

**For Discussion  
13 December 2013**

**LEGISLATIVE COUNCIL  
PANEL ON HOME AFFAIRS**

**Regulation of the Property Management Industry**

**Purpose**

This paper briefs Members on the legislative proposals of the Administration to establish a regulatory regime for the property management industry and to set up the Property Management Services Authority (PMSA).

**Background**

2. There are currently no industry-wide basic requirements for property management companies (PMCs) and property management practitioners (PMPs). Following the public consultation exercise on the proposed regulatory regime for the property management industry held in 2011, we have established the Advisory Committee on the Regulation of Property Management Industry (the Advisory Committee), comprising members from the industry, related professions and the community, to work out the details of the proposed regime.

3. We briefed Members on the major parameters of the proposed regime and the progress of the work of the Advisory Committee in July 2011 and July 2012 respectively. Members noted and generally supported the proposals. We are now finalising the enabling principal legislation for the establishment of the proposed regime, namely the Property Management Services Bill (the Bill). The ensuing paragraphs set out the legislative proposals therein.

## **Legislative Proposals**

4. The proposed Bill will provide for the establishment of the PMSA, which will be a self-financing independent body responsible for the licensing of PMCs and PMPs and the promotion of the industry. Through setting minimum qualifications and imposition of penalties and disciplinary action for malpractice, the requirements stipulated in the proposed legislation and the code of conduct to be issued by the PMSA would help raise the standards of and enhance professionalism in the industry.

### ***Licensing of PMCs***

5. Property management requires multi-disciplinary professional knowledge that includes the following major functional areas<sup>1</sup>, namely –

- (i) property management services for owners/tenants/community;
- (ii) management of property environment;
- (iii) building repair and maintenance/improvement and enhancement;
- (iv) finance and asset management;
- (v) facility management;
- (vi) human resources management; and
- (vii) law in practice.

6. Our legislative proposals on the licensing of PMCs are set out below -

- (a) We propose that companies providing property management services specified in paragraph 5(i)-(vii) in respect of properties will be subject to the mandatory licensing system. However, companies providing only stand-alone services, such as those providing only cleaning or security services (which is a type of service that falls within paragraph 5(ii) above) will be excluded from the regime. The term “property” in the proposed Bill will be defined as having the same meaning of “building” under

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<sup>1</sup> These are the areas set out in the Specification of Competency Standards for Property Management Industry under the Hong Kong Qualifications Framework.

the Building Management Ordinance (Cap. 344).

- (b) Owners' corporations or other owners' organizations managing their own properties will not be required to obtain PMC licences. Similarly, the provision of property management services to properties by some or all of the owners themselves will not be subject to the licensing regime. The Government and the Housing Authority will also not be subject to the licensing regime.
- (c) To strike a balance between providing a level playing field for PMCs of different sizes and facilitating consumer choices, we propose that a single-tier licensing regime supported by the availability of transparent information be introduced for PMCs. To facilitate consumers in making informed choices on PMCs under a single-tier licensing regime, we propose that licensed PMCs be required to provide certain essential information (for example, their management portfolio, the number of licensed PMPs employed by the company, etc.) to the future licensing body, the PMSA, for uploading onto its website for public access.
- (d) We propose that before a PMC licence is granted, the PMC must fulfil the licensing criteria which will be set in terms of the minimum number of staff and directors holding PMP licences, the fitness and propriety of the company (for example, whether the company is in liquidation or subject to a winding-up order, whether there are past conviction records on relevant offences, the fitness and propriety of the directors), etc. The detailed licensing criteria will be set out in the subsidiary legislation.
- (e) All licensed PMCs will be required to comply with the requirements stipulated in the proposed legislation and the code of conduct to be issued by the PMSA. Breach of the requirements may result in disciplinary actions to be taken by the PMSA such as revocation or suspension of licences and other sanctions such as reprimands, warnings, imposition of

fine, etc.

- (f) Specific provisions will be included in both the proposed legislation and the code of conduct to address existing problems/dissatisfaction about the property management industry generally. As disputes between PMCs and owners are often related to financial management matters, specific requirements in relation to the preparation of budget, keeping of financial statements for clients, etc. will be specified in the proposed legislation and the code of conduct. PMCs will have a statutory obligation to disclose specified information to their clients. They will have to comply with additional requirements towards the end of their appointment period (for example, handing over of documents from outgoing PMCs to incoming PMCs) in order to ensure smooth handover to the new PMC.

### ***Licensing of PMPs***

7. The major elements of the proposed licensing regime of PMPs are set out below -

- (a) There is general consensus that only those PMPs who take up a supervisory or managerial role and are accountable for the overall quality assurance of property management services should be subject to licensing. This is in line with the purpose of the licensing system, which is to require those making decisions for the provision of services to ensure service quality.
- (b) We propose that a two-tier licensing regime be introduced for PMPs, because it would help encourage PMPs to pursue professional development and upgrade to the upper tier, while continuing to allow PMPs with a lower level of academic qualifications to have access to the job market.
- (c) We propose that before a PMP licence is granted, the PMP must fulfil the licensing criteria which will be set in terms of academic, professional qualifications, years of working

experience, and they must pass the fitness and propriety test. The first tier of PMPs will have to fulfil more stringent licensing criteria while the qualification requirement for the second tier of PMPs will be lower. For example, completion of specified diploma/sub-degree courses on property management will suffice for the lower tier licence.

- (d) All licensed PMPs are required to comply with the requirements stipulated in the proposed legislation and the code of conduct to be issued by the PMSA. Breach of the requirements may result in disciplinary actions to be taken by the PMSA such as revocation or suspension of licences, and other sanctions such as reprimands, warnings, imposition of fine, etc.

## ***The PMSA***

### *Composition and Role*

8. The legislative proposals relating to the functions, composition, structure and operation of the PMSA are as follows –

- (a) The PMSA will assume the dual functions of a licensing body and an industry promoter.
- (b) The Chairman and members of the PMSA shall be appointed by the Chief Executive. The PMSA shall consist of the Chairperson, the Vice-chairperson and not more than 18 members from the following three categories of individuals –
  - (i) individuals who are engaged in property management services
  - (ii) individuals who have experience in the relevant fields related to property management, general administration or consumer affairs
  - (iii) other individuals who appear to the Chief Executive to be suitable to be appointed as members

- (c) The PMSA will be required to furnish to the Secretary for Home Affairs (SHA) annually its statement of accounts, auditor's report and annual report. SHA shall cause the documents to be tabled at LegCo.
- (d) The PMSA will be given the power to undertake self-initiated investigation as well as to conduct investigation upon receipt of complaints. In order to ensure fair trial, complainees will be given the opportunity to make representation to the PMSA during the investigation process.
- (e) An appeal panel will be established to deal with appeals lodged by persons who are aggrieved by the decisions of the PMSA.
- (f) The PMSA will maintain a register of PMCs and PMPs respectively which are available for public inspection.

#### Funding Arrangements

9. We have briefed Members on the proposed funding arrangements of the PMSA in July 2011. Members noted that the PMSA would be a self-financing statutory body supported by income generated from both licence fees and a very small amount of levy to be imposed on each property transaction.

10. We propose that a very small amount of fixed levy (around \$200 - \$350) to be charged on each conveyance on sale of immovable property. We have considered whether the levy should be proportionate to the property transaction value instead of charging a fixed amount irrespective of the property transaction value. However, in view of the small amount of levy involved in each property transaction, we consider that charging at a fixed amount would be the most cost-effective and simplest approach.

11. We propose that the transferee under a conveyance on sale will be liable to pay the small levy. While the imposition of levy will be distinct and separate from stamp duty, the collection arrangement will be very much similar to that for stamp duty. The Stamp Office of the

Inland Revenue Department (IRD) will collect the levy on behalf of the PMSA when the conveyance on sale is submitted to IRD for stamping. The actual level of licence fees and levy will be worked out at the later stage of the legislative exercise, taking into account the detailed licensing requirements to be set out in the subsidiary legislation.

### ***Transitional Arrangements***

12. There will be a three-year transitional period after the enactment of the principal ordinance and subsidiary legislation to allow time for the existing PMPs and PMCs to prepare themselves to migrate to the new licensing system smoothly. Experienced PMPs meeting certain basic requirements will be granted provisional licences during the transitional period. They will be allowed three years to complete continuing professional education courses so that they can be granted formal licences by the PMSA upon expiry of the provisional licences. PMPs who already meet the licensing criteria of formal licences may also apply for formal licences directly during the transitional period. The detailed criteria for both the formal licences and the provisional licences will be set out in the subsidiary legislation.

13. To prepare for the full implementation of the licensing regime, the PMSA will organise publicity and educational programmes on the requirements of the licensing regime and to promote the regime to the public. The PMSA will also liaise with the industry organisations and local tertiary institutes to ensure that sufficient training will be provided to PMPs to meet the licensing requirements.

### **Next steps**

14. We are now close to finalising the draft Bill and aim to introduce it into the Legislative Council in the first quarter of 2014. After the passage of the main Bill, we will propose subsidiary legislation which will cover the detailed licensing criteria for PMCs and PMPs, the information and particulars required in an application for a licence, the level of licence fees and levy, and the detailed mechanism on the collection of levy.

## **Advice Sought**

15. Members are invited to comment on the above legislative proposals.

Home Affairs Department  
December 2013