

## 新執業通告

### New practice circulars

#### 防止「洗黑錢」措施

為了進一步支持政府打擊「洗黑錢」罪行，監管局於6月發出新執業通告，要求從業員採取措施，協助防止「洗黑錢」活動，特別是當買賣一方為公司客戶時，代理須要注意的事項或記錄/保存的資料。重點如下：

- 如果簽訂臨時買賣合約的任何一方為公司客戶，地產代理須妥善登記代表該公司的代表人或簽署人之身分證明文件或旅遊證件（例如身分證、護照、內地人士來港雙程證等）資料。
- 無論客戶是公司客戶或個人客戶，地產代理都應妥善保存上述地產代理協議（由簽訂臨時買賣合約起計至少5年），以便有需要時可供執法機關查閱。
- 地產代理公司管理層應訂立內部管制程序，以辨認和舉報懷疑是「洗黑錢」的活動。

為方便業界作出舉報，監管局設計了一張表格，供從業員舉報懷疑涉及「洗黑錢」的交易。從業員可從監管局網頁下載有關表格。

#### Measures to prevent money laundering

In further support of the SAR Government's efforts to combat money laundering, the EAA issued a practice circular in June to urge practitioners to take more steps to prevent such illegal activities. In particular, the circular points out the things to note and records to retain if a corporate client is involved in a transaction. The main points are as follows:

- Where the client signing the provisional agreement for sale and purchase is a corporation, the practitioner should ensure that the identity or travel documents (e.g. Hong Kong Identity Card, passport, two-way permit for mainland residents) of the client's representative or signatory have been properly recorded.
- Regardless of whether the client is a corporation or individual, estate agents should retain the estate agency agreement for at least five years from the date of the signing of the provisional agreement for sale and purchase, to be provided to the relevant authorities as required.
- The management of estate agencies should establish internal-control procedures for identifying and reporting suspicious money-laundering transactions.

To facilitate the trade's reporting of suspicious money-laundering transactions, the EAA has designed a standard report form, which has been posted on the EAA website for practitioners to download.

## 聘用收數公司

監管局曾收到投訴，涉及地產代理從業員所聘用的收數公司滋擾客戶或使用不正當手段。為加強規管，監管局於4月發出執業通告，詳列從業員在聘用收數公司前須要遵守及留意的事項，要點包括：

- 在聘用收數公司時，從業員須與收數公司簽訂聘用合約，並在合約上列明收數公司不可採用的收數方法。
- 從業員應為如何揀選收數公司及監督收數公司的行為，訂立恰當程序，並定期作出檢討。這些程序應包括審查收數公司的背景資料及評估收數公司的運作。
- 若然從業員協助、鼓勵或促使收數公司犯罪，從業員都有可能成為從犯而須就同一罪行負上刑事責任。
- 若從業員未能遵守指引，可被視為未有設立妥善的制度以管理其業務，並可能因此而觸犯了《常規規例》第15條。

## Using debt-collection companies

The EAA has received complaints about the use of debt-collection companies by estate agents, in regard to the use of harassment or other improper tactics. To step up controls in this regard, the EAA issued a circular in April which details the rules practitioners should observe when appointing debt-collection companies. The main points are as follows:

- When instructing a debt-collection company, a practitioner must enter into a written agreement with the company on terms specifying the improper debt-collection tactics which should not be adopted.
- Practitioners should have proper procedures for the selection of debt-collection companies and the supervision of their conduct. These procedures should be subject to regular review and should consist of a review of the background information of the debt-collection company and an evaluation of its operation.
- If practitioners assist or encourage debt-collection companies to commit offences while carrying out improper debt-collection activities, they may be criminally liable for the same offences, as a secondary party.
- Failure to comply with the above guidelines may be seen as not having established a proper system to manage a business and may therefore amount to a breach of section 15 of the Practice Regulation.

## 每間辦事處須有一名經理獨立和有效管理

根據《地產代理條例》第38(1)(a)條，持牌地產代理須確保轄下的每間辦事處的業務，都是由一名經理有效和獨立地控制。換句話說，一名經理只能管理一間辦事處。有關經理必須是地產代理（個人）牌照持有人。

根據《地產代理條例》第40(3)條，持牌地產代理須於委任上述經理或停止委任上述經理的日期起計的31天內，將委任或停止委任經理一事通知監管局。

通知監管局時，應使用「持牌地產代理委任/終止委任經理通知書」（表格10）。該表格可於監管局網頁下載。

## Every office should be under the effective and separate control of a manager

The EAA reminds practitioners that under section 38(1)(a) of the Estate Agents Ordinance, licensed estate agents are required to ensure that their business at every estate agency office is under the effective and separate control of a manager who must hold an estate agent's licence (individual). In other words, a manager can manage only one estate agency office.

According to section 40(3) of the Estate Agents Ordinance, licensed estate agents are required to notify the EAA within 31 days of the appointment or termination of appointment of such estate agency office managers.

The "Notice of Appointment/Termination of Appointment of a Person as a Manager of a Licensed Estate Agent" (Form 10), which can be downloaded from the EAA website, should be used when such a notice is given to the EAA.

## 貸款予客戶購買物業

### Lending money to clients to purchase properties

監管局曾接獲市民投訴，地產代理從業員為了促成「一手」物業交易，貸款予客戶支付訂金，以致客戶購入超出其經濟能力的物業。

監管局提醒從業員，雖然《地產代理條例》沒有就從業員於進行地產代理工作時，可否貸款予客戶或替客戶墊付訂金一事有任何規定，作為專業的地產代理，貸款予客戶或替客戶墊付訂金前，應建議客戶清楚了解自己的經濟狀況、還款能力和財務安排。

The EAA has received complaints that estate agency practitioners, for the sake of facilitating the sale of first-hand properties, lent money to their clients to pay for the deposit for the purchase, which resulted in the clients having bought a property that they could not afford.

The EAA reminds practitioners that, although the Estate Agents Ordinance has no provision on whether practitioners can lend money or help their clients pay for the deposit in advance, before doing so, professional practitioners should advise their clients to ascertain their own financial position, loan repayment ability and necessary financial arrangements.