



HONG KONG MONETARY AUTHORITY
香港金融管理局

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Joseph C. K. Yam GBS, JP
Chief Executive

任志剛 GBS, JP
總裁

Your Ref: CB1/HS/1/08

22 May 2009

Miss Polly YEUNG
Clerk to Subcommittee to Study Issues Arising from
Lehman Brothers-related Minibonds and Structured Financial Products
Legislative Council Building
8 Jackson Road
Central
Hong Kong

Dear Miss YEUNG,

**Subcommittee to Study Issues Arising from Lehman Brothers-related
Minibonds and Structured Financial Products**

I refer to the questions regarding certain terms in the settlement agreement between registered institutions (RIs) and their customers raised by the Hon Kam Nai-wai and the Hon James To at the hearing of the Subcommittee today.

I would like to clarify that, although the terms of voluntary settlement are something to be agreed between an RI and its clients, as set out in a circular ("Fair and reasonable arrangements for settling complaints related to the selling of investment products") (Annex 23 to SC Ref. W6(C)) issued by the Hong Kong Monetary Authority (HKMA) on 5 March 2009, when handling customers' complaints and discussing settlement arrangements with customers, RIs are specifically required to ensure, among other things, that the settlement agreement should not prohibit disclosure of information to the Securities and Futures Commission (SFC), the HKMA or other law enforcement agencies for the purpose of any investigations. If any RI does not follow such requirement, this may constitute a breach of General Principle GP1 (Honesty and fairness) of the Code of Conduct for Persons Licensed by or Registered with the SFC.

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I would also like to emphasise that the HKMA's investigation into any case will not be closed on the ground of a client's withdrawal of the relevant complaint. The HKMA will continue to gather information for the purpose of the investigation. Even if a complainant is not willing to provide information to the HKMA for this purpose, the HKMA will make all reasonable efforts to gather relevant information and evidence from other sources, such as records from the related RI.

Regarding the copy of the letter (which is described as a part of a settlement agreement between a bank and its client) provided during the hearing today by the Hon KAM Nai-wai, I would like to point out that it does not contain any condition that the client is prohibited from co-operating with, or disclosing information to, any regulator for the purpose of an investigation.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'D. M.', with a long horizontal flourish extending to the right.

Monetary Authority