

A hand holding a wooden gavel, poised to strike a surface. The background is a blue-tinted image of a city skyline composed of pixelated blocks. The gavel is made of light-colored wood and has a dark, polished head. The hand is wearing a white sleeve.

工作報告：

執法與紀律制裁

The year in review：

Law enforcement and disciplinary sanctions

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投訴處理及巡查

在規管和執法方面，監管局的主要職責包括調查投訴和執行巡查。

2008/09年度，監管局共接獲643¹宗投訴個案，大部分涉及二手物業，當中只有50宗有關一手物業。

同期，監管局完成了735宗個案的調查工作，其中217宗的指稱成立。該些指稱成立的個案當中，13宗是關於一手物業。

本年度，監管局共進行了1,916次巡查，其中1,128次是巡查一手樓盤銷售處²，而其餘的788次是巡查地產代理商舖。監管局進行巡查及抽查後，就74宗涉嫌違規個案主動展開調查。同期，監管局完成處理126宗該類個案，其中70宗的指稱成立，當中15宗涉及一手物業。

隨著地產代理公司在網上發布廣告愈趨普及，監管局開始定期抽查網上廣告，確保有關廣告符合相關法例的規定。2008/09年度，監管局就網上物業廣告進行了221次抽查。

Complaint handling and compliance inspections

Investigating complaints and conducting compliance inspections are the EAA's key regulatory and enforcement duties.

In 2008/09, the EAA received 643¹ complaints. The majority of them were related to second-hand properties, with only 50 cases concerning first-hand properties.

During the same period, the EAA completed investigations into 735 complaints, of which 217 were found to be substantiated. Of the substantiated cases, 13 cases concerned first-hand properties.

In the year, the EAA conducted 1,916 compliance inspections – 1,128² at first-sale sites and 788 estate agency shops. As a result of these inspections and spot checks, the EAA instigated investigations into 74 suspected non-compliant cases. During the same period, the EAA completed 126 self-initiated investigations, among which 70 cases were substantiated. Of these 70 cases, 15 cases were related to first-sale properties.

In view of the growing prevalence of online advertisements by estate agencies, the EAA started patrolling cyberspace regularly to ensure the advertisements put on the websites comply with relevant legislative requirements. In 2008/09, the EAA conducted 221 such cyber inspections of online property advertisements.



2008/09年度，監管局共進行了1,916次巡查，其中788次是巡查地產代理商舖。

In 2008/09, the EAA conducted 1,916 compliance inspections, 788 of them at estate agency shops.

¹ 包括由其他執法機構轉介的個案

² 包括樓盤所在處、樓盤銷售處及其附近

¹ includes cases referred to the EAA by other law-enforcement agencies

² includes the development sites, sales offices and vicinity areas

為了讓地產代理加深了解發布網上物業廣告的法例要求，監管局於2009年3月4日舉行網上物業廣告研討會。與會人士包括地產代理業界商會、地產代理公司和物業網站營運商的代表。研討會上，監管局提醒他們發布廣告應注意的事項，並讓他們交流意見，藉此推動業界恪守網上廣告規例。

除了網上廣告，監管局亦抽查了刊登於報章和張貼在各區空置商舖捲閘上的廣告。對於從業員未經准許在公眾地方張貼單張或海報，監管局亦有採取行動。



監管局定期抽查網上廣告，確保有關廣告符合相關法例的規定。
The EAA patrols cyberspace regularly to ensure online property advertisements comply with relevant legislative requirements.

To promote awareness of the legislative requirements regarding estate agents' online property advertisements, a forum was held on 4 March 2009 for estate agency trade associations, estate agency companies and property-website companies to exchange views on the subject and to draw their attention to areas of concern so as to achieve a high level of compliance.

Apart from checking online advertisements, the EAA also inspected advertisements in newspapers and those posted on the roller shutters of vacant shops in various districts. The EAA also took action against agents for posting unauthorised bills or posters in public places.

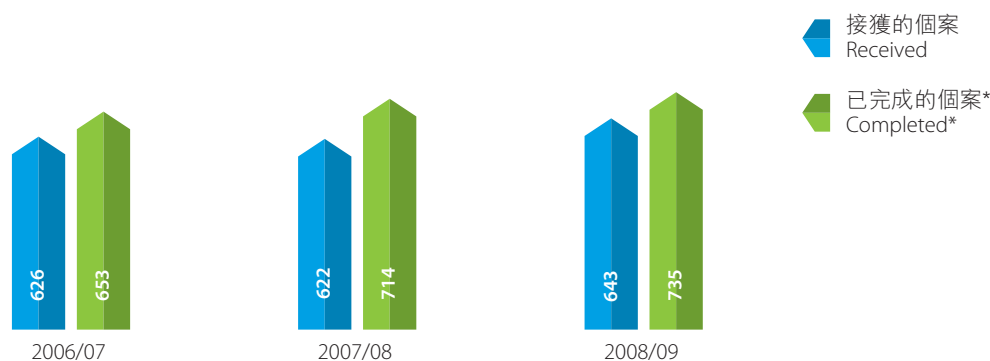
查詢

另外，監管局亦有處理公眾和業界對於地產代理法律、操守和執業的查詢。2008/09年度，監管局共處理了6,991宗這類查詢。

Enquiries

The EAA also handles enquiries from both the public and the trade on estate agency-related legal issues, conduct and practices. In 2008/09, the EAA handled a total of 6,991 such enquiries.

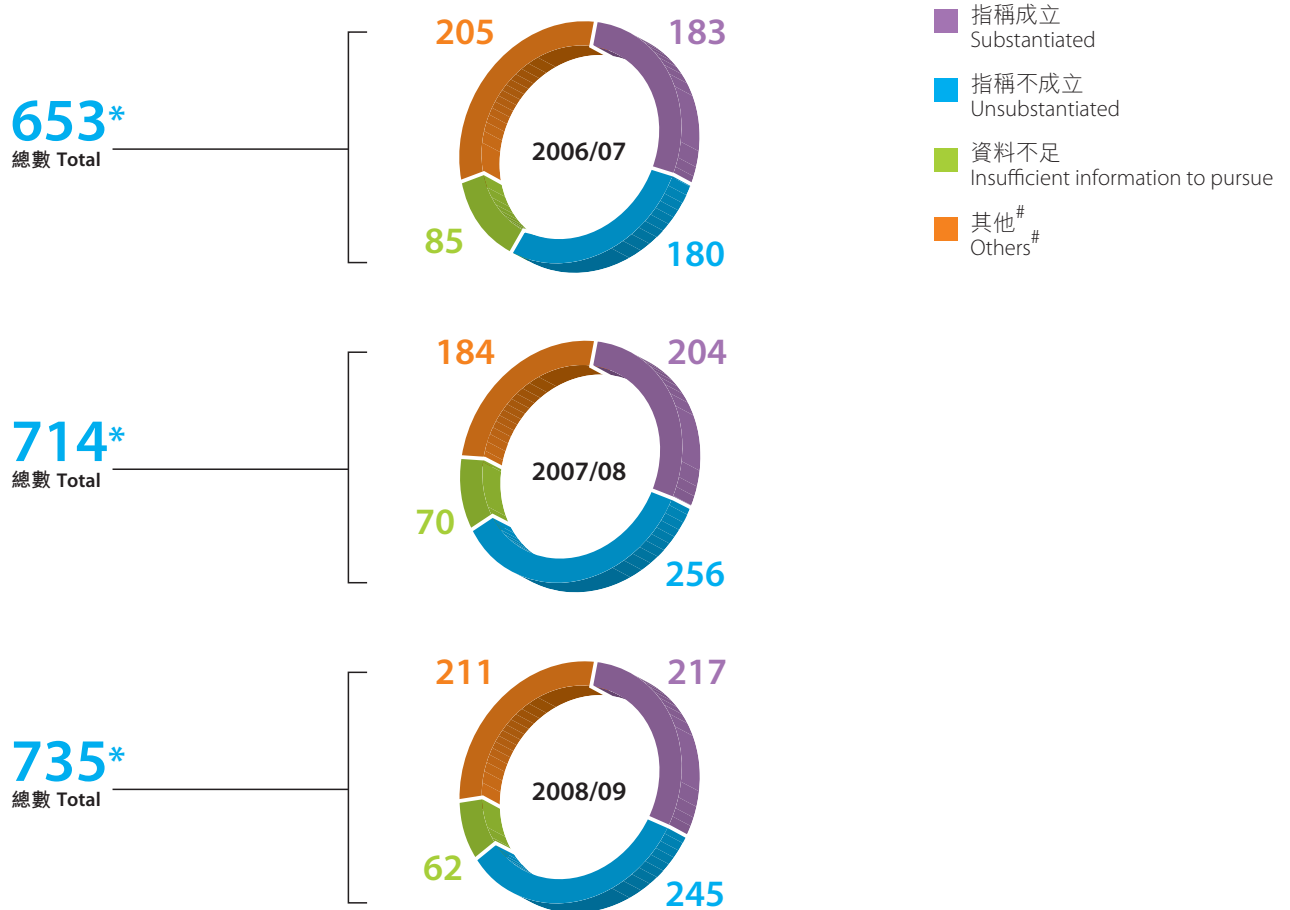
投訴個案 Complaint cases



* 部分是往年接獲的個案

* Some cases completed in a year were received in previous years.

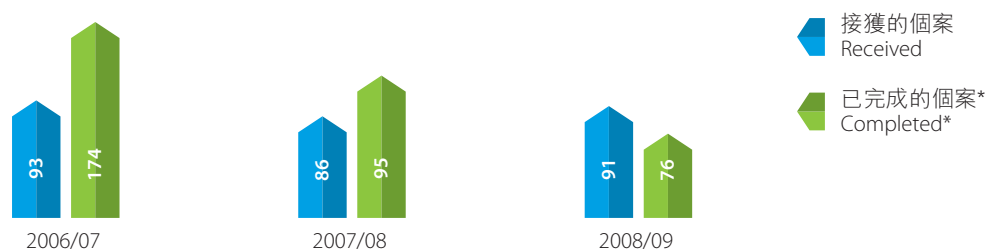
已完成的投訴個案結果 Results of completed complaint cases



* 部分是往年接獲的個案
例如投訴人撤回投訴或由於被投訴人不再是持牌人而終止調查

* Some cases completed in a year were received in previous years.
Includes cases which were withdrawn by the complainant or curtailed because the complainee was no longer a licensee

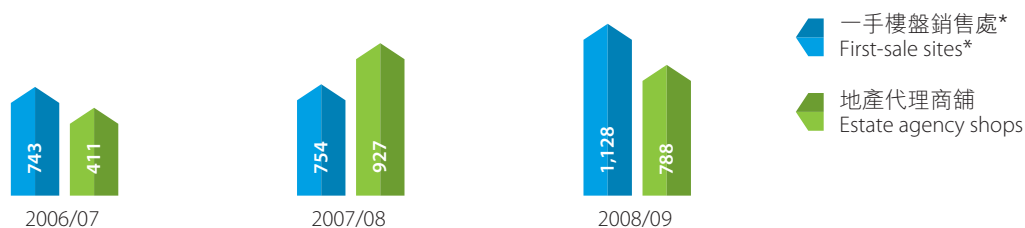
破產個案 Bankruptcy cases



* 部分是往年接獲的個案

* Some cases completed in a year were received in previous years.

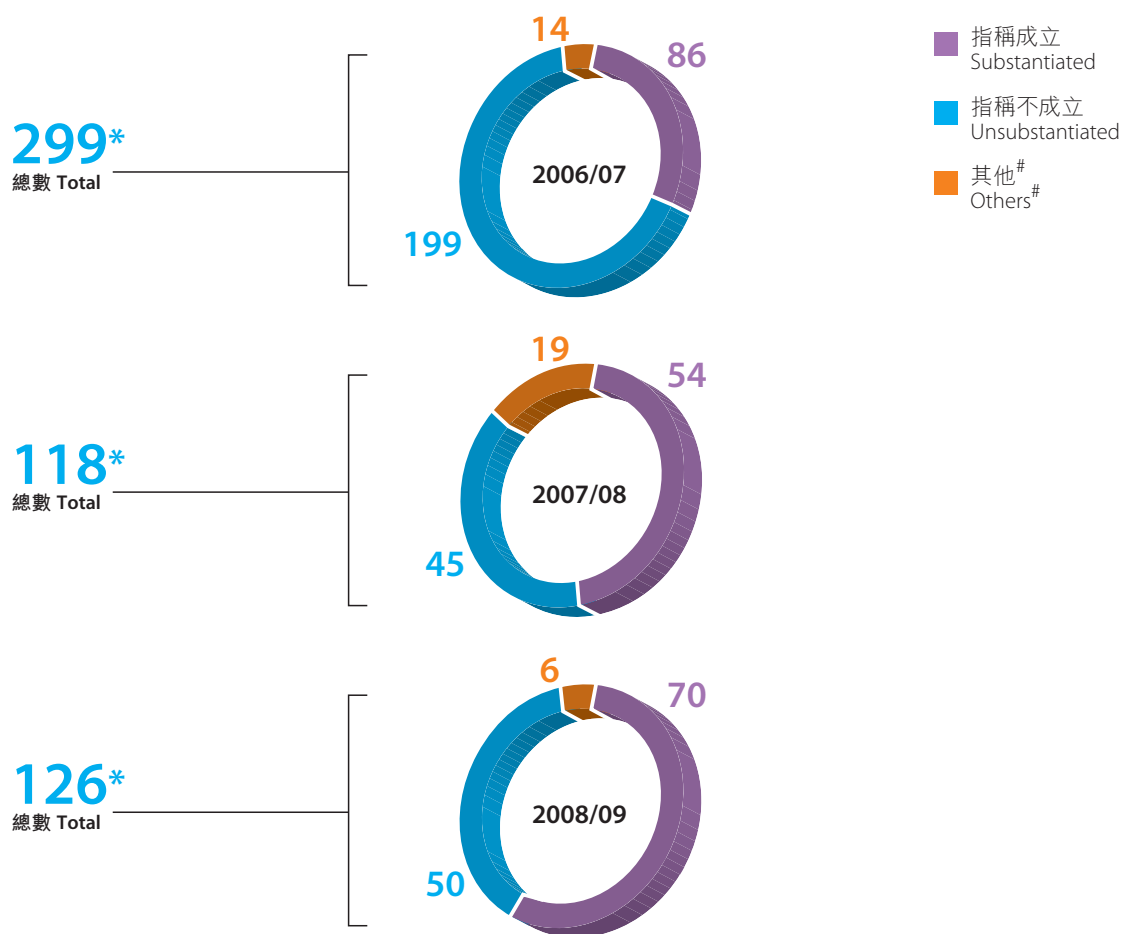
巡查次數 Number of inspections



* 包括樓盤所在處、樓盤銷售處及其附近

* includes the development sites, sales offices and vicinity areas

已完成的主動調查個案結果 Results of completed self-initiated cases



* 部分是往年展開調查的個案
例如由於被投訴人不再是持牌人或因資料不足而終止調查

* Some cases completed in one year were brought forward from previous years.
Includes cases which were curtailed because the complainee was no longer a licensee and those that were not pursued because of insufficient information



紀律委員會主席馬豪輝先生(中)與兩名委員會成員劉詩韻女士(左)和黃嘉純先生一同主持紀律研訊(模擬照片)。

Disciplinary Committee Chairman Mr Ma Ho-fai (centre), Members Ms Serena Lau (left) and Mr Lester Huang conduct an inquiry hearing (simulated photo).

紀律研訊

紀律委員會¹就持牌人的違規個案進行研訊。此外，曾觸犯刑事罪行、被頒令破產或剛獲解除破產令的持牌人是否適合繼續持牌，也屬於研訊的範圍。

2008/09年度，紀律委員會就208宗個案進行了研訊。

本年度，一名持牌人由於違反《盜竊罪條例》和《侵害人身罪條例》，被紀律委員會裁定為非持牌的適當人選，而遭撤銷牌照。

同年度，紀律委員會暫時吊銷了26個牌照，吊銷期由三天至四個月不等。這些個案當中，部分持牌人因作出欺詐性、舞弊或不誠實的作為而被定罪；部分個案涉及持牌人作出誤導性陳述、未有保障和促進客戶的利益，以及沒有盡量小心和盡一切應盡的努力等違反專業操守的行為。

¹ 監管局或紀律委員會可以施行的紀律處分包括訓誡、譴責、在牌照上附加指定的條件、更改已附加在牌照上的條件、暫時吊銷牌照（不超過兩年）、撤銷牌照及罰款（最高30萬元）。

Inquiry hearings

The Disciplinary Committee¹ conducts inquiry hearings into cases of non-compliance by licensees. It also inquires into whether licensees who have committed criminal offences, or are bankrupts or recently discharged bankrupts are eligible to continue to hold licences.

In 2008/09, the Disciplinary Committee conducted inquiry hearings into 208 cases.

During the year under review, the Disciplinary Committee revoked the licence of a licensee who was found to be not fit and proper to hold a licence for having been convicted of the offences under the Theft Ordinance and the Offences Against the Person Ordinance.

The Disciplinary Committee also suspended 26 licences for periods ranging from three days to four months. Among these cases, some licensees were found to have been convicted of offences involving fraudulent, corrupt or dishonest acts. Some involved unprofessional conduct such as giving misleading representations, failing to protect and promote the interests of their clients or failing to exercise due care and due diligence.

¹ Disciplinary powers that may be exercised by the EAA or the Disciplinary Committee include admonishment, reprimand, attachment of specified conditions to a licence, varying conditions already attached to a licence, suspending a licence for up to two years, revoking a licence, and imposing a fine of up to \$300,000.

常見違規事項 * Common types of non-compliance*	數目 Number
1. 沒有與客戶簽訂地產代理協議；沒有管有訂明資料 Failure to enter into an estate agency agreement; failure to possess prescribed information	69
2. 沒有進行土地查冊／向買方或租客提供土地查冊結果的文本 Failure to conduct a land search/supply the land search result to the purchaser/tenant	38
3. 發出虛假或誤導性廣告；未取得賣方書面同意而發出廣告 Placing a false or misleading advertisement; advertising without the vendor's prior consent	30
4. 提供錯誤的物業／市場資訊；沒有向客戶提供物業資料 Giving wrong property/market information; failure to supply property information to the client	20
5. 無牌執業；經營地產代理業務前沒有申領營業詳情說明書 Unlicensed practice; failure to apply for a statement of particulars of business before carrying out estate agency business	13
6. 沒有告訴客戶物業交易的風險（包括訂金託管的安排，或確認 人買賣、有轉讓限制、附有未解除按揭，或涉及饋贈契據的物業的潛在風險） Failure to advise clients on risks involved in property transactions (stakeholding arrangements, potential risks in confirmor sale/property subject to alienation restriction/property subject to a subsisting mortgage/property which involves a Deed of Gift)	12
7. 有刑事紀錄的持牌人是否適合繼續持牌 Eligibility to continue to hold a licence in conviction cases	11
8. 持牌人發出的文件沒有清楚顯示牌照號碼／營業詳情 說明書號碼／營業名稱及／或營業地點；在營業詳情 說明書指明的地點以外的地點經營地產代理業務 Failure to state clearly and conspicuously on a document issued by an estate agent a licence number/SPOB number/business name and/or address; doing business at a place other than that specified in the SPOB	10
9. 沒有確定簽署合約的人士已獲業主授權代為簽署；沒有安排所有聯名業主簽署 Failure to verify whether the signatory was duly authorised by the owner or landlord to sign; or failure to procure signatures of all joint owners	9

* 部分紀律研訊個案涉及超過一項違規事宜

* There was more than one type of non-compliance in some inquiry hearing cases.

紀律委員會施行的紀律處分 Disciplinary powers exercised by the Disciplinary Committee

紀律處分性質 ¹ Type of sanction ¹	2006/2007	2007/2008	2008/2009
訓誡或譴責 Admonishment/reprimand	109	155	191
罰款 Fine	22	41	71
附加條件 ² Attachment of conditions to licence ²	76	99	100
暫時吊銷牌照 Suspension of licence	42	30	26
撤銷牌照 Revocation of licence	2	1	1

¹ 在部分個案中，同一持牌人在一宗個案中受到超過一項紀律處分。

² 除紀律委員會在牌照上附加條件外，監管局亦根據《地產代理條例》第17(3)條訂明的權力，在2006/07年度在105名破產持牌人的牌照上附加條件；2007/08年度在73名破產持牌人的牌照上附加條件；2008/09年度在40名破產持牌人的牌照上附加條件。

¹ In some cases, more than one disciplinary sanction was imposed on the same licensee.

² Apart from the attachment of conditions by the Disciplinary Committee, the EAA also attached conditions to the licence of 105 bankrupt licensees in 2006/07, 73 in 2007/2008 and 40 in 2008/09, pursuant to section 17(3) of the EAO.

法律事務

監管局不時檢討業界的執業情況，並發出執業通告，為從業員提供指引。2008/09年度發布共八份通告。

2009年3月，監管局就土地註冊處處長關於修訂《土地業權條例》中轉制機制的諮詢文件，發表意見。監管局認為，任何有關修訂業權註冊制度的建議，不應對地產代理的執業造成負面影響，因為地產代理執業時，經常要透過土地查冊紀錄，取得可靠和準確的物業資料。

Legal services

The EAA reviews practices of the trade and prepares practice circulars to provide guidelines and directives on estate agency practice from time to time. In 2008/09, eight circulars were issued.

In March 2009, the EAA expressed views on the consultation paper issued by the Land Registrar on possible amendments to the conversion mechanism in the Land Titles Ordinance. The EAA took the view that any proposed amendments to the title registration regime should not adversely affect the proper discharge of the functions of estate agents, who rely on land search records as a reliable and accurate source of property information in carrying out estate agency work.

執業通告題目 Titles of Practice Circulars	編號 Number
聘用收數公司 Using Debt-Collection Companies	08-04 (CR)
防止「洗黑錢」措施 (2) Preventive Measures on Money Laundering (2)	08-05 (CR)
經理的委任 Appointment of Manager	08-06 (CR)
「實用面積」的統一定義 Standardised Definition of "Saleable Area"	08-07 (CR)
居屋第二市場計劃下居者有其屋計劃、私人機構參建居屋計劃、 租者置其屋計劃交易的修訂程序指引和臨時買賣合約 Revised Procedural Guidelines and Provisional Agreement for Sale and Purchase for Home Ownership Scheme, Private Sector Participation Scheme and Tenants Purchase Scheme Transactions in the Secondary Market Scheme	08-08 (CR)
優化按揭保險計劃 Enhancement of Mortgage Insurance Programme	09-01 (CR)
「洗黑錢」 Money Laundering	09-02 (CR)
「物業資訊網」服務 Property Information Online Service	09-03 (CR)