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Press Releases

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SFC, HKMA, Dah Sing Bank Ltd and Mevas Bank Ltd resolve issues concerning Lehman Equity Index-linked Principal Protected Notes

The Securities and Futures Commission (SFC) and the Hong Kong Monetary Authority (HKMA) announce today that they have reached a resolution with Dah Sing Bank Ltd (Dah Sing) and Mevas Bank Ltd (Mevas) concerning their sale of certain Equity Index-linked Fixed Coupon Principal Protected Notes issued by Lehman Brothers which the two banks sold on or after 5 August 2008 (Lehman PPNs). Dah Sing and Mevas have agreed to make repurchase offers to eligible customers who bought the Lehman PPNs from the two banks (Repurchase Offers).

The Repurchase Offers arise as a result of the enhanced complaints handling procedure under the 22 July Minibond Agreement (Note 1). The enhanced complaints handling procedure in the 22 July Minibond Agreement is designed to resolve complaints from customers who purchased structured investment products other than Minibonds.

Dah Sing and Mevas have agreed, without admitting any liability, to make an offer to repurchase the Lehman PPNs from eligible customers at 80% of the principal amount invested (Note 2). All individual customers who purchased Lehman PPNs from Dah Sing and Mevas on or after 5 August 2008 are eligible customers.

Individual customers who meet the eligibility criteria but who have previously settled their claims in relation to the distribution of Lehman PPNs with Dah Sing and Mevas will not qualify for the Repurchase Offers. However, Dah Sing and Mevas have agreed with the SFC and the HKMA to make ex gratia payments to such customers who under the settlements received less than 80% of the principal invested, so as to bring them to the same position as the customers eligible for the Repurchase Offers (Note 3).

"The SFC's principal objective has been to resolve the largest number of complaints in the shortest space of time and, where it is appropriate, to ensure those resolutions provide reasonable remediation for customers and help restore investor confidence. The SFC required banks to adopt an enhanced complaints handling procedure as part of the 22 July Minibond Agreement to encourage banks to resolve complaints about other structured investment products, like Lehman PPNs. The SFC is pleased to see this process bringing positive results for customers," said Mr Martin Wheatley, the SFC's Chief Executive Officer.

Mr YK Choi, Deputy Chief Executive of the HKMA, said, "The HKMA welcomes the resolution which follows the HKMA's investigations into the sale of Lehman PPNs by the two banks. The Repurchase Offers enable all individual customers concerned to receive an amount equivalent to 80% of what they invested without protracted legal proceedings. The HKMA believes that this resolution is a reasonable and practical one and is in the interest of investors and in the public interest."

In light of the proposed repurchase and the ongoing commitments given by both Dah Sing and Mevas under the 22 July Minibond Agreement, the SFC will not take any enforcement action against Dah Sing or Mevas, or any of their directors, officers or employees, under the SFC's Code of Conduct (Note 4) in relation to the sale of the Lehman PPNs.

The HKMA has also informed Dah Sing and Mevas that it does not intend to take any enforcement action against their executive officers and relevant individuals in connection with the sale of Lehman PPNs by them to customers who have accepted the Repurchase Offers or the ex gratia payments (Note 5).

End

Notes:

1. Under the 22 July Minibond Agreement, distributing banks were required to engage independent reviewers to review their systems and procedures relating to the sale of structured investment products and to review and enhance their complaints handling procedures, and have undertaken to implement all recommendations by the independent reviewers. Please see SFC and HKMA joint press release dated 22 July 2009 for details.
2. Unlike the Minibonds, there was no collateral held for the Lehman PPNs and so the holder of a Lehman PPN is an unsecured creditor in Lehman's bankruptcy. Accordingly, there will not be any top up payment available in these cases unless, after the payment to secured creditors, the Lehman bankruptcy is able to pay a dividend to unsecured creditors of more than \$0.80 in the \$1.00. This is regarded as most unlikely. However, Dah Sing and Mevas have agreed to pay whatever is received in excess of 80% to those customers who accept the Repurchase Offers in the unlikely event that a dividend of this size is paid to unsecured creditors.
3. There are about 529 eligible customers (for the Repurchase Offers or the ex gratia payments) who purchased Lehman PPNs from Dah Sing and Mevas on or after 5 August 2008 and the total amount invested by them was approximately \$264 million. Dah Sing and Mevas have already reached voluntary settlement with 462 customers (approximately 87% of eligible customers). The total amount payable by the banks under the Repurchase Offers and ex gratia payments (assuming all eligible customers accept the Repurchase Offers) is approximately \$72 million. Dah Sing and Mevas have set up a hotline (Dah Sing: 2507 8997, Mevas: 2507 8821) to answer queries from customers who purchased Lehman PPNs from them.
4. Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission.
5. The resolution does not limit action against any person where there is dishonesty, fraud, deceit or any other criminal conduct in connection with the sale of Lehman PPNs.