

在《專業天地》內，我們會解答持牌人的一些常見提問。

In *Horizons*, we will answer questions commonly asked by licensees.



? 若一名擔任分銷代理的地產代理並未與主代理簽訂分銷協議，分銷代理可否要求主代理出示賣方就分銷及發出物業廣告的授權，然後才就分銷物業刊登物業廣告？

... 根據監管局發出的執業通告（編號18-02（CR））（「通告」）第9段，地產代理公司就賣方/業主的物業發出廣告前，須先取得該賣方/業主的書面同意。該要求適用於所有類型的物業。

就分銷住宅物業而言，訂明的《出售香港住宅物業用的地產代理協議》（表格3）及《出租香港住宅物業用的地產代理協議》（表格5）均載有標準條文，規定地產代理公司須取得賣方/業主的同意，方可就有關物業進行分銷及發出廣告。請參閱表格3/5第7及第8條。

因應上述通告的規定及為確保在發出有關賣方/業主物業的廣告時遵守有關規定，分銷代理在發出有關賣方/業主物業的廣告前，應考慮與主代理簽訂分銷協議，並在該協議內加入相關條文，及/或要求主代理提供有關同意的文件證明。

? If an estate agent acts as a sub-listing agent but he has not entered into a sub-listing agreement with the principal agent, could the sub-listing agent ask the principal agent to produce the consent from the vendor with respect to sub-listing and issuance of property advertisements and then issue advertisements in respect of the sub-listing property?

... According to paragraph (9) of the Practice Circular (No. 18-02 (CR)) ("the Circular") issued by the Estate Agents Authority, estate agency companies must obtain written consent of the vendor or landlord of the property before issuing any advertisement in respect of the vendor/landlord's property. The requirement applies to all types of properties.

In the case of sub-listing of residential properties, the prescribed estate agency agreement for sale of residential properties in Hong Kong (Form 3) and estate agency agreement for leasing of residential properties in Hong Kong (Form 5) both contain standard provisions for the estate agency company to obtain the consent of the vendor/landlord for sub-listing and issuing advertisements in respect of the property concerned. Please refer to clauses 7 and 8 of Form 3/5.

In light of the above requirement in the Circular and to ensure that the same is complied with when issuing advertisements in respect of the vendor/landlord's property, a sub-listing agent should consider entering into a sub-listing agreement with the principal agent and incorporating a relevant provision in the sub-listing agreement and/or requesting the principal agent to produce documentary evidence of such consent before issuing any advertisement in respect of the vendor/landlord's property.

