

Circular

Circular No. 03-09 (CR)

Protection of Investors Ordinance

In Hong Kong, the marketing of property investment schemes may contravene the Protection of Investors Ordinance (Cap. 335).

A property investment scheme differs from property transactions in that it involves properties which are, as a whole, managed by the scheme's manager. The participants do not have daily control or management over the properties, and the purpose of the scheme is to enable the participants to share the profits or income from the property. The common selling points of such schemes include substantial returns, buy-back guarantee, and/or the calculation of profits on a collective basis.

According to the Protection of Investors Ordinance, unless with the permission of the Hong Kong Securities and Futures Commission ("SFC"), no person shall issue any advertisement or invitation to the public to take part in any investment arrangement in respect of property other than securities. It is an offence to contravene the same which is punishable with a fine and imprisonment. The offender may also be ordered to pay the cost of investigation of the SFC.

Estate agents should be alert to the above in marketing properties. In case of doubt, please consult legal opinion or enquire with the SFC (telephone : 2840 9333; website : www.hksfc.org.hk).

June 2003

This Circular should be made available for the
information of all staff engaged in estate agency work