

Part B Consultation Questions

Please indicate your preference by checking the appropriate boxes. Please make your comments by replying to questions below against proposed changes discussed in the Consultation Paper at the hyperlink:

<http://www.hkex.com.hk/eng/newsconsul/mktconsul/documents/cp201009.pdf>

Where there is insufficient space, please attach additional pages as necessary.

A. Exemption for Qualified Property Acquisitions

(1) Scope of the QPA exemption

- 1 (a). Do you agree with the proposal to expand the QPA exemption to acquisitions of land or property development projects in the Mainland from government through the PRC Government Auction Process?

Yes

No

Please provide reasons.

The land auction process in the Mainland is becoming increasingly transparent and a common practice. In fact, many of the property companies listed on the Hong Kong Stock Exchange acquire land in the Mainland more than in Hong Kong for their business operations. It is therefore considered a positive step to expand the QPA exemption to acquisitions of land or property development projects in the Mainland.

- 1 (b). For the proposed exemption described in 1(a), do you agree with the proposal to exempt government or government entities falling under the current definition of “PRC Governmental Body” in Rule 19A.04?

Yes

No

Please provide reasons.

The definition of “PRC Governmental Body” is sufficiently broad.

2. Do you propose other jurisdictions which should qualify for the QPA exemption?

Yes

No

If your answer is “Yes”, please provide details of the legislation and requirements for government land auctions in those jurisdictions and your analysis why they would fit the criteria described in paragraphs 23 and 27 of the Consultation Paper.

The QPA exemption waivers should be granted on an individual case basis for other jurisdictions on the basis that the land auction process is transparent and a common practice in the jurisdiction concerned.

3. Do you agree with the proposal to grant similar waivers to government land acquisitions in other jurisdictions on an individual case basis?

Yes

No

Please provide reasons.

See comments on (2) above.

4. Do you agree with the factors for granting individual waivers described in paragraph 27 of the Consultation Paper?

Yes

No

Please provide reasons.

See comments on (2) above.

(2) Conditions for QPA exemption

5. Do you agree with the proposed change to the exemption conditions described in paragraph 34 of the Consultation Paper for property joint ventures with independent third parties?

Yes

No

Please provide reasons.

In practice, joint venture arrangements can take various forms. The original criteria are too rigid and do not take account of the practical situation. We agree that the directors should take the responsibility to confirm that terms of the joint venture arrangements are fair and reasonable and in the interests of the shareholders. The proposed change will allow other forms of joint venture arrangements to qualify for QPA exemption. This is more practical and makes more commercial sense.

6. Do you agree with the proposed change to the exemption conditions described in paragraph 34 of the Consultation Paper for property joint ventures with Qualified Connected Persons?

Yes

No

Please provide reasons.

(3) General Property Acquisition Mandate

7. Do you agree with the proposal to remove the requirements relating to the General Property Acquisition Mandate currently applying to the formation of joint ventures with Qualified Connected Persons?

Yes

No

Please provide reasons.



(4) Disclosure requirements

8. Do you agree with the proposal to accelerate the disclosure of information relating to the joint ventures for Qualified Property Acquisitions (which is currently required to be made in the annual report) to the announcement/circular stage?

Yes

No

Please provide reasons.

(5) Property valuation

9. Do you agree with the proposal to exempt property valuation requirement for acquisitions falling under the QPA exemption?

Yes

No

Please provide reasons.

(6) Changes to the Rules

10. Do you have any comments on the draft Rule amendments relating to the QPA exemption in Part A of Appendix I of the Consultation Paper?

Yes

No

If you answer is “Yes”, please state.

B. Formation of joint ventures

11. Do you agree with the proposal to exempt “revenue joint venture projects” described in paragraph 61 of the Consultation Paper?

Yes

No

Please provide reasons.

12. Do you agree that the proposed draft Rule amendments in Part B of Appendix I of the Consultation Paper will implement our proposal?

Yes

No

If your answer is “No”, please provide reasons and alternative views.

13. Do you have other comments on this consultation paper?

Yes

No

If your answer is “Yes”, please state.

The proposed exemption focuses on single purpose acquisitions and has not considered acquisitions involving both sale and investment purposes. In practice, many property developers acquire land to develop multi-use complexes with residential units for sale and retail space for leasing in its ordinary and usual course of business. Additionally, the definition of “revenue generated from ordinary and usual course of business” in the consultation paper would appear to mean that revenue generated from investment (e.g. leasing income) will preclude a transaction from becoming eligible for the proposed exemption.

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