For discussion on 1 April 2019

Legislative Council Panel on Financial Affairs

E-Stamping of Share Transfer Documents

PURPOSE

This paper briefs Members on the Government's plan to amend the Stamp Duty (Specification of Instruments) Notice (Cap. 117 sub. leg. B) ("Notice") for implementing e-Stamping of the chargeable instruments of stock transactions, i.e. contract notes and instruments of transfer.

BACKGROUND

2. At present, stock transactions and property transactions are subject to stamp duty to be collected by the Stamp Office of the Inland Revenue Department. E-Stamping is an alternative mode of stamping to manual stamping. Under section 18F(1) of the Stamp Duty Ordinance (Cap. 117) ("Ordinance"), a person may, in respect of an instrument specified in Part 1 of the Schedule to the Notice, apply to the Collector of Stamp Revenue for stamping the instrument without presenting it. Currently, the e-Stamping services are restricted to instruments related to property transactions, namely agreement for sale, assignment and tenancy agreement in general.

3. The Hong Kong Exchanges and Clearing Ltd. is currently responsible for collecting the stamp duty for on-exchange stock transactions on behalf of the Collector of Stamp Revenue. For off-exchange stock transactions, duty payers are required to present the contract notes and / or the instruments of transfer to the Stamp Office for stamping. The existing stamping arrangement for off-exchange stock transactions involves manual processing procedures, including calculating the amount of stamp duty payable, preparing assessment sheets for making payment, imprinting stamps by franking machine, etc.

PROPOSAL

4. In order to expand the e-Stamping services to cover instruments related to stock transactions, we propose to amend the Schedule to the Notice to allow applications for stamping of the following two kinds of instruments[1] to be made without presenting the instruments –

(a) contract note of Hong Kong stock and its duplicate or counterpart chargeable with stamp duty under the First Schedule to the Ordinance; and

(b) instrument of transfer of Hong Kong stock and its duplicate or counterpart chargeable with stamp duty under that First Schedule.

5. Under the proposed e-Stamping for stock transactions, duty payers will be able to submit applications for stamping the contract notes and/or the instruments of transfer without presenting the original instruments. Upon receipt of the application and payment of stamp duty, the system will generate stamp certificates. Without submission of the original instruments to the Stamp Office for stamping, the risk of losing or damaging the instruments can be minimised. The e-Stamping services will also enhance convenience to applicants who can submit electronic stamping application anytime and anywhere.

6. E-Stamping of these instruments is proposed to be accepted from the commencement date of the amended Notice, i.e. 16 December 2019.

ENGAGEMENT WITH STAKEHOLDERS

7. The Stamp Office consulted relevant stakeholders from the securities industry, legal and accounting/tax sectors on the proposal in April 2018 and they indicated support in general.

[1] For adjudication and exemption cases, the original instruments are still required to be presented to the Stamp Office for examination and will not be covered by the e-Stamping services. Each of these cases involves examination of the instrument and supporting evidence in ascertaining whether the instruments are chargeable with stamp duty and if yes, the amount of stamp duty payable on a case-by-case basis. It requires judgement from Stamp Office officers and cannot be automated via e-Stamping.

WAY FORWARD

8. Members are invited to note the above proposal. Revisions to the Notice will require legislative amendments by way of negative vetting. Subject to the support of this Panel on the proposal, our tentative legislative plan will be as follows –

Publication in the Gazette	18 April 2019
Tabling at Legislative Council for negative vetting	8 May 2019
Commencement	16 December 2019

Financial Services and the Treasury Bureau
March 2019