

Responses to Items 1, 4 and 10 of Follow-up Issues Arising from the Hearing on 17 November 2009 (letter of 18 November 2009 from the Clerk to the Subcommittee)

1. *Please provide the names and responsibilities of individual staff members from manager level and above of HKMA who have been involved in regulatory work relating to the sale of Lehman Brothers-related products by Registered Institutions during the period from April 2003 to September 2008.*

1.1 The list of staff (rank of Manager or above) who had been involved in regulatory work relating to the regulated activities of registered institutions (RIs) from April 2003 to September 2008 is set out in Annex 1a, Annex 1b and Annex 1c.

1.2 The duties and responsibilities of the staff in each rank, in so far as supervision of regulated activities is concerned, are set out below:

Chief Executive

- Responsibilities include:
 - promoting the general stability and effective working of the banking system;
 - co-operating with other relevant authorities in the supervision of business conducted by authorized institutions (AIs) (other than banking business or the business of taking deposits).

Deputy Chief Executive (Banking)

- Responsible for full range of banking policy, banking development and banking supervision issues, including day-to-day regulation and enforcement issues relating to the regulated activities conducted by RIs.

Executive Director (Banking Supervision)

- Responsible for supervising AIs, including day-to-day regulation of regulated activities of RIs, and ensuring the financial soundness of individual AIs and the stability of the banking sector as a whole in Hong Kong.

Executive Director (Banking Development)

- Responsible for the enforcement function in respect of regulated activities conducted by RIs (including the investigation of complaints against RIs and their staff and institution of disciplinary proceedings against the relevant individuals and executive officers of the RIs) and overseeing the handling of banking services complaints received by the HKMA.

Division Heads

- To lead and guide the work of supervision or enforcement staff in performing day-to-day regulation or enforcement of the regulated activities of the RIs.

Senior Managers

- To lead a group of teams in carrying out day-to-day supervision or enforcement of regulated activities, including planning and supervising on-site examinations and off-site reviews of RIs' regulated activities.

Managers

- To perform day-to-day supervision or enforcement of regulated activities, including the conducting of on-site examinations and off-site reviews of RIs' regulated activities.

Legal Counsel

- Responsible for providing legal advice to the Hong Kong Monetary Authority (HKMA) with regard to all aspects of its work, including legal issues relating to the supervision of the regulated activities conducted by RIs, the investigation of complaints against RIs and their staff and the disciplinary proceedings instituted against the relevant individuals and executive officers of the RIs.

4. *As stated in DCE/HKMA's written response (M33), the HKMA has adopted the practice of holding prudential meetings with boards of directors of local banks once a year to the extent possible. Please advise:*
- (a) the level of HKMA's staff conducting such prudential meetings; if different levels of staff were deployed, please explain the policy according to which the different levels of staff were so deployed;*
 - (b) the number of banks with which HKMA had held such prudential meetings each year from 2003 to 2008 and the average number of meeting held annually with each bank;*
 - (c) for each year from 2003 to 2008, the number of banks that HKMA had advised not to over-rely on interest-income during peer group comparison at the prudential meetings;*
 - (d) for each year from 2003 to 2008, the number of banks that HKMA had advised to strengthen their internal monitoring and risk management in respect of their sale of structured financial products; and*
 - (e) whether HKMA possesses any paper(s) and/or record(s) of the prudential meetings documenting the advice given by HKMA to banks to reduce their revenue concentration risk. If yes, please provide, the relevant paper(s) and/or record(s). If considered necessary, the names of institutions may be covered up.*

Item (a)

4.1 In general, staff of the rank of Division Head, Executive Director or Deputy Chief Executive responsible for banking supervision would conduct the prudential meetings with the board of directors or Audit Committee/other Board Committees (referred to as “board members” hereafter) of the local banks, depending on the scale of operations of individual local banks and whether there were significant prudential issues for the banks concerned.

Item (b)

4.2 From 2003 to 2008, the number of local banks with which the HKMA had held prudential meetings with board members in each year is listed in Table 1 below. In general, the HKMA held one prudential meeting with each of the banks involved annually but in case of need, additional prudential meetings might be held with a bank in the same year.

Table 1

Year	Number of Banks Involved
2003	12
2004	8
2005	16
2006	16
2007	16
2008	3

Item (c)

4.3 It is not the HKMA’s practice to advise banks on what specific business activities to engage or not to engage in during any meetings between the HKMA and the banks (including prudential meetings). In cases where a bank was found to have placed excessive reliance on a particular source of income vis-à-vis its peers, the HKMA would, where appropriate, draw the board members’ attention to the potential risk of

concentration and invite the board members to consider if it would be appropriate to diversify the bank's income source. It should be emphasised that any decision made by the board on whether to diversify and if so, how to diversify, is the commercial decision of the bank concerned.

- 4.4 From 2003 to 2008, the number of local banks with which the HKMA had discussions with their board members on concentration in interest income during prudential meetings is set out in Table 2 below.

Table 2

Year	Number of Banks Involved
2003	6
2004	5
2005	4
2006	4
2007	4
2008	1

Item (d)

- 4.5 From 2003 to 2008, the number of local banks with which the HKMA had discussions with their board members on strengthening the banks' internal controls and risk management (such as compliance monitoring, internal audit, corporate governance, operational risk controls) in respect of their various business activities including wealth management activities is set out in Table 3 below.

Table 3

Year	Number of Banks Involved
2003	9
2004	5
2005	13
2006	13
2007	12
2008	3

Item (e)

- 4.6 Section 120 of the Banking Ordinance (Cap.155) (BO) imposes restrictions on the Monetary Authority's (MA) ability to disclose any matter relating to the affairs of any person that may come to the MA's knowledge in the course of the exercise of his functions under the BO.
- 4.7 I note that the Subcommittee has proposed that the names of the individual banks may be covered up before any relevant paper(s) and/or report(s) is/are produced. Such proposal, however, does not appear to constitute a separate exception from the prohibition under section 120 of the BO. In addition, even if the relevant paper(s) and/or report(s) is/are produced in a redacted form as proposed by the Subcommittee, it will not be difficult in many cases to work out which banks are being referred to. The redacted paper(s) and/or report(s) will still disclose information covered by section 120(1) and (4) of the BO.
- 4.8 Nevertheless, section 120(5)(a) of the BO provides one of the gateways through which the MA may disclose such information provided that it is disclosed in the form of a summary so as to prevent particulars relating to the business of any particular AI being ascertained from it. To assist the Subcommittee in its inquiry, we have therefore summarized the discussions generally held during prudential meetings between the HKMA and the board members of local banks in relation to concentration risk on income sources in the following paragraphs.
- 4.9 During the related prudential meetings, the HKMA in general provided a peer group comparison to enable the board members to understand the bank's position among its peers. While the HKMA does not have any standard format for presenting to banks during prudential meetings, a mock-up example showing the peer comparison for a bank's financial

position is set out in Annex 2 for the Subcommittee's reference.

- 4.10 In cases where a bank was found to have placed excessive reliance on a particular source of income vis-a-vis its peers, the HKMA would, where appropriate, draw the board members' attention to the potential risk of concentration, and again where appropriate, invite the board members to consider if it would be appropriate to diversify the bank's income sources. Banks were reminded that they needed to properly assess the associated risks and put in place effective risk management systems before engaging in any new businesses.

10. Please provide the number of Relevant Individuals involved in Lehman Brothers-related complaint cases investigated by HKMA who are now no longer under the employment of the respective banks.

10.1 As of 30 November 2009, 110 relevant individuals, who were involved in the Lehman Brothers-related complaint cases and investigated by the HKMA, had changed employer and were registered under the name of a different RI. In addition, there were 91 former relevant individuals of RIs who were involved in Lehman Brothers-related complaint cases and also investigated by the HKMA, but were no longer registered as relevant individuals.