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**Subcommittee on
Estate Agents (Licensing)
(Amendment) (No. 2) Regulation 2009**

**Background brief prepared for the
meeting on 2 November 2009**

Purpose

This paper summarizes Members' views expressed at previous discussions on the mutual recognition of professional qualification, including that for estate agents, between the Mainland and Hong Kong.

Background

2. Under Article 15 of the Mainland and Hong Kong Closer Economic Partnership Arrangement (CEPA), both sides are committed to encouraging mutual recognition of professional qualifications as part of the services liberalization measures under CEPA. In January 2009, the Estate Agents Authority (EAA)¹ and the China Institute of Real Estate Appraisers and Agents (CIREA) signed a Memorandum of Understanding to give mutual recognition to each other's professional estate agent qualifications. Supplement VI to the CEPA signed in May 2009 reassured that Hong Kong and the Mainland would take forward the work on mutual recognition of each other's professional estate agent qualifications.

3. A mutual recognition of qualifications scheme is proposed to be entered between EAA and CIREA. Under the proposed scheme, EAA and CIREA may each nominate the same number of eligible estate agents to apply for each other's estate agent licences. As initially agreed between EAA and CIREA, the scheme will have a validity period of five years, and may be renewed subject to mutual consent. Subject to confirmation, each side may nominate up to 300 candidates for the first year. The nomination quota for the remaining four years is being finalized between EAA and CIREA. The nominees from each side will be required

¹ The EAA is an independent statutory body set up in November 1997 under the Estate Agents Ordinance (Cap. 511) (EAO). Its principal functions are to regulate the practice of estate agency trade, promote integrity and competence of practitioners, and facilitate training for estate agency practitioners to enhance their standards and status. EAA's core activities cover examinations, licensing, practice guidance, complaints investigation, compliance inspection, disciplinary sanctions, licensee training and community education.

to attend a special course organized by the other side and be granted licences by the other side upon passing a special examination. Having obtained the licences, the nominees may engage in estate agency work on the other side, subject to fulfilling other relevant regulations there (such as the requirements in EAO in Hong Kong).

The Amendment Regulation

4. Section 7 of the Estate Agents (Licensing) Regulation (Cap. 511 sub. leg. A) prescribes the eligibility criteria for an estate agent's licence, which include completing an education level of Form 5 and passing the "Qualifying Examination for Estate Agents" gazetted by EAA.

5. The Estate Agents (Licensing) (Amendment) (No.2) Regulation 2009 (the Amendment Regulation) was tabled at the Legislative Council (LegCo) meeting on 14 October 2009 to empower EAA to grant estate agent licences to persons who hold the "certificate of registration for real estate agents" issued by CIREA and are qualified for EAA's estate agent licences through the scheme.

6 The Amendment Regulation amends section 7 of the Principal Regulation to : -

- (a) enable EAA to provide training courses and to set examinations for holders of CIREA certificates; and
- (b) empower EAA to issue a licence to a holder of a CIREA certificate who has completed the said training and passed the examination.

7. The Amendment Regulation will come into operation on 7 December 2009.

Previous discussions

8. The subject matter of mutual recognition of professional qualifications has been discussed at various forum of LegCo over the past years.

9. At the Council meeting on 18 February 2009 when Hon WONG Ting-kwong raised a LegCo question on enhancing cooperation between service industries in the Pearl River Delta (PRD) Region and Hong Kong, he requested the Administration to, inter alia, deepen the mutual recognition of the professional qualifications in order to create conditions for developing service industries in the Mainland.

10. During the motion debate on "Actively implementing complementary policies for the Outline of Plan for Reform and Development of the PRD" held on 4 March 2009, Members called for expediting mutual recognition of professional qualifications in Guangdong and Hong Kong so as to foster the expansion of Hong Kong's service industries into the PRD Region.

11. The Administration briefed the Panel on Commerce and Industry on mutual recognition of professional qualifications in the context of further liberalization measures under CEPA at the meeting on 19 May 2009. The Panel on Housing received a briefing on the work of EAA at the meeting on 5 May 2008, but the Panel was not specifically consulted on the proposed legislative amendments.

12. When the House Committee considered the Legal Service Division report on the Amendment Regulation at the meeting on 16 October 2009, Hon James TO expressed concern about the details of the scheme such as the training required and the number of estate agent licences involved.

13. A subcommittee was formed under the House Committee to examine the Amendment Regulation at the House Committee meeting on 23 October 2009.

Relevant paper

LegCo Brief on Estate Agents (Licensing) (Amendment) (No. 2) Regulation 2009
http://www.legco.gov.hk/yr09-10/english/subleg/brief/181_brf.pdf

The Administration's paper on "An overview of the work of the Estate Agents Authority" for the Panel on Housing meeting on 5 May 2008
<http://www.legco.gov.hk/yr07-08/english/panels/hg/papers/hg0505cb1-1397-4-e.pdf>

The Administration's paper on "Mainland and Hong Kong Closer Economic Partnership Arrangement: Further liberalization measures in 2009" for the Panel on Commerce and Industry meeting on 19 May 2009
<http://www.legco.gov.hk/yr08-09/english/panels/ci/papers/ci0519cb1-1551-8-e.pdf>

LegCo question: Enhancing cooperation between the service industries in the Pearl River Delta Region and Hong Kong (Page 35)
<http://www.legco.gov.hk/yr08-09/english/counmtg/hansard/cm0218-translate-e.pdf>

LegCo motion: Actively implementing complementary policies for the Outline of the Plan for the Reform and Development of the Pearl River Delta (Page 99)
<http://www.legco.gov.hk/yr08-09/english/counmtg/hansard/cm0304-translate-e.pdf>

Minutes of the House Committee meeting on 16 October 2009
<http://www.legco.gov.hk/yr09-10/english/hc/minutes/hc20091016.pdf>

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