

Bills Committee on Financial Institutions (Resolution) Bill

**List of follow-up actions arising from the discussion
at the meeting on 29 February 2016**

Loss-absorbing requirements

1. Clause 19(5)(b) of the Bill provides that an officer of an entity commits an offence if he/she was knowingly "concerned" (涉及) in the commission of the offence by the entity under subsection (4). Some members are concerned about the broad scope of the term "concerned" (涉及) where a senior executive of the entity may attract criminal liability merely by having knowledge about the commission of the offence by the entity even if he/she have not participated in the offence. The Administration is requested to respond to the above concern and provide information on similar provisions in other local legislation or examples of case law which have also adopted the word "concerned" (涉及) in similar circumstances.

Overview of the proposed resolution regime

2. The Administration is requested to illustrate by a flow chart the various procedures in and actions to be taken by the resolution authority ("RA") during different stages of the resolution process (e.g. resolution planning, applying stabilization options, etc.), and the safeguards and remedies available to entities for opposing RA's decisions (e.g. making representations, apply for review by relevant Tribunal or apply for judicial review).

Drafting issues

3. In the light of comments by the legal adviser to the Bills Committee, the Administration is requested to:

- (a) clarify whether the word "extent" in clause 28(2) of the Bill intends to specify the "scope (範圍)" or "degree (程度)" of actions the RA may apply to the holding company, and review the appropriateness of using the Chinese rendition "程度" for the word "extent"; and
- (b) consider replacing the expression "該公司" with "其控股公司" in clause 28(3)(b) in the Chinese text of the Bill to better reflect the meaning of "resolving the holding company" in that context.