

立法會
Legislative Council

LC Paper No. CB(1)987/13-14
(These minutes have been seen
by the Administration)

Ref : CB1/BC/1/12

Bills Committee on Stamp Duty (Amendment) Bill 2012

**Minutes of tenth meeting on
Friday, 7 June 2013, at 10:45 am
in Conference Room 1 of the Legislative Council Complex**

Members present : Hon Starry LEE Wai-king, JP (Chairman)
Hon James TO Kun-sun (Deputy Chairman)
Hon LEE Cheuk-yan
Hon CHAN Kam-lam, SBS, JP
Hon Emily LAU Wai-hing, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon WONG Kwok-hing, MH
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon Ronny TONG Ka-wah, SC
Dr Hon LAM Tai-fai, SBS, JP
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Hon James TIEN Pei-chun, GBS, JP
Hon YIU Si-wing
Hon Charles Peter MOK
Hon CHAN Yuen-han, SBS, JP
Hon LEUNG Che-cheung, BBS, MH, JP
Hon Kenneth LEUNG
Hon POON Siu-ping, BBS, MH
Dr Hon CHIANG Lai-wan, JP
Hon Tony TSE Wai-chuen

Members absent : Hon WONG Kwok-kin, BBS
Hon Paul TSE Wai-chun, JP
Hon Alan LEONG Kah-kit, SC
Hon WU Chi-wai, MH
Hon TANG Ka-piu

Public officers attending : Agenda item I

Transport and Housing Bureau

Professor Anthony CHEUNG, GBS, JP
Secretary for Transport and Housing

Ms Agnes WONG, JP
Deputy Secretary for Transport and Housing
(Housing)

Financial Services and the Treasury Bureau

Ms Mable CHAN, JP
Deputy Secretary for Financial Services and the
Treasury (Treasury) 2

Ms Fiona CHAU
Principal Assistant Secretary for Financial Services
and the Treasury (Treasury) (Special Duties)

Inland Revenue Department

Mr CHU Yam-yuen, JP
Commissioner of Inland Revenue

Mr Richard WONG, JP
Deputy Commissioner of Inland Revenue
(Operations)

Ms TSE Yuk-yip, JP
Assistant Commissioner of Inland Revenue

Department of Justice

Ms Monica LAW
Senior Assistant Law Draftsman

Ms Selina LAU
Senior Government Counsel

Clerk in attendance: Ms Annette LAM
Chief Council Secretary (1)3

Staff in attendance : Miss Kitty CHENG
Assistant Legal Adviser 5

Miss Rita YUNG
Council Secretary (1)3

Action

I. Meeting with the Administration

(LC Paper No. CB(1)1218/12-13(01) -- List of follow-up actions arising from the discussion at the meeting on 20 May 2013

LC Paper No. CB(1)1165/12-13(01) -- Submission from The Law Society of Hong Kong dated 28 May 2013 in response to the Administration's reply as set out in LC Paper No. CB(1)893/12-13(02)
(English version only)

LC Paper No. CB(1)1165/12-13(02) -- Submission from The Hong Kong Institute of Estate Agents dated 29 May 2013 in response to the Administration's reply as set out in LC Paper No. CB(1)973/12-13(02)
(English version only)

LC Paper No. CB(1)561/12-13(01) -- Administration's response to Assistant Legal Adviser's letter dated 1 February 2013 as set out in LC Paper No. CB(1)521/12-13(02)

LC Paper No. CB(1)873/12-13(02) -- Administration's response to Assistant Legal Adviser's letter dated 3 April 2013 as set out in LC Paper No. CB(1)805/12-13(01)

LC Paper No. CB(1)692/12-13(02) -- Administration's response to Assistant Legal Adviser's letter dated 20 February 2013 as set out in LC Paper No. CB(1)598/12-13(04)

LC Paper No. CB(1)1272/12-13(01) -- Speaking notes of the Secretary for Transport and Housing

Relevant papers issued previously

LC Paper No. CB(3)263/12-13 -- The Bill

LC Paper No. CB(1)454/12-13(02) -- Marked-up copy of the Bill prepared by the Legal Service Division (Restricted to members only))

The Bills Committee deliberated (Index of proceedings attached at **Appendix**).

2. The Chairman reminded members that in accordance with rule 83A of the Rules of Procedure of the Legislative Council, they should disclose the nature of any direct or indirect pecuniary interest before they spoke.

3. The Chairman, Mr Abraham SHEK, Mr Tony TSE, Mr Andrew LEUNG, Mr YIU Si-wing, Mr WONG Ting-kwong, Mr LEUNG Che-cheung, Mr CHAN Kam-lam, Mr POON Siu-ping, Mr James TO, Mr Jeffrey LAM, Miss CHAN Yuen-han, Ms Emily LAU, Mr James TIEN and Dr CHIANG Lai-wan made declaration of interests respectively.

4. The Administration was requested to:

- (a) consider exempting companies whose shareholders were all Hong Kong permanent residents (HKPRs) from the Buyer's Stamp Duty (BSD) by expressly setting out the conditions for exemption, such as restrictions on "alienation of shares" for a

fixed period as suggested by The Law Society of Hong Kong in LC Paper No. CB(1)1165/12-13(01), aided with a declaration mechanism;

- (b) consider refunding the BSD paid by companies whose shareholders were all HKPRs if the properties acquired had not been sold within a specified period of time, say three or five years;
- (c) consider enhancing the BSD refund mechanism for redevelopment activities, including refunding the BSD when an investor or developer had accumulated an interest of not less than a certain percentage in a residential building, supplemented with an undertaking of redevelopment with a deposit, bank guarantee or other collateral;
- (d) consider granting exemption from or refunding the BSD in respect of acquisition of a residential property by a religious and/or charitable organization which was exempted from tax under section 88 of the Inland Revenue Ordinance;
- (e) provide proposed Committee Stage amendments (if any) for members' consideration as soon as practicable; and
- (f) provide the speaking notes (in both English and Chinese) of the Secretary for Transport and Housing at the meeting.

(Post-meeting note: The information provided by the Administration on item (f) above was issued to members vide LC Paper No. CB(1)1272/12-13(01) on 10 and 16 June 2013. Information on the remaining items was issued to members vide LC Paper No. CB(1)1367/12-13(02) on 28 June 2013.)

5. The Chairman reminded members that the next meeting would be held on Monday, 17 June 2013 at 2:30 pm. At the request of the Administration, the next meeting would end 15 minutes earlier by 4:15 pm.

II. Any other business

6. There being no other business, the meeting ended at 12:53 pm.

Council Business Division 1
Legislative Council Secretariat
25 February 2014

**Proceedings of the tenth meeting of
the Bills Committee on Stamp Duty (Amendment) Bill 2012
on Friday, 7 June 2013, at 10:45 am
in Conference Room 1 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
000505 – 000548	Chairman	Opening remarks	
000549 – 000711	Chairman Mr Abraham SHEK Mr Tony TSE Mr Andrew LEUNG Mr YIU Si-wing Mr WONG Ting-kwong Mr LEUNG Che-cheung Mr CHAN Kam-lam Mr POON Siu-ping	Disclosure of direct or indirect pecuniary interest by members	
000712 – 002350	Chairman Administration	Opening remarks by the Secretary for Transport and Housing (STH) on the Administration's position relating to the following issues – (a) refunding the Buyer's Stamp Duty (BSD) for redevelopment projects; (b) exempting companies owned by Hong Kong Permanent Residents (HKPRs) from paying BSD; (c) exempting charitable organizations which were exempted from tax under Section 88 of the Inland Revenue Ordinance (Cap. 112) (IRO) from paying BSD; and (d) introducing a sunset clause for the demand-side management measures. (LC Paper No. CB(1)1272/12-13(01))	The Administration to follow up as stated in paragraph 4(f) of the minutes.
002351 – 002827	Chairman Mr CHAN Kam-lam Mr Abraham SHEK Administration	Mr CHAN Kam-lam expressed the following views and suggestions – (a) the Government should tackle housing shortage at source by increasing land and flat supply in order to facilitate a healthy and steady development of the property market; (b) supported the Administration's proposal to relax	

Time marker	Speaker	Subject(s)	Action required
		<p>the BSD refund mechanism for redevelopment projects such that BSD paid could be refunded to the investor/developer concerned as early as possible; and</p> <p>(c) the Administration might consider refunding BSD for redevelopment projects as early as after the investor/developer concerned had obtained ownership of the entire lot to be redeveloped.</p> <p>Sharing Mr CHAN Kam-lam's suggestion, Mr Abraham SHEK pointed out that advancing the refund of BSD paid for redevelopment projects would reduce hindrance for redevelopment, which was conducive to accelerating the supply of residential properties.</p> <p>The Administration said that in line with the policy objective that BSD should not hinder redevelopment, it would consider refining the BSD refund mechanism for redevelopment projects, with a view to refunding BSD paid as soon as possible after the investor/developer concerned had acquired the entire lot for redevelopment and satisfied certain conditions to prove the intention and concrete actions for the redevelopment.</p>	
002828 – 003433	Chairman Mr Abraham SHEK Administration	<p>Mr Abraham SHEK's views and concerns –</p> <p>(a) as HKPRs should have the right and choice to acquire residential properties as a natural person or in the name of a company, the proposed exemption to HKPRs from the BSD payment should be extended to companies solely owned by HKPRs;</p> <p>(b) given that consideration would be given to relaxing the BSD refund mechanism for redevelopment projects (which would serve the interests of the developers), it followed that the Administration should not dismiss the greater interests of HKPRs by not granting exemptions to companies owned by HKPRs from paying BSD; and</p> <p>(c) it should be feasible to exempt companies solely owned by HKPRs by expressly setting out the conditions for exemption (such as those suggested by The Law Society of Hong Kong), aided with a declaration mechanism similar to the</p>	The Administration to follow up as stated in paragraph 4(a)

Time marker	Speaker	Subject(s)	Action required
		<p>approach in the "Hong Kong Property for Hong Kong People" measures; and by imposing sanctions (including criminal sanctions if necessary) on company directors/shareholders who breached the undertaking.</p> <p>The Administration responded that –</p> <p>(a) relaxing the BSD refund mechanism for redevelopment projects was premised on the policy objective that BSD should not hinder redevelopment, and not an intention to give advantages to the developers;</p> <p>(b) the scope of exemption from BSD should not be unduly widened lest the effectiveness of the measure in cooling down the property market and according priority to the home-ownership needs of HKPRs would be undermined; and</p> <p>(c) even if a declaration mechanism was put in place for the directors/shareholders of companies incorporated in Hong Kong to declare their HKPR status, it would be extremely difficult for the Inland Revenue Department (IRD) to know and verify the validity of the declaration or undertaking since beneficial interest of the shares of the companies could be transferred to non-HKPRs by ways not easily detectable.</p>	of the minutes.
003434 – 003858	Chairman Mrs Regina IP Administration	<p>Mrs Regina IP enquired about –</p> <p>(a) the difficulties in granting exemption to companies whose shareholders were all HKPRs from the BSD payment; and</p> <p>(b) whether IRD had discussed with the Department of Justice on legislative provisions to plug the loopholes of tax circumvention associated with shares transfer.</p> <p>The Administration explained that –</p> <p>(a) directors/shareholders with HKPR status might indirectly transfer the property interest held by a company and circumvent BSD through ways that were not easily detectable, such as –</p> <p>(i) transferring beneficial interest of company shares by way of nominee shareholder</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>agreement, power of attorney and declaration of trust, etc. in lieu of stamping of the instrument of transfer and notification to the Registrar of Companies about the changes in the identity of shareholders;</p> <p>(ii) allotting new shares (which was not subject to stamp duty) to change the shares distribution and consequently the controlling stake of the company (and related property interest); and</p> <p>(iii) reclassifying issued shares into "deferred shares" to alter the rights such as devoid of voting rights attached to the shares.</p> <p>(b) in view of the growing number of HKPR-owned companies established in Hong Kong, it would be impracticable for IRD to monitor the activities of such companies (e.g. issuance of new shares) continuously with the Companies Registry, for the sake of the BSD measure; and</p> <p>(c) currently, late stamping would be subject to a penalty of 10 times the amount of stamp duty payable but the Administration could not simply rely on the sanctions to safeguard against the risk of avoidance of stamping in all cases.</p>	
003859 – 004310	Chairman Mr POON Siu-ping Mr Tony TSE Administration	<p>Mr Tony TSE pointed out that the public at large supported measures to combat speculative activities and stabilize the property market. He also welcomed the Administration's initiative to relax the BSD refund mechanism for redevelopment projects.</p> <p>While supporting in principle the demand-side management measures to bring down property prices, Mr POON Siu-ping enquired –</p> <p>(a) whether consideration would be given to granting exemptions from BSD to charitable organizations exempted from tax under Section 88 of IRO when they acquired residential properties and upon application; and</p> <p>(b) whether the revised mechanism under consideration for refunding BSD for redevelopment projects would include changes to the "six-year period" requirement for completing</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>the redevelopment.</p> <p>The Administration advised that –</p> <p>(a) as the current thinking was to enable refunding of BSD paid as soon as possible after the developer concerned had acquired the entire lot for redevelopment and satisfied certain conditions to prove the intention and concrete actions for the redevelopment, the "six-year period" requirement for completing redevelopment should no longer apply in the revised mechanism;</p> <p>(b) under the existing taxation regime, charitable organizations did not enjoy tax exemption across-the-board. As a matter of fact, while IRO did not prohibit charitable organizations from engaging in investment or trading activities not in the course of the actual carrying out of their expressed charitable objects, the profits so generated would not be exempted from profits tax. Charitable bodies were still subject to payment of the ad valorem stamp duty in property acquisition transactions; and</p> <p>(c) given the substantial number of charitable organizations currently exempted from tax under Section 88 of IRO, i.e. 7 600 as of March 2013, and as many as 70% of these bodies were companies incorporated under the Companies Ordinance (Cap. 32), exempting charitable bodies from BSD in the purchase of residential properties would undermine the effectiveness of the BSD.</p>	
004311 – 004619	Chairman Mr Tony TSE Administration	<p>Mr Tony TSE suggested refunding BSD paid by companies solely owned by HKPRs subject to specified conditions (e.g. no changes to the HKPR status of the company shareholders over a certain period), as an alternative to granting exemptions.</p> <p>The Administration's views –</p> <p>(a) as the demand-side management measures, including BSD, were aimed to stabilize the property market by managing demand, it was vital not to weaken their effectiveness by granting too many exemptions lest it would send a wrong message to the public that the Government was less than determined in cooling</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>off the exuberant property market;</p> <p>(b) whether it was refund of or exemption from BSD for HKPR-owned companies, it remained difficult for IRD to know and verify changes in the control of these companies if beneficial interest of the company shares was transferred without undergoing the stamping process as in some cases; and</p> <p>(c) plugging all the possible loopholes arising from exempting companies owned by HKPRs from BSD might involve fundamental changes to the taxation and company regimes. As BSD was an extraordinary measure introduced under exceptional circumstances, it was considered unnecessary to make changes that would have far-reaching impacts on the existing effective taxation and company regimes, just for the sake of the BSD measure.</p>	
004620 – 005115	Chairman Mr YIU Si-wing Administration	<p>To encourage redevelopment efforts, Mr YIU Si-wing suggested the Administration considering refund of BSD for redevelopment projects after the investor or developer concerned had accumulated an interest of not less than a certain percentage, say 50%, in a lot (instead of full ownership of the entire lot), supplemented with an undertaking of redevelopment with a deposit, bank guarantee or other collateral.</p> <p>The Administration responded that –</p> <p>(a) it would consider how the BSD refund mechanism for redevelopment projects should be refined in the light of the suggestions from members and the community, as well as the safeguards against abuse of the mechanism; and</p> <p>(b) the relevant Committee Stage amendments to the Bill would be submitted in due course to explain the proposed revised mechanism in detail.</p> <p>Noting that the Administration would not consider introducing a sunset clause for the demand-side management measures but would review the measures in one year after the passage of the Bill by the Legislative Council (LegCo), Mr YIU Si-wing enquired about the actions that would be taken by the Government should the market conditions become so</p>	<p>The Administration to follow up as stated in paragraph 4(c) of the minutes.</p> <p>The Administration to follow up as stated in paragraph 4(e) of the minutes.</p>

Time marker	Speaker	Subject(s)	Action required
		<p>volatile that warranted prompt adjustment of the measures before the one-year review period ended.</p> <p>The Administration advised that –</p> <ul style="list-style-type: none"> (a) introducing a sunset clause unilaterally might send a wrong message to the market and stimulate the demand later on, which would defeat the purpose of the measures to manage demand; (b) the Administration would timely review the measures and report to LegCo on the relevant review one year after the passage of the Bill by LegCo; and (c) in order that the applicable rates of the stamp duties under the measures could be adjusted flexibly and timely to suitable levels (to "zero" if necessary) having regard to market conditions, the Bill had included a proposal to allow for such adjustments by means of subsidiary legislation subject to negative vetting by LegCo. 	
005116 – 005645	Chairman Mr LEUNG Che-cheung Administration	<p>Mr LEUNG Che-cheung opined that the demand-side management measures did not appear to be effective in achieving the objective of bringing down property prices although the number of transactions had dropped. As it would take time to increase flat supply, the proposed measures to address housing shortage by curbing demand might upset the normal operation of the property market.</p> <p>The Administration responded that –</p> <ul style="list-style-type: none"> (a) it was aware of the importance to accelerate flat supply in order to tackle the supply-demand tension at source and was working along this direction with determination; (b) the volume of property transactions could be affected by a number of factors including individual's perception of property price, and not only market supply or property price level; and (c) the Administration had taken into account the need to strike a balance in cooling down the property market while not upsetting its operation. In its views, the demand-side management measures had been effective in stabilizing the 	

Time marker	Speaker	Subject(s)	Action required
		<p>property prices and reducing the volume of transactions. Nevertheless, the Administration would continue to monitor the market closely to assess the effectiveness of the measures over a longer time span.</p> <p>Mr LEUNG Che-cheung enquired whether the Administration would consider refunding BSD paid by companies whose shareholders were all HKPRs if the properties acquired had not been sold within a specified period of time, say three or five years.</p> <p>The Administration reiterated its view that the effectiveness of the BSD measure would be undermined if there were too many exemptions or means to obtain refund.</p>	<p>The Administration to follow up as stated in paragraph 4(b) of the minutes.</p>
005646 – 010133	Chairman Mr Andrew LEUNG Administration	<p>Mr Andrew LEUNG's views –</p> <p>(a) the BSD measure had given rise to adverse impact on the existing order of economic and investment activities, including acquisition of properties by foreign companies for operational needs, and there was resentment against the measure from Consuls-General, foreigners and LegCo Members;</p> <p>(b) the Government should be "appropriately proactive" ("適度有為") by tackling the difficulties identified by IRD in granting exemptions to HKPR-owned companies from paying BSD, instead of applying the BSD measure to all companies indiscriminately; and</p> <p>(c) the policies of different bureaux appeared to be inconsistent as the Administration refuted the feasibility of a self-declaration mechanism for the BSD measure yet putting place a similar mechanism for the "Hong Kong Property for Hong Kong People" measures.</p> <p>The Administration responded that the declarations made by directors/shareholders of a company were not easily verified, as the beneficial interest of the company shares could be transferred to change the control of the company by ways not easily detectable by IRD. Hence, the risks of tax circumvention were high.</p>	

Time marker	Speaker	Subject(s)	Action required
010134 – 010920	Chairman Mr James TO Administration	<p>Disclosure of direct or indirect pecuniary interest by Mr James TO</p> <p>Mr James TO's views –</p> <p>(a) the risks were small that the suggested declaration mechanism for the purpose of BSD exemption would give rise to prevalent abuse as –</p> <p>(i) the requirement for all the shareholders of the same company to make the declarations would render concerted action of breach or fraud difficult; and</p> <p>(ii) the shareholders could be required to declare not just their HKPR status but also to confirm, in their best knowledge, the HKPR status of other shareholders. Mutual surveillance among the shareholders could help safeguard against breaching by individual shareholder.</p> <p>(b) the Administration should consider the feasibility of granting BSD exemption or refund to a religious and/or charitable corporation which was exempted from tax under section 88 of the IRO on condition that the residential properties acquired were related to the organization's religious/charitable objects. Given that trading activities of charities and religious bodies in the property market were not frequent, and there were just some 7 600 charitable bodies at present, the risks of tax avoidance and system abuse were small.</p> <p>The Administration's response –</p> <p>(a) in considering the issue of granting exemptions under the proposed demand-side management measures, it was important to strike a balance of all factors, including the potential risks and genuine implementation difficulties, with a view to ensuring that the effectiveness of the measures would not be undermined; and</p>	<p>The Administration to follow up as stated in paragraph 4(d) of the minutes.</p>

Time marker	Speaker	Subject(s)	Action required
		<p>(b) taking into account the existing taxation regime for charitable bodies, the investment and trading activities undertaken by charities not in the course of actual carrying out of their expressed charitable objects which might generate profits, and the number of charitable bodies currently exempted from tax under Section 88 of IRO, exempting these bodies from BSD in the purchase of residential properties would allow for circumvention of BSD by certain means.</p>	
<p>010921 – 001647</p>	<p>Chairman Mr Jeffrey LAM Mr James TIEN Administration</p>	<p>Disclosure of direct or indirect pecuniary interest by Mr Jeffrey LAM</p> <p>Mr Jeffrey LAM expressed the following views –</p> <p>(a) Members belonging to the Business and Professionals Alliance for Hong Kong (BPA) maintained the view that it was feasible to exempt companies solely owned by HKPRs from BSD, by way of a declaration mechanism. While the tracking and verification of the relevant company information for the purpose of BSD could be cumbersome and difficult, the problem was not insurmountable if the Government was determined to resolve it; and</p> <p>(b) as property prices were hinged to a number of factors including land supply, land premium and construction costs, the Administration should adopt a multi-pronged strategy in bringing down property prices to a reasonable level affordable to the general public.</p> <p>The Administration reiterated that it was not feasible to verify the declaration made by shareholders of companies about their ownership in the companies since beneficial interest of shares could be transferred but the parties could have withheld stamping of shares transfer instrument, which meant that IRD would not be able to trace the changes in the ownership of the companies concerned. Unlike property transactions whereby the property transfer instrument must undergo the stamping process and registration at the Land Registry to insure the buyer's interests, it would suffice in shares transfer for the new beneficial owner of the shares to hold possession of the signed blank instrument of transfer and company seal, together with a relevant agreement</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>signed by the old shareholder confirming the transfer and arrangements on dividend payments, etc.</p> <p>Mr James TIEN shared members' views raised at the meeting and indicated that he would vote against the Bill.</p>	
011648 – 012119	Chairman Administration	<p>The Chairman's suggestions –</p> <p>(a) the Administration might consider the suggestion provided by The Law Society of Hong Kong in its submission dated 28 May 2013 (LC Paper No. CB(1)1165/12-13(01)) to impose restrictions on "alienation of shares" for a fixed period as a means to address the loopholes that shareholders of HKPR-owned companies could transfer property entitlement to non-HKPR shareholders through shares transfer; and</p> <p>(b) alternatively, the Administration should consider the feasibility of refunding BSD paid by companies solely owned by HKPRs upon specified conditions (e.g. the properties acquired had not been sold within a specified period of time). As the BSD had been paid to IRD in this scenario, there should be less risks of tax circumvention.</p> <p>The Administration stressed again the shortcomings of granting too many exemptions, the difficulties for IRD to trace shares transfer, and the disproportionality in making fundamental changes to the taxation and company regimes in order to plug all possible loopholes for the sake of the BSD measure which was introduced as an extraordinary measure under exceptional circumstances.</p>	The Administration to follow up as stated in paragraph 4(a) of the minutes.
012120 – 012646	Chairman Mr Abraham SHEK Administration	<p>Mr Abraham SHEK's views –</p> <p>(a) the demand-side management measures were not effective in bringing down property prices which had risen by as much as 35% since 2010;</p> <p>(b) HKPRs should have the right and choice to acquire properties in the name of a company; and HKPRs holding companies should not be treated differently from other HKPRs;</p> <p>(c) granting exemptions to companies whose shareholders were all HKPRs should be feasible</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>by specifying certain conditions, which would not necessitate changes to the company regime at all; and</p> <p>(d) a sunset clause should be introduced for the demand-side management measures.</p> <p>The Administration's view –</p> <p>(a) it was indeed necessary to take into account possible loopholes in considering the granting of any exemption under the proposed measures. The Administration would continue to study the views from members and other stakeholders in this regard; and</p> <p>(b) it was impossible to make wild speculation on the future changes of the market conditions and the external factors and pre-determine a date on which the demand-side management measures would be deemed no longer necessary. However, the Administration undertook to report to LegCo on the review of the measures one year after the Bill was passed.</p>	
012647 – 013334	Chairman Mr Jeffrey LAM Administration	<p>Mr Jeffrey LAM expressed the following views –</p> <p>(a) the business sector aspired for stability in Government policies and measures for undertaking economic and investment activities but the proposed demand-side management measures, the BSD measure in particular, appeared to have undermined investment confidence. The Government should seriously consider members' suggestions to refine the proposals, such as the suggestion to grant exemptions to companies whose shareholders were all HKPRs;</p> <p>(b) to reduce market uncertainty, the Government should enhance transparency of the measures to be implemented if the property market remained overheated in future; and</p> <p>(c) demand-side management measures alone could not help address the housing problems, in particular the drastic surge in property prices which was influenced by a number of factors. The long-term strategy to tackle the housing problem at source should be increasing land and</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>flat supply.</p> <p>The Administration's response –</p> <p>(a) it had always been the policy of the Government not to intervene in market operations. However, under the exceptional circumstances of an extremely exuberant property market, it was considered necessary to implement extraordinary measures, otherwise the property prices would deviate further from the economic fundamentals;</p> <p>(b) compared to Singapore which had so far implemented seven rounds of cooling measures for its residential property market, Hong Kong had in fact been very prudent and cautious in implementing similar measures. Nevertheless, the Government would not rule out the possibility of implementing more severe measures if the market conditions warranted; and</p> <p>(c) property prices could be affected by many factors including the external economic conditions, interest rates and currency rates; and the Government was fully aware of the priority to increase land and housing supply to address the housing problem.</p>	
013335 – 013821	Chairman Mr Andrew LEUNG Administration	<p>Mr Andrew LEUNG expressed the following views and concerns –</p> <p>(a) the demand-side management measures had adversely impacted on the livelihood of estate agents as reflected by the reduction in the number of such agents in the recent year;</p> <p>(b) if the demand-side management measures were to be implemented for an unduly long period to suppress the demand, the situation might become even more uncontrollable when the measures were withdrawn and bring about more undesirable effects on the property market; and</p> <p>(c) the Government could set a high threshold for granting exemptions to HKPR-owned companies from the BSD payment, instead of applying the BSD measure to all companies indiscriminately. Members belonging to BPA might not support the legislative proposals if the Government remained firm on not granting exemptions to these</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>companies.</p> <p>The Administration stressed that it would exercise due care and caution in considering the demand-side management measures, and continue to study members' views and suggestions raised at the meeting.</p>	
013822 – 014550	Chairman Ms Emily LAU Administration	<p>Ms Emily LAU criticized that the Administration had not conducted consultation thoroughly before introducing the Bill into LegCo as members had raised a lot of concerns or objections to the legislative proposals during the scrutiny, while some members intended to filibuster the Bill. She suggested the Administration set up a working group to resolve the issues in focus, with a view to putting forward refined proposals that were in the interests of the public while not upsetting the business environment.</p> <p>The Administration responded that it had strived to consider all factors and possible loopholes when drawing up the legislative proposals. It had exchanged views with members and other stakeholders from time to time, and was willing to take on board their suggestions as long as they were compatible with the policy objectives and practicable.</p>	
014551 – 015100	Chairman Miss CHAN Yuen-han Ms Emily LAU Administration	<p>Disclosure of direct or indirect pecuniary interest by Miss CHAN Yuen-han and Ms Emily LAU</p> <p>Miss CHAN Yuen-han's views –</p> <p>(a) supported the Bill having regard to the exuberance in the property market but considered that the Government should continue to listen to the views of all stakeholders (including existing flat owners) in order to strike a proper balance of interests; and</p> <p>(b) disagreed with some members' suggestion to introduce a sunset clause for the demand-side management measures.</p>	
015101 – 015602	Chairman Dr CHIANG Lai-wan Administration	Dr CHIANG Lai-wan expressed concern that the reduction of property transactions brought about by the demand-side management measures had posed adverse impact on the local investment channels and	

Time marker	Speaker	Subject(s)	Action required
		<p>activities, as well as on the operation of estate agencies which employed a large workforce. She urged the Administration to closely monitor the market conditions and minimize adverse impact arising from the measures.</p>	
015603 – 020033	<p>Chairman Mr WONG Ting-kwong Administration</p>	<p>Mr WONG Ting-kwong's views –</p> <p>(a) supported in principle the direction to combat speculative activities in the property market and accord housing priority to HKPRs;</p> <p>(b) the Government should strike a proper balance in the demand-side management measures and review them timely lest they would dampen investment sentiment and adversely affect the business environment; and</p> <p>(c) the BSD measure should be refined in order not to deprive HKPRs of the existing channel to acquire residential properties in the name of a company, minding the fact that a substantial number of properties were owned by legal entities vis-à-vis natural persons in Hong Kong.</p>	
020034 – 020545	<p>Chairman Mr James TIEN Dr CHIANG Lai-wan Mr Abraham SHEK Administration</p>	<p>Disclosure of direct or indirect pecuniary interest by Mr James TIEN and Dr CHIANG Lai-wan</p> <p>Mr Abraham SHEK expressed the following views –</p> <p>(a) there were reasonable and solid grounds to filibuster the Bill to uphold the right of HKPRs to acquire residential properties in the name of company, and as the Government had not addressed the concerns about the BSD measure raised by members at past meetings;</p> <p>(b) as high land premium was a major reason leading to the high prices of first-hand residential properties, the community should not put the blame solely on the developers; and</p> <p>(c) as the government structure and policies of Singapore were different from that of Hong Kong, the Government should not make reference to the measures of Singapore in tackling the overheated property market.</p>	

Time marker	Speaker	Subject(s)	Action required
020546 – 020756	Chairman Miss CHAN Yuen-han Administration	Concluding remarks by the Chairman Miss CHAN Yuen-han requested the Administration to provide proposed Committee Stage amendments (if any) for members' consideration as soon as possible.	The Administration to follow up as stated in paragraph 4(a) to (f) of the minutes.
020757 – 020907	Chairman	Date of next meeting	

Council Business Division 1
Legislative Council Secretariat
25 February 2014