

# 客戶私隱保障

Privacy and Data Protection  
of Clients



# 目錄

## CONTENTS

- 03 觀點視野  
A Perspective
- 04 新聞速遞  
News Flash
- 09 焦點話題  
In Focus
- 12 人物誌  
Portrait
- 14 誠信與你  
Integrity in Focus
- 17 CPD 重溫  
CPD Recap
- 18 執業問與答  
Practice Q&A
- 19 顧名思義  
ABC in Estate Agency
- 20 活動紀要  
Events and Activities
- 22 統計數字  
Statistics



韓婉萍  
Ruby Hon Yuen-ping  
行政總裁  
Chief Executive Officer

“積極推銷實屬無可厚非，但不應盲目爭取生意以致忽略專業操守，甚至違反條例或指引。從業員應謹慎行事，時刻維持良好的專業形象，始能贏得大眾尊重。”

“Active promotion of business is understandable, but it is certainly not worth neglecting professional conduct or even breaching the law or the guidelines to blindly fight for sealing a deal. To win public respect, licensees should act with caution and maintain a good professional image at all times.”

### 遵從專業操守 贏得大眾尊重

## COMPLY WITH PROFESSIONAL CONDUCT WINS PUBLIC RESPECT

近期樓市氣氛熾熱，不少新盤銷情暢旺。地產代理在一手樓盤銷售處的秩序及操守，同樣備受社會關注。消費者委員會近日就一手住宅物業的銷售情況發表報告，筆者希望再次提醒業界，在促成交易的同時，必須遵守有關一手住宅物業銷售的條例及指引。

監管局向來重視從業員在一手樓盤銷售處的銷售秩序及操守，絕不容忍任何違規行為。據消費者委員會的報告指出有部分地產代理自製「消耗表」，或將印有「只供內部培訓用途」的價單或其他相關資料提供予客戶。根據監管局的相關指引，倘若地產代理提供發展項目的成交資料、銷售數據或銷售業績，必須根據發展商的成交紀錄冊上的資料，並須指明該等資料的時間性。而地產代理在編制宣傳物品以協助推廣發展項目時，地產代理公司須採取一切合理的步驟，核實該等宣傳物品所載資料的準確性，並在發出前取得賣方就所載資料的準確性及完整性的明確書面批署，及確保已符合《一手住宅物業銷售條例》的有關規定。

就該報告指出的「代客墊支」的問題，局方重申根據有關執業通告，地產代理不得向準買家提供或提出提供貸款。監管局會繼續嚴懲違規的持牌地產代理，加強教育消費者及鼓勵市民積極舉報，繼續打擊代客墊支的問題。

此外，監管局請從業員注意，所有由地產代理公司調派往一手樓盤銷售點的持牌員工，必須佩戴地產代理證。而非持牌員工亦須戴上由地產代理公司僱主備製的名牌，名牌上需清晰顯示其姓名、照片、地產代理僱主的名稱，以及印有顯著的「非持牌員工」字眼，讓公眾人士可合理辨識「持牌員工」及「非持牌員工」。筆者明白到有關執業通告推出未夠一年，業界仍在努力適應中。但為了改善銷售秩序，局方將繼續密切監察，改善情況。

With the recent boom in the property market, many new developments achieved record high sales. The order and conduct of estate agents at first-sale sites of residential properties have similarly aroused social attention. The Consumer Council has recently released a report on the sales situation of first-hand residential properties and I hope to remind the trade here again that they are required to comply with the relevant regulations and guidelines on the sales of first-hand residential properties while facilitating transactions.

The EAA is always concerned about the order and conduct of estate agents at the first-sale sites, and will not tolerate any malpractices. The Consumer Council's report revealed that some estate agents had provided self-made "consumption tables", sales materials which are intended "for internal training purpose only" or other related documents to clients. According to the relevant guidelines issued by the EAA, if licensees provide transaction information, sales figures or sales performance of a development, they must provide the same based on the information from the register maintained by the vendor of the development containing information of the transactions for a development only, and specify the time frame of the information. Estate agency companies must take all reasonable steps to verify the accuracy of the information contained in such materials when preparing them to assist vendors to promote a development. In addition, the vendor's express endorsement in writing of the accuracy and completeness of the particulars contained in such materials must be obtained before their issuance, and estate agents should also ensure that the relevant requirements in the Residential Properties (First-hand Sales) Ordinance are complied with.

On the issue of "offering loans to prospective purchasers" as mentioned in the report, the EAA reiterates that according to the related practice circular, estate agents must not offer or make loans to a prospective purchaser. Estate agents who fail to comply with the guidelines may be disciplined by the EAA. The EAA will continue to sanction the non-compliant estate agents seriously, strengthen consumer education, and encourage members of the public to actively report malpractices to the EAA.

Furthermore, the EAA reminds the practitioners that all licensed staff of estate agency companies deployed to the first-sale sites must wear an estate agent card, and the non-licensed staff should wear a name tag prepared by the estate agency employer showing the staff's name, photograph, name of the estate agency employer and also the words "non-licensed staff", so that the public can differentiate between "licensed staff" and "non-licensed staff". As the relevant practice circular has only been effective for under a year, I appreciate that the trade is trying hard to adapt to it. Nevertheless, to improve the order at first sales sites, the EAA will continue to monitor the situation closely.



### 「地產代理監管局實務證書課程」證書頒發典禮 “EAA’S CERTIFICATE PROGRAMME IN PRACTICE” CERTIFICATE PRESENTATION CEREMONY



為幫助持牌人有效執業打好妥善基礎，監管局在2016年10月推出全新的結構性課程——地產代理監管局實務證書課程。

此課程分為三個單元：

單元一——專業操守及誠信；

單元二——地產代理法律與規則；及

單元三——地產代理實務與實用知識。

以上三個單元由十個課堂及三個單元測驗組成。完成整個課程及於所有測驗取得合格或以上成績，並符合出席要求的參加者可獲頒發證書。

第一期課程已於2016年10月至2017年3月舉辦，首十個課堂共吸引1,339人次參加。有27名持牌人於三個單元測驗中取得合格成績而獲得由地產代理監管局頒發證書，當中有2名持牌人取得卓越成績。此外，有8名持牌人出席整個課程及時數達全數30小時而獲得「卓越勤學獎」。

To help the licensees build a solid and proper foundation for effective estate agency practices, a structured programme titled “EAA’s Certificate Programme in Practice” was launched in October 2016.

This programme is structured into three modules, namely:

Module One – Professional Ethics and Integrity;

Module Two – Estate Agency Law and Regulations; and

Module Three – Estate Agency Practice and Knowledge in Practical Use.

Forming these modules are ten classes and three module-end tests. A certificate will be presented to those participants who passed all three module-end tests and fulfilled the attendance requirement.

The first series of the programme was held between October 2016 and March 2017, and the first 10 classes attracted 1,339 enrolments in total. 27 participants who passed all three module-end tests were awarded the certificate issued by the EAA, and two licensees attained distinction. Besides, eight participants who attended all 30 hours of classes in full were awarded the “Excellence in Diligence Award”.



證書頒發典禮已於2017年5月16日舉行，並由監管局服務總監張秀成先生頒發證書予有關的持牌人。

成功修畢課程的學員表示，儘管課程要求嚴格，但於課堂中學到的知識，足以推動他們持續進修。他們亦表示課程的內容涵蓋全面及實用，讓參與課堂的持牌人能夠裝備執業所須的適當行為及實用知識。此外，獲頒證書的持牌人亦對課程給予正面評價，認為全新設計的課堂與互動的學習模式，增強了他們對物業交易的法律和法規要求的理解，這對他們的日常工作十分重要。另外，他們亦表示導師們生動有趣的講解能讓學員提高學習興趣，令他們的學習事半功倍。

第二期的地產代理監管局實務證書課程已於2017年4月份開辦。詳情請瀏覽監管局網頁：[www.eaa.org.hk/zh-hk/CPD-Scheme/EAA-Certificate-Programme-in-Practice](http://www.eaa.org.hk/zh-hk/CPD-Scheme/EAA-Certificate-Programme-in-Practice)

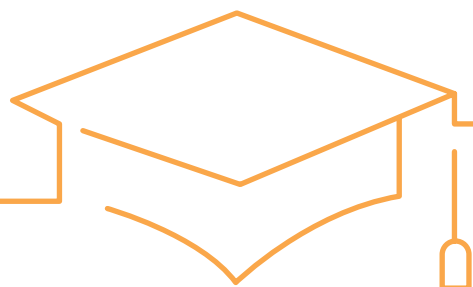
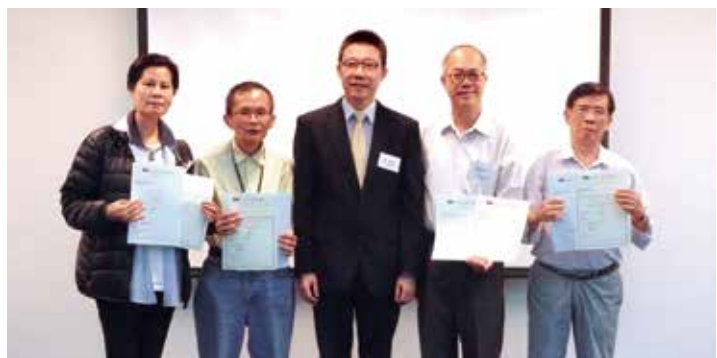
(註：此課程現階段將以廣東話授課，監管局將於稍後研究以英語授課的可行性。)

A certificate presentation ceremony was held on 16 May 2017 at which Mr Cavan Cheung Sau-shing, Director of Services of the EAA, presented the certificates of the programme to the awardees.

In spite of the stringent completion requirement of the programme, the certificate awardees reflected that the practical knowledge taught did help drive their persistence in the study. Also, the certificate awardees remarked that the programme was comprehensive and useful. The programme equipped them with practical knowledge for proper practice. In addition, the certificate awardees commented that the newly designed classes and interactive learning approach enhanced their understanding of the legal and regulatory requirements of property transactions, which is of vital importance to their daily work. Moreover, the instructors' lively and vivid presentation and explanations made the learning process more effective.

The second intake of the classes of the EAA's Certificate Programme in Practice has started in April 2017. For details about the programme, please visit the EAA website: [www.eaa.org.hk/zh-hk/CPD-Scheme/EAA-Certificate-Programme-in-Practice](http://www.eaa.org.hk/zh-hk/CPD-Scheme/EAA-Certificate-Programme-in-Practice)

*(Note: the programme is conducted in Cantonese at this stage. The EAA will study the feasibility of conducting the programme in English later.)*



## 「置業按揭精明眼」公開講座 PUBLIC SEMINAR ON “SMART TIPS ON MORTGAGE APPLICATION”



監管局向來重視消費者教育，定期舉辦不同活動教育公眾有關物業交易的注意事項。鑑於過去兩年舉辦的公開講座均反應熱烈，監管局於2017年3月25日另外舉辦了一場名為「置業按揭精明眼」的公開講座，吸引了逾450位觀眾出席。

講座由新城財經台主持林潔瑩女士擔任主持，邀請了四名不同界別的講者，包括著名專欄作家及冠域商業及經濟研究中心主席關焯照博士、永隆銀行助理總經理及零售銀行部主管鍾少權先生、監管局牌照委員會委任成員蕭亮鴻測量師及監管局投訴部高級經理陳汝儆律師。席上他們談及影響物業按揭申請的因素，以及物業估價的準則。此外，他們也分享了對樓市走勢的見解，並講解地產代理提供按揭申請相關資料的投訴個案。

是次講座以問答環節作結，觀眾踴躍提問。監管局未來會繼續就其他議題舉辦更多公開講座。

The EAA attaches great importance to consumer education and organises different kinds of events regularly to educate the public of the important points to note during property transactions. Following the positive feedback from the EAA's previous public seminars held in the past two years, a seminar titled “Smart Tips on Mortgage Application” was held on 25 March 2017 with an audience of over 450 people.

The seminar, hosted by Metro Finance Radio programme host Ms Grace Lam, had invited four speakers from different professions, including Dr Andy Kwan, renowned columnist and Director of ACE Centre for Business and Economic Research; Mr Derek Chung, Assistant General Manager and Head of Retail Banking of Wing Lung Bank; Sr Keith Siu, Board-appointed member of the EAA Licensing Committee and Mr Chan U-keng, Senior Manager of Complaints Section of the EAA. Speakers talked about factors affecting a mortgage application and the criteria of property valuation. In addition, they also shared their views on the property market and illustrated some complaint cases concerning estate agents in providing mortgage application related information.

The seminar ended with a “Questions and Answers” session which the audience actively participated in. The EAA will continue to hold public seminars on other topics in the near future.



## **「傑出地產代理獎」— 簡介與進度**

### **“OUTSTANDING ESTATE AGENT AWARD”: INTRODUCTION AND PROGRESS**

為進一步推廣地產代理行業的專業化及肯定傑出業界從業員的成就，監管局自1997年成立以來，首次舉辦「傑出地產代理獎」。

監管局收到約一百份報名表，由不同界別的專業人士組成的初選評審小組會根據參加者的責任感、誠信、優質服務及正面積極四方面進行評分。入圍者將獲邀出席面試，由終選評審小組選出得獎者，得獎結果將會在今年下旬公佈。

監管局期望透過舉辦傑出地產代理獎，進一步鼓勵持牌人提升自我，並為業界帶來長遠的正面影響。

To further promote the professionalism of the estate agency industry and recognise the achievements of the outstanding practitioners in the trade, the EAA first launched the “Outstanding Estate Agent Award” this year since its establishment in 1997.

About one hundred applications were received. The preliminary selection panel formed by professionals of different sectors adjudicated on the entries according to the applicants' level of responsibility, level of integrity, service excellence and positiveness, while the shortlisted applicants will be interviewed by the final selection panel to decide the final winners. The Award results will be announced later this year.

The EAA hopes the introduction of the Outstanding Estate Agent Award will further motivate licensees to develop themselves so as to achieve a long-term positive influence on the trade.

## **關於業主繳納差餉及/或地租的建議**

### **ADVICE TO PROPERTY OWNERS ON RATES AND/OR GOVERNMENT RENT LIABILITY**

差餉物業估價署（「估價署」）近日發文，提醒監管局各持牌人在物業交易之前，提醒客戶有關繳納差餉及/或地租的責任，查閱並繳清所累欠的差餉及/或地租；以及有關繳納人的登記資格及「差餉及/或地租通知書」用途的資訊。任何逾期未繳納的差餉及/或地租均會被徵收附加費，政府也可採取法律行動追收欠款。

為鼓勵持牌人參閱有關資料，監管局已於2017年5月22日上載至監管局網頁（進入「持牌人」>「其他有用資訊」）。

The Rating and Valuation Department (“RVD”) has recently issued an article to remind EAA’s licensees to remind their clients of the liability of rates and/or Government rent; to check and clear any outstanding balance of rates and/or Government rent prior to the transaction of the property; and about the eligibility to register as payer and the purpose of the demands for rates and/or Government rent. Any outstanding balance of rates and/or Government rent will be imposed as a surcharge for late payment and the Government may take legal action to recover the outstanding amount.

To encourage licensees to read the information, it has been posted on the EAA’s website on 22 May 2017 (under “Licensee” > “Other Useful Information”).



## 《非本地學生在香港租屋指南》新小冊子 NEW BOOKLET “TENANCY GUIDE FOR NON-LOCAL STUDENTS IN HONG KONG”

不少非本地學生來港讀書，但基於大學宿位短缺，部分非本地學生需另覓居所。有見及此，監管局出版了一本名為《非本地學生在香港租屋指南》的新小冊子，以協助非本地學生了解在香港租住物業時應留意的要點。

此小冊子闡述有關委任持牌地產代理、訂立《地產代理協議》，及揀選物業要注意的事項。為方便非本地學生閱讀，小冊子設有繁體中文、簡體中文及英文版本。公眾可於本港大學索取，或於監管局網頁瀏覽網上版本，也可親臨監管局辦事處索取。

Due to the high number of non-local students coming to Hong Kong to study and the scarcity of hostel places in universities, some of the non-local students need to look for accommodation elsewhere. To help them understand the important points to note when renting a flat in Hong Kong, the EAA has published a new booklet titled “*Tenancy Guide for Non-local Students in Hong Kong*”.

The booklet illustrates the important points about appointing a licensed estate agent, entering into an estate agency agreement and selecting a property. There are traditional Chinese, simplified Chinese and English versions for non-local students to read easily. The booklet is now available at local universities in Hong Kong, and also on the EAA’s website and at the EAA’s office.



## 恐怖分子或與恐怖分子有聯繫者的更新資料 UPDATING OF SPECIFICATION OF TERRORISTS AND TERRORIST ASSOCIATES

監管局不時接獲保安局通知，有關聯合國安全理事會委員會發出的恐怖分子或與恐怖分子有聯繫者的更新名單。持牌人應採取措施協助打擊洗黑錢活動及留意更新名單。

請留意，聯合國已於2017年5月12日發出恐怖分子或與恐怖分子有聯繫者的更新名單，相關公告已刊於政府憲報內。持牌人可參閱政府的憲報資料 ([www.gld.gov.hk/egazette/pdf/20172119/cgn201721193058.pdf](http://www.gld.gov.hk/egazette/pdf/20172119/cgn201721193058.pdf))，以了解有關詳情。

監管局提醒所有持牌人，如發現任何懷疑洗黑錢個案，應向聯合財富情報組 ([www.jfiu.gov.hk](http://www.jfiu.gov.hk)) 舉報。

The EAA is notified by the Security Bureau regularly on the updates of the list of terrorists and terrorist associates from the United Nations Security Council Committees. Licensees should adopt measures to help combat money laundering activities and pay attention to the updated list.

Please note that the United Nations has issued an updated list of terrorists and terrorist associates and a notice was published in the Gazette on 12 May 2017. Licensees can read the notice at the Government’s Gazette for more details ([www.gld.gov.hk/egazette/pdf/20172119/egn201721193058.pdf](http://www.gld.gov.hk/egazette/pdf/20172119/egn201721193058.pdf)).

The EAA reminds all licensees that any suspicious cases of money laundering should be reported to the Joint Financial Intelligence Unit ([www.jfiu.gov.hk](http://www.jfiu.gov.hk)).



### 客戶私隱保障

## PRIVACY AND DATA PROTECTION OF CLIENTS

自相繼發生選舉事務處一部載有選民登記冊資料的手提電腦懷疑被盜事件及內地智能電話應用程式疑洩露近20億用戶電話的事件，公眾對保障私隱的關注大大提高。

根據《地產代理條例》及《地產代理常規（一般責任及香港住宅物業）規例》，地產代理在進行地產代理工作期間，有可能需要收集客戶的個人資料。因此，地產代理在收集、使用及處理任何個人資料時，應保持警惕，小心處理，並確保遵守《個人資料（私隱）條例》及監管局發出的相關指引。

The suspected theft of a notebook computer containing information of the Register under the Registration and Electoral Office and a smartphone application in the Mainland leaking about two billion phone numbers, have raised public awareness on privacy protection.

Pursuant to the Estate Agents Ordinance and in particular the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation, estate agents may need to collect the personal data of their clients in the course of carrying out estate agency work. That said, estate agents should be vigilant when collecting, using, and handling any personal data to make sure it is in compliance with the Personal Data (Privacy) Ordinance (“PDPO”) and the guidelines issued by the Estate Agents Authority, where applicable.

### 小心處理個人資料

地產代理經常接觸到客戶的個人資料，故必須提高警覺。根據監管局發出有關「核實賣方的身分」的執業通告（編號 16-03 (CR)），地產代理在與賣方訂立地產代理協議時，應記錄其姓名及其身分證或旅遊證件號碼。另外，在安排客戶簽署住宅物業的



### BE VIGILANT WHEN HANDLING PERSONAL DATA

Estate agents must always be vigilant when they handle clients' personal data. According to the practice circular (No. 16-03(CR)) titled “Verifying the Identity of Vendors”, estate agents should record the name of the vendor and the number of his identity or travel document when entering into an estate agency agreement with him.

## 焦點話題 IN FOCUS

臨時買賣協議(「臨約」)前，須取得賣方的身分證或其他身分證明文件的副本。

此外，關於防止「洗黑錢」措施的執業通告(編號08-05(CR))，亦要求地產代理與客戶簽訂臨約時，檢查有關的地產代理協議(或如屬非住宅物業，則有關「睇樓紙」或類似協議)，確保已填妥客戶的姓名、身分證明文件或旅遊證件的種類及號碼，及其地址。地產代理也須由簽訂臨約起計妥善保存上述文件至少五年。

有見及此，為防止個人資料外洩，地產代理應注意資訊保安及私隱保障。

### 資訊保安措施

監管局曾就資訊保安措施發出執業通告(編號09-10(CR))及(編號13-05(CR))，旨在提供指引讓業界參考。例如地產代理公司須制訂權限，限制能接觸敏感資料的員工。此外，除非員工事先取得高級管理層的批准，否則亦不應從辦公室複製或下載資料至個人電腦設備上。在系統保安方面，應在儲存敏感個人資料的伺服器或電腦上安裝反惡意軟件/防毒軟件。再者，地產代理公司及個人持牌人應妥善棄置載有個人資料的文件，例如土地查冊文本及地產代理協議。如發現地產代理公司未能採取措施保護客戶資料而導致資料外洩，該公司有可能違反《個人資料(私隱)條例》。

### 個人資料的使用

至於《個人資料(私隱)條例》也針對使用個人資料而訂立相關守則，地產代理亦要留意。首先，當使用個人資料進行直接促銷前，須取得客戶的同意，並告知客戶他有權要求停止使用其個人資料作直接促銷用途。而每當收到停止使用其個人資料的要求時，應更新「拒絕服務名單」一次，同時把已更新的名單分發到所有參與直接促銷活動的員工。



Moreover, they should obtain a copy of the vendor's identity card or other identification document before arranging for clients to sign a provisional agreement for sale and purchase ("PASP") of a residential property.

In addition, with regard to practice circular (No. 08-05(CR)) on preventive measures on money laundering, estate agents are required to examine the already executed estate agency agreement (or, in the case of non-residential properties, the relevant "property viewing form" or similar document) to ensure that the name, type and number of the identity or travel document and address of the client has been properly recorded upon the client's signing of the PASP. They should also retain the above documents securely for at least five years from the date of the signing of the PASP.

Hence, estate agents should pay attention to information security and privacy protection in order to avoid any leaks of personal data.

## MEASURES ON INFORMATION SECURITY

The EAA has set out guidelines in relation to information security measures in practice circulars (No. 09-10(CR)) and (No. 13-05(CR)) for the trade's reference. For instance, estate agencies should regulate the access rights of their staff to sensitive personal data. Also, staff should not copy official data from their office computers onto their personal computing devices unless approved by senior management. Regarding system security, firewall and/or anti-malware software should be installed on servers or computers where sensitive personal data are stored. Moreover, both estate agencies and individual licensees should dispose of documents containing personal data, such as the land search copies and estate agency agreements, properly after use. If an estate agency is found to have failed to put in place measures to safeguard information security and such failure results in a leak of the client's personal data, they may have breached the PDPO.

另一方面，地產代理不應將客戶的個人資料售予或轉移給第三者以獲取金錢上或類同或其他利益，除非事先取得客戶的書面及自願的同意，並遵守《個人資料(私隱)條例》。因此，若地產代理欲介紹其他服務予客戶，如銀行或財務機構的按揭服務，應先取得客戶的書面同意及遵守《個人資料(私隱)條例》的相關規定。

總括而言，因接連發生網上洩露個人敏感資料的事件及有機會被不法之徒利用，消費者越來越關注私隱的保障。因此，地產代理應妥善存放電腦設備，包括個人電腦、筆記簿型電腦、可移動電腦設備或攜帶式儲存裝置等，以保障客戶的個人資料。

## USE OF PERSONAL DATA

Concerning the use of personal data, there are certain regulations under the PDPO that estate agents should note. Firstly, before using the personal data in direct marketing, consent of the client must be obtained. In addition, estate agents should inform the client of his right to request cessation of using his data for direct marketing purposes. The opt-out list should be updated when an opt-out request is received and distributed to all staff who undertake direct marketing activities.

In addition, estate agents should not sell or transfer clients' personal data to a third party for monetary or in-kind gain or otherwise, unless they have obtained the clients' prior written and voluntary consent and in compliance with the PDPO. Thus, if estate agents would like to introduce other services to their clients, such as banks and financial institutions by referring mortgage services to their clients, they should seek their prior written consent and comply with the relevant provisions of the PDPO.

In conclusion, consumers are now more concerned about privacy protection due to repeated online leaks of sensitive personal data that may be used for fraudulent purposes. Therefore, estate agents should properly safeguard their computing equipments such as desktops, portable computers, mobile computing devices or USB storage devices so as to protect clients' personal data.





蕭澤宇先生，BBS，JP  
Mr Simon SIU Chak-yu, BBS, JP

- 希仕廷律師行合夥人  
Partner, Hastings & Co.
- 環境影響評估上訴委員會主席  
Chairman, Environmental Impact Assessment Appeal Board Panel
- 香港特別行政區護照上訴委員會副主席  
Deputy Chairman, HKSAR Passports Appeal Board
- 審核委員會（電影檢查）主席  
Chairman, Board of Review (Film Censorship)
- 城市規劃上訴委員會委員  
Member, Appeal Board Panel (Town Planning)

## 專訪第28條調查小組主席蕭澤宇先生，BBS，JP An Interview with Mr Simon SIU Chak-yu, BBS, JP, Chairman of Section 28 Investigation Panel

本期《專業天地》專訪了監管局第28條調查小組主席蕭澤宇先生，BBS，JP，了解一下他對業界專業水平的看法，以及他如何從百忙的公職工作中取得平衡。

In this issue of *Horizons*, we interview Mr Simon SIU Chak-yu, BBS, JP, Chairman of the EAA Section 28 Investigation Panel, about his views on the professional standard of the trade and how he maintains a work-life balance with his busy public services.

**問：**監管局成立至今已近二十年。你對地產代理業界的發展及表現，尤其是近幾年你加入了監管局之後，有何看法？

**Q：** The EAA has been established for almost 20 years. What are your views on the development and performance of the estate agency trade, particularly in these few years after you joined the EAA in 2014?

**答：** 監管局最初誕生之時，地產代理行業並無任何規例可循，以致業內有很多問題。監管局的主要職能是規管香港地產代理的執業、推動業界行事持正及加強行業培訓以提升從業員的競爭力及專業操守。經過監管局多年來的規管和不斷的教育工作，業界的服務水平大致已比以前提升不少。加入監管局董事局後，我對地產代理行業的實務和營商環境有更多的了解，明白到從業員之間的競爭激烈，因此，違反相關規例及指引的情況偶有發生，因而無可避免地影響業界的整體形象。我同時也有機會認識一些參加監管局董事局或委員會工作的業界人士，他們對推動業界的正面發展抱有強烈的信心，也願意為提升服務水平做出貢獻。我相信，隨着

**A：** The EAA was born at a time when there were no regulations for the estate agency trade and there were numerous issues in the industry. The principal functions of the EAA are to regulate the practice of the estate agency trade in Hong Kong, promote integrity and competence within the trade, and facilitate training for practitioners to ensure competency and a proper standard of conduct. Through the EAA's regulatory work and the continuous educational efforts over the years, the trade at large has reached a more advanced standard of service. I gained a better understanding of the practice and business environment of the estate agency trade after I joined the EAA Board, and I appreciate that competition is fierce among practitioners. As a result, there were occasional cases of non-compliances of the relevant rules and practice directions which inevitably adversely affect the trade's overall image. That said, I also have the chance to meet some trade members, through their participation on the EAA's Board or committee affairs, who have strong faith in driving the positive development of the trade



愈來愈多從業員具備誠實、公正及專業能力的條件去服務公眾，地產代理行業在未來會繼續為客戶提供優質服務。

**問：**你在監管局於2016年9月舉辦的公開講座「住宅物業開門七件事」中擔任嘉賓講者，可否分享一下你對當天觀眾反應的感受？你認為現今的置業人士是否比以前精明呢？

**答：**我很榮幸有機會參與在去年九月的公開講座。觀眾的反應非常正面，顯示他們對此主題十分感興趣，值得注意的是購買物業是一項重要的決定，因其會涉及到大量金錢及長期的抵押融資。對我來說，能與公眾面對面分享我的所知，並與來自其他專業的其他講者進行豐富的討論，是一次很好的經驗和機會。

從當日觀眾提出的大多數問題來看，我覺得消費者已認識到他們的權益和保障的需要，而且可能比以前更為精明。這是令人鼓舞的，因為大家都希望消費者能夠在置業時做出明智的決定。多得監管局在消費者教育方面的努力，例如舉辦這種公開講座，讓消費者了解及具備各種有關物業交易時各方面的知識。

**問：**你作為一位執業律師，同時擔任多項公職，可否和讀者分享一下，你如何從百忙中取得平衡？

**答：**坦白說，我沒有特別的心得。我是執業律師，而且擔任多項公職。每個人對「工作與生活平衡」都有不同的看法，而我個人的見解也很簡單，就是視乎你怎樣安排自己的生活方式。假如我們在日常生活或規律的基礎上，即工作、家庭、朋友和自身中都找到成就感和滿足感，生活自然就會取得平衡。

and are always willing to contribute in elevating the standard of service. I believe the trade will move forward towards quality service in the future, as more and more practitioners embrace the importance of honesty, integrity and competence in providing service to the public.

**Q :** You were one of the distinguished speakers for the EAA's public seminar on key information of residential properties in September 2016. Could you share with us your feelings on the audience' response and do you think that property buyers are more informed nowadays than in the past?

**A :** It was my honour to be given the opportunity to participate at the public seminar last September. The response from the audience was very positive as they were very interested in the subject, bearing in mind that purchasing a property is an important decision usually involving substantial payments and long term mortgage finance. It was a good experience and opportunity for me to share my limited knowledge with the public face-to-face, and to have a fruitful discussion with the other speakers who were from other professions.

From the many questions the audience raised that day, I perceive that the consumers were aware of their interests and need for protection, and probably more informed than in the past. It is encouraging as we all hope that consumers are able to make well-thought out decisions in home buying. Thanks to the EAA's effort in consumer education, such as this kind of public seminar, consumers are more equipped with the know-how and various aspects of knowledge regarding property transactions.

**Q :** You are a practising lawyer and have a number of public services. Could you share your tips with our readers on how you manage your busy schedule and maintain a work-life balance?

**A :** To be frank, I do not have any useful tips. Indeed I have an active legal practice, and a number of public services. "Work-life balance" is a concept which people may have different views about. My thinking is simply how you design your lifestyle. Life will deliver to us the balance we desire, if we find achievements and enjoyment, on a daily or regular basis, in all the important aspects that make up our life, namely, work, family, friends and self.

### 紀律研訊個案：違規追收佣金

## DISCIPLINARY HEARING CASE: NON-COMPLIANCE IN CHASING COMMISSION

### 引言

持牌人在追收佣金時，不應有違規的行為而導致地產代理行業信譽或名聲受損，否則有可能被監管局紀律處分。

### INTRODUCTION

Licensees should not misbehave in a way which may bring discredit and/or disrepute to the estate agency trade when chasing commission. Otherwise, they may be subject to disciplinary action by the Estate Agents Authority.

### 事件經過

一名地產代理經營一間地產代理公司業務。在安排一名準租客視察物業後，該地產代理在未有與準租客簽訂地產代理協議的情況下，便安排準租客及業主雙方簽訂正式租約。在簽署租約後，地產代理向租客收取9,500元的代理佣金，即相當於半個月租金金額。

該租客表示，由於他未有與地產代理簽訂任何地產代理協議，故拒絕支付有關佣金。他只提出支付一張5,000元的支票及一封1,000元的利是予該代理，但該代理拒絕收取。

其後，該代理去信予租客所任職的公司，指出其員工拒絕繳付代理佣金，並披露該租客的個人資料。租客對該代理的此一舉動大感不滿，遂向監管局作出投訴。

### INCIDENT

An estate agent operated an estate agency company. He arranged for a prospective tenant to inspect a property and then entered into a tenancy agreement with the landlord but he did not enter into an estate agency agreement with the tenant. After signing the tenancy agreement, the estate agent requested the tenant to pay a commission of \$9,500, which was equal to half of the monthly rent.

The tenant refused to pay as he did not enter into any estate agency agreement with the agent. He only proposed to offer the agent a cheque of \$5,000 and pocket money of \$1,000 as courtesy, but the estate agent refused to accept the offer.

Later, the estate agent sent a letter to the company that the tenant worked for, saying that the tenant refused to pay commission to him and disclosed the personal information of the tenant in the letter. Feeling aggrieved by the estate agent's misdemeanour, the tenant lodged a complaint with the EAA.

### 研訊結果

監管局紀律委員會認為，地產代理不可向第三方披露有關租客的個人資料。

該地產代理違反了《操守守則》第3.7.2段：「地產代理和營業員應避免做出可能令地產代理行業信譽及/或名聲受損的行為」。

考慮到個案的性質、持牌人的違規紀錄及同類個案的罰則，該地產代理結果被譴責及罰款10,000元。

### RESULT

The EAA Disciplinary Committee was of the view that the agent should not disclose personal information about the tenant to a third party.

The Disciplinary Committee found that the estate agent was in breach of paragraph 3.7.2 of the *Code of Ethics*, which stipulates: "estate agents and salespersons should avoid any practice which may bring discredit and/or disrepute to the estate agency trade."

Having considered the nature and gravity of the case and the disciplinary record of the estate agent, the estate agent was reprimanded and fined \$10,000.



香港專業地產顧問商會榮譽會長  
汪敦敬先生  
**Mr Lawrance Wong Dun-king**  
Honorary President of Hong  
Kong Chamber of Professional  
Property Consultants Limited

### 業界回應

地產代理行業已進入專業年代，從業員提供服務時有不少指引和程序可依循，當中亦有法例規定從業員要保障客人的利益及私隱。專業持續進修計劃是一個重要的環節，從業員要不斷去吸收新知識，與時並進。

### COMMENT FROM TRADE

The estate agencies are getting professional. There are guidelines and procedures for practitioners to follow when providing service to clients so as to protect the clients' interest and privacy. Continuing Professional Development Scheme is also important for them to gain up-to-dated information from the market.

## 紀律研訊個案：發布含錯誤物業資料的廣告 DISCIPLINARY HEARING CASE: ISSUING AN ADVERTISEMENT WITH INCORRECT PROPERTY INFORMATION

### 引言

持牌人應盡量小心和盡一切應盡的努力於廣告中提供正確的物業資料，否則有可能被監管局紀律處分。

### INTRODUCTION

Licensees should exercise due care and due diligence in providing correct and accurate property information in advertisements. Otherwise, they may be subject to disciplinary action by the Estate Agents Authority.

### 事件經過

監管局接獲一宗匿名投訴，指一間地產代理公司於公司網頁上發布違例的物業廣告。

該廣告是關於一個面積994平方呎的單位，放售價為1,350萬元。但是，監管局經調查後發現，該單位其實是由兩個業主分別持有的獨立單位；而不是如廣告中所指的單一物業。兩個單位的實用面積分別為498及496平方呎，放售價均為700萬元。

### INCIDENT

The EAA received an anonymous complaint that an estate agency company had issued a non-compliant property advertisement on its company website.

The advertisement was about a 994-square-foot unit with a listed price of \$13.5 million. However, upon investigation, the EAA found that the said property was composed of two individual units which were owned by two different owners. It was not a single property as stated in the advertisement and the listed price of both properties was \$7 million each and the saleable area of the two units was 498 and 496 square feet respectively.

### 研訊結果

監管局紀律委員會認為，該地產代理公司沒有盡量小心和盡一切應盡的努力確保廣告中的物業資料正確無誤，因而違反了《操守守則》第3.5.1段：「地產代理和營業員在履行職務時必須盡量小心和盡一切應盡的努力。」

考慮個案的性質、持牌人的違規紀錄及同類個案的罰則後，委員會決定譴責該地產代理公司及罰款22,000元。

### RESULT

The EAA Disciplinary Committee was of the view that the estate agency company failed to exercise due care and due diligence in ensuring the accuracy of the property information when issuing the advertisement for the properties. Therefore, it was in breach of paragraph 3.5.1 of the *Code of Ethics*, which stipulates: "Estate agents and salespersons shall, in fulfilling their duties, exercise due care and due diligence".

Having considered the nature and gravity of the case and the disciplinary record of the estate agency company, the Committee decided to reprimand the estate agency company and impose a fine of \$22,000.



香港地產代理商總會主席  
謝順禮先生  
**Mr Calvin Tse Shun-lai**  
**Chairman of Hong Kong Real Estate Agencies General Association**

### 業界回應

作為專業的地產代理在刊登物業廣告時，必須確保廣告中的物業資料正確無誤，避免客人失去預算及招致損失。

### COMMENT FROM TRADE

Professional estate agents should ensure the validity of the property information when issuing property advertisement to avoid over budget of the clients.





## 持續專業進修講座 CPD SEMINAR

### 以轉讓公司股權形式買賣物業可能帶來的風險 Possible Risks Arising from Purchasing and Selling of Properties by Way of Transfer of Company Shares

在政府推出一系列應對樓市過熱的措施之後，有物業市場參與者考慮以轉讓公司股權形式買賣物業，希望藉此節省印花稅。但是，地產代理從業員在客戶沒有法律意見之下安排客戶協議轉讓有限公司股權是不適當的，並且具有高度風險。為了提醒從業員以轉讓公司股權形式買賣物業可能帶來的風險，監管局於2017年3月14日及6月8日舉辦了兩場相關的講座，分別以中文及英文授課。

監管局邀請了特許公認會計師公會代表鄭傑樂先生主講是次講座。鄭先生為持牌人講解甚麼是以轉讓公司股權形式買賣物業及與轉讓公司股份有關的稅項及財務安排，並提醒持牌人有關以轉讓股權形式買賣物業可能帶來的風險。兩場講座皆反應熱烈，共有超過540名參加者投入參與，並表示鄭先生的分享十分實用。

In response to the Government's introduction of some measures to curb the overheated property market, some property market players have been considering purchasing or selling properties by way of transfer of company shares, in an attempt to make savings in payment of stamp duties. However, it is inappropriate and highly risky for the estate agency trade practitioners to arrange for

their clients to enter into agreements for sale and purchase of shares of limited companies without legal advice. In order to remind practitioners of the possible risks arising from purchasing and selling of properties by way of transfer of company shares, the EAA organised two CPD seminars on the subject, including a Chinese session on 14 March 2017 and an English session on 8 June 2017.

At these seminars, Mr Wilson Cheng, representative of the Association of Chartered Certified Accountants, was invited to explain to the participants the meaning of purchasing and selling of properties by way of transfer of company shares and the taxation and financial arrangements relating to transfer of company shares. Also, Mr Cheng drew licensees' attention to the possible risks arising from purchasing and selling of properties by way of transfer of company shares. These seminars were very well received by over 540 licensees and many licensees commented that the seminar was very informative.



# 執業問與答

## PRACTICE Q&A

在《專業天地》內，我們會解答與持牌人執業息息相關的一些常見提問。  
In *Horizons*, we will answer selected enquiries commonly raised by licensees concerning estate agency practice.

問：我的親屬是一幢住宅物業中的其中一位業主，該幢物業的樓齡超過60年，而全體業權人同意將整幢大廈出售予一發展商。假如她及其他單位的業主委託我獨家代理該大廈的出售事宜，而我亦代表欲洽購該大廈的發展商行事，我需要向其他單位業主及該發展商申報我與她的關係嗎？

Q：My relative is one of the flat owners of a residential building aged over 60 years. All the owners agree to sell that building to a developer. If she and other flat owners appoint me as the exclusive agent for the sale of the whole building and I act for the developer as well, do I need to disclose my relationship with my relative to other flat owners of the building and the developer?

答：根據監管局發出的《操守守則》，地產代理和營業員應避免就本身有實益利益的物業提供服務，在有可能/潛在利益衝突的情況下，則必須向各方詳盡披露因該物業而獲得的金錢或其他實益利益，並向客戶全面披露所有相關的事實，讓客戶有機會自行決定是否繼續進行有關的交易，或是否繼續委託該名代理。就處理住宅物業而言，如存在金錢上的或其他實益的權益的話，持牌人須在訂明的「地產代理協議」中申報詳情。

A：According to the *Code of Ethics* issued by the EAA, estate agents and salespersons should avoid accepting an appointment involving a property in which they have a beneficial interest. In the event of any potential conflict of interest, estate agents and salespersons should make a full disclosure to the client of all the relevant facts, so as to give the latter an opportunity to decide whether to continue with the proposed transaction or the appointment of the agent. In dealing with residential properties, licensees must disclose the details of the pecuniary or other beneficial interests they have in the property concerned in the prescribed estate agency agreement.

問：在簽署住宅物業的臨時買賣協議時，我的賣方客戶只願意出示其身分證明文件作核實其身分之用，但拒絕讓我影印以備存副本，我可以怎樣做？

Q：Upon signing a provisional agreement for sale and purchase of a residential property, what can I do if my vendor client only agrees to show his identification document to me for verification of his identity but refuses to let me make a copy of it?

答：持牌人可向客戶解釋根據《地產代理常規（一般責任及香港住宅物業）規例》第13(3)條，為避免在任何住宅物業的買賣協議中在身分方面有具欺詐成分的失實陳述，持牌人須採取所有切實可行的步驟，以確保賣方的姓名或名稱正確，如賣方屬一名個人，則該等步驟可包括向賣方收取一份身分證的副本或其他身分證明文件的副本。另外，持牌人可向客戶保證他們在收集、使用和處理個人資料時，會遵守《個人資料（私隱）條例》的六項保障資料原則，以釋除客戶的疑慮。

A：Licensees can explain to clients that according to Section 13(3) of the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation, a licensee shall, for the purpose of avoiding the fraudulent misrepresentation of identity in an agreement for sale and purchase of a residential property, take all practicable steps to ensure that the name of the vendor is correct, and if the vendor is an individual, the licensee may collect a copy of the vendor's identity card or other identification document. In addition, licensees can relieve clients' concerns by assuring them that they will properly follow the "Six Data Protection Principles" under the Personal Data (Privacy) Ordinance when collecting, using and handling personal data.

### 「壓力測試」與「供款與入息比率」 “S” FOR “STRESSED-DSR”



一般而言，銀行在審批按揭貸款申請時，會使用「供款與入息比率」及對申請人進行「壓力測試」，以評估其還款能力。「供款與入息比率」是指按揭借款人的每月償還債務佔每月收入的比率。因此，即使購買同一單位，不同財務狀況的申請人，可獲批的按揭貸款金額也未必一樣。

持牌人應注意，「供款與入息比率」和壓力測試的結果只是影響按揭貸款額的其中兩個因素。有鑑於香港金融管理局會因應不同市況而推出新物業按揭監管措施，持牌人應多加留意，以確保能盡責地向客戶提供準確資訊。其實，持牌人應建議準買家直接向有關銀行及財務公司查詢有關按揭貸款的條款，避免作出失實陳述。

此外，持牌人亦應謹記，根據監管局發出的執業通告（編號13-04（CR）），持牌人不得向準買家聲稱可保證其將成功取得購買有關物業按揭貸款或獲得其希望的按揭條款。過去亦曾有不少個案，持牌人曾向買家保證其必可獲得某一成數的按揭貸款，最終買家卻只獲批成數較低的金額，導致買家無法完成交易，有關的持牌人因而被投訴，最終被監管局紀律處分。

Generally speaking, when approving mortgage loan applications, banks will use a debt-servicing ratio (“DSR”) test and also perform a “stress test” on the applicants in order to assess their repayment ability. The DSR refers to the monthly repayment obligations of the borrower as a percentage of monthly income. That said, due to the different financial situations of the applicants, the amount of mortgage loans being granted may not be the same even if they purchase the same property.

Licensees should note that the DSR and the result of the stress test are only two of the factors affecting the amount of mortgage loan being granted. In addition, as the Hong Kong Monetary Authority might introduce new supervisory measures on property mortgages in response to the market conditions, licensees should pay attention to and be fully conversant with the measures and provide accurate information to their clients in a responsible manner. In fact, licensees should refrain from making any misrepresentation and advise prospective purchasers to seek advice directly from the banks and financial institutions on the terms and conditions of the mortgage loan.

Furthermore, licensees should bear in mind that according to the Practice Circular (No. 13-04(CR)) issued by the EAA, licensees must not make any statement to assure prospective purchasers that they will successfully obtain a mortgage loan or the desired terms to finance their purchase. There were cases in the past in which licensees had assured prospective purchasers that a certain amount of mortgage loan could be obtained but in the end only a lesser amount of mortgage loan was approved and the purchasers could not complete the transaction. It led to complaints by the purchasers and the licensees were disciplined by the EAA.

# 活動紀要

## EVENTS AND ACTIVITIES

**2017·03·18**

為增加員工歸屬感，監管局為其下員工及親友舉辦西貢地質公園生態遊活動，共渡愉快的一天。

To promote the sense of staff belonging, the EAA organises a field trip to the geopark in Sai Kung for EAA staff, their families and friends. All the participants enjoy the scenery and have a wonderful day.



**2017·03·31**

監管局於西營盤舉辦持牌人「聚焦小組」會議，與出席的持牌人交流意見。

The EAA organises a focus group meeting with licensees in Sai Ying Pun and exchanges views with the attending licensees on their practice.



## 2017-04-06

監管局與香港地產代理商總會進行會議，討論有關財經事務及庫務局就《打擊洗錢及恐怖分子資金籌集（金融機構）條例》與指定非金融企業及行業有關的修訂建議及意見。

The EAA holds a meeting with the Hong Kong Real Estate Agencies General Association to discuss about the proposed amendment by the Financial Services and the Treasury Bureau of the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (Cap. 615) regarding designated non-financial businesses and professions.



## 2017-06-08

監管局主席梁永祥太平紳士，SBS（右三）及行政總裁韓婉萍女士（左二），出席香港地產代理商總會舉辦的慶祝香港回歸晚宴。

Chairman of the EAA, Mr William Leung Wing-cheung, SBS, JP (third from the right) and the EAA's Chief Executive Officer, Ms Ruby Hon Yuen-ping (second from the left), attend the Celebration Dinner for the Establishment of the HKSAR held by the Hong Kong Real Estate Agencies General Association.



# 統計數字

## STATISTICS

### 考試 EXAMINATIONS

#### 地產代理資格考試 ESTATE AGENTS QUALIFYING EXAMINATION

考試日期  
Examination date  
21/3/2017

參加人數  
No. of candidates  
**1,145**

合格率  
Pass rate  
**45.7%**

#### 營業員資格考試 SALESPERSONS QUALIFYING EXAMINATION

考試日期  
Examination date  
25/4/2017

參加人數  
No. of candidates  
**1,235<sup>^</sup>**

合格率  
Pass rate  
**41.7%\***

<sup>^</sup>包括15名成績待定的考生  
Inclusive of 15 candidates whose results are still pending  
\*待上述的15名考生的成績確定後，此合格率可能須作修正  
Subject to such changes as may be necessary after  
ascertaining the pending results of the 15 candidates

### 牌照數目 (截至2017年5月31日) NUMBER OF LICENCES (AS AT 31/5/2017)



營業員牌照  
Salesperson's Licence  
**20,170**



地產代理(個人)牌照  
Estate Agent's Licence (Individual)  
**17,234**

個人牌照總和  
Total no. of individual licences

**37,404**

地產代理(公司)牌照  
Estate Agent's Licence (Company)

**3,411**

### 營業詳情說明書 (截至2017年5月31日) NUMBER OF STATEMENTS OF PARTICULARS OF BUSINESS (AS AT 31/5/2017)



合夥經營  
Partnerships  
**208**



獨資經營  
Sole proprietorships  
**1,615**



有限公司  
Limited companies  
**4,752**



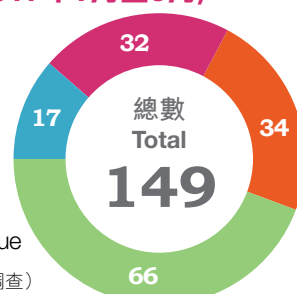
總數 Total  
**6,575**

### 接獲的投訴 (2017年1月至5月) NUMBER OF COMPLAINT CASES RECEIVED (JANUARY TO MAY 2017)

**144**

### 已處理的投訴個案結果\* (2017年1月至5月) RESULTS OF COMPLETED COMPLAINT CASES\* (JANUARY TO MAY 2017)

- 指稱成立 Substantiated
- 指稱不成立 Unsubstantiated
- 資料不足 Insufficient information to pursue
- 其他(例如投訴人撤回投訴或因其他原因而終止調查)  
Others (include cases withdrawn or closed because of other reasons)



\* 部分是往年接獲的個案 some cases were carried over from previous years

## 巡查次數 (2017年1月至5月)

### NUMBER OF COMPLIANCE INSPECTIONS (JANUARY TO MAY 2017)



## 巡查發現主動調查的個案 (2017年1月至5月)

### NUMBER OF CASES ARISING FROM SELF-INITIATED INVESTIGATIONS DURING INSPECTIONS (JANUARY TO MAY 2017)

**35** 主動調查的個案  
Cases arising from self-initiated investigations

**28** 主動調查而指稱成立的個案\*  
Cases completed from self-initiated investigations and were substantiated\*

\* 部分是往年展開調查的個案 some cases were carried over from previous years

## 向持牌人或前持牌人採取的行動\* (2017年1月至5月)

### ACTIONS TAKEN AGAINST LICENSEES OR EX-LICENSEES\* (JANUARY TO MAY 2017)

有關的持牌人或前持牌人人數  
No of licensees or ex-licensees



#### 行動

#### ACTIONS TAKEN

訓誡/譴責  
Admonishment/  
reprimand  
**76**

罰款  
Fine  
**52**

於牌照附加/更改條件  
Attachment/ alteration of  
conditions to licence  
**65**

暫時吊銷牌照  
Suspension  
**6**

撤銷牌照  
Revocation  
**6<sup>#</sup>**

\* 向持牌人或前持牌人作出的行動是根據《地產代理條例》而作出的判決，當中有部份可能屬於紀律性質，包括在發牌時或在其他情況下於牌照上附加條件。  
These actions were taken pursuant to powers under the Estate Agents Ordinance. Some actions may be disciplinary in nature and others not, and they include the attachment of conditions to licences whether upon issuance or otherwise.

# 這些個案由牌照委員會裁定。理由是持牌人不再符合相關發牌條件。

These cases were decided by the Licensing Committee on the ground that the licensees concerned no longer meet the relevant licensing requirements.



**地產代理監管局 Estate Agents Authority**

香港灣仔皇后大道東183號合和中心48樓  
48/F, Hopewell Centre, 183 Queen's Road East, Wanchai, Hong Kong

☎ (852) 2111 2777

💻 [www.eaa.org.hk](http://www.eaa.org.hk)