

Daily FT

Daily FT Page 03

‘Ramp up AML measures’: CBSL Chief advises real estate agents

Monday, 10 July 2023 00:00 - - 111



Seated from left: Condominium Developers’ Association of Sri Lanka President Brahmanage Premalal, Construction Industry Development Authority Chairman Eng. R.H. Ruvinis, Central Bank Governor and National Coordinating Committee on AML/CFT Chairman Dr. Nandalal Weerasinghe, Urban Development and Housing Ministry Secretary W.S. Sathyananda, Condominium Management Authority Chairman Sarana Karunaratna, CBSL Deputy Governor K.M.A.N. Daulagala

Standing from left: CIDA Director General Eng. Savindra Amarasekara, FIU Additional Director Dr. Ayesh Ariyasinghe, Director Enoka Mohotty, Additional Director Dr. Subhani Keerthirathne and Senior Assistant Director Chandima Bandara

The Financial Intelligence Unit (FIU) of the Central Bank of Sri Lanka organised an awareness program for the real estate sector on “Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) Compliance Obligations and New Developments” on 26 June 2023. The keynote address was delivered by CBSL Governor and National Coordinating Committee on AML/CFT Chairman Dr. Nandalal Weerasinghe.

Urban Development and Housing Ministry Secretary W.S. Sathyananda, Construction Industry Development Authority (CIDA) Chairman Eng. R H Ruvinis, and Hardy Jamaldeen representing the real estate sector also addressed the gathering. Condominium Management Authority (CMA) Chairman Sarana Karunaratna also graced the occasion.

The event saw over 120 participants from the industry as well as officials from the Registrar General’s Department, Colombo Land Registry, Condominium Developers’ Association of Sri Lanka (CDASL), CMA, The Ceylon Chamber of Commerce and Urban Development Authority.

In his address Dr. Weerasinghe emphasised the importance of real estate sector and highlighted that the successful implementation of the AML/CFT obligations within the sector would ensure that

Money Laundering and Terrorist Financing (ML/TF) risks in the sector are mitigated while fulfilling the obligations under international recommendations, governance, and anti-corruption framework.

He stated that such efforts would further strengthen the AML/CFT framework of the country and invited the sector stakeholders to work closely with the FIU and with the Ministry of Urban Development and Housing towards this national endeavour.

In his address, Sathyananda stated that during the last two decades, the demand in Sri Lanka's real estate sector has increased rapidly and it is predicted that the slight setback in the demand for housing and property during recent times would return to normalcy within the next few years. Accordingly, introducing a regulatory framework for the real estate sector would assist in better implementation of AML/CFT requirements by reducing the degree of vulnerability in the sector and further it would assist in improving the investor confidence thereby enhancing the attractiveness of the real estate sector for foreign direct investments. Eng. R.H. Ruvinis, in his speech mentioned that the expected outcome of an introduction of a regulatory framework for the real estate sector is to ensure that a culture of accountability and transparency are being fostered, which will serve in achieving sustainable development and prosperity in the country.

Jamaldeen, representing the real estate sector, addressed the gathering by emphasising that the Sri Lankan real estate sector is at a momentous position in time, and that it is the right time to establish a world class compliance culture within the industry and aim to be a world class destination for investors to the sector. He also emphasised that the real estate sector should be demanding a single regulator like in the other countries.

Technical sessions were conducted by FIU Additional Director Dr. Ayesh Ariyasinghe, and CIDA Director General Eng. Savindra Amarasekara.

Amarasekara explained the existing legislative framework under the Construction Industry Development Act, No. 33 of 2014 and its subordinate legislations. He also explained the obstacles faced by CIDA in registering the construction industry participants and the way forward in introducing a regulatory framework for the real estate sector as a whole. He elaborated that there are registers already maintained for property and construction developers and invited the stakeholders to utilise this framework to gain the advantages offered under the CIDA law.

He further mentioned the recent relaxations imposed by CIDA, on requirements for registration such as the compulsory requirement of staff due to the current context.

Dr. Ariyasinghe, in his presentation explained that the real estate businesses are part of designated non-financial businesses and professions (DNFBPs), which have ML/TF reporting obligations under the Financial Transactions Reporting Act, No. 6 of 2006 (FTRA). Furthermore, the ML/TF risk assessment of the country 2021/22 has confirmed the ML/TF risk exposure of the real estate sector as Medium-High, which is a combination of Medium-High threat level, and Medium level vulnerability of the sector.

He also highlighted that vulnerability of the sector has come down to Medium from its 2014 level of Medium-High due to measures adopted by the FIU since 2018 to address AML/CFT supervision for the registered real estate institutions. Describing the FTRA provisions, he emphasised that the law covers real estate agents to come under the FIU's supervisory umbrella when they are involved in transactions for their clients in relation to the buying and selling of real estate.

Further, lawyers, notaries, other independent legal professionals, and accountants when they prepare for or carry out transactions for their clients in relation to buying and selling of real estate. He also emphasised the need for well-equipped compliance officers among the sector institutions. Dr.

Ariyasinghe noted that the overall assessment has indicated the awareness level in the sector is low. He further emphasised the importance of complying with the AML/CFT obligations under the FTRA, especially sending in suspicious transaction reports. The stakeholders were informed to ensure that the sector is ready to face the next mutual evaluation of Sri Lanka scheduled for March 2025.

During the discussion, there was a suggestion from the audience to request the UDA or Ministry of Local Government to make it mandatory to register with CIDA prior to issuing development permits. Further, a request came from the audience to register brokers engaged in real estate transactions to make the sector more transparent and to have a level playing field and to provide for entry criteria to make this sector more professional. It was highlighted that the industry is struggling to grasp and comply with regulatory requirements and the FIU is planning to increase supervision and its efforts to support the industry to step up their level of compliance. The FIU confirmed that a very few suspicious transaction reports have been submitted by the real estate institutions during the previous years. Further, the FIU has been lobbying the Government to set up a regulatory body for the sector in order to register the companies engaged in the real estate business so that their activities can be monitored more effectively.

The need to regulate the sector has been recognised by all stakeholders and given the highest priority, it is envisaged to establish a mechanism to register the institutions engaged in the real estate business with CIDA until a separate regulatory framework is established. This is indeed a welcome move by the industry. In order to bring the sector on par with other reporting entities, it is planned to conduct increased supervision expecting the sector to demonstrate functioning AML programs.

Recommendations

- **The sector regulators are requesting the companies engaged in the real estate business to seriously consider the following recommendations to improve the level of compliance:**
- **Carry out registration under the CIDA as a mandatory requirement.**
- **Establish a “Task Force” with the sector stakeholders to come up with a suitable legal framework to regulate the real estate sector.**
- **Conduct Customer Due Diligence (CDD), not just on paper but to identify, assess, monitor, manage sector clientele and take effective actions to mitigate ML/TF risks using a risk-based approach that requires enhanced measures when the risks are higher.**
- **Carry out CDD with respect to the customer, beneficial ownership, and business relationship, and maintain records of transactions.**
- **Take additional measures to identify politically exposed persons (PEPs) including enhanced monitoring.**
- **Implement policies, procedures, and internal controls against ML/TF risks.**
- **Implement targeted financial sanctions and freeze assets or take action immediately against persons and entities designated by United Nation Security Council Resolutions (UNSCRs) 1267 and 1373, or other UNSCRs, and communicate the same to competent authorities.**
- **Report suspicious transactions to the FIU, where relevant.**
- **To find an appropriate framework for further actions by a committee representing stakeholders of the real estate sector.**