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

## Meeting on 2 November 2009

#### **Information Note**

### **Purpose**

This information note provides supplementary information on the mutual recognition of qualifications scheme (the Scheme) which the Estate Agents Authority (EAA) and the China Institute of Real Estate Appraisers and Agents (中國房地產估價師與房地產經紀人學會) (the Institute) will formally enter into upon the passing of the Estate Agents (Licensing) (Amendment) (No. 2) Regulation 2009 (the Amendment Regulation).

2. The note should be read together with the Legislative Council (LegCo) Brief of 7 October 2009, and the Transport and Housing Bureau's written response of 22 October 2009 to Members' questions.

### The Memorandum of Understanding

- 3. The estate agency sector has been keen to see an early commitment from the EAA and the Institute to put the Scheme in place.
- 4. The Amendment Regulation is needed to provide the EAA with the needed legal basis to fufil its commitment under the proposed Scheme to issue estate agent licences to Mainland estate agents nominated by the Institute upon the completion of the tailor-made course provided by EAA and the passing of the examination set by EAA under the Scheme.
- 5. The EAA signed a Memorandum of Understanding (MOU) with the Institute in January 2009. A copy of the MOU is at the Annex (the MOU is available in Chinese only). The MOU reflects some of the provisions which will appear in the formal agreement to be signed between the EAA and the Institute. Clause 6 of the MOU stipulates that each side will nominate its estate agents for the other side's consideration under the Scheme. Clause 7 of the MOU stipulates that each side may nominate up to 300 candidates for the first year to apply for each other's estate agent licences under the Scheme. The nomination quota for the

subsequent years will be further discussed and agreed between EAA and the Institute.

6. Clause 11 of the MOU stipulates that the formal agreement on the Scheme will be signed between the EAA and the Institute after the required amendments to the Estate Agents (Licensing) Regulation has been passed.

# Selection of estate agents for nomination to the Institute under the Scheme

- 7. As agreed between the EAA and the Institute, for Hong Kong estate agents, holders of valid estate agent licence (地產代理牌照) who have five years working experience in estate agency or related work will be eligible for nomination by the EAA under the Scheme. For Mainland estate agents, holders of valid "certificate of registration for real estate agents" (房地產經紀人註冊證) issued by the Institute who are members of the Institute and have two years working experience in the estate agency field, or who are professors or assistant professors in the estate agency discipline in higher education institutions, will be eligible for nomination by the Institute under the Scheme¹.
- 8. As far as the EAA is concerned, in the event that the number of applicants exceeds the annual quota (300 in the first year), the candidates will be selected according to a set of pre-determined selection criteria laid down by the EAA, which will include additional working experience in the estate agency field, higher educational attainment, and credits gained from EAA's Continuing Professional Development (CPD) programme. Should the number of shortlisted candidates still exceeds the quota, the nominations will be decided by balloting. The EAA has worked out the aforementioned selection criteria after discussion at a working group comprising members from the EAA Board as well as co-opted members from the estate agency sector, and in consultation with the ICAC.
- 9. For the Mainland side, the Institute will work out its set of selection and screening criteria in the event that the number of Mainland applicants exceeds the annual quota.

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Other requirements on Hong Kong applicants are that they have to be aged 18 or above, have no criminal conviction record and are in good health. Other requirements on Mainland applicants are that they have to be aged 18 or above and are fit and proper to hold a licence pursuant to section 19 of the Estate Agents Ordinance.

10. Nothwithstanding the implementation of the Scheme, local individuals may still apply for Mainland estate agent licence through the "normal" procedures, namely completing Mainland's education level of tertiary education or above, having the required number of years of working experience and passing the 房地產經紀人執業資格考試 of the Institute. Likewise, Mainland individuals may still apply to the EAA for licences through the "normal" procedures, namely completing Hong Kong's education level of Form 5 or its equivalent and passing the Qualifying Examination for Estate Agents of EAA.

Transport and Housing Bureau Estate Agents Authority October 2009



# 内地房地产经纪人与香港地产代理 专业资格互认备忘录



#### 甲部. 前言

#### 1. 双方

本备忘录由中国房地产估价师与房地产经纪人学会(以下简称"中房学"),与香港地产代理监管局(以下简称"监管局")于 2009 年 1 月 16 日签订。

#### 2. 背景

- (1)根据中央政府与香港特别行政区政府签署的《内地与香港关于建立更紧密经贸关系的安排》(以下简称《安排》)第十五条:
  - "一、双方鼓励专业人员资格的相互承认,推动彼此之间的专业技术人才交流。
  - 二、双方主管部门或行业机构将研究、协商和制订相互承认专业人员资格的具体办法。"

为促进内地和香港的共同繁荣与发展,落实《安排》第十五条,中华人民共和国住房和城乡建设部与香港特别行政区政府期望通过内地房地产经纪人与香港地产代理专业资格互认(以下简称"资格互认"),推动两地房地产经纪领域的专业人才和专业技术的交流与合作。

- (2) 为了实现以上期望,中房学与监管局已进行详细的磋商,并就资格互认一事达成以下 共识。
  - 3. 资格互认的原则及基础
  - (1) 资格互认的原则:
  - ①对等互惠原则;
  - ②优势互补原则:
  - ③总量控制原则:
  - ④专职人员优先原则;
  - ⑤实事求是、循序渐进原则。
- (2) 内地房地产经纪人与香港地产代理均有严格的专业水平和职业道德标准。虽然两地的体制等不同,在具体要求方面存有某些差异,但双方同意以本备忘录的内容达成共识,确保两地执业人员达到对方要求,从而实现资格互认。

#### 4. 定义

本备忘录所称的"申请人"、"房地产经纪人"、"地产代理"解释如下:

- "申请人"是指申请资格互认的内地房地产经纪人及香港地产代理。
- "房地产经纪人"是指持有中房学按住房和城乡建设部规定发出的《房地产经纪人注册证》 的个人。
- "地产代理"是指持有监管局按香港特别行政区《地产代理条例》(香港法例第 511 章)发出的《地产代理牌照》的个人。

#### 乙部. 资格互认的安排

- 5. 实施资格互认的步骤
- 中房学及监管局同意,双方实施每批资格互认依下列步骤进行:
- ①步骤一:各自确定推荐名单:
- ②步骤二:双方交换推荐名单;
- ③步骤三:举办补充课程及测试:
- ④步骤四: 授予资格,发出《房地产经纪人注册证》和《地产代理牌照》。

#### 6. 步骤一: 各自确定推荐名单

中房学及监管局将分别从符合条件的内地及香港申请人中,确定推荐名单。申请推荐的手 续及收费,由双方各自决定。

#### 7. 步骤二: 双方交换推荐名单

- (1) 中房学及监管局按约定的期限向对方提供推荐名单,推荐人数不应超过事先约定的推 荐名额。
  - (2) 首批适用于双方的推荐名额为 300 人。
  - (3) 以后资格互认的批次及推荐名额,由双方视具体情况协商确定。
  - 8. 步骤三: 举办补充课程及测试

中房学及监管局将安排举办补充课程,供获对方推荐的申请人参加,并将就有关课程举办 补充测试。

- 9. 步骤四: 授予资格,发出《房地产经纪人注册证》和《地产代理牌照》
- (1) 符合条件及通过补充测试的申请人可按有关程序获授有关资格,由中房学和监管局分 别发出《房地产经纪人注册证》和《地产代理牌照》。
- (2)取得内地房地产经纪人资格和香港地产代理资格的费用按照对等原则由中房学与监管 局协商确定。

#### 10. 权利与义务

- (1) 内地申请人藉资格互认而取得有关资格并获授《地产代理牌照》所享有的权利及所负 的责任和义务跟香港《地产代理牌照》持有人相同。
- (2) 香港申请人藉资格互认而取得有关资格并获授《房地产经纪人注册证》所享有的权利 及所负的责任和义务跟内地《房地产经纪人注册证》持有人相同。

#### 11. 办理相关手续的要求

- (1) 为准备落实本备忘录所达成的共识,就上述安排,监管局需要进行立法程序更改《地 产代理条例》有关条文,中房学需要经相关主管部门同意。双方同意在办妥相关手续后,正式 签订协议书落实本备忘录所述的资格互认安排。
- (2)倘若任何一方无法办妥所需的手续,应以书面形式通知对方,取消本备忘录。届时双 方无须负任何责任。

本备忘录于 2009 年 1 月 16 日在北京签署。

中国房地产估价师与 房地产经纪人学会

会长 宋春华先生

香港地产代理监管局

主席 陈韵云女士



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