

LEGISLATIVE COUNCIL BRIEF

New Capital Investment Entrant Scheme

INTRODUCTION

At the meeting of the Executive Council on 19 December 2023, the Council **ADVISED** and the Chief Executive **ORDERED** that a new Capital Investment Entrant Scheme (“CIES”) with the following parameters should be introduced –

- (a) the new CIES should accept applications from eligible persons (covering foreign nationals, Chinese nationals who have obtained permanent resident status in a foreign country, Macao Special Administrative Region residents, etc.) in line with the original CIES (paragraphs 4 and 5 below);
- (b) the new CIES should facilitate the entry for residence in Hong Kong by capital investment entrants, i.e. persons who make investment of HK\$30 million or above in the permissible investment assets (paragraphs 6 to 8 below);
- (c) the new CIES should provide for portfolio maintenance requirements to ensure that the applicants make the committed investment and comply with the criteria under the scheme throughout the period of permission to stay in Hong Kong (paragraphs 9 to 15 below); and
- (d) the new CIES should implement appropriate conditions of entry, stay and extension (paragraphs 16 to 19 below).

JUSTIFICATIONS

2. The original CIES was launched in 2003 to facilitate the entry for residence by capital investment entrants who would attract capital inflow into Hong Kong, conducive to stimulating economic growth and employment. An applicant could make his/her choice of investment at HK\$6.5 million in

permissible investment assets¹. In 2010, the investment threshold was increased to HK\$10 million. In 2015, the CIES was suspended.

3. The 2023-24 Budget set out that a new CIES would be introduced with a view to further enriching the talent pool and attracting more new capital to Hong Kong. In the 2023 Policy Address, the Chief Executive announced that under the new CIES, eligible investors who make investment of HK\$30 million or above in assets such as stocks, funds, bonds, etc., can apply for entry into Hong Kong. This will strengthen the development of our asset and wealth management business, financial services and related professional services.

(A) Eligibility Criteria

4. The new CIES will generally adopt the framework and application criteria of the original version, with adjustments proposed in light of the latest market/industry developments and relevant policy considerations. Applicants who satisfy the following criteria will be eligible for applying for admission into Hong Kong –

(a) Age

Aged 18 or above at the time of applying for net asset assessment (paragraph 4(c) below);

(b) Eligible applicants

Eligible applicants include –

- (i) foreign nationals²;
- (ii) Chinese nationals who have obtained permanent resident status in a foreign country;
- (iii) Macao Special Administrative Region residents; and
- (iv) Chinese residents of Taiwan;

¹ Including equities, debt securities, certificates of deposits, eligible collective investment schemes, real estate, etc.

² Nationals of Afghanistan, Cuba and Democratic People's Republic of Korea are to be excluded. Stateless persons who have obtained permanent resident status in a foreign country with proven re-entry facilities will be eligible under the new CIES.

(c) Net assets

An applicant must apply for a net asset assessment, i.e. demonstrating that he/she has net assets of not less than HK\$30 million (or equivalent in foreign currencies) to which he/she is absolutely beneficially entitled throughout the two years preceding the application; and

(d) No adverse record

An applicant must demonstrate that he/she has no adverse immigration record and meets normal immigration and security requirements.

5. An applicant may be allowed to bring in dependants³ provided that he/she is capable of supporting and accommodating himself/herself and dependants on his/her own without relying on any return on the permissible investment assets, employment or public assistance in Hong Kong.

(B) Minimum Investment Threshold

6. An applicant must make investment of a minimum of HK\$30 million in the permissible investment assets (paragraphs 7 to 8 below).

(C) Permissible Investment Assets

7. An applicant must invest a minimum of HK\$27 million in any of the following permissible assets, which have taken account of the latest market/industry developments (e.g. the inclusion of assets denominated in Renminbi (“RMB”), collective investment schemes authorised by the Securities and Futures Commission (“SFC”), and open-ended fund companies and limited partnership funds established in Hong Kong) –

Financial assets

(a) Equities – shares of companies that are listed on the Stock

³ i.e. his/her spouse or the other party to a same-sex civil partnership, same-sex civil union, “same-sex marriage”, opposite-sex civil partnership or opposite-sex civil union entered into by him/her in accordance with the local law in force of the place of celebration and with such status being legally and officially recognised by the local authorities of the place of celebration; and unmarried dependent children aged under 18 years. The entry of dependants will also be subject to other policies applicable to such entry at the time.

Exchange of Hong Kong (“SEHK”) and traded in Hong Kong Dollars (“HKD”) or RMB;

- (b) Debt securities –
- (i) debt securities listed on the SEHK and traded in HKD or RMB (including debt instruments issued in Hong Kong by the Ministry of Finance of the People’s Republic of China and local people’s governments at any level in the Mainland);
 - (ii) debt securities denominated in HKD or RMB, including fixed or floating rate instruments and convertible bonds issued or fully guaranteed by –
 - (A) the Government, the Exchange Fund, the Hong Kong Mortgage Corporation, the MTR Corporation Limited, Hong Kong Airport Authority, and other corporations, agencies or bodies wholly or partly owned by the Government as may be specified from time to time by the Government; or
 - (B) listed companies referred to under paragraph 7(a) above;
- (c) Certificates of deposits – certificates of deposits denominated in HKD or RMB issued by authorised institutions as defined in the Banking Ordinance (Cap. 155) with a remaining term to maturity of not less than 12 months at the time of purchase, subject to a cap of 10% of the minimum investment threshold;
- (d) Subordinated debt – subordinated debt denominated in HKD or RMB issued by authorised institutions in compliance with Schedules 4B and 4C to the Banking (Capital) Rules (Cap. 155L);
- (e) Eligible collective investment schemes –
- (i) SFC-authorized funds managed by corporations licensed by or institutions registered with the SFC for Type 9 regulated activity;
 - (ii) SFC-authorized real estate investment trusts managed by corporations licensed by or institutions registered with the

SFC for Type 9 regulated activity;

- (iii) SFC-authorized Investment-Linked Assurance Schemes issued by insurers permitted to carry on Class C business as specified in Part 2 of Schedule 1 to the Insurance Ordinance (Cap. 41);
 - (iv) open-ended fund companies registered under the Securities and Futures Ordinance (Cap. 571) and managed by corporations licensed by or institutions registered with the SFC for Type 9 regulated activity;
- (f) Ownership interest in limited partnership funds registered under the Limited Partnership Fund Ordinance (Cap. 637); and

Non-residential real estate

- (g) Non-residential real estate, whether commercial and/or industrial (including pre-completion properties and excluding land) in Hong Kong, subject to a cap of HK\$10 million.

CIES Investment Portfolio

8. Separately, each applicant under the new CIES is required to place HK\$3 million into a new CIES Investment Portfolio (“Portfolio”), which will be set up and managed by the Hong Kong Investment Corporation Limited. The Portfolio will make investment in companies/projects with a Hong Kong nexus, with a view to supporting the development of innovation and technology (“I&T”) industries and other strategic industries that are beneficial to the long term development of Hong Kong’s economy. While capital preservation and dividends are not guaranteed, distribution may be made on a discretionary basis at appropriate junctures subject to factors such as the pace and mix of the construction and realisation of the Portfolio, as well as the policy objectives and implementation arrangements. Detailed design for the Portfolio will be drawn up subject to, among other things, legal advice and operational considerations.

(D) Portfolio Maintenance Requirements

Permissible financial assets

9. Similar to the original CIES, portfolio maintenance requirements will be implemented under the new CIES and an applicant’s investments

qualifying his/her entry and continued stay in Hong Kong will need to be ring-fenced. Specifically, an applicant must deposit his/her financial assets in a designated investment account operated by a single eligible financial intermediary⁴ which can be –

- (a) an authorised institution as defined in the Banking Ordinance (Cap. 155);
- (b) a licensed corporation to perform Type 1 or 9 regulated activities under the Securities and Futures Ordinance (Cap. 571); or
- (c) an insurer permitted to carry on Class C business as specified in Part 2 of Schedule 1 to the Insurance Ordinance (Cap. 41).

10. An applicant must use the designated investment account exclusively for the transaction of permissible investment assets. He/she must not reduce the committed investment (which must meet the minimum investment threshold set out in paragraph 6 above) while permitted to stay in Hong Kong, but will not be required to top up the value of investment if its market value falls below the minimum investment threshold. Switching of investment between the permissible financial assets and non-residential real estate is allowed under the ring-fencing principle, i.e. the trading proceeds are re-invested in full, with proper record on the change in investment portfolio and timely report to the Government.

11. With the exception of withdrawing cash dividends or interest income derived from the permissible financial assets, an applicant must not withdraw any cash or investment from the designated account, or make any scheme or arrangements which would enable the extraction of any value or benefit from the designated account or incur any debt using the investment portfolio as collateral for such indebtedness.

12. A financial intermediary engaged by an applicant is required to carry out customer due diligence and provide periodic reports to the Government on the applicant's continuous compliance with the requirements under the new CIES.

Non-residential real estate

13. Concerning acquisition of non-residential real estate, there is no

⁴ An applicant may switch his/her designated investment account from an eligible financial intermediary to another, provided that the investment portfolio is transferred in entirety to the new account.

restriction on the number of real estate bought for the purpose of gaining entry under the new CIES, but only investment in form of equity in real estate is counted towards the minimum investment threshold (paragraph 6 above). An applicant may take out a mortgage loan with a bank or financial institution licensed in Hong Kong in respect of the real estate but only the amount of equity is counted for the purpose of the new CIES. Refinancing of the outstanding mortgage loan is allowed provided that the applicant does not increase the outstanding loan or in any way realise any capital gain on the value of the real estate. An applicant may sell the real estate and would continue to qualify under the new CIES if he/she invests the entire proceeds from the sale in other permissible investment assets after deducting the amount of the original mortgage loan, if any, secured by the real estate. Rental income from the non-residential real estate can be paid and retained by the applicant and need not be ring-fenced under the new CIES.

14. An applicant may choose to acquire non-residential real estate with a value of more than HK\$10 million by paying additional equity. In such case, only a maximum of HK\$10 million will be counted and ring-fenced as the qualifying investment under the new CIES. The entrant may sell the real estate and would continue to qualify under the new CIES if he/she invests the entire proceeds arising from the sale after deducting the additional equity paid in permissible investment assets.

15. An applicant is required to prove to the satisfaction of Invest Hong Kong (“InvestHK”) (paragraph 16 below) all the essential details of the transactions by providing documents such as Land Registry records, bank statements and where necessary a professional valuation report. An applicant is also required to make a declaration to InvestHK from time to time that he/she is and remains as the absolute beneficial owner of the non-residential real estate (subject to any permitted mortgage or charge over the property) and notify InvestHK of any changes in circumstances.

(E) Application Procedures, Permission of Entry, Stay and Extension

16. InvestHK will be responsible for assessing whether the applications fulfill the financial requirements (under paragraphs 4(c), 6 to 15 above). Immigration Department (“ImmD”) will be responsible for assessing the applications for visa/entry permit, extension of stay and unconditional stay. The two departments will maintain close mutual communication on the matters involved.

17. Procedurally, an applicant is firstly required to submit an application to InvestHK for assessing compliance with the financial

requirements. After InvestHK has verified that the applicant fulfils the net asset requirement, he/she may submit to ImmD an entry application for a visa/entry permit to enter Hong Kong for residence (“entry application”). Upon approval-in-principle after assessment from the immigration perspectives⁵, ImmD will grant a visa/entry permit to the applicant for entering Hong Kong as a visitor for not more than 180 days for making the committed investment within the period.

18. Upon the applicant’s completion of the committed investment and InvestHK’s verification that the applicant meets the investment requirements, ImmD may grant formal approval of the entry application. Permission to stay will normally be granted to the applicant and his/her dependants (if any) for not more than 24 months on time limitation only, subject to the condition that the applicant continues to satisfy the requirements under the new CIES throughout this period. Upon expiry of the 24-month period, the applicant and his/her dependants may apply for extension of stay for not more than three years, and may subsequently apply for further extension of stay for not more than three years upon the expiry of each period, provided that he/she continues to meet the requirements under the new CIES.

19. The applicant and his/her dependants, who upon a period of continuous ordinary residence in Hong Kong of not less than seven years, may apply for becoming Hong Kong permanent residents in accordance with the law. If the applicant is unable to fulfil the continuous ordinary residence requirement, while continuously satisfying the financial requirements under the new CIES for not less than seven years as verified by InvestHK, he/she and his/her dependants may apply to ImmD for unconditional stay in Hong Kong. If the application is approved by ImmD after assessment from the immigration perspectives, the applicant will be free to dispose of the invested assets.

SUSPENSION OF PAYMENT OF BUYER’S STAMP DUTY (“BSD”) AND NEW RESIDENTIAL STAMP DUTY (“NRSD”) FOR NEW CIES APPLICANTS

20. As announced in the 2023 Policy Address, a mechanism will be introduced for suspension of payment of BSD and NRSD for incoming talents’ acquisition of residential property in Hong Kong (“the Suspension

⁵ There should be no security objection and no known record of serious crime in respect of the applicant.

Mechanism”)⁶. We have considered and accepted suggestions that the Suspension Mechanism should cover successful applicants under the new CIES which also serves to enrich the talent pool. To this end, an amendment notice will be made to add the new CIES to Schedule 12 to the Stamp Duty Ordinance (Cap. 117).

IMPLICATIONS OF THE PROPOSAL

21. The new CIES is in conformity with the Basic Law, including the provisions concerning human rights, and has no productivity, family, environmental or gender implications. The economic, financial, civil service and sustainability implications are set out in paragraphs 22 to 24 below.

Economic Implications

22. The new CIES would incentivise more high-net-worth asset owners to set foot in Hong Kong and inject additional funds for investment. This would generate new business opportunities and employment for the financial services industry and render additional funding support to the I&T industry in Hong Kong, thereby bolstering the further development of these industries.

Financial and Civil Service Implications

23. Additional manpower and resources are made available to InvestHK and ImmD for implementing the new CIES in accordance with the established mechanism.

Sustainability Implications

24. The new CIES would further facilitate the admission of asset owners and talents into Hong Kong to strengthen the development of the financial services industry and the talent pool, which in turn would help enhance the competitiveness of the economy.

⁶ Viz the Stamp Duty (Amendment) (Residential Properties) Bill 2023 introduced into the Legislative Council on 8 November 2023.

PUBLIC CONSULTATION

25. The introduction of the new CIES has been announced in the 2023-24 Budget. The Government has since been receiving views on the new scheme, which have been suitably taken into consideration in the formulation of the details of the new CIES.

PUBLICITY

26. We have conducted a press briefing to announce the details of the new CIES and issued a press release on 19 December 2023. We aim to officially launch the new CIES and invite applications in mid-2024.

27. Wide publicity will be launched through various channels, including promotion to the target client groups by InvestHK's dedicated FamilyOfficeHK team (which provides one-stop support services to family offices) and Dedicated Teams for Attracting Businesses and Talents and Investment Promotion Divisions (which base in the Economic and Trade Offices around the globe).

ENQUIRIES

28. Enquiries on this brief can be directed to Mr Winston Chan, Principal Assistant Secretary for Financial Services and the Treasury (Financial Services)¹, at 2810 2054.

Financial Services and the Treasury Bureau
19 December 2023