

LEGISLATIVE COUNCIL BRIEF

Stamp Duty Ordinance (Cap. 117)

Securities and Futures and Companies Legislation (Amendment) Ordinance 2021 (17 of 2021)

Stamp Duty Legislation (Miscellaneous Amendments) Bill 2024

INTRODUCTION

At the meeting of the Executive Council on 29 October 2024, the Council **ADVISED** and the Chief Executive **ORDERED** that the Stamp Duty Legislation (Miscellaneous Amendments) Bill 2024 (the Bill), at the **Annex**, should be introduced into the Legislative Council (LegCo). The Bill amends the Stamp Duty Ordinance (Cap. 117) (SDO) to waive the stamp duty payable on the transfer of shares or units of real estate investment trust (REIT) and on transactions amounting to jobbing business of options market makers, and amends the Securities and Futures and Companies Legislation (Amendment) Ordinance 2021 (17 of 2021) (SFCL(A)O) to provide for a revised stamp duty collection arrangement upon the implementation of the uncertificated securities market (USM) regime in Hong Kong.

JUSTIFICATIONS

Development of REIT

2. REIT is a collective investment scheme constituted as a trust that invests primarily in real estate, with an aim to provide returns derived from recurrent rental income arising from real estate to investors. REITs offer retail investors the chance to participate, by committing a relatively small investment amount, in property holding and investment managed by professional real estate managers. Investors can gain investment exposure to large-scale income-generating real estate in a more cost-effective manner through REITs.

3. The first Hong Kong REIT¹ was launched in 2005, and the Hong Kong REIT market has since registered significant growth. As of end-September 2024, the Hong Kong REIT market ranked fourth in size in the Asia-Pacific region² with a market capitalisation of close to \$146 billion, representing a growth of 5.6 times compared with 2005. The Hang Seng REIT Index Total Return Index has gone up by 4.6 times from its launch in 2008, outperforming the 2.4 times growth in the Hang Seng Index Total Return Index during the same period. There are currently 11 REITs listed in Hong Kong, with an average daily turnover of about \$372 million as of end-September 2024.

4. We have been developing the REIT market through a number of measures –

- (a) the SFC revised the REIT Code in 2020 to relax the investment restrictions³ for REITs;
- (b) the Mandatory Provident Fund Schemes Authority has relaxed the restrictions on Mandatory Provident Fund schemes' investment in REITs since 2020, broadening the REIT investor base;
- (c) the Government and the SFC launched a Grant Scheme in 2021 to provide funding support for REITs listed in Hong Kong to pay for eligible expenses charged by Hong Kong-based professional service providers, subject to a cap of \$8 million per REIT. The Government has extended the Grant Scheme for three years to 2027 with a view to further attracting REITs to list in Hong Kong; and
- (d) on 19 April 2024, the China Securities Regulatory Commission announced a series of measures to further expand the mutual access between the capital markets of the Mainland and Hong Kong, including the incorporation of REITs under Stock Connect to broaden the investment options for the Mainland, Hong Kong and overseas investors and their asset allocation. This would significantly broaden the investor base of the REIT markets in the two places and increase the liquidity and attractiveness of Hong Kong REITs when materialised.

¹ REITs are primarily regulated by the Securities and Futures Commission (SFC) pursuant to the Code on Real Estate Investment Trusts (REIT Code) and with reference to the requirements applicable to listed companies under the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited (SEHK). A REIT has to appoint a management company with a licence for Type 9 regulated activity (asset management) issued by the SFC to manage the scheme, distribute not less than 90% of after tax net income to unitholders, keep assets in the custody of an independent trustee, and must be listed on the SEHK.

² Following Australia, Japan and Singapore.

³ Including (i) allowing REITs to invest in minority-owned properties; (ii) allowing REITs to invest in property development projects in excess of the 10% of gross asset value limit subject to unitholders' approval; and (iii) raising the borrowing limit to 50% of gross asset value.

5. To further propel the development of REITs in Hong Kong and consolidate our position as a regional REIT hub, we propose to enhance the stamp duty arrangement applicable to REITs as detailed in paragraphs 14 and 15 below.

Jobbing Business Performed by Options Market Makers

6. The options market makers programme under the Hong Kong Exchanges and Clearing Limited (HKEX) has been operating for years. Options market makers have to fulfil their obligations to provide bid-ask quotes for trading by investors, hence enhancing efficiency and liquidity in the options market. By ensuring the availability of bid-ask quotations for options contracts in the market, options market makers facilitate investors to complete relevant transactions where no quotes have been offered by buyers or sellers. This helps maintain market continuity and liquidity. Moreover, the quotes offered by market-makers aid forming the market prices of options contracts for reference by investors, thus facilitating price discovery and enhancing the price transparency of options contracts. Investors can also refer to the latest price movements when making investment and risk management decisions.

7. With continuous product development in the Hong Kong securities market in recent years and the increasing diversification of investment strategies, the trading pattern is changing. The trading volume of options has increased significantly, with the average daily trading volume of equity index options and stock options having risen by 10% and 4% respectively from 2022 to 2023. The demand for services provided by options market makers is also growing.

8. Options market makers may need to hold relevant options during the process of fulfilling their obligations. They also have to trade associated underlying securities for hedging to avoid relevant price risks. The Stamp Duty (Jobbing Business) (Options Market Makers) Regulation (Cap. 117 sub. leg. A) specifies the following transactions or dealings as constituting jobbing business for the purposes of the SDO –

- (a) the sale or purchase of stock by an options market maker which is directly pursuant to the hedging of a transaction in an options contract entered into by that options market maker; and
- (b) the sale or purchase of stock by an options market maker (in the ordinary course of acting as an options market maker) which directly arises out of a transaction in an options contract entered into by that options market maker.

Uncertificated Securities Market

9. Currently, Hong Kong operates a paper-based securities regime, i.e. paper instruments are used to evidence and transfer legal title to shares and certain other securities. Due to practical considerations, most investors do not choose to hold the legal title to their securities, and instead hold and transfer their securities through the Central Clearing and Settlement System (CCASS) operated by the Hong Kong Securities Clearing Company Limited (HKSCC)⁴. Transfers of securities within CCASS only entail a change of beneficial interest and not legal title, and the securities remain registered in the name of a single central nominee (i.e. HKSCC Nominees Limited). Such transfers are carried out electronically without the need to present paper title documents or instruments of transfer.

10. With a view to further enhancing efficiency in the Hong Kong market and providing higher investor protection and transparency, the Government, the SFC, HKEX, the Federation of Share Registrars Limited and the industry have been making efforts in implementing a USM regime in Hong Kong.

11. LegCo passed the SFCL(A)O in June 2021, which establishes the main legal framework for the USM regime. The SFCL(A)O also empowers the SFC to make rules to provide for various detailed operational and regulatory matters under the regime. Pursuant to that framework, and following a series of extensive public consultations conducted in March 2023 and concluded in July 2024, the SFC has proposed several items of subsidiary legislation⁵, codes and guidelines, setting out the operational and regulatory matters. The proposed subsidiary legislation is being finalised with a view to being introduced into LegCo within the first quarter of 2025.

12. The SFCL(A)O includes amendments to the SDO to enable an electronic process to be put in place for stamping and collecting stamp duty payable on contract notes for off-exchange transactions under the USM regime⁶.

⁴ The HKSCC is a recognized clearing house under the Securities and Futures Ordinance (Cap. 571) (SFO).

⁵ The proposed items of subsidiary legislation include two new items, i.e. the Securities and Futures (Uncertificated Securities Market) Rules and the Securities and Futures (Approved Securities Registrars) Rules. Items of subsidiary legislation are also proposed to amend Schedules 5 and 8 to the SFO, the Securities and Futures (Stock Market Listing) Rules (Cap. 571 sub. leg. V), and the Securities and Futures (Open-ended Fund Companies) Rules (Cap. 571 sub. leg. AQ). The relevant consultation paper and consultation conclusions paper, discussing these new items and amendments are available at the SFC's website:
<https://apps.sfc.hk/edistributionWeb/api/consultation/openFile?lang=EN&refNo=23CP3> and
<https://apps.sfc.hk/edistributionWeb/gateway/EN/consultation/conclusion?refNo=23CP8>.

⁶ For on-exchange transactions, the stamp duty payable is currently collected and paid through the SEHK electronically and paper documents are not required to be produced to the Stamp Office for physical stamping. This arrangement will remain unchanged after the implementation of the USM

Specifically, it provides for a new stamping method for certain contract notes, which may be stamped by way of an electronic imprint rather than a physical stamp, subject to the relevant arrangements for collecting stamp duty being approved by the Collector of Stamp Revenue (the Collector). Contract notes so stamped may also be regarded as having been executed for the purposes of section 19(1) of the SDO so that they need not be physically signed.

THE PROPOSALS

13. To promote the development of the financial market and further enhance market competitiveness, the 2024-25 Budget announced the waiving of the stamp duty payable on the transfer of REIT shares or units and the jobbing business of options market makers. The industry generally welcomes these proposals, and expects that the proposals may help enhance market liquidity and support market development.

Stamp Duty Waiver for Transfer of REIT Shares or Units

14. Currently, under section 19 of the SDO, the sale or purchase of “Hong Kong stock” (including REIT shares or units) is generally chargeable with stamp duty, with the prevailing stamp duty rate being 0.1% on both the buyer and the seller. While investors of REIT units may be subject to other types of taxes, stamp duty for REIT transactions is generally not payable in most international markets, including those in the Mainland, Japan, Singapore, the United States, etc.

15. We are committed to reinforcing the financial market and strengthening the competitiveness of the stock market, with stamp duty waivers implemented for specific financial products⁷. Waiving the stamp duty payable on the transfer of REIT shares or units is conducive to enhancing the competitiveness of Hong Kong REITs, and will practically support the development of the Hong Kong REIT market.

Stamp Duty Waiver for Jobbing Business of Options Market Makers

16. Under section 19(1) and the First Schedule of the SDO, any person effecting a transaction amounting to jobbing business is required to make a contract note and pay a fixed stamp duty of \$5 for the stamping of each contract

regime. On the other hand, off-exchange transactions currently entail the preparation of physical instruments of transfer and/or contract notes that must be physically signed and stamped. The framework introduced by the SFCL(A)O aims to enable a wholly electronic process for stamping and stamp duty collection in respect of such transactions.

⁷ Examples include the stamp duty waiver for the transfer of shares or units of exchange traded funds, and for transactions made by market makers under the Dual-counter Market Maker regime.

note. To comply with the stamping requirements, options market makers have to submit the contract notes and pay the stamp duty to the Inland Revenue Department directly. Currently, market makers for products other than options are not required to pay stamp duty.

17. To enhance the efficiency of the options market and bring the arrangement on a par with other market makers, we propose waiving the stamp duty payable in respect of the jobbing business of options market makers, and correspondingly removing the requirement to make and stamp contract notes for relevant business under the SDO.

Uncertificated Securities Market

18. Under the SFCL(A)O, the Collector may approve arrangements for collecting stamp duty chargeable on certain contract notes by way of an electronic imprint made by persons who have been authorised to do so by the Collector. When the SFCL(A)O was enacted, it was envisaged that “approved securities registrar” (ASR)⁸ might be one such category of authorised persons for off-exchange transfers of uncertificated securities involving legal title change⁹. In such case, an ASR would be responsible for collecting the stamp duty payable and passing it to the Collector, as well as stamping the contract notes.

19. In order to provide a simpler and more efficient process, it is proposed to enable ASRs to leverage on the existing electronic stamping arrangements (namely, stamping by way of stamp certificates) under Part IIA of the SDO to facilitate stamping and collection of stamp duty in the USM environment. Under the revised arrangement, upon receiving transfer instructions from investors, the ASR involved will facilitate the stamping and stamp duty collection process by directing the investors to the Stamp Office’s e-platform to complete the stamping and stamp duty payment process¹⁰.

20. Consistent with the objective of removing the need to use paper documents, it is also proposed to amend the SDO, and correspondingly the Electronic Transactions Ordinance (Cap. 553) (ETO), to provide that any contract notes relating to uncertificated securities that are stamped using the e-Stamping arrangements need not be physically signed or be in paper form.

⁸ An ASR is an issuer’s agent approved by the SFC who is responsible for evidencing and transferring legal title to uncertificated securities through its electronic registration and transfer system.

⁹ Separately, arrangements may also be entered into between the Collector and the HKSCC for off-exchange transfers of prescribed securities (with the meaning given by the new section 101AA, to be added to the SFO by section 7 of the SFCL(A)O) involving the HKSCC’s clearing participants or their clients.

¹⁰ The Stamp Office will process the e-Stamping application directly and issue stamp certificates in accordance with the existing arrangements provided under Part IIA of the SDO. The transferee will be able to download the stamp certificate from the Stamp Office’s e-Stamping portal.

OTHER OPTIONS

21. Amending the SDO and the SFCL(A)O is the only way to give effect to the proposed stamp duty waiver and the revised stamp duty collection arrangement under the USM regime.

THE BILL

22. The main provisions of the Bill are as follows –

- (a) Clause 4 amends section 19 of the SDO to provide that, among others, a contract note is not required to be made and executed for a transaction or dealing specified in section 3 of the Stamp Duty (Jobbing Business) (Options Market Makers) Regulation (Cap. 117 sub. leg. A);
- (b) Clause 7 amends the First Schedule to the SDO by, among others, repealing head 2(2) in the First Schedule so that no stamp duty (currently \$5) is chargeable in respect of jobbing business;
- (c) Clause 9 adds a new Schedule 11A to the SDO to specify the scope of REIT transactions and transfers in respect of which stamp duty is waived, and to provide for the definitions to be used in that Schedule;
- (d) Clause 12 amends section 54 of the SFCL(A)O (which adds new sections 5AA and 5AAB to the SDO) so that the stamp duty collection arrangement to be approved under the new section 5AAB is only applicable in relation to a sale or purchase effected by an authorized person;
- (e) Clause 13 amends section 55 of the SFCL(A)O (which amends section 19 of the SDO) to provide that a contract note is regarded as having been executed if it is, among others, stamped by way of a stamp certificate on application by an ASR. This is to enable a contract note to be in electronic form if an ASR has facilitated the process for paying the stamp duty chargeable on it by leveraging on the existing e-Stamping arrangements provided under Part IIA of the SDO; and
- (f) Clause 15 amends section 65 of the SFCL(A)O (which amends Schedule 1 to the ETO) so that contract notes that are regarded as having been so executed under the SDO are not excluded from the application of the relevant provisions of the ETO. This is to enable contract notes to be in electronic form if the stamp duty chargeable on them is paid via e-Stamping arrangements facilitated by ASRs.

LEGISLATIVE TIMETABLE

23. The legislative timetable will be as follows—

Publication in the Gazette	8 November 2024
First Reading and commencement of Second Reading debate	20 November 2024
Resumption of Second Reading debate, committee stage and Third Reading	To be notified

COMMENCEMENT

24. The Government and financial regulator have been working with HKEX to prepare for the implementation of the measures, including assisting market participants in making necessary system adjustments while ensuring that there would be no disruption to market operations upon implementation. We propose to implement the stamp duty waiver payable on the transfer of REIT shares or units and the jobbing business of options market makers on the first day after the gazettal date of the Ordinance subsequent to the passage of the Bill.

25. On the revised stamp duty collection arrangement under the USM regime, the amendments made by this Bill to the uncommenced Part 2 of the SFCL(A)O will come into effect on the date of the publication of the Ordinance in the Gazette. The amended Part 2 of the SFCL(A)O will come into operation on a date to be specified in a commencement notice in accordance with section 1(3) of the SFCL(A)O. Subject to the preparation of HKEX and the trade, we target to implement the USM regime within 2025.

IMPLICATIONS OF THE PROPOSAL

26. The proposals are in conformity with the Basic Law, including the provisions concerning human rights. The proposals will not affect the binding effect of the existing legal provisions. There are no civil service, productivity, environmental, gender or family implications arising from the proposals. There are no sustainability implications other than those set out in the economic implications below.

Economic Implications

27. The proposed stamp duty waiver will reduce the costs of REITs trading and the jobbing business of options market makers. This should enhance the competitiveness of Hong Kong REITs and the efficiency of the

options market and provide further facilitation to investors, which are conducive to promoting liquidity and a more thriving and sustainable securities market in the long run. These would in turn support the development of the financial services sector, including securities, banking, accounting and other supporting services, and strengthen Hong Kong's competitiveness as an international financial centre. The revised stamp duty collection arrangement also facilitates a more efficient stamping and collection process under the USM environment.

Financial Implications

28. Assuming that the stamp duty waiver will take effect in December 2024, we estimate that it will bring a direct revenue forgone of \$130 million in the financial year 2024-25 and a full year effect of \$400 million from the financial year 2025-26 onwards. The revised stamp duty collection arrangement under the USM regime is not expected to have any additional financial implications to the Government.

PUBLIC CONSULTATION

29. We consulted the LegCo Panel on Financial Affairs on the legislative proposals on the stamp duty waiver and the implementation of USM regime on 8 July 2024 and 6 May 2024 respectively. Members were generally supportive.

PUBLICITY

30. We will issue a press release upon the gazettal of the Bill. A spokesperson will be available to answer media enquiries.

ENQUIRIES

31. Enquiries on this brief can be directed to Mr Larry Chu, Principal Assistant Secretary for Financial Services and the Treasury (Financial Services), at 2810 2056.

Financial Services and the Treasury Bureau
6 November 2024

Stamp Duty Legislation (Miscellaneous Amendments) Bill 2024

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A BILL
To

Amend the Stamp Duty Ordinance to give effect to the proposal in the Budget introduced by the Government for the 2024–2025 financial year to waive the stamp duty payable on the transactions and transfers of shares or units of real estate investment trusts and on the transactions and dealings specified in the Stamp Duty (Jobbing Business) (Options Market Makers) Regulation; to amend the Securities and Futures and Companies Legislation (Amendment) Ordinance 2021 to adjust the stamp duty collection arrangement involving approved securities registrars under the uncertificated securities market regime; and to provide for related matters.

Enacted by the Legislative Council.

Part 1

Preliminary

- 1. Short title and commencement**
- (1) This Ordinance may be cited as the Stamp Duty Legislation (Miscellaneous Amendments) Ordinance 2024.
 - (2) Subject to subsection (3), this Ordinance comes into operation on the day on which it is published in the Gazette.
 - (3) Part 2 comes into operation on the day immediately following the day on which this Ordinance is published in the Gazette.

2. Enactments amended

The enactments specified in Parts 2 and 3 are amended as set out in those Parts.

Part 2

**Waiver of Stamp Duty in respect of Real Estate
Investment Trust and Jobbing Business**

Division 1—Stamp Duty Ordinance (Cap. 117)

3. Section 4 amended (charging of, liability for, and recovery of stamp duty)

Section 4(3)—

Repeal

“, 19 or 20”

Substitute

“or 19”.

4. Section 19 amended (contract notes, etc. in respect of sale and purchase of Hong Kong stock)

(1) Section 19(1)(b)—

Repeal

“or (2)”.

(2) Section 19(1)(d)(i)—

Repeal

“or (2)”.

(3) Section 19(1DA)—

Repeal

everything after “specified”

Substitute

“in—

- (a) Part 2 of Schedule 8;
- (b) Part 2 of Schedule 9;
- (c) Part 2 of Schedule 10;
- (d) Part 2 of Schedule 11; or
- (e) Part 2 of Schedule 11A.”.

(4) After section 19(1DA)—

Add

“(1DB) Subsection (1) does not apply to a transaction or dealing specified in section 3 of the Stamp Duty (Jobbing Business) (Options Market Makers) Regulation (Cap. 117 sub. leg. A).”.

(5) Section 19—

Repeal subsection (9)

Substitute

“(9) An endorsement under subsection (1) in respect of stamp duty paid under head 2(1) in the First Schedule may be made by the Collector, or any person authorized by the Collector in that behalf, in any manner the Collector considers appropriate.”.

5. **Section 20 repealed (stamp duty payable where transaction in respect of Hong Kong stock does not amount to jobbing business)**

Section 20—

Repeal the section.

6. **Section 63 substituted**

Section 63—

Repeal the section

Substitute

“63. Regulations

- (1) The Financial Secretary may by regulation specify the transactions or dealings in respect of Hong Kong stock that constitute jobbing business for the purposes of this Ordinance.
- (2) The Financial Secretary may by regulation amend the Second and the Fourth Schedules, and Schedules 8, 9, 10, 11 and 11A.”.

7. **First Schedule amended**

(1) First Schedule, within the square brackets—

Repeal

“19A, 20”

Substitute

“19A”.

(2) First Schedule—

Repeal

“9 & 10]”

Substitute

“9, 10 & 11A]”.

(3) First Schedule, head 2(1)—

Repeal

“And see sections 2, 4, 5, 5A, 6, 19, 20,”

Substitute

“And see sections 2, 4, 5, 5A, 6, 19,”.

(4) First Schedule, head 2—

Repeal sub-head (2).

(5) First Schedule, head 2(3), Note 4—

Repeal

everything after “specified”

Substitute

“in—

- (a) Part 3 of Schedule 8;
 - (b) Part 3 of Schedule 9; or
 - (c) Part 3 of Schedule 11A”.
- (6) First Schedule, head 2(4), Note 2—

Repeal

everything after “specified”

Substitute

“in—

- (a) Part 4 of Schedule 8;
- (b) Part 4 of Schedule 9;
- (c) Part 3 of Schedule 10; or
- (d) Part 4 of Schedule 11A”.

8. Fourth Schedule amended (exempted transaction specified for the purposes of section 19(1D) of this Ordinance)

Fourth Schedule—

Repeal

“63(c)]”

Substitute

“63]”.

9. Schedule 11A added

After Schedule 11—

Add

“Schedule 11A

[ss. 19 & 63 & 1st Sch.]

**Transactions and Transfers relating to Real
Estate Investment Trusts**

Part 1

Interpretation

1. In this Schedule—

collective investment scheme (集體投資計劃) has the meaning given by section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571);

purchase (購買) has the meaning given by section 19(16);

real estate investment trust (房地產投資信託基金) means a collective investment scheme that meets both of the following descriptions—

- (a) the scheme is authorized under section 104 of the Securities and Futures Ordinance (Cap. 571), and the authorization is subject to a condition that has the effect of requiring the property that is being managed under the scheme to consist primarily of immovable property;
- (b) the shares or units of the scheme are listed or traded on a recognized stock market;

sale (售賣) has the meaning given by section 19(16);

sale or purchase (售賣或購買) has the meaning given by section 19(16).

Part 2

Transactions to which Section 19(1) does not Apply

1. A sale or purchase of a share or unit of a real estate investment trust.
2. A transaction that is deemed under section 19(1E)(a) or (12) to be a sale and purchase of Hong Kong stock where the stock involved is a share or unit of a real estate investment trust.

Part 3

Transfers on which Stamp Duty under Head 2(3) in First Schedule is not Payable

1. A transfer executed for a transaction by which the beneficial interest in a share or unit of a real estate investment trust passes otherwise than on sale and purchase.
2. An instrument that is deemed under section 30(3) to be a transfer operating as a voluntary disposition inter vivos under section 27(4) where the unit trust scheme involved is a real estate investment trust.

Part 4

Transfers on which Stamp Duty under Head 2(4) in First Schedule is not Payable

1. A transfer executed for a transaction by which a share or unit of a real estate investment trust is transferred.
2. An instrument that is deemed under section 30(3), (4) or (5) to be a transfer falling within head 2(4) in the First Schedule where the unit trust scheme involved is a real estate investment trust.”.

Division 2—Stamp Duty (Specification of Instruments) Notice (Cap. 117 sub. leg. B)

10. Schedule amended (specification of instruments)

The Schedule, Part 1, item 4—

Repeal

“or (2)”.

Part 3**Adjustment to Stamp Duty Collection Arrangement:
Amendments to Securities and Futures and Companies
Legislation (Amendment) Ordinance 2021 (17 of 2021)****11. Section 27 amended (Schedule 1 amended (interpretation and general provisions))**

Section 27(4), Chinese text, new definition of 證券登記機構服務, paragraph (a)—

Repeal

“備存”

Substitute

“維持”.

12. Section 54 amended (sections 5AA and 5AAB added)

(1) Section 54, new section 5AAB(4)(a)—

Repeal subparagraph (iii)

Substitute

“(iii) the sale or purchase in respect of which the contract note is made is effected by the authorized person;”.

(2) Section 54, English text, new section 5AAB(9), definition of *specified contract note*—

Repeal

“subsection (2);”

Substitute

“subsection (2).”.

(3) Section 54, new section 5AAB(9)—

Repeal the definitions of *approved securities registrar* and *UNSRT system*.

(4) Section 54, new section 5AAB(10)—

Repeal paragraphs (a) and (b)

Substitute

“(a) a reference to a person who effects a sale includes a person deemed under section 19 to be a person effecting the sale; and

(b) a reference to a person who effects a purchase includes a person deemed under section 19 to be a person effecting the purchase.”.

13. Section 55 amended (section 19 amended (contract notes, etc. in respect of sale and purchase of Hong Kong stock))

(1) Section 55(2), after new section 19(1G)—

Add

“(1H) For the purposes of subsection (1), if—

(a) the Hong Kong stock concerned is prescribed securities specified in subsection (1I);

(b) the person who effects the sale or purchase of the stock makes, in respect of the sale or purchase, a contract note; and

(c) the contract note is stamped by way of a stamp certificate on an application that—

(i) is made under section 18F by an approved securities registrar; and

(ii) is made electronically in such manner as the Collector determines,

the person is to be regarded as having also executed the contract note.

(1I) For the purposes of subsection (1H), the prescribed securities are—

- (a) prescribed securities held in uncertificated form immediately before the sale or purchase;
- (b) prescribed securities held in uncertificated form immediately after the sale or purchase; or
- (c) prescribed securities held in uncertificated form both immediately before and after the sale or purchase.”.

(2) After section 55(3)—

Add

“(4) Section 19(16)—

Add in alphabetical order

“*approved securities registrar* (核准證券登記機構) has the meaning given by section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571);”.

14. Section 62A added

Part 2, Division 3, Subdivision 3, after section 62—

Add

“62A. Schedule 11A amended (transactions and transfers relating to real estate investment trusts)

Schedule 11A, Part 2, item 2, after “19(1E)(a)”—

Add

“, (1EA)”.

15. Section 65 amended (Schedule 1 amended (matters excluded from application of sections 5, 5A, 6, 7, 8 and 17 of this Ordinance under section 3 of this Ordinance))

(1) Section 65, new section 4(a)—

Repeal

“; and”

Substitute a semicolon.

(2) Section 65, new section 4(b)—

Repeal the full stop

Substitute

“; and”.

(3) Section 65, after new section 4(b)—

Add

“(c) a contract note that is regarded as having been executed under section 19(1H) of that Ordinance.”.

Explanatory Memorandum

The objects of this Bill are—

- (a) to amend the Stamp Duty Ordinance (Cap. 117) (*SDO*) to give effect to the proposal in the Budget introduced by the Government for the 2024–2025 financial year to waive the stamp duty payable on—
 - (i) the transactions and transfers of shares or units of real estate investment trusts (*REITs*); and
 - (ii) the transactions and dealings specified in section 3 of the Stamp Duty (Jobbing Business) (Options Market Makers) Regulation (Cap. 117 sub. leg. A) (*jobbing business transaction*); and
 - (b) to amend the Securities and Futures and Companies Legislation (Amendment) Ordinance 2021 (17 of 2021) (*Amendment Ordinance 2021*) to adjust the stamp duty collection arrangement involving approved securities registrars (*ASR*) under the uncertificated securities market regime (*USM regime*).
2. The Bill is divided into 3 Parts.

Part 1—Preliminary

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

Part 2—Waiver of Stamp Duty in respect of Real Estate Investment Trust and Jobbing Business

Transactions and Transfers relating to REITs

4. Section 19(1) of the SDO (*section 19(1)*) provides that a person who effects any sale or purchase of Hong Kong stock must make and execute a contract note and cause the note to be stamped under head

- 2(1) or (2) in the First Schedule to the SDO (*First Schedule*). Clause 4(3) amends section 19(1DA) of the SDO so that section 19(1) does not apply to a transaction relating to REITs as specified in Part 2 of the new Schedule 11A.
5. Clause 6 amends section 63 of the SDO to empower the Financial Secretary to amend the new Schedule 11A by regulation.
 6. Clause 7(5) and (6) amends Note 4 to head 2(3), and Note 2 to head 2(4), in the First Schedule to provide that stamp duty under heads 2(3) and 2(4) is not payable on—
 - (a) for head 2(3)—the transfers relating to REITs as specified in Part 3 of the new Schedule 11A; and
 - (b) for head 2(4)—the transfers relating to REITs as specified in Part 4 of the new Schedule 11A.
 7. Clause 9 adds a new Schedule 11A to the SDO to specify the transactions to which section 19(1) does not apply as well as the transfers on which stamp duty under head 2(3) or 2(4) in the First Schedule is not payable.

Jobbing Business Transactions

8. Clause 4(4) adds a new subsection (1DB) to section 19 of the SDO to make it clear that a contract note is not required to be made and executed under section 19(1) for a jobbing business transaction.
9. Clause 7(4) repeals head 2(2) in the First Schedule so that no stamp duty is chargeable in respect of a jobbing business transaction.
10. Clauses 3, 4(1), (2) and (5), 5, 6 and 7(1) and (3) amend sections 4, 19 and 63 of the SDO and the First Schedule, and repeal section 20 of the SDO, in consequence of the amendments mentioned in paragraphs 8 and 9. Clause 10 makes a consequential amendment to the Schedule to the Stamp Duty (Specification of Instruments) Notice (Cap. 117 sub. leg. B).

**Part 3—Adjustment to Stamp Duty Collection Arrangement:
Amendments to Amendment Ordinance 2021**

11. Clause 11 makes a textual amendment to the Chinese text of the new definition of *securities registrar service* to be added to section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571) (*SFO*) by section 27(4) of the Amendment Ordinance 2021.
12. Subdivision 3 of Division 3 of Part 2 of the Amendment Ordinance 2021 deals with amendments to the SDO relating to the USM regime. Among all, section 54 of the Amendment Ordinance 2021 adds new sections 5AA and 5AAB to the SDO to provide for a new stamping method for certain contract notes and to empower the Collector of Stamp Revenue to approve an arrangement for collecting stamp duty chargeable on certain contract notes (*specified arrangement*) under the USM regime. Clauses 12 and 13 amend Subdivision 3 to implement an adjusted stamp duty collection arrangement.
13. Clause 12 amends the new section 5AAB so that the specified arrangement is only applicable in relation to a sale or purchase effected by the authorized person.
14. Clause 13 amends section 55 of the Amendment Ordinance 2021 to add new subsections (1H) and (1I) to section 19 of the SDO. The new subsections provide that for the purposes of section 19(1), if—
 - (a) the person who effects the sale or purchase of the Hong Kong stock that is prescribed securities (namely, securities that are listed or to be listed and that are specified in the new Schedule 3A to be added to the SFO by section 28 of the Amendment Ordinance 2021) makes, in respect of the sale or purchase, a contract note;
 - (b) the prescribed securities are—
 - (i) prescribed securities held in uncertificated form immediately before the sale or purchase;

- (ii) prescribed securities held in uncertificated form immediately after the sale or purchase; or
 - (iii) prescribed securities held in uncertificated form both immediately before and after the sale or purchase; and
- (c) the contract note is stamped by way of a stamp certificate on an electronic application by an ASR,
the person is to be regarded as having also executed the contract note.
15. Section 55(1) of the Amendment Ordinance 2021 adds a new subsection (1EA) to section 19 of the SDO. Clause 14 adds a new section 62A to the Amendment Ordinance 2021 to amend the new Schedule 11A to the SDO (which is added by Clause 9) in consequence of the addition of subsection (1EA).
16. Section 65 of the Amendment Ordinance 2021 amends section 4 of Schedule 1 to the Electronic Transactions Ordinance (Cap. 553) (*ETO*). Clause 15 amends section 65 so that a contract note that is regarded as having been executed under the new section 19(1H) of the SDO is not excluded from the application of sections 5, 5A, 6, 7, 8 and 17 of the ETO.