

## Legislative Council Panel on Housing

### Extending the Home Ownership Scheme Secondary Market to White Form Buyers

#### PURPOSE

The Subsidised Housing Committee of the Housing Authority (HA) endorsed on 12 September 2012 the interim scheme to allow buyers with White Form (WF) status<sup>1</sup> to purchase Home Ownership Scheme (HOS) flats with premium not yet paid under the Secondary Market Scheme (SMS). This paper briefs Members of the implementation details of the scheme.

#### BACKGROUND

2. The SMS was introduced in 1997 to allow owners of HOS flats and the Tenant Purchase Scheme (TPS) flats to sell their flats without payment of premium to existing or prospective public rental housing (PRH) tenants (i.e. those with Green Form (GF) status<sup>2</sup>) on the HOS Secondary Market (Secondary Market) from the third year onwards following the date of first assignment. Those with GF status can also purchase the Housing Society (HS)'s Flat-for-Sale Scheme (FFSS) flats with premium not yet paid. Altogether, about 250 000 HOS flats, 120 000 TPS flats and 9 000 FFSS flats with premium not yet paid are currently tradable under the SMS. Purchasers of flats with premium not yet paid under the SMS have to assume the liability to pay the premium upon their eventual sale of flats on the open market.

3. The first batch of new HOS flats is expected to be completed in 2016-17. Allowing those with WF status to purchase HOS flats with premium not yet paid until new HOS flats are available should help address the home ownership needs of the eligible group in the interim.

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<sup>1</sup> For reference, during the sale of Surplus HOS, subject to detailed eligibility criteria on age, family composition, residence rule, income and asset limits as well as property ownership restriction announced by the HA prior to the launch of each sale phase, the following groups should be eligible for applying on WF status –

- (a) Households living in private housing;
- (b) Family members living in public rental housing (PRH) or any subsidized housing scheme units; and
- (c) Owners of Tenants Purchase Scheme (TPS) flats within 10 years from date of assignment, who can apply by using WF but will be exempted from income and asset limits as well as domestic property ownership restriction, on the condition that they will sell the TPS flats within three months from signing of the agreement for sale and purchase of the Surplus HOS flats, or such extended period as may be granted.

<sup>2</sup> Those eligible for GF status mainly include PRH tenants and successful Waiting List applicants whose eligibility for PRH has been established and who are due for allocation of PRH within one year, subject to detailed eligibility criteria on family composition and residence rule, etc.

## **IMPLEMENTATION DETAILS**

### ***Quota Level***

4. There will be an annual quota of 5 000 for applicants meeting the eligibility criteria for WF status under this scheme. For reference, there were on average about 1 900 transactions on the Secondary Market per year in the past 10 years. The quota of 5 000 will be released in two batches of 2 500, so that the Secondary Market can absorb the increase in potential buyers in a gradual and managed manner.

### ***Quota Allocation***

5. There will be two categories of applicants, namely, families and singletons. An allocation quota of 9:1 between families and singletons, i.e. 4 500 quota for families and 500 quota for singletons, will be set. In case of over-subscription, the quota will be allocated by ballot as in the sale of Surplus HOS flats.

### ***Tenants Purchase Scheme and the Housing Society's Flat-for-Sale Scheme***

6. Currently, those with GF status can purchase TPS flats and the HS's FFSS flats with premium not yet paid under the SMS. The WF buyers under this scheme will also be allowed to buy TPS flats and FFSS flats with premium not yet paid, in addition to HOS flats with premium not yet paid. The existing arrangements regarding the TPS and FFSS flats under the SMS for GF buyers will stand for the WF buyers<sup>3</sup>.

### ***Income and Asset Limits as well as Other Restrictions***

7. To be eligible for the scheme, applicants should meet certain eligibility criteria, which include the income and asset limits as well as the domestic property ownership restriction. The established formula under HOS (details at **Annex**), which is based on the household expenditure approach, will be used to calculate the income and asset limits for the target group under this scheme. Following the practice of HOS, the exact income and asset limits of the target group, including

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<sup>3</sup> Currently, the HA provides mortgage default guarantee for 25 years from the first assignment date of TPS flats with premium not yet paid to GF buyers. The HS does not provide mortgage guarantee to purchasers of FFSS flats with premium not yet paid on the Secondary Market. Regarding buyback arrangements, at present for a TPS flat falling within the third to fifth year from the date of first assignment, the owner may opt to sell the flat back to the HA at a price to be assessed by the HA. However, this special buyback arrangement for GF buyers of TPS flats under the SMS will not be extended to WF buyers. As regards FFSS flats, it is the HS's current policy not to exercise its right to buy back FFSS flats even within the resale restriction period. Therefore, owners of FFSS flats are entitled to sell or otherwise dispose of their flats as they see fit upon payment of premium.

those for one-person applicants<sup>4</sup>, will be calculated in accordance with the established formula about one month before invitation for applications in order to take into account the latest economic statistics. As for the domestic property ownership restriction, the restriction period under HOS, which is 24 months prior to application, will be adopted.

### ***Resale Restrictions***

#### *Statutory resale restrictions*

8. The Schedule to the Housing Ordinance (Cap. 283) stipulates the alienation restrictions for HOS flats<sup>5</sup>. Given the lapse of time, all HOS flats with premium not yet paid (250 000 plus flats as at end-September 2012) will be tradable on the Secondary Market as from January 2013.

#### *Additional resale restrictions for WF buyers under the SMS*

9. There have been concerns on speculative activities on the Secondary Market by extending the SMS to cover WF buyers. Actually, the Administration has put in place other measures (e.g. the Special Stamp Duty) to curb speculation and should have addressed such concerns. Moreover, there are currently more than 250 000 HOS flats, 120 000 TPS flats and 9 000 FFSS flats with premium not yet paid tradable on the Secondary Market, against a quota of 5 000 for the WF buyers every year. Nevertheless, there still have been calls in the community for resale restrictions to be imposed on WF buyers entering the Secondary Market. To address these concerns, additional resale restrictions will be imposed on WF buyers purchasing HOS flats in the Secondary Market via contractual means. Within the first two years of the transaction, the WF buyer is not allowed to sell his flat on the Secondary Market. He could, however, sell his flat in the open market upon paying the premium<sup>6</sup>.

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<sup>4</sup> For the sale of Surplus HOS flats, the income and asset limits for one-person applicants were previously set as half of those for families.

<sup>5</sup> During the first five years following the date of first assignment, if the HOS flat owner wants to sell his flat, he is required to offer to sell it back to the HA, at original price within the first two years of the first assignment and at assessed market price from third to the fifth year of the first assignment. The HOS flat owner can also sell the flat under the SMS after two years of the first assignment. The resale restriction will be lifted if (i) the offer is declined by the HA or five years have elapsed after the date of first assignment; and (ii) the HOS flat owner has paid the premium. However, the HA made it clear in 2006 that it would no longer exercise its buyback option on Surplus HOS Flats. As at end-September 2012, there were 246 300 HOS flats with premium not yet paid where the five-year statutory resale restriction period had expired. There were another 6 900 HOS flats with premium not yet paid which were still subject to the third to the fifth year of the statutory resale restriction period but were tradable on the Secondary Market. Only 400 flats were still within the first two years of the first assignment up till October 2012, after which these flats would be tradable on the Secondary Market.

<sup>6</sup> The premium for HOS flats and TPS flats is paid to the HA while the premium for FFSS flats is paid to the Government.

10. Under the SMS implemented pursuant to paragraph 4(c) of the Schedule to the Housing Ordinance, the owner may sell a HOS flat with premium not yet paid to a person nominated and certified as a person eligible to buy the flat by the HA starting from the third year upon the first assignment of the flat<sup>7</sup>. In practice, a WF buyer who wishes to purchase a flat with premium unpaid under the SMS is required to apply to the HA for a Certificate of Eligibility to Purchase (CEP), and thereafter a Letter of Nomination (LN), before he could sign the Provisional Agreement for Sale and Purchase (PASP), the Agreement for Sale and Purchase (ASP) and the Assignment in the form as prescribed by the HA. After the WF buyer becomes a flat owner, if he wishes to sell his flat with premium unpaid under the SMS, he is required to first apply to the HA for a Certificate of Availability for Sale (CAS).

11. To implement the additional resale restrictions, the existing tools as mentioned above will be used, and the additional requirements will be inserted by -

- (a) stating the additional resale restrictions in the application forms and approval letters of the scheme for the WF buyers, so that they would be fully aware of them;
- (b) setting out the additional resale restrictions in the form of an agreement or a deed of undertaking to be signed by the WF buyers, upon their application for the CEP and LN; and
- (c) stipulating in the agreement or deed of undertaking in (b) above that the WF buyers undertake not to apply for and acknowledge that they would not be issued the CAS within the additional resale restriction period<sup>8</sup>.

### *Validity of WF Status*

12. WF applicants who have been allocated a quota place under the scheme will be issued a CEP. The CEP is valid for six months. For parity with the GF buyers, the WF buyers will be allowed to apply for a one-off renewal of the CEP for a further six months upon its expiry at the end of the first six months. This is

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<sup>7</sup> The transaction procedure for a HOS flat with premium not yet paid under the SMS is as follows -

- (a) The owner applies for the Certificate of Availability for Sale (CAS) and the purchaser applies for the Certificate for Eligibility to Purchase (CEP);
- (b) Having obtained the CAS and the CEP respectively, the owner and the purchaser sign the Provisional Agreement for Sale and Purchase (PASP);
- (c) The Purchaser's solicitor applies for the Letter of Nomination (LN) within one month after the PASP is signed. After LN has been issued, both parties sign the Agreement for Sale and Purchase;
- (d) The Deed of Assignment is executed for change of ownership.

<sup>8</sup> Without a CAS, there cannot be any trading on the Secondary Market.

similar to the current arrangements<sup>9</sup> for GF Certificate holders. If the WF applicant has not purchased a flat within the validity period of the CEP (six months or 12 months if he has renewed the CEP), his quota will expire. Applicants whose CEP has expired in one round may still apply to enter the ballot in subsequent rounds.

### ***Application Cycle***

13. The first round of exercise with a quota of 5 000 will be open for application in January 2013. We will announce the list of 5 000 successful applications around mid-May 2013 after vetting the eligibility of the applications in accordance with the priority list formed by balloting. The first batch of 2 500 approval letters will be issued immediately after the announcement, i.e. in May 2013. The second batch of 2 500 will be issued in around December 2013. There will be about seven months' time in between the two batches such that the number of potential WF buyers on the Secondary Market will not exceed 5 000 at any given time. For the same reason, the next round of exercise with another 5 000 quota should commence no earlier than mid-April 2014 to follow with announcement of result in August 2014. In other words, we will have a cycle of 5 000 quota approved over roughly every 15 to 16 months.

### ***Application Fees***

14. In line with the current practice for GF buyers under the SMS, we will recover the administrative costs of this scheme based on full recovery principle. An initial non-refundable application fee of \$100 will be charged. Successful applicants will also have to pay \$660 for the issue of the CEP, and another \$660 for the renewal of the CEP if they wish to do so.

### ***Mortgage Guarantee***

15. Under the existing Deed of Guarantee in respect of the SMS, the HA provides mortgage default guarantee for 30 years to GF buyers, counting from the first assignment date of HOS flats. This arrangement will also apply to WF applicants who have been allocated quota under this scheme.

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<sup>9</sup> Currently, the Housing Department issues a CEP to GF buyers who wish to purchase a flat on the Secondary Market. The CEP is valid for six months. If a GF applicant with a CEP is unable to sign a provisional agreement within the validity period of the CEP but still wish to purchase a flat, he may re-apply for the CEP at any time so long as he is a PRH tenant. He is required to surrender the PRH flat upon purchasing a flat under the SMS. GF certificate holders (i.e. those with GF status awaiting the allocation of PRH units) may apply once for the extension of the CEP's validity for six months.

## **WAY FORWARD**

16. Members are invited to note the implementation details of the interim scheme to allow buyers with WF status to purchase HOS flats with premium not yet paid under the SMS.

Housing Department  
October 2012

## Established Formula for Deriving the Income and Asset Limits under the Home Ownership Scheme

### *Assumptions for Deriving the Income and Asset Limits*

- Under Home Ownership Scheme (HOS), one of the guiding principles to determine affordability is that eligible households could afford the flats with a mortgage-to-income ratio of no more than 40%.
- The assumptions for determining affordability as applied to the sale of Surplus HOS flats in Phase 6 are that 10% of the flat price to be used as downpayment, and flat owners would pay the remaining 90% of the flat price (i.e. the mortgage) for 20 years at the prevailing interest rate with a maximum mortgage-to-income ratio of 40%.
- The reference flat for deriving the income and asset limits was a 10-year-old private flat of 40 m<sup>2</sup> saleable area in the Extended Urban area or the New Territories.

### *Income Limit for Families*

- The amount of total household expenditure, i.e. both housing and non-housing expenditure, required to purchase a reasonably sized flat in the private sector (i.e. the reference flat) constitutes the basis for deriving the income limit under HOS. The formula for deriving the income limit for families is as follows:

$$\begin{aligned} \text{Household Expenditure} &= \text{Housing Costs} + \text{Non-Housing Costs} \\ \text{Contingency Provision} &= 5\% \times \text{Household Expenditure} \\ \text{Income Limit} &= \text{Household Expenditure} + \text{Contingency Provision} \end{aligned}$$

### *Asset Limit for Families*

- The asset limit for families under HOS is derived from the amount of expenditure required to finance the downpayment (10% of the flat price), as well as the related transaction costs and decoration expenses, for acquiring the reference flat.

### *Income and Asset Limits for Singletons*

- For the sale of Surplus HOS, the income and asset limits for singleton applicants were half of those for families.