

邁向強制進修 提升專業水平

Making CPD mandatory to raise professional standards

地產代理監管局（監管局）的專業發展委員會早前就持續專業進修計劃的未來發展方向作出深入的討論，建議計劃的推行方式，由自願參與形式轉為強制性，進一步提升地產代理業界的專業水平和地位。

隨著社會大眾對於地產代理業界的專業知識和水平的期望日高，地產代理從業員必須持續進修，自我增值，才能提升專業水平，向客戶提供優質的服務。專業發展委員會相信，強制性持續專業進修計劃，有助提高從業員的執業水平，從而提升大眾對於地產代理服務的信心，加強保障消費者利益。

監管局行政總裁余呂杏茜女士說：「現時，不少專業已經推行強制性進修計劃。如果監管局規定地產代理從業員必須進修才符合續牌的資格，公眾人士對從業員的專業知識水平的信心會增強，從而提升業界的形

The Professional Development Committee (PDC) of the Estate Agents Authority (EAA) held in-depth discussions on the future development of the Continuing Professional Development (CPD) Scheme and proposed that the Scheme be run on a mandatory basis instead of a voluntary one to further raise the professional standards and status of the estate agency trade.

As public expectations of estate agency practitioners' professional knowledge and standards continue to grow, practitioners should pursue continuing learning for self-advancement so as to enhance their competence and provide quality services to their clients. The PDC takes the view that making the CPD Scheme mandatory is

象和地位。」她補充，個別非傳統的專業，例如註冊於香港房屋經理學會的房屋經理必須進修才可延續其會員的資格。

監管局於2005年以自願參與形式推出持續專業進修計劃，旨在提升地產代理業界的專業水平和協助從業員及時掌握行業的最新執業知識。為鼓勵從業員積極參與持續專業進修活動，監管局於2006和2008年推出兩項嘉許計劃，以表揚個別從業員和地產代理商積極進修增值。儘管監管局推出鼓勵措施，進修課程的參與率在2008年創出新高後便有下跌趨勢。因此，監管局就持續專業進修計劃轉為強制性展開了討論。

監管局的專業發展委員會於較早前的會議上建議，監管局制定強制性持續專業進修計劃時，應以下列五個原則為大前提：

- (一) 公平和簡單的機制
- (二) 以循序漸進的方式推行
- (三) 進修活動的模式可以多樣化，惟要設立機制確保培訓教材和教學的質素，使持牌人可從中受惠。
- (四) 歡迎其他機構（例如培訓機構）參與
- (五) 強制性進修計劃只訂明了從業員須符合的最低進修要求。長遠而言，可以考慮把強制進修計劃與教育局的「資歷架構」制度接軌

專業發展委員會認為，雖然強制性專業進修計劃無疑會增加個別從業員和地產代理公司須要投放的資源和花費的進修時間，但委員會成員考慮到業界的長遠發展和消費者對業界的期望愈來愈高，相信如果監管局以循序漸進的方式實施強制進修，可以為持牌人和消費者締造雙贏的局面。

過去數月以來，監管局已經通過業界商會聯絡會議向業界講解計劃初步構思和聽取業界意見，並已初步取得他們的支持。為了推出一個切合地產代理業界需要的強制性持續專業進修計劃，監管局將繼續透過專業發展委員會會議和業界商會聯絡會議等途徑，就有關方案進行討論，收集各方對計劃的意見。監管局希望，從業員能支持強制性持續專業進修計劃，一同為提升業界的水平和地位而努力。

conducive to raising practitioners' standards, and in turn, enhancing both public confidence in estate agency services and consumer protection.

EAA Chief Executive Officer Mrs Rosanna Ure said, "Currently, continuing learning is mandatory for a number of professions. If estate agency practitioners are required to participate in CPD activities as a condition to have their licence renewed, members of the public will have greater confidence in practitioners' professional competence. This in turn will enhance practitioners' image and status". She added that continuing learning is mandatory for some non-conventional professions: for example, housing managers who are registered at The Hong Kong Institute of Housing have to participate in training sessions if they would like to continue to be a member of the Institute.

The EAA launched the CPD Scheme on a voluntary basis in 2005 in a bid to raise the professional standards of practitioners and keep their knowledge up-to-date. In order to encourage practitioners to participate in CPD activities, the EAA introduced two schemes offering recognition for the learning efforts of individual practitioners and estate agency shops in 2006 and 2008 respectively. Despite these gestures, participation rates in CPD activities, after





監管局持續專業進修活動的參與率自去年起有下跌趨勢。
There was a downward trend in enrolment in CPD activities starting in 2009.

scaling new heights in 2008, showed a downward trend in the number of participants thereafter. Therefore, the EAA initiated a discussion on turning the voluntary CPD Scheme into a mandatory one.

At a recent meeting, the PDC of the EAA agreed that if the EAA launches a mandatory CPD Scheme, the following principles should be followed:

1. The mechanism should be fair and simple.
2. The Scheme could be implemented in a gradual and progressive manner.
3. The mode of training could be varied with a built-in mechanism in place to ensure the quality of the training materials and delivery and that licensees benefit from such training.
4. Involvement of external parties such as other training institutions would be welcome.
5. The mandatory CPD Scheme only sets the minimum requirement for licensees to fulfil. In the long run, consideration could be given to dovetail the mandatory training with the Qualifications Framework of the Education Bureau.

The PDC acknowledges that a mandatory scheme will involve investment by licensees as these training activities will inevitably require extra resources and time on the part of individual practitioners and agencies. However, considering the long-term development of the trade and the higher expectations of consumers, PDC members agreed that the proposal of turning the voluntary CPD programme into a mandatory one will be a win-win formula for both licensees and consumers.

Over the past few months, the EAA briefed the estate agency trade on the preliminary ideas to gauge their views on the proposal at trade liaison meetings, and the response was generally positive. With a view to putting in place a mandatory CPD Scheme which meets the needs of the trade, the EAA will continue to study its feasibility, collect feedback and garner the trade's support for the proposal through various channels, for example, PDC meetings and trade liaison meetings. The EAA hopes practitioners will support the mandatory CPD Scheme, which helps promote the professionalism and status of the trade.

監管局專業發展委員會主席李峻銘先生的意見 Message from Mr Eric Lee, Chairman of the EAA Professional Development Committee

專業發展委員會就強制性持續專業進修計劃的方案，進行了深入的研究和討論。經過考慮多方面的因素，權衡利弊後，委員會一致認同這個方案。

委員會認為，地產代理從業員處理的物業交易牽涉的金額龐大，也不時要處理各種複雜的情況，再加上市民對業界的要求日高，因此地產代理必須不斷進修增值，才能掌握最新執業知識，提升專業知識和能力，符合市民的期望。事實上，不少專業已經推行強制性持續進修，地產代理業的重要性絕不下於其他專業，實行強制性進修計劃可以提升從業員在公眾心目中的專業形象。

專業發展委員會也討論了計劃所需的資源和配套。為了讓業界有足夠的時間適應新計劃，監管局打算以循序漸進的方式實施強制性進修計劃；另一方面，監管局會與各方面保持聯繫，一同探討如何作出適當的配套措施。

委員會期望，在新計劃正式實施之前，從業員應把握機會，積極參與持續專業進修活動，為將來配合新計劃作好準備，並就新計劃發表意見。



地產代理業界商會代表的意見 Views from representatives of estate agency trade associations



香港地產代理專業協會會長關樂平先生支持推行強制性持續專業進修計劃。他認為進修課程的內容應該多元化，不宜把課程分為核心和非核心科目。他又建議設立多種進修渠道，例如網上課程，讓從業員進修時的彈性更大。

President of the Society of Hong Kong Real Estate Agents Mr Denys Kwan supported the proposal to make continuing learning mandatory for estate agency practitioners. He recommended that CPD courses cover a wide array of subjects and not be classified into core and non-core ones. He suggested a more diverse mode of learning to allow more flexibility for practitioners, such as offering online courses.



香港地產代理商總會前主席李純鶴先生同意以循序漸進的原則實施強制性持續專業進修計劃，不過監管局應制定清晰的推行時間表。倘若監管局委託其他機構舉辦部分課程，應評審課程的內容，確保課程質素。

Former Chairman of the Hong Kong Real Estate Agencies General Association Mr Li Shun-hok also agreed that the voluntary CPD Scheme should be turned into a mandatory one, but in a gradual and progressive manner, with a clear implementation timetable. He suggested that if the EAA engages other organisations to organise some of the CPD activities, the former has to ensure the quality of these courses should meet prescribed standards.



地產代理聯會主席郭德亮先生認為如果推行強制性持續進修計劃，應該以循序漸進方式進行，並且要安排好各項配套措施。進修學分要求方面，則可以用每年遞增形式，讓地產代理業界更易於適應新計劃，同時建議保留進修嘉許計劃，鼓勵同業們積極進修增值。

Chairman of the Property Agencies Association Mr Tony Kwok commented that if the EAA makes continuing learning mandatory for the estate agency trade, it should implement the new Scheme in a gradual and progressive manner, and should ensure the necessary measures are adopted. He said the EAA could consider increasing the CPD point requirement every year to enable the trade to adapt to the new requirements. He also suggested the EAA retain the recognition schemes to encourage practitioners to take part in CPD activities.

The PDC has embarked on a thorough deliberation on the proposal to make the voluntary CPD Scheme mandatory and agreed that it is the way forward for the estate agency trade and its practitioners.

The Committee recognises that estate agency practitioners handle property transactions which involve substantial amounts of money and the process can be complicated. Moreover, there have been rising public expectations of the estate agency trade. Therefore, to meet public expectations, practitioners should keep themselves abreast of the latest knowledge, develop their professional expertise and raise their competence through continuing training. In fact, mandatory CPD is common in many professions and the estate agency sector is certainly no less important than those professions. A mandatory CPD Scheme is therefore

essential in enhancing the professional image of practitioners among members of the public.

The PDC also discussed the resources and measures required for the proposed Scheme. In order to allow enough time for the trade to adapt to the new arrangements, the EAA will put in place a mandatory CPD Scheme in a gradual and progressive manner. In addition, the EAA will communicate closely with the various parties to work out the necessary measures needed for the implementation.

The Committee hopes that practitioners will prepare for the new Scheme by participating actively in CPD activities and express their views on the proposed arrangements before the new Scheme is implemented.



香港專業地產顧問商會會長汪敦敬先生同意監管局以循序漸進方式推行持續專業進修計劃，而課程不宜分為核心和非核心，令進修計劃的機制更簡單和靈活。

President of the Hong Kong Chamber of Professional Property Consultants Mr Lawrence Wong supported the idea of putting in place a mandatory CPD Scheme in a progressive manner. He also commented that CPD courses should no longer be categorised into core and non-core subjects, in order to make the Scheme simpler and more flexible for the trade.



香港新界地產代理商聯會會長廖志明先生認為監管局可以外判進修課程予其他機構舉辦，並監察這些課程的內容和質素是否切合地產代理業界的需要。

President of the H.K.N.T. Estate Agents and Merchants Association Mr Liu Chi-ming suggested the EAA outsource CPD courses, and monitor the content and quality of the courses to ensure they meet the trade's needs.



地產代理管理協會會長葉潔儀小姐也同意強制性持續專業進修計劃以循序漸進方式實施。另外，監管局可委託地產代理商會或其他機構舉辦部分持續專業進修活動。

President of the Estate Agents Management Association Ms Kitty Ip also agreed with the idea that the EAA should implement a mandatory CPD Scheme in a gradual and progressive manner. She also said the EAA could consider engaging estate agency trade associations or other institutions to organise CPD courses.



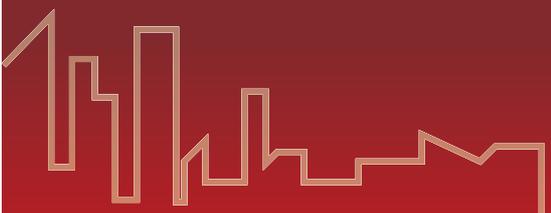
地產代理（從業員）總公會主席吳元興先生贊成監管局以循序漸進的原則推行強制性持續專業進修計劃，進修學分要求可每年遞增。他希望課程的上課模式能夠更互動，課堂內容要實用，切合業界的工作需要。

Chairman of the Estate Agent Association Mr Ng Yuen-hing agreed that the EAA should make training mandatory for the trade in a progressive manner and that the CPD point requirement should be increased annually. He hoped that the mode of learning could be more interactive and the content of the courses should meet practitioners' practical needs.



地產代理人員協會主席何潔芝女士建議持續專業進修課程要實用有趣，有助從業員執業，為客戶提供更優質的服務。

Chairman of the Property Agents Association Ms Rosanna Ho said that CPD courses should be practical, interesting and helpful for estate agency practitioners, so as to enable them to provide quality services to their clients.



監管局2010年 上半年工作回顧與展望

EAA 2010 half-year review and second-half initiatives

監管局於2010年7月20日舉行記者會，由主席陳韻雲女士回顧監管局上半年工作及介紹下半年的工作計劃。陳韻雲透露，就內地與香港地產代理資格互認已經達成協議，預計於下半年正式簽署。監管局於上半年整合和更新多份與一手樓銷售有關的執業通告，又因應新出現的情況，發出執業通告。

陳韻雲表示，監管局與中國房地產估價師與房地產經紀人學會（中房學）已於四月就安排的細節達成共識，預計可於下半年簽訂協議。根據安排，兩地的地產代理參與由對方舉辦的培訓課程及通過測試後，可獲批牌照成為對方的地產代理。首期培訓課程和考試可望於明年舉行。

陳韻雲又指出，監管局因應新出現的問題和從業員不斷變化的執業手法，不時發出執業通告。監管局於上半年將多份與一手樓銷售有關的執業通告重新分類及整合，並且加入新內容。新通告已於5月14日生效。通過巡查工作，監管局發現大部分地產代理都能遵守新規定，只有少部分從業員被發現違規。



The EAA held a press briefing on 20 July 2010 on its work in the first half of the year and its initiatives for the second half. EAA Chairman Ms Vivien Chan said that as far as the mutual recognition of professional qualifications for Mainland and Hong Kong estate agents was concerned, a consensus was reached on the implementation of the scheme. The EAA expects a formal agreement will be entered into in the second half of 2010. Ms Chan also revealed that in the first half of the year, the EAA consolidated and updated its practice circulars on first sales and issued a practice circular to respond to new issues.

According to Ms Chan, the EAA and the China Institute of Real Estate Appraisers and Agents (CIREA) agreed on the details of the mutual-recognition scheme in April, and it is expected that both parties will enter into an agreement in the second half of the year. Under the proposed scheme, Mainland and Hong Kong estate agents, upon attending a training course organised by the other party and passing an examination, will be granted a licence to become Hong Kong and Mainland estate agents respectively. The first training course and examination will be held in the coming year.

Ms Chan also pointed out that the EAA issues practice circulars from time to time, depending on emerging problems and practitioners' changing practices. The EAA consolidated its circulars regulating the sale of first-hand properties and

監管局也因應大眾關注舊樓的安全，發出有關處理附有違例建築工程的舊樓的執業通告，並會在下半年就有關事宜發出執業通告，闡釋進行舊樓收購活動時的注意事項。監管局會與發展商和地產代理公司加強聯繫，講解有關一手樓新指引的內容，又會在下半年增加巡查地產代理商舖，向從業員詳細講解執業通告的內容。



監管局主席陳韻雲女士（左）和行政總裁余呂杏茜女士舉行記者會，回顧監管局上半年的工作，以及簡介下半年的措施。
EAA Chairman Ms Vivien Chan (left) and Chief Executive Officer Mrs Rosanna Ure hold a press briefing to review the EAA's work in the first half of the year and introduce its initiatives for the second half.

陳韻雲女士又回顧了上半年的投訴情況。她指出，今年上半年每月平均接獲的投訴數字較去年同期減少13%。監管局接獲的投訴指稱，包括未有與客戶訂立或解釋地產代理協議、欠缺土地查冊、不當處理涉及大廈維修或屋宇改建的資訊等。

雖然一手樓盤的巡查次數（645次）較去年同期（638次）略多，監管局於今年1月至6日發出的口頭勸喻次數（146次）卻較去年同期（660次）大幅減少，主要是由於監管局加強執法，例如自2008年下半年起，監管局每遇到有地產代理截車追客，不會再發出口頭勸喻，而會即時立案跟進。

incorporated new information into them. The set of consolidated circulars took effect on 14 May. During its inspections, the EAA found that most estate agents were following the new guidelines. Only a handful of practitioners were found to have breached the rules.

In view of public concern about the safety of old buildings, the EAA issued a practice circular in the first half of the year on old properties with unauthorised building works. The EAA also plans to issue a practice circular on the acquisition of old properties to highlight the points to note for estate agents involved in acquisition activities. The EAA will also strengthen its liaison with developers and estate agencies and brief them on the EAA's new circulars on first sales. In addition, the EAA will increase its inspections at estate agency shops to further explain the content of the circulars to practitioners.

Ms Chan also reviewed the number of complaints received in the first half of the year. The average monthly number of complaints received in the first half of 2010 decreased by 13% compared with that of the same period last year. The allegations involved in the complaint cases included failure to sign an estate agency agreement with clients or to explain the agreement to clients, failure to conduct a land search, improper handling of information on building maintenance or alterations, etc.

Although the number of inspections at first-sale sites (645) was slightly higher than that of the same period in 2009 (638), the number of instances of giving verbal advice decreased from 660 in the first half of 2009 to 146 in the same period of 2010, mainly as a result of the EAA's stepping up its enforcement efforts. For instance, starting in the second half of 2008, if practitioners were found to have intercepted vehicles on the road to solicit business, the EAA took a video record of the incidents and initiated investigations instead of giving verbal advice.

規管地產代理參與 收購舊樓新指引

New guidelines regulating estate agents' practices in the acquisition of flats in old buildings

有見於舊樓收購活動日漸頻繁，而社會亦非常關注地產代理參與有關活動時的執業手法，監管局於2010年8月2日發出執業通告10-05(CR)，就地產代理參與收購舊樓時應注意的事項提供指引，加強從業員對相關法例要求的了解。

監管局於同日舉行記者會，公布有關新通告的重點。監管局行政總裁余呂杏茜女士表示：「監管局現行的規管架構已經對有關的地產代理活動有所監管。新發出的執業通告清楚而具體地闡釋地產代理參與收購舊樓時的規例和行為準則，期望從業員能夠明白相關規定和行為準則並且切實遵行。同時，監管局也希望公眾藉此了解監管局對從業員在進行該類活動時的要求，從而知道如何保障權益。」

新執業通告涵蓋的主要內容包括：

- (一) 地產代理參與收購舊樓時，須告知賣方是代表買方，抑或也將同時代表賣方；
- (二) 須要披露因處理物業而獲得的金錢或其他利益；
- (三) 須提供正確和最新的資料；
- (四) 進行商議時應留意的地方，如不得滋擾或騷擾賣方；
- (五) 應避免安排賣方簽署一份在重要的交易條款漏空的臨時買賣合約；
- (六) 聘用其他人士進行游說時要注意的地方。

監管局執行總監黃維豐說：「倘若地產代理參與收購舊樓時違規，可能會遭受監管局的紀律處分，最嚴重的處分為撤銷牌照。」

為促使從業員遵守通告內的指引，監管局會加強宣傳教育工作，藉著巡查地產代理商舖及舉辦持續專業進修講座，向地產代理清楚講解指引內容。

Recently, there has been an increase in the number of acquisitions of flats in old buildings. The general public has shown great concern over the practices of estate agents who engage in such activities. In view of this, the EAA issued new practice circular 10-05(CR) on 2 August 2010 in a bid to provide guidance to licensees who are involved in the acquisition of old properties, and to improve their understanding of the relevant legal requirements.

The EAA held a press conference on the same day to announce the key points of the new circular. EAA Chief Executive Officer Mrs Rosanna Ure said, "The regulatory regime of estate agency practitioners provides a general framework of how such estate agency activities should be conducted by estate agents. The new practice circular explains clearly and in more concrete terms the rules and regulations, and the code of conduct which estate agents should comply with when involved in the acquisition of flats in old buildings. The EAA expects practitioners to gain a good understanding of the regulations and code, and abide by them. At the same time, this allows members of the public to become better equipped to protect their interests by understanding what the EAA expects of estate agents when they carry out such activities."

Highlights of the new practice circular include the following requirements of estate agents:

- (i) When they are involved in the acquisition of flats in old buildings, they should clearly inform the vendor whether they are acting for the purchaser and whether they would also like to represent the vendor.
- (ii) They must disclose any monetary or other beneficial interests which may accrue to them in handling the flat.
- (iii) They must provide accurate and up-to-date information to their clients.
- (iv) When conducting negotiations, they must not harass or pester the vendor.
- (v) They must not arrange for the vendor to sign a Provisional Agreement for Sale and Purchase (PASP) unless all blank spaces in the PASP have been filled in.
- (vi) Points to note when engaging other persons in solicitation activities.

EAA Director of Operations Mr Anthony Wong said, "If practitioners are proven to have breached the regulations when involved in the acquisition of flats in old buildings, they may be subject to disciplinary sanctions by the EAA, with the most serious sanction being licence revocation."

In order to facilitate estate agents' compliance with the new circular, the EAA will step up education and promotion efforts. Through compliance inspections at estate agency shops and CPD seminars, the EAA will explain the new guidelines in detail to practitioners.

紀律研訊個案分享一 欠缺土地查冊 Inquiry hearing case — Failure to do a land search



土地查冊文本載有多項重要的物業資料。地產代理從業員在處理住宅樓宇買賣交易時，應在緊接買賣雙方訂立臨時買賣合約（臨約）之前，就有關物業進行土地查冊，並向準買方提供查冊結果的文本。

一對夫婦委託一名從業員購買住宅物業，該從業員以雙邊代理的身分，處理有關物業交易。期間，女方向該名從業員作出清晰指示，要求他查核是否有人曾在該物業死亡，並重複提出物業是否曾有人死亡的疑問，從業員都表示該物業從未有人死亡。事實上，該物業的土地登記冊登記了一名前業主的死亡登記紀錄，顯示他於數年前在該物業自殺身亡。

有關從業員在緊接物業的臨約訂立之前，未有遵守《地產代理常規（一般責任及香港住宅物業）規例》第13(4)條的規定，就物業進行土地查冊和向買方提供土地查冊結果的文本。另外，他在履行職務時，未有根據買方的指示，查核該物業是否曾有人死亡，他因而未有遵守《操守守則》第3.5.1段中「地產代理和營業員在履行職務時必須盡量小心和盡一切應盡的努力」的守則。

監管局紀律委員會就上述個案進行紀律研訊。紀律委員會判處暫時吊銷該名從業員的牌照一個月，並在其牌照附加條件，要求他在兩年內取得24個持續專業進修計劃核心科目的學分。

A land search contains important property information. In the sale and purchase of a property, estate agency practitioners should, immediately before a Provisional Agreement for Sale and Purchase (PASP) is entered into, conduct a land search in respect of the property concerned and provide a copy of the land search to the prospective purchaser.

In one case, a couple appointed an estate agency practitioner to help them purchase a residential property. The practitioner acted for both the vendor and the purchaser in the transaction. During the process, the wife clearly instructed the practitioner twice to check whether there had ever been a death at the property. The practitioner told her nobody had ever died at the property. In fact, the death certificate of a former landlord of the property was registered in the land register of the property indicating that the landlord had committed suicide at the property a few years earlier.

The practitioner did not conduct a land search and supply a copy of the land search to the purchaser immediately before the PASP was entered into, and thus failed to comply with section 13(4) of the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation. In addition, he did not verify whether there had been a death at the property according to the purchaser's instruction when fulfilling his duties, and therefore failed to observe the regulation in paragraph 3.5.1 of the Code of Ethics stating that "estate agents and salespersons shall, in fulfilling their duties, exercise due care and due diligence".

The EAA Disciplinary Committee conducted an inquiry hearing into the case, and suspended the practitioner's licence for one month and attached a condition to his licence, requiring him to obtain 24 CPD points in core subjects of the CPD Scheme within two years.

紀律研訊個案分享— 訂金託管

Inquiry hearing case — Stakeholding of deposits



監管局曾經發出執業通告，提醒地產代理應建議準買家，在安排各立約方訂立買賣附有未解除按揭的物業的臨約前，他須向買家提出有關直接向業主支付訂金的風險，以及向買家提出將所有訂金（包括首期及後續訂金）託管在律師行內。

在一宗紀律研訊個案中，一名從業員是雙邊代理。他安排買賣雙方訂立物業的臨約，但刪除了臨約的訂金託管條文，同時安排買方向賣方直接支付訂金。此外，從業員沒有在緊接臨約簽訂之前，為物業進行土地查冊。

事實上，有關物業的按揭在臨約簽署時仍未解除，而且在物業的土地登記冊上已註上了一個由賣方簽立的「不可撤銷的授權書」，該授權書是作為賣方向財務公司借入款項的還款保證。在這些情況下，買方直接支付訂金給賣方所涉及的風險甚大。

該從業員沒有向買方充份解釋風險，便刪去該臨約中的訂金託管條文，安排買方直接支付訂金給賣方，沒有保障和促進客戶的利益，未有遵守《操守守則》第3.4.1段中「作為代理或受委託為代理的地產代理和營業員，應保障和促進客戶的利益、按照地產代理協議執行客戶的指示，並對交易各方公平公正」。有關從業員在緊接物業的臨約訂立之前，亦未有遵守《地產代理（一般責任及香港住宅物業）規例》第13(4)條的規定，就物業進行土地查冊和向買方提供土地查冊結果的文本。

監管局紀律委員會就上述個案進行紀律研訊。紀律委員會暫時吊銷該名從業員的牌照七天，並在其牌照附加條件，要求他在一年內取得12個持續專業進修計劃核心科目的學分。

The EAA has issued a practice circular to remind estate agents that before a PASP in respect of a property with an undischarged mortgage is entered into, agents should advise the purchaser of the possible risks in payment of deposits directly to the vendor and suggest the purchaser pay all deposits (both the initial and further deposits) to a firm of solicitors as stakeholders.

In an inquiry hearing case, an estate agency practitioner acted for both the purchaser and the vendor in a property transaction. He made arrangements for both parties to sign a PASP in respect of the property, but he deleted the terms on stakeholding the deposits in the PASP and arranged for the purchaser to pay the deposits directly to the vendor. Furthermore, the practitioner did not conduct a land search immediately before the PASP was entered into.

In fact, the property remained encumbered by an undischarged mortgage when the PASP was signed, and an irrevocable power of attorney executed by the vendor was registered in the land register of the property. The power of attorney was security for a loan from a finance company to the vendor. Under such circumstances, the risk involved in the purchaser's paying the deposits directly to the vendor was rather high.

In crossing out the stakeholding clause in the PASP and arranging for the purchaser to pay the deposits directly to the vendor without explaining to the purchaser the risks involved, the practitioner failed to protect and promote his client's interests, and thus did not comply with the relevant regulation in paragraph 3.4.1 of the Code of Ethics, which states that "estate agents and salespersons, in engaging and accepting an appointment as an agent, should protect and promote the interests of their clients, carry out the instructions of their clients in accordance with the estate agency agreement, and act in an impartial and just manner to all parties involved in the transaction". Moreover,

the practitioner did not conduct a land search and provide a copy of the land search to the purchaser immediately before the PASP was entered into, and therefore failed to observe section 13(4) of the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation.

The EAA Disciplinary Committee conducted an inquiry hearing into the case, and suspended the practitioner's licence for seven days and attached a condition to his licence, requiring him to obtain 12 CPD points in core subjects of the CPD Scheme within one year.

監管局紀律委員會主席馬豪輝先生的意見 Comments from Chairman of the EAA Disciplinary Committee Mr Ma Ho-fai

土地查冊是物業買賣中非常重要的文件，監管局曾經發出執業通告及舉辦培訓講座，提醒從業員為物業進行土地查冊的重要性。不過，從業員未有遵守有關查冊的規定，仍然是常見的違規事項。監管局希望通過本期《專業天地》的紀律研訊案例，再次提醒從業員必須遵守有關規定。

土地查冊中所載有資料，例如擁有權、有效的產權負擔等，對於買家十分重要。為了保障和促進客戶的利益，並根據《地產代理常規（一般責任及香港住宅物業）規例》，地產代理從業員須於緊接買賣方雙方訂立臨約之前，就有關物業進行土地查冊，並向買方提供查冊結果的文本。

在這一宗紀律研訊個案中，從業員沒有為物業進行查冊和向客戶提供查冊文本，令客戶未能掌握有關物業的基本資料。此外，雖然土地登記冊內登載死亡登記紀錄，但由於從業員並沒有進行查冊，令客戶也因而無法知悉這項重要的參考資料。從業員未有保障和促進客戶的利益，因而被監管局紀律處分。



Land searches are important documents in property transactions. To reflect the importance attached to this requirement, the EAA has issued a practice circular and organised CPD seminars on the subject to remind practitioners of the significance of conducting land searches. However, failure to comply with the relevant laws on land searches is still one of the common types of non-compliance among practitioners. The EAA hopes that practitioners will be alert to the regulations after reading the inquiry hearing case in *Horizons*.

The information in the land search, such as the ownership and subsisting encumbrances on the property, is very important to the purchaser. In order to protect and promote clients' interests, and pursuant to the relevant provisions in the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation, practitioners should, immediately prior to the signing of the PASP by the purchaser and the vendor, conduct a land search in respect of the property and provide a copy of the land search to the purchaser.

In this inquiry hearing case, the practitioner did not carry out a land search and supply a copy of the search to the client. As a result, the client failed to obtain basic information about the property, in particular, the death certificate registered in the land register of the property concerned, information which was critically important to the purchaser. Consequently, the EAA imposed disciplinary sanctions on the practitioner for failing to protect and promote his client's interests.

規管一手樓銷售的新指引 實施情況

Implementation of new practice circulars on the sale of first-sale properties

與一手樓銷售有關的最新執業通告已於2010年5月14日生效。通過巡查工作，監管局發現大部分地產代理都能遵守新規定。

由指引生效至8月31日為止，監管局曾經巡查26個樓盤共469次。監管局執行總監黃維豐先生表示：「自新指引生效以來，一手樓盤的銷售秩序大致良好。監管局只發現一名地產代理從業員在行車路上截車招攬客人及五名從業員未有配戴地產代理證或職員證。」

黃維豐先生補充，執業通告中有關委派員工監督的指引發揮效用。根據該指引，地產代理公司委派一名員工監督（須為持牌代理），負責監控被調派往一手樓盤銷售地點工作的員工，也需要對違規員工負責任。

監管局將多份與一手樓銷售有關的執業通告重新分類及整合，並且加入新內容。經整合後的通告分為三份，分別涵蓋一手樓盤銷售地點的秩序、促銷一手樓盤時的操守和一手樓盤的物業資料這幾個範疇。

另外，監管局檢討和整合了過往各發展商要求地產代理公司及從業員推銷一手樓盤時須遵守的行為守則，並提出建議，作為各方參與新盤銷售時有效管理前線地產代理的參考。黃維豐先生過去兩個月來主動接觸了八間發展商，了解他們的銷售情況，並簡介上述參考資料。發展商的反應積極，已有四間發展商就其新盤銷售的秩序事宜參考監管局的建議。

The practice circulars regulating the sale of first-hand properties came into effect on 14 May 2010. Through its compliance inspections, the EAA has found that most estate agents are observing the new regulations.

From the date the new guidelines took effect until 31 August, the EAA conducted a total of 469 inspections at 26 first-sale sites. EAA Director of Operations Mr Anthony Wong said, "Since the guidelines took effect, estate agents' order at first-sale sites has generally been good. The EAA found only one estate agency practitioner intercepting vehicles to solicit business and five practitioners not wearing Estate Agent Cards or staff cards."

Mr Wong added that the regulation requiring the appointment of a controller to oversee staff at first-sale sites had been effective. According to the regulation, estate agencies have to assign a controller (who must hold an estate agent's licence) to monitor staff deployed to the sales sites and to be accountable for staff non-compliance.

The EAA consolidated a number of practice circulars on the promotion of first-hand properties under different topics and incorporated new information into them. The three resultant circulars cover maintaining order at first-sale sites, practitioners' conduct in first-sale activities and providing property information on first-sale developments.

In addition, the EAA reviewed and consolidated the code of conduct which developers expect of estate agencies and practitioners in first sales. This, together with suggestions on the effective control of frontline estate agents, has been shared with parties concerned in the form of a set of reference materials. In the past two months, Mr Wong approached a total of eight developers in order to learn more about their sales arrangements and introduce to them the above-mentioned reference information. The response of the developers was positive and four developers have already made reference to the EAA's suggestions on maintaining sales order at first-sale sites.

一手樓花買賣新措施 New measures on the sales of uncompleted flats

為了增加一手樓花買賣的透明度，政府的「九招十二式」已於2010年6月1日實行，在一手樓物業的銷售和資訊發放方面有新的措施。通過下述兩條常見問題與答案，地產代理從業員可加深了解新措施，以便向客戶提供更準確的資訊。

問題一：在「九招十二式」之下，發展商推出價單方面有哪些新措施？

發展商須於樓花盤開售三天前公布有關價單，以及首張價單須包括更多單位。詳情表列如下：

項目類型	每批可供出售單位首張價單的單位數目
小型發展項目（單位總數或發展項目的某一期少於100個單位）	30個或30% ^(註)
大型發展項目（單位總數或發展項目的某一期共100個或以上單位）	50個或50% ^(註)

（註：以較高者為準）

問題二：根據新措施，如發展商提供示範單位，是否必須設立「清水房」？

是的，發展商須遵守以下規定：

- 要提供最少一個「清水房」，即在內部間隔、裝修用料以及附送的設備上完全與交樓標準一致的「交樓標準單位」。
- 示範單位須與相關已批核的建築圖則及售樓說明書中所指明的面積或尺寸一致。
- 如單位內移除了非結構內牆或間隔牆，須在地面上以實線清晰地標示有關牆身的原先確實位置及厚度。
- 容許準買家在示範單位內量度面積、拍照或攝錄。

To enhance the transparency of the sales of first-hand private residential properties, the Government has implemented the “nine new measures and twelve requirements” with effect from 1 June 2010 to regulate the sales arrangement and dissemination of information. The following two frequently asked questions and answers are intended to deepen estate agents’ understanding of the new initiatives so that they can provide accurate information for their clients.

Question 1: Under the “nine new measures and twelve requirements”, what are the new requirements on price lists?

Developers are required to make public their price lists three days prior to the commencement of the sales concerned and include more flats in their first price lists. Detailed requirements are given as follows:

Type of development	Number of units to be included in the first price list for each batch
Small-scale development (a development or a phase of development with less than 100 units in total)	30 units or 30% of the total number of units put up for sale in each batch ^(Note)
Large-scale development (a development or a phase of development with 100 units or more in total)	50 units or 50% of the total number of units put up for sale in each batch ^(Note)

(Note: whichever is the higher)

Question 2: Under the new requirements, is the provision of the unmodified show flat(s) a must if the show flat(s) is/are made available by developers?

Yes, developers have to comply with the following requirements:

- There should be at least one “unmodified show flat” showing exactly the same conditions of the actual flat to be handed over to buyers upon completion in respect of internal partitions, fittings and finishes, and complimentary appliances.
- The size and dimensions of the show flat(s) must be identical to those specified in the respective approved building plans and sales brochures.
- For show flat(s) with non-structural internal walls or partitions removed, there should be a solid line on the floor indicating conspicuously the exact original position and width of the walls or partitions concerned.
- Prospective buyers should be allowed to take measurements, photos and video records inside the show flat(s).

取消或拒絕牌照申請退款安排 Refund arrangement for cancellation or rejection of licence applications

監管局提醒牌照申請人，倘若取消牌照申請或不獲發牌照，監管局會以支票形式退回有關牌費予申請人，支票的收款人只限於有關牌照的申請人。監管局會於取消或拒絕申請之日起計的10個工作天內發出退款支票予申請人。

此外，倘牌照申請人希望取消其牌照申請，本局只會在該牌照仍未批出前接納有關要求。

The EAA reminds licence applicants that if a licence application is cancelled or rejected, the EAA will refund the licence fee to the applicant by cheque payable to the applicant only. The EAA will issue the refund cheque within 10 working days from the date the application is cancelled or rejected.

Should licence applicants wish to cancel an application, refunds will be issued only for applications that are still pending determination.

簡訊 News in Brief

「打擊清洗黑錢財務行動特別組織」公開聲明

Public statement of the Financial Action Task Force on Money Laundering

「打擊清洗黑錢財務行動特別組織」於2010年6月25日發出公開聲明，提出全球其中28個司法管轄區關於打擊洗黑錢和恐怖分子融資活動的策略的不足之處，以及提供改善建議。監管局期望業界透過參閱上述公開聲明，對有關課題有更深入的了解。

公開聲明的詳情可參閱<http://www.fatf-gafi.org>。

The Financial Action Task Force on Money Laundering (FATF) issued a public statement on 25 June 2010 on the strategic deficiencies of 28 worldwide jurisdictions in combating money laundering and terrorist financing activities, and made a number of recommendations for improvement. The EAA wishes to draw agents' attention to the above public statement in order to have a deeper understanding of the subject.

Details of the public statement is available at <http://www.fatf-gafi.org>.

內地與香港地產代理專業資格互認計劃

Mutual recognition of professional qualifications for estate agents in the Mainland and Hong Kong

最近，監管局與中國房地產估價師與房地產經紀人學會（中房學）達成共識，落實《內地與香港關於建立更緊密經貿關係的安排》下地產代理專業資格互認計劃的基本安排，雙方將會為此簽署協議。監管局去年初與中房學已簽署相關備忘錄，而有關的法例修訂亦已於去年底完成。

監管局將就甄選參加者和舉辦訓練課程等事宜進行籌備工作，並會稍後公報詳情。有關計劃的更多資料，請參閱本局網頁http://www.eaa.org.hk/ch_mutualrecognition.htm。

The EAA has recently reached agreement with the China Institute of Real Estate Appraisers and Agents (CIREA) on finalising the detailed arrangements for the mutual recognition of professional qualifications for estate agents in the Mainland and Hong Kong. The signing of the formal agreement will take place soon. In early 2009, a Memorandum of Understanding to record the preliminary agreement reached was entered into between the EAA and the CIREA. Relevant legislative amendments were passed in late 2009.

The EAA will commence its preparatory work for selecting candidates, holding training course, and other related matters and will publish their details in due course. Further information on the mutual recognition scheme can be obtained from the EAA website: <http://www.eaa.org.hk/mutualrecognition.htm>

活動紀要 Events and activities



8/7/2010

監管局主席陳韻雲女士，BBS，JP出席中原訓練學院優質服務證書課程嘉許儀式，並發表演講。

EAA Chairman Ms Vivien Chan, BBS, JP attends and delivers a speech at the Graduation Ceremony of the Certificate in Service Excellence Programme organised by the Centaline Training Institute.



20/7/2010

監管局舉辦《處理僭建或間隔改動物業實務》專題講座，邀請香港測量師學會建築測量組副主席何鉅業先生（右）及監管局法律顧問張偉浩先生，向從業員講解處理有關物業時的注意事項。

The EAA organises a CPD seminar on practitioners' handling properties with illegal structures and rearranged partitions, at which Vice Chairman of the Building Surveying Division of The Hong Kong Institute of Surveyors Mr Vincent Ho (right) and Legal Counsel of the EAA Mr Earnest Cheung brief practitioners on the subject.

統計數字 Statistics

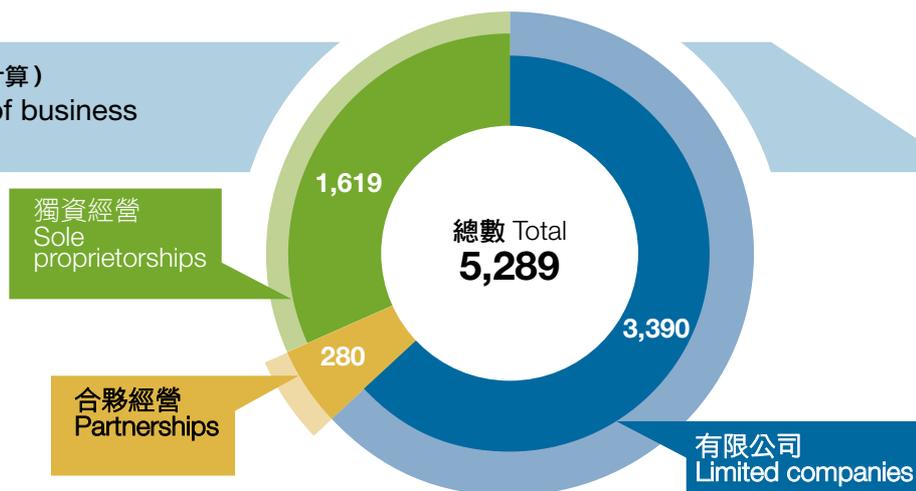
牌照數目 (於2010年9月30日計算)

Number of licences (as at 30/9/2010)

營業員牌照 Salesperson's licences	16,441
地產代理 (個人) 牌照 Estate agent's licences (individual)	+ 14,118
個人牌照總數 Total no. of individual licences	30,559
地產代理 (公司) 牌照 Estate agent's licences (company)	2,265

營業詳情說明書數目 (於2010年9月30日計算)

Number of statements of particulars of business (as at 30/9/2010)



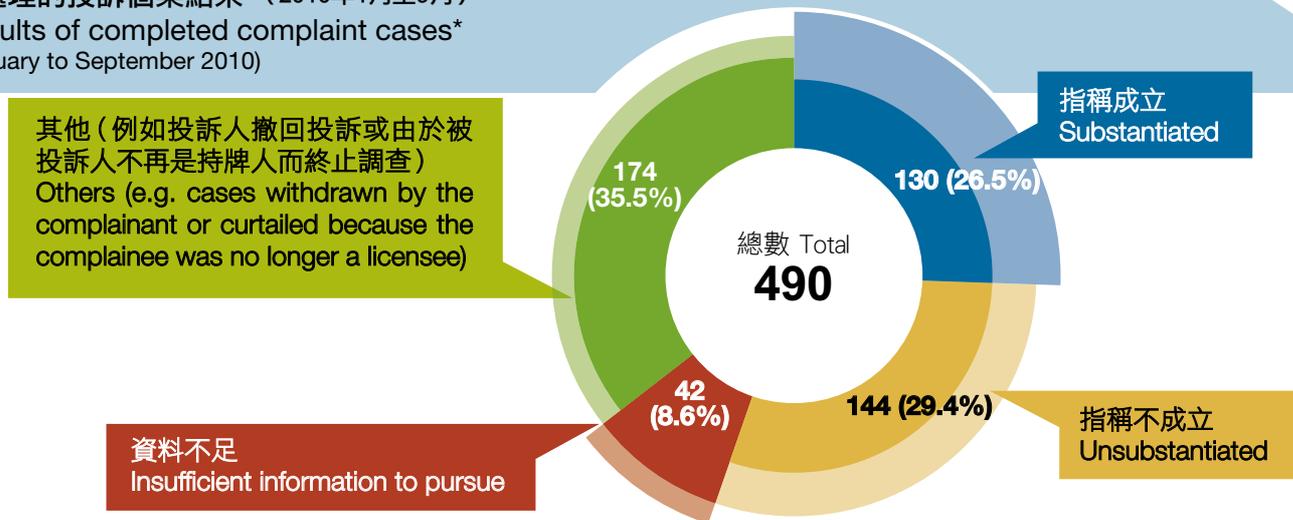
接獲的投訴/破產個案數目 (2010年1月至9月)

Number of complaint / bankruptcy cases received (January to September 2010)

投訴個案 Complaint cases	461
破產個案 Bankruptcy cases	34

已處理的投訴個案結果* (2010年1月至9月)

Results of completed complaint cases* (January to September 2010)



已處理的破產個案數目 (2010年1月至9月)

Number of completed bankruptcy cases (January to September 2010)

47*

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

巡查次數 (2010年1月至9月)

Number of compliance inspections (January to September 2010)

「一手」樓盤 First-sale sites	969
代理商舖 Agency shops	896
網上物業廣告 Online property advertisements	418

經巡查或抽查而發現並成立的違規個案 (2010年1月至9月)

Number of substantiated non-compliance cases arising from inspections or spot checks (January to September 2010) **70***

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

紀律處分 (2010年1月至9月)

Disciplinary actions (January to September 2010)

被暫時吊銷的牌照數目 Number of licences suspended	23
被撤銷的牌照數目 Number of licences revoked	0

考試及考試日期

Examination and date

參加人數

No. of candidates

合格率

Pass rate

地產代理資格考試

Estate Agents Qualifying Examination

25/2/2010	1,640	44%
22/4/2010	1,903	40%
19/8/2010	2,376	36%

營業員資格考試

Salespersons Qualifying Examination

參加人數

No. of candidates

合格率

Pass rate

26/2/2010	1,583	52%
23/4/2010	1,866	50%
25/6/2010	2,209	60%
20/8/2010	1,902	51%

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