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SALE OF COMMERCIAL PROPERTIES ACT 1979

SALE OF COMMERCIAL PROPERTIES (ANTI-MONEY LAUNDERING AND TERRORISM FINANCING) RULES 2023

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In exercise of the powers conferred by section 10 of the Sale of Commercial Properties Act 1979, the Minister for National Development makes the following Rules:

PART 1

PRELIMINARY

Citation and commencement

1. These Rules are the Sale of Commercial Properties (Anti-Money Laundering and Terrorism Financing) Rules 2023 and come into operation on 28 June 2023.

Definitions

2. In these Rules —

“ascertain”, in relation to the identity of any person, means to find out and verify the person’s identity using objectively reliable and independent source documents, data or information;

“beneficial owner”, in relation to an entity or a legal arrangement, means —

- (a) an individual who ultimately owns or controls the entity or legal arrangement;
- (b) an individual who exercises ultimate effective control over the entity or legal arrangement; or

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- (c) an individual on whose behalf the entity or legal arrangement conducts any transaction with a developer;

“close associate”, in relation to a foreign politically-exposed person, means —

- (a) a partner of the foreign politically-exposed person;
- (b) a person accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the foreign politically-exposed person;
- (c) a person whose directions, instructions or wishes the foreign politically-exposed person is accustomed or under an obligation, whether formal or informal, to act in accordance with; or
- (d) a person with whom the foreign politically-exposed person has an agreement or arrangement, whether oral or in writing and whether express or implied, to act together;

“family member”, in relation to a foreign politically-exposed person, means a spouse, a child, an adopted child or a stepchild, a sibling, an adopted sibling or a stepsibling or a parent or step-parent, of the foreign politically-exposed person;

“foreign country” means a country, territory or jurisdiction other than Singapore;

“foreign politically-exposed person” means an individual who is or has been entrusted with a prominent public function in a foreign country;

“identifying information” means all of the following information:

- (a) full name, including any alias used;
- (b) date of birth, for an individual;
- (c) place of birth, for an individual;

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- (d) address or addresses, which must be —
- (i) for an individual, the address of the individual’s usual place of residence; or
 - (ii) for a body corporate or unincorporate, the address of its registered office and the address of its principal place of business;
- (e) contact number or numbers;
- (f) nationality, for an individual, or place of incorporation or registration, for a body corporate or unincorporate;
- (g) identification number, which must be —
- (i) for an individual, an identity card number, a passport number, a taxpayer identification number, or the number of any other document of identity issued by a government as evidence of the individual’s nationality or residence and bearing a photograph of the individual; or
 - (ii) for a body corporate or unincorporate, a registration number, or the number of any other document issued by any government certifying the incorporation, registration or existence of the body corporate or unincorporate;
- (h) the type of identifying document mentioned in paragraph (g) and the expiry date (if any) of the identifying document;
- (i) the occupation, for an individual, or the nature of the business, for a body corporate or unincorporate;
- “prominent public function” includes the role held by —
- (a) a head of state;
 - (b) a head of government;
 - (c) a government minister;

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- (d) a senior politician;
 - (e) a senior civil or public servant;
 - (f) a senior government, judicial or military official;
 - (g) a senior executive of a state-owned corporation;
 - (h) a senior political party official;
 - (i) a member of the legislature; or
 - (j) a member of the senior management of an international organisation (including a director, deputy director or member of a board of the international organisation, or an equivalent appointment in the international organisation);

“relevant country” means a foreign country that is subject to a call made by the FATF (through a public statement, notice or directive published on its official website at <https://www.fatf-gafi.org/>) for countermeasures or enhanced customer due diligence measures.

PART 2

CUSTOMER DUE DILIGENCE MEASURES

Prescribed customer due diligence measures

3. For the purpose of section 5A(2) of the Act, a developer must perform the customer due diligence measures prescribed in this Part in relation to each of its purchasers of a commercial property in a building project undertaken by the developer.

Developer to perform customer due diligence measures in certain circumstances

4.—(1) A developer must perform the customer due diligence measures specified in rules 5, 6, 7 and 10(1)(a) and (b) in any of the following circumstances:

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- (a) before —
- (i) granting to a purchaser an option to purchase a commercial property in a building project undertaken by that developer; or
 - (ii) accepting any sum of money (including any booking fee) from a purchaser in relation to the intended purchase of such a commercial property,
- whichever is earlier;
- (b) when both of the following conditions are satisfied:
- (i) a purchaser of a commercial property in a building project undertaken by the developer intends to assign or has assigned to a person (called in this rule an assignee purchaser) all the purchaser's rights, title and interest, under an agreement made between the purchaser and the developer, for the sale and purchase of the commercial property;
 - (ii) the developer receives written notice from the assignee purchaser requiring the developer to enter into a new agreement with the assignee purchaser for the sale and purchase of the commercial property, under rule 9(1) of the Sale of Commercial Properties Rules (R 1);
- (c) when the developer has, at any other time, reason to suspect that a purchaser is engaging in money laundering or terrorism financing;
- (d) when the developer has reason to doubt the veracity or adequacy of information obtained from earlier customer due diligence measures about the same customer.
- (2) A developer may choose not to perform or complete performing any measure it is required to perform under this Part in relation to any purchaser if the developer has reason —
- (a) to suspect that the transaction with or intended with the purchaser involves money laundering or terrorism financing; and

(b) to believe that performing the measure will tip off the purchaser or any other person associated with the purchaser.

(3) Where the developer is unable or chooses not to complete performing any customer due diligence measure it is required to perform under this Part in relation to any purchaser, the developer —

(a) must not do any of the following relating to any commercial property in a building project undertaken by that developer:

(i) grant to the purchaser an option to purchase the commercial property;

(ii) accept any sum of money (including any booking fee) from the purchaser in relation to the intended purchase of any such commercial property;

(iii) enter into a sale and purchase agreement with the purchaser for the commercial property;

(b) must determine whether to file a suspicious transaction report in accordance with section 5A(4) of the Act; and

(c) must record the basis of its determination under sub-paragraph (b).

(4) For the purposes of paragraph (3), a developer is regarded as being unable to complete the customer due diligence measures it is required to perform under this Part if —

(a) the developer is unable to obtain, or to verify, any information required as part of those customer due diligence measures; or

(b) the developer does not receive a satisfactory response to any inquiry it makes in relation to any information required as part of those customer due diligence measures.

General customer due diligence measures for purchaser

5. Subject to rule 9, the following customer due diligence measures must be performed by a developer in relation to every purchaser, at the relevant time specified in rule 4(1):

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- (a) ascertain the identity of the purchaser and obtain the purchaser's identifying information;
 - (b) where the purchaser is an entity or a legal arrangement —
 - (i) obtain the documents that constitute, regulate and bind the purchaser, being the following, or their equivalent:
 - (A) in the case of a body corporate, the constitution, or the memorandum and articles of association, of the body corporate;
 - (B) in the case of a partnership or limited partnership, the partnership deed or agreement;
 - (C) in the case of an express trust, the trust deed of the trust;
 - (D) in the case of a society or an unincorporated association, the rules of the society or unincorporated association;
 - (E) in the case of any other entity or legal arrangement, the instrument or document that constitutes or establishes the entity or legal arrangement; and
 - (ii) ascertain the identity of every individual holding a senior management office in the purchaser and obtain the individual's identifying information;
 - (c) understand and obtain information about the purchaser's purpose for purchasing a commercial property in a building project undertaken by that developer.

Customer due diligence measures for purchaser that is entity or legal arrangement

6.—(1) Subject to paragraph (3) and rule 9, the following customer due diligence measures must be performed by a developer at the relevant time specified in rule 4(1), in relation to every purchaser that is an entity or a legal arrangement:

- (a) determine whether the purchaser has any beneficial owner;

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- (b) take reasonable measures to ascertain the identity and obtain the identifying information of each beneficial owner of the purchaser, if any;
 - (c) understand the nature of the purchaser's business;
 - (d) understand the ownership and control structure of the purchaser.

(2) Under paragraph (1)(a) and (b), the developer must do as follows:

- (a) if the purchaser is an entity —
 - (i) ascertain the identity and obtain the identifying information of each individual (if any) who ultimately has a controlling ownership interest in the purchaser, according to the law and instrument under which the purchaser is constituted;
 - (ii) if it is doubtful whether all or any of the individuals who ultimately have a controlling interest in the purchaser are its beneficial owners, or where no individual exerts control through ownership interests, ascertain the identity and obtain the identifying information of each individual (if any) exercising control of the purchaser through other means; or
 - (iii) if no individual is identified under sub-paragraphs (i) and (ii), ascertain the identity and obtain the identifying information of every individual holding a senior management office in the purchaser;
- (b) if the purchaser is a legal arrangement —
 - (i) in any case where the legal arrangement is a trust, ascertain the identity and obtain the identifying information of —
 - (A) the settlor;
 - (B) each trustee;
 - (C) the protector, if any;

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- (D) each beneficiary; and
- (E) any other individual exercising ultimate effective control over the trust; or
- (ii) in any case where the legal arrangement is not a trust, ascertain the identity and obtain the identifying information of each person holding a position equivalent or similar to any position in sub-paragraph (i).
- (3) However, a developer need not ascertain the identity and obtain the identifying information of each beneficial owner of the purchaser where the purchaser is —
- (a) an entity that is listed on the Singapore Exchange and is subject to disclosure requirement by the Singapore Exchange;
- (b) a financial institution that is listed in Appendix 1 of the direction known as MAS Notice 626 issued by the Monetary Authority of Singapore; or
- (c) a financial institution incorporated or established outside Singapore that is subject to and supervised for compliance with such requirements for the prevention of money laundering and terrorism financing, as are consistent with standards set by the FATF.
- (4) Where a developer determines that the purchaser is an entity specified in paragraph (3)(a), (b) or (c), the developer must record the basis for the determination.
- (5) In paragraph (3) —
- “financial institution” has the meaning given by section 27A(6) of the Monetary Authority of Singapore Act 1970 read with section 27A(7) of that Act;
- “Monetary Authority of Singapore” means the Monetary Authority of Singapore established by section 3 of the Monetary Authority of Singapore Act 1970.

Customer due diligence measures for person purporting to act on behalf of purchaser

7. At the relevant time specified in rule 4(1), a developer must perform the following customer due diligence measures in relation to a person purporting to act on behalf of a purchaser:

- (a) ascertain and obtain the identifying information of the person;
- (b) ascertain whether the person is authorised to act on behalf of the purchaser, including by obtaining the appropriate evidence in writing of the authorisation and appointment of the person by the purchaser to act on the purchaser's behalf.

Enhanced customer due diligence measures

8.—(1) Where any of the circumstances mentioned in paragraph (2) exists, a developer must, in addition to performing the customer due diligence measures specified in rules 5, 6 and 7, perform enhanced customer due diligence measures.

(2) The circumstances requiring enhanced customer due diligence measures to be performed are any of the following:

- (a) the purchaser, or a beneficial owner of the purchaser, in any transaction is —
 - (i) a foreign politically-exposed person;
 - (ii) a family member of a foreign politically-exposed person; or
 - (iii) a close associate of a foreign politically-exposed person;
- (b) the purchaser, or a beneficial owner of the purchaser —
 - (i) is a resident of or originates from a relevant country; or
 - (ii) is a person that the Controller has notified the developer to be a person that presents a high risk of money laundering or terrorism financing;

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- (c) the developer has, under rule 10(1), assessed that the purchaser or a beneficial owner of the purchaser may present a high risk of money laundering or terrorism financing.
- (3) The enhanced customer due diligence measures to be performed by a developer are as follows:
- (a) a person holding a senior managerial or executive position in the developer must specially approve before the developer does any of the following:
- (i) grants to the purchaser concerned an option to purchase a commercial property in a building project undertaken by that developer;
 - (ii) accepts any sum of money (including any booking fee) from the purchaser concerned in relation to the intended purchase of that commercial property;
 - (iii) enters into an agreement with the purchaser concerned for the sale and purchase of a commercial property in a building project undertaken by that developer;
- (b) take reasonable measures to establish the income level, source of wealth, and the source of funds, of the purchaser concerned and, if that purchaser is an entity or a legal arrangement, of the beneficial owner or owners of the purchaser;
- (c) where the developer suspects or has reason to believe that the purchaser concerned is not acting on the purchaser's own behalf or is trying to conceal the identity of the true purchaser, ascertain the identity of the true purchaser and obtain the true purchaser's identifying information;
- (d) conduct enhanced ongoing monitoring of the transactions entered into with the purchaser so as to identify suspicious transactions, including transactions or patterns of transactions that are inconsistent with the purchaser's profile;

- (e) take all reasonable measures as are appropriate to the risks of money laundering or terrorism financing in relation to the purchaser.

(4) A developer must implement appropriate policies, controls and procedures to determine whether the circumstances mentioned in paragraph (2) exist.

Simplified customer due diligence measures

9.—(1) If all of the following conditions are met, a developer may perform simplified customer due diligence measures in relation to its purchasers, instead of performing the customer due diligence measures specified in rules 5, 6 and 7:

- (a) the developer has, under rule 10(1), assessed the risk of money laundering and terrorism financing in relation to the purchaser to be low;
- (b) the simplified customer due diligence measures are commensurate with the level of the risk of its purchasers engaging in money laundering and terrorism financing identified by the developer;
- (c) none of the circumstances mentioned in rule 8 requiring enhanced customer due diligence measures exists.

(2) Simplified customer due diligence measures are such measures as a developer considers adequate to effectively ascertain the identity of the purchaser, beneficial owner of the purchaser or any person who is acting on behalf of the purchaser, in any particular transaction.

(3) Where a developer decides to carry out simplified customer due diligence measures under paragraph (1), the developer must record —

- (a) the details of the risk assessment that formed the basis for the decision; and
- (b) the simplified customer due diligence measures carried out.

Risk analysis

10.—(1) A developer must —

- (a) perform, in relation to each purchaser or beneficial owner of a purchaser, an adequate analysis of the risks of the purchaser engaging in money laundering or terrorism financing or both;
- (b) document the analysis and the conclusions reached; and
- (c) keep the analysis up to date.

(2) For the purpose of determining whether a person mentioned in paragraph (1)(a) may present a high risk of money laundering or terrorism financing, the developer must consider all of the following:

- (a) whether the person is a resident of or originates from —
 - (i) a relevant country;
 - (ii) a foreign country that the FATF (by a public statement, notice or directive published on its official website at <https://www.fatf-gafi.org/>) identifies as a foreign country subject to increased monitoring; or
 - (iii) a foreign country that the Controller has notified the developer to be a foreign country with inadequate measures to prevent money laundering or terrorism financing;
- (b) whether the transaction with or intended with the person is complex or unusually large, or is part of an unusual pattern of transactions which have no apparent economic or visible lawful purpose.

(3) A developer must implement appropriate policies, controls and procedures to determine whether the circumstances mentioned in paragraph (2)(a) exist.

Customer due diligence measures for existing purchasers

11.—(1) A developer must, based on the developer's assessment of materiality and risk, perform the customer due diligence measures and enhanced customer due diligence measures mentioned in rules 4 to 10 in relation to any existing purchaser, taking into account —

- (a) when customer due diligence measures or enhanced customer due diligence measures (if any) were last applied to that purchaser; and
- (b) the adequacy of information already obtained by the developer in relation to that purchaser.

(2) For the purpose of paragraph (1), a developer may use information previously obtained from customer due diligence measures or enhanced customer due diligence measures performed in relation to the same purchaser, unless the developer has doubts about —

- (a) the veracity or adequacy of the information; or
- (b) whether the information is up-to-date.

PART 3**OTHER MEASURES****Performance of customer due diligence measures by third parties**

12.—(1) A developer may rely on a third party to perform the customer due diligence measures which the developer is required to perform under rules 4 to 10 and 14(1), if the following requirements are met:

- (a) the developer is satisfied that the third party —
 - (i) is subject to and supervised for compliance with such requirements for the prevention of money laundering and terrorism financing consistent with standards set by the FATF;
 - (ii) has adequate measures in place to comply with those requirements mentioned in sub-paragraph (i); and

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- (iii) is willing and able to provide, without delay, on the developer's request, any document acquired by the third party as a result of the customer due diligence measures or enhanced customer due diligence measures (as the case may be) performed for the developer;
 - (b) the third party is not precluded from acting as such by the Controller;
 - (c) the developer takes appropriate steps to identify, assess and understand the risks of money laundering and terrorism financing in the foreign countries that the third party also carries on business in, if applicable.
- (2) A developer must not rely on a third party to conduct ongoing monitoring under rule 13.
- (3) Where a developer decides to rely on a third party to carry out customer due diligence measures or enhanced customer due diligence measures, the developer must —
- (a) document the basis for the developer's opinion in paragraph (1)(a); and
 - (b) obtain from the third party without delay all documents acquired as a result of the customer due diligence measures or enhanced customer due diligence measures performed by the third party.
- (4) To avoid doubt, despite the reliance on a third party, a developer remains responsible for compliance with the obligations to perform customer due diligence measures or enhanced customer due diligence measures, and to keep records under these Rules.

Ongoing monitoring

13.—(1) A developer must periodically review the documents and information obtained as a result of the customer due diligence measures and enhanced customer due diligence measures under these Rules to ascertain whether the transactions carried out by purchasers of the developer are consistent with the developer's knowledge of —

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- (a) the purchaser;
 - (b) the purchaser's income and risk profile; and
 - (c) the purchaser's source or sources of funds.

(2) A developer must periodically review the adequacy of documents and information obtained as a result of the customer due diligence measures and enhanced customer due diligence measures under these Rules, particularly in cases where there is a higher risk of money laundering or terrorism financing, to ensure that the information in respect of purchasers and persons acting on behalf of purchasers is kept current.

Additional measures relating to targeted financial sanctions

14.—(1) A developer must, at the relevant time specified in rule 4(1), take reasonable measures to assess whether the purchaser, any beneficial owner of the purchaser or any person acting on behalf of the purchaser is —

- (a) a terrorist or terrorist entity under the Terrorism (Suppression of Financing) Act 2002; or
- (b) a designated person as defined in any regulations made under the United Nations Act 2001.

(2) If at any time, a developer has reason to suspect that the circumstances in paragraph (1)(a) or (b) exist, the developer must —

- (a) decline to enter into any transaction with the purchaser;
- (b) terminate any transaction entered into with the purchaser, including —
 - (i) any option to purchase granted to; or
 - (ii) any sale and purchase agreement entered into with, the purchaser, for a commercial property in a building project undertaken by that developer; and
- (c) report the matter to the police.

Keeping of records

15. For the purposes of section 5B(1) of the Act, a developer must keep the documents and information (including any analysis performed) relating to a person in respect of whom customer due diligence measures or enhanced customer due diligence measures have been performed for 5 years after —

- (a) if the person is party to or otherwise connected with an unexercised or cancelled option to purchase a commercial property in a building project undertaken by the developer — the date on which the option expired or is cancelled;
- (b) if the person is party to or otherwise connected with a terminated or annulled sale and purchase agreement for a commercial property in a building project undertaken by the developer — the date on which the agreement is terminated or annulled; or
- (c) if the person is party to or otherwise connected with a sale and purchase of a commercial property in a building project undertaken by the developer — the date of completion of the sale and purchase of the commercial property.

PART 4**NEW TECHNOLOGIES AND BUSINESS PRACTICES****Identifying risks from new technologies, etc.**

16. A developer must identify and assess the risks of money laundering and terrorism financing that may arise in relation to —

- (a) the development of any new service or new business practice (including any new delivery mechanism for any new or existing service); and
- (b) the use of any new or developing technology for any new or existing service.

Managing and mitigating risks from new technologies, etc.

17. A developer must —

- (a) before offering any new service or starting any new business practice referred to in rule 16(a), or using any new or developing technology referred to in rule 16(b), undertake an assessment of the risks of money laundering and terrorism financing that may arise in relation to the offering of that service, the starting of that business practice or the use of that technology; and
- (b) take appropriate measures to manage and mitigate such risks.

Made on 28 February 2023.

OW FOONG PHENG
Permanent Secretary,
Ministry of National Development,
Singapore.

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(To be presented to Parliament under section 10(4) of the Sale of Commercial Properties Act 1979).