

**The Administration's Response to List of follow-up actions  
Re: LegCo Panel Financial Affairs Meeting on 6 December 2003  
in relation to the item on the Examination of the regulatory work  
in respect of authorized institutions in the light of the  
"Report of the Special Committee on the Corporate Governance, Credit  
Approval Process, Risk Management and Internal Control Mechanism of  
Bank of China (Hong Kong) Limited"**

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- (a) **To review the Financial Services and the Treasury Bureau's ("FSTB") role in monitoring how the Hong Kong Monetary Authority ("HKMA") exercises its banking supervisory function.**

Please see the letter of 31 December 2003 from the Permanent Secretary for Financial Services and the Treasury (Financial Services) which has been circulated to Members of the Financial Affairs Panel.

- (b) **To advise the Panel of the Administration (including HKMA)'s further follow-up actions on the case of Bank of China (Hong Kong), if any:**

The HKMA will continue discussions with its Mainland counterpart to address the supervisory issues arising from this case. The HKMA will continue to request the Mainland authorities to arrange a meeting with the former chief executive of BOCHK, either directly or through the auditors appointed under section 59 of the Banking Ordinance (the "Auditors"), to seek his comments on the loan to New Nongkai Global Investments Ltd. However, this should not hold up BOCHK's implementation of the recommendations made in the reports of the Special Committee and the Auditors. The HKMA will ensure that this is done as part of its normal supervisory process. It will also co-operate with the relevant law enforcement authority in Hong Kong in relation to any investigation into the case.

- (c) **To research on practices of overseas regulators regarding requirements on banks and their senior management for cooperation with the regulators in undertaking supervisory actions and to provide the information to the Panel.**

The HKMA has conducted a survey on the practices of four major international financial centres. None of these centres has the practice of attaching a condition requiring directors or chief executives of banks to return to the jurisdiction concerned to help investigations after they have left the jurisdiction. The HKMA believes that the information gathering

power under section 72A of the Banking Ordinance should be adequate for the Monetary Authority to obtain information from directors, controllers and chief executives of authorized institutions (“AI”). In cases where an individual has left Hong Kong and the service of an AI and he is not willing or not able to provide information for whatever reason, the normal way to deal with a case like this is for the law enforcement authority to conduct an investigation and arrange for the individual to be extradited if there is sufficient evidence to substantiate that he has committed a criminal offence. In cases where there are no criminal offence involved or where extradition is not possible, the HKMA will make a record of the case in its files and consider if the individual meets its fitness and properness criteria if he/she applies for any position again under the Banking Ordinance. The information will also be shared with other regulators in Hong Kong and overseas where appropriate when the HKMA is approached for comment on the fitness and properness of the individual concerned when he applies for a position with another regulated entity.