

**Bills Committee on Electoral Legislation  
(Miscellaneous Amendments) (No. 2) Bill 2015**

**The Government's response to a Member's  
Proposed Committee Stage Amendments**

**Purpose**

This paper sets out for Members' reference the Government's response to the Committee Stage Amendments ("CSAs") to the Electoral Legislation (Miscellaneous Amendments) (No. 2) Bill 2015 ("the No. 2 Bill") proposed by the Hon. SIN Chung-kai (LC Paper No. CB(2)816/15-16(01)).

**CSAs proposed by Hon SIN Chung-kai**

2. The CSAs proposed by the Hon. SIN seek to amend clause 10<sup>1</sup> of the No. 2 Bill to expand the electorate of the Legislative Council ("LegCo") Financial Services Functional Constituency ("FC"), specifically by:

- (a) including companies incorporated in Hong Kong under the Companies Ordinance (Cap. 622) (or a former Companies Ordinance as defined in the Companies Ordinance) which are licensed to carry on any regulated activities under section 116 of the Securities and Futures Ordinance (Cap. 571) ("SFO"); and
- (b) including individuals who are permanent residents of the Hong Kong Special Administrative Region and licensed to carry on any regulated activities under section 120 of the SFO.

**The Government's views on the CSAs proposed by the Hon. SIN Chung-kai**

3. In 2013-14, the Government conducted the public consultation on the "Methods for Selecting the Chief Executive in 2017 and for Forming the Legislative Council in 2016" which sought the public's views on the composition and electorate base of LegCo FCs. Among the written submissions received, there was little in-depth discussion regarding the electorate base of the FCs. Even among those who put forth submissions on

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<sup>1</sup> Clause 10 of the No. 2 Bill originally seeks to make technical amendments to section 20U of the Legislative Council Ordinance (Cap. 542).

the above, the views were diverse. The community has not reached a consensus on whether there is a need to make significant changes to the electorate of the FCs. On 31 August 2014, the Standing Committee of the National People's Congress adopted the Decision of the Standing Committee of the National People's Congress on Issues Relating to the Selection of the Chief Executive of the Hong Kong Special Administrative Region by Universal Suffrage and on the Method for Forming the Legislative Council of the Hong Kong Special Administrative Region in the Year 2016 ("Decision"). According to the Decision, the existing formation method for the LegCo as prescribed in Annex II to the Basic Law will not be amended. The formation method for the fifth term LegCo will continue to apply to the sixth term LegCo. In other words, the sixth term LegCo in 2016 should continue to consist of 70 members: 35 to be returned by FCs and 35 by geographical constituencies.

4. In April 2015, we introduced to the LegCo the Electoral Legislation (Miscellaneous Amendments) Bill 2015. The Government has already made clear at that time that, in view of the absence of consensus on whether there is a need to make significant changes to the electorate of the FCs, the Bill would only seek to make certain technical amendments in relation to the 2016 LegCo ordinary election. The Bill was supported by the LegCo, and was passed in July 2015 without any CSAs.

5. Since the veto of the motion moved by the Government on the package of proposals for the method for selecting the Chief Executive ("CE") by universal suffrage at the LegCo meeting on 18 June 2015, the Government has once and again made clear that the work of the current term Government concerning constitutional development has come to an end; and would focus on economic development and livelihood issues. Making significant changes to the electorate of the LegCo for the LegCo election to be held in the third quarter this year at this stage is on one hand without consensus in the community, and on the other hand impossible in terms of timing and procedures. The Secretary for Constitutional and Mainland Affairs ("SCMA") stated clearly on 18 June 2015 in his closing remarks for the motion on the amendment to the method for selecting the CE that: "save from necessary technical amendments, the Government has no plan to introduce major changes to the two electoral methods, including the formation of the EC" (translation). On this basis, we consulted the LegCo Panel on Constitutional Affairs on 29 September 2015 on the contents of the proposed technical amendments in the No. 2 Bill, which included making only necessary technical amendments to the legislation concerning the electorate of the EC subsectors (and corresponding FCs) on the

basis of applying the same electoral arrangements of the 4<sup>th</sup> term CE in 2012 and maintaining the original delineation of the subsectors concerned intact.

6. The above shows that the policy intention of the No. 2 Bill does not include any element of making substantive change to the electorate of the EC subsectors. The Long Title of the No. 2 Bill also sets out clearly the purpose of the No. 2 Bill, i.e., "...to make technical amendments concerning the lists of persons comprising certain Legislative Council functional constituencies and an Election Committee subsector...". In proposing the second reading of the No. 2 Bill, SCMA also stated clearly in his speech that "such amendments are technical in nature, mainly to update the names of certain bodies in the legislation, remove bodies which have ceased operation, and include an eligible body on the basis that the delineation of electorate of the EC subsectors and LegCo FCs should remain intact" (translation). The Explanatory Memorandum of the No. 2 Bill further states that "Part 3 [of the Bill] updates the lists of persons comprising certain functional constituencies of the Legislative Council and the higher education subsector of the Election Committee" (see the fourth paragraph of the Explanatory Memorandum of the No. 2 Bill). It is also explained in paragraph 6 of the LegCo Brief that the purpose of the Bill is to, among other things, "make only necessary technical amendments to the legislation concerning the electorate of the [EC subsectors]...on the basis of applying the same electoral arrangements of the 4<sup>th</sup> term CE in 2012 and maintaining the original delineation of the subsectors concerned intact."

7. Specifically, in respect of the Financial Services FC (clause 10 of the No. 2 Bill), the only change introduced in the No. 2 Bill is to amend the Chinese name of "The Chinese Gold & Silver Exchange Society" by removing the characters "香港" to align the Chinese name of the body with the one registered under the Societies Ordinance (Cap. 151). The Bill does not intend to and does not amend the delineation of the electorate of the Financial Services FC. The current delineation of the electorate of the Financial Services FC remains as only including exchange participants of a recognised exchange company and members of The Chinese Gold & Silver Exchange Society entitled to vote at general meetings of the Society.

8. The CSAs proposed by Hon. SIN Chung-kai would substantively change the electorate of the Financial Services FC as the CSAs seek to include all companies which are licenced to carry out activities under the SFO and also individuals licenced to carry out activities under the SFO, so that these

companies and individuals would become eligible electors for the FC. Such a significant change would greatly alter the electorate base of the Financial Services FC, both in terms of the nature and the number of eligible electors. The CSAs proposed by Hon. SIN are obviously not technical in nature and go far beyond the scope of the No. 2 Bill.

9. In summary, as stated clearly in the Long Title, the Explanatory Memorandum and the LegCo Brief of the No. 2 Bill, SCMA's speech in proposing the second reading of the No. 2 Bill, as well as other relevant statements in the past and documents of the relevant LegCo Panel, the amendments in the No. 2 Bill to the list of persons comprising certain FCs only include necessary technical amendments, which are made on the premise that the existing delineation of electorate is kept intact. As regards the CSAs proposed by the Hon. SIN, the Government is of the view that they are obviously beyond the scope of the Bill, hence not relevant to the subject matter of the Bill and to the subject matter of the clause to which it relates as required by Rule 57(4)(a) in the Rules of Procedure.

**Constitutional and Mainland Affairs Bureau  
February 2016**