Bills Committee on the Financial Institutions (Resolution) Bill
Response to matters raised by the Assistant Legal Adviser

We refer to LC Paper No. CB(1)545/15-16(01) and LC Paper No. CB(1)609/15-16(04) and set out the Government's response to the remaining outstanding issue in relation to the Financial Institutions (Resolution) Bill raised by the Assistant Legal Adviser (ALA) of the Legislative Council Secretariat in the letter dated 4 January 2016 .

<u>Under clause 104(3), an independent valuer appointed under Part 6 may, at any time before a decision under that section takes effect, correct a clerical mistake in the decision or an error in it arising from any accidental slip or omission. Please clarify if a miscalculation of the amount of compensation in question could be viewed as a clerical mistake or an error arising from accidental slip or omission which the independent valuer may correct or change unilaterally under the clause.</u>

2. The policy intent behind clause 104(3) is to allow an independent valuer, before a valuation decision takes effect, to correct a clerical mistake in that decision (or in the assessment underlying the decision) or any error arising in it from an accidental slip or omission. Clause 104(3) was designed purely to make provision for a "slip rule" that would allow an independent valuer flexibility to amend immaterial errors in his decision before it takes effect. It was not the Government's intention that a clerical mistake, or error arising from an accidental slip or omission, which materially affected the valuation decision could be corrected by the independent valuer without consequence.

3. The ALA, however, has helpfully identified that, as currently drafted, clause 104(3) may not be sufficiently clear on this. To address the point raised by the ALA, the Government will propose to move a Committee Stage Amendment in respect of clause 104(3) to give effect to the policy intention that a clerical error, or error arising from an accidental slip or omission, may only be corrected before a valuation decision takes effect if the correction does not alter the valuation decision. If, however, the correction would alter the valuation decision, then the valuation decision will be required to be issued afresh by the independent valuer and the three month period in which an appeal against the decision may be made to the Resolution Compensation Tribunal (pursuant to

clauses 107(1) and 107(3)) will restart from the point at which the new decision is issued.

Financial Services and the Treasury Bureau (Financial Services Branch)
Hong Kong Monetary Authority
Securities and Futures Commission
Office of the Commissioner of Insurance
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