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LEGISLATIVE COUNCIL BRIEF

STAMP DUTY ORDINANCE
(Chapter 117)

Revenue (Stamp Duty) Bill 2021

INTRODUCTION

At the meeting of the Executive Council on 24 February 2021, the Council **ADVISED** and the Chief Executive **ORDERED** that the Revenue (Stamp Duty) Bill 2021 ("the Bill"), at **Annex**, should be introduced into the Legislative Council ("LegCo") to increase the rate of Stamp Duty on Stock Transfers from 0.1% to 0.13%.

Annex

JUSTIFICATIONS

Stamp Duty on Stock Transfers

2. The rate of Stamp Duty on Stock Transfers is prescribed under Head 2(1)(A) of the First Schedule to the Stamp Duty Ordinance (Cap. 117)("SDO"). At present, both the buyers and sellers are required to pay stamp duty at 0.1% (each side) of the amount of consideration / its value. The rate of such stamp duty has been reduced three times since 1993, from the original rate of 0.15% (each side) to the current level of 0.1% (each side)[1].

[1] The rates of Stamp Duty of Stock Transfers during the past periods are as follows:

	1 April 1993 – 31 March 1998	1 April 1998 – 6 April 2000	7 April 2000 – 31 August 2001	1 September 2001 onwards
Contract Note for sale or purchase of any Hong Kong stock (for every sold note and every bought note)	0.15%	0.125%	0.1125%	0.1%

3. Over the past decade, Stamp Duty on Stock Transfers has been an important source of government revenue, contributing $20 billion to $37 billion each year. It represents 4.1%-7.4% of the Government's total revenue, or 5.7%-8.8% of the Government's operating revenue during the period. With the Government and relevant parties' sustained efforts in introducing polices and measures to expand the stock market, including the launch of Stock Connect schemes and new listing regime, the number of listed companies and market turnover have continued to increase in recent years. Notably, in the first nine months of the Financial Year ("FY") 2020-21 (April to December 2020), we saw an average daily turnover of $132.32 billion in the stock market, generating a total of around $37.5 billion government revenue from Stamp Duty on Stock Transfers. Assuming the same trend of receipts, it is projected that the contribution of Stamp Duty on Stock Transfers to government revenue could amount to $51 billion in FY 2020-21.

Government's fiscal position

4. As the combined result of the COVID-19 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, we have already recorded fiscal deficit in two consecutive financial years (2019-20 and 2020-21). The latest Medium Range Forecast also projects a deficit for five consecutive years from 2021-22 in the Operating Account.

5. This mounting pressure on public finance necessitates measures to contain government expenditure and increase government revenue. In terms of increasing government revenue, while the Government will maintain the growth and vibrancy of our economy and identify new areas of economic growth, the 2020-21 Budget also highlighted the need to consider revising tax rates and seeking new revenue sources to address our fiscal needs in the short to medium term.

THE PROPOSAL

6. Having considered all factors, we propose the rate of Stamp Duty on Stock Transfers should be increased to 0.13% to strike 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. The Government will continue to spare no efforts in introducing measures to facilitate the development of the securities market, so as to take our financial services sector to the next level.

OTHER OPTIONS

7. We must amend the SDO to give effect to the proposed increase in the rate of Stamp Duty on Stock Transfers. There are no other viable options.

THE BILL

8. The main provision of the Bill (Clause 3) amends the SDO to increase the rate of stamp duty payable on contract notes for sale or purchase of Hong Kong stock and correspondingly on certain transfers of such stock with effect from 1 August 2021.

LEGISLATIVE TIMETABLE

9. The legislative timetable will be –

Publication in the Gazette	5 March 2021
First Reading and commencement of Second Reading debate	17 March 2021
Resumption of Second Reading debate, committee stage and Third Reading	To be notified

COMMENCEMENT

10. Practically, any stamp duty increase can only be implemented on a prospective basis. Taking into account the time required for the legislative process and the need for the Hong Kong Exchanges and Clearing Limited and the industry to make necessary adjustments to their operation systems, we plan to implement the adjustment on 1 August 2021.

IMPLICATIONS OF THE PROPOSAL

11. The Bill is in conformity with the Basic Law, including the provisions concerning human rights. It will not affect the binding effect of the existing provisions of the SDO. It has no productivity, environmental, family, gender or civil service implications. It has no sustainability implications other than those set out in the section on "Economic Implications" below.

Economic Implications

12. The proposal will increase the transaction costs of stock trading. Nonetheless, there have been continued efforts in increasing the breadth and depth of our 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 recently-announced 2021-22 Budget has also set out the blueprint to further enhance our market competitiveness and strengthen mutual market access programmes. Given all these, the Hong Kong stock market is expected to remain robust and vibrant.

Financial Implications

13. Assuming that the increase in the rate of Stamp Duty on Stock Transfers will take effect on 1 August 2021, we estimate it will bring in an additional $8 billion revenue in the eight months in FY 2021-22. The full-year financial implications will be $12 billion.

PUBLIC CONSULTATION

14. The Government launched the public consultation exercise for the 2021-22 Budget on 20 December 2020. Public views varied when it comes to public finance. While some advocated that certain tax and rates concessions should continue to reduce the burdens of the general public, others urged the Government to gradually increase tax rate, or even introduce new tax and broaden the tax base to increase income. In formulating the above proposal, we have taken into account the views received from stakeholders during the Budget consultation process.

PUBLICITY

15. We will issue a press release upon the gazettal of the Bill, and arrange a spokesperson to answer media enquiries.

ENQUIRIES

16. Enquiries relating to this brief can be directed to Mr George Tsoi, Principal Assistant Secretary for Financial Services and the Treasury (Financial Services), at 2810 2056 and Miss Helen Chung, Principal Assistant Secretary for Financial Services and the Treasury (Treasury), at 2810 2370.

Financial Services and the Treasury Bureau
3 March 2021

Annex

A BILL

To

Amend the Stamp Duty Ordinance to give effect to the proposal in the Budget introduced by the Government for the 2021–2022 financial year to increase the stamp duty on certain instruments in respect of Hong Kong stock.

Enacted by the Legislative Council.

1. Short title and commencement

(1) This Ordinance may be cited as the Revenue (Stamp Duty) Ordinance 2021.

(2) This Ordinance comes into operation on 1 August 2021.

2. Stamp Duty Ordinance amended

The Stamp Duty Ordinance (Cap. 117) is amended as set out in section 3.

3. First Schedule amended

(1) First Schedule, head 2(1), paragraph (A)—

Repeal

"0.1%"

Substitute

"0.13%".

(2) First Schedule, head 2(3), paragraph (A)—

Repeal

"0.2%"

Substitute

"0.26%".

Explanatory Memorandum

The object of this Bill is to amend the Stamp Duty Ordinance (Cap. 117) (***Ordinance***) to give effect to the proposal in the Budget introduced by the Government for the 2021–2022 financial year to increase the stamp duty on certain instruments in respect of Hong Kong stock.

2. Clause 1 sets out the short title and provides for commencement.

3. Clause 3 amends head 2(1) and (3) in the First Schedule to the Ordinance to increase the rate of stamp duty—

   (a) chargeable on a contract note for the sale or purchase of any Hong Kong stock (not being jobbing business)—from 0.1% to 0.13%; and

   (b) chargeable on a transfer operating as a voluntary disposition inter vivos or made for the purpose of effectuating a transaction whereby the beneficial interest in Hong Kong stock passes otherwise than on sale and purchase—from 0.2% to 0.26%.