

銷售香港境外未建成物業 需準備的重要文件

Important documents to be prepared when selling
uncompleted properties outside Hong Kong



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韓婉萍
行政總裁

Ruby Hon Yuen-ping
Chief Executive Officer

“調查發現，公眾對業界的整體看法在這些年來已有所改善。大家都希望這種在公眾眼中的良好形象能夠得以維持。為了實現這一目標，業界必須謹慎行事。”

“The survey revealed that the public's perception of the trade in general has improved over the years. We all hope that the good public image of the trade can be sustained. To achieve this goal, the trade must be prudent in their daily practices.”

業界的公眾形象

The public image of the trade

由 2020年11月1日起，地產代理監管局（「監管局」）有了新一屆的董事局。我們歡迎新任主席廖玉玲太平紳士以及其他新成員。廖主席已經加入了監管局董事局12年，對地產代理行業工作非常熟悉，監管局行政部門期待在她的英明領導下推展工作。

受疫情影響，我們採用了網上平台讓主席向業界和媒體打招呼。在致業界的短片中，主席鼓勵持牌人保持專業態度、誠信守法的良好做法。而在網上的媒體聚會中，主席則與記者分享了我們在2020年聘請獨立專家進行的公眾調查的結果。

筆者也在這裏與《專業天地》的讀者分享一些結果。該調查於2020年7月採訪了1,000名成年的香港居民，詢問他們對香港地產代理的看法。有47%的受訪者對地產代理有良好印象，高於我們上次在2010年進行的調查（35%）。大多數受訪者也同意有關地產代理的正面描述，當中以「積極進取」最為認同（85%），但「有誠信」一項則仍有進步空間（51%）。此外，曾使用地產代理服務的受訪者中，有69%總體上對他們的服務感到滿意，高於2010年調查的結果（60%）。

調查發現，公眾對業界的整體看法在這些年來已有所改善。筆者相信，大家都希望這種在公眾眼中的良好形象能夠得以維持。為了實現這一目標，業界必須謹慎行事。例如，當使用網上平台推廣物業（尤其是一手樓）時，持牌人應遵循所有相關規例。另一個例子是，因為疫情而在家中工作時，持牌人應謹慎處理其客戶的個人資料。在這方面，監管局已在網站上分享了個人隱私專員的最新指引，以供業界參考。

Starting from 1 November 2020, the Estate Agents Authority ("EAA") has a new composition of Board members. We welcome our new Chairman Ms Elaine Liu, JP on board, as well as other new members. Ms Liu has served the EAA Board for 12 years and is very familiar with the work of the estate agency trade. The EAA Administration looks forward to working under her able leadership.

Due to the pandemic, we went online for the Chairman to greet the trade and the media respectively. In the video to the trade, the Chairman encouraged licensees to maintain their good practice with integrity, competence and professionalism. In the online media gathering, the Chairman shared with reporters the findings from the public survey conducted in 2020 by an independent expert engaged by the EAA.

Let me share some of the findings with the readers of *Horizons* too. The survey interviewed 1,000 adult Hong Kong residents in July 2020 and asked them questions about their views on estate agents in Hong Kong. Some 47% of all respondents had a good impression of estate agents, which is higher than the 35% in the previous survey we conducted in 2010. Most of the respondents also agreed with the positive descriptions of estate agents, with the attribute "proactive" ranking highest (85%), while the attribute "integrity" (51%) still has room for improvement. In addition, 69% of the respondents who had ever used estate agents' services were overall satisfied with their services, a proportion higher than the findings of the 2010 Survey (60%).

The survey revealed that the public's perception of the trade in general has improved over the years. I believe we all hope that the good public image of the trade can be sustained. To achieve this goal, the trade must be prudent in their daily practices. For example, when using the online platform to promote properties (particularly first-sale properties), licensees should follow all the relevant guidelines. Another example is, when working from home due to the pandemic, licensees should be careful when handling their clients' personal data. In this regard, the EAA has already shared the recent guidance notes from the Privacy Commissioner for Personal Data on our website for the trade's reference.



銷售香港境外未建成物業 需準備的重要文件

Important documents to be prepared when selling uncompleted properties outside Hong Kong

由於有興趣購買境外物業的香港居民愈來愈多，參與這類物業銷售的地產代理從業員也日漸增多。

不幸的是，我們經常從媒體報導中得知，有不少人在投資境外物業時遇到很差的經歷，當中以未建成物業為甚。正因為處理境外物業銷售非常複雜，尤其是未建成物業，故持牌人必須遵守監管局所發出的相關指引，以向公眾展示，持牌人在銷售香港境外未建成物業時是具有專業的水平。

監管局發出的指引

任何持牌人參與境外未建成物業的銷售時，都必須遵守監管局所發出有關銷售香港境外未建成物業的執業通告（編號17-03(CR)）。

As there is an increasing number of Hong Kong residents interested in purchasing non-local properties, more estate agency practitioners are now participating in the sale of such properties.

Unfortunately, as commonly reported in the media, many people have encountered bad experiences when investing in non-local properties, particularly those related to uncompleted properties situated outside Hong Kong ("UPOH"). As transactions involving non-local properties are very complicated, especially uncompleted ones, licensees must follow the relevant guidelines issued by the EAA when they are involved in the sale of these properties so that they can demonstrate their professionalism to the public when selling UPOH.

Guidelines issued by the EAA

Any licensee who participates in the sale of UPOH must comply with the practice circular on sale of uncompleted properties situated outside Hong Kong (No. 17-03(CR)) issued by the EAA.

根據這份通告，持牌人必須在買方就購買境外未建成物業訂立任何協議或支付任何款項（以較早者為準）之前，向買方提供**四項重要文件**。該些文件和資料詳列如下：

1. 有關賣方及物業的盡職審查報告

為充分了解賣方的背景及境外未建成物業，持牌人必須取得由專業人士、金融機構及/或政府當局發出的盡職審查報告，以確認賣方確實存在，並在法律上有權發展及出售該物業。同時，該報告須確認賣方為完成興建該境外物業的資金來源/財務安排。

此外，該報告須提供該境外物業所屬發展項目的關鍵資料，如位置、批租期、當時的擁有權、當時有效的產權負擔等。

2. 提供由境外未建成物業所在地的執業律師所發出書面法律意見

持牌人需提供根據物業所在地的法律和法規，對境外買家購買、轉售、出租或按揭該等物業是否有任何形式的限制；及如有的話，該等限制的性質的書面法律意見。

上述法律意見必須以中文或英文發出及提供予買方。如該意見以其他語言發出，則須附上中文或英文譯本。

3. 書面警告聲明

持牌人須向買方提供獨立的書面警告聲明，以確認買方了解，他們應：

- 自行就賣方及境外未建成物業進行盡職審查並仔細閱讀所有銷售文件
- 留意購買境外未建成物業存在風險及考慮聘用獨立的律師，以保障其在購買物業每個階段的權益，並在訂立任何協議前尋求其協助，解釋有關文件的條款及條件
- 考慮就適用於其作為境外買家因購買、轉售、出租或持有該等物業而可能需要繳納的稅項或徵費的類別及數額尋求獨立專業意見

According to this circular, licensees must provide **four important sales documents** to purchasers before they enter into any agreement or make any payment in relation to the purchase of the UPOH (whichever is the earlier). Such documents and information are listed as below:

1. Due diligence report(s) regarding the vendor and the property

In order to have a sufficient understanding of the background of the vendor and the property concerned, licensees are required to obtain a due diligence report(s) issued by a professional person, financial institution and/or government authority confirming that the vendor is in existence and legally entitled to develop and sell the property. Also, the report(s) should confirm the vendor's source of funds or financial arrangement in regard to the completion of the property.

In addition, the report(s) should provide key information of the development of which the property form part such as the location, tenure, current ownership, subsisting encumbrances etc.

2. Written legal opinion issued by a lawyer practising in the place where the UPOH are situated

Licensees must obtain a written legal opinion to ascertain whether there are restrictions on foreign purchasers to purchase, resell, lease or mortgage such properties according to the laws and regulations of the place where the properties are situated, and if so, state the nature of such restrictions.

The above legal opinion must be issued and provided to the purchasers in either Chinese or English. If the legal opinion is issued in other languages, a translation in either Chinese or English must be provided.

3. Written warning statement

Licensees are required to provide the purchasers with a separate written warning statement so as to remind and make sure the purchasers understand that they should:

- conduct due diligence on the vendor and the UPOH themselves and review all the sales documents carefully
- pay attention that risks are involved in purchasing UPOH and consider appointing an independent lawyer to protect their interests at all stages of the purchase and seek his assistance to explain the terms and conditions of any agreement in connection with the purchase
- consider seeking independent professional advice on the types and amounts of taxes or levies that they may be liable to pay as foreign purchasers in relation to the purchase, resale, lease or holding of the properties

4. 銷售資料單張

- 持牌人須向買方提供由賣方擬備或獲賣方批准的銷售資料單張。該單張應載有以下資料：發展項目的基本資料、有關物業詳情、付款、冷靜期、保養責任期、財務優惠、法律及翻譯服務、適用的法律及解決爭議的地點的資料、同時附夾相關文件（即就賣方及境外未建成物業發出的盡職審查報告、重要資料的法律意見及上述提及的書面警告聲明）。

除了要提供上述文件予客人外，持牌人必須在發出境外未建成物業的廣告及宣傳物品前，取得賣方就廣告及宣傳物品所載資料的準確性及完整性的明確書面批署。

此外，持牌人在推廣境外未建成物業時必須確保廣告或宣傳物品中清楚述明以下事項：

- 發展許可證或批文編號，以及發出該許可證或批文的有關當局的名稱；
- 買方是否將取得土地權益、建於該土地上的樓宇的權益及/或使用和佔用樓宇內的物業的權利；及
- 有關購買境外未建成物業是複雜及有風險的，以及作出購買決定前尋求獨立專業意見的顯眼聲明。

持牌人要留意，他們不得使用令人認為購買境外未建成物業是「安全」、「低風險」或「無風險」，或能夠在極少或零風險的情況下獲得「高」收益或回報等印象的字眼。

總結

持牌人必須熟悉相關法例及指引以提供準確資料予其客戶。同時，持牌人並應建議買家就其擬定購買的境外未建成物業尋求獨立法律及專業意見，並在作出任何購買決定前，先前往物業所在地進行視察。

4. Sales information sheet for purchasers

- Licensees must provide the purchasers with a sales information sheet related to the UPOH prepared or approved by the vendor. The sales information sheet on UPOH should contain the following information: basic information on the development, information on property details, payments, cooling-off period, defect liability warranty period, financial incentives, legal and interpretation service, governing law and dispute resolution venue as well as the relevant attachments (i.e. the due diligence report(s) on the vendor and the UPOH, legal opinion on the material information, and written warning statement as mentioned above).

Apart from the abovementioned documents to be provided to clients, licensees must obtain the vendor's express endorsement in writing on the accuracy and completeness of the information contained before issuing advertisements or promotional materials to promote the UPOH.

Moreover, when promoting UPOH, licensees must ensure that the following is clearly stated in the advertisements or promotional materials:

- the development permit or approval numbers, and name of the relevant authority which issued the permit or approval;
- whether or not the purchasers are acquiring an interest in the land, the building to be erected thereon, and/or a right to use and occupy the properties in the building; and
- a prominent statement reminding the purchaser that purchasing UPOH is complicated and contains risk, and they should seek independent professional advice before making a purchase decision.

Licensees should note that they must not use words which give the impression that purchasing UPOH is "safe", "low-risk" or "risk-free", or able to obtain "high" yields or returns with little or no risk.

Conclusion

Licensees must familiarise themselves with all the relevant laws and regulations beforehand in order to provide accurate information to their clients. They should also advise purchasers to obtain independent legal and professional advice in relation to their intended purchase of the UPOH, and suggest them conduct site visits of the properties before making any purchase decision.

監管局歡迎新任主席及成員

The EAA welcomes the New Chairman and New Board Members

監管局歡迎政府委任廖玉玲太平紳士接替梁永祥教授 SBS太平紳士於2020年11月1日起出任監管局董事局主席。

監管局同時歡迎政府委任蕭澤宇先生BBS太平紳士出任監管局副主席，以及六位新成員，包括鄭定寧工程師、周偉信先生、黎文軒先生、SBS、FSDSM、FSMSM、潘達恒先生、余智榮先生及徐閔女士。

監管局新一屆董事局於2020年11月25日舉行首次會議，並委任五個常設委員會的主席，以監督監管局不同範疇的工作。各常設委員會的主席名單如下：

The EAA welcomes the Government's appointment of Ms Elaine Liu, JP to succeed Professor William Leung Wing-cheung, SBS, JP as the new Chairman of the EAA Board effective from 1 November 2020.

The EAA also welcomes the Government's appointment of Mr Simon Siu Chak-yu, BBS, JP as the new Vice-chairman, as well as the appointment of six new Board Members, including Mr Albert Cheng Ting-ning; Mr Chow Wai-shun; Mr Lai Man-hin, SBS, FSDSM, FSMSM; Mr Jacob Poon Tat-hang; Mr Yu Chi-wing; and Ms Helen Zee.

The new EAA Board held its first meeting on 25 November 2020 and appointed the chairmen of its five standing committees to oversee various aspects of the EAA's work. The chairmen of the standing committees are as follows:

常設委員會名稱 Name of the Standing Committee	主席 Chairman
策略發展及管理委員會 Strategic Development & Management Committee	廖玉玲太平紳士 Ms Elaine Liu, JP
紀律委員會 Disciplinary Committee	蕭澤宇BBS太平紳士 Mr Simon Siu Chak-yu, BBS, JP
牌照委員會 Licensing Committee	謝小玲女士 Ms Phoebe Tse Siu-ling
執業及考試委員會 Practice and Examination Committee	許智文教授, MH Professor Eddie Hui Chi-man, MH
專業發展委員會 Professional Development Committee	凌潔心女士 Ms Imma Ling Kit-sum

新任監管局主席廖玉玲太平紳士於上任後透過短片向業界問好。她鼓勵從業員在疫情下要保持正面心態、維持良好執業及靈活變通。她期望待社交距離措施放寬後，能親身與業界見面。

Shortly after her appointment, Ms Elaine Liu, JP, the new Chairman of the EAA, sent her greetings to the trade through a video. She encouraged all practitioners to remain positive, be vigilant and resilient under the pandemic and to keep up with the good practice. When the restrictions on social gathering are relaxed, she looks forward to meeting the trade in person.

主席的短片已上載至監管局網站（www.eaa.org.hk）及YouTube頻道（www.youtube.com/c/EstateAgentsAuthority）

To watch the video of the Chairman, please visit the EAA website (www.eaa.org.hk) or the EAA's YouTube channel (www.youtube.com/c/EstateAgentsAuthority)



大家亦可掃描QR code觀看：



(廣東話版本)

You may also scan the QR code:



(English version)

另外，監管局於2020年10月29日舉行傳媒聚會歡送前任主席梁永祥教授SBS太平紳士。梁教授與傳媒分享在監管局的難忘經驗。為感謝梁教授多年來的卓越領導及支持，監管局行政總裁韓婉萍女士致送紀念相冊予梁教授，以表達監管局員工對他的謝意。

On the other hand, a media gathering was held on 29 October 2020 to say farewell to the former Chairman, Prof. William Leung Wing-cheung, SBS, JP. Prof. Leung shared with the press his memorable experience in the EAA. Ms Ruby Hon Yuen-ping, the Chief Executive Officer of the EAA, thanked Prof. Leung for his excellent leadership and unwavering support over the past years and presented a photo album to him to express the gratitude from the EAA staff.

監管局行政總裁韓婉萍女士致送紀念相冊予前任主席梁永祥教授SBS太平紳士。

Ms Ruby Hon Yuen-ping, the Chief Executive Officer of the EAA, presented a photo album to the former Chairman, Prof. William Leung Wing-cheung, SBS, JP.



監管局及監管局員工各獲殊榮

Awards received by the EAA and EAA staff



監管局2018/19年報榮獲香港管理專業協會最佳年度報告大獎 - Best New Entry獎項。

EAA Annual Report 2018/19 was awarded the "Best New Entry" in the 2020 HKMA Best Annual Reports Awards.

監管局早前在香港管理專業協會舉辦的最佳年度報告大獎中獲得非牟利及慈善團體組別的Best New Entry獎項。這是個具認受性的比賽，以表揚製作出高水平年報的機構。頒獎典禮已於2020年11月2日舉行。

此外，監管局兩名員工獲頒發「2020申訴專員嘉許獎—公職人員獎」，表揚他們處理查詢時的專業和積極態度。

憑藉處理查詢時的出色表現，牌照部朱靄嫻女士及機構傳訊部林家琪女士於2020年11月10日獲申訴專員頒發獎項。

這已是連續第六年有監管局員工獲頒發申訴專員嘉許獎，局方會繼續為業界及公眾提供優質客戶服務。

The EAA has recently been awarded the "Best New Entry" in the "Non-profit Making and Charitable Organisations" Category for the 2020 HKMA Best Annual Reports Awards organised by the Hong Kong Management Association. It is a well-recognised competition to honour the awarded organisations for their achievement in the production of annual reports with high standards. The award presentation ceremony was held on 2 November 2020.

Also, two EAA staff received "The Ombudsman's Awards 2020" for "Officers of Public Organisation" in recognition of their professional and positive attitude in enquiries handling.

With the outstanding performance in handling public enquiries, Ms Oceana Chu from the Licensing Section and Ms Vicki Lam from the Corporate Communications Section, received individual awards from The Ombudsman on 10 November 2020.

It is the sixth consecutive year that EAA staff have been awarded The Ombudsman's Award. The EAA will continue to provide quality customer service to the trade and the public at large.



朱靄嫻女士(左)及林家琪女士(右)獲頒發申訴專員嘉許獎。

Ms Oceana Chu (left) and Ms Vicki Lam (right) receive "The Ombudsman's Awards 2020".



黃靜怡女士

Ms Angela WONG Ching-yi

美聯集團副主席及董事總經理

Deputy Chairman and Managing Director, Midland Holdings Limited

美聯工商舖有限公司執行董事

Executive Director, Midland IC&I Limited

美聯慈善基金有限公司董事及副會長

Director and Vice President, Midland Charitable Foundation Limited

香港公開大學資助及發展基金委員會成員

Member, Sponsorship and Development Fund Committee, The Open University of Hong Kong

香港專業人士協會常務會董

Standing Committee Member, The Association of Hong Kong Professionals

監管局成員黃靜怡女士

Ms Angela WONG Ching-yi, Member of the EAA

本期《專業天地》專訪了監管局成員黃靜怡女士，了解一下她對業界表現及地產代理公司管治的看法。

In this issue of *Horizons*, we interview our EAA Board member Ms Angela WONG Ching-yi, about her views on the trade's performance and the corporate governance of estate agency company.

問 你在2019年加入監管局董事局之前，曾經出任我們的執業及考試委員會和專業發展委員會的委任成員數年。你可否分享一下你對整體業界表現的看法？

答 我對於獲委任為監管局成員感到相當榮幸。投身地產代理行業多年，並作為執業及考試委員會和專業發展委員會成員，我一直見證着業界變化，邁向高效化、專業化及數碼化的高速發展。

監管局向來不遺餘力提升業界專業。近年致力推動眾多持續專業進修計劃，包括推出可印製於個人卡片上的「優越嘉許獎章」，並大力提倡從業員應具備「三『言』兩『與』」特質，即「言出必行」、「言之有物」、「言而有信」、「與時並進」及「與客同行」，從而建立優質代理形象。監管局亦鼓勵代理不斷自我增值，提升專業水平。種種有效措施為業界帶來明顯的

Q Before you joined the EAA Board in 2019, you had been a Board-appointed member of our Practice and Examination Committee and Professional Development Committee for a few years. Could you share with us your views on the performance of the trade at large?

A I am honoured to be a member of the EAA Board. Being part of the real estate industry, and as a member of Practice and Examination Committee, and Professional Development Committee, I have witnessed the evolvement of the trade, becoming more efficient, professional, and digitalised.

The EAA has devoted itself to improving the professionalism of the trade. In recent years, it has been dedicated to encourage participation in the Continuing Professional Development Scheme, including launching "Premium CPD Attainment Symbols" to be printed on the awardees' business cards, and encourage estate agents to attain "5A" qualities, namely "Adherence", "Ability", "Accountability", "Advancement" and "Affinity", with a mission to build a professional image of the industry. The EAA also encourages estate agents to enhance themselves and develop new professional competencies. These

進步，令從業員無論在個人操守、知識層面、誠信標準及執業水平均更見專業。

此外，近年監管局持續改進資格考試，提高入行門檻從而提升新入行人士的專業水平。最近地產代理人數突破四萬關口，一方面反映業界從業員的社會認受性與日俱增，另一方面亦彰顯行業的吸引力。期望未來業界繼續與監管局緊密合作，共同進一步提升業界的專業地位。

問 作為一家大型地產代理公司的高級管理層，你如何推動及確保你的員工遵守監管局的規例？

答 作為我們公司的高級管理層，確保員工遵守監管局的規則至為重要。

透過我們公司的《前線員工專業守則》，我們要求同事恪守專業及紀律，清晰指引員工於從事業務時，務必遵守政府頒布的各项法例及監管局作出的執業指引與通告。

此外，為員工提供完善及定期培訓也十分重要，令他們對最新法例及執業要求有更透徹的了解。

最後，制訂紀律制度和有效預防措施是必須的。假如有同事經查核後證實違規，會按其行為作出不同程度的處分，例如口頭警告、書面警告，嚴重者甚至會降職或解僱，藉此警惕同事遵守職業道德。

問 現今公司在環境、社會與管治（ESG）方面的工作越來越受到認同。你會否鼓勵你的公司或地產代理業界也採納這些原則？

答 近年隨着社會大眾對環保與關懷文化等意識逐漸抬頭，目前提倡ESG正是全球企業的大趨勢。我們公司早於2004年便成立慈善基金，為環保、社會及大眾作出貢獻，更獲得「商界展關懷」及「愛心企業」等殊榮。

作為業界其中一分子，我鼓勵所有地產代理公司也嘗試推行ESG原則，回饋社會。

measures have led to significant improvement in personal ethics, knowledge, integrity, and practicing standards of the practitioners.

In addition, the EAA has constantly enhanced the qualifying examinations in recent years to bring up the entry threshold and in turn upgraded the professional standard of new practitioners. The number of estate agents reaching over 40,000 reflects the growing recognition and attractiveness of the industry. We hope the trade would continue to join hands with the EAA to further elevate the professional status of the trade.

Q As a senior management of a large estate agency firm, how would you promote and ensure your employees' compliance of the regulations set by the EAA?

A As a senior management of our company, it is of utmost importance to ensure our employees comply with the EAA's regulations.

Through the "Code for Professionalism" of our company, we require our employees to be professional, disciplined, and to comply with government laws, the EAA practice guides and notices.

In addition, it is also very important to provide all-rounded and regular training to employees so that they could be well informed of and understand the updates on various legislations and practice requirements.

Finally, an established disciplinary system and effective preventive measures are a must. In case of any violation of regulations, employees would be liable to verbal warning, written warning, or even demotion or discharge. This will remind employees to be cautious with their work ethics.

Q The ESG (Environmental, Social, Governance) efforts of a company are becoming more recognised these days. Would you encourage your company or the estate agency trade to adopt the same principles?

A As the public has growing environmental and cultural awareness, the ESG efforts have been the trend of global corporations. Our company has established a charitable foundation in 2004 to create positive contribution to the environment, society and people. Through years of efforts, we have been accredited a "Caring Company" and "Caring Enterprise".

As a trade member, I encourage all estate agency companies to also try carrying out the ESG values to bring about benefits to the society at large.

持續專業進修計劃 — 延長持續進修時段、網上講座、網上 學習活動及網上個案研習

CPD Scheme - Extension of CPD period, Webinar, e-Learning programmes & e-Quiz

由於2020冠狀病毒仍然持續，許多持續專業進修課程因而暫停或取消，導致持牌人難以取得持續進修學分。故此，地產代理監管局決定延長2019/2020年度持續進修時段至2021年9月30日。持牌人若未能於2020年9月30日前完成12個學分，可於2021年9月30日前追回及修畢所需學分，從而符合獲監管局頒發2019/2020年度持續專業進修計劃嘉許證書及嘉許獎章的資格。

此外，為了減低冠狀病毒在社區擴散的風險，監管局取消了九月至十二月的持續專業進修實體講座。取而代之是監管局於12月16日舉行的首個網上講座—《一手住宅物業銷售》。來自一手住宅物業銷售監管局的講者們，就一手住宅物業發展項目的銷售及宣傳的規定和地產代理應注意的事項作出了詳細的講解。

另一方面，監管局亦推出了「網上個案研習」及多個「網上學習活動」讓持牌人能透過網上自學。最近推出了五個新的「網上學習活動」，分別為：兩個有關反洗錢及反恐怖分子資金籌集、一個有關發出違規廣告、一個有關一手住宅物業違規事項以及一個有關提供不準確或誤導性物業資料的網上學習活動。不要錯過持續進修及自我提升的機會。

In light of the persistence of COVID-19 pandemic, many CPD courses have been suspended or cancelled, resulting in the difficulty of licensees in obtaining CPD points. Therefore, the Estate Agents Authority (EAA) has decided to extend the deadline for the fulfilment of the CPD attainment target for the CPD period of 2019/2020 to 30 September 2021. Licensee who is unable to complete the CPD attainment target (i.e. 12 CPD points) on or before 30 September 2020 can now make up the shortfall for fulfilling the CPD attainment target (12 CPD points) by the extended deadline of 30 September 2021; and he/she will then be eligible for obtaining the Certificate of Attainment and CPD Attainment Symbol for the CPD period of 2019/20.

Besides, to reduce the risk of the spread of COVID-19 in the community, all the face-to-face CPD seminars scheduled for September to December 2020 were cancelled. Instead, the EAA hosted its first webinar, "Sales of First-hand Residential Properties", on December 16, during which speakers from the Sales of First-hand Residential Properties Authority gave a detailed explanation on the sales and promotion requirements for first-hand residential property development projects and matters required attentions for estate agents.

In addition, the EAA has been developing e-Quiz and more e-Learning programmes for licensees' self-studies online. Recently, five new e-Learning programmes, namely two on anti-money laundering and counter-terrorist financing, one on non-compliance in issuing advertisements, one on non-compliance in the sale of first-hand residential properties and one on providing inaccurate or misleading property information, were launched by the EAA. Don't miss the chance to keep continued learning and uplift yourselves.



向公眾宣傳「商舖嘉許獎章」

Promoting the CPD mark to the public

「地產代理商舖專業進修嘉許獎章」（「商舖嘉許獎章」）是對一直努力不懈地提升專業水平的地產代理商舖員工的一個認可。他們的努力除了應受到業界肯定，也值得公眾的認同。為了向公眾推廣「商舖嘉許獎章」，監管局於轄下的消費者教育網站新增了一個相關頁面。

新頁面不僅向公眾介紹「商舖嘉許獎章」的內容，也提供連結至獲頒發獎章的地產代理商舖名單。名單詳細列出獲頒獎章的商舖名稱、營業地址等重要資料。消費者在尋找專業服務時，便可從名單中找到該批獲發獎章的商舖。

此外，為了推廣上述新頁面，監管局於2020年12月推出網上宣傳計劃，在Google及Yahoo的網上廣告網絡中投放廣告，提供連結至上述提及的新頁面，並一併向公眾推廣「商舖嘉許獎章」標誌。

該宣傳計劃加深公眾對「商舖嘉許獎章」的認識，特別是讓消費者知悉獲頒發獎章的地產代理商舖在其商舖、單張、其他文件及員工的名片展示的「商舖嘉許獎章」標誌。

如欲了解更多有關上述新頁面的詳情，可登入監管局消費者教育網站：<http://smart.eaa.org.hk/smart-advice/cpd-mark/>



The CPD Mark for the Estate Agencies Award Scheme ("the CPD Mark") is a recognition for the continuous professional advancement made by staff of the awarded estate agency shops. Their efforts should not be only recognised by the trade but also be known by the public. With a view to promoting the CPD Mark to the public, a new web page has been added to the EAA's consumer education website.

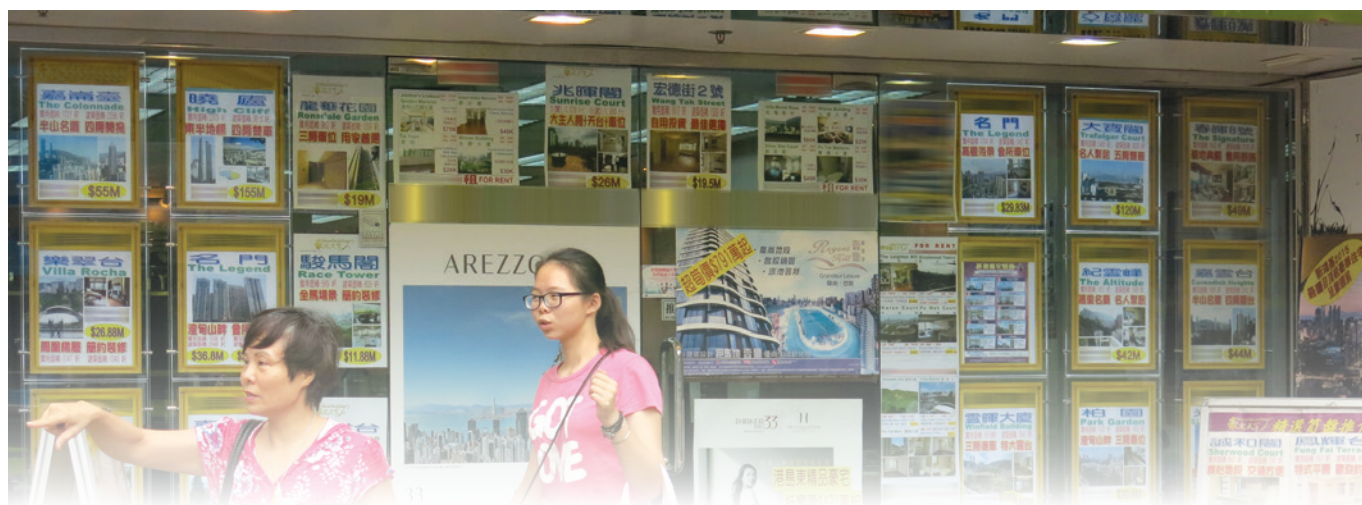
The new web page explains what the CPD Mark is and provides the link to a list of the awarded estate agency shops, where their key information, such as their shops' names and addresses can be found, enabling consumers to locate them when they look for their professional services.

Furthermore, to promote the new web page, an online publicity campaign has also been launched in December 2020. Online advertisements have been placed in the display advertising network of Google and Yahoo with a link to the new web page afore-mentioned and concurrently promote the decal of the CPD Mark to the public.

The campaign will help the public familiarise with the CPD Mark, in particular letting the consumers know the decal which an awarded agency shop can display at its shop, promotional documents or its employees' business cards.

To learn more about the new web page mentioned, please visit the EAA's consumer education website: <http://smart.eaa.org.hk/smart-advice/cpd-mark/>





紀律研訊個案 Disciplinary hearing case

沒管有物業的訂明資料

Failing to possess the prescribed information in relation to the property

引言

持牌人須向客戶提供準確及最新的物業資料，並且管有住宅物業的訂明資料，否則有可能被監管局紀律處分。

Introduction

Licencees should provide accurate and up-to-date property information to their clients and possess the prescribed information in relation to the residential property. Otherwise, they may be subject to disciplinary action by the EAA.

事件經過

在巡查期間，監管局要求一間地產代理公司就其張貼於櫥窗上的一則住宅物業廣告提供訂明文件。然而，該地產代理公司只提供了相關的地產代理協議及差餉物業估價署「物業資訊網」的查冊記錄，但未能提供相關的土地查冊。

該公司的董事解釋，其員工忘記在地產代理協議有效期間開始當日，就該物業進行土地查冊。

Incident

During an inspection, an estate agency company was requested by the EAA to provide the prescribed information of a residential property being advertised in the shop window. However, the estate agency company could only provide the estate agency agreement and the property information from the Rating and Valuation Department, but failed to provide the land search record.

The director of the company explained that their staff forgot to carry out a land search of the property on the commencement date of the validity period of the estate agency agreement.

研訊結果

監管局紀律委員會認為，該地產代理公司與物業的賣方訂立地產代理協議，並為賣方行事，惟該公司卻沒管有相關物業的資料，如註冊於土地查冊處的當時擁有權及有效的產權負擔、政府租契等資料，因而違反了《地產代理條例》第36(1)(a)(i)條，即「如持牌地產代理代

Result

The EAA Disciplinary Committee was of the view that the estate agency company had entered into an estate agency agreement with the vendor and acted for the vendor. However, it failed to possess the property information, such as the current ownership, subsisting encumbrances and Government lease, as registered in the Land Registry. Therefore, the company was in breach of section 36(1)(a)(i) of the Estate Agents Ordinance which stipulates that "if a licensed estate agent acts for the

表賣方行事並與其訂立地產代理協議，他必須管有或控制某些訂明的物業資料。」

考慮到個案的性質、類似個案的罰則，以及該地產代理公司的違規紀錄，紀律委員會決定譴責該公司、並向其罰款25,000元。

vendor and has entered into an estate agency agreement with him, he is required to have in his possession or control certain prescribed property information.”

Having considered the nature and gravity of the case and the disciplinary record of the estate agency company, the Disciplinary Committee decided to reprimand the company, and impose a fine of \$25,000.



吳元興先生
地產代理（從業員）總公會主席
Mr Evan Ng
Chairman of Estate Agent Association

業界意見 Comment from trade

部分從業員可能過分依賴公司的內部資訊，而忽略了須從訂明來源取得相關資料的必要。地產代理公司的管理層可鼓勵員工參與持續專業進修活動，以熟習基本執業要求，避免再次違規。

Some practitioners may rely too much on their company's internal information and fail to obtain the relevant information from the prescribed source. Management of estate agency companies should encourage their staff to participate in the Continuing Professional Development activities to familiarise themselves with the basic practice requirements to prevent them from breaking the rules again.

紀律研訊個案 Disciplinary hearing case

未有在物業廣告中述明物業編號、廣告日期及實用面積 Failing to state the Property Number, advertisement date and saleable area on the property advertisement

引言

地產代理公司在發布物業廣告時，必須清楚述明該物業的編號及發出廣告的日期。於住宅物業廣告中提供的樓面面積資訊，應是從差餉物業估價署取得或首次轉讓的買賣協議中述明之實用面積資料，否則有可能被監管局紀律處分。

Introduction

When issuing property advertisements, estate agency companies must state clearly and legibly the Property Number(s) of the properties advertised and the date on which the advertisements are issued; and if the floor area information of the residential property is mentioned, they should provide the saleable area information obtained from the Rating and Valuation Department (“RVD”) or as stipulated in the agreement for sale and purchase of the first assignment of the property (“First Agreement”). Otherwise, they may be subject to disciplinary action by the EAA.

事件經過

監管局接獲投訴，指某地產代理公司未有在其物業廣告中清楚述明物業編號及發出廣告

Incident

The EAA received a complaint claiming that an estate agency company did not state clearly and legibly the property number and the advertisement

的日期。在調查期間，監管局職員向該公司抽查兩則住宅物業廣告。該兩則廣告中列出的物業實用面積分別是512平方呎及426平方呎。然而，根據差餉物業估價署的資料顯示，該兩個物業正確的實用面積分別是509平方呎及413平方呎；而相關的首次轉讓的買賣協議中則述明實用面積分別是531平方呎及438平方呎。此外，該地產代理公司亦未有在該兩則物業廣告中述明物業編號及廣告日期。

date. During the investigation, the EAA staff required the company to provide two residential property advertisements for checking. In the advertisements, the saleable area of the two properties was 512 sq. ft. and 426 sq. ft. respectively. However, according to the RVD record, the actual saleable area of the two properties should be 509 sq. ft. and 413 sq. ft., and the saleable areas of the two properties were 531 sq. ft. and 438 sq. ft. as respectively stipulated in the First Agreement. Also, the estate agency company failed to state the property number and the advertisement date on both of the advertisements.

研訊結果

監管局紀律委員會認為，該地產代理公司違反了《操守守則》第3.2.1 段，即「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、操守守則，以及由監管局不時發布的所有其他指引」；亦違反了監管局發出的執業通告（編號18-02（CR）），即未有清楚述明該廣告的物業編號及發出廣告或更新的日期。另外，該公司也違反了執業通告（編號12-02（CR）），即未有提供從差餉物業估價署或在首次轉讓的買賣協議中取得物業的實用面積資料。

考慮到個案的性質及該地產代理公司的違規紀錄，紀律委員會決定譴責該公司，並就其三項違規向其罰款合共10,000 元。

Result

The EAA Disciplinary Committee found that the estate agency company failed to comply with paragraph 3.2.1 of the *Code of Ethics*, which states that “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” and also breached the Practice Circular No. 18-02 (CR) issued by the EAA by failing to state clearly and legibly or ensure that it was stated clearly and legibly the Property Number(s) of the properties advertised and the date on which the advertisements are issued or updated. It also breached the Practice Circular No. 12-02 (CR) by failing to provide in the advertisement the saleable area of the property which can be obtained from the RVD or as stipulated in the First Agreement of the property.

Having considered the nature and gravity of the case and their disciplinary record, the Disciplinary Committee decided to reprimand the estate agency company, and impose a total fine of \$10,000 as the sanction for the three breaches.



柯興捷先生
香港專業地產顧問商會副會長
Mr Stephen Or
Vice President of Hong Kong Chamber of Professional Property Consultants Ltd.

業界意見 Comment from trade

個案中的違規事件屬低級錯誤，當地產代理受委託處理住宅物業買賣時，須為客戶提供重要物業資料，俗稱「開門七件事」。由於買賣雙方普遍以物業呎價為考量，倘若客戶獲得的實用面積資料不準確，有可能影響他們的購買決定。

The licensee of the case committed a fundamental mistake. When estate agents are appointed to handle the sale and purchase of residential properties, they need to provide certain key property information to their clients. Since property price per square foot is one of the major considerations for the vendor and purchaser, inaccurate saleable area information may affect their transaction decision.

反洗黑錢

為加深持牌人對反洗錢及反恐怖分子資金籌集（「反洗錢」）議題的認知，我們會在《專業天地》這個「反洗錢專區」為大家提供有關反洗錢的不同資訊及最新消息。

To enhance licensees' knowledge on the subject of anti-money laundering ("AML") and counter-terrorist financing ("CTF"), we will provide various information and updates about AML in the "AML Corner".



反洗錢及反恐融資責任指導計劃 AML & CTF Responsibilities Guidance Programme

除了以風險為本的方法作為監督業界遵從反洗錢和反恐怖分子資金籌集規定外，監管局一直以教育業界作為加強其對執業通告(編號18-01(CR))所載有關反洗錢和反恐怖分子資金籌集規定的認識。為協助持牌人符合相關的法規要求及提升業界對遵守相關規定的責任感，監管局將推行一項「反洗錢及反恐融資責任指導計劃」，向持牌人就處理物業買賣須為其客戶進行盡職審查和備存紀錄提供指導。

In addition to the risk-based approach to supervise the estate agency trade's compliance with the anti-money laundering and counter-terrorist financing requirements, the EAA has been making use of education as a means to strengthen the trade's conversance with the requirements under the Practice Circular (Circular No. 18-01 (CR)). To assist licensees in fulfilling the regulatory requirements and to enhance the trade's sense of responsibility for complying therewith, the EAA will implement the "AML & CTF Responsibilities Guidance Programme" to provide guidance to licensees on conducting customer due diligence and record-keeping for the sales and purchase transactions they handle.

在《專業天地》內，我們會解答持牌人的一些常見提問。

In *Horizons*, we will answer questions commonly asked by licensees.

問 大廈公契除可得知購買該大廈單位的首名買家的名稱外，還可找到哪些資料？

答 大廈公契是大廈各業權共有人、大廈管理人和發展商所簽訂的私人協議，訂明業主之間、發展商和大廈管理人的權利、權益和責任。一般而言，大廈公契通常是由發展商與大廈的第一名買家簽訂後生效，並且對後來的買家同樣有約束力。

至於多層建築物的業權，是以不可分割業權份數來表述的。當業主購入一個多層建築物的單位時，他不但擁有這個單位的獨有管有權，也和其他單位的業主共同擁有建築物的公用部分。

為有效管理大廈和釐清有關人士的權利和責任，大廈公契會列明大廈哪部分被列為大廈的公用部分及大廈各部份所佔的不可分割的業權份數。

此外，在大部分情況下，大廈每一個單位的業主須承擔的管理費是取決於他所擁有的不可分割業權份數並列明於大廈公契之內。

因此，一般而言，大廈單位的首名買家名稱、該大廈各部份的不分割份數的分配、被列為該大廈公用地方的部份，以及大廈每一個單位的業主須承擔的管理費的份數，都可在大廈公契中找到。

Q Apart from the name of the first purchaser who purchased a unit/units in a building, what other information can be found in the deed of mutual covenant of a building?

A A deed of mutual covenant ("DMC") is a private contractual agreement among all the co-owners, the building manager and also the developer of a building. It defines the rights, interests and obligations of these parties. In general, a DMC comes into effect on the date of execution by the developer and the purchaser of the first unit of the building and is binding on other subsequent purchasers.

Ownership in a multi-storey building is generally expressed in terms of undivided shares. When an owner purchases a flat in a multi-storey building, he is not only entitled to the exclusive possession of his flat, but also jointly owns the common parts of the building with other flat owners of the same building.

To facilitate management of a building and to effectively define the rights and obligations of the parties concerned, the parts which are designated as common areas in the building and the undivided shares of various parts of the building are set out clearly in the DMC of the building.

Moreover, the share of the management fees that each owner of a flat is liable to pay is determined on the basis of the undivided shares owned by him and is set out in the DMC under most circumstances.

Hence, generally speaking, the name of the first purchaser, the allocation of undivided shares, the parts which are designated as common areas in the building and the proportion of management fees that each flat owner of the building should bear could be found in the DMC.



監管局最新持續專業進修計劃網上學習活動 - 執業實務陷阱系列

「網上學習活動」設於監管局「電子服務」(e-Services) 版面之內。故持牌人必須先註冊「電子服務」，然後登入「電子服務」，便可參加「網上學習活動」。

課程名稱	語言	類別	推出月份
執業實務陷阱系列 — 發出違規廣告	粵語	合規及有效管理	11/2020
執業實務陷阱系列 — 一手住宅物業違規事項			12/2020
執業實務陷阱系列 — 提供不準確或誤導性物業資料			01/2021
執業實務陷阱系列 — 不妥善處理臨時買賣合約			01/2021
執業實務陷阱系列 — 拆解違規個案 (1)			02/2021
執業實務陷阱系列 — 拆解違規個案 (2)			03/2021

其他資訊 Other information

私隱公署就有關在家工作安排的實用指引資料

有鑑於在家工作安排為資料保安及個人資料私隱帶來新的風險，香港個人資料私隱專員公署（「私隱公署」）就「在家工作安排下的個人資料保障」發出三份指引資料，為（1）機構、（2）僱員及（3）視像會議軟件使用者提供實用建議，以提升在家工作安排下的資料保安及個人資料私隱的保障。

三份指引資料可在以下連結下載：

機構篇

www.pcpd.org.hk/tc_chi/resources_centre/publications/files/gn_wfh_employers.pdf

僱員篇

www.pcpd.org.hk/tc_chi/resources_centre/publications/files/gn_wfh_employees.pdf

使用視像會議軟件

www.pcpd.org.hk/tc_chi/resources_centre/publications/files/gn_wfh_video.pdf

如有查詢，請聯絡私隱公署：www.pcpd.org.hk/tc_chi/contact_us/contact_us.html

Practical Guidance Notes Relating to Work-from-Home Arrangements from PCPD

In view of the new risks posed to data security and personal data privacy as a result of the work-from-home arrangements, Office of the Privacy Commissioner for Personal Data, Hong Kong ("PCPD") has newly issued three Guidance Notes under the series "Protecting Personal Data under Work-from-Home Arrangements" to provide practical advice to (1) organisations; (2) employees; and (3) users of video conferencing software to enhance data security and the protection of personal data privacy.

Three Guidance Notes can be downloaded via the links below:

Guidance for Organisations

www.pcpd.org.hk/english/resources_centre/publications/files/gn_wfh_employers.pdf

Guidance for Employees

www.pcpd.org.hk/english/resources_centre/publications/files/gn_wfh_employees.pdf

Guidance on the Use of Video Conferencing Software

www.pcpd.org.hk/english/resources_centre/publications/files/gn_wfh_video.pdf

For enquiry, please contact PCPD:

www.pcpd.org.hk/english/contact_us/contact_us.html



26
09
2020

監管局舉辦一個名為「租樓宜忌・專家教路」的Facebook直播講座，三位嘉賓講者除了分享其觀點之外，並解答網上觀眾提出的問題。講座的錄影可於監管局的網站以及YouTube頻道重溫。

The EAA held a Facebook live seminar on the dos and don'ts about the tenancy of residential properties. Three guest speakers shared their insights with the online audience and answered their questions. The video of the seminar is available on the EAA's website and YouTube channel.

18
10
2020

監管局前任主席梁永祥教授SBS太平紳士於香港電台節目《Letter to Hong Kong》提醒消費者在投資香港境外物業時要注意的地方。

EAA former Chairman Professor William Leung, SBS, JP shares with consumers the points-to-note when investing in non-local properties in the RTHK programme "Letter to Hong Kong".



26
10
2020

監管局員工參與YMCA的義工活動，為弱勢社群人士準備愛心午餐。

EAA Staff volunteering for the YMCA, assisting in preparing lunch boxes for the underprivileged.

12/2003

監管局代表聯同業界商會代表到訪北京，與內地有關部門商討專業資格互認計劃的安排。

EAA representatives and trade members visit Beijing to discuss with Mainland authorities the scheme for the mutual recognition of professional qualifications.



12/2014

監管局前任主席梁永祥教授SBS太平紳士(左)上任後首次與一眾傳媒朋友會面。

EAA former Chairman Professor William Leung, SBS, JP (left) meets the press after his appointment as Chairman.



10/2015

監管局員工首次獲頒發「申訴專員嘉許獎」，以表揚他們處理投訴時的專業表現和積極態度。

The EAA for the first time had its staff awarded "The Ombudsman's Award" for their outstanding performance in providing quality customer service.



考試 Examinations

營業員資格考試 (電腦應考模式)
Salespersons Qualifying Examination
(Computer-based)

參加人數 No. of candidates 合格 Pass rate

考試日期 Examination date 9/2020

75 44.0%

考試日期 Examination date 11/2020

61 42.6%

營業員資格考試 (筆試應考模式)
Salespersons Qualifying Examination
(Paper-based)

參加人數 No. of candidates 合格 Pass rate

考試日期 Examination date 9/2020

1,429 42.4%

考試日期 Examination date 10/2020

1,324 49.5%

考試日期 Examination date 11/2020

1,053 23.8%

地產代理資格考試
Estate Agents Qualifying Examination

參加人數 No. of candidates 合格 Pass rate

考試日期 Examination date 10/2020

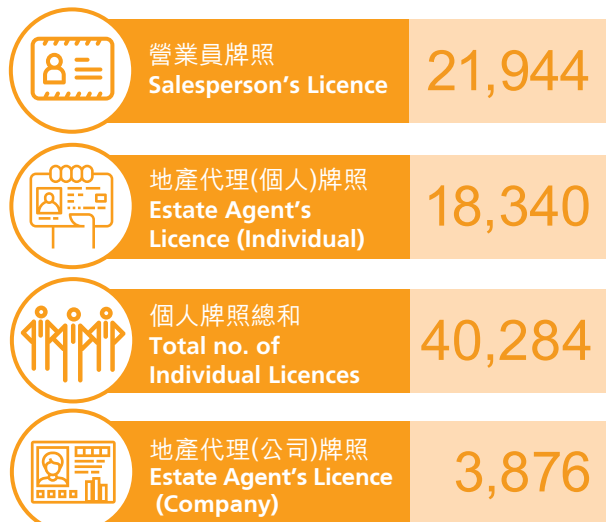
469 40.5%

考試日期 Examination date 11/2020

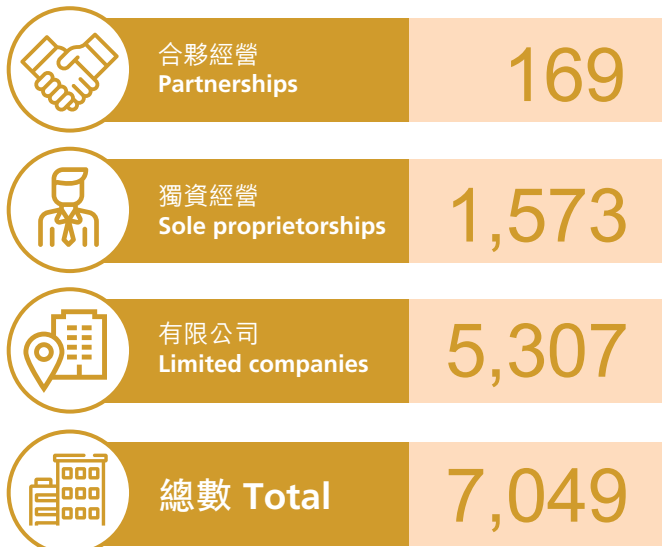
703 41.0%

牌照數目 (截至2020年11月30日)

Number of licences (As at 30/11/2020)



營業詳情說明書 (截至2020年11月30日)

Number of statements of particulars
of business (As at 30/11/2020)

開立的投訴 (2020年1月至11月)

Number of complaint cases opened
(January to November 2020)

315

已處理的投訴個案結果* (2020年1月至11月)

Results of completed complaint
cases* (January to November 2020)

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)

資料不足
Insufficient
information to
pursue

指稱不成立
Unsubstantiated

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



巡查次數 (2020年1月至11月)

Number of compliance inspections

(January to November 2020)



巡查發現主動調查的個案 (2020年1月至11月)

Number of cases arising from self-initiated investigations during inspections (January to November 2020)

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

182

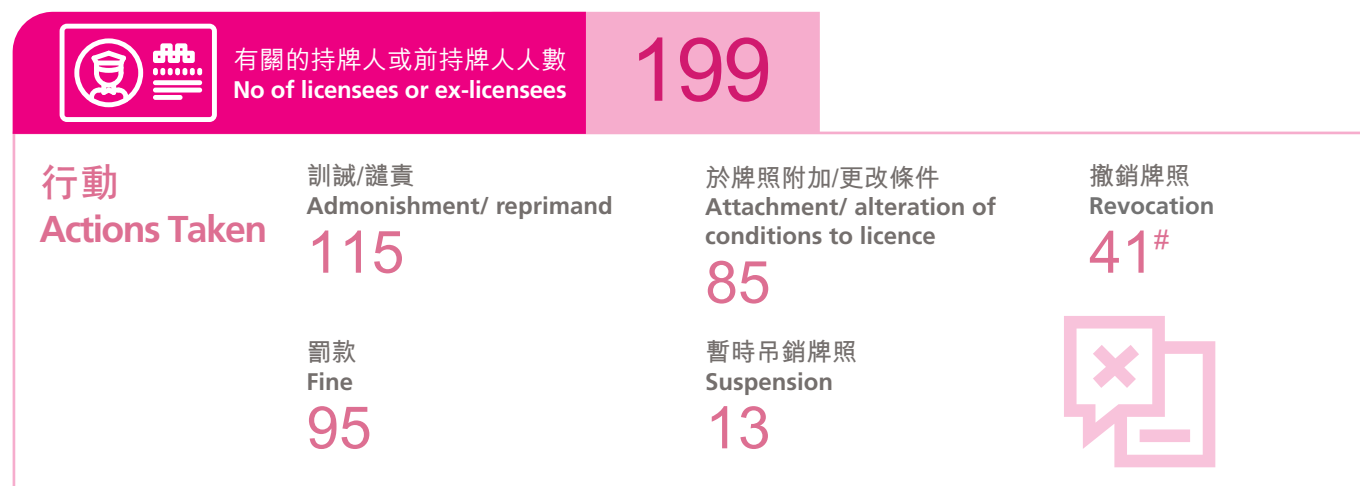
主動調查而指稱成立的個案*
Cases completed from self-initiated investigations and were substantiated*

52

* 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* (2020年1月至11月)

Actions taken against licensees or ex-licensees* (January to November 2020)



* 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.



EAA 地產代理監管局
ESTATE AGENTS AUTHORITY

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