

Bills Committee on Financial Institutions (Resolution) Bill

**List of follow-up actions arising from the discussion
at the meeting on 19 April 2016**

Clauses 120 and 137 – Right of appeal

1. Clauses 120 and 137 respectively provide that any determination or order of the Resolvability Review Tribunal ("RRT") and the Resolution Compensation Tribunal ("RCT") is final and is not subject to appeal unless with the leave of the Court of Appeal under Clauses 122 and 139. Clauses 122(5) and 139(5) provide that the decision of the Court of Appeal on the grant of leave to appeal or otherwise by it to the applicant party is not subject to appeal. Some members express concern about the validity of Clauses 120, 122(5), 137 and 139(5) as provisions of similar nature have been ruled null and void by the court before. The Administration is requested to:

- (a) review the provisions to address members' concern; and
- (b) provide information on court rulings of past cases where similar provisions were ruled null and void.

Clauses 123 and 140 – Powers of Court of Appeal

2. Clauses 123(3) and 140(3) stipulate that the Court of Appeal may make any order as to the costs of the appeal that it considers appropriate. In the light of comment of the legal adviser to the Bills Committee, the Administration is requested to clarify if the Court of Appeal allows an appeal, whether the provisions also empower the Court of Appeal to vary a cost order made by RRT or RCT on the case concerned.

Schedules 8 and 9 – Appointment of Tribunal chairperson

3. Sections 2 of Schedules 8 and 9 to the Bill provide that the Chief Executive ("CE") must, by notice published in the Gazette, appoint a person as the chairperson of RRT and RCT respectively. While the Bills Committee notes the Administration's policy intent that more than one RRT/RCT can operate at the same time and hence CE can appoint more than one tribunal chairperson for the purpose, the relevant provisions in Schedules 8 and 9 have not clearly reflected this arrangement. The Administration is requested to review the provisions concerned with reference to similar provisions for the appointment of chairperson and operation of the Board of Review (Inland Revenue Ordinance).