

Legislative Council Panel on Housing

Review of Special Stamp Duty and Buyer's Stamp Duty

PURPOSE

This paper briefs Members on the outcome of the review of the Special Stamp Duty (SSD) and the Buyer's Stamp Duty (BSD).

BACKGROUND

2. In the past few years, due to tight local housing demand-supply balance and ultra-low interest rates in the global monetary environment, local property prices have been out of line with economic fundamentals, with heightened risk of a bubble. Against such background, the Government has introduced several rounds of demand-side management measures, including SSD (November 2010 and October 2012), BSD (October 2012) and a doubled ad valorem stamp duty (DSD) (February 2013).

3. These measures aim to prevent further exuberance in the housing market which may pose significant risks to our macroeconomic and financial stability, to ensure the healthy and stable development of the property market, which is crucial to the sustainable development of Hong Kong as a whole, and to accord priority to the home ownership needs of Hong Kong permanent residents (HKPR) in the midst of the present tight housing supply.

4. In accordance with the relevant Stamp Duty (Amendment) Ordinances¹ that implement the demand-side management measures, unless otherwise specified in the Ordinances –

¹ The Stamp Duty (Amendment) Ordinance 2011 that implements SSD was enacted by the Legislative Council on 22 June 2011. The Stamp Duty (Amendment) Ordinance 2014 that implements BSD and enhanced SSD was enacted on 22 February 2014. The Stamp Duty (Amendment) (No. 2) Ordinance 2014 that implements DSD was enacted on 15 July 2014.

- (a) residential properties acquired on or after 20 November 2010 and resold within 24 months (for properties acquired before 27 October 2012) or 36 months (for properties acquired on or after 27 October 2012) are subject to SSD²;
- (b) residential properties acquired on or after 27 October 2012 by any person except a HKPR acting on his or her own behalf are subject to BSD at a flat rate of 15%; and
- (c) properties (both residential and non-residential) acquired on or after 23 February 2013 are subject to DSD, except for one acquired by a HKPR acting on his or her own behalf and does not own any other residential property in Hong Kong at the time of acquisition.

5. Demand-side management measures are extraordinary measures introduced under exceptional circumstances. The Government monitors the property market closely and has reviewed the effectiveness of these measures. The Government has also undertaken to report to the Legislative Council (LegCo) outcome of the review of these measures one year after the enactment of the Amendment Ordinances. Since the Stamp Duty (Amendment) Ordinance 2014 (the Amendment Ordinance), which implements enhanced SSD and BSD, was enacted by the LegCo on 22 February 2014, this paper aims to brief Members of the outcome of the review of the enhanced SSD and BSD.

² The SSD rates are summarised below –

Holding period	For properties acquired on or after 20 November 2010 and before 27 October 2012	For properties acquired on or after 27 October 2012
6 months or less	15%	20%
More than 6 months but for 12 months or less	10%	15%
More than 12 months but for 24 months or less	5%	10%
More than 24 months but for 36 months or less	N/A	10%

THE REVIEW

Effectiveness of SSD

6. Between the introduction of SSD on 20 November 2010 and end December 2014, there were a total of 3 885 residential property transactions subject to SSD and the stamp duty involved amounted to around \$771 million. Breakdown of the SSD cases by the holding period is shown in Table 1 at **Annex A**.

7. One major objective of introducing SSD is to curb speculative activities in the form of short-term resale transactions. Empirical data indicates that SSD is effective in achieving this objective. Speculative activities have quietened down since the introduction of SSD in November 2010, and further plummeted after the introduction of enhanced SSD in October 2012. According to statistics from the Inland Revenue Department (IRD), the monthly average of short-term resale, comprising confirmor transactions³ and resale within 24 months after assignment, plunged from 2 661 cases (or 20.0% of the total transactions) during the period from January to November 2010 (i.e. the period before the introduction of SSD) to 1 195 cases (or 14.8% of the total transactions) during the period from December 2010 to October 2012 (i.e. after the introduction of SSD but before the introduction of enhanced SSD), and further to 127 cases (or 2.4% of the total transactions) during the period from November 2012 to December 2014 (i.e. after the introduction of enhanced SSD⁴).

8. The SSD and enhanced SSD are particularly effective in curbing very short-term speculative activities. The monthly average of confirmor transactions, resale within six months and within six to twelve months plunged by 96%, 99% and 99% respectively as compared with the period before the introduction of SSD. Meanwhile, resale within 12 to 24 months has also declined notably, by 89%. Details are shown in

³ Confirmor transaction refers to the resale (or known as sub-sale) from a confirmor to a sub-purchaser and such resale occurs before execution of assignment.

⁴ With the enhancement of the SSD measure on 27 October 2012, holding period within which residential property transactions are subject to SSD was extended from 24 months to 36 months. As at end December 2014, there were five SSD cases that involved resale within 24 to 36 months.

Chart 1 and Table 2 at **Annex B**⁵.

Effectiveness of BSD

9. Between the introduction of BSD on 27 October 2012 and end December 2014, there were a total of 6 077 residential property transactions subject to BSD and the stamp duty involved amounted to around \$10.5 billion. Breakdown of the BSD cases by month is shown in Table 3 at **Annex C**.

10. BSD aims to accord priority to the housing needs of HKPR in the midst of the present tight housing supply. Data shows that this measure is effective in curbing external demands. Non-local demand has cooled off after the introduction of BSD in October 2012. According to IRD's data, purchases by non-local individuals⁶ and non-local companies have shrunk to 115 cases per month (or 2.1% of the total transactions) during the period from November 2012 to December 2014. These were much lower than the monthly average of 365 cases (or 4.5% of the total transactions) in January to October 2012, immediately before the introduction of the BSD. More details are shown in Chart 2 at **Annex D**.

Effects on the overall property market

11. The SSD and BSD have raised the transaction costs for speculators and non-local buyers. This should have dampened demand from these buyers, thus affecting market transactions and flat prices, although it is not easy to separate these effects from those of other factors including demand-supply balance, macroeconomic environment, liquidity

⁵ While both Annex A and Annex B demonstrate effectiveness of SSD, they present different sets of statistics. Annex A covers cumulative number of SSD cases (and its breakdown by holding period) since the introduction of the measure (i.e. involving residential properties acquired on or after 20 November 2010 and disposed of within the specified period), whereas Annex B presents the monthly average of all short-term residential properties resale transactions, regardless of the date of acquisition. For example, for a residential property acquired on 10 November 2010 and disposed of on 10 March 2011, such a resale transaction would not be subject to SSD and thus not included in Annex A. Yet, it would be counted as a short-term resale transaction within six months and thus featured in Annex B. It should also be noted that while Annex A includes SSD cases involving resale between 24 and 36 months (although the figure is not significant), Annex B only covers resale transactions within 24 months, as corresponding data for the period prior to introduction of enhanced SSD are not available for comparison purposes.

⁶ Proxied as non-Hong Kong identity card (HKID) holders, as we did not have information on the Hong Kong permanent residence status of buyers prior to the introduction of BSD. We could only distinguish transactions involving buyers who provided information on their identity cards.

situations and other Government policies such as the introduction of DSD in February 2013, the enabling legislation of which was passed in July 2014.

12. Overall trading activities for residential properties have seen a marked decline since the introduction of the BSD and enhanced SSD in October 2012. Compared with the period from January 2009 to October 2012 (i.e. the start of the property boom till the announcement of BSD and enhanced SSD), the monthly average of sale and purchase agreements for residential property received by the Land Registry plunged by 46% to around 4 800 cases during November 2012 to December 2014. This was sharply below the long-term monthly average of 7 900 cases during the period from 1994 to 2013 (Chart 3 at **Annex E**).

13. As to prices and rentals, the monthly average rate of increase for overall flat prices moderated from 1.7% during the period from January 2009 to October 2012 to 0.8% during the period from November 2012 to December 2014 (albeit property prices have shown signs of revival in recent months). The increase in overall rentals also slowed from 0.9% per month on average to 0.4% per month on average over the period (Chart 4 at **Annex E**).

Prevailing market situation and outlook

14. While the residential property market has slowed down in overall terms after the introduction of SSD and BSD (and subsequently DSD), it showed some revival since April 2014 and remained generally active. Around 5 900 transactions were recorded per month on average during April to December 2014, as compared with the monthly average of around 3 600 transactions in the first quarter of 2014. Overall flat prices in December 2014 increased by 14% from the recent trough in March 2014, and were also 13% higher than in December 2013.

15. The recent pick-up in the property market suggests that the risks of a housing market bubble are still prominent. Overall flat prices in December 2014 have surpassed the 1997 peak by a rampant 61%. The home purchase affordability ratio⁷ worsened to around 58% in the fourth quarter of 2014, exceeding the long-term average of 47% over 1994 to

⁷ The ratio of mortgage payment for a 45m² flat to median income of households (excluding those living in public housing), for a tenure of 20 years at the prevailing mortgage rate.

2013. If not for the introduction of enhanced SSD and BSD, as well as DSD, in 2012 and 2013 respectively, the situation might have been even more acute.

16. The exuberant market sentiment has been supported by a serious demand-supply imbalance in the property market and the expectation of a continued low interest rate environment in the near term. While the Government has committed to a supply-led strategy and has been increasing the supply of land and housing to address the demand-supply imbalance problem at source in the long run, it takes time for the increase in supply to realise. In the near term, demand-supply balance is expected to remain tight. Data from the Rating and Valuation Department shows that vacancy rate for private flats fell further to 3.8% of the total stock at end-2014, much below the long-term average of 5.0% over 1994 to 2013. Also, while the completion of private domestic units jumped by 89% over a year earlier to 15 700 units in 2014 (which is the record high after 2006), this figure is still below the long-term annual average of 19 600 units from 1994 to 2013.

17. Although the United States (US) Federal Reserve already concluded its asset purchase programme in October 2014, the timing and pace of the first interest rate hike remains uncertain. Meanwhile, the central banks of the eurozone and Japan have rolled out further monetary easing measures in view of the subdued growth with increasing deflationary pressure, though the effectiveness of these measures remains to be seen. Going forward, in view of the increasingly divergent monetary policy stance among major central banks of countries with uneven growth speeds, there are potential risks of greater global financial volatilities and abrupt changes in fund flows direction. Furthermore, the recent oil price slump has complicated monetary policy-making worldwide. As a result, the property market may experience considerable fluctuations as market sentiment, interest rate expectations and international fund flows shift with the developments of various factors.

Review findings and looking ahead

18. Empirical data set out in paragraphs 6 to 13 above demonstrate that SSD and BSD indeed help stabilise the residential property market, and are particularly effective in combating short-term speculative activities and curbing external demands. These measures have achieved their intended objectives with notable results.

19. There are comments that SSD has reduced the supply of residential properties in the secondary market and thus aggravated the demand-supply imbalance. We would like to point out that SSD aims to dampen demand from speculators and short-term investors through increasing the cost of speculation. The measure helps stabilise the residential property market, which in turn reduces the risk of a property bubble and precludes wide fluctuations in property prices. Without such measure, market exuberance would have more overall adverse effects on the market and the macro-economy. We consider that as most end-users will not resell residential properties acquired within a short period, SSD should not have a significant impact on the supply of flats. With most speculators driven out of the market, the end result will be a healthier market of end-users. In the current demand-supply imbalance, our priority is to meet the needs of end-users.

20. We understand that SSD and BSD may well cause some inconvenience to certain buyers or trades. Nevertheless, these measures are essential to help ensure the healthy and stable development of the private residential property market as well as the overall macroeconomic and financial stability of Hong Kong under the current exceptional circumstances of low interest rate, abundant liquidity and serious demand-supply imbalance. If the build-up of a property bubble is left unchecked, it would create a greater impact on Hong Kong's economy in the event of an asset bubble burst, which could bring adverse consequences to individuals, businesses and the investment environment.

21. Having considered the prevailing local market conditions and external economic situation as detailed in paragraphs 14 to 17 above, especially in light of the revival of market exuberance in recent months, we consider it necessary to keep the SSD and BSD in place for the time being. As it takes time to increase supply, it is important for the Government to maintain its efforts in managing demand and reducing the possible risks of market exuberance to our macroeconomic and financial stability. The Government will remain vigilant and prudent, and continue to closely monitor the property market and the evolving external environment. We will consider adjusting existing measures or introducing new measures as and when circumstances warrant it.

22. The Government has repeatedly emphasised that the fundamental issue of the housing problem lies with land supply, and one of the major reasons for the rally in flat prices and rentals in the past few years is a

tight demand-supply balance. Demand-side management measures such as SSD and BSD are extraordinary measures introduced under the present exceptional circumstances. They serve only as supplementary measures to help stabilise the property market in ensuring its stable and healthy development. Apart from curbing speculative and external demands as and when necessary, the Government is determined to tackle the problem at source by securing an adequate supply of land for housing development in the long run. As set out in the Long Term Housing Strategy promulgated in December 2014, the Government will adopt a multi-pronged strategy comprising short, medium and long term measures to continually expand land resources through optimal use of developed land, as well as development of new land and new towns through major development and reclamation projects. The Government will also seek to promote circulation of the public housing stock.

ADJUSTMENT MECHANISM OF SSD and BSD

23. In order to allow SSD and BSD to be adjusted, or even withdrawn, in a timely manner as circumstances change, the Amendment Ordinance provides that the rates of the SSD and BSD be revised by way of subsidiary legislation, to be made by the Financial Secretary and subject to negative vetting by the LegCo. This mechanism enables future adjustments to be gazetted and put into effect immediately, subject to subsequent scrutiny (and possible amendments without retrospective effect) by the LegCo. The negative vetting mechanism is particularly important in the case where the relevant measures need to be tapered or even withdrawn promptly when the market goes down.

24. In scrutinising the Stamp Duty (Amendment) Bill 2012 (the Bill), Members expressed different views on the adjustment mechanism. While Members appreciated the need for a prompt adjustment of the measures through the negative vetting mechanism when the market goes down, some considered that any proposed increase in SSD or BSD rates should be subject to more deliberation by the LegCo. To strike a balance between preserving the effectiveness of SSD and BSD (which are bound to be market-sensitive and time-critical) and addressing Members' concern, the Government made an undertaking during the resumption of Second Reading debate on the Bill that the negative vetting mechanism would only be used in reducing or withdrawing the SSD or BSD rates, while any proposal to increase the relevant rates would be taken forward by way of a bill to amend the Stamp Duty Ordinance (Cap. 117) (SDO).

25. This commitment not to exercise the power to increase the rates by way of negative vetting as provided for under the Amendment Ordinance is to address the concern of some Members that such further increase in SSD or BSD rates warrants more detailed discussion by the LegCo. Indeed, there were precedent cases in which the Government, instead of making amendments by way of subsidiary legislation as provided for in the relevant ordinance, sought to effect changes by way of an amendment bill. Examples included the Dutiable Commodities (Amendment) Bill 2008 and the Motor Vehicles (First Registration Tax) (Amendment) Bill 2011.

26. In light of some Members' views expressed during the resumption of the Second Reading debate on the Bill, the Government has committed to review and consider if its undertaking may be expressed explicitly in the law. After careful deliberation and having regard to the prevailing market outlook which is still uncertain, we consider it advisable to maintain the status quo, and the undertaking made by the Government last year remains valid. The current adjustment mechanism is consistent with the Government's policy objective while respecting the LegCo's right in scrutinising proposed increases to the SSD and BSD rates. Given the volatile market situation and market sentiments that are very sensitive to any changes to the SSD and BSD regimes, we consider it prudent to avoid creating unnecessary uncertainties in the market.

WAY FORWARD

27. Maintaining the healthy and stable development of the private property market is one of the important housing policy objectives of the Government. The Government will continue to adopt a two-pronged approach of securing a stable supply of land to meet market demand and curbing external and speculative demands as and when necessary, to help stabilise the property market and minimise the adverse consequences arising from an overheated market.

**Transport and Housing Bureau
February 2015**

**Number of Special Stamp Duty (SSD) cases
(as at December 2014)**

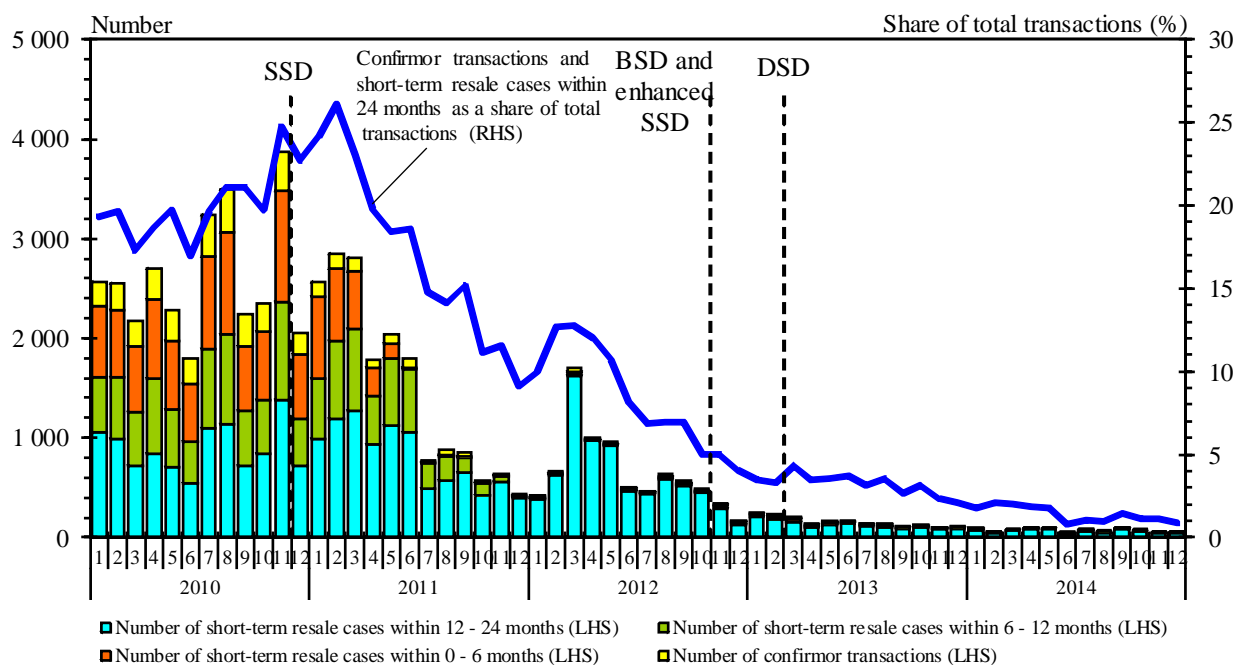
Table 1 : Breakdown of SSD cases by holding period

Holding period	Number of SSD cases (as a percentage of all SSD cases)	Amount of SSD involved (\$ million) (as a percentage of total amount)
6 months or less	137 (3.5%)	40 (5.2%)
More than 6 months but for 12 months or less	345 (8.9%)	90 (11.7%)
More than 12 months but for 24 months or less	3 398 (87.5%)	639 (82.9%)
More than 24 months but for 36 months or less *	5 (0.1%)	2 (0.2%)
Total	3 885	771

* With the enhancement of the SSD on 27 October 2012, holding period within which residential property transactions are subject to SSD was extended from 24 months to 36 months. In other words, SSD cases under this category involve residential properties acquired on or after 27 October 2012 and disposed of on or after 28 October 2014. This may explain the relatively small number of cases under this category.

Effects of Special Stamp Duty (SSD) on speculative activities

Chart 1 : Speculative activities stayed subdued after the introduction of SSD



Note : Confirmor transactions refer to resale before assignment.

Table 2 : Short-term resale activities

Monthly average	Jan-Nov 2010 (before SSD)		Dec 2010 to Oct 2012 (before enhanced SSD)		Nov 2012 to Dec 2014 (after enhanced SSD)	
	No.	Share to total transactions	No.	Share to total transactions	No.	Share to total transactions
Total short term resale	2 661	20.0%	1 195	14.8%	127	2.4%
<i>Within which :</i>						
<i>Confirmor transactions</i>	318	2.4%	60	0.7%	12	0.2%
<i>Resale within 6 months</i>	772	5.8%	145	1.8%	4	0.1%
<i>Resale within 6-12 months</i>	659	4.9%	237	2.9%	9	0.2%
<i>Resale within 12-24 months</i>	912	6.8%	753	9.3%	101	1.9%

Note : Figures might not add up to the corresponding total due to rounding.

**Number of Buyer's Stamp Duty (BSD) cases
(as at December 2014)**

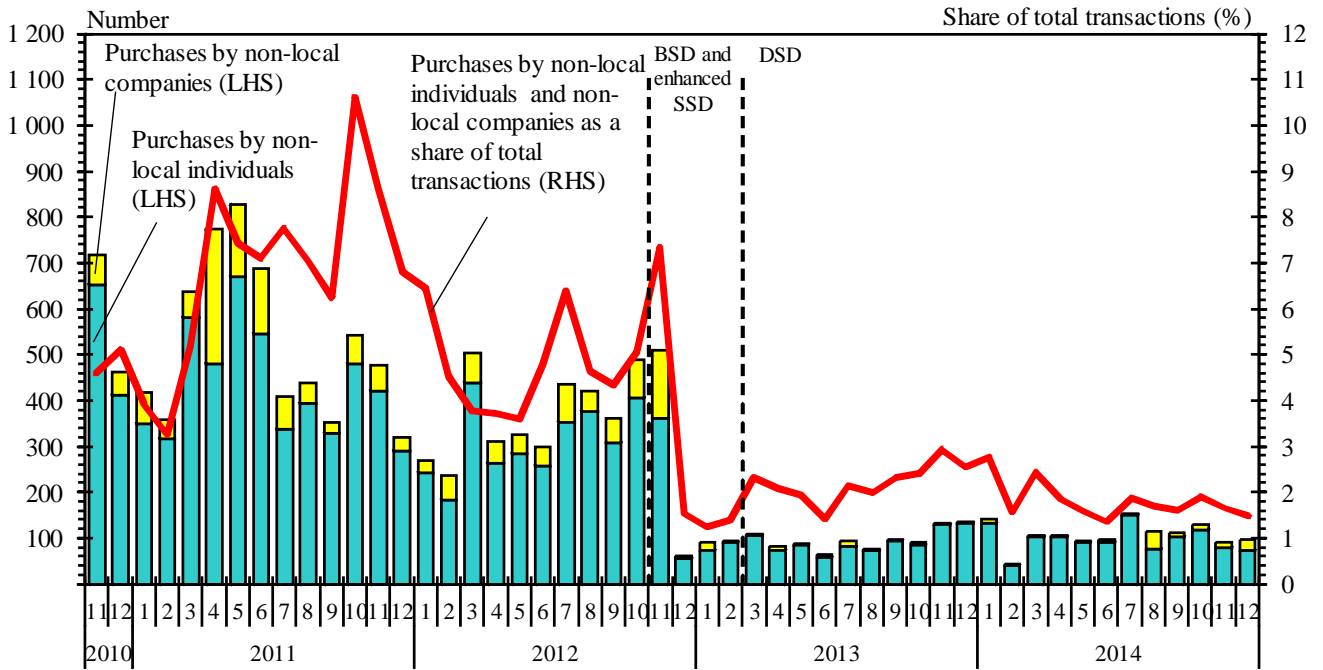
Table 3 : Breakdown of BSD cases by month

Month	Number of BSD cases processed	Amount of BSD involved (\$ million)
March 2014 *	1 827	3,311
April 2014 *	2 139	2,576
May 2014	293	569
June 2014	205	342
July 2014	370	904
August 2014	266	568
September 2014	340	666
October 2014	266	790
November 2014	177	365
December 2014	194	403
Total	6 077	10,494

* Following the gazettal of the Stamp Duty (Amendment) Ordinance 2014, which implements BSD, on 28 February 2014, the Inland Revenue Department started to collect BSD from relevant buyers (including those who acquired residential properties between 27 October 2012 and 28 February 2014). The relatively large number of BSD cases in March and April 2014 was due to the clearance of backlog.

Effects of Buyer’s Stamp Duty (BSD) on purchases by non-local buyers

Chart 2 : Purchases by non-local buyers shrank after the introduction of BSD



Effects of SSD and BSD on the overall property market

Chart 3 : Trading activities have become more subdued since October 2012

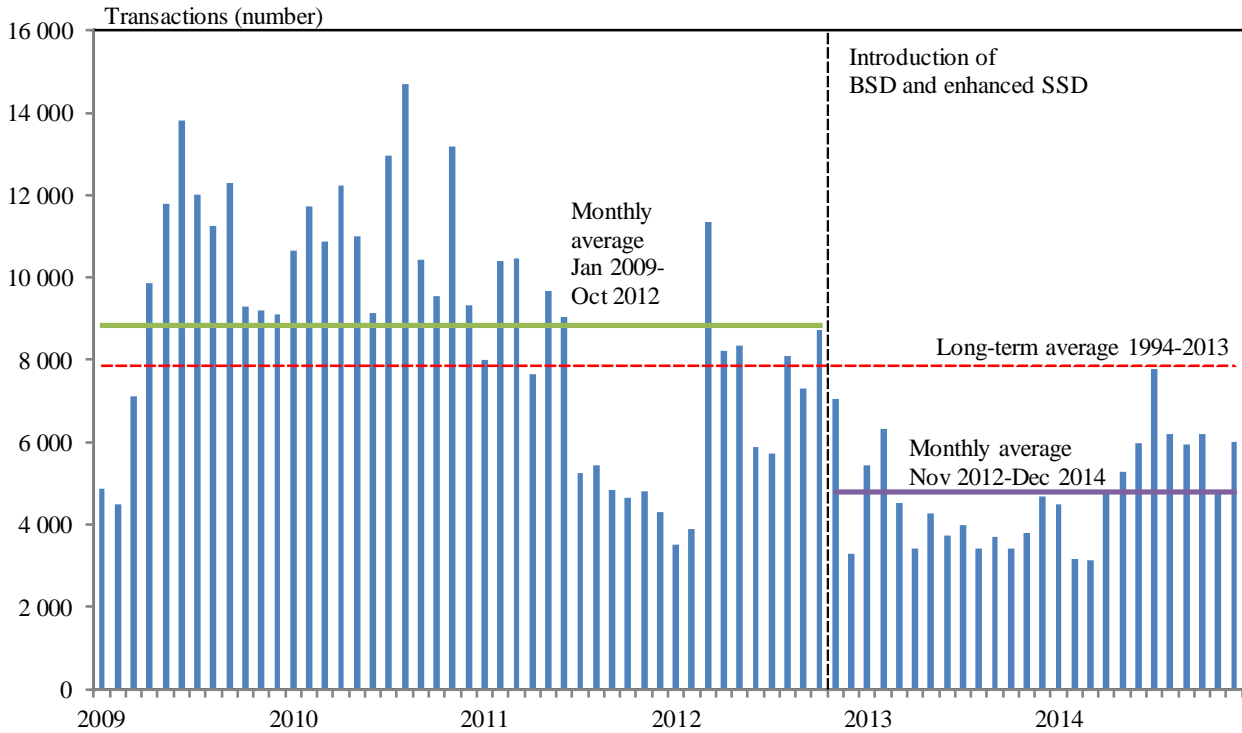


Chart 4 : The uptrend momentum in flat prices and rentals moderated for a year or so after the introduction of BSD and enhanced SSD, but reverted to sustained increases since April 2014

