform the prescribed CDD measures in relation to any existing purchaser, taking into account when CDD measures were last applied and the adequacy of information already obtained. Developers must periodically review the adequacy of documents and information obtained as a result of the CDD measures. In particular, a review must be done before the developer issues the notice of payment for the Temporary Occupation Permit and for completion of sale. Developers must ascertain whether the transactions carried out by the purchasers are consistent with the developer's knowledge of the purchaser, their income, risk profile and source of funds.

New technologies – Developers must identify and assess the risks of money laundering and terrorism financing from the development of any new service or new business practice and the use of any new or developing technology. Developers must undertake an assessment of these risks and take appropriate measures to manage and mitigate such risks before offering such new service or business practice, or using such new technology.

Bar on Involvement in Developer Activities

Under the HDCL Act, the Controller will be empowered to revoke or suspend a housing developer's licence if the said housing developer has been convicted of any money laundering or financial terrorism offence or

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the housing developer has a substantial shareholder which has been convicted of the same. The Controller will also refuse to grant a license to an applicant which is a company if it has a substantial shareholder who has previously been convicted of a money laundering or financial terrorism offence.

Further, any person who has been convicted of any money laundering or terrorism financing offence must not hold a responsible position in a licensed housing developer. A responsible position means a partner in a partnership, a director, manager or secretary of a company or a person in a position analogous to that of a director, manager or secretary, and a president, secretary or treasure of a society or a person in a position analogous to that of president, secretary or treasurer.

Similarly, under the SCP Act, any person who has been convicted of any money laundering or terrorism financing offence must not hold a responsible position in a developer.

Concluding Words

The new AML measures provide a comprehensive set of requirements that developers must observe with regard to purchasers in the course of their business. Developers should familiarise themselves with these requirements and assess the steps that must be taken in order to ensure compliance with their AML obligations.

To provide developers with sufficient time to put in place the necessary policies, procedures and processes, the measures will only come into effect on 28 June 2023. Developers should thus ensure that the necessary measures are put in place before the date of implementation.

For further queries, please feel free to contact our team below.

Contacts



Elsa Chai
Co-Head, Corporate Real Estate

T +65 6232 0512

elsa.chai@rajahtann.com



Chou Ching
Co-Head, Corporate Real Estate

T +65 6232 0693

chou.ching@rajahtann.com



Norman Ho
Senior Partner, Corporate Real Estate

T +65 6232 0514

norman.ho@rajahtann.com



Gazalle Mok
Partner, Corporate Real Estate

T +65 6232 0951

gazalle.mok@rajahtann.com

Please feel free to also contact Knowledge and Risk Management at eOASIS@rajahtann.com

Regional Contacts

R&T SOK & HENG | *Cambodia*

R&T Sok & Heng Law Office

T +855 23 963 112 / 113

F +855 23 963 116

kh.rajahtannasia.com

RAJAH & TANN | *Myanmar*

Rajah & Tann Myanmar Company Limited

T +95 1 9345 343 / +95 1 9345 346

F +95 1 9345 348

mm.rajahtannasia.com

RAJAH & TANN 立杰上海

SHANGHAI REPRESENTATIVE OFFICE | *China*

Rajah & Tann Singapore LLP

Shanghai Representative Office

T +86 21 6120 8818

F +86 21 6120 8820

cn.rajahtannasia.com

GATMAYTAN YAP PATACSIL

GUTIERREZ & PROTACIO (C&G LAW) | *Philippines*

Gatmaytan Yap Patacsil Gutierrez & Protacio (C&G Law)

T +632 8894 0377 to 79 / +632 8894 4931 to 32

F +632 8552 1977 to 78

www.cagatlaw.com

ASSEGAF HAMZAH & PARTNERS | *Indonesia*

Assegaf Hamzah & Partners

Jakarta Office

T +62 21 2555 7800

F +62 21 2555 7899

Surabaya Office

T +62 31 5116 4550

F +62 31 5116 4560

www.ahp.co.id

RAJAH & TANN | *Singapore*

Rajah & Tann Singapore LLP

T +65 6535 3600

sg.rajahtannasia.com

RAJAH & TANN | *Thailand*

R&T Asia (Thailand) Limited

T +66 2 656 1991

F +66 2 656 0833

th.rajahtannasia.com

RAJAH & TANN | *Lao PDR*

Rajah & Tann (Laos) Co., Ltd.

T +856 21 454 239

F +856 21 285 261

la.rajahtannasia.com

RAJAH & TANN LCT LAWYERS | *Vietnam*

Rajah & Tann LCT Lawyers

Ho Chi Minh City Office

T +84 28 3821 2382 / +84 28 3821 2673

F +84 28 3520 8206

CHRISTOPHER & LEE ONG | *Malaysia*

Christopher & Lee Ong

T +60 3 2273 1919

F +60 3 2273 8310

www.christopherleeong.com

Hanoi Office

T +84 24 3267 6127

F +84 24 3267 6128

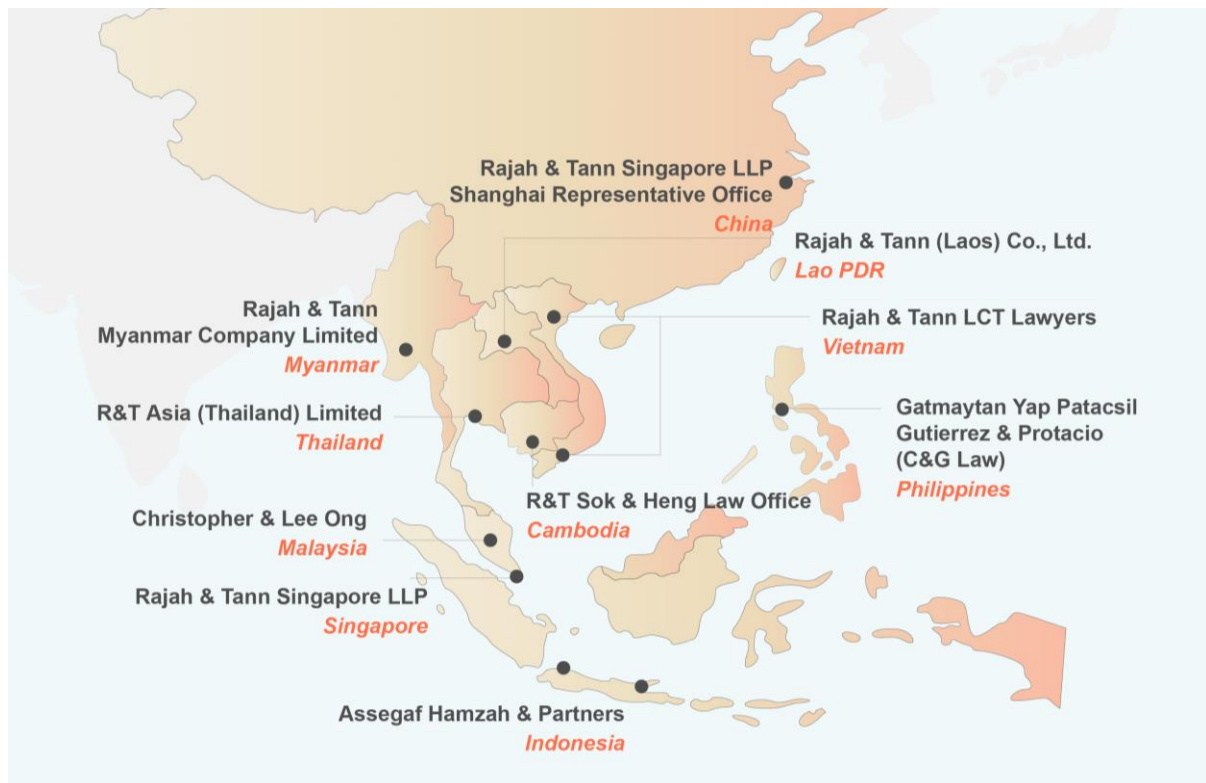
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