

## **Review of the Electronic Transactions Ordinance**

### **Purpose**

The paper informs Members of the progress of the review of the Electronic Transactions Ordinance (Cap. 553) (“ETO”).

### **Background**

2. The Government has committed to review the ETO, which was enacted in January 2000, to ensure that Hong Kong has the most up-to-date legislative framework for the conduct of e-business. The Government conducted a public consultation on a set of preliminary proposals to improve and update the ETO from March to April 2002. In November 2002, the Commerce, Industry and Technology Bureau (“CITB”) briefed the Legislative Council Panel on Information Technology and Broadcasting (“the ITB Panel”) on the comments received during the public consultation and Government’s revised proposals taking into account the comments received.

3. We had in March 2002 distributed to Members the aforesaid consultation paper on the review of the ETO, and in January 2003 provided Members with the paper submitted by CITB to the ITB Panel briefing the ITB Panel on results of the public consultation.

### **Electronic Transactions (Amendment) Bill 2003**

4. The Electronic Transactions (Amendment) Bill 2003 (“the Bill”), which seeks to introduce the proposed amendments to the ETO formulated after the public consultation, was published in the Gazette on 13 June 2003. The Bill will be introduced into the Legislative Council on 25 June 2003. For Members’ reference, the relevant Legislative Council Brief (“the Brief”) and the Bill are attached at Appendix.

### **Proposals Affecting the Voluntary Recognition Scheme for CAs**

5. Under the Bill, the major proposed amendments to the ETO

affecting the voluntary recognition scheme for certification authorities (CA) are as follows:

- (a) To split the assessment of a CA into two parts in order to facilitate the conduct of the assessment. The first part will cover the assessment of trustworthiness of the CA operation, and the second part will cover other aspects of the CA operation;
- (b) To empower the Director of Information Technology Services to require a recognized CA to furnish an assessment report and/or statutory declaration if there are major changes to the CA operation.

6. Please refer to paragraphs 10 and 11 in the Brief at Appendix for more details. With regard to the proposal at paragraph 5(a) above, we have consulted Members in respect of the splitting of an assessment of a CA as proposed in ACCOP Paper No. 3/2003 that was discussed at the 8<sup>th</sup> ACCOP meeting held in January 2003.

7. Also of relevance to the operation of recognized CAs are the proposed amendments in the Bill to section 46 (Obligation of Secrecy) of the ETO. Section 46(1) currently stipulates that a person who has access to any information or other material, etc. in the course of performing a function under or for the purposes of the ETO shall not disclose such information or other material, etc. to any other person, except under the circumstances provided for in section 46(2). Section 46(2) provides that section 46(1) does not apply to disclosure which is necessary for performing or assisting in the performance of a function under or for the purposes of the ETO, for purposes relating to criminal proceedings, or under the direction or order of a magistrate or court. Section 46 applies to recognized CAs in relation to their functions under or for the purposes of the ETO.

8. Clause 21 of the Bill proposes to amend section 46(1) to clarify that the prohibition imposed by section 46(1) is only applicable to information relating to another person. As regards the proposed amendment to 46(2)(a) in the same clause, it is to allow for disclosure which is necessary for performing or assisting in the performance of a function under or for the purposes of any other ordinance in addition to the ETO.

**Information Technology Services Department**  
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