

List of information/ documents requested by Members

- a. **Written records/documents concerning the communication of the Hong Kong Monetary Authority (HKMA) with banks engaged in retail sale of structured financial products requesting the latter to consider the need to rank products containing collateralized debts obligations as high risk.**

HKMA's response:

Under Section 120 of the Banking Ordinance, the Monetary Authority is not allowed to release the details of communications between the HKMA and individual banks.

- b. **Criteria adopted by HKMA for undertaking investigation into complaint cases regarding Lehman Brothers Minibonds; systematic issues concerning the operation of banks identified in the cases investigated; and examples of such cases.**

HKMA's response:

Each allegation of mis-selling will be carefully considered on its own merits. Among other things, the HKMA will ascertain whether the bank in question has fulfilled the requirements of the Securities and Futures Commission (SFC)'s "Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission" as well as the Supervisory Policy Manual and circulars issued by the HKMA. At this stage, the HKMA focuses on dealing with the large number of complaints it has received (over 16,000 cases) as quickly as it can. The HKMA may share with the banks the general findings of the investigations after they are completed by issuing circulars to them, as has been done in the past. These circulars are public documents available on the HKMA website.

- c. **Detail of the first case the investigation of which is to be completed by HKMA within the week commencing 13 October 2008.**

HKMA's and SFC's response:

The HKMA has referred in two batches on 17 October and 24 October respectively a total of 64 cases involving complaints of alleged misconduct in respect of investment products related to Lehman Brothers to SFC for follow up. The SFC can decide whether a bank has been guilty of misconduct. The decision of the SFC is subject to the appeal to the Securities and Futures Appeals Tribunal (SFAT) which is an appellate body independent of the SFC and chaired by a High Court judge. If the regulated person is dissatisfied with the SFAT's decision, an appeal can be made to the Court of Appeal.

Under Section 120 of the Banking Ordinance, the Monetary Authority is not allowed to release the details of these cases. Doing so at this juncture might also affect the investigation of other cases.

- d. **Timetable for handling all the complaint cases lodged with HKMA.**

HKMA's response:

The HKMA will try its best to handle each of the complaints as quickly as possible, subject to the need to observe the due process.

- e. **Overall plan for handling the Lehman Brothers incident.**

Financial Services and the Treasury Bureau's response:

In the Lehman Brothers incident, the Government has been coordinating and mediating among the relevant parties and playing a facilitator role to secure the best arrangements for the investors. Our work mainly covers three aspects. First, we handle the complaints about the adoption of improper means by the distributing agencies in selling the Minibonds. Second, we assist the investors in getting back their

current investment value as quickly as possible. Third, we will conduct a comprehensive review of the current regulatory regime.

As regards the handling of the complaints, HKMA and SFC are processing the complaints expeditiously. HKMA has referred in two batches on 17 October and 24 October respectively a total of 64 cases involving 3 banks to SFC for follow-up. On 24 September 2008, SFC announced that its investigation would look at the conduct of SFC licensed distributors of Lehman Brothers-related retail structured products and has subsequently commenced further investigations following receipt of the referrals from HKMA. HKMA and SFC will continue to handle the complaints expeditiously.

As regards assisting the investors in getting back the current investment value, the Task Force of the Hong Kong Association of Banks and the distributing banks of the Lehman Brothers Minibonds accepted the Government's buy-back proposal on 17 October to buy back the Minibonds at their current value. The Task Force has already started the relevant work, including the appointment of legal and independent financial advisors. In order to ensure that the process of buy-back proposal by the distributing banks is fair and transparent, HKMA has appointed an independent consultant to monitor the process. Separately, HKMA is working on a mediation mechanism in relation to the Minibonds, and will release the implementation details as soon as the service is available.

As for the review on the regulatory regime, the Financial Secretary has asked SFC and HKMA earlier to submit reports on their observations, lessons learnt and issues identified during their investigations of the said complaints and make recommendations on improving the regime. The Financial Services and the Treasury Bureau will conduct a full and comprehensive systemic review and will consider what can be done to further improve our regulatory framework.

- f. **Types of investment products relating to Lehman Brothers including Equity Linked Notes and Credit Linked Notes and the amount and number of investors involved; whether the list entitled “經銀行發售與**

雷曼有關的結構性票據” provided by HKMA and tabled at the special House Committee meeting on 13 October 2008 had included all such products; the respective percentages and amount of the Lehman Brothers-related structured products sold by placement and retail; and the profile of the latter category of investors, such as the number of retirees, elderly; experienced and inexperienced investors.

HKMA’s and SFC’s response:

The list entitled “經銀行發售與雷曼有關的結構性票據” provided by HKMA and tabled at the special House Committee meeting on 13 October 2008 included all investment products related to Lehman Brothers sold by retail banks. Please refer to Annex for the respective percentages and amount of the Lehman Brothers-related structured products sold by placement and retail.

The profile of retail investors by age group is shown in the table below:

Breakdown of retail investors’ profile by age group	Number of accounts	Invested amount (HK\$ million)
Below 65	36,482	11,565
65 or above	6,262	2,418
Total	42,744 *	13,983

(The total number of accounts may be different from the total number of retail customers as some customers may own more than one investment account.)*

As far as brokers that had acted as the distribution agents for Lehman Brothers Minibonds / equity or fund linked notes are concerned, the outstanding positions held by their clients as at 22 September 2008 are shown in the table below:

	Outstanding positions stated at nominal value	Number of clients
Minibonds (Pacific International Finance Limited)	HK\$110.5 million	361
Fund linked notes (Atlantic International Finance Limited)	HK\$91,000	2
Equity linked notes (Pyxis Finance Limited)	HK\$ 68,000	1

**Financial Services and the Treasury Bureau
Hong Kong Monetary Authority
Securities and Futures Commission
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Annex

Lehman-related structured notes sold by banks

Nature of Notes	Structured notes issued by Lehman-related corporations				Lehman-related structured notes issued by other issuers			Private Placement	Total
	(minibond) Pacific International Finance Limited ¹	Atlantic International Finance Limited ²	Pyxis Finance Limited ³	Constellation Investment Limited ⁴	SPARC Limited ⁵	Victoria Peak International Finance Limited ⁶			
	Credit-linked notes with Lehman Brothers as swap guarantor	Fund-linked notes with Lehman Brothers as swap guarantor	Equity-linked notes with Lehman Brothers as swap guarantor	Credit-linked notes with Lehman Brothers as one of the reference entities	Credit-linked notes with Lehman Brothers as one of the reference entities	Credit-linked notes with Lehman Brothers as one of the reference entities	Lehman-related structured notes sold through private placement mainly include equity-linked notes, commodity-linked notes, interest rate-linked notes and fund-linked notes		
No of investment accounts	33,611	458	426	6,901	143	1,205	6,130	43,707 ⁽¹⁾	
Total amount of investment (percentage share)	11,205 bn (55.5%)	80 mn (0.4%)	72 mn (0.4%)	2,188 bn (10.8%)	64 mn (0.3%)	374 mn (1.9%)	6.19 bn (30.7%)	20.173 bn	

(1) This figure refers to the total number of customers. As individual customers may have more than one investment account, the total number of accounts is different from the total number of customers.

¹ Relevant product series (Minibond series) – 5 to 12, 15 to 23, 25 to 36

² Relevant product series (ProFund Notes series) – 1, 2

³ Relevant product series (Equity Linked Notes series) – 8 to 10, 13, 14, 19 to 21

⁴ Relevant product series (Structured Retail Notes series) – 34 to 37, 43 to 46, 55 to 74, 78 to 81

⁵ Relevant product series (Retail-Aimed Callable Investment Notes Global series) – 1 & 2

⁶ Relevant product series (Octave Notes series) – 10, 11 & 12