

(Translation)

Motion on
“Assisting the victims of the Lehman Brothers incident”
moved by Hon Jeffrey LAM Kin-fung
at the Legislative Council meeting
of Wednesday, 22 October 2008

Motion as amended by Hon KAM Nai-wai, Hon WONG Kwok-hing and Hon Alan LEONG Kah-kit

That, under the existing financial monitoring mechanism, there is still a large number of bank clients and investors complaining against the banks and securities companies using misleading marketing practices, which have led to their purchasing of financial products such as Lehman Minibonds and notes without knowing the potential risks, resulting in their suffering substantial losses when the company went bankrupt; this incident has not only caused many members of the public to lose confidence in the above financial institutions and the system for monitoring banks and the financial system, but has also seriously affected Hong Kong’s reputation as an international financial centre; in this connection, this Council condemns the Government for its inadequate monitoring, and urges the Government to immediately take the following actions:

- (a) using all possible means, including setting up an inter-departmental response team to assume overall responsibility for providing comprehensive assistance to affected small investors and protecting their interest;
- (b) urging distributors to expeditiously disclose information on the underlying assets of Lehman Minibonds or related financial products, including the nature of the underlying assets, their prices and liquidity;
- (c) expeditiously completing a comprehensive investigation into whether the distributors of Lehman Minibonds and related financial products have violated the relevant regulatory rules or guidelines, including whether these distributors have used improper sales practices to mislead the investors and whether they have breached the regulations or deviated from the guidelines, and expeditiously disclose the nature and number of cases involving improper sales practices and violation of and deviation from the guidelines; if it is proved that they have violated the relevant rules or guidelines, the Government should pursue the matter and seek compensation on behalf of the victims;
- (d) urging the Police to expeditiously complete their investigations for the authorities concerned to institute prosecutions against illegal acts, so as to severely penalize such acts;

- (e) urging various distributors to expeditiously propose to their clients compensation options for improper sales practices and violation of regulations;
- (f) with reference to the practice of Singapore in handling disputes resolution in the financial sector, considering the setting up of an independent commission or institution to provide one-stop service for disputes resolution, so as to enable the victims to seek compensation through such means as mediation and adjudication;
- (g) supporting the Consumer Council to conduct a study of the suspected cases involving misleading practices and, where necessary, use the Consumer Legal Action Fund to seek compensation from the banks and securities companies concerned for the small investors;
- (h) demanding the authorities to urge the trustees and distributors concerned to appoint an independent notary agency to properly handle the assets of holders of Lehman Minibonds or related financial products, thereby providing the best protection for the interest of small investors; and
- (i) at the same time conducting an investigation into whether there is dereliction of duty on the part of the Financial Secretary, the Financial Services and the Treasury Bureau, the Hong Kong Monetary Authority and the Securities and Futures Commission in this incident, and making recommendations on how to improve the mechanism for monitoring the sales of financial products, strengthen the protection of investors' interests and prevent the recurrence of similar incidents;
- (j) expeditiously providing the details about implementing the plan for distributors to buy back the bonds from the bond-holders and the implementation timetable;
- (k) also expeditiously completing a comprehensive investigation into the issuers and sponsors etc of Lehman Minibonds and related financial products and, if it is proved that they have violated the rules or regulations, the Government should pursue the matter and seek compensation on behalf of the victims; and
- (l) demanding the Hong Kong Monetary Authority to investigate the unreasonable management measures adopted by the relevant banks to coerce their employees to achieve sales targets of the bonds concerned, establish channels for employees of banks to reflect such situations to the Hong Kong Monetary Authority and, at the same time, monitor bank management not to use high-handed and target-oriented approach in marketing products to protect front-line employees from becoming scapegoats, so as to restore public confidence in banks; and

(m) demanding the authorities to appoint, with the highest efficiency and within the shortest possible time, independent persons of credibility and authorize them to deal with the following tasks respectively:

(i) monitoring the process of various banks for investigating complaint cases; and

(ii) with the consent of the parties concerned, arbitrating those cases which cannot be settled by way of conciliation,

so as to reduce the anxiety and dissatisfaction of the affected persons.