



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.

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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.

