

*The English translations of the RERA legislation contained herein are currently in draft form and are provided for reference only.*

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**Real Estate Regulatory Authority**

**Resolution No. (3) of 2019**

**On Obligations related to Procedures of Money Laundering and Terrorism Financing Prevention  
in Licensed Real Estate activities**

The Real Estate Regulatory Authority ("RERA") Chairman, have taken cognizance of the following:

Decree Law No. (26) of 1996 regarding Auditors;

Decree Law No. (4) of 2001 on the Prevention and Prohibition of Money Laundering and Terrorism Financing, as amended;

DECREE-LAW NO. 21 OF 2001 PROMULGATING LAW ON COMMERCIAL COMPANIES Decree Law No. (28) of 2002 with respect to electronic transactions, as amended;

The Central Bank of Bahrain and Financial Institutions Law promulgated by Law No. (64) of 2006, as amended;

Law No. (7) of 2017 for approving the Arab Convention on Combating Money Laundering and Terrorist Financing;

Law No. (27) of 2017 on Real Estate Sector Regulation Law;

Ministerial Order No. (7) of 2001 with respect to Institution Obligations concerning the Prohibition and Combating of Money Laundering;

Ministerial Order No. (18) of 2002 specifying the power of the Enforcement Unit in the scope of implementing the provisions of the law of banning and combating Money Laundry, as amended by Ministerial Order No. (9) of 2007;

Ministerial Order No. (18) of 2019 Establishing the Policy Committee for banning and combating Money Laundering and Terrorism Financing; and

After coordination with the Enforcement Unit at the Ministry of Interior; and based on Proposal of the Chief Executive Officer of the RERA; and Approval of the RERA Board

**Resolved as follows:**

**Article (1)**

**Definitions**

The following words and expressions contained herein shall have the same meanings set out in the Decree Law No. (4) of 2001 on the Prevention and Prohibition of Money Laundering and Terrorism Financing. The below words and expressions shall have the following meanings ascribed thereto, unless the context requires otherwise:

**RERA:** Real Estate Regulatory Authority.

**Licensee:** Every natural or legal person which is registered with RERA and governed by the provisions of this Resolution in accordance with the provision of Article (2) thereof.

**Customer:** Any natural or legal person dealing or willing to deal with the Licensee.

**Compliance Officer:** The person appointed by the Licensee to monitor the latter's compliance with the requirements of this Resolution in accordance with the provisions of Articles (8) and (10) thereof.

**Committee:** The Policy Committee for the Prevention and Prohibition of Money Laundering and Terrorism Financing set out in Article (4) of Decree Law No. (4) of 2001 on the Prevention and Prohibition of Money Laundering and Terrorism Financing.

**Business Relationship:** The continuous arrangements between two or more parties under which a party undertakes to facilitate conducting regular or frequent transactions for the other party, or where the value of transactions is unknown at the time of contracting which requires verification.

**Separate Transaction:** Any transaction beyond the scope of Business Relationship.

**Ultimate Beneficiary:** The natural person who owns or has the power to control or influence the legal person by any means other than legal ownership, or the natural person on whose behalf the transaction is performed.

**Suspicious or Extraordinary Transactions:** Any transaction(s) paid for in cash or in kind outside the banking system and suspected by the Licensee to be related to money laundering or terrorism financing, and illegal transfer of money across borders based on such transaction's extraordinary size, frequency, nature, the circumstances accompanying it or its extraordinary pattern that does not involve a clear goal or apparent legal purpose, or if the activity of the persons participating in the transaction(s) does not conform with their ordinary activity, or if the hometown of such persons is at countries that do not adequately apply the procedures of

banning and combating money laundering and terrorism financing, or at countries listed in the Financial Action Task Force (FATF) blacklist, or the transaction(s) in which the Customer or Ultimate Beneficiary is a person or entity listed in the UN Security Council or local blacklists.

**High Risk Countries:** Countries classified in the list of high risk countries at the international level according to the list issued by the Financial Action Task Force (FATF).

**Politically Exposed People:** Holders of senior positions, politicians, judges, clerics, diplomats, members of the legislature, heads of political and charitable associations and trade unions, artists and other public figures.

**Enforcement Unit:** The Financial Intelligence Directorate at the Ministry of Interior that empowered to implement the provisions of Decree Law No. (4) of 2001 on the Prevention and Prohibition of Money Laundering and Terrorism Financing according to Article 4.4.

**RERA Relevant Unit:** The unit set out in Article (9) of this Resolution.

## Article (2)

### Applicability

- a. The provisions of this Resolution shall apply to those licensed to practice the real estate activities stipulated in Chapter 2 of the Real Estate Sector Regulatory Law promulgated under Law No. (27) of 2017, as well as their branches and affiliates whether operating inside or outside the Kingdom of Bahrain, in accordance with the risk-based approach adopted by the RERA .
- b. The RERA shall publish a list of records of Licensees subject to this Resolution.

## Article (3)

### Obligations of Licensees

The Licensee shall:

1. Implement all policies and procedures as outlined in Decree Law No. (4) of 2001 on the Prevention and Prohibition of Money Laundering and Terrorism Financing, and those developed by the Committee or the RERA to prevent the abuse of Licensee's operations for purpose of money laundering or terrorism financing.
2. Not establish a Business Relationship with the purpose of money laundering or terrorism financing.
3. Warn anyone associated therewith not to breach the provisions of the above two paragraphs.
4. Comply with all regulations, resolutions, instructions, circulars, rules and guidelines issued by the RERA.

5. Pay special attention to monitoring all kinds of transactions and deals. The background and purposes of such suspicious transactions and deals shall be inspected, and the findings of such inspection shall be recorded in writing and reported to the RERA Relevant Unit on the form issued by the RERA.
6. Order its branches operating abroad to adopt measures of compacting money laundering and terrorism financing in accordance with the FATF recommendations, and instruct them to apply the provisions of this Resolution to the extent allowed by the laws and regulations applicable in the countries where such branches operate, especially if such branches are in high risk countries or in countries that do not or inadequately abide by the provisions of the Resolution. The Licensee shall also be required to inform the Enforcement Unit and the RERA Relevant Unit in case the laws of the countries where such branches operate hinder the application of the provisions of this Resolution.
7. Apply all recommendations of the FATF.
8. Set adequate controls and procedures for the immediate application of the UN Security Council's resolutions and local lists, and report any suspicions related thereto.
9. Develop and implement procedures in accordance with the risk-based approach adopted by the RERA.
10. Apply the findings and reflect the results of the National Risk Assessment (NRA) to the internal risk-based processes and procedures, and update such procedures whenever the report is updated.
11. Establish internal control systems to obtain customer due diligence information from reliable and up-to-date sources.
12. The licensed real estate developers are required to complete all real estate transactions through the project's escrow account, except for projects with a Market Research Advertising License.
13. With the exception of real estate developers, Licensees may not complete any cash transactions exceeding BD 2,000 except through the banking system.

#### **Article (4)**

##### **Auditor Report**

The Licensee shall submit a financial report audited by an auditing firm licensed by the ministry concerned with commerce affairs within three (3) months form the end of the fiscal year or the calendar year, as the case may be.

#### **Article (5)**

##### **Customers' Identity**

## I. Identification Procedures:

- a. The Licensee shall, before establishing any Business Relationship or conducting Separate Transaction(s), be required to verify the identity of the Customer and the Ultimate Beneficiary of such Business Relationship or Separate Transaction and shall follow reasonable and adequate procedures to verify the source of money thereof by all possible means of verification, and not to deal with persons whose identity is unknown or those who fail to provide proof of their or the Ultimate Beneficiary's identity.
- b. The Licensee shall develop the appropriate procedures that oblige each customer, who wants to establish a Business Relationship or conduct Separate Transaction(s) with that Licensee, to identify itself and present sufficient proofs.
- c. When a Licensee gets merged with another Licensee, the Licensee merged with shall not be required to identify the customers of the merged Licensee as per the provisions of this Resolution, if:
  1. The merged Licensee has already applied the procedures of maintenance stipulated in Article (7) a, b and c of this Resolution.
  2. The careful investigations do not result in any doubts on the conformity of the merged Licensee's procedures with the requirements of Decree Law No. (4) of 2001 on the Prevention and Prohibition of Money Laundering and Terrorism Financing.

## II. Identity Information:

- a. The Licensee shall request a valid copy of the identity information. The copy shall be verified and maintained in customers' records in relation to natural persons including the following information:
  1. The full details of the passport.
  2. ID card.
  3. Profession.
  4. Permanent place of residence.
  5. Name and address of employer.
  6. The business relationship's commencement date, type, amount, currency and details.

In addition to the details mentioned in this Article (5) II a, Politically Exposed People (PEP) shall be required to provide evidence of legitimate source of their funds, as well as their family members and close relatives, where relevant.

- b. The Licensee shall request a valid copy of the identity information that shall be verified and maintained in customers' records in relation to corporate persons, including the following information:
  1. Trade name.

2. Legal status.
3. Number and place of registration and validity thereof.
4. Type of the business activity.
5. Address of the head office and branches (if any).
6. Names of manger(s) and members of the Board of Directors, as the case may be.
7. The corporate person's legal representative and authorized signatories and their IDs information and contact details.
8. The Business Relationship's commencement date, type, amount, currency and details.

In addition to the aforementioned, the corporate person's incorporation documents shall be verified, including the Memorandum of Association, Articles of Association and the corporate person's representation document.

- c. The Licensee shall adopt enhanced due diligence procedures set out in this Article (5) II d in case of high possibility that the transaction would involve a money laundering or terrorism financing crime in accordance with the following:
  1. If the procedures set forth in this Article about verification of the identity of the Customer and the Ultimate Beneficiary and the source of money find or identify high risk.
  2. If another person is dealing on behalf of the Customer where the Customer isn't physically present when carrying out identification process.
  3. When entering into a Business Relationship or conducting a Separate Transaction with a PEP.
  4. When entering into a Business Relationship or conducting a Separate Transaction with charities, NGOs or clubs.
  5. Any other situation where there's a higher risk of money laundering or terrorism financing.
  6. If it is found that the Ultimate Beneficiary of the Business Relationship or the Separate Transaction is a person to whom the enhanced due diligence procedures must be applied.

The levels of risk by which customers are classified depend on the following factors:

1. Customer's background.
2. Nationality/ Country of Origin.
3. Accounts linked with customers.
4. Type of the business activity.

5. The Ultimate Beneficiary.
- d. The enhanced due diligence includes the following procedures:
    1. Obtaining further information to identify the Customer and the Ultimate Beneficiary.
    2. Adopting extra measures to verify the authenticity of documents submitted in terms of nature, validity, relevance of the Business Relationship or the Separate Transaction to the nature of the Customer's activity etc.
    3. If the payment is done by money transfer, then it is required to verify that the amount is transferred from an account opened with a recognized financial institution that adopt anti-money laundering and terrorism financing measures.
    4. Finding out the source of funds and the purpose of the Business Relationship or the Separate Transaction.
    5. Adopting special measures to identify the Ultimate Beneficiary from legal arrangements.
    6. Any other more strict actions or measures relevant to the nature of the Business Relationship or the Separate Transaction.
  - e. In case the Customer is a government or semi-government or related to government of Bahrain or any GCC state, and in case the Customer is well-known to the Licensee from the history of previous transactions, then the Licensee may adopt the measures outlined in this Article (5) II a and b.
  - f. The Licensee shall regularly improve and update its procedures related to customer's identification by adopting the risk-based approach approved by the RERA. The Licensee shall continuously monitor the customer's transaction and end any Business Relationship if found suspicious or extraordinary and report the same immediately to the RERA Relevant Unit in writing, electronically or personally.

## **Article (6)**

### **Modern Technologies**

- a. The Licensees shall identify and assess the risks of money laundering and terrorism financing that may arise in relation to the development of professional practices, including new means of service delivery, and those arising from the use of modern or under development technologies.
- b. The Licensees shall conduct a risk assessment before launching or using practices or techniques, and take appropriate measures to manage and mitigate such risks.

## **Article (7)**

### **Procedures of Maintenance of Documents and Records**

- a. The Licensees shall maintain the information and documents related to the identity of the customers and the representatives thereof and the beneficiaries from the transaction, and shall also maintain accounting records and other records related to the details of transactions. Such records shall include the transaction's type, date, value, currency and details, the information related to the method of payment and the identity information. Any changes made to the status of the customers shall be regularly included in these records. The Licensees shall have a system and procedures which ensure that such records are up-to-dat. The information and documents should be adequate to identify the transaction, whether a single deal or a set of deals, starting from the initial documents up to the completion of transaction. The Licensee shall also maintain the findings reached about suspicious or extraordinary transactions, and make the information of customer due diligence, results and transaction logs available to the Enforcement Unit and the RERA Relevant Unit, as the procedures may be.
- b. The documents and records referred to in the above paragraph, as well as all the correspondence related to the transactions, shall be maintained for a term of five years from the completion date of transaction. The maintained records and the supporting documentation thereof should be easily retrievable.
- c. Should the transaction be associated with money transfers, from the customers or on their behalf, the Licensee shall ascertain that such transfers include the name of the party giving the order, the beneficiary's name, account number and address, the amount and the source of transfer, and that the transfer is done through the banking system. The non-fulfillment of the aforementioned information immediately after it is required to be provided shall result in considering the transaction suspicious or extraordinary and shall be immediately reported to the RERA Relevant Unit.
- d. The Licensees shall fulfill all the information, documents and records referred to in this Article within no more than, in all cases, six months from the effective date of this Resolution.
- e. Each Licensee shall present an annual report – electronically on the form approved by the RERA – to the RERA Relevant Unit via the RERA website, which shall include all cash sale transactions performed during the year. The said report shall also include all information stipulated in Article(5) II of this Resolution and shall be submitted within three (3) months from the end of financial year or calendar year, as the case may be.

## **Article (8)**

### **Internal Reporting Procedures**

- a. Each Licensee shall appoint, after obtaining a prior written consent from the RERA, an appropriate person from its specialized employees to act as a compliance officer to



monitor that Licensee's compliance with the requirements of this Resolution. Such employee shall have the independence and power to review the information of customers and all other available relative data.

- b. The Compliance Officer shall be responsible on annual basis towards the Licensee for:
1. Ascertaining the suitability of the internal controls, regulations and procedures applicable at the Licensee for fulfillment of the requirements and provisions of this Resolution.
  2. Ensuring that the employees of the Licensee have received the appropriate training to perform the tasks assigned to them as per the provisions of this Resolution.
  3. Monitoring the level of compliance of the aforementioned employees in relation to application of the internal controls, regulations and procedures related to combating money laundering and terrorism financing.
  4. Controlling the level of the Licensee compliance with the development of systems and procedures that ensure updating the records, and the extent to which such systems and procedures are applied on a regular basis.
  5. Making sure that the Licensee sets the disciplinary regulations and procedures that ensure the commitment of that Licensee's employees to implementing the provisions of this Resolution.
  6. In case the Licensee delivers new services or uses modern technologies, then the same rules of customer identity verification set out in Article (5) of this Resolution shall be applicable and the risks of such new services or modern technologies shall be considered in terms of money laundering and terrorism financing.
  7. Ensuring adequacy of the systems and measures of customer due diligence and reasonability and creditability of the customer information obtained to establish a Business Relationship or carry out a Separate Transaction.
- c. While examining compliance with paragraph (b) of this Article in accordance with guidelines issued by the RERA, the compliance officer shall report to the RERA Relevant Unit and the auditor of any breach of the above obligations by the Licensee.

## **Article (9)**

### **RERA Relevant Unit**

The Anti-Money Laundering and Terrorism Financing Unit of the RERA Department of Strategic Planning and Policies shall be the Relevant Unit designated for receiving the reports of the Compliance Officer on suspicious or extraordinary transactions and any other reports, data, information in accordance with the provisions of this Resolution. The Relevant Unit shall also be responsible for monitoring and supervising the Licensees in all actions and areas

related to anti-money laundering and terrorism financing and for the implementation of resolutions adopted by the UN Security Council and other anti-money laundering and terrorist financing resolutions.

## **Article (10)**

### Reporting Extraordinary or Suspicious Transactions

- a. The Compliance Officer shall be responsible for reporting in writing, electronically or personally to the RERA Relevant Unit and to the Enforcement Unit, suspicious or extraordinary transactions, immediately within no later than the first working day from the time of becoming aware of such transactions.
- b. The Compliance Officer shall prepare a report, as per the form approved by the RERA, regarding the suspicious or extraordinary transaction(s) based on the customers' information, data and records. The report shall include a full description of the transaction and its type, value, currency, date and parties thereto, as well as the reasons that led to considering such transaction extraordinary or suspicious, and all further data and information that may be required by the Enforcement Unit or the RERA Relevant Unit.
- c. In case the Compliance Officer is informed of doubts in relation to a suspicious or extraordinary transaction, he/she shall be required to verify the same by referring to the customer's data, records and information. If it turns out that the transaction is ordinary and unsuspecting, the Compliance Officer shall record the reasons supporting this fact. In such case, it is not required to prepare the report referred to in the preceding paragraph.
- d. The Compliance Officer shall, if he finds at a later stage that the identity-related investigations are inaccurate, report the same to the Enforcement Unit and the RERA Relevant Unit and take all necessary actions to abide by the requirements of identifying the identity.
- e. A record dedicated for extraordinary or suspicious transactions shall be kept, and such record shall include adequate details, including the type of transaction, the reporting date, information of the customer and the amount of transaction, which enable the formation of a clear image and adequate details on such transactions and the procedures taken in relation thereto.
- f. The reports referred to in paragraph (b) of this Article shall be submitted electronically along with identity information of the parties related to the suspicious or extraordinary transaction and any relevant documents to the Enforcement Unit and the RERA Relevant Unit and maintained the said reports for a period not less than five years from the date of completion of such transactions.

- g. The Licensees shall be prohibited from informing the Customer of the submission of a suspicion report or any relative information to the Enforcement Unit and the RERA Relevant Unit.
- h. The RERA shall publish at its website the forms for reporting suspicious or extraordinary transactions.

### **Article (11)**

#### **Objection to Appointment of the Compliance Officer**

The RERA Relevant Unit shall have the right to justifiably reject the appointment of any person as a compliance officer and shall be entitled to write off the compliance officer's name from its records and ask for appointment of another person, in case of the compliance officer's failure to meet any of his/her obligations stipulated in this Resolution.

### **Article (12)**

#### **Release from Liability**

No Licensee or any of its employees shall be held liable at criminal, civil or disciplinary level for the performance of their obligations stipulated in this Resolution.

### **Article (13)**

#### **Penalties**

Without prejudice to the administrative measures provided for in the Real Estate Sector Regulatory Law promulgated under Law No. (27) of 2017, any person breaches the provisions of this Resolution shall be subject to the penalties stipulated in Article 3(3/6) of Decree Law No. (4) of 2001 about the Prevention and Prohibition of Money Laundering and Terrorism Financing.

### **Article (14)**

The Chief Executive Officer shall enforce this Resolution, which shall come into force as of the date following its publication in the Official Gazette.

**Real Estate Regulatory Authority Board Chairman**

**Salman bin Abdullah bin Hamad Al Khalifa**

**Issued on:**18 Muharram 1441 AH

Corresponding to: 17 September 2019 G