

PROPERTY MANAGEMENT SERVICES AUTHORITY

Code of Conduct

Handling Moneys Received on behalf of Clients by Property Management Companies

Code No.: C4/2021

Effective Date: 7 May 2021

Preamble

The following code of conduct (“Code”) is issued by the Property Management Services Authority pursuant to section 5 of the Property Management Services Ordinance (“PMSO”) and contains practical guidance for the purposes of section 4 of the PMSO (disciplinary offences). Although a licensee¹ does not incur a legal liability only because the licensee has contravened a provision of the Code, the Code is admissible in evidence in disciplinary hearings, and proof that a licensee contravened or did not contravene the relevant provision of the Code may be relied on as tending to establish or negate a matter that is in issue in the hearings.

Code

Establishing proper mechanism for handling moneys received on behalf of clients²

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

¹ 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.

² In this Code, 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.

Entering into agreements with clients

- B(1) Except where a licensed PMC is a manager³ of the relevant property⁴, the licensed PMC has to enter into an agreement with its client for opening and maintaining an independent bank account⁵ 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.

Ascertaining particulars of payers and purposes of payments

- 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.

Issuing receipts

- 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.

Keeping moneys and related items properly

- 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)⁶, and make proper records.

³ In this Code, the term "manager" has the same meaning as that defined by section 34D of the Building Management Ordinance.

⁴ 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.

⁵ Bank account means an account opened in a bank as defined by the Banking Ordinance.

⁶ An authorized person means the person designated by the licensed PMC.

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).

Setting authorization for withdrawal of moneys

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

Keeping records

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.

Checking records

H(1) A licensed PMC has to check the records of the relevant accounts⁷ regularly and take follow-up action(s) for any error found as soon as reasonably practicable.

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If there is any inconsistency between the Chinese version and the English version of this Code, the Chinese version shall prevail.
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⁷ In this Code, records of account include monthly bank statements, passbooks, stubs of cheque, receipts, registers of payments in cash / by cheque and pay-in slips.