

立法會
Legislative Council

LC Paper No. CB(1)184/08-09
(These minutes have been
cleared with the Chairman)

Ref : CB1/HS/1/08/1

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

**Minutes of the first meeting
held on Monday, 27 October 2008, at 9:30 am
in the Chamber of the Legislative Council Building**

Members present : Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP (Chairman)
Dr Hon Philip WONG Yu-hong, GBS (Deputy Chairman)
Hon Albert HO Chun-yan
Dr Hon Margaret NG
Hon James TO Kun-sun
Hon CHAN Kam-lam, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon LEUNG Kwok-hung
Hon WONG Ting-kwong, BBS
Hon Ronny TONG Ka-wah, SC
Hon CHIM Pui-chung
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon KAM Nai-wai, MH
Hon Starry LEE Wai-king
Dr Hon LAM Tai-fai, BBS, JP
Hon Paul CHAN Mo-po, MH, JP
Hon CHAN Kin-por, JP
Hon CHAN Tanya
Dr Hon Priscilla LEUNG Mei-fun
Dr Hon LEUNG Ka-lau
Hon IP Wai-ming, MH
Hon Mrs Regina IP LAU Suk-ye, GBS, JP

Members absent : Hon Emily LAU Wai-hing, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Vincent FANG Kang, SBS, JP

Clerk in attendance : Miss Polly YEUNG
Chief Council Secretary (1)5

Staff in attendance : Mr KAU Kin-wah
Assistant Legal Adviser 6

Mr Noel SUNG
Senior Council Secretary (1)4

Mr Thomas WONG
Research Officer 4

Ms Angel SHEK
Council Secretary (1)2

Ms Sharon CHAN
Legislative Assistant (1)8

I Election of Chairman

Mr Albert HO, the member who had the highest precedence in the Council among the members of the Subcommittee present at the meeting, presided over the election of the Subcommittee Chairman. He invited nominations for the chairmanship.

2. Ir Dr Raymond HO was nominated by Dr Philip WONG and seconded by Mr Jeffrey LAM. Ir Dr Raymond HO accepted the nomination. There being no other nominations, Ir Dr Raymond HO was elected the Chairman. Ir Dr HO took over the chair.

3. The Chairman invited nominations for the deputy chairmanship of the Subcommittee. Mr KAM Nai-wai was nominated by Mr James TO, and the nomination was seconded by Mr Ronny TONG. Mr KAM Nai-wai accepted the nomination. Dr Philip WONG was nominated by Mr Jeffrey LAM, and the nomination was seconded by Mr WONG Ting-kwong. There being more than one nomination, the Chairman announced a vote by secret ballot. After all the members present had cast their votes, the Chairman invited Mr James TO and Mr Jeffrey LAM, who had nominated the two candidates, to oversee the counting of votes.

4. The Chairman announced the voting result. Mr KAM Nai-wai and Dr Philip WONG had each received nine valid votes. Three members had abstained from voting. As the two nominees received the same number of votes, lots were drawn by the Chairman in respect of the two nominees. The Chairman exercised his casting vote in accordance with the lot drawn by him and declared Dr Philip WONG the Deputy Chairman.

5. The Chairman informed members that Dr David Li had advised in writing that he would withdraw from the Subcommittee with effect from 27 October 2008.

II Motion to be moved by the Subcommittee Chairman under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) at the Legislative Council meeting

(LC Paper No. CB(1)110/08-09(01) — Terms of Reference

LC Paper No. CB(1)110/08-09(02) — Proposed wording of a motion to be moved by the Subcommittee Chairman)

6. Members noted the Terms of Reference of the Subcommittee which had been endorsed by the House Committee on 17 October 2008.

7. Members considered and endorsed the proposed wording of the motion seeking to authorize the Subcommittee to exercise the powers conferred by section 9(1) of the Legislative Council (Powers and Privileges) Ordinance (Cap.382). With members' agreement, the Chairman said that he would move the motion at the Legislative Council meeting on 12 November 2008 and give notice by 28 October 2008.

III The way forward

(LC Paper No. CB(1)110/08-09(03) — Proposed major areas of study as noted by the House Committee on 17 October 2008

LC Paper No. CB(1)113/08-09 — Background brief prepared by the Legislative Council Secretariat)

The Subcommittee's proposed major areas of study

8. Question was raised as to whether the study to be undertaken by the Subcommittee would also cover structured financial products that were unrelated to Lehman Brothers. Some members including Dr Margaret NG and Mr Ronny TONG considered that in examining the efficacy or otherwise of the existing

regulatory regime and the alleged mis-selling by banks, the Subcommittee should not exclude from the scope of its study those structured financial products that were unrelated to Lehman Brothers. Some members including Mr CHAN Kam-lam and Mr Jeffrey LAM were concerned that given the background leading to the setting up of the Subcommittee, members should focus more on the recent fiasco which involved Lehman Brothers minibonds and structured financial products, as well as ways to assist the aggrieved investors. Other members including Dr Priscilla LEUNG, Mr Paul CHAN and Mr KAM Nai-wai commented that the Subcommittee's Terms of Reference, as currently worded, could provide the necessary flexibility for members to also make reference to structured financial products which were not related to Lehman Brothers. Members noted Assistant Legal Adviser 6 (ALA6)'s advice that a total of 19 banks were involved in the sale of the Lehman Brothers-related minibonds and structured financial products and such minibonds and products shared a similar basic structure typical of the genre of structured financial products about which members were concerned. A study of the Lehman Brothers-related products might already serve the purpose of acquiring an overview of the retail sales of the structured financial products and the associated problems.

9. Some members including Mr Albert HO, Mr James TO and Mr KAM Nai-wai pointed out that although the Subcommittee was not tasked to assist affected investors to claim compensation, the findings and recommendations of its study would provide highly useful information for future policy reviews and for aggrieved investors in taking their complaints forward. They also expressed the following views on the study approach :

- (a) the Subcommittee should focus its study on Lehman Brothers-related minibonds and structured financial products with a view to identifying the shortcomings of the existing regulatory framework and the lessons learnt. The findings and recommendations formulated by the Subcommittee would apply generally to the regulation of structured financial products; and
- (b) a study into the Lehman Brothers-related minibonds and structured financial products might suffice in scope as over 43 000 investors and as many as 19 banks were involved. To attempt to study other non-Lehman Brothers-related structured financial products might render the study long-drawn and its scope excessively wide.

10. Summing up, the Chairman said that members had agreed in principle that while the Lehman Brothers-related minibonds and structured financial products would be the focus of the Subcommittee's study, the Terms of Reference, as currently worded, would in no way prevent the Subcommittee from making reference to non-Lehman Brothers-related structured financial products and other incidental issues.

11. Members also suggested some amendments to the "Proposed major areas of study" in LC Paper No. CB(1)110/08-09(03) to better reflect the scope of the study

and clarify some of the issues to be studied. The Chairman advised that the "Proposed major areas of study" before members might be revised and fine-tuned and it was by no means the finalized version. He asked the Clerk to revise the proposed major areas of study where appropriate by incorporating members' concerns raised during the meeting and to circulate the revised version to members for their comments. The Chairman said that the revised version could be further discussed at the next meeting if members so wished.

(Post-meeting note: With the Chairman's concurrence, the Clerk circulated the revised proposed major areas of study to members vide LC paper No. CB(1)150/08-09 on 31 October 2008).

Meeting schedule

12. Members noted that as set out in LC Paper No. CB(1)110/08-09, a series of time-slots had been reserved for holding meetings. The Chairman advised that a meeting schedule would be drawn up and circulated to members in due course.

IV Any other business

13. There being no other business, the meeting ended at 10:30 am.

**Proceedings of the
Subcommittee to Study Issues Arising from Lehman Brothers-related
Minibonds and Structured Financial Products
First meeting on Monday, 27 October 2008, at 9:30 am
in the Chamber of the Legislative Council Building**

| Time Marker | Speaker | Subject(s) | Action Required |
|--------------------|--|---|--|
| 000000 – 000304 | Mr Albert HO Dr Philip WONG | Election of Chairman | |
| 000305 – 001257 | Chairman Mr James TO Mr Jeffrey LAM | Election of Deputy Chairman | |
| 001258 – 001327 | Chairman | Withdrawal of membership by Dr David Li | |
| 001328 – 005629 | Chairman Dr Margaret NG Clerk Mr Ronny TONG Mr CHAN Kam-lam Mr Albert HO Dr Priscilla LEUNG Mr Jeffrey LAM Mr KAM Nai-wai Mr Paul CHAN ALA6 Mr James TO Prof Patrick LAU Mr IP Wai-ming Mr LEUNG Kwok-hung | (a) Deliberation on proposed major areas of study and whether the study would also include structured financial products that were not related to Lehman Brothers. (b) Members noted that the Lehman Brothers-related minibonds and structured financial products, sold to some 43 000 investors through some 19 banks, were characteristic of this genre of financial products. (c) Members' agreement in principle that the Terms of Reference, as currently worded, would not prevent members from making reference to structured financial products that were not related to Lehman Brothers. | The Clerk to take actions as requested under paragraph 11 of the minutes |
| 005630 – 010349 | Chairman Mr Albert HO Mr KAM Nai-wai Clerk Mr CHAN Kam-lam Mr Ronny TONG | (a) Members noted the Terms of Reference of the Subcommittee which had been endorsed by the House Committee on 17 October 2008. (b) Endorsement of the proposed wording of the motion to be moved by the Chairman at the Legislative Council meeting on 12 November 2008; and | The Clerk to take actions as requested under paragraph 7 of the minutes |

| Time Marker | Speaker | Subject(s) | Action Required |
|------------------------|----------------|--------------------------------------|--|
| | | (c) Proposed time-slots for meetings | The Clerk to take actions as requested under paragraph 12 of the minutes |

Council Business Division 1
Legislative Council Secretariat
10 November 2008