



# **FEEDBACK ON IRB'S RESPONSE TO STAKEHOLDER'S PROPOSAL ON THE REVIEW OF THE MALAYSIAN STAMP ACT 1949 (MSA)**

28 October 2013

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Stamp Duty Task Force (SDTF)

***CTIM and MICPA***

**FEEDBACK ON  
IRB'S RESPONSE TO STAKEHOLDER'S PROPOSAL  
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(MSA)**

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## **FEEDBACK ON THE IRB'S RESPONSE TO STAKEHOLDER'S PROPOSAL ON THE REVIEW OF THE MALAYSIAN STAMP ACT 1949 (MSA)**

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### **Preamble**

Following from the receipt of the Appendices to *IRB's Response to Stakeholders Proposals on the Revamp of Stamp Act 1949* on 19 August 2013, the Stamp Duty Task Force (SDTF) is pleased to provide further feedback (in addition to the *CTIM/MICPA Feedback on IRB's Proposals to Review of the Malaysian Stamp Act 1949* (which was submitted to you on 16 August 2013) as follows:

- (i) *Appendix 1: Section – Proposals by the Stakeholders*
- (ii) *Appendix 2: First Schedule - Proposal by the Stakeholders*

## FEEDBACK ON THE IRB'S RESPONSE TO STAKEHOLDER'S PROPOSAL ON THE REVIEW OF THE MALAYSIAN STAMP ACT 1949 (MSA)

Appendix 1

### SECTION – PROPOSALS BY THE STAKEHOLDERS

SEKSYEN	PERUNTUKAN SEDIA ADA	CADANGAN & JUSTIFIKASI	MAKLUM BALAS LHDNM & JUSTIFIKASI	RESPONSE FROM CTIM and MICPA
2	Interpretation	<p><b>Proposal: CTIM &amp; MICPA &amp; ABM</b></p> <p>To add a definition of “financing” in Section 2 of the Act. “financing” means the lending of money or any scheme of financing which is in accordance with the principles of Syariah.</p> <p><b><u>Justification</u></b></p> <p>To clarify that “financing” covers both conventional and Islamic.</p>	<p><b>Cadangan: CTIM, MICPA &amp; ABM</b></p> <p>Tidak dapat dipersetujui.</p> <p><b><u>Justifikasi</u></b></p> <p>Konsep pembiayaan antara konvensional dengan syariah menggunakan terminologi yang berlainan. Jika konvensional, ia merujuk kepada pinjaman manakala syariah pula berasaskan skim pembiayaan. Rujukan juga dibuat kepada akta-akta lain ie. Malaysia Deposit Insurance Corporation Act 2011.</p>	
		<p><b>Proposal: CTIM &amp; MICPA</b></p> <p>Define the word “instrument” to differentiate it from the word “document” used in the Act.</p> <p><b><u>Justification</u></b></p> <p>The word “instrument” as defined in</p>	<p><b>Cadangan: CTIM &amp; MICPA</b></p> <p>Tidak dapat dipersetujui.</p> <p><b><u>Justifikasi</u></b></p> <p>Duti dikenakan ke atas setiap</p>	

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		<p>the Act is “includes every written document” which does not really explain anything.</p> <p>In the Act, only instruments listed under Schedule 1 are subject to duty but readers tend to think that “document” is “instrument”, which, technically, it is not.</p>	<p>instrument. Instrument adalah berdasarkan kepada dokumen. Akan tetapi, bukan semua istilah dokumen di dalam Akta merujuk kepada instrument yang dikenakan duti. Antaranya subseksyen 3A(2), dokumen merujuk kepada rekod. Oleh itu pemakaian perkataan instrument atau dokumen bergantung kepada konteks peruntukan berkenaan.</p>	
4A	Stamp duty on instruments executed outside Malaysia effecting transfer of property in Malaysia	<p><b>Proposal: CTIM</b> To delete Subsection 4A(1).</p> <p><b>Justification</b> This provision is arguably unnecessary. Item 32 ad valorem duty clearly applies to a conveyance on sale (which is broadened by Section 16 of the Stamp Act, 1949) on usual conveyances. Further, a conveyance instrument has to be prepared and used where there are mandatory forms prescribed by law e.g. Form 32A of the Companies Act, 1965 and Form 14A of the National Land Code.</p> <p>It creates uncertainty. When is property situated in Malaysia? The location of certain types of movable or immovable property is not clear at law. In fact the classification of certain property as movable or immovable itself is fraught with difficulties.</p>	<p><b>Cadangan: CTIM</b> Tidak dapat dipersetujui.</p> <p><b>Justifikasi</b> Peruntukan ini telah dimasukkan ke dalam Akta melalui pindaan Akta No. 60/1967. Semenjak pindaan sehingga kini, duti bagi pindah milik harta alih dan tak alih dikenakan di bawah Butiran 32 dan tidak ada sebarang rayuan disebabkan kekaburan peruntukan Seksyen 4A. Oleh itu, tidak wajar peruntukan ini dipotong.</p>	

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		<p>Most jurisdictions recognize the ability of parties to a transaction to freely contract on what law applies subject to such choice being bona fide and the chosen law having connection to the transaction. Section 4A ignores such recognition and creates a conflict of law.</p> <p>In the case of movables, the law that governs the transfer of moveable property is explained in the maxim <i>mobilia sequuntur persona</i> - goods follow the person. Section 4A ignores fundamental principles of law.</p>		
28	Security for future advances, how to be charged	<p><b>Proposal: ABM &amp; MIBA</b> To expressly provide in the Section that MRTA also form part of the exemption for clarity purpose.</p>	<p><b>Cadangan: ABM &amp; MIBA</b> Tidak dapat dipersetujui.</p> <p><b>Justifikasi</b> Peruntukan sedia ada adalah peruntukan am yang mana adalah terpakai kepada insurans kebakaran atau polisi insurans hayat. Oleh itu, jika dimasukkan polisi khusus MRTA, peruntukan juga perlu memasukkan produk-produk serupa tetapi menggunakan nama berbeza. Dengan itu, untuk mengelakkan pindaan yang perlu dibuat untuk memasukkan produk-produk lain di masa akan datang yang perlu dibentangkan di Parlimen, wajar peruntukkan sedia ada</p>	

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			dikekalkan.	
47A	Penalty for late stamping	<b>Proposal 1: ABM</b> To increase the grace period for stamping from 30 days to 60 days but to double the penalty.  <b>Justification</b> Increasing the grace period gives more flexibility. The increase in penalty rates ensures any delay is for genuine reasons and not an abuse of process.	<b>Cadangan 1: ABM</b>  Tidak dapat dipersetujui.  <b>Justifikasi</b> Kekalkan seperti mana yang diamalkan di negara-negara lain seperti Singapura, Hong Kong, Australia, United Kingdom dan Ireland.	
		<b>Proposal 2: MIBA</b> To reduce the penalty percentage for late stamping.  <b>Justification</b> To reduce the burden of the consumer.	<b>Cadangan 2: MIBA</b>  Tidak dapat dipersetujui.  <b>Justifikasi</b> Kadar penalti sedia ada tidak memberi kesan kepada pematuhan berhubung dengan tempoh penyeteman. Kadar penalti sedia ada juga adalah rendah berbanding negara kajian lain iaitu Singapura dan Hong Kong.	
50A	Error in assessment, etc	<b>Proposal: ABM</b> Delete Section 50A.  <b>Justification</b> Once adjudicated, the Collector should be bound by his assessment.	<b>Cadangan: ABM</b>  Tidak dapat dipersetujui.  <b>Justifikasi</b> Untuk membolehkan Pemungut memungut duti yang sepatutnya, kuasa yang jelas mestilah	<b>This provision deals with the ability of the Collector to raise assessment, to collect additional duty and penalty even though the under-assessment of duty is due to the error or failure on the part of the Collector to assess the correct duty. This provision is not present in the Hong Kong</b>

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			diperuntukkan di dalam Akta. Oleh itu, bagi tujuan ketelusan kepada pembayar duti, peruntukkan ini mesti dikekalkan. Negara lain juga mempunyai peruntukan yang sama.	<p><b>Stamp Duty Ordinance.</b></p> <p>The Institutes suggest that the Collector should be empowered to raise additional duty and penalty calculated pursuant to section 47A where information or documents were withheld by the duty payer when documents were submitted for adjudication. Otherwise, to raise additional stamp duty and penalize the duty payer due to the error of the Collector would not be appropriate.</p>



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## Appendix 2

## FIRST SCHEDULE – PROPOSAL FROM THE STAKEHOLDERS

BUTIRAN	PERUNTUKAN SEDIA ADA	CADANGAN & JUSTIFIKASI	MAKLUM BALAS LHDNM & JUSTIFIKASI	RESPONSE FROM CTIM and MICPA
4	<p>AGREEMENT OR MEMORANDUM OF AGREEMENT made under hand only or deed, and not otherwise specially charged with any duty, whether the same is only evidence of a contract or obligatory on the parties from its being a written instrument.</p> <p><i>Exemptions</i></p> <p>Agreement or Memorandum:</p> <p>(a) for or relating to the sale of any goods, wares or merchandise other than a hire-purchase agreement;</p> <p>(b) for service or personal employment where the wages do not exceed RM300 per month, and any agreement between the master and mariners of any vessel or boat for wages;</p> <p>(c) the matter whereof is of a value of less than RM300;</p> <p>(d) for the reference of any matter to arbitration;</p> <p>(e) for the payment of interest on money deposited in any bank or with any banker;</p> <p>(f) for the repurchase of negotiable certificate of deposit whose issue has been authorised by Bank Negara Malaysia.</p>	<p><b>Proposal 1: ABM &amp; MIBA</b></p> <p>Bank's Application forms: 100% exemption from stamp duty.</p> <p><b>Justification</b></p> <p>Application forms are instructions to the Bank to address operational and administration efficiency.</p>	<p><b>Cadangan 1: ABM &amp; MIBA</b></p> <p>"Bank application form" tidak dikenakan duti. Oleh itu cadangan mengecualikan "Bank application form" daripada duti adalah tidak relevan.</p>	
		<p><b>Proposal 2: CTIM, MICPA &amp; ABM</b></p> <p><i>Note</i> – An agreement for or relating to the supply of goods on hire, <u>whether by way of hire-purchase or leasing,</u> <del>whereby the goods in consideration of periodical payments will or may become the property of the person to whom they are supplied,</del> shall be charged with stamp duty as an agreement, <del>or, if under seal, as a deed.</del></p> <p><b>Justification</b></p> <p>To accord similar treatment for leasing and hire-purchase, and to do away with the distinction between execution under hand and under seal.</p>	<p><b>Cadangan 2: CTIM, MICPA &amp; ABM</b></p> <p>Tidak dapat dipersetujui.</p> <p><b>Justifikasi</b></p> <p>Sewa beli adalah pembelian aset secara kredit manakala pajakan adalah transaksi penyewaan aset. Oleh itu, layanan pengenaan duti adalah berbeza memandangkan <i>substance</i> yang berlainan.</p>	

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	<b>Note</b> —An agreement for or relating to the supply of goods on hire, whereby the goods in consideration of periodical payments will or may become the property of the person to whom they are supplied, shall be charged with stamp duty as an agreement, or, if under seal, as a deed.		Cadangan memotong perkataan <i>under seal</i> juga tidak dipersetujui kerana peruntukan ini juga terpakai kepada perjanjian <i>under seal</i> yang mana kadarnya adalah sama dengan butiran 4 (Perjanjian RM10.00)	
uip22	BOND, COVENANT, LOAN, SERVICES, EQUIPMENT LEASE AGREEMENT OR INSTRUMENT of any kind whatsoever (1)(a) being the only or principal or primary security for any annuity (except upon the original creation thereof by way of sale or security, and except a superannuation annuity), for the term of life or any other indefinite period	<b>Proposal 1: CTIM &amp; MICPA</b> 1. For the purpose of clarity, the scope of item 22 should be reviewed – suggest to remove “covenant” and “instruments of any kind whatsoever” as this gives rise to ambiguity and uncertainty in respect of the instruments subject to stamp duty. 2. One must specify expressly only the type of instruments to which item 22 applies. 3. To delete the words “or sum periodically payable” and to insert the	<b>Cadangan 1: CTIM &amp; MICPA</b> 1. Cadangan mengeluarkan perkataan "Covenant" tidak dapat dipersetujui. 2. Cadangan untuk menyatakan setiap jenis instrumen di bawah Butiran 22 tidak dapat dipersetujui. 3. Cadangan untuk mengeluarkan “or sum periodically payable” dan memasukkan perkataan "at stated periods" tidak dapat	<b>The Institute feedback are as below:</b>  1. The Institute would like to request that the IRB to issue guidelines what constitutes “covenant” and “instruments of any kind” – this is to provide clarity and to standardise treatment across different Stamp Offices  2. See item 1 above

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	<p>for every RM100 and also for any fractional part of RM100 of the annuity or sum periodically payable</p> <p>(b) for any sum or sums of money, not being interest for any principal sum secured by a duly stamped instrument, nor rent reserved by a lease or tack.</p> <p>(2) Being a collateral or auxiliary or additional or substituted security for any of the above mentioned purposes where the principal or primary instrument is duly stamped</p> <p>(a) where the total amount to be ultimately payable can be ascertained</p> <p>(b) in any other case— For every RM100 and also for any fractional part of RM100 of the annuity or sum periodically payable.</p> <p>(3) Being a grant or contract for payment of a superannuation annuity, that is to say a deferred life annuity granted or secured any person in consideration of annual premiums payable until he</p>	<p>words "at stated periods" under the current item 22 (1) (b)</p> <p>4. Bond, Covenant, <del>Loan</del> <u>Financing</u>, <del>Services, Equipment Lease</del> Agreement or Instrument of any kind whatsoever</p> <p><b>Justification</b></p> <p>1. To reduce the cost of doing business. Countries such as Hong Kong, Singapore and UK do not impose ad valorem duty on royalty, licence, service agreements and sale of equipment where it involves milestone payments.</p> <p>2. This amendment will make the provision certain which is an essential feature in the smooth operation of stamp duty.</p> <p>3. This will avoid any ambiguities in the provision and promote certainty. An instrument with a single payment should not be seen or treated as a "security" instrument for stamp duty purposes and should attract duty at a fixed rate only.</p> <p>4. To accord similar treatment for leasing and hire-purchase. The term "Financing" covers both conventional and Islamic.</p>	<p>dipersetujui.</p> <p>4. Cadangan untuk menggantikan perkataan "Loan" dengan perkataan "Financing" dan untuk mengeluarkan "Equipment Lease" tidak dapat dipersetujui.</p> <p><b>Justifikasi</b></p> <p>1. "Covenant" adalah akujanji yang mewujudkan tanggungan untuk membayar atau melaksanakan satu tindakan. Menepati prinsip di bawah Butiran 22.</p> <p>2. Tidak praktikal untuk menyenaraikan semua jenis surat cara yang dikenakan duti di bawah Butiran 22.</p> <p>3. Memberikan layanan yang sama bagi bayaran secara berkala atau tidak.</p> <p>4. Peruntukan sedia ada telah dinyatakan secara khusus tentang skim pembiayaan menurut prinsip Syariah. Perkataan "Equipment Lease" telah dicadang untuk digantikan dengan klausa "lease or licence to use movable property".</p>	<p>3. Noted</p>

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	attains a specified age, and so to commence on his attaining that age —			
(4)	Being the security for payment or repayment of money made for the purpose of pursuing higher education in higher educational institutions.	<b>Proposal 2: CTIM &amp; MICPA</b> To remove ad valorem stamp duty and re- introduce fixed duty (RM10) for service agreements. The duty for service agreements should be specified under a separate item.	<b>Cadangan 2 &amp; 3: CTIM, MICPA &amp; ABM</b> Cadangan tidak dapat dipersetujui. Kekalkan kadar sedia ada.	<b>Noted.</b> <b>The Institutes have suggested in response to MOF/IRB via submission on 16 August 2013, the equipment portion in the Equipment, Procurement, Construction and Commissioning ("EPCC") should not attract ad valorem stamp duty at 0.1%.</b>
(5)	Being the security for securing the payment for the provision of services or facilities or to other matters or things in connection with the lease of any immovable property.	<b>Justification</b> The National Key Economic Areas ("NKEA")s are identified to be the engines of growth for Malaysia. There are 12 NKEAs that were jointly identified by the private and public sectors to kick start the Economic Transformation Programme. These NKEAs represent economic sectors that will drive the highest possible income over the next 10 years. In all the NKEAs, services play a leading and important role towards Malaysia achieving its goal of becoming developed nation by 2020.	<b>Justifikasi</b> 1. Bagi memberikan layanan duti yang saksama, semua surat cara berjenis sekuriti dikenakan duti pada satu kadar sahaja. 2. Peremitan 0.4% telah diberikan kepada surat cara kontrak /servis yg mana kadar adalah lebih rendah berbanding dengan kadar asal 0.5% - rujuk Perintah Peremitan, PU(A) 476/2010.	
(6)	Being the security for securing the payment or repayment of money for the purchase of goods (within the meaning given under the First Schedule of the Hire Purchase Act 1967) in accordance with the <i>Syariah principle of Al Bai Bithamin Ajil</i> .	<b>Proposal 3: ABM</b> To insert new item:- "Service Agreement (other than in connection with the lease of any immovable property which falls under Lease or Agreement for Lease) RM10.00 "  <b>Justification</b>		

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		Often service agreements do not have specific quantified value as it is based on transactions.		
		<p><b>Proposal 4: ABM</b> Capping of stamp duty of a transaction to RM500 to RM1000.00. For example: All facilities below RM500K - 1 amount; for facilities above RM500K, another amount.</p> <p><b>Justification</b> Easy administration. Less costly for business to obtain credit facilities.</p>	<p><b>Cadangan 4 – 14 : ABM &amp; MIBA</b> Cadangan tidak dapat dipersetujui.</p> <p><b>Justifikasi</b> Bagi memberikan layanan duti yang saksama, semua surat cara pinjaman dikenakan duti pada satu kadar sahaja.</p>	
		<p><b>Proposal 5: ABM &amp; MIBA</b> Service agreement: 100% exemption from stamp duty.</p> <p><b>Justification</b> To promote the services sector which forms the back bone of the country's economic growth.</p>		
		<p><b>Proposal 6: ABM &amp; MIBA</b> Trade transactions: 50% reduction from the current stamp duty payable; alternatively, there should be a maximum limit.</p> <p><b>Justification</b> Trade facilities are considered low risk</p>		

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		and recourse could be on third party, hence, the stamping treatment should be different from direct lending with direct recourse.		
		<b>Proposal 7 : ABM &amp; MIBA</b> Reinstatement or review of existing facility: 100% exemption from stamp duty  <b>Justification</b> Stamp duty has been paid earlier - it is the same facility.		
		<b>Proposal 8: ABM</b> To revisit the need to impose stamp duty on unsecured facilities.  <b>Justification</b> To reduce the burden of the consumer.		
		<b>Proposal 9: ABM</b> Exemption on ad valorem stamp duty payable on instruments executed for unsecured facilities instead of a remission of the ad valorem stamp duty.  <b>Justification</b> The impact is more evident on small business (SMEs) which require facilities for business start ups and in most cases do not have any security to secure the financing. LHDNM should seek statics as to how the economy as a whole		

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		<p>would benefit is such exemptions are given. Perhaps exemptions can be considered for unsecured facilities up to a maximum amount.</p> <p>Another suggestion would be instead of granting an exemption on the stamp duty payable for unsecured facilities, LHDNM should consider imposing a ceiling rate as most companies would be willing to pay a reasonable amount of stamp duty imposed.</p> <p><b>Proposal 10: MIBA</b> Propose to give exemption to pay ad valorem duty for facility agreements in relation to extension of Share Margin Financing facility to subscribe, purchase or sale of any shares, stock or marketable securities. 100% exemption from stamp duty</p> <p><b>Justification</b> (a) There is such exemption provided under the Stamp Act in Singapore. (b) Share Margin facilities are used for subscription/trading of shares, stock or marketable securities which are already subjected to contract stamp of RM1 for every RM1,000 or fraction a part of RM1,000 of the market value of any shares, stock or marketable securities traded.</p>		

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		<p><b>Proposal 11: MIBA</b> Item 22(1): Exemptions on investments from low income group</p> <p><b>Justification</b> (a) Exemption (stamp duty) for financing / loans to targeted individuals for specific purpose e.g., low income earners for investment purposes especially on Unit Trust managed by Government agencies. (b) Exemption or min charges (of stamp duty) for financing / loans facility for individuals who come up with their own liquid collateral such as Fixed Deposit / Unit Trust Certificates. (c) Exemption or minimum charges (of stamp duty) for facility that are revolving.</p>		
		<p><b>Proposal 12: MIBA</b> To insert new item:- "Agreements and confirmations governing foreign exchange contracts, derivatives and money market instruments, including ISDA Master Agreement (International Swaps and Derivatives Association) and credit support documents - RM10.00 "</p> <p><b>Justification</b> Same rationale outlined in ABM's letter dated 8 October 2009 (Ref:GEN/279/09)</p>		



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BUTIRAN	PERUNTUKAN SEDIA ADA	CADANGAN & JUSTIFIKASI	MAKLUM BALAS LHDNM & JUSTIFIKASI	RESPONSE FROM CTIM and MICPA
		<p>agreements for sum(s) of money - RM10.00.</p> <p><b>Justification</b> Same rationale outlined in ABM's letter dated 8 October 2009 (Ref:GEN/279/09) to Kementerian Kewangan, Lembaga Hasil Dalam Negeri and Bank Negara Malaysia.</p>	<p>di bawah PU(A)258/2012 bagi pinjaman tanpa cagaran yang memenuhi syarat.</p> <p>(ii) Surat cara yang dinyatakan sebahagiannya tidak termasuk di bawah butiran 22 dan sebahagiannya tidak tertakluk kepada duti.</p>	
27	<p>CHARGE OR MORTGAGE, AGREEMENT FOR A CHARGE OR MORTGAGE, (including that under the Syariah) BOND, COVENANT, DEBENTURE (not being a marketable security) BILL OF SALE by way of security and WARRANT OF ATTORNEY to confess and enter up judgment:</p> <p>(a) Being the only or principal or primary security (other than an equitable mortgage or an assignment of receivables or the kind mentioned in paragraph (d) for the payment or repayment of money-</p> <p>(i) where the loan is to a small and medium enterprise or financing is provided to a small and medium enterprise according to the syariah-</p>	<p><b>Proposal 1: CTIM &amp; MICPA</b> Item 27(a)(ii) be changed to :- "where the financing is a foreign currency financing or any scheme of financing which is in accordance with the principles of Syariah"; "financing" should be defined in the Stamp Act to mean "loans or lending of money".</p> <p><b>Justification</b> Definition of "foreign currency loan" and reference to "loans" are too limiting. Does "loan" include exposure in a derivatives contract? "Foreign currency loan" is defined as "any loan denominated wholly in currencies other than the Ringgit".</p> <p>A lot of financing nowadays is not necessarily in the form of a straight forward loan, it could be in other forms</p>	<p><b>Cadangan 1: CTIM &amp; MICPA</b> Cadangan tidak dapat dipersetujui.</p> <p><b>Justifikasi</b> Menukarkan perkataan 'loan' kepada 'financing' akan menyebabkan pembiayaan lain selain pinjaman dalam mata wang asing menikmati bayaran duti maksimum RM500.</p>	<p>The Institutes are of the view that Item 27(a)(ii) be changed to :- "where the financing is a foreign currency financing or any scheme of financing which is in accordance with the principles of Syariah"; "financing" should be defined in the Stamp Act to mean "loans or lending of money" since it is common for businesses not to engage only in foreign currency <u>loan</u> agreements</p>

## FEEDBACK ON THE IRB'S RESPONSE TO STAKEHOLDER'S PROPOSAL ON THE REVIEW OF THE MALAYSIAN STAMP ACT 1949 (MSA)

BUTIRAN	PERUNTUKAN SEDIA ADA	CADANGAN & JUSTIFIKASI	MAKLUM BALAS LHDNM & JUSTIFIKASI	RESPONSE FROM CTIM and MICPA
	<p>For an amount not exceeding RM250,000 of the aggregate loans or of the aggregate financing under the syariah in a calendar year For each additional RM1,000 not exceeding RM 1,000,000 For each additional RM1,000 or part thereof</p> <p>(ii) where the loans is a foreign currency loan or the financing was made according to the syariah in currencies other than the ringgit</p> <p>(iii) in any other case— For each RM1,000 or part thereof</p> <p>(b) Being a collateral or auxiliary or additional or substituted security (other than an equitable mortgage) or by way of further assurance for the above-mentioned purpose where the principal or primary security is duly stamped.</p> <p>(c) An equitable mortgage</p> <p>(d) A charge or a mortgage on or an assignment by way of security of accounts receivables to a bank, merchant bank or finance company licensed under the Banking and Financial Institutions Act 1989 or under the Islamic Banking Act 1983 or a scheduled</p>	<p>of financing.</p> <p><b>Proposal 2: MIBA</b> All facility documents which are ancillary to a Contract Note shall not be subjected to stamp duty, where the Contract Note, which is the principle instrument, is chargeable with duty under this act.</p> <p><b>Justification</b></p> <p>a) Contract notes already attracts stamp duty and the facility documents are just to support the actual transaction.</p> <p>b) Increased cost to clients and less attractive to investors.</p>	<p><b>Cadangan 2: ABM &amp; MIBA</b> Cadangan tidak dapat dipersetujui.</p> <p><b>Justifikasi:</b> Surat cara yang terlibat adalah berbeza dan dikenakan duti di bawah butiran yang berbeza. Contoh: Bagi pembelian harta tanah, surat cara pindah milik harta tanah dan surat cara pinjaman akan dikenakan duti di bawah butiran yang berbeza.</p>	

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BUTIRAN	PERUNTUKAN SEDIA ADA	CADANGAN & JUSTIFIKASI	MAKLUM BALAS LHDNM & JUSTIFIKASI	RESPONSE FROM CTIM and MICPA
	<p>institution as defined under section 2 of the Banking &amp; Financial Institutions Act 1989, pursuant to an agreement for discounting invoices or hire purchase receivables</p> <p>(e) Transfer, assignment or disposition of any charge or mortgage, bond, covenant or debenture (not being a marketable security) or of any money or stock secured) by any such instrument or by any warrant of attorney to enter up judgment or by any judgment</p> <p><b>And also where any further money is added to the money already secured</b></p> <p>(f) <i>(Repealed)</i></p> <p>(g) Charge or mortgage executed in pursuance of a duly stamped agreement for the same, on production of such agreement to the Collector</p> <p>(h) In any other case</p>			
31	<p>CONTRACT NOTE or TRANSFER OF SHARES:</p> <p>Relating to the sale of any shares, stock or marketable securities in companies incorporated in Malaysia or elsewhere –</p> <p>For every RM1,000 or fractional part</p>	<p><b>Proposal 1: BURSA</b></p> <p>Generally, there are three types of ETFs namely the equity ETFs, fixed income ETFs and commodity ETFs. It is proposed that the ETFs be exempted from the payment of stamp duty.</p>	<p><b>Cadangan 1: BURSA</b></p> <p>Cadangan tidak dapat dipersetujui.</p>	

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BUTIRAN	PERUNTUKAN SEDIA ADA	CADANGAN & JUSTIFIKASI	MAKLUM BALAS LHDNM & JUSTIFIKASI	RESPONSE FROM CTIM and MICPA
	of RM1,000 of the value of any shares, stock or marketable securities	<p><b>Justification</b></p> <ol style="list-style-type: none"> <li>1. Proposed <b>exemption</b> will encourage the growth of ETF market and to ensure the transaction cost is comparative with regional markets.</li> <li>2. ETF sector currently contributed a small percentage of the total trading volume in Bursa Malaysia (Year 2009: 0.023% &amp; Year 2010: 0.071%). Based on the trend of historical data, the proposed exemption would have minimal impact to the Government in terms of revenue, i.e. only approximately RM273,642 being remitted as stamp duties for ETFs per annum.</li> </ol> <p><b><u>Benchmark with Best Practices in Other Countries</u></b></p> <p>Stamp duties are not imposed on securities trading in jurisdictions such as Australia, Singapore and Thailand which makes trading on these jurisdictions more attractive</p> <p>In London, stamp duty is exempted for ETFs secondary market trading to promote and attract more investment in ETFs.</p> <p>In Hong Kong, stamp duty exemption is extended to ETFs (concession is for ETFs that track indices in which Hong</p>	<p><b>Justifikasi</b></p> <p>Memberikan layanan yang sama bagi semua pelabur.</p>	

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BUTIRAN	PERUNTUKAN SEDIA ADA	CADANGAN & JUSTIFIKASI	MAKLUM BALAS LHDNM & JUSTIFIKASI	RESPONSE FROM CTIM and MICPA
		Kong stocks comprise 40% or less of the constituent securities). This is to attract the listing of regional ETFs in Hong Kong and to reduce trading costs for regional ETFs.		
		<p><b>Proposal 2: BURSA</b> To reduce friction cost in the market, it is proposed that the stamp duty on intraday trades be capped at RM10.</p> <p><b>Justification</b> 1. Proposed exemption will reduce frictional cost (stamp duty) to promote liquidity. 2. Cheaper intraday trades will benefit the Malaysia capital market in the following ways:- (a) Attract different trading strategies and promote diversity of investors in the Malaysian capital market; (b) Facilitate price recovery process which will enhance liquidity for stocks, allowing investors to buy and sell stocks with lower spreads and transaction costs. Furthermore, this will also reduce cost of funds for companies.</p>	<p><b>Cadangan 2: BURSA</b> Cadangan tidak dapat dipersetujui.</p> <p><b>Justifikasi</b> Memberikan layanan yang sama bagi semua transaksi pindah milik saham di Bursa.</p>	
32	CONVEYANCE, ASSIGNMENT, TRANSFER OR ABSOLUTE BILL OF SALE: (a) On sale of any property (except stock, shares, marketable	<p><b>Proposal 1: CTIM, MICPA &amp; ABM</b> Para (b)(i) of Exemptions under Item 32 First Schedule: (b)(i) of a bill of exchange, cheque, or promissory note or negotiable</p>	<p><b>Cadangan 1: CTIM, MICPA &amp; ABM</b> Cadangan tidak dapat dipersetujui.</p>	

## FEEDBACK ON THE IRB'S RESPONSE TO STAKEHOLDER'S PROPOSAL ON THE REVIEW OF THE MALAYSIAN STAMP ACT 1949 (MSA)

BUTIRAN	PERUNTUKAN SEDIA ADA	CADANGAN & JUSTIFIKASI	MAKLUM BALAS LHDNM & JUSTIFIKASI	RESPONSE FROM CTIM and MICPA
	securities and accounts receivables or book debts of the kind mentioned in paragraph (c)) (b) On sale of any stock, shares or marketable securities, to be computed on the price or value thereof on the date of transfer, whichever is the greater For every RM1,000 or fractional part of RM1,000 (c) On the absolute sale of any accounts receivables or book debts to a bank, merchant bank, or finance company licensed under the Banking and Financial Institution Act 1989 or under the Islamic Banking Act 1983 or a scheduled institution as defined under section 2 of the Banking & Financial Institution Act 1989, pursuant to a factoring agreement. (d) Of any property by way of security or any security other than a marketable security (e) Of any property as above where the transaction is between trustees and where— (i) The beneficial interest in the property passes (ii) The beneficial interest in the property does not pass (f) Of any property, for the purpose	<u>instrument</u>  <b>Justification</b> To provide clarity that transfer by endorsement of negotiable instruments is exempted.  <b>Proposal 2: CTIM, MICPA &amp; ABM</b> To add a new paragraph of Exemptions under Item 32 First Schedule "(e) Transfers of debentures or Islamic securities approved by the Securities Commission"  <b>Justification</b> Currently exempted under Stamp Duty (Exemption) (No.23) Order 2000, PU(A) 241/2000.	<b>Justifikasi</b> Surat cara yang termasuk di bawah kategori <i>negotiable instrument</i> yang perlu diberi pengecualian telah diberi pengecualian.  <b>Cadangan 2: CTIM, MICPA &amp; ABM</b> Cadangan tidak dapat dipersetujui.  <b>Justifikasi</b> Kekalkan di dalam warta sebagai perintah pengecualian. Pengecualian / Peremitan yang diberi di bawah warta mempunyai tempoh kuatkuasa manakala di dalam Akta tempoh adalah kekal selagi tiada pindaan ke atas Akta dibuat.	
		<b>Proposal 3: CTIM &amp; MICPA</b> To also allow stamp duty exemption for transfers by way of gift between parent and child; grandparent and grandchild.  <b>Justification</b> Since it is deemed just and equitable for such disposals to be exempt for RPGT,	Cadangan memberikan pengecualian masih dalam pertimbangan Kementerian Kewangan.	

## FEEDBACK ON THE IRB'S RESPONSE TO STAKEHOLDER'S PROPOSAL ON THE REVIEW OF THE MALAYSIAN STAMP ACT 1949 (MSA)

BUTIRAN	PERUNTUKAN SEDIA ADA	CADANGAN & JUSTIFIKASI	MAKLUM BALAS LHDNM & JUSTIFIKASI	RESPONSE FROM CTIM and MICPA
	of effectuating the appointment of a new trustee or the retirement of a trustee although no new trustee is appointed	the same should apply to stamp duty.		
	(g) Of any property by way of settlement	<b>Proposal 4: ABM</b> To insert new item:- "Novation of all rights, interest, title, liabilities and obligations under a contract RM10.00 "	<b>Cadangan 4: ABM</b> Cadangan tidak dapat dipersetujui.	
	(h) Of any property by way of gift (whether by way of voluntary disposition or otherwise)	<b>Justifikasi</b> Stamp duty has been paid on the original contract.	<b>Justifikasi</b> Perjanjian <i>Novation</i> melibatkan pihak yang berbeza dari perjanjian asal.	
	(i) Of any kind not otherwise specially charged with duty			
	<i>Exemptions</i>			
	(a) Transfers on sale of land for the recovery of land revenue;	<b>Proposal 5: ABM</b> To differentiate between sale and gift.	<b>Cadangan 5: ABM</b> Cadangan tidak dapat dipersetujui.	
	(b) Transfers by endorsement:	<b>Justifikasi</b> Market value may be applicable for sales transaction but not for gift.	<b>Justifikasi</b> Semua negara kajian juga mengambil kira harga pasaran bagi penentuan duti setem.	
	(i) of a bill of exchange, cheque or promissory note;			
	(ii) of a bill of lading, warrant for goods or other mercantile document of title to goods;			
	(iii) of a policy of insurance other than a policy of life insurance;	<b>Proposal 6: ABM</b> 0.5% on the first RM100K, 0.75% on the next RM400K 1% on the remaining amount	<b>Cadangan 6: ABM</b> Cadangan tidak dapat dipersetujui.	
	(iv) of charges on rates and taxes authorised by any written law for the time being in force in Malaysia;	<b>Justifikasi</b> To reduce the burden of the consumer.	<b>Justifikasi</b> Kerajaan telah memberikan konsesi kepada pihak-pihak berkepentingan yang perlu diberi bantuan melalui beberapa perintah peremitan dan pengecualian.	
	(v) of securities of the Government of Malaysia or of any State			
	(c) Transfer of units of a unit trust;			
	(d) Transfer or assignment on sale of any copyright, trade mark, patent			



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BUTIRAN	PERUNTUKAN SEDIA ADA	CADANGAN & JUSTIFIKASI	MAKLUM BALAS LHDNM & JUSTIFIKASI	RESPONSE FROM CTIM and MICPA
	or any similar right.	<p><b>Proposal 7: ARB</b> The removal of nominal stamp duty for transfer of property to/from trustees where beneficiary owner remains the same.</p> <p><b>Justification</b> To reduce compliance costs for taxpayers. This initiative may also be emulated by our government.</p>	<p><b>Cadangan 7: ARB</b> Cadangan tidak dapat dipersetujui.</p> <p><b>Justifikasi</b> Duti yang dikenakan tidak membebankan. Hanya duti minimum dikenakan.</p>	
50	LETTER OF GUARANTEE	<p><b>Proposal 1: CTIM &amp; MICPA &amp; ABM</b> <u>Letter Contract of guarantee (as defined in Contracts Act 1950) given by a person, a body corporate or a banker, irrespective of manner of execution.</u></p> <p><b>Justification</b> The current practice is for Item 50 to only cover guarantees signed under hand. It is also currently unclear whether a performance bond issued by a banker falls under Item 50 or Item 25 or Item 22.</p>	<p><b>Cadangan 1: CTIM &amp; MICPA &amp; ABM</b> Cadangan tidak dapat dipersetujui.</p> <p><b>Justifikasi</b> Kebanyakan "Letter of Guarantee" adalah berkenaan dengan pinjaman. Istilah "Letter of Guarantee" digunakan oleh bank berbanding "Contract of Guarantee".</p>	
		<p><b>Proposal 2: ABM</b> To insert "(whether executed under seal or hand)" after "Letter of Guarantee".</p> <p><b>Justification</b> No need to distinguish between</p>	<p><b>Cadangan 2: ABM</b> Cadangan tidak dapat dipersetujui.</p> <p><b>Justifikasi</b> Tidak perlu memasukkan</p>	

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BUTIRAN	PERUNTUKAN SEDIA ADA	CADANGAN & JUSTIFIKASI	MAKLUM BALAS LHDNM & JUSTIFIKASI	RESPONSE FROM CTIM and MICPA
		execution under hand and execution under seal.	perkataan "(whether executed under seal or hand)" kerana amalan sedia ada mengenakan duti tetap ke atas Letter of Guarantee sekiranya ia merupakan surat cara kolateral / subsidiary kepada surat cara utama. Manakala ia akan dikenakan duti ad-valorem sekiranya ia merupakan surat cara utama/principal.	
	THIRD SCHEDULE	<p><b>Proposal: CTIM, MICPA</b> Let the parties to the agreement decide who ought to pay duty chargeable.</p> <p><b>Justification:</b> As long as an instrument is duly stamped, it does not matter who is liable to pay duty</p>	<p><b>Cadangan: CTIM, MICPA &amp; ABM</b> Cadangan tidak disokong</p> <p><b>Justifikasi</b> Jadual Ketiga perlu dikekalkan bagi tujuan pemungutan duti</p>	