

# PROPERTY MANAGEMENT SERVICES AUTHORITY

## Best Practice Guide on Handling Moneys Received on behalf of Clients by Property Management Companies

Guide No.: G4/2021

Effective Date: 7 May 2021

### Preamble

For the purpose of enabling licensees<sup>1</sup> to comply more effectively and professionally with the guidelines set out in the code of conduct entitled “Handling Moneys Received on behalf of Clients by Property Management Companies” (Code No.: C4/2021) (“Code”) issued by the Property Management Services Authority (“PMSA”) on 7 May 2021, the PMSA provides relevant guidelines in this best practice guide (“Guide”) pursuant to section 44<sup>2</sup> of the Property Management Services Ordinance (“PMSO”). While licensees are encouraged to use their best endeavours to follow the Guide, failure to comply with the Guide will, however, not be regarded as a disciplinary offence referred to in section 4 of the PMSO.

### **Establishing proper mechanism for handling moneys received on behalf of clients<sup>3</sup>**

**Code:** A(1) A licensed property management company (“licensed PMC”) has to establish a proper mechanism for the properties for which property management services are provided by it to handle moneys received on behalf of its clients. The mechanism shall include the following elements:

- Entering into agreements with clients;
- Ascertaining particulars of payers and purposes of payments;
- Issuing receipts;
- Keeping moneys and related items properly;
- Setting authorization for withdrawal of moneys;
- Keeping records; and
- Checking records

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<sup>1</sup> The term “licensee” means the holder of the following licence: a PMC licence; a PMP (Tier 1) licence; a PMP (Tier 2) licence; a provisional PMP (Tier 1) licence; or a provisional PMP (Tier 2) licence.

<sup>2</sup> Section 44 of the PMSO provides: “*The Authority may do anything it considers appropriate for it to do for, or in relation to, the performance of its functions.*”

<sup>3</sup> In this Guide, the term “client” means the party who enters into a management agreement with a licensed PMC. In the case of a manager, “client” means the owners’ committee established under a deed of mutual covenant or the incorporated owners established under the Building Management Ordinance. The term “manager” has the same meaning as that defined by section 34D of the Building Management Ordinance.

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- a(1) A licensed PMC has to, in accordance with paragraph A(1) of the Code, establish a proper mechanism for the properties for which property management services are provided by it to handle moneys received on behalf of its clients. The mechanism has to include all the elements set out in the Code.

### **Entering into agreements with clients**

**Code:** B(1) Except where a licensed PMC is a manager<sup>4</sup> of the relevant property<sup>5</sup>, the licensed PMC has to enter into an agreement with its client for opening and maintaining an independent bank account<sup>6</sup> or using its client's bank account (collectively referred to as the "designated account") to handle moneys received on behalf of the client.

B(2) If the bank account is opened by a licensed PMC under the circumstances mentioned in paragraph B(1) of the Code, it has to be designated as a trust account or client account in respect of the relevant property.

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- b(1) The designated account should only be used for the deposit or withdrawal of moneys received relating to the relevant property.

### **Ascertaining particulars of payers and purposes of payments**

**Code:** C(1) Unless the moneys are deposited directly into the designated account by the payers, a licensed PMC has to ascertain the particulars of the payers and the purposes of the moneys received on each occasion, and make proper records.

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<sup>4</sup> In this Guide, the term "manager" has the same meaning as that defined by section 34D of the Building Management Ordinance.

<sup>5</sup> Since it has been stated in the deed of mutual covenant that the manager has to open and maintain one or more than one bank accounts for the management of the relevant property (see section 34E of and paragraphs 3(1) and (1A) of Schedule 7 to the Building Management Ordinance), the Code does not require a licensed PMC being a manager to enter into an agreement with its client for the purpose of opening and maintaining a designated account.

<sup>6</sup> Bank account means an account opened in a bank as defined by the Banking Ordinance.

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- c(1) If the moneys are to be paid by cheque, a licensed PMC should remind the payer to cross the cheque, fill in the payee's name, and state the purpose of the payment at the back of the cheque.
- c(2) Notwithstanding the guidelines set out in paragraph C(1) of the Code, a licensed PMC should, so far as reasonably practicable, ascertain the particulars of the payers who have directly deposited moneys into the designated account and the purpose of the moneys deposited, and make proper records.

## **Issuing receipts**

**Code:** D(1) Unless the moneys are deposited directly into the designated account by the payers, a licensed PMC has to issue receipts containing the relevant information (e.g. the details of the relevant flat and the purpose of payment) for the moneys received on each occasion, credit the moneys to the account and make proper records.

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- d(1) After receiving the relevant moneys, a licensed PMC should, as soon as reasonably practicable, issue a receipt with a pre-printed serial number to the payer, and keep a copy of the receipt or the stub of the receipt. The payment method (e.g. cash or cheque), the particulars of the payee, etc. should be stated in the receipt (see a sample at **Appendix 1**).
- d(2) Notwithstanding the guidelines set out in paragraph D(1) of the Code, a licensed PMC should, as far as reasonably practicable, issue a receipt for the moneys deposited directly into the designated account by the payer.

## **Keeping moneys and related items properly**

**Code:** E(1) A licensed PMC has to, as soon as reasonably practicable, deposit moneys received on behalf of its client into the designated account.

E(2) Before the moneys can be deposited into the designated account, a licensed PMC has to ensure the moneys are kept in a designated and locked device and/or by an authorized person(s)<sup>7</sup>, and make proper

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<sup>7</sup> An authorized person means the person designated by the licensed PMC.

records.

- E(3) A licensed PMC has to properly keep the cheques, passbooks and items such as the stamp, etc. which may be used for withdrawal of moneys from the designated account. The password for operating the account must be kept strictly confidential and may only be provided to authorized person(s).

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- e(1) A licensed PMC should record the particulars of moneys received in a register (see a sample at **Appendix 2**) and, as far as reasonably practicable, deposit moneys received into the designated account on the same day. If a licensed PMC cannot deposit moneys received into the designated account on the same day, the moneys should be deposited into the designated account on the following working day.
- e(2) A licensed PMC should arrange the cheques, passbooks and stamp which may be used for withdrawal of moneys to be kept by authorized person(s) or in a locked device, and the key for the device may only be kept by authorized person(s). The password for operating the account should be changed timely in order to minimize the risk of misappropriation of moneys due to leakage of the password.

### **Setting authorization for withdrawal of moneys**

**Code:** F(1) A licensed PMC has to set authorization for withdrawal of moneys from the designated account.

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- f(1) A licensed PMC should arrange for the signing by at least two authorized persons for withdrawal of moneys from the designated account. If the authorized person is changed, the licensed PMC should notify the relevant bank immediately, revoke and rearrange the authorization, and change the password for operating the designated account.
- f(2) If a licensed PMC issues a cheque from a designated account, it should ensure that the name of the payee (e.g. the name of the relevant supplier) is filled in on the cheque, the cheque is crossed and marked with “Account Payee Only”, and request the payee to issue a receipt.

## **Keeping records**

**Code:** G(1) A licensed PMC has to keep records and documents in relation to moneys received and payments made (e.g. stubs of cheques, pay-in slips, withdrawal slips, copies of receipts and monthly statements) for not less than six years.

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g(1) A licensed PMC should keep the records and documents mentioned in paragraph G(1) of the Code in a locked device and the key for opening the device should be kept by authorized person(s).

## **Checking records**

**Code:** H(1) A licensed PMC has to check the records of the relevant accounts<sup>8</sup> regularly and take follow-up action(s) for any error found as soon as reasonably practicable.

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h(1) A licensed PMC should:

- (a) as far as reasonably practicable, arrange daily for an inspecting officer<sup>9</sup> to ensure that moneys received have been deposited into the designated account;
- (b) arrange for an inspecting officer to check the records of the relevant account thoroughly for not less than twice every month;
- (c) if an error is found, rectify it as soon as reasonably practicable;
- (d) if a crime is detected, report it to the relevant law enforcement agency; and
- (e) upon the written request made by the owners' organization, provide records of the relevant account for inspection.

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<sup>8</sup> In this Guide, records of account include monthly bank statements, passbooks, stubs of cheques, receipts, registers of payments in cash / by cheque and pay-in slips.

<sup>9</sup> An inspecting officer shall not be the one who receives moneys or is responsible for depositing the moneys into the designated account.

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If there is any inconsistency between the Chinese version and the English version of this Guide, the Chinese version shall prevail.

Sample ( for reference only )

Appendix 1

XXX Property Management Company Limited (Licence No. \_\_\_\_\_ )

Address of management office: \_\_\_\_\_

Property: \_\_\_\_\_

Telephone No.: \_\_\_\_\_

**Receipt**

Serial No.: 000-0000000

Payer: \_\_\_\_\_ Flat (or relevant information): \_\_\_\_\_

Details of payment: Management fee / Others: \_\_\_\_\_

Payment method: Cash / Cheque / Others: \_\_\_\_\_

Received by: \_\_\_\_\_

Stamp: \_\_\_\_\_

Date: \_\_\_\_\_

Sample ( for reference only )

**Appendix 2**

[Name of licensed property management company]

[Name of the property]

**Register of payment in cash / by cheque**

Date	Item	Payment method (cash / cheque — bank & serial no.)	Receipt No.	Money received and record entered by			Amount (\$ HKD)	Moneys deposited into account				Inspecting officer <sup>1</sup>		
				Name	Post	Signature		Date	Bank	Account no.	Amount (\$ HKD)	Name	Post	Signature
24/1/2021	Management fee of Flat 3A, Block 1 for May 2020	Cheque (XX Bank xxx xxx)	xx-xxxx				2000	24/1/2021	XX Bank	xxx xxx	2000			
24/1/2021	Management fee of carpark space no. xx	Cash	xx-xxxx				1000	24/1/2021	XX Bank	xxx xxx	1000			
24/1/2021	Management fee of external wall advertising space no. xx	Cheque (XX Bank xxx xxx)	xx-xxxx				3000	24/1/2021	XX Bank	xxx xxx	3000			
25/1/2021	Management fee of external wall advertising space no. xx	Cheque (XX Bank xxx xxx)	xx-xxxx				3000	25/1/2021	XX Bank	xxx xxx	3000			
25/1/2021	Management fee of carpark space no. xx	Cash	xx-xxxx				1000	26/1/2021	XX Bank	xxx xxx	1000			
26/1/2021	Management fee of Flat 3B, Block 1 for February 2021	Cheque (XX Bank xxx xxx)	xx-xxxx				2000	26/1/2021	XX Bank	xxx xxx	2000			

1. An inspecting officer is responsible for ensuring that moneys received have been deposited into the designated account; the officer may not be the one who receives the moneys or is responsible for depositing the moneys into the designated account.