

地產代理監管局
ESTATE AGENTS AUTHORITY

專業地 **HORIZONS**

www.eaa.org.hk

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客戶盡職審查：

了解您的客戶

Customer Due Diligence:

Know your clients



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韓婉萍
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行政總裁
Chief Executive Officer

“持牌人一旦被證實在進行地產代理工作期間干犯涉及暴力案件，會被撤銷牌照，並於最少三年內不獲發牌，現在我們正研究加長有關年期。”

“Once a licensee is found to have committed a crime involving violence during his estate agency work, his licence will be revoked and he will not be granted a new one for at least three years. We are now studying the extension of the relevant period.”

劣行令人蒙羞 Bad behaviour brings disgrace

近期發生一連串地產代理在一手住宅銷售處打架的事件，再加上有地產代理懷疑在被監管局職員發現違規後反而誣衊本局人員，這些行為絕對不能接受，令整個行業以至監管局都蒙羞，筆者強調，監管局職員必定會繼續堅守崗位，堅決懲處任何違規或挑戰監管局職權的行為，並對不適合擁有牌照的人士撤銷其牌照。

發生這些劣行之後，自然引來一眾市民及輿論的劣評如潮，不論閱報或看網上文章，看到的是公眾指摘代理是「地產爛仔」或「地產流氓」之類的說話，而行業的反應卻是互相卸責，「大行」指摘「細行」不依規矩，「細行」則指摘「大行」採用人海戰術，總言之，亂得一團糟。

筆者曾多番苦口婆心勸誡業界要珍惜羽翼，未料現在更變本加厲。局方只好研究收緊指引及加強處分，治亂世，唯有用重典。

除了加強對銷售處的巡查，監管局與多間發展商取得共識，多間發展商已決定禁止地產代理公司的無牌員工參與推銷、倘若再有代理打架則扣減其公司佣金及禁止該公司及／或有關員工再參與推銷等。

此外，監管局已著手研究加重對違規代理及其公司的處分。根據現時的政策，持牌人一旦被證實在進行地產代理工作期間干犯涉及暴力案件，會被撤銷牌照，並於最少三年內不獲發牌，現在我們正研究加長有關年期。

至於地產代理公司如被證實未有設立妥善制度管理其前線員工在一手樓盤銷售點的操守與秩序，亦會被紀律處分，最高懲罰包括撤銷牌照，公司也有可能被我們除牌。希望各持牌人及地產代理公司三思和正視問題！

The recent incidents in which estate agents fought at the sale sites of first-hand residential properties and the suspected slander of EAA staff by non-compliant estate agents is absolutely unacceptable, and has brought disrepute to the entire trade and even the EAA. I would like to emphasise that EAA staff are determined to continue to discharge our duties faithfully, sanction any acts of non-compliance or challenges to the authority of the EAA, and will revoke the licences of those not suitable to hold one anymore.

These intolerable incidents inevitably aroused waves of criticism from the public and media. One could read in newspapers or on online articles the public criticising or labelling estate agents as “gangsters” or “rogues”. Meanwhile, the trade’s response was to blame each other. The big operators blamed the small operators for not following the rules, while the small operators accused the big ones for using a large number of staff to outnumber competitors on site. In short, it is a mess.

I repeatedly reminded the trade to demonstrate self-respect and restraint, and did not expect the situation to worsen. It gives the EAA no choice but to tighten the guidelines and impose heavier sanctions. Desperate times call for desperate measures.

In addition to stepping up inspections of first-sale sites, the EAA has reached an agreement with a number of developers. They will ban unlicensed employees of estate agency companies and deduct commissions from and prohibit those companies and/or their employees involved in fights, from participating in their sales and promotion.

Moreover, the EAA has also started to study increasing the sanctions imposed on non-compliant agents and their companies. According to the current policy, once a licensee is found to have committed a crime involving violence during his estate agency work, his licence will be revoked and he will not be granted a new one for at least three years. We are now studying the extension of the relevant period.

As regards estate agency companies, if they have been found to have failed to establish a proper system to manage the conduct and order of their front-line staff at first-sale sites, they will also be disciplined. The maximum penalty imposed on licensees (including companies) is revocation of licence. I hope that all licensees and estate agency companies will think twice before acting!

監管局助業界了解更多關於反洗錢事宜

The EAA helps the trade to understand more on anti money laundering ("AML")

保安局及財務特別行動組織（「特別組織」）在 2018 年 3 月 9 日於香港為指定非金融行業人士及其監管機構舉行一場相互評估簡介會，在監管局的安排下，共有 17 名業界代表及 9 名監管局代表出席。會上，特別組織的代表為出席者簡介相互評估的概覽及為今年第四季進行的相互評估所要做的準備工作。

為協助地產代理業界對反洗錢及反恐怖分子資金籌集規定的執業通告有更深入的了解，同時提高大眾的認知，包括提供所需資料及文件予地產代理以符合有關要求，監管局於 2018 年 4 月向逾 6,000 間地產代理商舖派發教育套材。

該教育套材包括一份方便從業員向客戶解釋新指引要求的宣傳單張、一張供業界張貼於店內以提醒前線從業員及客戶的海報，以及上述執業通告的中文版印刷本。

監管局鼓勵業界於店內善用此套材，以便他們熟習相關指引，同時促進他們與客戶就此事宜有更佳溝通。

The Security Bureau and Financial Action Task Force ("FATF") held a pre- Mutual Evaluation ("ME") briefing for the designated non-financial businesses and professions and their regulators in Hong Kong on 9 March 2018. With the coordination of the EAA, 17 trade representatives and nine representatives from the EAA attended the briefing. During the briefing, the FATF representatives gave the attendees an overview of the ME process and the necessary preparation work for the upcoming ME scheduled for the fourth quarter of 2018.

To help the estate agency trade better understand the practice circular on combatting money laundering and terrorist financing ("ML/TF"), and to raise the awareness of consumers on the need to provide necessary information and documents to enable estate agents to comply with the relevant requirements, the EAA distributed an educational kit to over six thousand estate agency shops in April 2018.

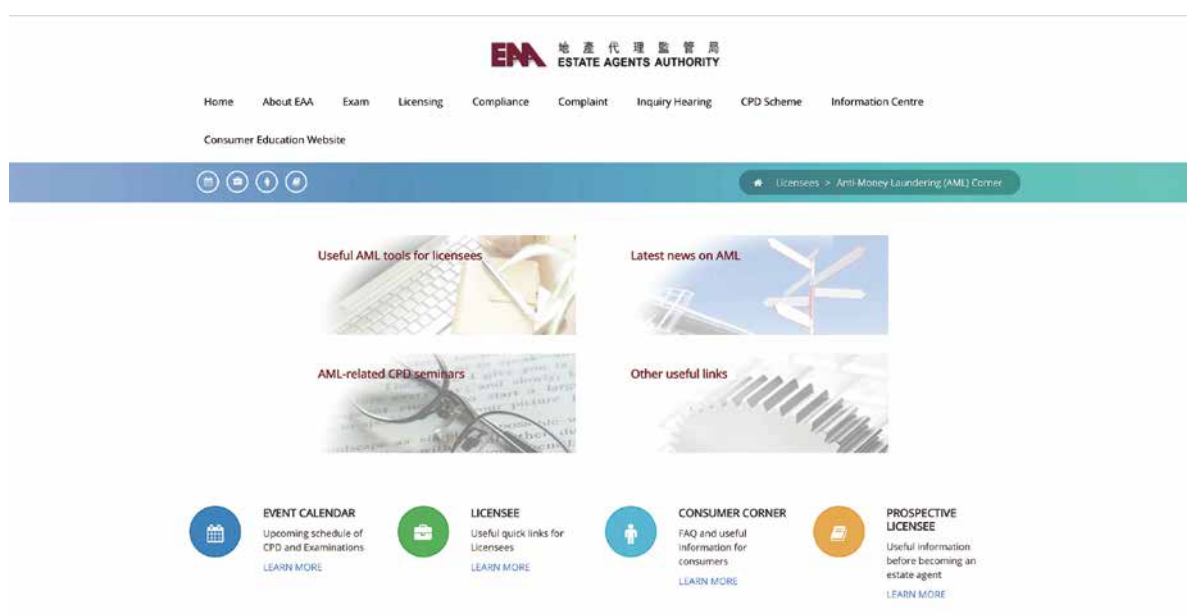


The educational kit includes a leaflet for the practitioners to explain the new requirements to their clients, a poster to post in shops to remind both frontline practitioners and customers of the subject, and a printed copy of the abovementioned practice circular in Chinese.

The EAA encourages the trade to fully utilise the kit at their shops so as to familiarise themselves with the guidelines and foster a better communication with their clients on the subject.

監管局網站新設的「反洗錢資訊專區」包含大量豐富的相關資訊，監管局鼓勵持牌人多加閱覽。該專區設於網站內的「持牌人」>「反洗錢資訊專區」(www.eaa.org.hk/zh-hk/Licensees/Anti-Money-Laundering-AML-Corner)。

A new designated “AML corner” containing a lot of useful and related information is also newly created at the EAA’s website: “Licensees” > “AML corner” (www.eaa.org.hk/Licensees/Anti-Money-Laundering-AML-Corner). Licensees are encouraged to visit the corner frequently.



另外，香港政府於 2018 年 4 月 30 日出版了一本香港洗錢及恐怖分子資金籌集風險評估報告，研究香港有關行業及整體所面對的洗錢及恐怖分子資金籌集威脅及脆弱度。持牌人可於打擊洗錢及恐怖分子資金籌集活動的政府網頁 (www.fstb.gov.hk/fsb/aml/tc/doc/hk-risk-assessment-report_c.pdf) 閱覽該報告。

Moreover, the Hong Kong Government has published the Hong Kong’s Money Laundering and Terrorist Financing Risk Assessment Report on 30 April 2018. It examines the ML/TF threats and vulnerabilities facing various sectors in Hong Kong and the city as a whole. Licensees may read the report at the homepage of Anti-Money Laundering and Counter-Financing of Terrorism of the Hong Kong Government (www.fstb.gov.hk/fsb/aml/en/doc/hk-risk-assessment-report_e.pdf).

監管局推出有關購買一手樓的全新小冊子 EAA's new booklet on purchasing first-hand property

為教育大眾委託地產代理購買一手住宅物業時須注意的事項，監管局最近推出全新的消費者教育小冊子，名為《做個精明一手樓買家》。小冊子以漫畫形式，透過趣味性手法向公眾傳遞委託地產代理購買一手住宅物業的資訊及錦囊。

新小冊子的網上版本亦已上載至監管局網頁（「資訊中心」>「刊物」）及監管局消費者教育網站（smart.eaa.org.hk）。印刷版則可於監管局辦事處及民政事務總署轄下的各區民政諮詢中心索取。

In order to equip the public with the points-to-note when appointing estate agents in the purchase of first-hand residential properties, the EAA published a new consumer education booklet titled "Be a Smart Purchaser of First-hand Property". It shares the tips on appointing estate agents in the purchase of first-hand residential properties in comics to deliver the messages to the public in an interesting and attractive way.

The online version of the booklet has been posted on the EAA's website ("Information Centre" > "Publications") and the EAA's consumer website (smart.eaa.org.hk), while printed copies are available at the office of the EAA and all Home Affairs Enquiry Centres of the Home Affairs Department.



《物業管理服務條例》下的徵款

Levy under the Property Management Services Ordinance

監管局接獲物業管理業監管局通知，由 2018 年 7 月 1 日開始，用以轉讓香港不動產（包括住宅物業及非住宅物業）之售賣轉易契下的承讓人，均須繳付徵款予物業管理業監管局，以支持其日常運作。持牌人應通知買方客戶有關以上的徵款。

物業管理業監管局是自負盈虧的法定機構，根據《物業管理服務條例》成立，負責規管在香港提供物業管理服務的公司及物業管理人；維持和提升物業管理業的專業地位。

根據該條例下的《物業管理服務（徵款）規例》，自 2018 年 7 月 1 日起，徵款適用文書下的承讓人（一般指購買人），須在徵款適用文書簽立後的 30 日內繳付徵款港幣 350 元。

監管局建議持牌人詳細閱讀物業管理業監管局的小冊子 (www.pmsahk.org.hk/images/information/levy_leaflet_tc.jpg)，並瀏覽該局網頁的相關資訊 (www.pmsahk.org.hk)，如有查詢，請致電 3696 1111 與物業管理業監管局聯絡。

The EAA was informed by the Property Management Services Authority ("PMSA") that with effect from 1 July 2018, transferees under conveyances on the sale of the immovable properties (both residential and non-residential) in Hong Kong are liable to pay a levy to the PMSA to support its daily operation. Licensees are advised to inform purchaser clients about the levy.

PMSA is a self-financing statutory body established in accordance with the Property Management Services Ordinance ("PMSO") to regulate the provision of property management services by companies and practitioners in Hong Kong. It also aims at maintaining and enhancing the status of the profession of property management services.

According to the Property Management Services (Levy) Regulation under the PMSO, starting from 1 July 2018, the transferee (generally refers to the purchaser) under a leviable instrument is liable to pay the levy of \$350 within 30 days after the leviable instrument is executed.

Licensees are advised to read the details on the PMSA leaflet (www.pmsahk.org.hk/images/information/levy_leaflet_en.jpg) and the related information at the PMSA website (www.pmsahk.org.hk). For further enquiries, please contact the PMSA at 3696 1111.



監管局獲僱員再培訓局嘉許為「人才企業」

The EAA was acknowledged as a “Manpower Developer” by the Employees Retraining Board

監管局獲僱員再培訓局舉辦的「人才企業嘉許計劃」嘉許為「人才企業」，監管局連續第二年獲此嘉許。

該計劃旨在表揚在人才培訓及發展工作有卓越表現的機構。監管局致力提供各類資源，支持員工的事業發展，並提高他們的專業競爭力。



The EAA was acknowledged as a “Manpower Developer” under the “Manpower Developer Award Scheme” by the Employees Retraining Board. It was also the second consecutive year the EAA was being acknowledged.

The scheme recognises organisations which demonstrate outstanding achievements in manpower training and development. The EAA is committed to providing various kinds of resources to support the career development of our staff and enhance their professional competencies.

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，同時須查閱並繳清所累欠的差餉及/或地租。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。

此外，業主於物業成交後，應儘快通知估價署更新繳納人的姓名及/或通訊地址。監管局建議持牌人瀏覽本局網頁（進入「持牌人」>「最新消息及提醒」）閱讀該文章。

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 and the responsibility to check and clear any outstanding balance of rates and/or Government rent prior to the transaction of the property. 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.

Moreover, property owner should inform RVD of the change in registered owner’s name and/or correspondence address as soon as possible after completion of purchase. Licensees are advised to read the article by visiting the related news posted in the EAA’s website: “Licensees” > “News and reminders”.



客戶盡職審查：了解您的客戶 Customer Due Diligence: Know your clients

香港作為國際金融中心，實在有必要確立一套有效的制度以打擊洗錢及恐怖分子資金籌集。由於物業交易涉及洗錢或恐怖分子資金籌集的風險，地產代理、物業買賣雙方均有責任協助打擊此罪行。

根據監管局發出的相關執業通告（編號 18-01 (CR)），地產代理須進行客戶盡職審查，以減低洗錢/恐怖分子資金籌集的風險。今期《專業天地》將為從業員介紹有關執行客戶盡職審查的程序，以協助他們了解該通告的要求。

As an international financial centre, it is essential for Hong Kong to establish an effective system to combat money-laundering and terrorist financing. Since property transactions involve the risk of money-laundering or terrorist financing (“ML/TF”), estate agents, property purchasers and vendors all have the responsibilities in combating such crime.

According to the relevant Practice Circular (No.18-01(CR)) issued by the EAA, licensees are required to conduct customer due diligence (“CDD”) in order to mitigate the risk of ML/TF. In this issue of *Horizons* we will introduce the procedures relating to CDD so that practitioners may better understand the requirements set out in the Practice Circular.

焦點話題

In Focus

通告的適用範圍

Application of the Practice Circular

首先，執業通告所載的指引適用於香港參與涉及為客戶買賣地產物業交易的持牌人，不論該物業位處於香港境內或境外，一手還是二手物業，住宅物業還是非住宅物業。



Firstly, the guidelines set out in the Practice Circular are applicable to licensees when they are involved, in Hong Kong, in a transaction concerning the buying and selling of real estate for a client, no matter whether the property is situated in or outside Hong Kong and no matter whether it is a first-hand or second-hand, residential or non-residential property.

此外，就《打擊洗錢及恐怖分子資金籌集條例》（「《打擊洗錢條例》」）而言，執行盡職審查的時間為訂立物業買賣合約的時候。

In addition, for the purpose of Anti-Money Laundering and Counter-Terrorist Financing Ordinance (“AMLO”), CDD is only applicable when an agreement for sale and purchase of a property is entered into.

身分核實表格

Identity verification form

為遵守《打擊洗錢條例》及執業通告的規定，持牌人須取得識別客戶及核實客戶身分所需的所有資料，以及識別與客戶有關之實益擁有人（如有）及核實實益擁有人身分所需的所有資料。持牌人可採用監管局設計的身分核實表格（已上載於網頁）進行客戶盡職審查。倘若有人聲稱代表客戶行事，持牌人除要識別及核實該代表的身分外，還要核實其代表客戶行事的授權。

To comply with the AMLO and the Practice Circular, licensees are required to obtain all the information necessary for identifying and verifying the identity of the client and also for identifying the beneficial owner (if any) and verifying the identity of the beneficial owner. For this purpose, licensees may adopt the identity verification form designed by the EAA (uploaded on website) to carry out the CDD. If a person purports to act on behalf of the customer, then apart from identifying and verifying the representative's identity, licensees are also required to verify the representative's authority to act on behalf of the customer.

持牌人可對客戶給予洗錢／恐怖分子資金籌集風險評級，在進行評估時應考慮一系列因素，持牌人可參閱相應的身分核實表格當中與風險評級有關的部分以了解詳情。

Licensees may also assess the ML/TF risks of their customers by assigning a ML/TF risk rating to them. In determining the risk rating, a list of factors should be considered. Licensees may refer to relevant section on risk assessment of the respective identity verification forms for details.

另外，為識別及核實客戶身分所取得的與交易有關的文件的正本或副本，以及有關數據及資料的紀錄，必須在自有關業務關係終止之日或有關交易完成的日期起計至少 5 年期間內備存。

In addition, the original or a copy of the documents and a record of the data and information obtained in the course of identifying and verifying the identity of each customer and those documents and record in connection with the transaction should be kept for a period of at least five years beginning on the date on which the business relationship ends or the transaction is completed.

加強消費者教育

Strengthening consumer education

監管局明白有部份客戶可能因不知悉《打擊洗錢條例》對地產代理的要求而不願意提供其個人資料及/ 或不容許持牌人備存他們的身分證明文件。為此，監管局已經印製教育套材予業界，協助他們向其客戶解釋有關新要求。同樣，監管局亦透過不同的媒體，向公眾解釋業界在收集客戶的個人資料時，需要遵從一系列指引，而收集所得的資料是受到保障的。

總括而言，有效的溝通可減少爭拗及誤會。透過與客戶解釋持牌人要執行客戶盡職審查的目的，並確保客戶的個人資料會受到保障，相信客戶會更願意合作，以協助打擊洗錢及恐怖分子資金籌集的活動。

The EAA understands that some customers may not be aware of the requirements imposed on estate agents under the AMLO and hence unwilling to provide licensees with their personal information and/or allow licensees to retain copies of their identity documents for record. Hence, the EAA has already produced educational kits for the trade to facilitate them to explain to consumers the new requirements. Likewise, the EAA has already conveyed to the public, through different media platforms, that there are guidelines for the trade on the collection and protection of clients' personal information so that the information collected will be well protected.

To conclude, disputes and misunderstandings could be eliminated by effective communication. By better explaining to consumers why licensees have to conduct CDD, coupled with a better assurance on the protection of clients' personal information, we believe consumers will be more willing to cooperate and play their roles in combating ML/TF.





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Member, Employees Retraining Board (2012-2018)
僱員再培訓局「地產代理業行業諮詢網絡」召集人
Convenor, Real Estate Agency, Industry Consultative Networks, Employees Retraining Board

監管局成員汪敦敬博士 Dr Lawrance WONG Dun-king, Member of the EAA

本期《專業天地》專訪了監管局的地產代理業界成員汪敦敬博士，了解一下他對監管局與業界的關係，以及對業界發展的看法。

In this issue of *Horizons*, we interview Dr Lawrance WONG Dun-king, member of the EAA from the estate agency trade sector, about his views on the relationship between the EAA and the trade, and the development of the trade.

問：作為監管局董事局中的業界代表成員，你覺得監管局與業界的關係如何？

Q: As a trade representative member of the EAA Board, what do you think of the relationship between the EAA and the trade?

答：我覺得監管局與業界有一個很好的關係，大家溝通得很好。這不僅是我作為監管局董事局成員的緣由，事實上我擔任商會代表十多年，一直有和監管局溝通，這方面是很重要的，因為市場資訊變化萬千，局方和業界有需要互相補足及支持，共同締造多贏的局面。做地產代理生意，能夠保障到客戶的利益，便可賺到客戶的口碑和信任，等同保障了自己；因此，監管局要求我們保障客戶的利益，亦即等同保障了業界。監管局把業界的執業及操守規範化，是對業界一個保障，為業界劃出一條清楚的界

A: I think the EAA has a very good relationship and communication with the trade. I have this impression not only because I am a member of the EAA Board. In fact, I have been a trade representative for more than a decade and I have always communicated with the EAA. This is very important because market information is ever changing and there is a need for the EAA and the industry to complement and support each other to create a win-win situation. By protecting the interests of customers, the estate agency business can earn customers' word-of-mouth recommendations and trust; which means protecting the trade's own interests. In other words, the EAA is in fact protecting the trade by requesting us to protect our customers' interests. In providing a standard for the trade's practices and ethics, the EAA protects the trade and sets a clear boundary enabling practitioners to know what they can and cannot

線，令從業員知道孰可為、孰不可為，以及有否為客戶盡力，多年來相當成功，保障到業界之餘也保障了消費者。

do, and whether they are doing their best for their customers. The mechanism has worked well for years and it protects the trade as well as consumers.

問：監管局的工作不單面對業界，還有公眾、政府和其他持份者，你作為業界代表，如何平衡各方利益？

Q: The work of the EAA not only faces the trade, but also the public, the government and other stakeholders. As a trade representative, how can you strike a balance for the interests of all parties?

答：我認為要取得平衡，一點也不困難。因為彼此的目標一致，都是為了保障消費者。地產代理行業本身是服務行業，做生意不能只為了滿足自己，更重要是令消費者滿意。始終，消費者花上大筆金錢來買樓，地產代理工作應要盡量滿足客戶要求，同時不時檢討自己做得是否正確和足夠。我本身做街坊生意多年，一向認為，保證到服務質素，就可以保護到公司形象。因此，無論監管局、業界或其他持份者，都以保障消費者為同一方向，要取得平衡或多方共贏並非難事。

A: I think it is not difficult at all to achieve a balance. Our goals are common and we all aim at protecting consumers. Estate agency business is a service industry. We aim not only to satisfy ourselves but most importantly the consumers. After all, consumers spend a large amount of money to purchase a property. Estate agency practitioners should try their best to meet customer expectations and requirements, and review from time to time whether their services are proper and sufficient. I have been doing neighbourhood business for many years and have always believed in protecting our corporate image through upholding our quality of service. Therefore, as the EAA, the trade and other stakeholders are in unison in protecting consumers, it is not difficult to achieve a balanced or multi-win situation.

問：近年投身地產代理行業人數不斷增加，你覺得是一件好事嗎？

Q: In recent years, the number of people joining the estate agency trade has continuously increased. Do you think it is a good thing?

答：理論上，任何行業都應該歡迎有更多新力軍加入，這樣才是行業的健康發展。不過，我認為，經營者在不斷聘請新人入行的同時，也應要關心一下他們是否有足夠的「開單」機會，例如公司有否為他們提供足夠的培訓和資源，而不是只顧不斷聘請，令到一間分行人數太多，同事之間互相競爭太激烈。我認為經營者應要用心考慮企業運作的設計，不應麻木使用人海戰術。倘若只顧要人數眾多，當中卻不幸良莠不齊的話，對公司或行業的形象都並非是一件好事。

A: In theory, any industry should welcome more newcomers, so that the trade can develop healthily. However, I believe that while business operators are constantly hiring new recruits, they should also be concerned about whether they have provided enough opportunities for their staff. For instance, the company should consider whether they have provided the new recruits with adequate training and resources, instead of just continuing to hire more people and creating fierce competition between colleagues because of too many staff in a branch office. I think that business operators should carefully consider their corporate business design and should not use human tactics without consideration. If they only focus on hiring a large number of people and some of those staff are not up to standard, the outcome would jeopardise the image of the company or the trade.

誠信與你

Integrity in Focus

紀律研訊個案 Disciplinary hearing case

不可向準買家提供或提出提供貸款 Must not offer or make loans to a prospective purchaser

引言

持牌人在參與一手住宅物業銷售時，不得向準買家提供或提出提供貸款，不論是否用以游說準買家簽訂臨時合約或作任何其他用途，否則有可能被監管局紀律處分。

Introduction

Licensees must not offer or make loans to a prospective purchaser of first-hand residential properties, no matter whether in order to persuade a prospective purchaser to enter into the Preliminary Agreement for Sale and Purchase, or for any other purpose. Otherwise, they may be subject to disciplinary action by the EAA.

事件經過

一名地產代理營業員與其同事安排兩名準買家視察某一手住宅樓盤的示範單位。在視察期間，該名營業員向準買家表示，可在其沒有支付任何款項的情況下向其提供 200,000 元的本票以供遞交購樓意向登記之用。那兩名準買家其實是監管局職員，其後向該名營業員表露其身份。

Incident

A salesperson and her colleague arranged for two prospective purchasers to view a show flat of a first hand residential development. During the viewing of the show flat, the salesperson told the prospective purchasers that a cashier order in the sum of \$200,000 could be arranged for them to submit a registration of intent and they did not have to provide money on the spot in exchange for the cashier order. The prospective purchasers were actually EAA staff and identified themselves to the salesperson subsequently.

研訊結果

監管局紀律委員會認為該營業員違反了執業通告（編號 13-04 (CR)）的指引及監管局發出的《操守守則》第 3.2.1 段：「地產代理和營業員應熟悉並必須在執業時遵守《地產代理條例》、其附屬法例、本操守守則，以及由監管局不時發布的所有其他指引。」

考慮到個案的性質及該營業員的違規紀錄，委員會決定譴責該名營業員、罰款 10,000 元、暫時吊銷其牌照 7 日，並在其牌照上附加條件，要求她取得持續專業進修計劃下的 12 個學分。

Result

The EAA Disciplinary Committee found that the salesperson failed to comply with the guidelines set out in Practice Circular No. 13-04(CR) and thus were in breach of paragraph 3.2.1 of the *Code of Ethics* issued by the EAA, which stipulates: “Estate agents and salespersons should be fully conversant with the EAO, its subsidiary legislation, this Code of Ethics, and other guidelines issued by the EAA from time to time and shall observe and comply with them in the course of their practice.”

Having considered the nature and gravity of the case, and the disciplinary record of the salesperson, the Committee decided to reprimand her, impose on her a fine of \$10,000 and suspend her licence for seven days. A condition was also attached to her licence requiring her to obtain 12 points under the EAA’s Continuing Professional Development Scheme.



蕭亮鴻先生
地產代理人員協會副主席
Mr Keith Siu
Vice-Chairman of Property
Agents Association

業界回應 Comment from trade

代理有責任向客人提供專業的服務及保障客人的利益。當中包括向客人提供足夠及準確的物業資訊，亦要向客人清楚講解買賣的手續，財務安排事宜及風險。不應只顧佣金而不斷催促客人簽署臨時買賣合約，更不應向準買家提供貸款以繳付訂金。買家一旦簽了合約就不能取消，若買家因一時衝動作了錯誤決定而最終未能完成交易，所有訂金都會化為烏有。

Estate agents should provide a professional service to clients and protect their interests by providing them with accurate property information, clearly explaining the procedures, the financial arrangements and the potential risks of any transaction. They should not, for the sake of a commission, urge clients to enter into a provisional agreement for sale and purchase ("PASP"), or even offer loan(s) to prospective purchasers for the payment of a deposit. A PASP cannot be cancelled once it has been signed. If a purchaser rushes into a wrong decision and does not complete the transaction, they would have to forfeit their deposit.

紀律研訊個案 Disciplinary hearing case

銷售一手住宅物業的違規行為 Non-compliance in the sale of first-hand residential properties

引言

持牌人在參與一手住宅物業銷售時應遵守監管局指引，並在樓盤銷售點保持良好的秩序，否則有可能被監管局紀律處分。

Introduction

Licensees should maintain good order at first-sale sites and comply with the guidelines issued by the EAA when participating in the promotional activities of first-hand residential properties. Otherwise, they may be subject to disciplinary action by the EAA.

事件經過

監管局職員在一個新住宅發展項目的銷售點進行巡查時，發現一名男子手持該項目的宣傳單張在行車道上招攬生意。

當監管局職員乘坐的車輛駛近時，該名男子衝向該汽車，並詢問車上的其中一名職員有否興趣參觀示範單位。該名男子原來是一名持牌營業員，但他當時並沒有佩戴地產代理證及/或職員證，其後在監管局職員的要求下才展示其地產代理證。

Incident

During a patrol operation at the first-sale site of a new residential development, EAA staff discovered a man standing on the carriageway soliciting business with promotional leaflets of that development in hand.

When the EAA's car approached, he rushed to the car and asked one of the EAA's staff in the car whether he was interested to have a viewing of the show flat. The man, who was not wearing an estate agent card and/or a staff card at that time, was later found out to be a licensed salesperson. He only showed the EAA staff the estate agent card after he was requested to do so.

誠信與你

Integrity in Focus

研訊結果

監管局紀律委員會認為該營業員違反了執業通告（編號 16-02(CR)）的指引，即站在行車道上或攔截車輛，對駕駛人士和其他道路使用者構成危險。此外，根據該執業通告，所有由地產代理公司調派往一手樓盤銷售點的持牌員工須佩戴地產代理證及/或職員證。因此，該營業員違反了監管局發出的《操守守則》第 3.2.1 段：「地產代理和營業員應熟悉並必須在執業時遵守《地產代理條例》、其附屬法例、本操守守則，以及由監管局不時發布的所有其他指引。」

考慮到個案的性質及該營業員的違規紀錄，委員會決定訓誡及譴責該名營業員、罰款 2,000 元、暫時吊銷其牌照 14 日，並在其牌照上附加條件，要求他取得持續專業進修計劃下的 12 個學分。

Result

The EAA Disciplinary Committee found that the salesperson failed to comply with the guidelines of Practice Circular No.16-02(CR) by standing on the carriageway and intercepting vehicles, which endangered the safety of drivers and other road users. In addition, according to the Circular, all licensed staff of estate agency companies deployed to first-sale sites must wear an estate agent card and/or a staff card. Thus, the salesperson was in breach of paragraph 3.2.1 of the *Code of Ethics* issued by the EAA, which stipulates: “Estate agents and salespersons should be fully conversant with the EAO, its subsidiary legislation, this Code of Ethics, and other guidelines issued by the EAA from time to time and shall observe and comply with them in the course of their practice.”



Having considered the nature and gravity of the case, and the disciplinary record of the salesperson, the Committee decided to admonish and reprimand him, impose on him a fine of \$2,000 and suspend his licence for 14 days. A condition was also attached to his licence requiring him to obtain 12 points under the EAA's Continuing Professional Development Scheme.



郭德亮先生
香港房地產代理業聯會主席
Mr Tony Kwok
Chairman of Hong Kong
Property Agencies Association

業界回應 Comment from trade

參與銷售一手住宅物業的從業員必須遵守地產代理監管局以及一手住宅物業銷售監管局的規例及指引，尤其市場聚焦一手新盤，地產代理更應注意其言行操守，個別從業員的違規或不當行為，將嚴重影響行業的整體形象。

Practitioners must comply with the regulations and guidelines of the Estate Agents Authority and the Sales of First-hand Residential Properties Authority when participating in the sale of first-hand residential properties. With first-hand developments being the primary focus of the property market, estate agents should be mindful of their conduct and behaviour. Non-compliance or misconduct of individual practitioners can tarnish the overall image of the trade.

持續專業進修講座 CPD Seminar

「遵守反洗錢及反恐怖分子資金籌集規定」

Compliance of Anti-Money Laundering and Counter-Terrorist Financing Requirements



監管局發出一份執業通告：通告編號 18-01(CR) - 「有關地產代理業遵守反洗錢及反恐怖分子資金籌集規定的指引」，提供予持牌人實務導引以協助他們及其管理層在業務上符合《打擊洗錢及恐怖分子資金籌集條例》附表 2 下的打擊洗錢及 / 或打擊恐怖分子資金籌集的相關規定。

為促使地產代理從業員理解他們在打擊洗錢及 / 或打擊恐怖分子資金籌集方面的責任，監管局於 2018 年 3 月 29 日舉辦了兩場分別以英語及廣東話授課，題為「遵守反洗錢及反恐怖分子資金籌集規定」的持續專業進修講座。席間，保安局禁毒處及聯合財富情報組的代表向持牌人講解地產代理就有關客戶盡職審查和備存紀錄的規定以及於舉報可疑交易上的法律責任。監管局代表亦向持牌人詳細講解執業通告：通告編號 18-01(CR) 的指引。這兩場持續專業進修講座合共有 367 人次參加。

The EAA issued a new practice circular, “Circular No. 18-01 (CR) – Guidelines on Compliance of Anti-Money Laundering and Counter-Terrorist Financing Requirements for the Estate Agency Sector”, to provide a practical guidance to assist licensees and their management in compliance with relevant requirements under Schedule 2 to the Anti-Money Laundering and Counter-Terrorist Financing Ordinance.

To enable estate agency trade practitioners to understand their responsibilities in respect of anti-money laundering and counter-terrorist financing, two Continuing Professional Development (“CPD”) seminars titled “Compliance of Anti-Money Laundering and Counter-Terrorist Financing Requirements” were conducted in English and Cantonese respectively on 29 March 2018.

At the seminars, representatives of the Security Bureau and the Joint Financial Intelligence Unit of the Hong Kong Police Force briefed licensees on the customer due diligence and record-keeping requirements for estate agents and their legal obligations to report suspicious transactions. Furthermore, representative of the EAA explained in detail during the seminars the EAA’s guidelines set out in Circular No. 18-01 (CR). These two CPD seminars attracted 367 enrolments in total.

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：假如我透過互聯網處理所有地產代理業務，我是否仍需要一個確實的營業地址？

答：根據《地產代理（發牌）規例》第10條訂明，地產代理於其營業地點以特定營業名稱經營地產代理業務前，須就該地點及名稱向監管局申請批給營業詳情說明書（「說明書」）。

說明書的申請人須遞交由稅務局發出的有效商業登記證副本。監管局會以商業登記證上顯示的營業名稱及地址作為說明書上的資料。請注意，任何地產代理在經營地產代理業務前，不論其是否已向稅務局提出商業登記的申請，均須向監管局提出說明書的申請。然而，《地產代理條例》及其附屬法例對營業地址的要求沒有任何訂明。有關更多詳情，請參閱 www.eaa.org.hk/zh-hk/Licensing/SPOB



Q: Do I need an actual business operation address if I am an estate agent dealing everything with customers through the internet?

A: According to the Section 10 of Estate Agents (Licensing) Regulation, an estate agent is required to apply for a statement of particulars of business ("SPOB") before operating an estate agency business at a particular place of business using a particular business name.

SPOB applicants will be asked to provide a copy of a valid business registration certificate issued by the Inland Revenue Department. The business name and business address appearing in the certificate will be used for the purpose of the SPOB. Estate agents should note that whether they have applied for a business registration with the Inland Revenue Department or not, they must apply for an SPOB before they carry on an estate agency business. However, there is no stipulation in the Estate Agents Ordinance and its subsidiary legislation on the requirements of the business address. To know more, please visit: www.eaa.org.hk/en-us/Licensing/SPOB

何謂「集體投資計劃」？

“C” for “Collective Investment Scheme”



概括而言，《證券及期貨條例》（「該條例」）下的集體投資計劃指涉及任何類型財產而作出安排的計劃，而計劃的參與者對有關財產的管理並無日常控制，該財產整體上是由營辦有關安排的人或代該人管理的，及/或參與者的供款和用以付款給他們的利潤或收益是匯集的，及有關安排的目的是讓參與者能夠收取從取得或管理該項財產而產生的利潤、收益或其他回報。

部分持牌人可能參與在香港或海外的學生宿舍或酒店房間項目銷售的相關宣傳活動。持牌人應注意，視乎有關物業的條款及投資安排，銷售這些物業可能構成集體投資計劃。在未有根據該條例獲事先認可或豁免的情況下，向公眾發出取得集體投資計劃的權益或參與集體投資計劃安排的邀請（如發出廣告及派發宣傳物品）可能會觸犯該條例。

局方提醒持牌人，不應從事可能涉及未被認可的集體投資計劃活動而觸犯該條例。持牌人應參閱該條例的相關條文，以了解更多有關集體投資計劃。如有疑問，應諮詢專業法律意見。

In brief, Collective Investment Scheme (“CIS”), as defined under the Securities and Futures Ordinance (“SFO”), means an arrangement in respect of any property under which the participants do not have day-to-day control over the management, the property is managed as a whole by or on behalf of the person operating the arrangement, and/or the contributions of the participants and the profits or income from which payments are made to them are pooled, and the purpose of the arrangement is for participants to receive profits, income or other returns from the acquisition or management of the property.

Some licensees might act as marketing agent and participate in promotion activities in relation to the sales of student accommodation and hotel room units, both in Hong Kong and overseas. Licensees should note that the sale of these properties might, depending on the terms and investing arrangements of such properties, constitute a CIS and the issuing of any invitation to the public to acquire an interest or participate in the arrangement of CIS (e.g. the advertisements and distribution of promotion materials) without prior authorisation or an exemption applied under the SFO may constitute an offence.

Licensees are reminded not to engage in activities which may involve unauthorised CIS in contravention of the SFO. To understand more about CIS, licensees are advised to refer to the relevant provisions of the SFO, and, in case of doubt, consult professional legal advice.

活動紀要

Events and activities

2018-03-23

監管局於大埔舉辦「聚焦小組」會議，與前線持牌人就其日常執業交流意見。

The EAA exchanges views with frontline licensees on their daily practice at a focus group meeting in Tai Po.



2018-05-30

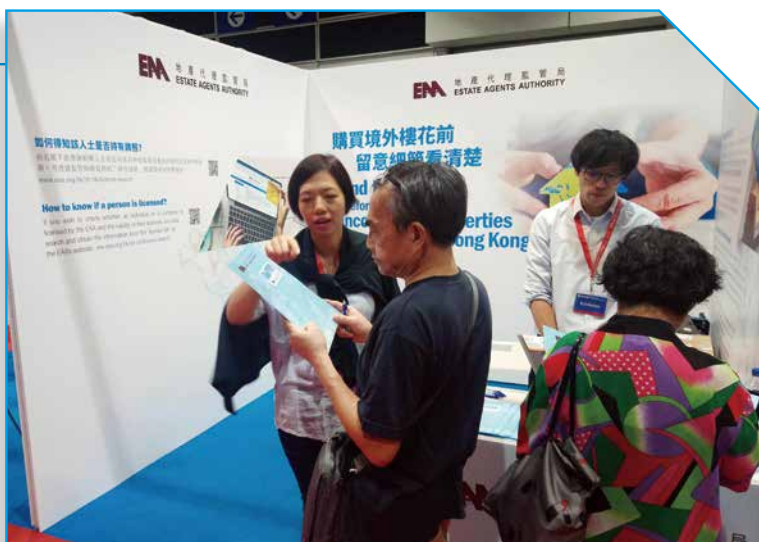
監管局執行及專業發展總監方安妮女士（前排中）於證書頒發典禮上頒發證書予完成監管局實務證書課程第三期的持牌人。

Ms Annie Fonda, Director of Operations and Professional Development of the EAA (center of front row), presents certificates to licensees who completed the third series of the EAA's Certificate Programme in Practice at the certificate presentation ceremony.



2018-06-02 & 2018-06-03

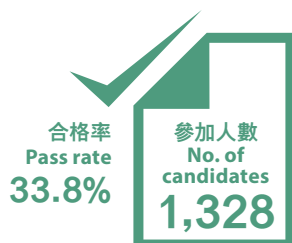
為教育大眾購買香港境外未建成物業時須注意的地方，監管局參加位於香港會議展覽中心舉行的海外物業博覽會，並向公眾派發相關的消費者教育單張。監管局投訴及行動部主管陳汝倣先生並主持相關講座，反應熱烈。



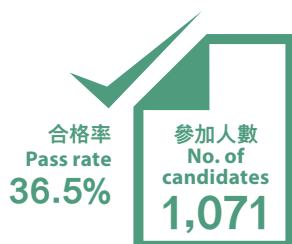
To educate the public on the points-to-note when purchasing uncompleted properties situated outside Hong Kong, the EAA participates in an overseas properties expo at the Hong Kong Convention and Exhibition Centre and disseminates related educational leaflet to the public. Mr UK Chan, Head of Complaints and Enforcement of the EAA, delivers a talk and is well received by the audience.

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
15/5/2018



營業員資格考試
SALESPERSONS
QUALIFYING
EXAMINATION
考試日期
Examination date
17/4/2018

牌照數目 (截至2018年5月31日) (AS AT 31/5/2018) NUMBER OF LICENCES



營業員牌照
Salesperson's Licence
21,268



地產代理(個人)牌照
Estate Agent's Licence (Individual)
17,915



個人牌照總和
Total no. of individual licences
39,183



地產代理(公司)牌照
Estate Agent's Licence (Company)
3,679

營業詳情說明書 (截至2018年5月31日) NUMBER OF STATEMENTS OF PARTICULARS OF BUSINESS (AS AT 31/5/2018)

合夥經營
Partnerships

194



獨資經營
Sole proprietorships

1,639



總數 Total
6,930

有限公司
Limited companies

5,097



開立的投訴 (2018年1月至5月) NUMBER OF COMPLAINT CASES OPENED (January to May 2018)

145

已處理的投訴個案結果* (2018年1月至5月) RESULTS OF COMPLETED COMPLAINT CASES* (January to May 2018)

指稱成立
Substantiated

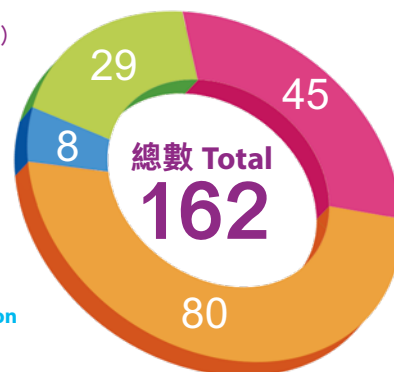
指稱不成立
Unsubstantiated

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



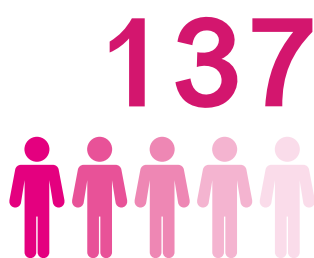
巡查次數 (2018年1月至5月)

NUMBER OF COMPLIANCE INSPECTIONS
(January to May 2018)



向持牌人或前持牌人採取的行動* (2018年1月至5月) ACTIONS TAKEN AGAINST LICENSEES OR EX-LICENSEES* (January to May 2018)

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



巡查發現主動調查的個案 (2018年1月至5月) NUMBER OF CASES ARISING FROM SELF-INITIATED INVESTIGATIONS DURING INSPECTIONS (January to May 2018)

42

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

34

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

行動 Actions Taken

訓誡 / 譴責
Admonishment/ reprimand

89

罰款
Fine

58

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

66

暫時吊銷牌照
Suspension

11

撤銷牌照
Revocation

16[#]


* 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.



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