



Dear Licensees,

**Re: New ad Valorem Stamp Duty Rate**

The Estate Agents Authority (“EAA”) is writing to draw your attention to the announcement made by the Government on 4 November 2016 about the measures to address the overheated property market.

The Government has announced that the Stamp Duty Ordinance would be amended to increase the ad valorem stamp duty (“AVD”) rates for residential property transactions to a flat rate of 15%. Under the Government’s proposal, any instrument executed on or after 5 November 2016 for the sale and purchase or transfer of residential property, unless specifically exempted or provided otherwise, will be subject to the proposed new AVD rate.

However, the proposed new AVD rate does not apply to an instrument where the buyer is a Hong Kong Permanent Resident acting on his/her own behalf and does not own any other residential property in Hong Kong at the time of acquisition of a residential property. Under such circumstances, the AVD at Scale 2 rate will continue to apply.

In view of some news reports that certain estate agents allegedly advised clients to avoid paying the new AVD rate by backdating the Provisional Agreement of Sale and Purchase (“PASP”), licensees are reminded not to do so as such act is fraudulent and illegal. Altering the date of a PASP is a serious criminal offence punishable by imprisonment. Moreover, licensees may not be considered as a “fit and proper” person to continue to hold a licence if they are convicted of a criminal offence.

In addition, some people may choose to acquire a property by way of transfer of shares. Licensees should note that an agreement for the sale and purchase of shares is a complicated legal document and the purchaser may unwittingly take over debts and liabilities of a limited company. It is highly risky and inappropriate for licensees to arrange for a share transfer without



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legal advice. Licensees are strongly advised to read the [Practice Circular \(No. 05-08\(CR\)\)](#) in details for reference.

Meanwhile, licensees are strongly advised to refer to the FAQs for the AVD available at the website of the Inland Revenue Department at [www.ird.gov.hk/eng/faq/index.htm](http://www.ird.gov.hk/eng/faq/index.htm) for more details.

Estate Agents Authority

11 November 2016