

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

**Government's Responses to the Follow-up Actions
Arising from the Discussion at the Meeting on 28 April 2015**

This paper sets out the Government's responses to the issues raised by Members in relation to the Clearing and Settlement Systems (Amendment) Bill 2015 ("the Bill") at the meeting of 28 April 2015.

I. Offences and penalties in respect of contravention of requirements applying to designated systems

2. In light of the Assistant Legal Adviser's comment on whether penalties on summary conviction should be provided under section 7 (in relation to relevant offences prescribed in Clause 14 regarding certain requirements applying to designated systems), we may consider adding the proposed penalties on summary conviction through a committee stage amendment with reference to other comparable provisions in the Bill.

II. Minimum licensing criteria for SVF issuers and facilitators

3. The proposed section 8 of Part 2 of Schedule 3 (Clause 53 of the Bill) does not require or disallow an SVF issuer to charge any fee or impose any deadline for the redemption of any outstanding stored value on a facility. Any such fee level or prescribed deadline is a commercial decision of an issuer, who will have regard to the business model, operating costs, and users' demand, etc., when offering the SVF to users or potential users. Section 8(b) of Part 2 of that Schedule provides that an applicable company must state **clearly and prominently** in the contract between the applicable company and the user the conditions relating to redemption, including any fee to be charged for redemption, and any deadline for using or redeeming the stored value that remains on the facility. Our intention is to make it a statutory requirement for an SVF issuer to state such fee or deadline, if any, **clearly and prominently**

in the contract with a view to ensuring users' awareness and enhancing their protection. We also need to cater for situations where some SVFs in the market may be issued for a commemorative purpose and usually valid within a specified period. This proposed arrangement is in line with the practices in major jurisdictions, including the United States, Singapore and Australia, as well as the existing practice for the "multi-purpose cards" regime set out in the Code of Banking Practice¹.

4. We are committed to ensuring that that our proposed regulatory regime would enable the payment industry to adopt reasonable business practices that treat customers fairly. Therefore, we require licensed SVF schemes to be prudent and sound, having regard to the purpose, business model and operational arrangement of the scheme; and to be operated with competence in a manner that will not adversely affect the stability of any payment system in Hong Kong or the interests of the relevant facility users or potential users (section 10 of Part 2 of Schedule 3). The MA will have to be satisfied that the minimum licensing criteria, among others, are fulfilled, before granting an SVF licence. The MA will consider issuing guidelines to facilitate licensees to comply with the relevant requirements in the Bill concerning the redemption of outstanding stored value, including the setting of fees and deadlines.

III. Licence fees payable by SVF licensees

5. The proposed sections 8M and 8N (Clause 17 of the Bill) provide that a licensee must pay to the MA the appropriate licence fee specified in column 3 of Schedule 4. The proposed sections 8V, 8Z and 8ZA provide that the MA may revoke, temporarily suspend, or suspend a licence if a ground for revoking a licence specified in the proposed Schedule 5 exists. This includes the situation prescribed in section 11 of Schedule 5 when a licensee has failed to pay the fee required by section 8M or 8N after being advised in writing by the MA that the licensee has failed to pay the fee.

¹ Paragraph 50.1 of the Code of the Banking Practice provides that stored value card issuers should provide customers with general descriptive information relating to the use of the card, including, among others, any expiry date of the card and the refund policy in respect of any residual value when the use of card has been suspended or stopped (including where the card has expired or become dormant). Paragraph 52.3 provides that any expiry date of the multi-purpose card should be printed on the card.

6. The proposed sections 8W and 8ZB provide that, on the revocation of a licence under section 8U or 8V, or during the period when a licence is suspended under section 8Y, 8Z or 8ZA, a former licensee or a licensee must not, and must cease to, receive as an issuer of any SVF any amount of money for storage as stored value on the facility. Also in the same situation, unless with the written consent given by the MA under section 8X or 8ZC, a former licensee or a licensee must not hold the float and SVF despite any SVF issued under a licence. It will be an offence for a relevant former licensee or licensee to contravene these requirements. We believe that the relevant provisions have provided appropriate safeguards to protect the interests of users.

Financial Services and the Treasury Bureau
Hong Kong Monetary Authority
May 2015