

Responses to Follow-up Issues Arising from the Hearing on 2 June 2009

1. Whether the supervisory staff of the Hong Kong Monetary Authority (HKMA), during their on-site examinations of Registered Institutions (RIs) since April 2003, have conducted each type of examinations and examined the relevant documents and records in accordance with or using an appropriate checklist or manual. If yes, please provide a specimen of such checklist or manual for each type of on-site examination.

1.1 Yes. The relevant on-site examination checklists (i.e., for Tier 1, Tier 2 and Retail Credit-Linked Investment Products Thematic Examinations) have already been provided to the Subcommittee on a confidential basis in the separate submission referred to in paragraph 8.2.5 at page 21 of the response made by Mr Joseph YAM Chi-kwong, GBS, JP, the Monetary Authority dated 2 June 2009 to the Subcommittee's information requests regarding follow-up to the hearing on 22 May 2009 (SC Ref. No. M25). For the reasons set out in that separate submission, it would be in the public interest for the checklists to be classified as confidential and for the Subcommittee to examine the checklists and conduct hearings in relation to them in camera.

2. *Since the issuance of the circular on selling of investment products to retail investors (M6) on 23 October 2008, whether HKMA has taken any follow-up or additional measures requiring RIs and issuers of investment products to enhance disclosure of product information (including risks) to investors purchasing such products. If yes, please provide the details of such measures.*

2.1 Subsequent to the issuance of the circular (M6) on 23 October 2008, the HKMA had followed up with the relevant RIs on whether their customers were alerted to the change of risk rating of the purchased investment products in a timely manner when a higher risk rating was assigned to the investment products as a result of the continued product risk rating review exercise. The results of the follow-up work indicated that RIs had implemented the necessary process.

2.2 In the light of the changing market conditions and to ensure that investors were able to receive the latest product information, the HKMA also required the relevant RIs to play a more proactive role in providing such information to their customers. In this connection, the HKMA issued a circular on 10 December 2008 requiring RIs that are involved in distributing retail investment products to put in place adequate procedures to ensure that their customers are made aware of all relevant information issued or made available by the issuers of these products in a timely manner (see Annex 19 to SC Ref. W6(C)).

2.3 In addition, the HKMA conducted follow-up work between January and April 2009 and obtained confirmation from individual RIs on the implementation of related measures set out in paragraph 2.2. The results indicated that the RIs had implemented the required process to keep their customers informed of relevant information issued or made available by

the issuers of the products distributed by them in a timely manner.

3. *As revealed from relevant findings, if any, of HKMA's on-site examinations since April 2003, or in the Deputy Chief Executive's view, the minimum time required by each Relevant Individual to adequately explain to their clients the nature and risks of (a) equity-linked notes and (b) credit-linked notes.*

3.1 Please refer to the response of the Monetary Authority dated 2 June 2009 to item 4 of the Subcommittee's information requests regarding follow-up to the hearing on 22 May 2009 (SC Ref. No. M25).

4. *As agreed by the Subcommittee during its post-hearing deliberation, HKMA is requested to provide the latest number of cases concerning Lehman Brothers-related investment products which have been referred to the Securities and Futures Commission, and to provide a breakdown of such cases according to the five items of general observation, namely product monitoring, deficiencies in customer risk profiling system, errors or omissions in documentation, sale of products to vulnerable customers and roll-over of deposits, as stated from paragraph 6.8 to paragraph 6.14 of the Report of the Hong Kong Monetary Authority on Issues Concerning the Distribution of Structured Products Connected to Lehman Group Companies as submitted to the Financial Secretary on 31 December 2008.*

4.1 The response to item 4 will be provided to the Subcommittee later as this item requires a review of the relevant files to extract the required information.