

CHAPTER 8

Housing Bureau Sales of First-hand Residential Properties Authority

**Regulation of sales of first-hand residential
properties by the Sales of First-hand
Residential Properties Authority**

**Audit Commission
Hong Kong
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This audit review was carried out under a set of guidelines tabled in the Provisional Legislative Council by the Chairman of the Public Accounts Committee on 11 February 1998. The guidelines were agreed between the Public Accounts Committee and the Director of Audit and accepted by the Government of the Hong Kong Special Administrative Region.

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REGULATION OF SALES OF FIRST-HAND RESIDENTIAL PROPERTIES BY THE SALES OF FIRST-HAND RESIDENTIAL PROPERTIES AUTHORITY

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REGULATION OF SALES OF FIRST-HAND RESIDENTIAL PROPERTIES BY THE SALES OF FIRST-HAND RESIDENTIAL PROPERTIES AUTHORITY

Executive Summary

1. In April 2013, the Residential Properties (First-hand Sales) Ordinance (Cap. 621 — RPFSSO) came into full implementation. RPFSSO aims at enhancing the transparency and fairness of the sales of first-hand residential properties (FRPs), strengthening consumer protection and providing a level playing field for vendors of FRPs. Detailed requirements are set out in RPFSSO relating to sales brochures, price lists, sales arrangements, registers of transactions, show flats, viewing of completed residential properties, advertisements, the mandatory provisions for the preliminary agreement for sale and purchase, and the mandatory provisions for the agreement for sale and purchase for each development. The Sales of First-hand Residential Properties Authority (SRPA) was set up in early April 2013 for initiating compliance checks and inspections, conducting investigations and educating the public on matters relating to RPFSSO. In 2021-22, the estimated expenditure of SRPA was \$64.33 million. The Audit Commission (Audit) has recently conducted a review to examine the regulation of sales of FRPs by SRPA with a view to identifying areas for improvement.

Compliance monitoring

2. The Inspection and Monitoring Unit (IMU) is mainly responsible for monitoring vendors' compliance with RPFSSO by conducting documentary checks on sales documents. The procedures of the documentary checks on sales documents are promulgated in SRPA's Procedures for Inspection and Monitoring (hereinafter referred to as SRPA's Procedures). A checklist is designed for each type of sales documents and IMU should complete documentary checks within the time limits specified in SRPA's Procedures (paras. 2.4 to 2.6).

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3. ***Need to ensure timely completion of documentary checks on sales documents.*** Audit analysed the documentary checks on sales documents by IMU for the 27 first-hand residential developments which commenced sale from July to December 2021 (involving 291 checklists) and found that:

- (a) there were delays in completing 25 (9%) checklists by the Assistant Inspection Officers, ranging from 1 to 174 working days (averaging 30 working days), with 3 exceeding 70 working days. There were also delays in counter-checking 33 (11%) checklists by the Inspection Officers, ranging from 1 to 20 working days (averaging 6 working days); and
- (b) for the 15 checklists involving possible non-compliances, there were also delays in endorsing 9 (60%) checklists by the Senior Inspection Officers (SIPOs), ranging from 1 to 19 working days (averaging 10 working days) (para. 2.7).

4. ***Room for improvement in checking advertisements.*** A contractor is engaged by SRPA to provide an online searching platform which allows SRPA to search, view and download local advertisements related to sales of FRPs round-the-clock (para. 2.10). Audit's examination of SRPA's records for the 27 developments which commenced sale from July to December 2021 revealed the following areas for improvement:

- (a) SRPA did not make use of the searching platform to identify the related advertisements in newspapers. While SRPA could not identify any newspaper advertisement for 4 (15%) of the 27 developments, these advertisements could be found in the searching platform for 2 of the 4 developments. Furthermore, SRPA did not make use of the searching platform to conduct checks on outdoor advertisements (para. 2.11); and
- (b) no checks had been conducted on printed advertisements collected from sales offices and/or show flats for all the 27 developments. Despite that television (TV), radio and mobile advertisements could be identified for 17 developments in the searching platform, SRPA did not check the advertisements for 2 (7% of the 27 developments) of them (para. 2.12).

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5. ***Non-compliance with inspection procedures for on-site inspections of show flats.*** SRPA conducts inspections to ensure show flats made available for viewing by the public complied with RPFSSO (para. 2.15). Audit’s examination of the checklists of 37 inspections of show flats (their first sales brochures were submitted to SRPA in 2021) revealed that:

- (a) ***Timeliness of inspections.*** In 1 (3%) inspection, it was conducted on the sixth day on which the show flat had been opened for public viewing (i.e. a delay of one day). Furthermore, in 17 (46%) inspections, the dates show flats were first available for viewing were not documented in the checklists, and as a result, Audit was unable to ascertain whether the time limit of conducting inspections was complied with;
- (b) ***Delay in submitting completed checklists and no-endorsement checklists.*** There were delays in 22 (59%) inspections in submitting the completed checklists to SIPOs within the 2-working day time limit, ranging from 1 to 7 working days (averaging 2 working days). In 7 (19%) inspections, the completed checklists were not endorsed by SIPOs; and
- (c) ***Reporting possible non-compliances identified during inspections.*** Possible non-compliances with RPFSSO were identified in 5 inspections by SRPA. For all the 5 inspections, the inspection officers informed the respective vendors of the possible non-compliances identified on site and rectifications were made by the vendors. In the checklists, such incidents were only documented as “other observations” and the show flats were considered “in order”. While these inspections had been reported and endorsed by SIPOs, the possible non-compliances were not reported to the Chief Inspection Officer and no further investigation was taken subsequently (para. 2.18).

6. ***Built-in items not included in sales brochures but found in show flats.*** In 10 (27%) of the 37 inspections selected for checking by Audit, SRPA’s inspection records showed that there were built-in items (e.g. storage cabinets, shoes cabinets) in the living rooms and/or dining rooms of the show flats, but such items were not set out in the sales brochures of the developments. According to RPFSSO, there are only requirements on setting out the descriptions of interior fittings for specified items (e.g. “Bedroom”, “Bathroom” and “Kitchen”) but not for living rooms and dining rooms (para. 2.20).

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7. ***Need to improve documentation on inspections of availability of sales documents.*** IMU conducts inspections at the sales offices to ascertain whether the vendors have made the sales documents available for the public free of charge. SRPA requires inspection officers to record in the checklists the estimated quantities of sales documents available for collection and indicate whether hard copies of sales documents available for collection/inspection are placed at a location that is reasonably visible to any person entering the place. Photographs are required to attach to support the observations. Audit examined the completed checklists of 20 inspections conducted by SRPA in 2021 and found that in all 20 checklists, the photographs attached could not show the quantities reported as well as the locations where the sales documents available for collection/inspection were placed (paras. 2.22 to 2.24).

8. ***Room for improvement in conducting and documenting inspections of operation of sales arrangements.*** Audit noted that no checklists had been devised for the inspections of operation of sales arrangements at sales offices. Furthermore, checking procedures and inspection items had not been drawn up in SRPA's Procedures and no time limit was set out for submitting inspection reports to the supervisors. Audit examined 15 inspection reports for inspections conducted in the period from April to June 2021 and found that the format and items covered in the inspection reports varied and 4 inspection reports were submitted over 2 working days after the dates of inspections (up to 5 working days in 2 inspection reports) (paras. 2.25 and 2.26).

Complaints and investigations

9. The Complaints Unit is responsible for handling enquiries and complaints relevant to RPFSSO. Since the full implementation of RPFSSO on 29 April 2013 and up to 30 June 2022, SRPA had received 10,741 enquiries and 544 complaints. The Investigation and Compliance Assurance Unit (ICAU) is responsible for investigating cases of suspected contravention of RPFSSO referred from different sources. Depending on the investigation result, SRPA may refer the case to the Department of Justice (DoJ) for advice on prosecution or curtail the investigation as a non-substantiated case. Since 29 April 2013 and up to 30 June 2022, there was a total of 2,189 investigation cases (paras. 3.2 and 3.12 to 3.14).

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10. ***Room for improvement in handling complaints.*** Audit examined 20 (14%) of the 143 complaint cases received from January 2021 to June 2022, of which 16 cases were related to suspected contravention of RPFSSO and referred to ICAU for investigation. Audit's examination of these 16 cases as of July 2022 revealed that:

- (a) ***Delay in referrals for investigations.*** 11 (69%) cases were referred over three working days after receipt of the complaints, contrary to the requirement in the Complaint Handling Procedures;
- (b) ***Inconsistent practice in following up with complainants.*** Different practices were adopted in following up with complainants. For example, SRPA was unable to contact the complainants concerned in 3 cases while progress update was provided to the complainants in 6 cases but not in the remaining 7 cases; and
- (c) ***Long time taken to close complaint cases.*** Although investigation work and all the follow-up actions had been completed for 5 of the 16 cases, the Complaints Unit took 47 to 88 days (averaging 71 days) to close the cases (para. 3.6).

11. ***Need to draw lessons from completed investigation cases.*** As at June 2022, DoJ had given advice on 251 investigation cases referred by SRPA from January 2019 to June 2022. Among these, prosecution actions were taken in 11 cases and 37 counts of offences were convicted under these 11 cases with fines totalling \$468,000. Audit notes that there is scope for improvement in collecting evidence for enhancing the prospect of securing a conviction in some offences. For example, in one case, SRPA officers did not conduct any site inspections to the sales offices to confirm whether there was any non-compliance by the vendor to make available hard copies of price lists for collection by the general public (section 32(1) of RPFSSO). Furthermore, while there was no record of submission of hard copies of price lists to SRPA by the vendor, SRPA did not take prosecution action on the possible infringement in the provision to make available hard copies of price lists to SRPA on the first day on which it is available to public (section 32(4)(a) of RPFSSO) after consulting DoJ (paras. 3.16 and 3.17).

12. ***Long time taken in completing investigation cases.*** Of the 348 investigation cases completed during the period from January 2019 to June 2022,

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Audit's analysis found that 265 (76%) cases did not meet the time targets stipulated in ICAU's Practice Note. Audit examined 15 cases and found that:

- (a) ***Long time taken for commencing and conducting investigation.*** ICAU took 1 day to 15 months to commence investigation after case receipt (averaging 5 months). In 6 cases, they were left unattended by ICAU for more than 3 months after the investigation commenced; and
- (b) ***Long time taken for preparing investigation reports/case reports.*** The time required to prepare the investigation reports/case reports varied, ranging from 5 days to 17 months (averaging 7 months) after the investigation work was completed (paras. 3.19 and 3.20).

Publicity and education

13. ***Low utilisation of the SRPA Resource Centre.*** SRPA operates the SRPA Resource Centre where hard copies of sales brochures and price lists are kept and two computer terminals are provided for viewing by the public. Audit found that the average number of visitors per month decreased by 81% from 9.1 in 2013 (since April) to 1.7 in 2022 (up to June). As of June 2022, SRPA has not conducted any studies or reviews on the utilisation or effectiveness of the Resource Centre (paras. 4.2 to 4.4).

14. ***Delay in showing sale suspension/termination of the developments on the Sales of First-hand Residential Properties Electronic Platform (SRPE).*** SRPA maintains an electronic database (i.e. SRPE) containing the sales brochures, price lists, and registers of transactions of individual first-hand residential developments. As of 24 June 2022, there were 94 developments with sales suspended/terminated within 18 months on SRPE. In 34 (36%) cases, there were delays in informing SRPA the sale suspension/termination of the developments by the vendors, among which 22 cases were having delays of more than 7 days with an average delay of 73 days (ranging from 10 to 291 days) (paras. 1.7(e) and 4.14).

15. ***Need to enhance performance monitoring of disseminating digital publicity materials.*** From April 2013 to June 2022, \$8.2 million was incurred by SRPA in the publicity and education activities. While performance reports are required to be provided by the contractors of the online marketing campaign and

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online platform advertisement (costing about \$800,000 and \$100,000 respectively), such requirements have not been included in the contracts for advertisements placed in Mass Transit Railway In-train TVs and TVs installed in commercial and private residential buildings (costing about \$2,376,000 and \$520,000 respectively) (paras. 4.18 and 4.19).

Way forward

16. According to the then Transport and Housing Bureau, the main functions of RPFSSO and SRPA are to protect the interest of purchasers of FRPs through enhancing transparency of property and transaction information and provide a level playing field for vendors of FRPs. In late November 2014, the Bureau said that it would review the effect of the current legislative framework as they move along, after accumulating sufficient experience in implementation (paras. 5.2 and 5.5).

17. *Need to keep monitoring the implementation of RPFSSO.* RPFSSO has been implemented for nearly 10 years and new issues have emerged since the enactment of RPFSSO. Since the implementation of RPFSSO, SRPA has adopted non-legislative means to address some issues which have public concerns, including the registration of intent in the sales of FRPs, mortgage plans and promotion schemes offered by vendors and transaction information of FRPs. Audit's examination has revealed that there is scope for improvement in the three pillars of work of SRPA, namely compliance monitoring, investigation work, and public education. In Audit's view, SRPA needs to step up efforts in the three pillars of work. Furthermore, the Housing Bureau, in collaboration with SRPA, needs to keep monitoring the implementation of RPFSSO and consider suitable means to address issues with public concerns (paras. 5.4 and 5.5).

Audit recommendations

18. **Audit recommendations are made in the respective sections of this Audit Report. Only the key ones are highlighted in this Executive Summary. Audit has recommended that the Director, Sales of First-hand Residential Properties Authority should:**

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Compliance monitoring

- (a) **take effective measures in ensuring staff's compliance with the time limits of completing documentary checks as set out in its internal procedures (para. 2.13(a));**
- (b) **make better use of the searching platform to improve efficiency in checking advertisements (para. 2.13(c));**
- (c) **remind SRPA staff to collect printed advertisements from sales offices and show flats for documentary checking purposes and to conduct checking of TV, radio and mobile advertisements in accordance with the promulgated procedures (para. 2.13(d));**
- (d) **take measures to enhance the compliance with inspection procedures of show flats by SRPA staff and consider introducing new measures to enhance the effectiveness and efficiency of inspecting show flats (para. 2.29(a) and (b));**
- (e) **keep in view the general trend on the provision of interior fittings in a property and take measures to address the situation where necessary (para. 2.29(c));**
- (f) **strengthen the documentation on the inspections of availability of sales documents (para. 2.29(d));**
- (g) **issue guidelines specifying the procedures in conducting inspections of operation of sales arrangements and the documentation and reporting requirements of the inspection results (para. 2.29(e));**

Complaints and investigations

- (h) **take measures to ensure compliance with the Complaint Handling Procedures in referring complaint cases for investigation in a timely manner (para. 3.10(a));**

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- (i) lay down guidelines setting out the follow-up actions to be taken with the complainants and the time frame for closing complaint cases (para. 3.10(b));
- (j) sustain its efforts in drawing lessons from completed investigation cases with a view to improving the prospect of securing a conviction in similar cases in future (para. 3.24(b));
- (k) expedite actions in completing investigation cases (para. 3.24(c));

Publicity and education

- (l) review the utilisation and effectiveness of the Resource Centre and explore measures, where appropriate, to improve the utilisation of the Resource Centre (para. 4.9(a));
- (m) remind vendors to inform SRPA the sale suspension/termination of the developments in a timely manner (para. 4.16(b));
- (n) consider including requirements on the provision of performance reports by contractors (para. 4.22(a)); and

Way forward

- (o) where appropriate, step up efforts in conducting compliance monitoring, handling complaints, carrying out investigations on suspected cases of contravention of RPFSSO, and educating the trade and the public, taking into account the findings of this Audit Report (para. 5.7).

19. Audit has also *recommended* that the Secretary for Housing, in collaboration with the Director, Sales of First-hand Residential Properties Authority, should keep monitoring the implementation of RPFSSO and consider suitable means to address issues with public concerns (para. 5.6).

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Response from the Government

20. The Secretary for Housing and the Director, Sales of First-hand Residential Properties Authority agree with the audit recommendations.

PART 1: INTRODUCTION

1.1 This PART describes the background to the audit and outlines the audit objectives and scope.

Background

1.2 Purchasing a residential property is a major undertaking for most Hong Kong people. They have to take decisions that will see them use their life-time savings and commit to a major financial burden spread over ten years or more. Clear information about the residential properties for sale helps prospective purchasers to make an informed choice. For many years, the Government has been monitoring the sales of residential properties, particularly those involving uncompleted first-hand residential properties (FRPs), by adopting a multi-pronged approach (see Appendix A). There was a general public view that the measures and practices under the multi-pronged approach were insufficient and that consumer protection in respect of the sales of all types of FRPs should be enhanced.

Residential Properties (First-hand Sales) Ordinance

1.3 To further enhance the transparency and fairness of the sales arrangements and transactions of FRPs, the Chief Executive of the Hong Kong Special Administrative Region announced in the 2010-11 Policy Address that the Housing Bureau (HB — Note 1) would set up a Steering Committee to discuss specific issues on regulating the sales of FRPs by legislation and put forward practicable

Note 1: *In the 2021 Policy Address, the Chief Executive proposed to split the then Transport and Housing Bureau into two policy bureaux, namely HB and the Transport and Logistics Bureau. In June 2022, the proposal was approved by the Legislative Council and became effective from 1 July 2022. For simplicity, the Transport and Housing Bureau is also referred to as HB in this Audit Report.*

Introduction

recommendations. The Steering Committee on Regulation of Sales of FRPs by Legislation (Note 2) was established in October 2010. It completed its work and submitted its report in October 2011. Having considered the recommendations made by the Steering Committee, HB prepared the proposed legislation and published a consultation paper to invite public's views from 29 November 2011 to 28 January 2012. A report on the public consultation was published in March 2012. In the event, the Residential Properties (First-hand Sales) Ordinance (Cap. 621 — RPF SO) was enacted in June 2012, and came into full implementation on 29 April 2013.

1.4 RPF SO aims at enhancing the transparency and fairness of the sales of FRPs, strengthening consumer protection, and providing a level playing field for vendors of FRPs. It applies to any residential property in a development situated in Hong Kong in respect of which no agreement for sale and purchase has ever been

Note 2: *The Steering Committee was chaired by the then Permanent Secretary for Transport and Housing (Housing) and had 13 members comprising the then Deputy Secretary for Transport and Housing (Housing) and representatives from the Consumer Council, the Estate Agents Authority, the Hong Kong Institute of Surveyors, the Law Society of Hong Kong, the Real Estate Developers Association of Hong Kong, the Buildings Department, the Lands Department, Legislative Council Members and other professionals. Its terms of reference were as follows:*

- (a) *to consider and advise on:*
- (i) *the scope of the legislative framework, i.e. the definition of FRPs to be covered under the legislation;*
 - (ii) *how much properties should be regulated by legislation in terms of transparency and accuracy of property information including sales brochures and any other types of promotional materials, sales practices, price lists, show flats, and saleable areas; and*
 - (iii) *the enforcement mechanism and penalty; and*
- (b) *to come up with practical recommendations on the above for the then Secretary for Transport and Housing's consideration, including the timetable for drafting and enactment of legislation, with a view for HB to carry out public consultation.*

entered into and no assignment has ever been made (Note 3).

1.5 RPFSSO sets out detailed requirements in relation to sales brochures, price lists, sales arrangements, registers of transactions, show flats, viewing of completed residential properties, advertisements, the mandatory provisions for the preliminary agreement for sale and purchase, and the mandatory provisions for the agreement for sale and purchase for each development (Note 4). For example, vendors are required to strictly comply with the requirements of RPFSSO which include:

- (a) presenting the area, the price per square foot and per square metre of an FRP in terms of saleable area only;
- (b) if any show flat for an FRP in an uncompleted development is to be made available, the vendor must first make available an unmodified show flat of that FRP before making available a modified show flat;
- (c) making available the sales brochure for a period of at least seven days immediately before the date of sale;
- (d) making available the price list(s) and document(s) containing the sales arrangement(s) for a period of at least three days immediately before the date of sale, and waiting for three days before offering to sell those FRPs if there are amendments made to the price list(s) and the document(s) containing the sales arrangement(s) of those FRPs; and

Note 3: *RPFSSO does not apply if:*

- (a) *the development is a completed development and at least 95% of the residential properties in the development have been leased out for a continuous period of or for several periods that in the aggregate equal at least 36 months; or*
- (b) *the development is situated in the New Territories comprising only one building and issued with a certificate of exemption under the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121).*

Note 4: *If a development is divided into two or more phases (based on its building plans approved under the Buildings Ordinance (Cap. 123)), the vendor must prepare the sales documents and other publications for each phase of the development. In this Audit Report, both developments and phases of developments are, for simplicity, referred to as “developments”.*

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- (e) making available the register of transactions for inspection:
 - (i) by the general public free of charge at the sales offices on each date of sale, irrespective of whether there is a transaction on a particular date;
 - (ii) on the designated website (Note 5) from the first date of sale to first day on which the first assignment of each FRP has been registered in the Land Registry; and
 - (iii) on the Sales of First-hand Residential Properties Electronic Platform (SRPE) after an entry into the register of transactions has been made as soon as practicable.

RPFSSO also provides for prohibitions against misrepresentation and the dissemination of false or misleading information by any person in promoting the sales of FRPs. There are altogether about 120 criminal offences under RPFSSO. Depending on the contraventions involved, offenders are liable on conviction to a maximum penalty of a fine of \$5 million and/or an imprisonment for seven years.

1.6 According to HB:

- (a) RPFSSO has struck a balance between enhancing the transparency and fairness in the sales of FRPs, and allowing vendors the flexibility in making business decisions and disposing of their properties lawfully. All vendors will be subject to the same set of “dos” and “don’ts”, exemptions and penalties. This is conducive to the development of a healthy and stable property market which is crucial to the sustainable development of Hong Kong as a whole; and
- (b) RPFSSO is the result of a year’s discussion in the Steering Committee, a two-month public consultation exercise and thorough discussions in the Legislative Council (LegCo), during which different stakeholders deliberated on the matter along the spirit of consensus building while respecting differences.

Note 5: *It is the website designated by the vendor for the development for the purposes of executing the sales practices required by RPFSSO.*

Sales of First-hand Residential Properties Authority

1.7 ***Functions of Sales of First-hand Residential Properties Authority.*** The Sales of First-hand Residential Properties Authority (SRPA) is established under section 86(1) of RPFSSO. The Housing Bureau is the policy bureau of SRPA (Note 6). It commenced operation in early April 2013 to prepare for the full implementation of RPFSSO. It is tasked with the following duties:

- (a) administering and supervising compliance with the provisions of RPFSSO (including monitoring sales practices through regular inspections and checks on sales brochures, price lists, show flats, sales offices, registers of transactions, sales arrangement announcements, designated websites and advertisements);
- (b) handling enquiries and complaints;
- (c) issuing practice guidelines for the trade, conducting investigations on cases of possible non-compliance with the provisions of RPFSSO;
- (d) arranging publicity programmes and educating the public on matters relating to the sales of FRPs; and
- (e) maintaining an electronic database (i.e. SRPE) containing the sales brochures, price lists, and registers of transactions of individual first-hand residential developments.

According to SRPA, it is the vendor's responsibility to ensure that their sales brochures, price lists, advertisements and the relevant documents containing the sales arrangements comply with the requirements of RPFSSO. SRPA will not vet them before they are made available to the public.

1.8 ***Work and organisation of SRPA.*** Initiating compliance checks and inspections, conducting investigations and educating the public on matters relating to RPFSSO are the three pillars of work of SRPA to ensure transparency and fairness of

Note 6: *SRPA is established to administer RPFSSO. Even though SRPA is appointed by the Secretary for Housing, it operates independently from HB in its day-to-day operation.*

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the sales of FRPs. It also helps the trade to understand the requirements of RPFSSO and handles enquiries and complaints. SRPA is headed by a Director, who is assisted by a Deputy Director. It comprises the following four units:

- (a) ***Inspection and Monitoring Unit (IMU)***. It is responsible for monitoring vendors' compliance with legal requirements by examining the sales documents and advertisements as well as conducting on-site inspections of the sales offices and show flats of FRPs;
- (b) ***Complaints Unit (CU)***. It is responsible for handling enquiries and complaints received by various means. It will refer the cases for investigations if there are suspected contraventions of RPFSSO;
- (c) ***Investigation and Compliance Assurance Unit (ICAU)***. It is responsible for investigating cases of suspected contraventions of RPFSSO referred from IMU, CU, other government bureaux/departments (B/Ds) and organisations, as well as cases self-initiated by ICAU. It will refer the cases to the Department of Justice (DoJ) for consideration of prosecution if it considers that the vendors may have breached the requirements of RPFSSO; and
- (d) ***Administration and Public Education Unit***. It is responsible for providing administrative support services as well as educating the trade and the public on the matters relating to RPFSSO. SRPA has issued the following documents to help the trade and the public understand the requirements of RPFSSO:
 - (i) ***Guidelines***. According to section 88(1) of RPFSSO, Guidelines are issued to provide guidance on the operation of the provisions of RPFSSO. The Guidelines are not subsidiary legislation. A person does not incur any civil or criminal liability only because the person has contravened any of the Guidelines;
 - (ii) ***Practice Notes***. SRPA has issued Practice Notes which set out in the form of advice best practices for vendors of FRPs to follow. Non-compliance with the best practices per se will not be regarded as a contravention of RPFSSO or a commission of an offence under RPFSSO; and

- (iii) *Frequently-asked questions and answers (FAQs)*. FAQs aim to facilitate the trade and the public to understand how SRPA looks at specific provisions of RPFSSO (Note 7).

In 2021-22, the estimated expenditure of SRPA was \$64.33 million. As at 30 June 2022, it had an establishment of 44 staff and a strength of 41 staff. An extract of the organisation chart of SRPA as at 30 June 2022 is shown at Appendix B.

Audit review

1.9 In May 2022, the Audit Commission (Audit) commenced a review to examine the regulation of sales of FRPs by SRPA. This review focuses on the following areas:

- (a) compliance monitoring (PART 2);
- (b) complaints and investigations (PART 3);
- (c) publicity and education (PART 4); and
- (d) way forward (PART 5).

Audit has found room for improvement in the above areas and has made a number of recommendations to address the issues.

Acknowledgement

1.10 Audit would like to acknowledge with gratitude the full cooperation of the staff of SRPA during the course of the audit review.

Note 7: *According to SRPA, users of FAQs should not rely on the information in FAQs as professional legal advice. Whilst every effort has been made to ensure the accuracy of FAQs, SRPA shall not be responsible for any liability howsoever caused to any person by the use or reliance on FAQs.*

PART 2: COMPLIANCE MONITORING

2.1 This PART examines the work of SRPA in compliance monitoring, focusing on:

- (a) documentary checks on sales documents (paras. 2.3 to 2.14); and
- (b) on-site inspections (paras. 2.15 to 2.30).

2.2 In the period from the full implementation of RPFSSO on 29 April 2013 to 30 June 2022, vendors offered to sell about 150,000 FRPs in 543 developments (see Table 1).

Table 1

**Number of FRPs offered for sale by vendors
(29 April 2013 to 30 June 2022)**

Year	Number of FRPs	Number of developments
2013 (since 29 April)	8,295	57
2014	15,944	88
2015	16,423	72
2016	15,482	59
2017	18,466	59
2018	17,512	49
2019	20,130	45
2020	14,440	44
2021	17,360	52
2022 (up to 30 June)	5,503	18
Total	149,555	543

Source: SRPA records

Documentary checks on sales documents

2.3 *Requirements on availability and submission of sales documents.* According to RPFSo, the vendor of a development is required to make available certain sales documents for collection/inspection by the public free of charge and submit certain sales documents to SRPA and/or SRPE. Details are summarised in Table 2.

Table 2

RPFSo requirements on availability and submission of sales documents

Location/ platform	Requirements on availability/submission
(a) Designated location (Note 1)	<p><i>Sales brochure</i></p> <ul style="list-style-type: none"> • hard copies for collection by the public during a period of at least 7 days immediately before a date of sale <p><i>Price list and document containing sales arrangement</i></p> <ul style="list-style-type: none"> • hard copies for collection by the public during a period of at least 3 days immediately before a date of sale
(b) Sales office	<p><i>Sales brochure, price list and document containing sales arrangement</i></p> <ul style="list-style-type: none"> • hard copies for collection by the public on a date of sale <p><i>Register of transactions</i></p> <ul style="list-style-type: none"> • a hard copy for inspection by the public on a date of sale <p><i>Other plans and documents</i> (Note 2)</p> <ul style="list-style-type: none"> • a hard copy for inspection by the public on a date of sale
(c) Designated website	<p><i>Sales brochure</i></p> <ul style="list-style-type: none"> • an electronic copy for inspection during a period of at least 7 days immediately before a date of sale and on a date of sale <p><i>Price list and document containing sales arrangement</i></p> <ul style="list-style-type: none"> • an electronic copy for inspection during a period of at least 3 days immediately before a date of sale and on a date of sale

Compliance monitoring

Table 2 (Cont'd)

Location/ platform	Requirements on availability/submission
(c) Designated website (Cont'd)	<p>Register of transactions</p> <ul style="list-style-type: none"> • an electronic copy for inspection during the period from the first date of sale to first day on which the first assignment of each FRP has been registered in the Land Registry <p>Aerial photograph and executed/latest draft of every deed of mutual covenant</p> <ul style="list-style-type: none"> • an electronic copy for inspection on a date of sale
(d) SRPA	<p>Sales brochure and price list</p> <ul style="list-style-type: none"> • a hard copy on the first day on which it is available to the public in location (a)
(e) SRPE (Note 3)	<p>Sales brochure and price list</p> <ul style="list-style-type: none"> • an electronic copy on the first day on which it is available to the public in location (a) <p>Register of transactions</p> <ul style="list-style-type: none"> • an electronic copy as soon as practicable after an entry has been made

Source: *Audit analysis of RPFSSO*

Note 1: *According to SRPA, a designated location refers to a location specified by the vendor where the sales documents are available for collection by the public.*

Note 2: *Other plans and documents include:*

- (a) *a copy of the outline zoning plan or development permission area plan;*
- (b) *a copy of the approved building plans;*
- (c) *a copy of executed/latest draft of every deed of mutual covenant;*
- (d) *a copy of the land grant; and*
- (e) *the aerial photograph as set out in the sales brochure.*

Note 3: *According to a Practice Note, vendors are advised to provide electronic copies of the documents containing sales arrangements to SRPE on the first day on which the documents are made available to the public.*

2.4 Headed by a Chief Inspection Officer (CIPO) and supported by 10 officers, IMU (see para. 1.8(a)) is mainly responsible for monitoring vendors' compliance with RPFSSO by conducting documentary checks on sales documents (including sales brochures, price lists, documents containing sales arrangements, registers of

transactions and advertisements). IMU comprises three teams. Each team is headed by a Senior Inspection Officer (SIPO) who supervises an Inspection Officer (IPO) and one/two Assistant Inspection Officers (AIPOs). Table 3 shows the number of documentary checks on sales documents conducted by SRPA from 29 April 2013 to 30 June 2022.

Table 3

**Number of documentary checks on sales documents conducted by SRPA
(29 April 2013 to 30 June 2022)**

Year	Sales brochure	Price list	Document containing sales arrangement	Register of transactions	Advertisement		
					Printed	Non-printed	
						Promotional material prepared by vendor (Note)	Designated website
(Number of checks)							
2013 (since 29 April)	185	320	211	554	1,573	–	–
2014	549	1,405	786	1,685	3,871	–	–
2015	104	616	799	914	3,134	–	–
2016	533	1,877	1,758	3,279	2,461	–	–
2017	851	1,817	1,843	4,885	2,235	56	4
2018	860	1,513	2,450	4,754	2,359	17,028	5
2019	911	1,351	1,995	5,544	1,229	8,906	4
2020	988	1,674	2,096	5,320	1,485	2,912	6
2021	1,136	2,352	2,452	7,481	1,796	8,062	6
2022 (up to 30 June)	545	863	818	2,281	405	1,643	2
Total	6,662	13,788	15,208	36,697	20,548	38,607	27

Source: SRPA records

Note: According to SRPA, these include television, radio and mobile advertisements. IMU will examine the promotional materials, which can be broadcast multiple times at different times and in different channels/locations. The figures in the table represent the numbers of times the promotional materials were broadcast. For example, in 2021, the 8,062 checks involved 175 pieces of promotional materials.

Compliance monitoring

2.5 **Checking procedures.** According to SRPA's Procedures for Inspection and Monitoring (hereinafter referred to as SRPA's Procedures), the procedures of the documentary checks on sales documents by IMU are as follows:

- (a) **Sales brochure.** Upon receipt of a hard copy of the sales brochure submitted by the vendor, IMU will monitor its availability on the designated website and SRPE. Based on the hard copy submitted, IMU checks the content of the first sales brochure within two working days after the first date of sale for each development and the subsequent versions of sales brochures (Note 8) within three working days after such hard copies have been provided to SRPA;
- (b) **Price list.** Upon receipt of a hard copy of the price list submitted by the vendor, IMU will monitor its availability on the designated website and SRPE. Based on the hard copy submitted, IMU checks the content of the first price list within two working days after the first date of sale for each development, and sample-checks the subsequent and revised price lists within three working days after such hard copies have been provided to SRPA;
- (c) **Document containing sales arrangement.** IMU will monitor the availability of the document containing sales arrangement on the designated website. Based on the copy obtained from the designated website, IMU checks the document containing sales arrangement within two working days after the first date of sale for first/subsequent sales arrangement for each development, and revised document containing sales arrangement within three working days after such copies have been available on the designated website;
- (d) **Register of transactions.** IMU will monitor the availability of the register of transactions on the designated website and SRPE. Based on the copy obtained from the designated website, IMU checks:

Note 8: *According to RPFSSO, a vendor may examine the sales brochure to ascertain whether or not the information set out in the sales brochure is accurate. The sales brochure should be examined by the vendor within three months before it is made available.*

- (i) the contents and format of the register of transactions within two working days after the first date of sale for each development; and
 - (ii) specific transactions of the register on specified days (Note 9), including the checking of transaction prices against respective price lists and timeframe for execution of agreements for sale and purchase. All checkings should be completed within two working days; and
- (e) **Advertisement.** Advertisement for a development with FRPs identified by SRPA should be checked within two working days.

2.6 **Documentation of checking.** To facilitate checking by IMU, a checklist is designed for each type of sales documents. According to SRPA's Procedures, IMU should complete documentary checks within the following time limits:

- (a) an AIPO should submit the completed checklists to an IPO within the respective time limits specified in the procedures, usually two working days after the first date of sale for each development;
- (b) an IPO should complete the counter-checking and submit the checklists to an SIPO within two working days upon receipt of the checklists from an AIPO; and
- (c) an SIPO is required to endorse the checklists. For any possible non-compliance cases, an SIPO is required to submit the endorsed checklists to CIPO for approval within two working days upon receipt of the checklists from an IPO.

Note 9: *Such checking is conducted for each development on every working day from the second up to the seventh calendar day after the first date of sale, and on a working day one month after the second week of sale.*

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Need to ensure timely completion of documentary checks on sales documents

2.7 From July to December 2021, 27 first-hand residential developments commenced sale. Audit analysed the timeliness in completing 291 checklists of the documentary checks on sales documents by IMU (involving 27 sales brochures, 27 documents containing sales arrangements, 23 price lists, 176 registers of transactions and 38 advertisements) for the 27 developments and found that:

- (a) there were delays in completing 25 (9%) checklists by AIPOs, ranging from 1 to 174 working days (averaging 30 working days), with 3 exceeding 70 working days;
- (b) there were delays in counter-checking 33 (11%) checklists by IPOs, ranging from 1 to 20 working days (averaging 6 working days); and
- (c) of the 291 checklists:
 - (i) 15 checklists involved possible non-compliances. There were delays in endorsing 9 (60%) checklists by SIPOs, ranging from 1 to 19 working days (averaging 10 working days); and
 - (ii) for the remaining 276 checklists which did not involve any possible non-compliance, 9 working days were required on average (ranging from 0 to 149 working days) for endorsement by SIPOs. While about 85% of the 276 checklists were endorsed by SIPOs within 10 working days, it took more than 30 working days to endorse 25 checklists.

2.8 In September 2022, SRPA informed Audit that:

- (a) the number of FRPs offered for sale by vendors varied from time to time and was outside the control of SRPA. For example, from July to December 2021, the number of documents containing sales arrangements issued varied between 146 and 247 per month and the number of price lists issued varied between 137 and 197 per month. In particular, the number of documentary checks on sales brochures, price lists, documents containing sales arrangements and registers of transactions reached a record

high in 2021. There might be a large amount of sales documents issued and submitted at a particular point of time;

- (b) given the limited manpower resources (an establishment of 11 posts in IMU), staff might need longer time to complete the checking of all sales documents. Due to the outbreak of the coronavirus disease (COVID-19) epidemic and implementation of work-from-home arrangement in 2020, a backlog had been built up, e.g. 665 documents containing sales arrangements and 185 price lists as at 8 February 2021. Upon the cessation of the work-from-home arrangement, SRPA officers had made their best efforts to clear the backlog as well as the new submissions in 2021 as soon as possible;
- (c) depending on the circumstances of each case, SIPOs might require further clarifications before they endorsed the checklists and made recommendations to CIPO; and
- (d) on the retirement of the ex-CIPO in April 2021, all SIPOs in IMU had taken up the duties of CIPO on a shared basis until end of October 2021. Owing to the huge volume of work, the work progress was affected in the concerned period. Upon the assumption of duty of the incumbent CIPO on 29 October 2021, the situation had improved. Currently, compliant cases were generally endorsed by SIPOs within 1 to 7 working days.

In Audit's view, delays in completing documentary checks may affect case referrals for investigations. SRPA needs to take effective measures in ensuring staff's compliance with the time limits of completing documentary checks as set out in its internal procedures. SRPA also needs to consider setting a time limit for SIPOs to endorse the checklists for cases not involving possible non-compliances.

Room for improvement in checking advertisements

2.9 ***Identification of advertisements.*** RPFSSO sets out requirements that are relevant to advertisements purporting to promote the sale of any specified residential property. It is an offence if a person publishes an advertisement containing information that is false or misleading in a material particular or causes such an advertisement to be published. SRPA's Procedures stipulates the checking of four types of advertisements for FRPs, as follows:

Compliance monitoring

Printed advertisements

- (a) ***Newspaper advertisements.*** SRPA has subscribed to 1 English newspaper every day and 4 Chinese newspapers (2 are subscribed on Mondays, Wednesdays and Fridays while the other 2 are subscribed on Tuesdays, Thursdays, Saturdays and Sundays) (Note 10). In the morning of every working day, staff will screen the newspapers to identify the related advertisements for checking;
- (b) ***Printed advertisements collected from sales offices and/or show flats.*** SRPA will check all printed advertisements, for example, leaflets, booklets, posters, etc., collected by its staff from sales offices and/or show flats during inspections;

Non-printed advertisements

- (c) ***Television (TV), radio and mobile advertisements.*** SRPA has subscribed to a searching platform (see para. 2.10) for identifying advertisements in various channels, including TV, radio and mobile phone. A responsible staff will screen the searching platform once a week to check all the advertisements identified; and
- (d) ***Designated websites.*** SRPA will sample-check the advertisements on the designated websites of the developments.

2.10 ***The searching platform.*** Since 1 January 2018, SRPA has engaged a contractor for providing monitoring service on local advertisements related to sales of FRPs with the current annual service fee of about \$95,000. An online searching platform is provided which allows SRPA to search, view and download the related advertisements round-the-clock. Information provided in the searching platform includes:

- (a) printed advertisements (including newspaper advertisements, and outdoor advertisements displayed at billboards, bus/tram bodies and shelters) and non-printed advertisements (including broadcast advertisements, online advertisements and mobile advertisements); and

Note 10: *Different newspapers will be subscribed every six months where necessary.*

- (b) details of each advertisement, including the name of development being advertised as well as the channel, location, date and time of which the advertisement is displayed or broadcast.

2.11 ***Need to make better use of the searching platform to improve efficiency in checking advertisements.*** Audit's examination revealed that:

- (a) notwithstanding that newspaper advertisements were covered by the searching platform (see para. 2.10(a)), SRPA did not make use of the searching platform to identify the related advertisements in newspapers. According to SRPA's records, it could not identify any newspaper advertisement for 4 (15%) of the 27 developments which commenced sale from July to December 2021. However, Audit noted that newspaper advertisements could be found in the searching platform for 2 of the 4 developments; and
- (b) apart from the 4 types of advertisements stipulated in SRPA's Procedures, the searching platform also covered outdoor advertisements. However, SRPA did not make use of the searching platform to conduct checks on them.

In Audit's view, SRPA needs to make better use of the searching platform to improve efficiency in checking advertisements.

2.12 ***Need to improve the checking process of advertisements.*** Audit analysis of SRPA's records of the 27 developments found that:

- (a) no checks had been conducted on printed advertisements collected from sales offices and/or show flats for all the 27 developments. According to SRPA, this was because no printed advertisements had been collected by its staff or there might be no printed advertisements available for collection. Audit notes that the SRPA's Procedures does not require staff to collect printed advertisements from sales offices and/or show flats for documentary checking purposes; and

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- (b) despite that TV, radio and mobile advertisements could be identified for 17 developments in the searching platform, SRPA did not check the advertisements for 2 (7% of the 27 developments) of them, contrary to the requirement set out in SRPA's Procedures.

In Audit's view, SRPA needs to remind its staff to collect printed advertisements from sales offices and show flats for documentary checking purposes and to conduct checking of TV, radio and mobile advertisements in accordance with the promulgated procedures.

Audit recommendations

2.13 Audit has recommended that the Director, Sales of First-hand Residential Properties Authority should:

- (a) **take effective measures in ensuring staff's compliance with the time limits of completing documentary checks as set out in its internal procedures;**
- (b) **consider setting a time limit for SIPOs to endorse the checklists for cases not involving possible non-compliances;**
- (c) **make better use of the searching platform to improve efficiency in checking advertisements; and**
- (d) **remind SRPA staff to collect printed advertisements from sales offices and show flats for documentary checking purposes and to conduct checking of TV, radio and mobile advertisements in accordance with the promulgated procedures.**

Response from the Government

2.14 The Director, Sales of First-hand Residential Properties Authority agrees with the audit recommendations. She has said that:

- (a) SRPA will closely monitor staff's compliance with the time limits; and
- (b) a new Management Information System, which is expected to be rolled out soon, will assist the supervisors in monitoring the processing time.

On-site inspections

2.15 SRPA conducts inspections to ensure show flats made available for viewing by the public complied with RPFSSO. SRPA also conducts inspections of sales offices and/or designated locations for checking the availability of sales documents and the operation of sales arrangements. Inspections to sales offices/designated locations are conducted mainly in a surprise manner, except when vendor's arrangement is required for inspections of areas that are not open to the public (e.g. flat selection counter). Table 4 shows the number of inspections conducted by SRPA from 2018 to 2022 (up to June). In the period from 2020 to 2022 (up to June) (Note 11), 93% of the inspections of sales offices/designated locations were conducted in a surprise manner.

Note 11: *SRPA has recorded the number of surprise and pre-arranged inspections separately since 2020.*

Table 4

**Number of inspections conducted
(2018 to 2022 (up to 30 June))**

Year	Number of inspections		
	Sales office/designated location	Show flat	Total
2018	105	26	131
2019	499	35	534
2020	420	24	444
2021	528	39	567
2022 (up to 30 June)	242	15	257

Source: SRPA records

Remarks: Since late December 2018, additional manpower (four temporary part-time staff employed under the Post-retirement Service Contract Scheme) has been deployed for conducting inspections of sales offices/designated locations.

Inspections of show flats

2.16 ***Requirements of RPFSSO.*** According to RPFSSO, a show flat means a property unit or a structure resembling a property unit that depicts the residential property for viewing by prospective purchasers or by the general public (hereinafter referred to as “the public”). Vendors are not required to make any show flats available for viewing. However, if a vendor is to make available any show flat of a residential property in an uncompleted development:

- (a) a show flat must not be made available for viewing before copies of sales brochure for the development have been made available for collection by the public;

- (b) the vendor must first make available an unmodified show flat (Note 12) for viewing. Vendors must not restrict the public who views unmodified show flats from taking measurements, taking photographs or making video recordings of the show flats; and
- (c) if an unmodified show flat has been made available for viewing, the vendor may also make available for viewing a modified show flat of the residential property. Vendors must not restrict the public who views modified show flats from taking measurements of the show flats.

2.17 ***SRPA's inspection procedures.*** According to SRPA's Procedures:

- (a) if there are media reports and/or advertisements of a development indicating that show flats are available for viewing, arrangements should be made for conducting inspections of the show flats;
- (b) to minimise disturbance to other viewers and to avoid being obstructed by other viewers during video recordings, inspection officers may conduct inspections at a time before the opening hours of the show flats on or after the second day, but in any case no later than the fifth day, on which the show flats have been opened for viewing by the public; and
- (c) each inspection is usually conducted by 2 or 3 Investigation Officers/Assistant Investigation Officers (Note 13) and should be completed within one day. The responsible officers are required to:
 - (i) take photographs and make video recordings for each and every show flat, including all notices and plans displayed inside/outside the show flats, and other items on site (e.g. a building model) for record purpose; and

Note 12: *According to SRPA's Procedures, an unmodified show flat is one that depicts the residential property as completed without any modifications, while a modified show flat is the "furnished version" of the residential property with its dimensions and other basic elements such as balconies and verandahs remain unchanged.*

Note 13: *Investigation Officers/Assistant Investigation Officers of ICAU are responsible for conducting inspections of show flats under the supervision of SIPOs and CIPO of IMU.*

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- (ii) submit a completed checklist to an SIPO within two working days after inspection.

An SIPO is required to endorse the checklist. If there is possible non-compliance with RPFSSO, SIPO is required to report to CIPO within two working days after receipt of the checklist.

2.18 ***Non-compliance with inspection procedures.*** SRPA inspected show flats for 37 developments with first sales brochures submitted to SRPA in 2021. Audit's examination of the checklists of 37 inspections of show flats revealed the following:

- (a) ***Timeliness of inspections.*** Audit found that:
 - (i) in 1 (3%) inspection, it was conducted on the sixth day on which the show flat had been opened for public viewing (i.e. a delay of one day); and
 - (ii) in 17 (46%) inspections, the dates show flats were first available for viewing were not documented in the checklists. As a result, Audit was unable to ascertain whether the time limit of conducting inspections was complied with. Audit notes that currently there is no requirement for the vendors to inform SRPA the dates show flats are first made available for viewing;
- (b) ***Delay in submitting completed checklists.*** There were delays in 22 (59%) inspections in submitting the completed checklists to SIPOs within the 2-working day time limit, ranging from 1 to 7 working days (averaging 2 working days);
- (c) ***Endorsement by SIPOs.*** According to the completed checklists, there were no non-compliances identified for all the 37 inspections. Audit found that:
 - (i) in 7 (19%) inspections, the completed checklists were not endorsed by SIPOs; and

- (ii) SRPA's Procedures did not specify the time limit for endorsing compliant cases by SIPOs. Of the remaining 30 checklists, 23 (77%) were endorsed by SIPOs after 2 working days, ranging from 3 to 47 working days (averaging 20 working days); and

- (d) ***Reporting possible non-compliances identified during inspections.*** The items in the checklist are based on sections relevant to show flats in RPFSSO. Audit's examination revealed that possible non-compliances with RPFSSO (e.g. the floor-to-ceiling height of the show flat inspected was not consistent with that stated in the sales brochure) were identified in 5 inspections by SRPA. Audit noted that:
 - (i) for all the 5 inspections, the inspection officers informed the respective vendors of the possible non-compliances identified on site and rectifications were made by the vendors; and

 - (ii) the inspection officers only documented the incidents as "other observations" in the checklists. They indicated in the checklists that there were no possible non-compliances with RPFSSO and the show flats were considered "in order". While these inspections had been reported and endorsed by SIPOs, the possible non-compliances were not reported to CIPO and no further investigation was taken subsequently.

2.19 In September 2022, SRPA informed Audit that:

- (a) inspection officers would liaise with vendors for on-site checking of show flats and ask about the proposed dates which the show flats were first made available for viewing by the public and document such information in the checklists if available. Sometimes, vendors' staff contacted by SRPA were unable to confirm at the moment the exact dates of opening the show flats and therefore the dates were not documented;

- (b) officers from ICAU were responsible for conducting inspections of show flats (see Note 13 to para. 2.17(c)). Owing to the huge volume of work of ICAU (see para. 3.21), they might be engaged in other work with higher priority, e.g. investigation work for possible non-compliance cases. Subject to the number of developments in the pipeline and the actual

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operation of the show flats and sales offices, inspection officers had made best efforts in arranging with the vendors to conduct inspections of show flats within the timeframe;

- (c) as the circumstances in each case might vary, further clarifications about the inconsistencies identified on site might be required. Inspection officers might need to wait for vendors' clarifications/replies in order to complete the checking as well as the checklists;
- (d) due to the outbreak of COVID-19 epidemic and the work-from-home arrangement implemented from 2 December 2020 to 27 January 2021, work progress was affected during the period. For example, one of the cases identified by Audit with a delay of 7 working days (see para. 2.18(b)) concerned completion of a checklist for an inspection conducted on 19 January 2021;
- (e) the work progress was affected in the period from April to October 2021 when the post of CIPO was vacant (see para. 2.8(d)). During the period between January and June 2022, 13 cases were endorsed by SIPOs ranging from 0 to 20 working days (averaging 6 working days); and
- (f) as the goal of show flat inspection was to ensure accuracy of the information provided to prospective purchasers, inspection officers might enquire with the vendors immediately on site should they identify any minor inconsistencies.

In Audit's view, SRPA needs to take measures to enhance the compliance with inspection procedures of show flats by its staff. SRPA also needs to consider introducing new measures to enhance the effectiveness and efficiency of inspecting show flats, for example, by requiring vendors to inform SRPA the dates when show flats are first available for public viewing and setting time limit for endorsing compliant cases by SIPOs.

2.20 ***Built-in items not included in sales brochures but found in show flats.*** Audit noted that, in 10 (27%) of the 37 inspections selected for checking by Audit, SRPA's inspection records showed that there were built-in items (e.g. storage cabinets, shoes cabinets) in the living rooms and/or dining rooms of the show flats,

but such items were not set out in the sales brochures of the developments. According to RPFSSO:

- (a) for interior fittings (e.g. built-in wardrobes), only those listed as specified items (e.g. “Bedroom”, “Bathroom” and “Kitchen”) and their relevant descriptions are required to be set out in the sales brochures;
- (b) there is no requirement on setting out the descriptions of interior fittings for living rooms and dining rooms; and
- (c) the sales brochure for a development must not set out any information other than those required or authorised.

In view of the irregularities, SRPA requested the pertinent vendors to take follow-up actions. Audit noted that the follow-up actions taken by vendors varied (Note 14).

2.21 In September 2022, SRPA informed Audit that according to section 22 of Schedule 1 of RPFSSO, there was no requirement to set out the descriptions of interior fittings for living room and dining room. SRPA surmised that this was because it was not very common for vendors to provide interior fittings (such as built-in items) in living rooms and dining rooms. In Audit’s view, SRPA needs to keep in view the general trend on the provision of interior fittings in a property and take measures to address the situation where necessary (e.g. issuing guidelines to its staff on how to handle cases where built-in items are found in living rooms and dining rooms of show flats and seeking legal advice on individual cases).

Note 14: *Vendors’ follow-up actions were as follows:*

- (a) *in 5 cases, the vendors replied that RPFSSO did not require information of interior fittings located in the living rooms and dining rooms in the sales brochures;*
- (b) *in 4 cases, the vendors stated that the purchasers would be informed about the provision of the interior fittings during the signing of the provisional sale and purchase agreements; and*
- (c) *in 1 case, the floor plans of the sales brochure were revised to indicate the built-in items.*

Compliance monitoring

Inspections of sales offices and/or designated locations

2.22 SRPA conducts inspections of sales offices and/or designated locations for checking the availability of sales documents and operation of sales arrangements. Details are as follows:

- (a) ***Availability of sales documents.*** According to SRPA's Procedures, IMU conducts inspections at the sales offices on the next working day after the first date of sale for each development to ascertain whether the vendors have made the following documents available for the public free of charge:
 - (i) hard copies of sales brochures, price lists, and documents containing sales arrangements for collection (Note 15); and
 - (ii) hard copies of registers of transactions and other plans and documents for inspection; and

- (b) ***Operation of sales arrangements.*** According to SRPA's internal guidelines, ICAU officers should conduct inspections of the operation of sales arrangements at sales offices on the first date of sale if:
 - (i) balloting session and flat selection session are to be carried out on the same day; and
 - (ii) first-come-first-served basis is used to determine the priority of flat selection and which SRPA considers there may be order problems.

According to SRPA, ICAU officers or temporary part-time staff conduct inspections of sales offices to ascertain whether the vendors have followed the arrangements set out in the documents containing sales arrangements and to investigate if any possible contravention(s) of RPFSSO is noted from the sales arrangements.

Note 15: *According to SRPA, inspections will also be conducted at designated locations for checking the availability of hard copies of sales brochures and price lists for collection.*

2.23 *Need to improve documentation on inspections of availability of sales documents.* Checklists are used to facilitate the inspections of the availability of sales documents. Inspection officers are required to submit completed checklists within one working day after the date of inspections. Although RPFSSO does not specify the quantities and location of sales documents to be made available for public collection/inspection, SRPA requires inspection officers to fill in the following items, among others, in the checklists:

- (a) the estimated quantities of sales documents available for collection by the public; and
- (b) whether hard copies of sales documents available for collection/inspection are placed at a location that is reasonably visible to any person entering the place.

To support the observations, the inspection officers are required to attach photographs showing the quantities of the sales documents and the locations where they are placed to the completed checklists.

2.24 Audit examined the completed checklists of 20 inspections of the availability of sales documents at sales offices conducted by SRPA in 2021 and found that in all 20 checklists:

- (a) while the checklists indicated that the estimated quantities of sales documents available for collection by the public were 5, the photographs attached could not show the quantities reported; and
- (b) while the checklists indicated that hard copies of the sales documents available for collection/inspection were placed at locations that were reasonably visible to any person entering the sales offices, the photographs attached could not show that these were the case.

SRPA needs to strengthen the documentation on the inspections of availability of sales documents.

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2.25 *Room for improvement in conducting and documenting inspections of operation of sales arrangements.* Unlike the inspections of show flats and availability of sales documents, no checklists had been devised for the inspections of operation of sales arrangements. According to SRPA, vendors may decide their detailed sales arrangements so long as they comply with the requirements under RPFSSO. The sales arrangements may vary amongst different developments. In light of the different types of sales arrangements, instead of having a single checklist, different types of inspection reports are adopted. However, Audit noted that:

- (a) checking procedures and inspection items had not been drawn up in SRPA's Procedures for compiling the inspection reports; and
- (b) no time limit was set out for submitting inspection reports to the supervisors.

2.26 Audit examined 15 inspection reports for inspections of the operation of sales arrangements conducted in the period from April to June 2021 and found that:

- (a) the format and items covered in the inspection reports varied. Not all inspection officers stated in the reports that whether any possible contravention(s) of RPFSSO was noted. The inspection officers only submitted photographs taken during the inspections showing different processes of the sales arrangements as well as other plans and documents available for collection/inspection at the sales offices. According to SRPA, if possible non-compliances were noted during inspections, inspection officers would verbally alert their supervisors immediately; and
- (b) the submission time of the inspection reports by the inspection officers to the supervisors varied. Of the 15 inspection reports, 4 were submitted over 2 working days after the dates of inspections (up to 5 working days in 2 inspection reports).

According to SRPA, no possible contravention of RPFSSO was reported after such inspections in the past. SRPA needs to issue guidelines specifying the procedures in conducting inspections of operation of sales arrangements and the documentation and reporting requirements of the inspection results.

Need to enhance the recordkeeping of inspections

2.27 SRPA deploys inspection officers to conduct inspections, including on weekends, public holidays and sometimes outside normal office hours. According to SRPA, one or more officers are arranged for conducting the inspections of show flats, sales offices and designated locations. According to Civil Service Bureau Circular No. 11/99 “Guidelines on Supervision of Outdoor Duties”, arrangements should be made for outdoor staff to report on the work they have done. Staff may keep records of the work such as location, nature and time spent, etc.

2.28 Inspection officers are required to complete the respective checklists after conducting inspections of show flats and availability of sales documents. Audit sample-checked 180 checklists arising from the inspections conducted by SRPA in 2021 and found that while all the checklists documented the locations inspected and the items checked during the inspections, not all the checklists documented properly the time spent in completing the inspections:

- (a) 32 (18%) checklists recorded both start time and end time of the inspections;
- (b) 135 (75%) checklists recorded only the start time of the inspections but not the end time; and
- (c) 13 (7%) checklists did not record the time of the inspections conducted.

SRPA needs to remind inspection officers to record the start time and end time of inspections on the checklists to facilitate the monitoring of their outdoor work by the supervisors.

Audit recommendations

2.29 **Audit has recommended that the Director, Sales of First-hand Residential Properties Authority should:**

- (a) **take measures to enhance the compliance with inspection procedures of show flats by SRPA staff;**

Compliance monitoring

- (b) **consider introducing new measures to enhance the effectiveness and efficiency of inspecting show flats;**
- (c) **keep in view the general trend on the provision of interior fittings in a property and take measures to address the situation where necessary (e.g. issuing guidelines to its staff on how to handle cases where built-in items are found in living rooms and dining rooms of show flats and seeking legal advice on individual cases);**
- (d) **strengthen the documentation on the inspections of availability of sales documents;**
- (e) **issue guidelines specifying the procedures in conducting inspections of operation of sales arrangements and the documentation and reporting requirements of the inspection results; and**
- (f) **remind inspection officers to record the start time and end time of inspections on the checklists to facilitate the monitoring of their outdoor work by the supervisors.**

Response from the Government

2.30 The Director, Sales of First-hand Residential Properties Authority agrees with the audit recommendations.

PART 3: COMPLAINTS AND INVESTIGATIONS

3.1 This PART examines the work of SRPA in handling enquiries and complaints as well as conducting investigations, focusing on:

- (a) handling enquiries and complaints (paras. 3.2 to 3.11); and
- (b) investigations and prosecutions (paras. 3.12 to 3.25).

Handling enquiries and complaints

3.2 Headed by a Chief Executive Officer with 3 staff, CU (see para. 1.8(b)) is responsible for handling enquiries and complaints relevant to RPFSSO. Enquiries and complaints may be received through designated hotline, in person or in writing (e.g. by letter, fax and e-mail to a designated account) and may also be referred from other B/Ds or organisations. Since the full implementation of RPFSSO on 29 April 2013 and up to 30 June 2022, SRPA had received 10,741 enquiries and 544 complaints (see Table 5).

Complaints and investigations

Table 5

**Number of enquiries and complaints received
(29 April 2013 to 30 June 2022)**

Year	Enquiries	Complaints
	(Number)	
2013 (since 29 April)	1,153	35
2014	1,315	72
2015	1,245	52
2016	1,263	70
2017	1,144	31
2018	1,031	42
2019	1,079	67
2020	1,030	32
2021	975	40
2022 (up to 30 June)	506	103 (Note)
Total	10,741	544

Source: SRPA records

Note: Of the 103 complaints received in 2022 (up to 30 June), 91 complaints were against a single development in relation to price lists, misrepresentation and/or dissemination of false or misleading information by the vendor, etc.

3.3 According to SRPA, in the period from 29 April 2013 to 30 June 2022, majority of the complaints were related to sales brochure (16.5%), advertisement (17.1%) and misrepresentation and/or dissemination of false or misleading information (31.1%) (see Table 6).

Table 6

**Categories of complaints received
(29 April 2013 to 30 June 2022)**

Category of complaint	Number	Percentage
(a) Sales brochure	90	16.5%
(b) Price list	13	2.4%
(c) Sales arrangement	59	10.8%
(d) Show flat	5	0.9%
(e) Viewing of completed residential properties	6	1.1%
(f) Preliminary agreement for sale and purchase and/or agreement for sale and purchase	2	0.4%
(g) Register of transactions	3	0.6%
(h) Advertisement	93	17.1%
(i) Designated website	1	0.2%
(j) Misrepresentation and/or dissemination of false or misleading information	169	31.1%
(k) Others (e.g. nature of complaints fall outside the scope of RPFSSO)	103	18.9%
Total	544	100.0%

Source: SRPA records

3.4 **Performance pledges.** SRPA has set performance pledges for handling enquiries and complaints, as follows:

Complaints and investigations

- (a) SRPA will acknowledge receipt of enquiries/complaints in writing as soon as possible and no later than ten calendar days from the date of receipt of an enquiry or a complaint; and
- (b) under normal circumstances (e.g. complaints of straightforward nature), a substantive reply will be issued within 21 calendar days after receipt of an enquiry or a complaint. If a substantive reply cannot be provided within 21 calendar days, the enquirer/complainant will be informed of the progress on or before the substantive reply due date and on a monthly basis.

Room for improvement in handling complaints and enquiries

3.5 *Handling procedures.* According to the Complaint Handling Procedures issued by SRPA:

- (a) for each incoming complaint, an entry would be made in the register of complaints and a designated officer will be assigned to handle the complaint;
- (b) the designated officer should examine the complaint as soon as possible and refer any suspected contravention of RPFSSO to ICAU for investigation within three working days after receipt of the complaint (Note 16);
- (c) the designated officer should issue replies or keep the complainant informed of the progress according to the performance pledges (e.g. informing the complainant of the progress on or before the substantive reply due date and on a monthly basis); and
- (d) an endorsement from the Chief Executive Officer is required for closing a complaint case.

Note 16: *According to SRPA, upon receipt of a complaint, CU will examine the sufficiency of prima facie evidence provided by the complainant, failing which CU will contact the complainant to seek additional information. CU will refer the case to ICAU for investigation at once when the information provided by the complainant shows a possible contravention of RPFSSO.*

3.6 ***Areas for improvement in handling complaints.*** Audit examined 20 (14%) of the 143 complaint cases received in the period from January 2021 to June 2022. Of the 20 cases examined, 16 (Note 17) were related to suspected contravention of RPF SO and were referred to ICAU for investigation. Audit's examination of these 16 cases as of July 2022 revealed the following areas for improvement in handling complaints:

- (a) ***Delay in referrals for investigations.*** Of the 16 cases, 11 (69%) were referred to ICAU for investigations over three working days after receipt of the complaints, contrary to the requirement in the Complaint Handling Procedures. The delays ranged from 1 to 5 working days (averaging 3 working days);
- (b) ***Inconsistent practice in following up with complainants.*** For the cases referred to ICAU for investigation, CU would prepare substantive replies to complainants informing them the follow-up actions that SRPA had taken/would take (e.g. investigation might be carried out if there was any suspected contravention of RPF SO). However, the Complaint Handling Procedures did not set out the follow-up actions with the complainants after the substantive replies had been issued. Audit noted that different practices were adopted:
 - (i) SRPA was unable to contact the complainants concerned in 3 cases while progress update was provided to the complainants in 6 cases but not in the remaining 7 cases; and
 - (ii) investigation work for 5 of the 16 cases were completed. SRPA had notified the complainants concerned the investigation results in 4 cases but not in the remaining case; and
- (c) ***Long time taken to close complaint cases.*** According to SRPA, cases referred to ICAU for investigation would be closed if the investigation work and all the follow-up actions had been completed (e.g. curtailment of the case had been approved by the Deputy Director and notification of investigation result had been issued to the complainant). Audit noted that the Complaint Handling Procedures did not set out the time frame for

Note 17: 4 cases were considered outside the purview of SRPA and referrals for investigations were not required.

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closing the cases. Although investigation work and all the follow-up actions had been completed for 5 of the 16 cases, CU took 47 to 88 days (averaging 71 days) to close the cases.

In Audit's view, there is a need for SRPA to take measures to ensure compliance with the Complaint Handling Procedures in referring complaint cases for investigation in a timely manner. SRPA also needs to lay down guidelines setting out the follow-up actions to be taken with the complainants and the time frame for closing complaint cases.

3.7 *Need to lay down procedures for handling enquiries received through channels other than hotline.* In the period from 29 April 2013 to 30 June 2022, the number of enquiries received was much higher than the number of complaints received (about 20 times). Audit noted that SRPA has only stipulated the handling procedures for enquiries received through hotline, but not for the other channels, such as in person and in writing. Of the 10,741 enquiries received since the full implementation of RPFSSO on 29 April 2013 and up to 30 June 2022, 1,835 (17%) were received through channels other than hotline. Audit considers that SRPA needs to lay down procedures in handling enquiries received through channels other than hotline.

3.8 *Need to set achievement targets and promulgate actual achievement results.* Audit noted that although SRPA had set two performance pledges for handling enquiries or complaints (see para. 3.4), it had not set any achievement target on them. Audit also found that SRPA did not record the actual achievement results for the performance pledge for acknowledging receipts of enquiries and complaints in writing no later than ten calendar days.

3.9 Audit noted that some Members from LegCo had raised concerns on whether SRPA had set any performance targets or indicators. With a view to improving accountability, Audit considers that SRPA needs to set achievement targets on the performance pledges and promulgate the actual achievement results for handling enquiries and complaints on a regular basis.

Audit recommendations

3.10 **Audit has recommended that the Director, Sales of First-hand Residential Properties Authority should:**

- (a) **take measures to ensure compliance with the Complaint Handling Procedures in referring complaint cases for investigation in a timely manner;**
- (b) **lay down guidelines setting out the follow-up actions to be taken with the complainants and the time frame for closing complaint cases;**
- (c) **lay down procedures in handling enquiries received through channels other than hotline; and**
- (d) **set achievement targets on the performance pledges and promulgate the actual achievement results for handling enquiries and complaints on a regular basis.**

Response from the Government

3.11 The Director, Sales of First-hand Residential Properties Authority agrees with the audit recommendations. She has said that:

- (a) SRPA will make every endeavour to handle all enquiries and complaints received as soon as practicable; and
- (b) currently, enquiries received through channels other than hotline are handled in the same way as hotline enquiries. SRPA will make this clear in the relevant documentation.

Investigations and prosecutions

3.12 Headed by a Chief Investigation Officer and supported by 14 officers, ICAU (see para. 1.8(c)) is responsible for investigating cases of suspected

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contravention of RPFSSO referred from different sources. There are two types of investigation cases:

- (a) **IMU cases.** These are referrals of possible non-compliances identified by IMU; and
- (b) **Non-IMU cases.** These cases cover the following:
 - (i) complaints or enquiries from any source referred by CU;
 - (ii) referral from other B/Ds or organisations; and
 - (iii) cases self-initiated by ICAU.

3.13 **Investigation procedures.** SRPA has issued a manual covering the procedures for investigation and prosecution work. Salient points are as follows:

- (a) the Chief Investigation Officer should acknowledge receipt of the cases referred from IMU and CU. For cases referred from other B/Ds or organisations, the Chief Investigation Officer should issue an acknowledgement of receipt within ten working days;
- (b) a designated case officer should create an investigation file for each case;
- (c) registers should be created to provide a brief summary of each investigation case and keep track of the actions taken (Note 18). A register is maintained for IMU cases and another for non-IMU cases;
- (d) throughout the investigation process, the case officer should within three working days update the relevant register when there is progress in the case; and

Note 18: *The details of cases kept in the registers include: (a) the sources of the cases; (b) the name of residential development concerned; (c) the dates when the possible non-compliance took place; and (d) the dates of key investigation actions taken.*

- (e) having completed all fact-findings, the case officer should prepare an investigation report for the supervisors' review. The investigation report sets out the investigation findings, whether an offence has been committed, and a recommendation on the follow-up action. Depending on the investigation result, the Director or the Deputy Director may:
 - (i) refer the case to the Prosecution Division of DoJ for advice on prosecution (in the form of a case report);
 - (ii) curtail the investigation as a non-substantiated case; or
 - (iii) refer the case to relevant B/Ds or organisations for follow-up actions if it is outside SRPA's ambit.

3.14 *Statistics.* In response to Audit's enquiry on the number of cases referred to ICAU for investigation, SRPA informed Audit that since the full implementation of RPFSSO on 29 April 2013 and up to 30 June 2022, there was a total of 2,189 investigation cases. As of June 2022:

- (a) ICAU had completed investigation for 2,028 (93%) cases and the remaining 161 (7%) cases were under investigation;
- (b) of the 2,028 completed cases, 962 cases were referred to DoJ for legal advice, of which 23 (2% of 962) cases were under consideration by DoJ; and
- (c) prosecution actions had been taken on 27 cases (1% of 2,028 completed cases) involving 12 developments and 137 counts of offence (see Table 7). All the vendors concerned were convicted and were fined a total of \$2.7 million. Majority of the offences (63%) were related to sales brochures.

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Table 7

**Analysis of offences for prosecuted cases
(29 April 2013 to 30 June 2022)**

Offence relating to	Category			Total
	Minor offence (Note 1)	Offence which may directly affect and potentially bring financial loss (Note 2)	Serious offence (Note 3)	
	(Count of offences)			
(a) Sales brochure	16	70	–	86
(b) Price list	2	2	–	4
(c) Preliminary agreement for sale and purchase and/or agreement for sale and purchase	–	25	–	25
(d) Register of transactions	–	3	–	3
(e) Advertisement	8	–	10 (Note 4)	18
(f) Additional requirements (for completed developments)	–	1	–	1
Total	26	101	10	137

Source: *Audit analysis of SRPA records*

Note 1: *Offences that are minor and regulatory in nature, such as the failure to provide building plans for public inspection free of charge, will be punishable with fines only, i.e. a fine of up to \$100,000.*

Note 2: *Offences which may directly affect and potentially bring financial loss to prospective purchasers, such as the failure to provide mandatory information in the sales brochure, will be subject to more severe penalties, e.g. a fine of up to \$500,000 plus imprisonment up to one year.*

Table 7 (Cont'd)

Note 3: Offences of a serious nature, such as misrepresentation and/or dissemination of false or misleading information, will be subject to a heavy fine plus imprisonment, i.e. a fine of up to \$1 million plus imprisonment up to three years on summary conviction and a fine of up to \$5 million plus imprisonment up to seven years on conviction on indictment.

Note 4: The 10 offences were related to advertisements containing false or misleading information (section 70(1) of RPFISO) in two developments.

Delay or omissions in acknowledging receipt

3.15 According to SRPA's investigation procedures, acknowledgement of receipt of the cases referred from other B/Ds or organisations (referrers) should be issued within ten working days (see para. 3.13(a)). From January 2019 to June 2022, there were 6 referred cases. Audit's examination of the 6 cases found that the requirement on acknowledging receipt were not met in 3 (50%) cases:

- (a) in 2 cases, acknowledgements of receipts were not issued to the referrers; and
- (b) in the remaining case, acknowledgement of receipt was issued in November 2020 upon request from the referrer, with a delay of 10 months.

According to SRPA, it had verbally informed the referrers that the cases had been duly received in all 3 cases. However, there is no documentary evidence showing that verbal acknowledgement was given. SRPA needs to remind its staff to issue written acknowledgment of receipt in a timely manner when handling referral cases.

Need to draw lessons from completed investigation cases

3.16 From January 2019 to June 2022, 274 cases were sent to DoJ for advice on prosecution. As at June 2022, DoJ had given its advice on 251 cases and 23 cases were under consideration. Of the 251 cases, prosecution actions were taken in 11 cases. 37 counts of offences were convicted under the 11 cases with fines totalling \$468,000.

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3.17 Audit notes that there is scope for improvement in collecting evidence for enhancing the prospect of securing a conviction in some offences. For example, in one case, SRPA officers did not conduct any site inspections to the sales offices to confirm whether there was any non-compliance by the vendor to make available hard copies of price lists for collection by the general public (section 32(1) of RPFSSO — see item (a) in Table 2 in para. 2.3). Furthermore, while there was no record of submission of hard copies of price lists to SRPA by the vendor, SRPA did not take prosecution action on the possible infringement in the provision to make available hard copies of price lists to SRPA on the first day on which it is available to public (section 32(4)(a) of RPFSSO — see item (d) in Table 2 in para. 2.3) after consulting DoJ.

3.18 In September 2022, in response to Audit’s enquiry on whether lessons have been drawn in this case, SRPA informed Audit that the case was investigated in 2016-17 and additional manpower had been deployed for conducting inspection of sales offices and designated locations since late December 2018. According to SRPA’s current practice, site inspections for all developments are conducted on the first date of sales and as soon as practicable upon the receipt of the first sales brochures and first price lists as well as any possible non-compliance cases. In addition, when compiling investigation reports, the officers would consider precedent cases where appropriate. In Audit’s view, SRPA needs to sustain its efforts in drawing lessons from completed investigation cases with a view to improving the prospect of securing a conviction in similar cases in future.

Long time taken in completing investigation cases

3.19 *Targets for completing investigation cases.* According to ICAU’s Practice Note, investigation by ICAU should be completed within a reasonable time period subject to the case nature and priority (e.g. whether interview with complainant/suspect is required). The time targets for completing IMU and non-IMU cases are within 9 months and 6 months from the date of receipt respectively. In the period from January 2019 to June 2022, ICAU completed the investigation of 348 cases. Audit’s analysis found that 265 (76%) of the 348 cases did not meet the stipulated time targets (see Table 8).

Table 8

**Analysis on time taken for completing investigation cases
(January 2019 to June 2022)**

Time taken	IMU cases (Note 1)	Non-IMU cases (Note 2)	Total
	(Number of cases)		
Within target time	36	47	83
Exceeding target time by 1 to 180 days	43	47	90
Exceeding target time by 181 to 365 days	40	31	71
Exceeding target time by 366 to 730 days	63	41	104
Total	182	166	348

} 265
(76%)

Source: Audit analysis of SRPA records

Note 1: The target completion time for IMU cases is within 9 months from the date of receipt.

Note 2: The target completion time for non-IMU cases is within 6 months from the date of receipt.

3.20 Of the 348 investigation cases completed during the period from January 2019 to June 2022, Audit examined 15 cases and found that long time taken was noted during different investigation stages:

- (a) **Long time taken from case receipt to commencing investigation.** Audit noted that ICAU took 1 day to 15 months to commence investigation after case receipt (averaging 5 months). In the longest case, CU referred a complaint case about seven advertisements published on a website by six estate agents in March 2019 to ICAU on the day of receipt. ICAU acknowledged receipt on the following day. However, ICAU commenced investigation by contacting the suspected estate agents only in June 2020, after a lapse of 15 months. In the event, the identity of the suspected estate agents could not be confirmed or the respective agents could not be contacted;

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- (b) ***Long time taken in investigation process.*** Audit noted that 6 cases were left unattended by ICAU for more than 3 months after the investigation commenced. For example, in 1 case, a complainant complained to CU in September 2019 about seven advertisements on the display windows of some branch offices of an estate agency for promoting the sales of two developments. Electronic copies of the photographs of these advertisements were provided by the complainant. CU referred the case to ICAU on the day of receipt. ICAU conducted site visit on the same day but could not find the relevant advertisements. As it transpired, the case was left unattended for 18 months until March 2021, when the complainant was invited for an interview. In the event, the complainant replied that he had already removed the photographs from his mobile phone and expressed his unwillingness to act as a prosecution witness in the court;

- (c) ***Long time taken for preparing investigation reports/case reports.*** According to ICAU's investigation procedures, after completion of all fact-findings, an investigation report/case report should be prepared and submitted to the Chief Investigation Officer for review (see para. 3.13(e)). Audit noted that the time required to prepare the investigation reports/case reports varied, ranging from 5 days to 17 months (averaging 7 months) after the investigation work was completed; and

- (d) ***Approval of investigation reports/case reports.*** According to ICAU's investigation procedures, the Deputy Director should examine the investigation reports/case reports to evaluate the sufficiency of evidence when making a decision/recommendation (see para. 3.13(e)) upon receipt of the reports from the Chief Investigation Officer. Audit noted that the time taken by the Deputy Director to examine and approve the reports varied, ranging from 3 days to 10 months (averaging 2 months) after receipt of the reports.

3.21 In September 2022, SRPA informed Audit that it faced some major hurdles and there were a number of reasons for failing to meet the time targets in completing investigation cases, as follows:

- (a) SRPA needed to exercise judgement and sensitivity to prioritise the workload and file handling process in accordance with ICAU's Practice Note. Priority might be accorded to complaint cases which warrant expedited actions;

- (b) before approaching vendors for clarifications/explanations and/or arranging interviews with witnesses/suspects, much time had to be spent on desk-top study and research. The “time gap” was in fact normally spent on the fact-finding process which would take considerable time, and such work and efforts conducted by the investigation officers could not be shown in the file record. For instance, some cases may involve possible contraventions on a single advertisement leaflet or poster but involving multiple developments. Massive efforts would be required on checking whether information stated in the advertisement (e.g. price after discount, floor size, etc.) was correct against many other sales documents;
- (c) it was also not uncommon that the complainants/enquirers delay or refuse to provide information that was essential for investigation. Without their cooperation, the investigation process would unavoidably be hindered;
- (d) due to the severity of COVID-19 epidemic in the past years, as a Government-wide anti-epidemic measures, SRPA office had not been opened for the public and work-from-home arrangement had been implemented intermittently since 2020. Therefore, it would be difficult to arrange interviews with the witnesses/suspects. Besides, some interviewees were unwilling to attend the interviews during the COVID-19 epidemic;
- (e) ICAU had experienced extensive manpower changes since 2019. For example, 10 out of 12 Investigation Officer or above rank posts in ICAU had changed post holders from 2019 to June 2022. The incoming officers would need to take time to get familiar with their jobs and much time was also required to clear backlog from the departing officers. Inevitably the case processing time would be longer than normal;
- (f) the time targets set out were administrative targets, and mainly served to provide guidance for prioritising the case investigation processes. All cases received had been duly completed (including investigation by SRPA and processing time for DoJ before the issuance of summons) within the statutory time bar period of 3 years (Note 19); and

Note 19: *According to section 85 of RPFSSO, proceedings in respect of an offence under RPFSSO, other than an indictable offence, may be brought within 3 years after the commission of the offence (i.e. time-barred after 3 years).*

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- (g) the Deputy Director was required to assist the Director in managing the day-to-day operation of SRPA. There were many urgent and high profile matters requiring the immediate attention and actions by the Deputy Director. Having said that, he would accord appropriate priority in examining the investigation reports (higher priority for those cases with a higher chance for prosecution) and granting approval for proceeding to seek DoJ's advice or curtailment of the cases.

While acknowledging the difficulties faced by SRPA, Audit considers that SRPA needs to expedite actions in completing investigation cases.

Need to keep monitoring the common types of possible non-compliances for educating the trade and the public

3.22 According to ICAU's investigation procedures, for investigation cases not fully substantiated, although prosecution action could not be taken, education to the trade by giving lecture or general reminder could be considered. According to SRPA, it would monitor closely the latest developments in the industry through the monthly meeting conducted by its senior management. It regularly monitored common types of possible non-compliances and considered suitable public education and publicity through the issuance of Guidelines, FAQs, Practice Notes and Reminders to the trade. For example, in April 2019, SRPA issued a Reminder to the trade and a new FAQ when it noticed that some registers of transactions did not provide sufficient particulars of the terms of payment.

3.23 Audit noted that SRPA had not issued general reminder to the trade since April 2019. In the period from January 2019 to June 2022, of the 348 completed investigation cases, 228 (66%) cases were not fully substantiated. Over half of the 228 cases were related to possible non-compliance with RPFSSO's requirements on sales brochures (39%) and advertisements (16%). In Audit's view, conducting an investigation requires SRPA to deploy considerable amount of efforts and resources. There is merit for SRPA to keep monitoring the common types of possible non-compliances on a regular basis, and provide more education to the trade and the public, where appropriate.

Audit recommendations

3.24 **Audit has *recommended* that the Director, Sales of First-hand Residential Properties Authority should:**

- (a) **remind SRPA staff to issue written acknowledgment of receipt in a timely manner when handling referral cases;**
- (b) **sustain its efforts in drawing lessons from completed investigation cases with a view to improving the prospect of securing a conviction in similar cases in future;**
- (c) **expedite actions in completing investigation cases; and**
- (d) **keep monitoring the common types of possible non-compliances on a regular basis, and provide more education to the trade and the public, where appropriate.**

Response from the Government

3.25 The Director, Sales of First-hand Residential Properties Authority agrees with the audit recommendations. She has said that the new Management Information System will assist SRPA officers and their supervisors in monitoring the progress of investigation work more effectively and expediting actions where necessary.

PART 4: PUBLICITY AND EDUCATION

4.1 This PART examines the publicity and education programmes carried out by SRPA, focusing on:

- (a) the SRPA Resource Centre (paras. 4.2 to 4.10);
- (b) SRPE (paras. 4.11 to 4.17); and
- (c) publicity and education activities (paras. 4.18 to 4.23).

The Sales of First-hand Residential Properties Authority Resource Centre

4.2 The SRPA Resource Centre (hereinafter referred to as the Resource Centre) is situated in the reception area in SRPA office (Note 20). Hard copies of the sales brochures and price lists of individual first-hand residential developments are kept at the Resource Centre for viewing by the public. In addition, two computer terminals are provided for the public to gain free access to the websites of individual first-hand residential developments, SRPA website, as well as SRPE.

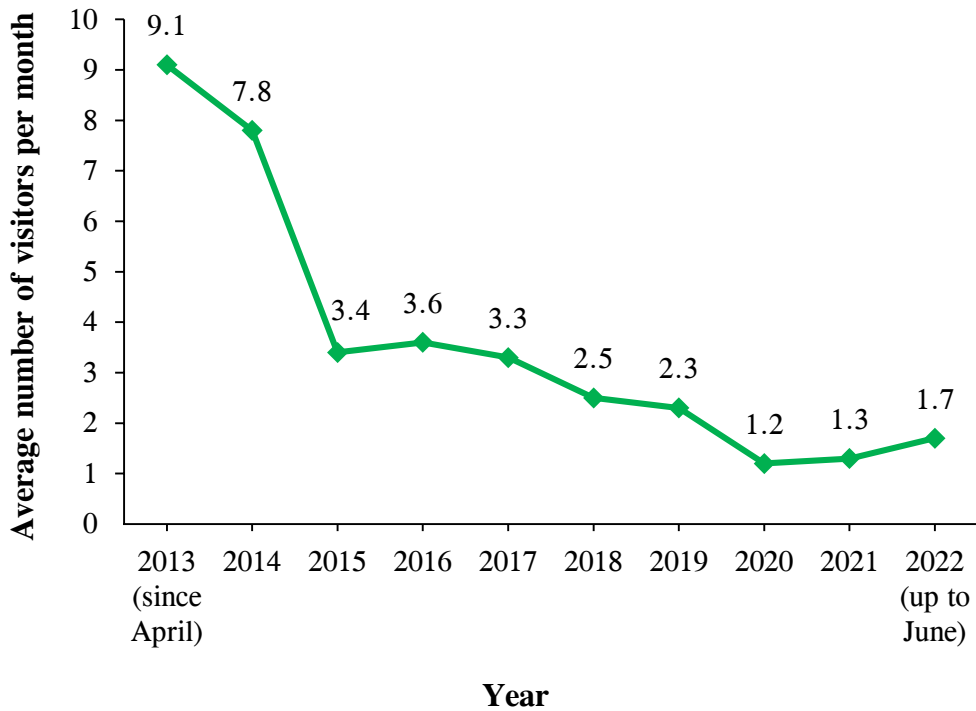
Low utilisation of the Resource Centre

4.3 The Resource Centre commenced operation in April 2013. The average number of visitors per month decreased by 81% from 9.1 in 2013 (since April) to 1.7 in 2022 (up to June — see Figure 1).

Note 20: *The Resource Centre is located at Chai Wan. It opens from Monday to Friday (except public holidays), from 9:00 a.m. to 12:30 p.m. and 2:00 p.m. to 5:45 p.m. The floor area of the Resource Centre cum SRPA reception is approximately 43 square metres, with a monthly rent (including management fee) of about \$20,000.*

Figure 1

Average number of visitors to the Resource Centre per month
(April 2013 to June 2022)



Source: Audit analysis of SRPA records

4.4 Audit notes that SRPA only mentions the Resource Centre in its website but not in SRPA’s other publications such as pamphlets and comic booklet. There are also no signage/direction in SRPA office building showing the location of the Resource Centre (see Photographs 1(a) to (d)). According to SRPA, as of June 2022, it has not conducted any studies or reviews on the utilisation or effectiveness of the Resource Centre.

Photographs 1(a) to (d)

The Resource Centre and related directories
(May 2022)

(a) Directory on the ground floor lift lobby



(b) Directory on the lift lobby of the floor of the Resource Centre



(c) The entrance of SRPA



(d) SRPA reception counter



Source: Photographs taken by Audit staff on 26 May 2022

4.5 According to SRPA, the Resource Centre has been set up to facilitate the public in perusing the relevant sales documents, in particular for those who have no online access. With the advancement of technology, the need for providing such an avenue may have diminished over the years. Audit considers that SRPA needs to review the utilisation and effectiveness of the Resource Centre. Furthermore, SRPA needs to explore measures, where appropriate, to improve the utilisation of the

Resource Centre, for example, by promoting the use of the Resource Centre in its publications and erecting more signage at the proximity of the Resource Centre to enhance public awareness.

Collections in the Resource Centre

4.6 ***Submission of sales brochures.*** According to the Guidelines and Practice Notes issued by SRPA, vendors are suggested to:

- (a) provide two hard copies of sales brochures to SRPA; and
- (b) inform SRPA the time of hard copies made available for collection by the public and the time of electronic copies made available on the designated website by submitting a covering note.

4.7 Audit's checking on SRPA's records of receipts of documents for the period from January 2021 to July 2022 (involving 1,803 sales brochures) found non-compliance with the provisions in the Guidelines and Practice Notes on the submission of sales brochures:

- (a) in 21 submissions, the vendors only provided one hard copy of sales brochures to SRPA, instead of two hard copies so stated in the Guidelines and Practice Notes; and
- (b) in 28 submissions, the vendors did not submit the covering note as advised by the Practice Notes.

Audit considers that SRPA needs to encourage vendors to submit the requisite number of sales brochures and the covering note in accordance with the provisions in the Guidelines and Practice Notes.

4.8 ***Update of sales brochures collections.*** According to the Procedural Manual for managing the Resource Centre, a Register of Materials on Display is maintained to record the date of receipt by SRPA and removal from the Resource Centre for each material. Outdated materials such as superseded sales documents should be put into storage after completing the Register. However, Audit noted that

Publicity and education

SRPA had not maintained the Register of Materials on Display. Audit checking of the sales brochures on shelf at the Resource Centre in June and July 2022 found the following irregularities:

- (a) ***Sales brochures of developments with sales terminated.*** On 24 June 2022, Audit conducted a search on SRPE for developments with sales terminated within 18 months (i.e. from 25 December 2020 to 24 June 2022) and found that the vendors of 24 developments informed SRPA that the sale of FRPs in the developments concerned were terminated (see para. 4.13). Of these, the sales brochures of 22 developments were still found on shelf as of 6 July 2022. The average time lapse between the date SRPA being informed by the vendors of the sale termination of the developments and the date of Audit checking for these 22 developments was 207 days (ranging from 16 to 546 days); and
- (b) ***Outdated versions of sales brochures.*** Audit checking on 10 June 2022 found that, among the sales brochures for a total of 389 developments on shelf, outdated versions of sales brochures for 3 developments had not been removed from the Resource Centre.

Audit considers that SRPA needs to maintain the Register of Materials on Display and remove the sales brochures of developments with sales terminated and outdated versions of sales brochures from the Resource Centre in a timely manner.

Audit recommendations

4.9 **Audit has *recommended* that the Director, Sales of First-hand Residential Properties Authority should:**

- (a) **review the utilisation and effectiveness of the Resource Centre and explore measures, where appropriate, to improve the utilisation of the Resource Centre, for example, by promoting the use of the Resource Centre in its publications and erecting more signage at the proximity of the Resource Centre to enhance public awareness;**
- (b) **encourage vendors to submit the requisite number of sales brochures and the covering note in accordance with the provisions in the Guidelines and Practice Notes; and**

- (c) **maintain the Register of Materials on Display and remove the sales brochures of developments with sales terminated and outdated versions of sales brochures from the Resource Centre in a timely manner.**

Response from the Government

4.10 The Director, Sales of First-hand Residential Properties Authority agrees with the audit recommendations.

The Sales of First-hand Residential Properties Electronic Platform

4.11 SRPE is an electronic database established under section 89 of RPFSSO. It provides a centralised database for the public to view the sales brochures, price lists and registers of transactions of first-hand residential developments. The information on SRPE is provided by or on behalf of the vendors on an “AS IS” basis (Note 21). The average number of visits per month increased by 407% from 26,300 in 2013 to 133,300 in 2022. As of June 2022, the maintenance and data centre services related to SRPE were outsourced to two contractors at approximately \$0.8 million per year.

4.12 *Need to facilitate the search of the most up-to-date information/documents related to sales brochures on SRPE.* The information provided by vendors is uploaded onto SRPE automatically for public access. Audit notes that the current settings of SRPE do not allow vendors to amend the information related to sales brochures they submitted to SRPE. According to SRPA, it does not consider it appropriate to allow vendors to remove records by themselves as IMU and ICAU need to retain the previous records for checking and collecting evidence for non-compliance. Based on SRPE records up to 8 June 2022, Audit’s checking of the sales brochures for 19 developments (which were uploaded by vendors after more than 30 days from the date of examination) revealed that there were 12 cases in which

Note 21: *According to a disclaimer statement on SRPE, SRPA and the Government make no statement, representation, warranties or guarantees of any kind, whether express or implied, in relation to such information, including its completeness, non-infringement, reliability, security, timeliness and appropriateness for use in any particular circumstances.*

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the vendors had uploaded incorrect documents or input incorrect information onto SRPE, as follows:

- (a) in 5 cases, the vendors wrongly uploaded the examination records of other developments onto SRPE under the developments concerned. To rectify the records, the vendors uploaded the latest examination records of the developments concerned again;
- (b) in 2 cases, the dates of examination of sales brochures input by vendors were incorrect; and
- (c) in 5 cases, the vendors uploaded the same examination records again 57 to 91 days later. Thus, duplicate records could be found under these developments on SRPE.

In Audit's view, previous records of sales brochures uploaded onto SRPE, such as sales brochures of another development (wrongly uploaded), duplicate records and incorrect dates of examination shown on SRPE, may confuse members of the public who make use of SRPE. SRPA needs to take measures to facilitate the search of the most up-to-date information or documents related to sales brochures on SRPE (e.g. by suppressing incorrect information or documents on SRPE).

Delay in showing sale suspension/termination of the developments on SRPE

4.13 According to a Practice Note, after the commencement of sale of a development, a vendor is advised to, as soon as practicable, inform SRPA in writing if the vendor decides to:

- (a) suspend the sale of all unsold units which have been announced in the documents containing the sales arrangements; or
- (b) terminate the sale, i.e. all the units that have been announced in the documents containing the sales arrangements have been sold (Note 22).

Note 22: *According to SRPA, all units have been sold meant the first assignment of each residential property in the register of transactions has been registered in the Land Registry.*

SRPA will put a remark on SRPE showing the sale suspension/termination of the development concerned accordingly.

4.14 As of 24 June 2022, there were 94 developments with sales suspended/terminated within 18 months (comprising 70 suspended and 24 terminated developments) on SRPE. Audit examination revealed that:

- (a) in 34 (36%) cases, there were delays in informing SRPA the sale suspension/termination of the developments by the vendors; and
- (b) among these 34 cases, 22 cases were having delays of more than 7 days with an average delay of 73 days (ranging from 10 to 291 days).

In Audit's view, SRPA needs to remind vendors to inform SRPA the sale suspension/termination of the developments in a timely manner.

Need to display the date and time of update of the registers of transactions on SRPE

4.15 According to SRPA, it keeps on enhancing the functions of SRPE. In order to know more about the visitors' needs, in March 2018, SRPA conducted an online public survey on the service of SRPE. Audit notes that SRPA has not taken follow-up actions on some of the feedbacks received, including feedback regarding the register of transactions. RPFSO only requires vendors to upload the register of transactions onto SRPE as soon as practicable after an entry has been made without specifying the time limit. Audit notes that although vendors are required to input the date and time of update of the registers of transactions when they upload the registers onto SRPE, such information are not displayed on SRPE and it is difficult for prospective purchasers to ascertain whether the version of registers of transactions displayed on SRPE is up-to-date. In this connection, SRPA needs to consider enhancing the functions of SRPE by displaying the date and time of update of the registers of transactions on SRPE.

Audit recommendations

4.16 **Audit has recommended that the Director, Sales of First-hand Residential Properties Authority should:**

- (a) **take measures to facilitate the search of the most up-to-date information or documents related to sales brochures on SRPE (e.g. by suppressing incorrect information or documents on SRPE);**
- (b) **remind vendors to inform SRPA the sale suspension/termination of the developments in a timely manner; and**
- (c) **consider enhancing the functions of SRPE by displaying the date and time of update of the registers of transactions on SRPE.**

Response from the Government

4.17 The Director, Sales of First-hand Residential Properties Authority agrees with the audit recommendations.

Publicity and education activities

4.18 In the period from April 2013 to June 2022, \$8.2 million was incurred by SRPA in publicity and education activities. According to SRPA, while not having promulgated an internal guideline on education and promotion activities, it makes reference to the Good Practice Guide to Publicity Campaigns issued by the Information Services Department.

Need to enhance performance monitoring of disseminating digital publicity materials

4.19 In the period from January 2018 to June 2022, SRPA disseminated different digital publicity materials via some paid channels, as follows:

- (a) ***Online marketing campaign.*** SRPA engaged a contractor to mount an online publicity programme from October 2020 to April 2021, including

videos, dynamic mobile advertisement, content hub and inserted messages in property market online TV programme at a cost of about \$800,000; and

- (b) **Videos.** During the period, SRPA had produced and/or broadcast four series of videos for disseminating different messages to the general public via the following channels:
- (i) **Mass Transit Railway (MTR) In-train TVs.** SRPA had placed in MTR In-train TVs (Note 23) each of the four series of videos once with a duration ranging from 14 to 28 days (12 times each day) by 4 contracts at a total cost of about \$2,376,000;
 - (ii) **TVs installed in commercial and private residential buildings.** SRPA engaged a contractor to broadcast its videos in 2019 at a total cost of \$520,000. The service included broadcasting on TVs in not less than 588 commercial buildings at a frequency of 84 times daily for 4 weeks and not less than 300 private residential buildings at a frequency of 96 times daily for 8 weeks; and
 - (iii) **Online platform advertisement.** From March to May 2021, SRPA placed one of its videos on two online platforms at a total cost of about \$100,000.

Audit notes that SRPA uses performance reports in monitoring the performance of disseminating digital publicity materials. While performance reports are required to be provided by the contractors of the online marketing campaign and online platform advertisement (costing about \$800,000 and \$100,000 respectively), such requirements have not been included in the contracts for advertisements placed in MTR In-train TVs and TVs installed in commercial and private residential buildings (costing about \$2,376,000 and \$520,000 respectively). In order to facilitate SRPA's review on the effectiveness of its videos publicity programme, Audit considers that SRPA needs to consider including requirements on the provision of performance reports by contractors.

Note 23: *MTR In-train TV was delivered on board trains of MTR East Rail Line, Tuen Ma Line, Kwun Tong Line (trains equipped with liquid-crystal display screens) and South Island Line.*

Publicity and education

Need to review effectiveness of disseminating printed publicity materials by agency workers

4.20 For outreaching to the prospective purchasers of FRPs, SRPA deployed agency workers inside and/or outside sales offices and show flats to distribute printed publicity materials to them (Note 24). From January 2018 to June 2022, agency workers conducted 206 distribution exercises at a total cost of about \$190,000 (with the average cost of handing out a printed publicity material by an agency worker increased 133% from \$4.8 in 2018 to \$11.2 in 2022). Audit noted that, while there were 208 developments with FRPs offered for sale during the period, SRPA did not deploy any agency workers to distribute printed publicity materials at 102 (49%) developments but deployed agency workers for multiple times at some developments (see Table 9).

Table 9

**Deployment of agency workers to developments with
FRPs offered for sale by vendors
(January 2018 to June 2022)**

Frequency of attendance of agency workers	Number of developments
0	102
1	54
2	27
3	13
4	7
5	3
6	1
9	1
Total	208

Source: Audit analysis of SRPA records

Note 24: *Generally, SRPA engaged a contractor for the provision of agency workers every year. Payment of agency workers were based on an hourly rate specified in the contract. Three agency workers were engaged each time for handing out printed publicity materials for three hours.*

4.21 In September 2022, SRPA informed Audit that the deployment of agency workers to individual developments was subject to a number of factors such as market responses, the number of units for sale and the arrangement of sale days. Reasons for not deploying agency workers to individual developments included relatively smaller size of developments, clash of schedules with other developments and social distancing arrangements due to the COVID-19 epidemic, etc. In Audit's view, SRPA needs to review the deployment of agency workers to developments with FRPs offered for sale by vendors for distributing printed publicity materials.

Audit recommendations

4.22 **Audit has *recommended* that the Director, Sales of First-hand Residential Properties Authority should:**

- (a) **consider including requirements on the provision of performance reports by contractors; and**
- (b) **review the deployment of agency workers to developments with FRPs offered for sale by vendors for distributing printed publicity materials.**

Response from the Government

4.23 The Director, Sales of First-hand Residential Properties Authority agrees with the audit recommendations.

PART 5: WAY FORWARD

5.1 This PART examines the way forward in regulating sales of FRPs by SRPA.

Regulation of sales of first-hand residential properties

5.2 According to HB, the main functions of RPFSSO and SRPA are to protect the interest of purchasers of FRPs through enhancing transparency of property and transaction information and provide a level playing field for vendors of FRPs. As mentioned in the Report of the Steering Committee (see para. 1.3), the Steering Committee:

- (a) believed that the provision of clear and accurate property information was most important to help prospective purchasers to make an informed decision. In drawing the recommendations, it took full regard to the particular characteristics of the local property market;
- (b) had carefully considered the scope and type of requirements which should be covered in RPFSSO. For procedural or logistical requirements such as the maintenance of order at the sales offices, it was of the view that they should be set out in the form of administrative guidelines to be issued by the enforcement agency (i.e. SRPA). This approach was more flexible and would enable the enforcement agency to give speedy responses to changes in circumstances as they arose. Key and important requirements, such as the provision of sales brochures, price lists and transaction information, should be stipulated in the legislation; and
- (c) noted that the purchase of a residential property was a major undertaking for most Hong Kong people. Given that the property developers and individual buyers were not on an equal footing where the former was always in a much stronger position vis-à-vis the latter, the Steering Committee concluded that it was paramount for the Government to regulate the sale of FRPs in Hong Kong by way of legislation to ensure that the consumers' interest could be better protected. That said, the Steering Committee recognised that the regulating measures should not be overly rigid and should provide property developers with a degree of flexibility to respond

to changing market conditions. It believed that the recommendations had struck an appropriate balance in strengthening consumer protection while providing a level playing field for vendors of FRPs.

Need to step up efforts in regulating FRPs

5.3 According to SRPA, it has been taking proactive actions in regulating FRPs within the framework of RPFSSO, which has brought about a favourable change to the sales culture of FRPs, including:

- (a) vendors can only present the area and price per square foot and per square metre of an FRP in terms of its saleable area (see para. 1.5(a)). This has overcome the drawback in respect of presenting the area of an FRP in terms of gross floor area;
- (b) when a vendor wishes to make available show flat(s) for an FRP in an uncompleted development, it must make available an unmodified show flat of that residential property as a prerequisite for making available any modified show flat(s) of that residential property (see paras. 1.5(b) and 2.16). In the past, vendors' emphasis was placed on making available modified show flats;
- (c) as RPFSSO requires vendors to make available hard and electronic copies of all kinds of sales documents not later than a prescribed date before the date of sale, prospective purchasers now have convenient access to all kinds of sales documents (see Table 2 in para. 2.3); and
- (d) most of the vendors have made good efforts to comply with the requirements of RPFSSO. However, there are occasions when the sales arrangements adopted by individual vendors in respect of various FRPs have caused public concern. SRPA reacts promptly and firmly on those occasions. This has prompted the vendors concerned to take effective improvement and/or remedial measures under most of the circumstances and caused prospective purchasers to be more alert to the sales arrangements of the developments concerned.

Way forward

5.4 Audit's examination has revealed that there is scope for improvement in the three pillars of work of SRPA (see para. 1.8), namely compliance monitoring, investigation work, and public education (see PARTs 2 to 4). In Audit's view, SRPA needs to, where appropriate, step up efforts in conducting compliance monitoring, handling complaints, carrying out investigations on suspected cases of contravention of RPFSSO, and educating the trade and the public, with a view to further enhancing the transparency and fairness of the sales of FRPs, strengthening consumer protection, and providing a level playing field for vendors of FRPs.

Need to keep monitoring the implementation of RPFSSO

5.5 In response to a study conducted by the Consumer Council (Note 25), in late November 2014, HB said that it welcomed suggestions on how to further protect the interests of FRP purchasers, and would review the effect of the current legislative framework as they moved along, after accumulating sufficient experience in implementation. Since the implementation of RPFSSO, SRPA has adopted non-legislative means to address the following issues which have public concerns:

- (a) ***Registrations of intent in the sales of FRPs.*** Vendors of FRPs may from time to time on their own initiatives make available, or authorise any person to make available, in whatever form and through whichever channels to any members of the public information on the number of registrations of intent and/or cashier orders which the vendors or their representatives have received in respect of a development for the purpose of registration. In August 2015, SRPA issued a Practice Note requiring vendors to make public the number of registrations of intent of which estate agents are the registrants, if and when the vendors make public the number of registrations of intent or cashier orders they have received in respect of a development;

Note 25: *In November 2014, the Consumer Council published a report on "Study on the Sales of First-hand Residential Properties", and made a number of recommendations to the Government to enhance consumer protection, including measures such as to ensure that all units included in the price lists must be available for sales concurrently, to step up inspections against the offences of inflating the number of registrations of intent on different days, etc. In response, HB said that more experience was required before conducting a review and it would be quicker to yield results through discussion between SRPA and the trade and the issue of Guidelines than through legislative amendments.*

- (b) ***Mortgage plans and promotion schemes offered by vendors.*** In view of the great variety of mortgage plans and promotion schemes offered by vendors, in August 2017, SRPA released a new “Notes to Purchasers of First-hand Residential Properties”, reminding prospective purchasers on issues they should pay attention to when purchasing FRPs. SRPA also reminded prospective purchasers that purchases of FRPs entail huge expenses, and called on them to look into details of payment terms and mortgage plans and take into account affordability before purchases to make suitable arrangements; and

- (c) ***Transaction information of FRPs.*** In order to enable prospective purchasers to better understand the actual transaction information of individual units, in April 2019, SRPA issued a reminder to the trade and an FAQ requiring vendors to set out full details of the terms of payment in the registers of transactions of first-hand residential developments, and reminded vendors that in the sales of FRPs, if they have offered any discount, gift, financial advantage or benefit (whether in terms of cash or not) to purchasers, they should set out the full details of the terms of payment as agreed between the vendor and the purchaser for each specified residential property. Moreover, the register of transactions should be self-contained so that prospective purchasers do not have to refer to other documents or materials for details of the terms of payment. According to SRPA, having issued the reminder, the situation had generally improved and prospective purchasers could better understand the actual transaction information of individual units.

RPFSSO has been implemented for nearly 10 years and new issues have emerged since the enactment of RPFSSO. In Audit’s view, HB, in collaboration with SRPA, needs to keep monitoring the implementation of RPFSSO and consider suitable means to address issues with public concerns.

Audit recommendations

5.6 **Audit has recommended that the Secretary for Housing, in collaboration with the Director, Sales of First-hand Residential Properties Authority, should keep monitoring the implementation of RPFSSO and consider suitable means to address issues with public concerns.**

Way forward

5.7 Audit has also *recommended* that the Director, Sales of First-hand Residential Properties Authority should, where appropriate, step up efforts in conducting compliance monitoring, handling complaints, carrying out investigations on suspected cases of contravention of RPFSSO, and educating the trade and the public, taking into account the findings of this Audit Report.

Response from the Government

5.8 The Secretary for Housing agrees with the audit recommendation in paragraph 5.6.

5.9 The Director, Sales of First-hand Residential Properties Authority agrees with the audit recommendation in paragraph 5.7.

Multi-pronged approach adopted by the Government in regulating the sales of first-hand residential properties prior to the implementation of the Residential Properties (First-hand Sales) Ordinance

The multi-pronged approach included:

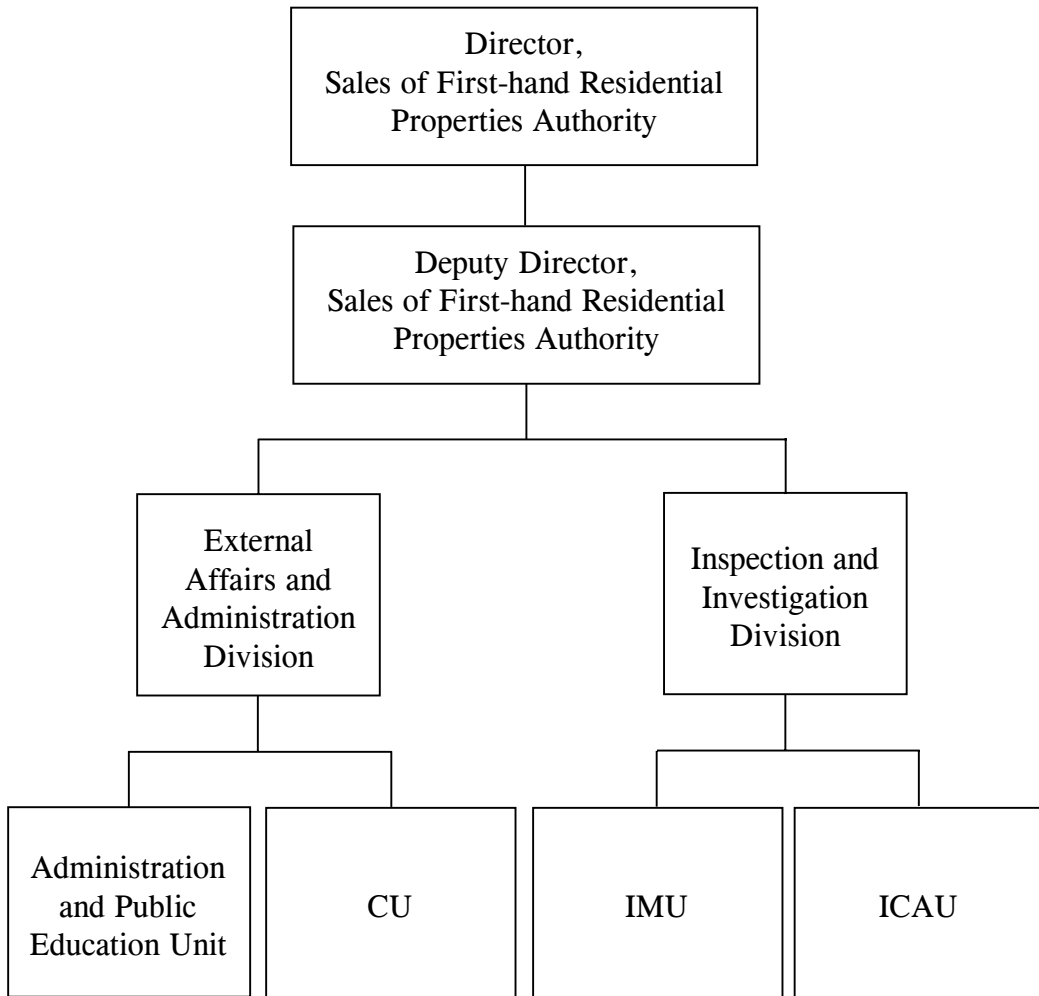
- (a) ***Consent Scheme.*** Since 1961, new Government leases normally include a provision which restricts any assignment or letting of uncompleted properties prior to the issue of the Certificate of Compliance unless prior written consent of the Director of Lands is obtained. The consent of the Director of Lands, if given, is subject to the rules of an administrative scheme referred to as the “Consent Scheme”. The primary objective of the Consent Scheme is to protect the interests of purchasers of the uncompleted properties by ensuring that the developer has the technical and financial resources to complete the development. Over the years, the Consent Scheme has taken on additional functions in respect of consumer protection and promoting fair practices in the sales of uncompleted properties. For example, in October 2008, relevant provisions of the Consent Scheme had been amended which required that the sales brochures for uncompleted residential units offered for the first time should carry the standardised definition of “saleable area”, and in 2010, vendors were required to adopt a new pricing template for these units;
- (b) ***Guidelines issued by the Real Estate Developers Association of Hong Kong.*** It is the key trade association in the real estate and property sector. Since 2001, it has established a self-regulatory regime asking its members to comply with the guidelines issued by it when putting up uncompleted FRPs for sale;
- (c) ***Estate Agents Authority.*** Estate Agents Authority is a statutory body established under the Estate Agents Ordinance (Cap. 511). It regulates and controls the practice of estate agents and salespersons under the Estate Agents Ordinance; and

- (d) ***Consumer Council.*** The Consumer Council is a statutory body established under the Consumer Council Ordinance (Cap. 216). Its functions are to protect and promote the interests of consumers of goods and services, and purchasers, mortgagors and lessees of immovable properties. The Consumer Council is not a law enforcement agency and does not possess the power of investigation or adjudication.

According to the then Transport and Housing Bureau, such regulatory mechanisms do not cover non-Consent Scheme developments, and are not applicable to developers which are not members of the Real Estate Developers Association of Hong Kong and completed FRPs.

Source: HB records

**Sales of First-hand Residential Properties Authority:
Organisation chart (extract)
(30 June 2022)**



Source: SRPA records

Acronyms and abbreviations

AIPO	Assistant Inspection Officer
Audit	Audit Commission
B/Ds	Government bureaux and departments
CIPO	Chief Inspection Officer
CU	Complaints Unit
DoJ	Department of Justice
FAQ	Frequently-asked question and answer
FRP	First-hand residential property
HB	Housing Bureau
ICAU	Investigation and Compliance Assurance Unit
IMU	Inspection and Monitoring Unit
IPO	Inspection Officer
LegCo	Legislative Council
MTR	Mass Transit Railway
RPFSO	Residential Properties (First-hand Sales) Ordinance
SIPO	Senior Inspection Officer
SRPA	Sales of First-hand Residential Properties Authority
SRPE	Sales of First-hand Residential Properties Electronic Platform
TV	Television