



小心推銷非住宅物業

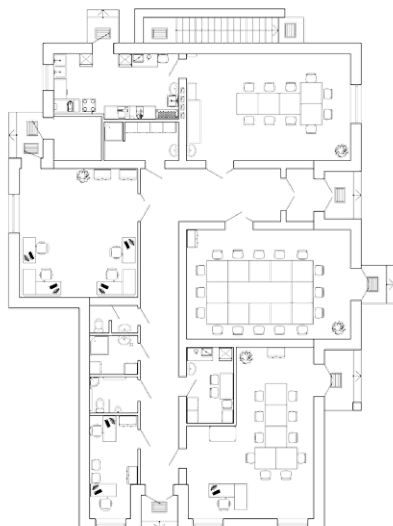
BE CAREFUL WHEN PROMOTING NON-RESIDENTIAL PROPERTIES

根據土地註冊處資料，2017年8月份非住宅物業買賣協議的註冊量較7月份有所上升。一般而言，非住宅物業的交易涉及的問題較住宅物業複雜。有見及此，監管局早前發出新執業通告，為持牌人就處理非住宅物業的買賣或租賃的若干重要事項提供指引，該執業通告將於2017年10月1日生效。

核實資料為先

新執業通告提醒持牌人在處理非住宅物業的買賣及租賃時，必須向客戶提供正確的物業資料。地產代理作出任何陳述前，須採取所有合理步驟及盡一切努力核實有關資料，倘若該等資料未能核實，便應如實告知客戶。

According to information of the Land Registry, the number of agreements for sale and purchase of non-residential properties received for registration in August 2017 recorded an increase when compared that in July 2017. In general, the issues involved in the sale and purchase of non-residential properties are more complicated than those of residential properties. In light of the aforesaid, the EAA issued a new Practice Circular setting out guidelines for licensees on certain important issues pertaining to the proper practice and measures in handling the sale and purchase or leasing of non-residential properties. The Circular will take effect on 1 October 2017.



VERIFYING THE INFORMATION BEFOREHAND

The new circular reminds licensees that they must provide accurate property information to clients when handling the sale and purchase or leasing of non-residential properties. Estate agents should also take all reasonable steps and exercise all due diligence to verify the information before making any representation. If such information cannot be verified, they should inform their clients accordingly.

提供樓面面積資料

一些地產代理或會將賣方所提供的樓面面積資料用於廣告上；然而，市場上對非住宅物業的樓面面積的描述，並沒有統一或普遍採納的定義。因此，地產代理如提供非住宅物業的樓面面積資料，該等資料必須是從合理來源取得，或是基於恰當的根據下提供的。

此外，倘若該等資料未能核實，持牌人在廣告中則須清楚述明該樓面面積資料未經其核實。

PROVISION OF FLOOR AREA INFORMATION

Some estate agents may state in the advertisements the floor area information of non-residential properties obtained from the vendor. However, there is no standardised definition of any description of floor area in the market for non-residential properties. Therefore, estate agents may only provide floor area information of a non-residential property if such information was obtained from a reasonable source or there was a proper basis to rely on for providing such information.

Moreover, if the floor area information cannot be verified, they should clearly state in the advertisement that the floor area information has not been verified.



查閱入伙紙上的許可用途

物業的許可用途一般會列明於佔用許可證（俗稱「入伙紙」）上。如入伙紙已發出，地產代理須確保他們向客戶提供的資料是來自該物業的入伙紙，同時須告知他們，除入伙紙外，在有關樓宇所座落的土地的政府批地書及／或有關樓宇的公契亦可能載有限制有關物業作特定用途的條文，及建議客戶如有需要應尋求法律或專業意見。假如相關入伙紙尚未發出，他們則須告知客戶無法核實該非住宅物業的許可用途；並建議客戶尋求法律或專業意見。

CHECK THE OCCUPATION PERMIT FOR PERMITTED USE

Generally speaking, the permitted use of a property is stated on the Occupation Permit ("OP"). When licensees provide information on the permitted use of a non-residential property and where the OP relating to the property has been issued, estate agents must provide such information as stated on the relevant OP, inform their clients that apart from the OP, the relevant Government Grant and/or the Deed of Mutual Covenant may also contain user restrictions and advise their clients to seek legal and/ or professional advice, if necessary. If the OP has not been issued, they should inform their clients that the permitted use of the property cannot be verified, and advise them to seek legal and/or professional advice.

留意閣仔及閣樓是否違規建築工程

在處理附有閣仔或閣樓的非住宅物業時，地產代理應小心查看有關的入伙紙，以核實該閣仔或閣樓的合法性。當無法核實該非住宅物業的閣仔或閣樓是否合法時；則應提醒客戶購買附有違例建築工程的物業所涉及的風險，及視乎需要尋求法律或專業意見。

BEWARE OF ILLEGALITY OF COCKLOFTS AND MEZZANINE FLOORS

When dealing with a non-residential property which has a cockloft or mezzanine floor, estate agents should check the relevant OP carefully so as to ascertain the legality of such cockloft or mezzanine floor. When the legality of the cockloft or mezzanine floor cannot be verified, they should alert their clients to the risks of purchasing such properties having unauthorised building works, as well as the need to seek legal and/ or professional advice thereon.





未建成樓宇內或樓宇內 未完成分間的非住宅物業

購買未建成樓宇內或樓宇內未完成分間的非住宅物業作投資亦十分普遍。在大多數情況下，在買賣雙方訂立買賣協議之前，買方並沒有機會視察有關物業。因此，地產代理須向買方提供清晰及準確的物業資料(例如：由賣方擬備的最新版本之售樓說明書、樓面平面圖及/或價單)致使他們可在知情的情況下作出決定。

在處理非住宅物業的買賣或租賃時，除執業通告(編號17-02(CR))外，地產代理亦須依循監管局發出的所有其他通告載列的指引，只要該等指引並沒有明確指明僅關乎住宅物業及/或不關乎《地產代理常規(一般責任及香港住宅物業)規例》中僅適用於住宅物業的條文。

非住宅物業的銷售可涉及繁複細節，地產代理執業時必須盡量小心，不可向客戶作出任何具誤導性的陳述。至於消費者，在與賣方訂立買賣合約前，則應先了解清楚與物業有關的資料，及在有需要時先尋求法律及/或專業意見，才作出購買的決定。

UNCOMPLETED BUILDING OR UNCOMPLETED SUBDIVISION OF ANY PART OF A BUILDING

Buying non-residential properties in an uncompleted building or an uncompleted subdivision of any part of a building for investment is quite common nowadays. In most cases, the purchasers do not have the opportunity to view the property before they enter into the agreement for sale and purchase with the vendor. Hence, estate agents are required to provide clear and accurate property information to their clients, such as the latest versions of the sales brochures, floor plans and/or price lists prepared by the vendor, to enable them to make an informed decision.

In addition to Practice Circular (No. 17-02(CR)), estate agents, when handling the sale and purchase or leasing of non-residential properties, are also required to follow the guidelines set out in all other circulars issued by the EAA, in so far as the guidelines are not specifically referable to residential properties only and/or to the provisions of the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation which are applicable to residential properties only.

As the sale of non-residential properties may involve complicated issues, estate agents should always exercise due care in their practice and must not make any misleading representation to their clients. As for consumers, they should, before entering into an agreement for sale and purchase with the vendor, obtain all the relevant information related to the property for consideration and seek legal and/or professional advice, where necessary, before making a purchase decision.

