

立法會
Legislative Council

LC Paper No. CB(1)995/20-21

(These minutes have been seen
by the Administration)

Ref: CB1/BC/5/20

Bills Committee on Revenue (Stamp Duty) Bill 2021

**Minutes of the second meeting
on Friday, 23 April 2021, at 10:45 am
in Conference Room 2A of the Legislative Council Complex**

- Members present** : Hon CHUNG Kwok-pan (Chairman)
Hon Abraham SHEK Lai-him, GBS, JP
Hon WONG Ting-kwong, GBS, JP
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Hon YIU Si-wing, BBS
Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon CHIANG Lai-wan, SBS, JP
Hon Holden CHOW Ho-ding
Hon SHIU Ka-fai, JP
Hon LUK Chung-hung, JP
Hon Kenneth LAU Ip-keung, BBS, MH, JP
Hon Tony TSE Wai-chuen, BBS, JP
- Public officers attending** : Agenda item I
- Mr Joseph CHAN, JP
Under Secretary for Financial Services and the
Treasury
- Ms May CHAN, JP
Deputy Secretary for Financial Services and the
Treasury (Financial Services)¹
- Mr George TSOI
Principal Assistant Secretary for Financial
Services and the Treasury (Financial Services)²

Miss Helen CHUNG
Principal Assistant Secretary for Financial
Services and the Treasury (Treasury)R1

Clerk in attendance : Mr Boris LAM
Chief Council Secretary (1)3

Staff in attendance : Miss Rachel DAI
Assistant Legal Adviser 2

Miss Rita YUNG
Senior Council Secretary (1)3

Mr Terence LAM
Council Secretary (1)3

Ms May LEUNG
Legislative Assistant (1)3

Miss Zoe YIP
Clerical Assistant (1)3

Action

I. Meeting with the Administration

Draft amendments to the Bill and the Administration's response

(LC Paper No. CB(1)787/20-21(01) -- Draft amendments proposed by
Hon Christopher CHEUNG
Wah-fung

LC Paper No. CB(1)787/20-21(02) -- Administration's response to the
draft amendments proposed by
Hon Christopher CHEUNG
Wah-fung)

Written submissions and the Administration's response

(LC Paper No. CB(1)788/20-21(01) -- Submission dated 8 April 2021
(*Chinese version only*) from a member of the public

- LC Paper No. CB(1)788/20-21(02) -- Submission dated 11 April 2021
(*Chinese version only*) from Hong Kong Securities & Futures Employees Union
- LC Paper No. CB(1)788/20-21(03) -- Submission from New People's
(*Chinese version only*) Party
- LC Paper No. CB(1)788/20-21(04) -- Submission dated 12 April 2021
(*English version only*) from The Taxation Institute of Hong Kong
- LC Paper No. CB(1)788/20-21(05) -- Submission dated 15 April 2021
(*Chinese version only*) from Hong Kong Professionals and Senior Executives Association
- LC Paper No. CB(1)788/20-21(06) -- Submission dated 16 April 2021
(*English version only*) from Capital Markets Tax Committee of Asia
- LC Paper No. CB(1)788/20-21(07) -- Administration's response to
written submissions)

Relevant papers

- (LC Paper No. CB(3)376/20-21 -- The Bill
- File Ref: SF&C/1/2/57C -- Legislative Council Brief issued by the Financial Services and the Treasury Bureau
- LC Paper No. LS52/20-21 -- Legal Service Division Report on the Bill
- LC Paper No. CB(1)732/20-21(01) -- Marked-up copy of the relevant provisions of the Stamp Duty Ordinance (Cap. 117) to be amended by the Bill prepared by the Legal Service Division (Restricted to members))

The Bills Committee deliberated (index of proceedings in the **Appendix**).

Disclosure

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 interests relating to the subjects under discussion at the meeting before they spoke on the subjects.

3. Mr Christopher CHEUNG declared that he was a securities broker.

Bills Committee's decision

4. The Bills Committee noted the draft amendments to the Revenue (Stamp Duty) Bill 2021 ("the Bill") proposed by Mr Christopher CHEUNG. (LC Paper No. CB(1)787/20-21(01)). Mr Christopher CHEUNG invited the Bills Committee to consider whether it would take over and move his amendments. The Chairman put the question to vote. Four members voted for, and four members voted against the proposal. Four members abstained. The Chairman declared that the Bills Committee would not move the amendments proposed by Mr CHEUNG.

Legislative timetable

5. The Bills Committee completed scrutiny of the Bill and raised no objection to the resumption of the Second Reading debate on the Bill at the Council meeting of 26 May 2021. The Chairman informed members that the Bills Committee would submit a written report to the House Committee for consideration at the meeting on 7 May 2021.

(Post-meeting note: The Administration had subsequently informed the Secretariat that it planned to resume the Second Reading debate on the Bill at the Council meeting of 2 June 2021. Members were informed of the revised legislative timetable vide LC Paper No. CB(1)846/20-21 on 29 April 2021 and noted that –

- the Chairman will report the deliberations of the Bills Committee at the House Committee meeting on 21 May 2021; and
- the deadline for giving notice to move amendments to the Bill, if any, is 24 May 2021.)

II. Any other business

6. There being no other business, the meeting ended at 11:46 am.

**Proceedings of the second meeting of
the Bills Committee on Revenue (Stamp Duty) Bill 2021
on Friday, 23 April 2021, at 10:45 am
in Conference Room 2A of the Legislative Council Complex**

Time Marker	Speaker	Subject(s)	Action Required
Agenda item I – Meeting with the Administration			
000350 – 000532	Chairman	<p>The Chairman said that:</p> <p>(a) Mr Christopher CHEUNG had submitted to the Bills Committee for consideration draft amendments to the Revenue (Stamp Duty) Bill 2021 ("the Bill") and the Administration had provided a written response to the amendments; and</p> <p>(b) the Bills Committee had received a total of six written submissions on the Bill and the Administration had provided a consolidated written response to the submissions.</p>	
000533 – 001056	Chairman Mr Christopher CHEUNG	<p>Disclosure of interest by Mr Christopher CHEUNG</p> <p>Mr Christopher CHEUNG's explanation of his proposed amendments to introduce a "sunset clause" in the Bill to limit the duration of the proposed increase in the rate of stamp duty on stock transfers to one year or until such time to be determined by the Legislative Council through a resolution. The rate of stamp duty on stock transfers would be reverted to the pre-adjusted level (i.e. 0.1%) afterwards (LC Paper No. CB(1)787/20-21(01)).</p> <p>In addition, Mr Christopher CHEUNG had indicated his intention to move other amendments to the Bill to the effect that:</p> <p>(a) the proposed new rate of stamp duty on stock transfers (i.e. 0.13%) would be applicable to sell-side only; and</p> <p>(b) the proposed new rate of stamp duty on stock transfers would come into operation on 1 January 2022, so as to allow more time for the industry to adjust their investment strategies.</p>	
001057 – 001549	Chairman Administration	Briefing by the Administration on its written responses to the draft amendments proposed by Mr Christopher CHEUNG (LC Paper No. CB(1)787/20-21(02)) and the written submissions	

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		<p>(LC Paper No. CB(1)788/20-21(07)).</p> <p>The Administration further responded that:</p> <ul style="list-style-type: none"> (a) levying the proposed new rate of stamp duty on only one side of transactions would significantly undermine the objective of the Bill to increase government revenue; (b) imposing different rates of stamp duty on stock transfers on buyers and sellers would entail a fundamental and structural change to the stamp duty regime, thereby affecting the current ecology of the stock market; and (c) there would already be sufficient time for the Hong Kong Exchanges and Clearing Limited ("HKEX") and the industry to make necessary adjustments to their operation systems for the proposed new rate of stamp duty on stock transfers to take effect from 1 August 2021. 	
001550 – 002009	Chairman Mr LUK Chung-hung	<p>Mr LUK Chung-hung expressed the following views:</p> <ul style="list-style-type: none"> (a) he supported the proposed increase in the rate of stamp duty on stock transfers to increase government revenue; (b) the proposed increase in the rate of stamp duty on stock transfers would affect neither people's livelihood nor the turnover and development of the Hong Kong stock market; and (c) he did not support the draft amendments proposed by Mr Christopher CHEUNG. 	
002010 – 002232	Chairman Mr Christopher CHEUNG	<p>Mr Christopher CHEUNG expressed the following views:</p> <ul style="list-style-type: none"> (a) there was no stamp duty levied on derivatives trading, and it was unfair to increase the rate of stamp duty on stock transfers; and (b) the proposed increase in the rate of stamp duty on stock transfers would increase the transaction costs and reduce the volume of stock trading, thus would affect the business of securities brokers, in particular small and medium-sized securities brokers who relied on commission of securities transactions as their main source of 	

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		<p>income; and</p> <p>(c) the Administration should balance the interests between small and medium-sized securities brokers, and large securities brokers when proposing the new rate of stamp duty on stock transfers.</p>	
002233 – 002711	Chairman Mr Tony TSE	<p>Mr Tony TSE expressed the following views:</p> <p>(a) he supported the proposed increase in the rate of stamp duty on stock transfers to increase government revenue in view of the pressure on public finance;</p> <p>(b) the competitiveness of Hong Kong's financial market was built on many unique institutional strengths including free flow of capital, an internationally-aligned regulatory system, and sound financial infrastructures. The proposed increase in the rate of stamp duty on stock transfers would not affect the turnover and development of the Hong Kong stock market;</p> <p>(c) any future changes to the rate of stamp duty on stock transfers should be made with reference to the then prevailing economic, fiscal and market situation; and</p> <p>(d) he did not support the draft amendments proposed by Mr Christopher CHEUNG to limit the duration of the proposed increase in the rate of stamp duty on stock transfers.</p>	
002712 – 002943	Chairman Mr YIU Si-wing	<p>Mr YIU Si-wing expressed the following views:</p> <p>(a) he supported the proposed increase in the rate of stamp duty on stock transfers to increase government revenue in view of the pressure on public finance;</p> <p>(b) the proposed increase in the rate of stamp duty on stock transfers would not affect people's livelihood; and</p> <p>(c) he expressed concern whether the Administration would further increase the rate of stamp duty on stock transfers in the near future.</p>	

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002944 – 003219	Chairman Mr SHIU Ka-fai	Mr SHIU Ka-fai expressed the following views: (a) he did not oppose the proposed increase in the rate of stamp duty on stock transfers to increase government revenue in view of the pressure on public finance; and (b) he did not oppose the draft amendments proposed by Mr Christopher CHEUNG, and would abstain from the vote.	
003220 – 003620	Chairman Dr CHIANG Lai-wan	Dr CHIANG Lai-wan expressed the following views: (a) the current level of the fiscal reserves of over \$800 billion did not call for an adjustment to revise tax rate(s) to increase government revenue; (b) the proposed increase in the rate of stamp duty on stock transfers would increase the transaction costs of stock trading, thus would affect millions of stock investors in Hong Kong; (c) she supported the draft amendments proposed by Mr Christopher CHEUNG; and (d) the Administration should consider proposing an amendment to include a "sunset clause" in the Bill.	
003621 – 003843	Chairman Mr Holden CHOW	Mr Holden CHOW enquired about the breakdown of the stamp duty on stock transfers contributed by different categories of investors, and he expressed doubt on whether it would be appropriate to include in the Bill a "sunset clause" to limit the duration of the proposed increase in the rate of stamp duty on stock transfers.	
003844 – 004345	Chairman Mr WONG Ting-kwong	Mr WONG Ting-kwong expressed the following views: (a) he did not oppose the proposed increase in the rate of stamp duty on stock transfers to increase government revenue in view of the pressure on public finance; (b) in addition to increasing revenue, the Administration should also strive to reduce government expenditure;	

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		<p>(c) the Administration should consider levying the proposed new rate of stamp duty on stock transfers on buyers only;</p> <p>(d) he did not support the draft amendments proposed by Mr Christopher CHUENG; and</p> <p>(e) if the proposed increase in the rate of stamp duty on stock transfers brought adverse effect to the development of the stock market, the Administration should have suitable fallback plan to address such situation.</p>	
004346 – 004627	Chairman Mrs Regina IP	<p>Mrs Regina IP expressed the following views:</p> <p>(a) she supported the proposed increase in the rate of stamp duty on stock transfers to increase government revenue in view of the pressure on public finance;</p> <p>(b) the proposed increase in the rate of stamp duty on stock transfers would not affect people's livelihood; and</p> <p>(c) the Administration should consider introducing new taxes which would not affect people's livelihood, such as the Digital Services Tax in Europe.</p>	
004628 – 005036	Chairman Mr Abraham SHEK	<p>Mr Abraham SHEK expressed the following views:</p> <p>(a) members belonging to the Business and Professionals Alliance for Hong Kong supported the draft amendments proposed by Mr Christopher CHEUNG;</p> <p>(b) the proposed increase in the rate of stamp duty on stock transfers would increase the transaction costs of stock trading, thus would affect retail stock investors in Hong Kong;</p> <p>(c) the proposed increase in the transaction costs of stock trading would also reduce the volume of stock trading, thus would affect the business of securities brokers; and</p> <p>(d) the Administration should balance the interests between small and medium-sized securities brokers, and large securities brokers when proposing the new rate of stamp duty on stock</p>	

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		transfers.	
005037 – 005855	Chairman Administration	<p>The Administration's consolidated responses to members' views were as follows:</p> <ul style="list-style-type: none"> (a) with the combined result of the Coronavirus Disease 2019 pandemic and economic downturn, coupled with the launch of counter-cyclical measures to support the public and businesses and the need to sustain recurrent expenditure, the Government had already recorded fiscal deficit in two consecutive financial years (2019-2020 and 2020-2021). The objective of the Bill was to increase government revenue to address the fiscal needs in the short to medium term and improve the fiscal position of the Government; (b) the transaction costs structure of stock markets around the world varied. Unlike some markets which charged dividend tax and capital gains tax, Hong Kong did not charge such taxes; (c) the Administration had struck a balance between increasing government revenue and sustaining financial market development, as well as the need to maintain Hong Kong as an international financial centre in proposing the increase in the rate of stamp duty on stock transfers (i.e. from 0.1% to 0.13%). Every transaction of \$100,000 would only incur an additional \$30 of stamp duty on each side; (d) market turnover and competitiveness of the stock market would hinge on various factors, and transaction costs of stock trading, comprising stamp duty and other types of levy, was only one of them; (e) the Administration had continued to increase the breadth and depth of stock market in recent years, including enhancing the Stock Connect schemes, allowing pre-revenue biotech and new economy companies with weighted voting rights structures to list in Hong Kong, and facilitating Greater China companies to seek secondary listing in Hong Kong. The Hong Kong stock market was expected to remain robust and vibrant; 	

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		<p>(f) the trading of derivatives and exchange-traded funds under HKEX was currently not subject to stamp duty. The volume of such trading accounted for less than 20% of the total market turnover;</p> <p>(g) the stamp duty on stock transfers was levied on all stock transfers regardless of the size of securities brokers involved. Around 80% of the stamp duty on stock transfers was contributed by institutional investors, while around 20% by retail investors;</p> <p>(h) the Administration clarified that only carried interest issued by private equity firms fulfilling certain conditions would enjoy tax concessions;</p> <p>(i) it was not the right time to introduce new types of taxes as combating the pandemic and reviving the economy were current priorities of the whole community. The Administration would continue to keep in view the international tax developments;</p> <p>(j) the Administration did not support including a "sunset clause" in the Bill. In determining whether any changes would need to be made to the rate of stamp duty on stock transfers, a wide range of factors, including economic, fiscal and the market situation, would need to be taken into account;</p> <p>(k) to provide relief to the industry amidst the economic downturn, (i) the Administration had provided a special subsidy under the Anti-epidemic Fund to small and medium-sized securities brokers and licensed individuals in the securities industry; (ii) the Securities and Futures Commission had waived the annual licensing fees payable by all licensed corporations, registered institutions, responsible officers and representatives for the financial years of 2020-2021 and 2021-2022; and (iii) HKEX had offered \$10,000 invoice credits to each eligible exchange participants. In addition, the Administration, the Hong Kong Productivity Council and the Cyberport co-organized the "Fintech Development Roundtable Meeting for Securities Industry" in October 2020 to facilitate the adoption of</p>	

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		<p>financial technology by the securities sector for upgrading and transforming their services as appropriate; and</p> <p>(l) the Administration would continue to liaise with the industry on how the operating difficulties faced by the small and medium-sized securities brokers might be addressed.</p>	
005856 – 010130	Chairman Mr Christopher CHEUNG	Mr Christopher CHEUNG requested the Bills Committee to consider whether it would take over and move his proposed amendments to add a "sunset clause" to the Bill.	
010131 – 010203	Chairman Dr CHIANG Lai-wan	Dr CHIANG Lai-wan said that for each investment in stock of \$100,000, the transaction costs in terms of stamp duty would increase by \$60 (i.e. \$30 each at the time of buying and selling) after the proposed new rate of stamp duty on stock transfers came into operation.	
010204 – 010311	Chairman	<p>The Chairman put the question on Mr Christopher CHEUNG's proposal to vote.</p> <p>Members voted and the proposal was not passed.</p>	
010312 – 010409	Chairman	<p>The Bills Committee completed the scrutiny of the Bill.</p> <p>Legislative timetable.</p>	
Agenda item II – Any other business			
010410 – 010426	Chairman	Closing remarks.	