

**Bills Committee on Clearing and Settlement Systems
(Amendment) Bill 2015**

**List of follow-up actions arising from the discussion
at the meeting on 23 March 2015**

Market development and financial innovation

1. The Administration is requested to provide written responses to address the concerns/views raised by members and deputations as follows:

- (a) besides ensuring the safety and soundness of stored value facilities ("SVF") and retail payment systems ("RPS") and protecting the interests of users, the Bill should adopt an "embrasive and forward looking approach" facilitating the development of new/innovative SVF/RPS products/technologies in the market ; and
- (b) the Bill should facilitate small and medium-sized SVF/RPS operators to enter the Hong Kong market through encouraging open data interchange ("ODI") between the systems of banks and those of SVF/RPS operators, which would be conducive to creating a level-playing field for various operators and ensuring healthy market development.

2. The Administration is requested to provide information on the experiences of major overseas jurisdictions in implementing ODI for their financial services sectors, including the relevant legislation and guidelines in place in these jurisdictions, and consider the need to take forward ODI for the financial services sector in Hong Kong through developing relevant guidelines.

Regulation of SVF licensees and designated RPS

3. The Administration is requested to provide written responses to address the concerns/views raised by members and deputations as follows:

- (a) the difficulty for the Hong Kong Monetary Authority ("HKMA") to ensure effective regulatory oversight of overseas SVF and RPS operating in Hong Kong with their systems/operations mainly located outside Hong Kong; whereas the local SVF and RPS operators will in effect be subject to closer supervision; and
- (b) HKMA should consider making reference to similar measures adopted under the current regime for combating illegal betting activities to require banks to restrict the transfer of clients'

money to accounts of unlicensed SVF (including SVF operating overseas and not targeting at the Hong Kong public) or those of RPS operators which have breached the relevant regulatory requirements, in order to ensure compliance with the requirements of the proposed regulatory regime.

4. The Administration is requested to provide information on HKMA's supervisory approach over licensed SVF or designated RPS (e.g. whether approval will be required for new products/services provided by a licensed SVF or designated RPS operator, or a new fee charged on their users; and whether the approval mechanism would operate on an ex ante or ex post basis).

Liabilities on internet service providers ("ISP")

5. The Administration is requested to compare the liabilities of ISP or exemptions for ISP in respect of their services provided to unlicensed SVF under the proposed regulatory regime with those arising from their services for unlicensed business operations under other local legislation, and explain the reasons for imposing different liabilities/exemptions on ISP under different regulatory regimes.

6. Given that subsections (1) and (2) of the proposed section 8C (Clause 17 of the Bill) have provided that any person must not knowingly promote or otherwise assist another person in issuing, or facilitating the issue of, an unlicensed SVF, the Administration is requested to explain the policy intent to specify in subsection (3) that "a reference to promoting or otherwise assisting" includes "by means of providing network or internet portal access or any other technological means" as the subsection seems to target the relevant offence at ISP.

7. The Administration is requested to provide information on the enforcement actions to be taken against a non-complying ISP, including how HKMA can ensure the ISP concerned will terminate its web hosting and other internet services to an unlicensed SVF as the ISP's systems/operations may be located overseas, and the relevant services are provided/accessible through Internet which is boundary-free.