

**Subcommittee on the
Financial Institutions (Resolution) (Loss-absorbing Capacity Requirements – Banking Sector) Rules (“Rules”)**

**Response to questions raised by Legal Service Division of the Legislative Council Secretariat
in the letter dated 23 November 2018**

This paper sets out the Government’s response to the questions raised by Legal Service Division of the Legislative Council (“LegCo”) Secretariat in the letter dated 23 November 2018.

	Clarification sought from LegCo Secretariat	Response
1.	<p>It is stated in paragraphs 6 and 14 of [the] paper that the “reviewable decision” under Rules 2(1) and 63 is restricted to three types of decisions, namely, a decision to vary a resolution component ratio (Rule 20(9)(a)), a decision not to vary a resolution component ratio following the resolution entity’s application (Rule 20(9)(b)) and a decision to require an entity to take remedial action (Rule 62(5)).</p> <p>To improve the clarity of the meaning of “reviewable decision” under Rule 2(1), would you consider to amend the meaning by expressly mentioning the three types of reviewable decisions and/or referring to Rule 20(9) and Rule 62(5).</p>	<p>Rule 2(1) defines “reviewable decision” to mean “<u>a decision of the resolution authority under these Rules that may be reviewed by the Resolvability Review Tribunal</u>” (emphasis added). Rules 20(9)(a), 20(9)(b) and 62(5) (only) then clearly identify certain decisions are reviewable.</p> <p>Having further consulted the Law Drafting Division of the Department of Justice, we remain of the view that on a full reading of the Rules it is clear that the definition of “reviewable decision” <u>only</u> includes the three decisions identified as such, and that there is no room for ambiguity. As such, we do not consider it necessary to amend the definition.</p>

**Financial Services and the Treasury Bureau
Hong Kong Monetary Authority
November 2018**