



## **Practice Circular on Declaration of Submission of Registrations of Intent in the Sales of First-Hand Residential Properties**

### **Questions and Answers (Q&As)**

Notes:

1. All references to:
  - a. “EAA” shall mean the Estate Agents Authority.
  - b. “Practice Circular” shall mean Circular No. 15-03 (CR) issued by the EAA on Declaration of Submission of Registrations of Intent in the Sales of First-Hand Residential Properties.
  - c. “Practice Regulation” shall mean the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation

The terms stated and/or defined in the Practice Circular shall have the same meanings herein unless the context requires otherwise.

2. These Q&As are for general reference only. The answers/solutions suggested in the Q&As are not exhaustive and they do not constitute legal or professional advice. In considering whether a licensee has breached the Practice Circular, the EAA will consider each case on its own merits. You should seek legal or professional advice as and when necessary, especially on the interpretation of legal provisions and specific advice on any individual case. The EAA makes no warranty as to the completeness of the information set out in these Q&As, or the appropriateness for its use in any particular circumstances. The EAA will not accept any liability or responsibility whatsoever for any loss or damage caused to any person howsoever arising from any use, misuse of, or reliance on the contents of these Q&As.



## Q&As

### Individual Licensees

**Q1. I work for an estate agency company (my employer) which is involved in the sale of a development. Do I have to notify my employer if I submit, through it, a registration of intent in that development not using my name, but the name of a company of which I am a director or shareholder, as registrant?**

Answer: Yes.

According to the Practice Circular, individual licensees who work for estate agency companies which are involved in the sale and/or purchase of a development and who at the same time submit for themselves registrations of intent in the development must notify the estate agency companies for which they work after submitting the registrations of intent in that development.

Please refer to the meaning of “for themselves” in the Practice Circular. It includes, in the case of an individual licensee, the situation where the individual licensee submits, through the estate agency company he works for, a registration of intent using the name of a company of which the individual licensee is a shareholder and/or director, as registrant.

**Q2. The sales arrangement specifies that registrations of intent can be submitted on 1 September 2015 only and the closing time is 5 p.m. on that day. When do I have to make a declaration if I intend to submit a registration of intent for myself?**

Answer: According to the Practice Circular, individual licensees must make the necessary declaration to the estate agency companies for which they work no later than the same day after submitting



the registration of intent or before the closing time for the submission of registration of intent (whichever is the earlier) information regarding their submission of the registrations of intent for themselves.

In the above scenario, the individual licensee concerned must make the necessary declaration no later than the closing time for the submission of the registrations of intent, i.e. before 5 pm on 1 September 2015.

- Q3. The sales arrangement specifies that a cashier order in the sum of \$300,000 is required to be submitted for each property that a registrant wishes to express an interest to purchase. If I use three cashier orders to make up the said sum of \$300,000, should I declare that I have submitted three cashier orders?**

Answer: No.

According to the Practice Circular, “cashier order” means one cashier order in the specified amount as required by the vendor in its sales arrangement for each property that the registrant wishes to express an interest to purchase. If more than one cashier order is used to make up the specified amount required by the vendor, then the several cashier orders as aforesaid shall be treated as one cashier order.

Therefore, in the above scenario, the three cashier orders that make up the said sum of \$300,000 shall be counted as one cashier order only.

### **Estate Agency Companies**

- Q4. Is the Practice Circular applicable to estate agency companies which are not on the price list but which act for purchasers only in their purchase of unit(s) in a development?**



Answer: Yes.

The Practice Circular applies to estate agency companies which are not set out in the price list but which act for purchasers only in the purchase of unit(s) in a development. They should make the necessary declaration to their purchaser-clients if they and/or members of their staff who are licensees have submitted for themselves registrations of intent in the development.

Please refer to the meaning of “estate agency companies” in the Practice Circular.

**Q5. Are licensed estate agents whose names are set out in the price list of a development as estate agents or sub-agents of the vendor required to notify the vendor in writing of the information on their submission for themselves of registrations of intent in that development?**

Answer: It is not necessary for licensed estate agents concerned to notify the vendor in writing of the information on their submission for themselves of registrations of intent in the development separately so long as they have advised the vendor in writing to refer to their company website or to visit/contact their shops (as the case may be) for such information.

Please refer to paragraph 9(a) of the Practice Circular.

**Q6. Are licensed estate agents whose names are set out in the price list of a development as sub-agents of the vendor required to notify their principal agent in writing of the information on their submission for themselves of registrations of intent for that development?**

Answer: It is not necessary for licensed estate agents concerned to notify their principal agent in writing of the information on their



submission for themselves of registrations of intent in the development. However, they have to advise the vendor and prospective purchasers in writing to refer to their company website or to visit/contact their shops (as the case may be) for such information.

Please refer to paragraph 9(a) of the Practice Circular.

**Q7. A licensed estate agent is a franchisee of an estate agency company whose name is set out in the price list of a development and which at the same time is a member of an estate agency association whose name is also set out in the same price list. Where should the licensed estate agent make available the information referred to in paragraph 7 of the Practice Circular?**

Answer: In such a case, the licensed estate agent concerned may make available the required information on the website (if any) in writing or show it at a conspicuous place at the registered address of **either** the estate agency company which is the franchisor **or** the estate agency association to which the licensed estate agent belongs.

To avoid double counting, the licensed estate agent should **not** provide to both the franchisor and the estate agency association concerned the information required at the same time.

**Q8. To comply with the Practice Circular, how should a licensed estate agent whose name is set out in the price list of a development and which at the same time is a member of an estate agency association whose name is also set out in the same price list, make the necessary declaration?**

Answer: In such a case, the licensed estate agent should make the declaration on the information referred to in the Practice Circular on its company website (if any) in writing or show it at a



conspicuous place at its shop(s) and should **not** provide such information to the estate agency association concerned for making the declaration to avoid double counting. The vendor and prospective purchasers should be advised in writing to refer to its company website or to visit/contact its shops (as the case may be) for such information.

Please refer to paragraph 9(a) of the Practice Circular.

**Q9. To comply with the Practice Circular, how should a licensed estate agent whose name is not specifically set out in the price list of a development but which is mentioned as a member of a named estate agency association in the price list, make the necessary declaration?**

Answer: In such a case, the licensed estate agent should make the declaration on the information referred to in the Practice Circular on the website (if any) in writing or show it at a conspicuous place at the registered address of the estate agency association to which the licensed estate belongs. The vendor and prospective purchasers should be advised in writing to refer to the website of or to visit/contact (as the case may be) the estate agency association concerned for such information.

Please refer to paragraph 9(c) of the Practice Circular.

**Q10. Is it necessary for licensed estate agents who act for purchasers only in the purchase of unit(s) in a development to make available to the public the information referred to in paragraph (7) of the Practice Circular?**

Answer: No.

The licensed estate agent concerned only needs to provide the required information to his purchaser-clients in writing. There is no need to make available to the public such information.



**Q11. Referring to example 1 mentioned in Note 4 of the sample declaration form for estate agency companies on the EAA website, how should an estate agency company complete the table on the form if the number of licensees, the number of registrations of intent and the number of cashier orders submitted from 1 September 2015 to the closing time at 9 am on 4 September 2015 are respectively as follows?**

<b>Date</b>	<b>Number of Licensees</b>	<b>Number of Registrations of Intent Submitted</b>	<b>Number of Cashier Orders Submitted</b>
<b>1-9-2015</b>	<b>1</b>	<b>2</b>	<b>3</b>
<b>2-9-2015</b>	<b>4</b>	<b>5</b>	<b>6</b>
<b>3-9-2015</b>	<b>7</b>	<b>8</b>	<b>9</b>
<b>4-9-2015</b>	<b>10</b>	<b>11</b>	<b>12</b>

Answer: Please refer to paragraphs 7 and 8 of the Practice Circular.

In the above scenario, the required information must be publicised before noon on 2 September 2015 and 3 September 2015 respectively; and before 11:00 a.m. on 4 September 2015, and the table on the form should be completed as follows:

*For publication before noon on 2 September 2015:*

<b>Date</b>	<b>Cumulative Total Number of Licensees</b>	<b>Cumulative Total Number of Registrations of Intent Submitted</b>	<b>Cumulative Total Number of Cashier Orders Submitted</b>
<b>1-9-2015</b>	<b>1</b>	<b>2</b>	<b>3</b>



*For publication before noon on 3 September 2015:*

Date	Cumulative Total Number of Licensees	Cumulative Total Number of Registrations of Intent Submitted	Cumulative Total Number of Cashier Orders Submitted
2-9-2015	5	7	9

*For publication before 11:00 a.m. on 4 September 2015:*

Date	Cumulative Total Number of Licensees	Cumulative Total Number of Registrations of Intent Submitted	Cumulative Total Number of Cashier Orders Submitted
4-9-2015	22	26	30

- Q12. Referring to paragraph 8(b) of the Practice Circular, how long should an estate agency company make available the information referred to in paragraph 7 of the Practice Circular and collected up to the closing time to be publicised on its company website or at a conspicuous place at its shop (as the case may be)?**

To comply with the Practice Circular, estate agencies companies should advise the vendor and prospective purchasers in writing to refer to their company website or to visit/contact their shops (as the case may be) for the information referred to in paragraph 7 of the Practice Circular. In this regard, estate agency companies should make available such information on their company website or at a conspicuous place at its shop (as the case may be) for a period of not less than 2 days after the commencement date of the sale as specified in sales arrangement



issued by the vendor.

**Q13. Will an estate agency company be disciplined by the EAA if members of its staff who are licensees fail to make a declaration in compliance with the requirements of the Practice Circular?**

Answer: If an individual licensee failed to make a declaration in compliance with the Practice Circular, the EAA may look into whether the breach by the individual licensee was or might have been attributed to the failure of the estate agency company concerned to put in place an effective system to ensure compliance or prevention of the breach by the individual licensee concerned. If the answer is in the affirmative, the estate agency company concerned and its management may be in breach of section 15 of the Practice Regulation for failing to establish a proper system to manage their business, and may be disciplined by the EAA.

**Q14. Referring to Q13 above and in order to comply with section 15 of the Practice Regulation, what are the arrangements that should be included in the system of the estate agency company?**

Answer: In order to comply with section 15 of the Practice Regulation, the estate agency company should consider including the following arrangements in the system:

- (i) clear guidelines are issued to members of staff who are licensees regarding the requirements of the Practice Circular on individual licensees;
- (ii) inclusion of the EAA's requirements set out in the Practice Circular in the pre-sale briefings, internal circulars and staff handbook;
- (iii) appropriate policies and procedures are laid down for staff licensees to follow when they need to make a declaration;



- (iv) pro-forma declaration forms are provided for staff licensees to use;
- (v) adequate training is provided to staff licensees on matters relating to (i), (iii) and (iv) above;
- (vi) a monitoring system is set up to ensure staff compliance (e.g. random compliance checks by the management) and
- (vii) sanctioning measures are put in place to sanction non-compliant staff.

Estate agency companies should refer to the Practice Circular issued by the EAA on duties of licensed estate agent in ensuring effective control of estate agency business (Circular No. 15-01(CR)) for more details.

7 July 2015