

## LEGISLATIVE COUNCIL BRIEF

### Further Measure to Address the Overheated Residential Property Market

#### INTRODUCTION

At the meeting of the Executive Council on 4 November 2016, the Council ADVISED and the Chief Executive ORDERED that a **new flat rate of 15%** for the ad valorem stamp duty (AVD) chargeable on **residential property transactions should be introduced with effect from 5 November 2016, in lieu of the existing AVD rates at Scale 1** (commonly known as “doubled ad valorem stamp duty” (DSD)) under the existing regime<sup>1</sup>.

2. The existing AVD rates at Scale 1 and the proposed new flat rate are set out below –

<b>Property consideration or market value (whichever is the higher)</b>	<b>Existing AVD rates at Scale 1 which came into effect on 23 February 2013 (i.e. DSD) (with effect from 5 November 2016, the rates below will only apply to non-residential properties)</b>	<b>Proposed new flat rate for residential properties with effect from 5 November 2016</b>
Up to \$2,000,000	1.50%	<b>15%</b>
\$2,000,001 to \$3,000,000	3.00%	
\$3,000,001 to \$4,000,000	4.50%	
\$4,000,001 to \$6,000,000	6.00%	
\$6,000,001 to \$20,000,000	7.50%	
\$20,000,001 and above	8.50%	

<sup>1</sup> Under the existing AVD regime, unless otherwise specified in the Stamp Duty Ordinance (Cap. 117) (the Ordinance), transactions in respect of immovable properties (**both** residential and non-residential) acquired on or after 23 February 2013 are subject to AVD rates at Scale 1 (i.e. DSD). The major exception is where the subject property is a residential property and the buyer is a Hong Kong Permanent Resident (HKPR) acting on his/her own behalf and is not a beneficial owner of any other residential property in Hong Kong at the time of acquisition. For such exception or other exceptions/exemptions as specified in the Ordinance, AVD rates at Scale 2 will be applicable.

3. The **new flat rate will apply to transactions for residential properties only**. It will not affect the stamp duty chargeable on transactions for non-residential properties, which will continue to be subject to DSD rates. In other words, after the introduction of the new flat rate, DSD rates will only apply to transactions for non-residential properties. The exceptions/exemptions provided for under the existing DSD regime will be retained, including, among others, the exceptions for buyer who is a Hong Kong Permanent Resident (HKPR) and is not a beneficial owner of any other residential property in Hong Kong at the time of acquisition. The existing AVD rates at Scale 2 (as shown in the table below) will continue to apply in these exception/exemption cases. The refund mechanism under the existing DSD regime for HKPR-buyer who changes his/her single residential property will also be retained.

<b>Property consideration or market value (whichever is the higher)</b>	<b>Existing AVD rates at Scale 2</b>
Up to \$2,000,000	\$100
\$2,000,001 to \$3,000,000	1.50%
\$3,000,001 to \$4,000,000	2.25%
\$4,000,001 to \$6,000,000	3.00%
\$6,000,001 to \$20,000,000	3.75%
\$20,000,001 and above	4.25%

## **JUSTIFICATIONS**

### **Government’s Efforts to Address Demand-Supply Imbalance**

4. 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. To address the demand-supply imbalance, the Government has, on the one hand, strived to increase land supply for new housing through short, medium and long-term means; and, on the other hand, introduced several rounds of demand-side management

measures, including Special Stamp Duty (SSD)<sup>2</sup> (November 2010 and October 2012), Buyer's Stamp Duty (BSD)<sup>3</sup> (October 2012) and DSD (February 2013). They 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 HKPRs in the midst of the present tight housing supply.

5. These measures have achieved their intended objectives of stabilising the property market, and are particularly effective in combating short-term speculative activities and curbing external demands. Short-term resale (including confirmor transactions and resale within 24 months) accounted for only 0.3% of total residential property transactions in the third quarter of 2016, well below the monthly average of 2 661 cases or 20.0% in January to November 2010 (i.e. the period before the introduction of SSD). Non-local individual and non-local company buyers accounted for only 1.5% of total residential property transactions in the third quarter of 2016, much lower than the monthly average of 365 cases or 4.5% in January to October 2012 (i.e. the period before the introduction of BSD).

6. The Government has also adopted a supply-led strategy to increase the supply of land and housing, with a view to addressing the demand-supply imbalance at source in the long run. Due to Government's sustained efforts, the projected supply of first-hand residential flats in the coming three to four years has been on the rise and has come to 93 000 units (comprising unsold flats of completed projects, flats under construction but not yet sold under pre-sale and flats on

<sup>2</sup> Unless otherwise specified in the Ordinance, 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 SSD. The SSD rates are summarised below –

<b>Holding period</b>	<b>For properties acquired on or after 20 Nov 2010 and before 27 Oct 2012</b>	<b>For properties acquired on or after 27 Oct 2012</b>
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%

<sup>3</sup> Unless otherwise specified in the Ordinance, residential properties acquired on or after 27 October 2012 by any person except a HKPR acting on his/her own behalf are subject to BSD at a flat rate of 15%.

disposed sites where construction can start any time) as estimated at end-September 2016. Despite Government's determination in increasing housing supply, it takes time for the increase to realise and the market generally expects the demand-supply situation to remain tight in the near term. Data from the Rating and Valuation Department shows that vacancy rate for private flats fell to 3.7% of the total stock at end-2015, much below the long-term average of 5.0% over 1995 to 2014. The tight demand-supply balance was particularly acute in the mass market, with a vacancy rate of 2.9%, the lowest level since 1988.

### **Renewed Signs of Exuberance in the Residential Property Market**

7. After a brief period of cooling down in late 2015 and early 2016, the residential property market staged a sharp rebound since April 2016 amid a still tight demand-supply situation and repeated delay in interest rate hike in the United States (US). The earlier correction in housing prices, coupled with further increases in household income, has also helped release the pent-up demand.

8. One noteworthy development in recent months is the reacceleration of investment demand for residential properties. About 25% of residential transactions in the first nine months of 2016 was subject to DSD, and the number of DSD cases involving residential properties reached the record high of around 2 600 in September 2016, against about 1 500 per month on average in 2015 and 600 per month in the first quarter of 2016. Among these transactions, cases where the buyers are HKPRs already holding one or more residential units rose sharply from a monthly average of 500 in the first quarter of 2016 to 1 600 in the third quarter of 2016, reaching 2 300 in September 2016. This indicated that a considerable number of residential property transactions arose from the demand from local buyers who already owned one or more residential properties in Hong Kong. The reacceleration of investment demand aggravates the already tight demand-supply imbalance.

9. Overall flat prices rebounded by a total of 8.9% between March and September 2016, and the month-on-month increase accelerated to 2.8% in September 2016, the largest monthly gain since February 2013. The renewed pick-up was concentrated in mass market flats, the prices of which surged by 9.3% between March and September 2016 compared with the increase of 5.9% in prices of luxury flats. Transactions also rebounded in tandem, with the number of sales and purchase agreements received by the Land Registry bouncing back successively from a monthly average of 2 100 in the first quarter to 4 600 in the second quarter and 6 000 in the third quarter, and further to 6 600 in

October 2016. The market was particularly buoyant in September 2016 with 7 800 transactions, marking the highest level since October 2012. Again, the rebound in transactions was more visible in the mass market than at the luxury end. The primary market was very active, supported by accelerated launch of large scale projects by developers at favourable terms and very often also with lenient financing packages. Graphs showing the residential property prices and transaction volume are at **Annex A**.

10. With the rebound in flat prices exceeding the growth in household income, home purchase affordability deteriorated again lately. The mortgage payment to income ratio rose to about 59% in the third quarter, much higher than the long-term average of 46% in the past 20 years<sup>4</sup>. Were interest rates to increase by three percentage points to a more normal level, the ratio would soar to 77% (see graph at **Annex B**).

11. The accelerated rise in housing prices and swift rebound in transactions over the past six months, deterioration in home purchase affordability, and resurgence of investment demand are clear warning signs that the property market is moving away from economic fundamentals again, with heightened risks of painful and disorderly adjustments when the time for a correction eventually comes. The exuberant state of the property residential market has become a growing destabilising force to our macro economy that needs to be dealt with promptly, not to mention its impact on overall housing affordability which has become an issue of rising community concern.

### **External economic situations**

12. Global economic growth remains modest, and global outlook is still fraught with uncertainties arising from increasing monetary policy divergence among major central banks, fragile recoveries in some advanced and emerging market economies, Brexit and geopolitical tensions. While the US monetary policy normalisation process is set to continue, the market increasingly believes that interest rates would only rise gradually and more gently than was previously expected. Waning concern about an imminent or drastic interest rate hike in Hong Kong may have added fuel to market sentiment.

### **Non-residential property market**

13. DSD, which is applicable to non-residential properties, has

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<sup>4</sup> This refers to the ratio of mortgage payment for a 45-square metre flat to median income of households (excluding those living in public housing), for a tenure of 20 years at the prevailing mortgage rate.

effectively curbed the sharp price increases of non-residential properties. After the introduction of DSD in February 2013, the average monthly price increases for office space, retail shop space and flatted factory space were 0.1% each, much below the respective monthly increases of 1.6%, 2.2% and 2.5% during 2011 and 2012 (i.e. before the introduction of DSD). Also, performance of the non-residential property market was generally tepid in 2016 so far. Prices for office space, retail shop space and flatted factories space experienced a drop of 6.1%, 4.8% and 2.8% respectively during the first nine months of 2016. Transactions also hovered at very low levels. Graphs showing property prices and transaction volume for office space, retail shop space and flatted factory space are at **Annex C**.

### **Government's assessment**

14. Given the above, our assessment is that in the absence of a major external shock and unexpected interest rate hike, the risk of a bubble in the residential property market would continue to rise in the coming months. We see the need to introduce a new round of demand-side management measures to help cool down the residential property market, before the demand-supply situation returns to a more balanced level. Failure to take action now carries a high risk of an unabated upward spiral in residential property prices, eventually precipitating a very costly adjustment and endangering the overall macroeconomic and financial stability of Hong Kong.

15. As stated in paragraph 5 above, short-term speculative activities and purchases by non-local buyers presently only constitute a small percentage of the total residential property transactions. Further increasing the SSD and BSD rates will unlikely have substantial impact on the property market. On the other hand, as stated in paragraph 8 above, a considerable number of residential property transactions arose from the demand from local buyers who already owned one or more residential properties in Hong Kong. Raising the AVD rates on residential property transactions while retaining the exceptions/exemptions provided for under the current DSD regime will help suppress demand from these buyers and thereby help cool down the residential property market. This is also in line with our policy objective of according priority to the housing needs of HKPRs who do not own any other residential properties in Hong Kong.

16. As stated in paragraph 13 above, the non-residential property market does not show renewed signs of exuberance at this moment. We see no imminent need at this stage to introduce further demand-side management measures targeting at non-residential property transactions.

However, we will continue to closely monitor the market situation.

## PROPOSALS

### Raising the AVD Rates on transactions for residential properties

17. We propose to introduce a **new flat rate of 15%** across the different value bands under the AVD regime, in lieu of the existing DSD rates, for transactions for **residential properties**. In other words, when the new measure comes into effect on 5 November 2016, save for the exception for HKPR who do not own any other residential property in Hong Kong at the time of acquisition and other exemptions under specified circumstances as set out in paragraphs 19 to 20 below, all residential property transactions will be subject to the new flat rate, instead of the existing DSD rates; whereas transactions for non-residential properties will continue to be subject to the existing DSD rates. Pitching the new flat rate at 15% helps convey a clear and strong message to the general public that the Government is determined to contain the investment demand for local residential properties so as to prevent further exuberance in the housing market, which may pose significant risks to our macroeconomic and financial stability, and work to the disadvantage of housing affordability for HKPR first-time homebuyers.

18. The impact of the proposed new flat rate on potential buyers of residential properties (as compared with the existing DSD rates) is illustrated as follows –

Assumed residential property value	AVD payable at existing DSD rates	AVD payable at the proposed new flat rate of 15%	Increase in monetary and percentage terms
\$2,000,000	\$30,000	\$300,000	\$270,000 (900%)
\$3,000,000	\$90,000	\$450,000	\$360,000 (400%)
\$4,000,000	\$180,000	\$600,000	\$420,000 (233%)
\$6,000,000	\$360,000	\$900,000	\$540,000 (150%)
\$20,000,000	\$1,500,000	\$3,000,000	\$1,500,000 (100%)
\$25,000,000	\$2,125,000	\$3,750,000	\$1,625,000 (76%)

As seen from the table above, the proposed new flat rate of 15% has a larger impact on lower-priced residential properties. This is in line with our policy intent to address exuberance in the mass market in particular.

## **Exception for HKPR and other Exemptions under Specified Circumstances**

19. We are mindful that any new demand-side management measures should not impose undue financial burden on HKPRs who aspire to be homeowners, having regard to the Government's prevailing policy of according priority to their housing needs. Hence, we propose that we maintain the existing exception accorded to HKPR-buyers who do not own any other residential property in Hong Kong at the time of acquisition provided for under the existing DSD regime. In other words, AVD rates at Scale 2 should continue to be applicable to residential property transactions where the buyer is a HKPR<sup>5</sup> acting on his/her own behalf and is not a beneficial owner of any other residential property<sup>6</sup> in Hong Kong at the time of acquisition (which means the time when the first chargeable agreement or conveyance is executed, if there is more than one such instrument). When submitting relevant transaction documents to the Inland Revenue Department (IRD) for stamping, HKPR-buyers will need to declare that they are HKPR acting on their own behalf and that they are not beneficial owners of any other residential property in Hong Kong at the time of acquisition. IRD will then verify the declarations against its records.

20. We propose to maintain the refund mechanism under the current DSD regime for HKPR-buyers who change their single residential properties. In other words, a HKPR who is acquiring a residential

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<sup>5</sup> For the purpose of this exception, HKPR is defined in the Ordinance as –

- (a) a person who holds a valid permanent identity card (PIC) issued under the Registration of Persons Ordinance (Cap. 177); or
- (b) a person who is eligible to but exempted from applying for the issue of a PIC under regulation 25(e) of the Registration of Persons Regulation (Cap. 177A).

<sup>6</sup> A buyer who already holds a non-residential property will not be charged the new flat rate when buying a residential property, provided that he/she is not a beneficial owner of any other residential property in Hong Kong at the time of acquisition. Such a buyer will continue to be subject to the existing AVD rates at Scale 2. According to section 29A(1) of the Ordinance, the following documents will be used in determining whether the permitted use of a property is residential or non-residential –

- (a) a Government lease or an agreement for a Government lease;
- (b) a deed of mutual covenant, within the meaning of section 2 of the Building Management Ordinance (Cap. 344);
- (c) an Occupation Permit issued under section 21 of the Buildings Ordinance (Cap. 123); or
- (d) any other instrument, such as new town planning legislation, which the Collector of Stamp Revenue is satisfied effectively restricts the permitted use of the property.

A property is regarded as a non-residential property if under any of the above-mentioned documents, the property may not be used wholly or partly for residential purpose. However, if an agreement for sale and purchase covers both residential and non-residential properties (e.g. a residential flat plus a car parking space) and the two are inseparable for transaction with one consideration, IRD has all along treated such an agreement for sale and purchase as a chargeable agreement for residential properties for the purpose of charging AVD, SSD and BSD (if applicable).



Property B to replace his/her only other residential Property A can apply for partial refund of AVD paid for acquiring Property B. He/she will be subject to the new flat rate in the first instance, but he/she may seek a refund of the stamp duty paid in excess of that computed under the lower AVD rates upon proof that Property A has been disposed of within six months from the date Property B was assigned to him<sup>7</sup>. There is a general time limit for claiming refunds, which is within two years after the date of the chargeable instrument for acquisition of Property B or not later than two months after the date of the assignment for the disposal of Property A, whichever is the later. This refund mechanism is also applicable to cases where a HKPR-buyer replaces his/her only residential property and a car parking space with another residential property and car parking space under one single instrument.

21. We also propose to retain the other exemptions provided for under the current DSD regime. Having regard to the exceptions for HKPR as set out in paragraphs 19 to 20 above and the other exemptions which mirror those under the existing DSD regime, a list of circumstances to which the new flat rate is not applicable is set out at **Annex D**.

22. In line with the existing AVD regime, in respect of an exchange of immovable property, the equality money (i.e. the money paid for the difference in value of the properties concerned) will be chargeable to the AVD. The applicable AVD rates will depend on the circumstances of the particular exchange transaction<sup>8</sup>.

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<sup>7</sup> In the original Stamp Duty (Amendment) Bill 2013 introduced into the Legislative Council (LegCo) in April 2013 for the implementation of DSD, it was proposed that the “six-month” timeframe commenced from date of the agreement for sale and purchase of the newly acquired property. Having considered Members’ views expressed at the Bills Committee meetings, the Administration moved Committee Stage Amendments (CSAs) to adjust the commencement of the “six-month” timeframe from agreement for sale and purchase to conveyance on sale of the newly acquired property. The CSAs were subsequently passed by the LegCo and incorporated into the Stamp Duty (Amendment) (No. 2) Ordinance 2014.

<sup>8</sup> For an exchange of residential property for another residential property with the payment of “equality money” by either party, or an exchange of residential property for a non-residential property, with the payment of “equality money” by the purchaser/transferee of the residential property, the instrument will be chargeable with AVD at the new rate on the “equality money”. However, in relation to exchange of residential property for residential property, if each party to the instrument is a HKPR acting on his/her own behalf and is not a beneficial owner of any other residential property in Hong Kong at the time of exchange; or all parties to the instrument are close relatives (i.e. parent, spouse, child, brother or sister) and each of them is acting on his/her own behalf, then the instrument will be chargeable with AVD at Scale 2 rates. In relation to exchange of a residential property for a non-residential property with the payment of “equality money” by the purchaser/transferee of the residential property(ies), if each of them is a HKPR acting on his/her own behalf and is not a beneficial owner of any other residential property in Hong Kong at the time of exchange; or all parties to the instrument are close relatives and each of them is acting on his/her own behalf, then the instrument will be chargeable with AVD at Scale 2 rates.

23. For revenue protection purpose, the existing stamp duty regime holds both sellers and buyers jointly and severally liable to the payment of the AVD. We propose that this joint liability arrangement should also be applicable to the proposed new measure. However, same as the existing regime, if AVD has been charged at Scale 2 on an instrument based on the buyer's declaration that he/she is a HKPR and is not a beneficial owner of any other residential property in Hong Kong at the time of acquisition of the subject property, and it is subsequently found that the declaration of the buyer is not correct, only the buyer is liable for the difference of the AVD computed at the new flat rate and Scale 2.

### **Implementation of the proposal**

24. Given the price-sensitive nature of the property market, the new flat rate has to come into **immediate effect** once announced. This is to ensure that no one can take advantage of the new measure between the announcement and the enactment of the Stamp Duty (Amendment) Bill (Amendment Bill). Hence, we will propose in our Amendment Bill to be submitted that the measure shall take effect on 5 November 2016, the day immediately following the announcement of the new measure on 4 November 2016. IRD will record all the property transactions between 5 November 2016 and the date on which the Amendment Bill is enacted. Reminders to demand for the stamp duty underpaid will be issued after the enactment of the Amendment Bill.

### **IMPLICATIONS OF THE PROPOSAL**

25. The economic, financial, civil service and sustainability implications of the proposal are set out at **Annex E**. The proposed legislative amendments will not affect the current binding effect of the Ordinance. It has no productivity, environmental, family or gender implications. The proposal is in conformity with the Basic Law, including the provisions concerning human rights.

### **PUBLIC CONSULTATION**

26. Owing to the confidentiality of the demand-side management measures, no consultation has been carried out for the proposed new measure. In formulating the proposal, we have taken into account concerns from the public about the overheated property market and the need to ensure that the housing demand from HKPR-buyers who do not own any other residential property in Hong Kong at the time of

acquisition is accorded priority amidst the tight supply in the residential property market.

## **PUBLICITY**

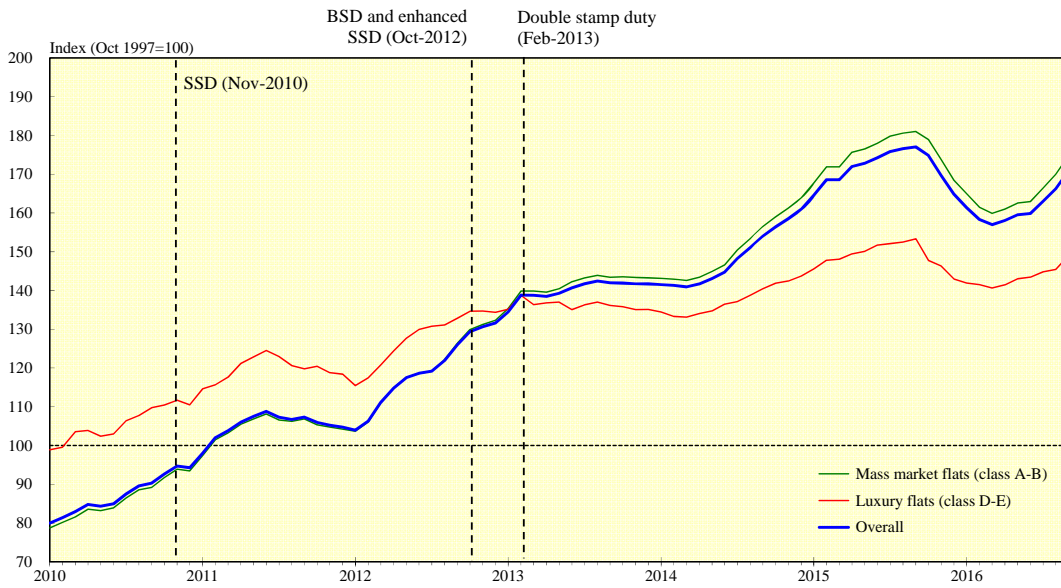
27. The Government has announced the new round of stamp duty measures at a press conference on 4 November 2016. A press release has been issued. Spokesmen will be available to answer press enquires.

## **ENQUIRIES**

28. Enquiries on this brief can be addressed to Miss Joyce Kok, Principal Assistant Secretary (Housing) (Private Housing) at 2761 5117.

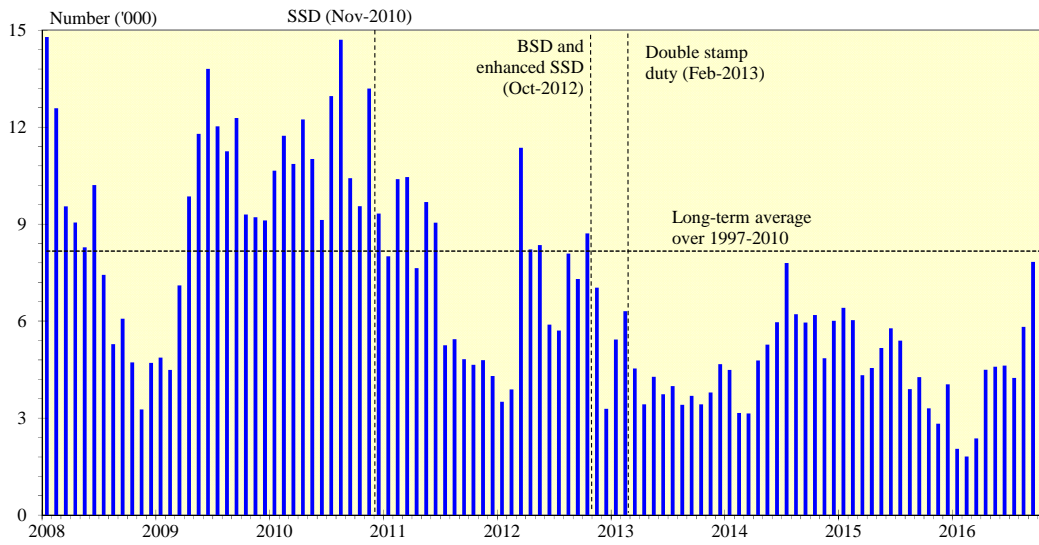
**Transport and Housing Bureau  
November 2016**

**Residential property prices**



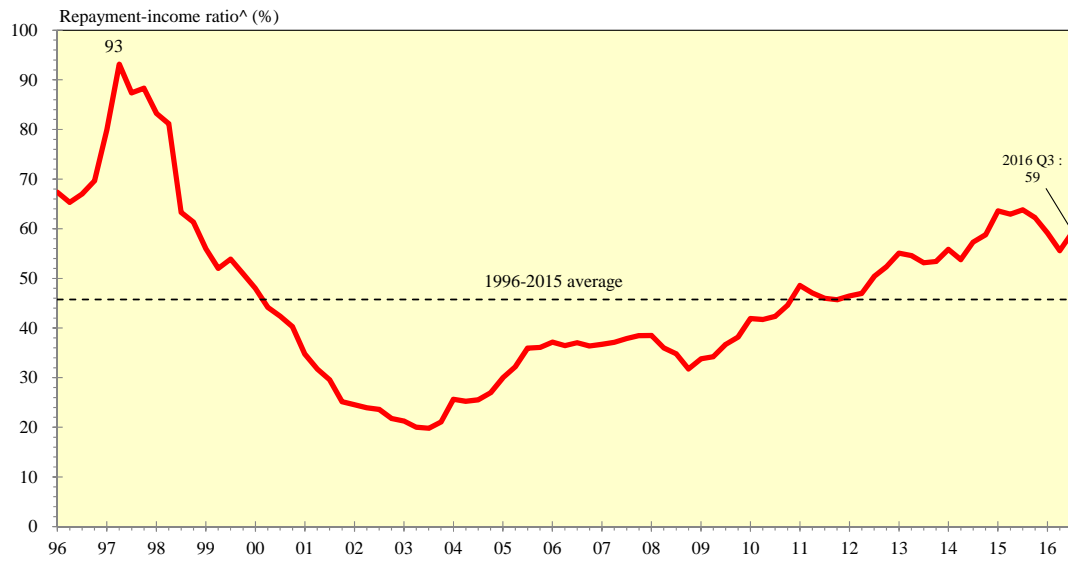
Source : Rating and Valuation Department.

**Sale and purchase agreements for residential property**



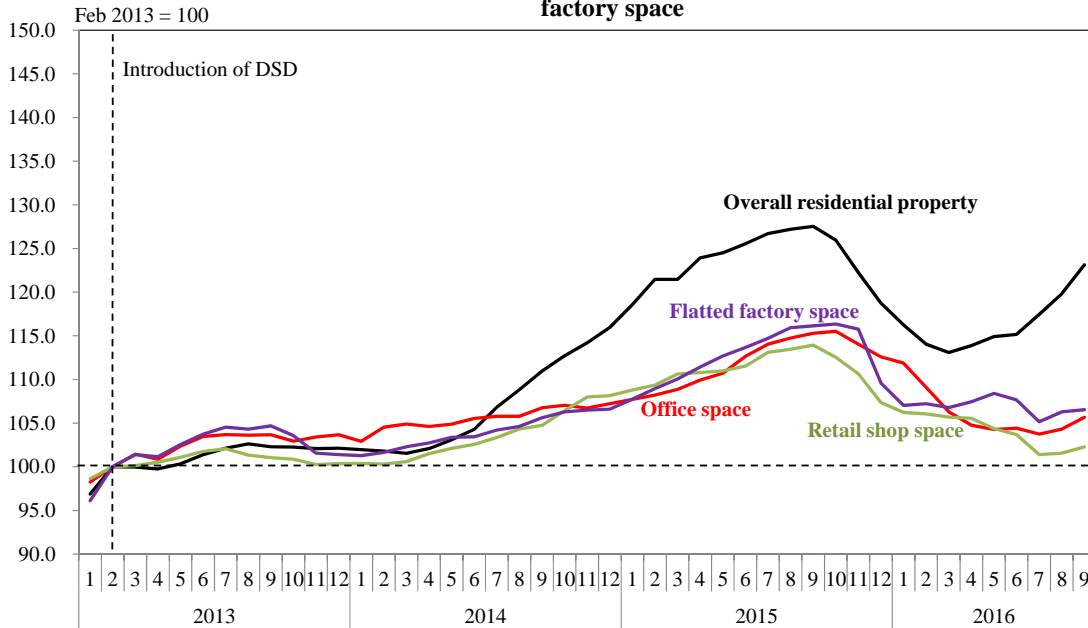
Source : Land Registry.

Home purchase affordability (i.e. mortgage to income ratio)



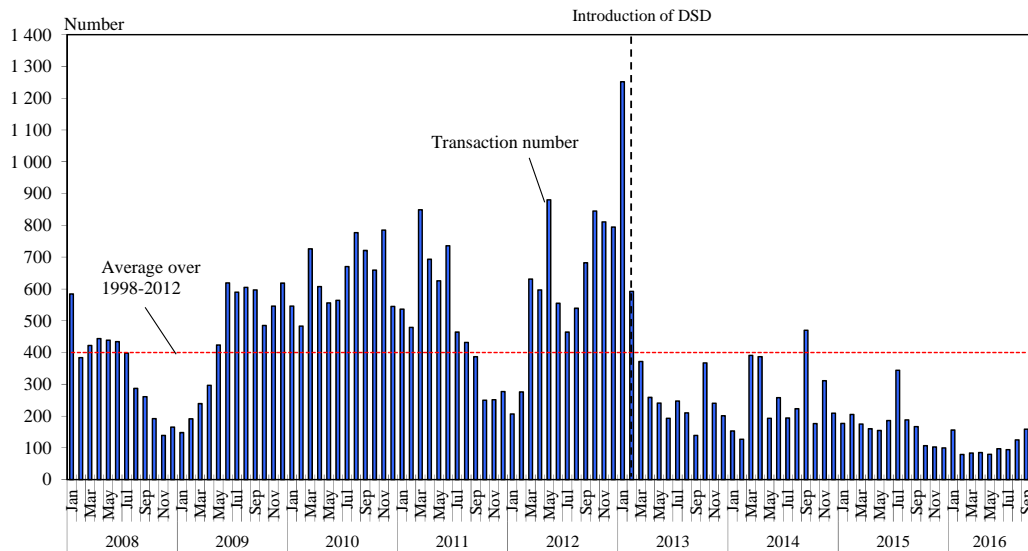
Note : (^) The ratio of mortgage payment for a 45m<sup>2</sup> flat (assuming 70% loan-to-value ratio and tenor of 20 years) to median income of households (excluding those living in public housing).  
 Source: Rating and Valuation Department.

Price indices for residential property, office space, retail shop space and flatted factory space



Source : Rating and Valuation Department.

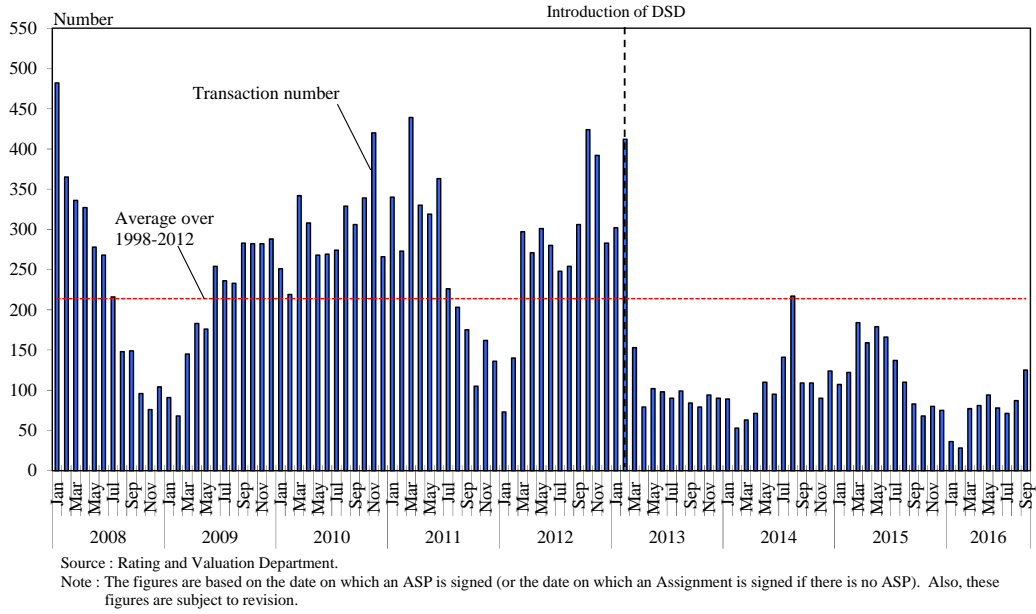
Transaction number of commercial space



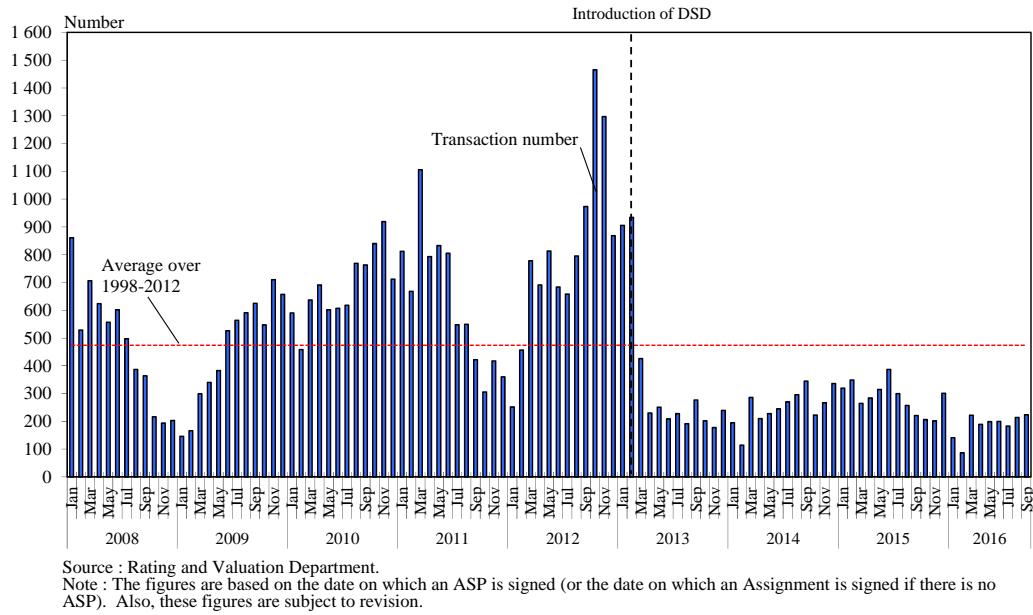
Source : Rating and Valuation Department.

Note : The figures are based on the date on which an ASP is signed (or the date on which an Assignment is signed if there is no ASP). Also, these figures are subject to revision.

### Transaction number of office space



### Transaction number of flatted factory space



**List of exceptions and exemptions**

We propose to adopt the exceptions and exemptions provided for under the existing DSD regime. In other words, the proposed new flat rate will not be applicable under the following circumstances –

- (a) acquisition of a residential property (whether or not together with a car parking space) by a HKPR who is acting on his/her own behalf and is not a beneficial owner of any other residential property (and car parking space, if applicable) in Hong Kong at the time of acquisition (AVD rates at Scale 2 would apply);
- (b) acquisition of a residential property (whether or not together with a car parking space) by two or more HKPR jointly and each of the purchasers is acting on his/her own behalf and is not a beneficial owner of any other residential property (and car parking space, if applicable) in Hong Kong at the time of acquisition (AVD rates at Scale 2 would apply);
- (c) acquisition of a residential property by a HKPR jointly with a close relative (i.e. parent, spouse, child, brother or sister) or close relatives (i.e. each of the purchasers is a close relative of each other) who is/are not HKPR and each of the purchaser is acting on his/her own behalf and is not a beneficial owner of any other residential property in Hong Kong at the time of acquisition (AVD rates at Scale 2 would apply);
- (d) acquisition of a residential property (and a car parking space, if applicable) by a HKPR acting on his/her own behalf for the purpose of replacing his/her only other residential property (and a car parking space, if applicable) (payment of AVD at the new flat rate first, subsequent refund of the difference between AVD paid and AVD computed at Scale 2 if specified conditions are met);
- (e) acquisition of a residential property by a purchaser (be he/she HKPR or not) who is acting as trustee or guardian for a minor or a mentally incapacitated person in the transaction and that the minor or the mentally incapacitated person for whom the trustee or guardian is acting on behalf is HKPR and is not the beneficial owner of any other residential property in Hong Kong at the time of acquisition (AVD rates at Scale 2 would apply);



- (f) acquisition or transfer of a residential property between close relatives, irrespective of whether they are HKPR and whether they are beneficial owners of any other residential property in Hong Kong at the time of acquisition or transfer (AVD rates at Scale 2 would apply);
- (g) nomination of a close relative(s) (be they HKPR or not) who is/are beneficial owner(s) of other residential property(ies) in Hong Kong on the date of nomination, to take up the assignment of a residential property (AVD rates at Scale 2 would apply). If the close relative(s) is/are not beneficial owner(s) of any other residential property in Hong Kong at the time of nomination, the nomination will continue to be exempt from all AVD as under the present regime;
- (h) a close relative is added as one of the purchasers in the agreement for sale or conveyance on sale of residential property after the original purchaser signed a provisional agreement for sale and each of the parties concerned is acting on his/her own behalf and the new purchaser owns other residential property in Hong Kong (AVD rates at Scale 2 would apply to the share in the property acquired by the new purchaser). If each of them is not a beneficial owner of any other residential property in Hong Kong, the instrument will continue to be exempt from all AVD as under the present regime;
- (i) a close relative who is one of the purchasers in a provisional agreement for sale of residential property is no longer included as a purchaser in the agreement for sale or conveyance on sale and each of the parties concerned is acting on his or her own behalf and the remaining purchaser owns other residential property in Hong Kong (AVD rates at Scale 2 would apply to the share in the property acquired by the remaining purchaser(s) from the withdrawn purchaser). If each of them is not a beneficial owner of any other residential property in Hong Kong, the instrument will continue to be exempt from all AVD as under the present regime;
- (j) acquisition or transfer of a residential property by a court order or pursuant to a court order, which includes a foreclosure order obtained by the mortgagee whether or not it falls under the definition of a financial institution within the meaning of section 2 of the Inland Revenue Ordinance (Cap. 112) (AVD rates at Scale 2 would apply);
- (k) transfer of a mortgaged residential property to the mortgagee which is a financial institution within the meaning of section 2 of the Inland

Revenue Ordinance (Cap. 112), or to a receiver appointed by such a mortgagee (AVD rates at Scale 2 would apply);

- (l) transfer of a residential property to a beneficiary of the estate of a deceased person in accordance with a will or the law of intestacy; or acquisition of the property by the right of survivorship (exempted from all AVD);
- (m) acquisition or transfer of a residential property by or to a body corporate from an associated body corporate (exempted from all AVD);
- (n) acquisition or transfer of a residential property by or to the Government (exempted from all AVD);
- (o) acquisition of a residential property (including bare sites) for the purpose of redevelopment (payment of AVD at the new flat rate first, subsequent refund of the difference between AVD paid and AVD computed at Scale 2 if specified conditions are met);
- (p) acquisition of a replacement residential property by a person affected by specified ordinances<sup>1</sup> (AVD rates at Scale 2 would apply);
- (q) gift of a residential property received by charitable institutions exempted from tax under section 88 of the Inland Revenue Ordinance (exempted from all AVD); and
- (r) acquisition of a flat under the Tenants Purchase Scheme by a tenant or authorised occupant of the flat who is acting on his/her own behalf and is not a beneficial owner of any other residential property in Hong Kong at the time of acquisition (AVD rates at Scale 2 would apply).

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<sup>1</sup> These include situations where the original property owned by that person is subject to acquisition by the Urban Renewal Authority under the Urban Renewal Authority Ordinance (Cap. 563); resumption by the Government under the Lands Resumption Ordinance (Cap. 124); compulsory sale pursuant to an order for sale made by the Lands Tribunal under the Land (Compulsory Sale for Redevelopment) Ordinance (Cap. 545); resumption order made under section 4(1) of the Mass Transit Railway (Land Resumption and Related Provisions) Ordinance (Cap. 276); an order made under section 13(1) of the Roads (Works, Use and Compensation) Ordinance (Cap. 370); an order made under section 16 or section 28(1) of the Railways Ordinance (Cap. 519); an acquisition order made under section 3(1) or (2) of the Land Acquisition (Possessory Title) Ordinance (Cap. 130); and an order made under section 37(2) of the Land Drainage Ordinance (Cap. 446).

## **Implications of the proposal**

### **Economic implications**

The new flat rate will directly affect potential buyers of residential property who are HKPRs and who currently own one or more residential properties in Hong Kong. Non-HKPRs buyers and companies will also be affected. According to IRD's stamp duty statistics, these buyers altogether accounted for 25% of the total residential transactions in the first nine months of 2016. As such, the proposed increase in the AVD rates should produce an immediate and visible effect in further deterring investment demand and curtailing transactions.

2. Through curtailing investment demand, the proposed AVD hike might also dampen the upward momentum in flat prices. The exact magnitude and duration are, however, difficult to gauge in any precise manner given the confluence of many external and local factors that may affect the residential property market, including the global and local economic outlook, the pace of US interest rate normalisation process (and thus the international liquidity situation and direction of fund flows), and people's expectation on the future supply situation.

3. Overall, the proposed hike in the AVD rates, coupled with the demand-side management measures (i.e. SSD and BSD) already in place, is aimed at forestalling a further build-up of housing market exuberance. The objective of the proposed new measure is to safeguard macro-economic and financial sector stability, and to lessen the pain of eventual adjustments by curbing excessive investment demand.

### **Financial and civil service implications**

4. The proposed increase in AVD rates is not intended to be a revenue-generating measure to meet fiscal or budgetary objectives, although they are expected to bring about additional revenue to the Government. The amount of additional revenue is uncertain as it depends on the number and value of the transactions caught by the new measure.

5. Additional manpower resources will be sought in accordance with the established mechanism to handle workload arising from the

proposed new measure. Other administrative cost arising from the proposed new measure will be absorbed within the existing resources of relevant bureaux/departments as far as possible.

### **Sustainability implications**

6. The proposed new measure aims to ensure the healthy and stable development of the property market, which is crucial to the sustainable development of Hong Kong as a whole.