



~~Private and Confidential~~  
By Hand

Clerk to Subcommittee  
Legislative Council Secretariat  
3<sup>rd</sup> Floor, Citibank Tower  
3 Garden Road, Central  
Hong Kong  
Your ref: CB1/HS/1/08

26 April 2010

Dear Sir

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

I refer to your letter dated 20 April 2010 and to your requests for additional information concerning investigations completed by the HKMA.

I confirm that we are not in possession of the information requested by you.

As we understand matters, HKMA conducts a review of a complaint to decide whether it is possible that it evidences deficiencies on the part of the relevant bank. If HKMA believes that there are justifiable concerns in respect of such possible deficiencies, it refers the complaint to the SFC for further action. In this regard, as we understand matters, HKMA corresponds directly with the SFC and we are not a party to such correspondence. In any event, as I noted at the hearing on 16 April 2010, our discussions with the regulators continue.

At this juncture, I feel that it is appropriate that we expand upon the position we have adopted to date with regard to information of the type requested by you. I hope that, by doing so, I can save time and avoid any confusion in the event that questions of a similar nature are asked at the scheduled hearing on 30 April 2010.

As you are aware, information of the type requested by you would be subject to the secrecy provision, section 378, of the Securities and Futures Ordinance. More importantly, such information, would attract public interest immunity. That being the case, I can confirm that we will claim immunity in respect of any information of a similar type in our possession. If we are required to claim the immunity, and, of course, I cannot anticipate the questions that will be put at the hearing on 30 April 2010, I expect that the Chairman will invoke the process set out in section 2 of the Resolution under Legislative Council (Process and Privileges) Ordinance passed on 25 May 1994 (and amended on 20 November 1996 and further amended on 16 April 1997) giving us an opportunity to make our submissions in a confidential context.

You will be aware that public interest immunity can be claimed by any person (see, for example, *Rogers v Secretary of State for Home Department* [1973] AC 388).

A Chinese translation of this letter is in hand and will be provided to you as soon as it is available.

Yours faithfully

YIP Yok-tak, Amy  
for and on behalf of herself and DBS Bank (Hong Kong) Ltd

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