Suruhanjaya Sekuriti
Securities Commission
Malaysia

FREQUENTLY ASKED QUESTIONS
PRACTICE NOTE ON STAMP DUTY EXEMPTION

1. What is the aim of the stamp duty exemption?

The stamp duty exemption is aimed at encouraging merger and acquisition activities among listed companies, resulting in bigger and more investible companies listed on Bursa Malaysia Securities Berhad (Bursa Malaysia).

The Government had earlier given stamp duty and real property gains tax exemption on instruments related to mergers and acquisitions (M&As) of listed companies approved by SC up to 31 December 2007.

To encourage more listed companies to undertake M&As, the stamp duty exemption has been extended to 31 December 2010 as announced in Budget 2008. This extension is reflected in the Stamp Duty (Exemption) (No. 8) Order 2007 which came into operation on 1 January 2008.

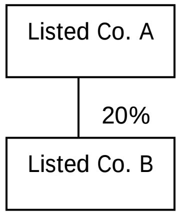
2. What form of M&As can enjoy the stamp duty exemption?

The stamp duty exemption applies to M&A proposals which involve the acquisition of interests/assets/businesses between at least two listed companies. The acquisition must be an acquisition that requires the approval of the SC pursuant to Section 212 of the Capital Markets And Services Act 2007 or a take-over offer that falls under Section 33 and 34 of the Securities Commission Act 1993.

It is expected that the listing status of the target company(ies) or acquirer must be “surrendered” such that only one listing status shall be retained upon completion of the M&A exercise. The exemption does not apply to M&As of distressed listed companies like those under the category of PN4, PN17 or Amended PN17 issued by Bursa Malaysia. This is to ensure that the end result of the M&A is a larger and stronger listed entity. Please refer to the illustrations below on M&As where the exemptions may apply.

Example 1: Listed Co. A currently has a 20% interest in Listed Co. B. Listed Co. A has proposed to acquire the remaining interest in Listed Co. B by way of a voluntary take-over offer. The offer will be satisfied by cash. Upon completion of the proposal, Listed Co. B will be de-listed. The shareholding structure before and after the proposal is as follows:

Before:



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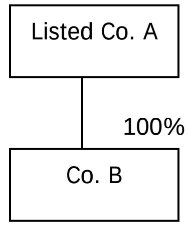
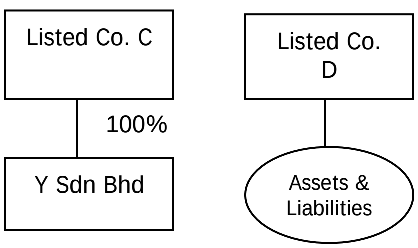


<u>Example 2:</u> Listed Co. C, through its wholly-owned subsidiary, Y Sdn Bhd, intends to acquire the assets and liabilities of Listed Co. D. The acquisition will be satisfied by the issuance of shares of Listed Co. C. Upon completion of the proposal, Listed Co. D will be de-listed. The shareholding structure before and after the proposal is as follows:

Before:



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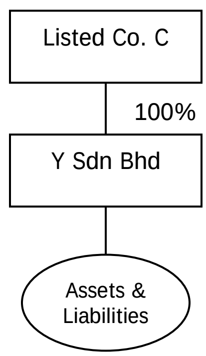
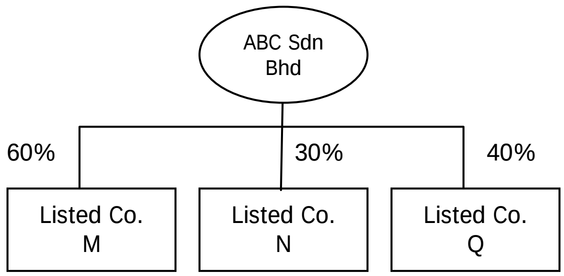
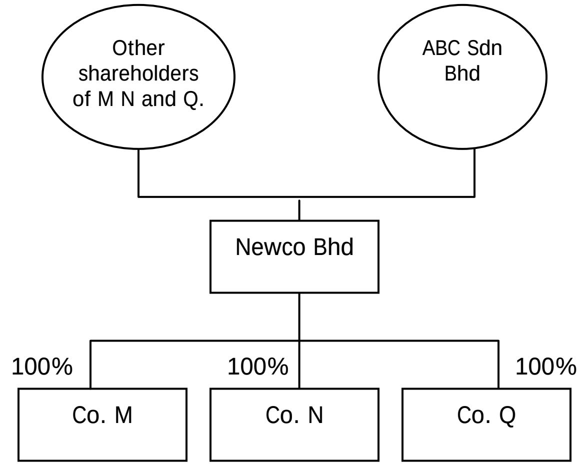


<u>Example 3:</u> Listed Co. M, Listed Co. N and Listed Co. Q share the same substantial shareholder, ABC Sdn Bhd. ABC Sdn Bhd has proposed to rationalise its group of companies. ABC Sdn Bhd incorporates a special purpose vehicle, Newco, where ABC Sdn Bhd shall dispose its current shareholdings in Listed Co. M, N and Q to Newco and Newco will make a take-over offer for the remaining shares of Listed Co. M, N and Q. The offer will be satisfied by the issuance of Newco shares. Following the proposal, Listed Co. M, N and Q will be de-listed and Newco will be listed in their place. The shareholding structure before and after the proposal is as follows:

Before:



After:



3. Are there any other requirements which should be met under this Practice Note to qualify for the stamp duty exemption?

Apart from the requirement mentioned in answer to Question 2 above, a qualifying M&A proposal needs to be approved by the SC between 1 January 2008 and 31 December 2010. Furthermore, the proposal has to result in the completion of the relevant delisting(s) by 31 December 2011.

4. When can an application be submitted to the SC in order to obtain the stamp duty exemption?

Listed companies involved in M&A proposals should ensure that all the criteria stated in paragraph 2.1 of the Practice Note on Stamp Duty Exemption are met prior to making a request to the SC.

5. How should companies go about making an application to the SC when the criteria stated in paragraph 2.1 of the Practice Note on Stamp Duty Exemption have been met?

Listed companies should, through their principal adviser, write to the SC to indicate their intention of obtaining the stamp duty exemption. Information to be provided to the SC to support the application for the stamp duty exemption include the following:

(i) Particulars of the M&A proposal;
(ii) Date of SC's approval;
(iii) Particulars of de-listing of Target Company and/or Acquirer;
(iv) Confirmation on compliance with paragraph 2.1 of the Practice Note On Stamp Duty Exemption; and

(v) Particulars of instruments executed pursuant to the M&A proposal for which the stamp duty exemption is sought.

The SC shall provide a written confirmation on the compliance of the M&A proposal with the Practice Note on Stamp Duty Exemption.

6. What is meant by "a proposal that has been approved by the SC from 1 January 2008 to 31 December 2010"?

This means that the proposal -

(i) is a proposal submitted pursuant to Section 212 of the Capital Markets and Services Act 2007 and has been approved by the SC from 1 January 2008 to 31 December 2010; or

(ii) involves the restructuring of companies vide a take-over offer and the offer document for the take-over offer has obtained the SC's consent pursuant to the Malaysian Code on Take-over and Mergers 1998 from 1 January 2008 to 31 December 2010.