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ESTATE AGENTS AUTHORITY

Dear Licensees,

**Re: New Scheme for Disciplinary Cases**

Having reviewed the non-compliant situation in the trade, the Estate Agents Authority (“EAA”) has found that a number of cases commonly breached by the trade were relatively straight forward in nature. In this connection, the EAA would like to draw your attention to a New Scheme for handling disciplinary cases (“the Scheme”) which will be launched soon to encourage the trade to rectify those straight forward breaches expeditiously, and to avoid repeating the breaches. The Scheme will take effect from 1 January 2014.

Under the Scheme, licensees committing these common but straight forward breaches for the first time would, subject to the terms of the Scheme, not be disciplined but any subsequent breaches within a two-year period would attract more severe sanctions. The Scheme covers breaches of eight specified requirements under the Estate Agents Ordinance and subsidiary legislation. Please refer to the **Annex** for the requirements.

Any licensee who has not been disciplined for any breaches from 1 January 2014 is eligible to opt for the Scheme. When a licensee is found to have breached one or more of the specified breaches for the first time (with effect from 1 January 2014), no disciplinary action will be taken against the licensee if he opts for the Scheme in accordance with its terms and agrees to the facts and allegations. If the licensee does not agree to the facts and/or the allegations or if he does not opt for the Scheme, then the case will be handled in the usual manner.

If the licensee has opted for the Scheme, every admitted breach will be entered into a “Memorandum of Admitted Breaches” (“the Memorandum”). Each record in the Memorandum will only be shown at the EAA’s website for two years. However, such a record will be retained



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together with the licensee's disciplinary record for sentencing purposes in the future cases.

Under the Scheme, if the licensee is found to have breached any requirement within two years from the date he admits the first breach, the case will be dealt with in the usual manner, i.e. submitted to the Disciplinary Committee, with a recommendation of heavier sanctions.

Details of the Scheme and the relevant frequently asked questions and answers are available at the EAA's website ([www.eaa.org.hk](http://www.eaa.org.hk))

Estate Agents Authority

18 December 2013



**Annex**

**List of the Eight Specified Breaches**

1. Failure to possess prescribed information (EAO s.36(1)(a)(i))
2. Failure to enter into an estate agency agreement with client (PR ss.6(1) & 6 (2))
3. Failure to complete form in accordance with the directions and instructions specified in the form. Failure to accompany form by documents specified in the form. (PR ss.3(2)(a) & 3(2)(b))
4. Failure to give notice to the EAA within 31 days of
  - (i) ceasing to be engaged in estate agency work;
  - (ii) employment of salespersons or termination thereof;
  - (iii) appointment of managers for the purposes of the Estate Agents Ordinance or termination thereof;
  - (iv) appointment of directors or termination thereof; and
  - (v) the becoming or ceasing to become a member of a partnership engaged in estate agency work(EAO ss.40(1) to 40(5))
5. Failure to keep (i) a record of all listings received and (ii) a copy of all estate agency agreements entered into for not less than three years (PR s.8(2)(a))
6. Failure to notify the EAA in writing of a change of registered address (EAO s.14(3)(a))
7. Failure to retain a copy of receipt issued to clients for not less than three years (PR s.12(2)(b))
8.
  - Failure to state the number of licence or statement of particulars of business, the business name and place of



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business in any document (LR s.14(1)(b)); and

- Failure to state the number of licence or statement of particulars of business and the business name in advertisement (LR s.14(1)(c))

Legend:

Estate Agents Ordinance (“EAO”)

Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation (“PR”)

Estate Agents (Licensing) Regulation (“LR”)