

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

**Responses to questions arising from the discussion
at the 3rd meeting on 13 November 2009**

Jurisdiction between EAA and CIREA

1. The China Institute of Real Estate Appraisers and Agents (CIREA) and the Estate Agents Authority (EAA) have reached an in-principle understanding on the following with regard to the proposed mutual recognition of qualifications scheme (the Scheme):

(a) Rights and obligations of licensees under the Scheme

- (i) A Mainland estate agent who obtains the EAA licence under the Scheme would have the same rights and obligations as any EAA licensee; and
- (ii) A Hong Kong estate agent who obtains the CIREA licence under the Scheme would have the same rights and obligations as any CIREA licensee.

(b) Notification System

There will be a notification system in place whereby EAA and CIREA will notify each other respectively on:

- (i) certain personal particulars of licensees under the Scheme that are no longer correct or missing; or
- (ii) names of licensees under the Scheme who no longer fulfill the basic requirement, including no longer holding a valid EAA or CIREA licence; or
- (iii) names of licensees under the Scheme who have been disciplined.

The other party, having been so notified, may take appropriate follow-up actions, including revocation of licences, as it sees fit.

2. As confirmed by EAA's understanding with CIREA as mentioned in paragraph 1(a)(i) above, the Hong Kong regulatory regime as administered by EAA will apply to all EAA licensees, including Mainland estate agents who obtain EAA licences under the Scheme.
3. As far as EAA is concerned, EAA will ensure that all its licensees, including Mainland estate agents who obtain EAA licences under the Scheme, are and continue to be fit and proper to hold a licence.
4. On top of the "fit-and-proper" requirement which applies to all EAA licensees, an EAA licensee will also have to observe the more technical requirements as stipulated in the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation, which regulate and control the practice of estate agents in connection with Hong Kong residential properties, when they deal with Hong Kong residential properties.
5. EAA has the responsibility of looking into complaints against EAA licensees, as it has to ensure that all its licensees, including Mainland estate agents who obtain EAA licences under the Scheme, are and continue to be fit and proper to hold a licence. That said, EAA will likely encounter greater difficulty in collecting relevant information for cases taking place outside Hong Kong.
6. Given that a licensee under the Scheme holds both the EAA licence and the CIREA licence, he/she may be subject to "investigations" and/or disciplinary sanctions, including the revocation of licences, from both EAA and the CIREA respectively for the same course of inappropriate conduct or practice not in compliance with the relevant legislation.
7. As confirmed by EAA's understanding with CIREA as mentioned in paragraph 2(b) above, EAA and CIREA will notify each other respectively on names of licensees under the Scheme who have been disciplined. The other party, having been so notified, may take appropriate follow-up actions, including revocation of licences, as it sees fit.

8. EAA will further confirm with CIREA on the above understanding, in particular paragraph 6, to ensure a smooth interface.

Undertaking

9. The Administration and EAA undertake to report to the Panel on Housing details on the operation of the Scheme before issuing any licence under the Scheme, including:
 - (i) tabling the agreement between EAA and CIREA;
 - (ii) arrangements on sending communications and notices in relation to complaint or disciplinary matters against a Mainland licensee to his/her address in the Mainland, if provided, in addition to the registered address in Hong Kong;
 - (iii) outcome of the clarification with CIREA on whether the scope of “having no criminal conviction history”, which is one of the requirements for a Hong Kong applicant to be eligible to EAA for nomination under the Scheme, would include minor convictions such as minor traffic offences; and
 - (iv) detailed arrangements of the tailor-made course and examination to be organized by EAA for estate agents nominated by CIREA under the Scheme.

Transport and Housing Bureau
Estate Agents Authority
November 2009