

Panel on Financial Affairs

List of follow-up actions
(Position as at 2 April 2009)

Subject	Date(s) of relevant meeting(s)	Follow-up actions	Outcome
1. Proposal of re-structuring the filing fees for non-Hong Kong companies	3 January 2005 ¹	The Administration was requested to report to the Panel in due course on the situation about non-Hong Kong companies' compliance with the new requirement for them to file a full annual return. The report should include, inter alia, the statistics on compliance, non-compliance and late returns, enforcement actions taken/to be taken (if any), and measures proposed by the Administration to improve the situation.	The information note provided by the Administration was issued vide LC Paper No. CB(1)1194/08-09(01) on 1 April 2009.
2. Policies on remuneration for and post-termination employment of senior executives of the Hong Kong Monetary Authority (HKMA) and Securities and Futures Commission (SFC)	4 May 2006	Regarding the reviews being conducted on the policies on post-termination employment of senior executives of HKMA and SFC, members suggested that reference be made to the improved arrangements introduced for directorate civil servants on 1 January 2006. In this connection, the Governance Subcommittee (GSC) of the Exchange Fund Advisory Committee and SFC were invited to inform the Panel of the outcome of their reviews in writing in due course.	The written response from the GSC Chairman was issued to members vide LC Paper No. CB(1)182/06-07(01) on 27 October 2006. Response from SFC awaited.

¹ The provisions concerning the new requirement for non-Hong Kong companies only came into operation in mid-December 2007 upon the completion of the enhancement work of the Integrated Companies Registry Information System. The Administration plans to provide information to the Panel on the implementation of the new requirement after such has been in place for around a year.

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<p>3. Review of the Mandatory Provident Fund Schemes Compensation Fund</p>	<p>3 July 2006</p>	<p>In response to members' concern about the review of collection of levy and reserve level of the Mandatory Provident Fund Schemes Compensation Fund (Compensation Fund), the Mandatory Provident Fund Schemes Authority (MPFA) undertook to:</p> <p>(a) explore feasible measures to improve provision of services to members of the Mandatory Provident Fund Schemes; and</p> <p>(b) work out a model/mechanism for determining the optimum level of the Compensation Fund and provide a progress report to the Panel in 18 months' time. The progress report would also cover information on the assessment of the risks arising from claims, if any, to the Compensation Fund.</p>	<p>The progress report on the review of the Compensation Fund was circulated to members vide LC Paper No. CB(1)497/07-08 on 24 December 2007.</p> <p>MPFA will complete the review and provide a report for consideration in 18 months' time.</p>
<p>4. Review of the Personalized Vehicle Registration Marks Scheme</p>	<p>28 February 2008</p>	<p>(a) Of the some 700 traffic offence cases involving vehicles bearing Private Vehicle Registration Marks (PVRMs) between September 2006 and September 2007, the Administration was requested to provide information/statistics on the number of prosecutions, convictions, acquittals, and cases which had been dismissed on the grounds of enforcement difficulty caused by PVRMs.</p> <p>(b) The Administration was requested to provide a</p>	<p>Response to item (a) was issued to members vide LC Paper No. CB(1)1150/07-08 on 28 March 2008.</p> <p>Response to item (b) was issued to members vide LC Paper No. CB(1)1152/08-09 on 26 March 2009.</p>

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		<p>report to the Panel reviewing the implementation, operation and auction proceeds of the PVRM Scheme in one year's time.</p>	
<p>5. Update on the work of the Financial Reporting Council (FRC)</p>	<p>8 April 2008</p>	<p>In relation to members' concerns about the effectiveness and transparency of the operation of FRC, the Administration/FRC were requested to take the following actions:</p> <ul style="list-style-type: none"> (a) review the appointment of members to FRC, having regard to some Panel members' view that consideration should be given to appointing persons of the right calibre who could spare adequate time to participate actively in the affairs of FRC; (b) consider, without prejudice to the rights and privacy of the parties concerned and having regard to public interest, making public the report or any part of the report upon conclusion of an investigation or enquiry, so as to enhance transparency and increase the awareness of the accountancy profession of the auditing and financial reporting requirements; (c) consider whether and how the operation of the Process Review Panel for FRC (to be established in the latter half of 2008) could be stepped up to effectively safeguard fair and reasonable handling of all complaints by FRC, having regard to some 	<p>Paper provided by FRC was circulated to members vide LC Paper No. CB(1)1177/08-09(04) on 30 March 2009.</p>

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		<p>members' reference to the work of the Operations Review Committee of the Independent Commission Against Corruption;</p> <p>(d) review the existing mechanism for declaration of interest by FRC staff with a view to strengthening safeguards against any real, potential or perceived conflict of interest in their investigation or enquiry work; and</p> <p>(e) consider taking a more proactive role in initiating investigations or enquiries, instead of only acting on complaint.</p>	
<p>6. Impact of banks' branch closure and fee-charging on the public</p>	<p>5 May 2008</p>	<p>(a) In relation to members' concerns about the utilization and accessibility of non-branch channels for provision of basic banking services, the Hong Kong Association of Banks (HKAB) was requested to provide the following information/statistics as far as practicable:</p> <p>(i) the utilization of various automated non-branch channels such as automatic teller machines (ATM) facilities, phone banking and Internet banking by underprivileged groups including the elderly, the physically disabled, and recipients of Comprehensive Social Security Assistance, and other related information which</p>	<p>HKAB's response to item (a) was issued to members vide LC Paper No. CB(1)2293/07-08 on 10 September 2008.</p>

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		<p>might assist the Consumer Council in conducting its study on consumer needs for basic banking services;</p> <p>(ii) of the 38 new bank branches and 138 new ATMs set up in 2007, the number of such new branches and new ATMs provided in public housing estates, with a breakdown on their location and distribution; and</p> <p>(iii) the availability and distribution of the two main ATM networks in Hong Kong, namely, the Electronic Teller Card and Joint Electronic Teller Services Limited systems, in various districts.</p> <p>(b) The Administration/HKAB was requested to provide written response to the following motion passed at the meeting:</p> <p>"本委員會要求政府立即成立工作小組，評估及監察情況，並提出政策以改善銀行服務，以照顧老弱傷殘及低收入人士之需要。此工作小組應包括有關弱勢群體的代表及銀行公會及消委會代表。工作小組應在 6 個月後向本委員會提交報告。"</p> <p><u>(English translation)</u></p>	<p>The Administration's initial response to item (b) was issued to members vide LC Paper No. CB(1)1765/07-08 on 3 June 2008. The Administration is considering an appropriate mechanism to effectively gauge the views and suggestions from different user groups of banking services. Relevant parties</p>

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		<p>"That this Panel requests the Government to establish a working group immediately for assessing and monitoring the situation, as well as recommending policy initiatives to improve banking services so as to cater for the needs of the elderly, the underprivileged, the disabled and low-income earners. The working group should comprise representatives from the underprivileged groups concerned and those from the Hong Kong Association of Banks and the Consumer Council, and should submit its report to this Panel in six months' time."</p>	<p>and organizations will be consulted and engaged in the process. Progress report will be provided to the Panel in due course.</p>
<p>7. Issues relating to the Government's "buy-back" proposal for Lehman Brothers-related minibonds</p>	<p>30 December 2008</p>	<p>(a) To address members' concern about the delay of the "buy-back", the following follow-up actions were requested -</p> <p>(i) the HKABs' Task Force on Lehman Minibonds Incident and/or distributor banks were requested to provide information on the progress of internal investigations undertaken by distributor banks into complaints lodged by the retail investors of Lehman Brothers-related minibonds, including whether the banks concerned had already completed investigation of all the cases and notified the complainants concerned of the conclusions;</p>	<p>For (a) (iii) and (b), the Administration's response was circulated to members vide LC Paper No. CB(1)696/08-09 on 30 January 2009.</p> <p>For (a)(i) and (ii), response awaited.</p>

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		<p>(ii) HKAB's Task Force on Lehman Minibonds Incident and/or distributor banks were requested to consider the suggestion of establishing a contingency fund through contributions from banks to provide compensation to affected investors in an expeditious manner; and</p> <p>(iii) the Administration was requested to provide a paper setting out the alternative measures/plans to assist the affected investors to recover their money as soon as possible.</p> <p>(b) In relation to the concern about the perceived conflict of interests in the discharge of duties by the HSBC Bank USA, N.A. as the trustee (who acted as the representative of the investors) and the directors of the special purpose vehicle issuing the minibonds (who acted on behalf of the issuer) supplied by HSBC Bank (Cayman) Limited, HKMA was required to provide information on the supervisory guidelines and/or requirements to safeguard against conflict of interests in the discharge of such duties by banks.</p>	
8. Issues relating to the Hong Kong Exchanges and Clearing Limited	30 December 2008	(a) The Administration/SFC/HKEx were requested to provide written response to the following motion passed at the meeting:	For (a) and (b), the Administration's preliminary responses were circulated to

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<p>(HKEx)'s consultation papers on proposed changes to the Listing Rules and periodic financial reporting</p>		<p>"鑒於港交所對《上市發行人董事進行證券交易的標準守則》有關延長'禁止買賣期'的修訂引起市場強烈反響，本委員會要求有關當局取消原定於2009年1月1日對該守則修訂後的執行，並就有關問題重新展開為期6個月的諮詢，以妥善解決市場的疑慮。"</p> <p>(Translation)</p> <p>"That, given that the HKEx's amendments to the Model Code for Securities Transactions by Directors of Listed Issuers relating to the extension of the 'blackout period' have aroused strong reaction in the market, this Panel requests the authority concerned not to effect the amended Rules as scheduled on 1 January 2009 and launch a six-month consultation on the issue afresh, so as to address properly the market concerns."</p> <p>(b) To address the concern about the implementation of the proposal to extend the "black out" period from the end of the relevant financial period until the date on which the reports were published, HKEx was requested to provide written responses on the following issues:</p> <p>(i) necessity and effectiveness of the proposed extension in improving the corporate</p>	<p>members vide LC Papers Nos. CB(1)696/08-09 and CB(1)697/08-09 dated 30 January 2009.</p>

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	26 February 2009	<p>governance of listed companies in Hong Kong; and</p> <p>(ii) whether the proposed extension would continue to apply upon the implementation of mandatory quarterly reporting and if so, the impact of the trading restrictions imposed on directors of listed companies.</p> <p>(c) To address the concern about the factors of consideration leading to the Listing Committee's decision on 12 February 2009 to modify the "black out" period proposal, SFC/HKEx were requested to provide the following information:</p> <p>(i) details of SFC's further advice to the Listing Committee on the issue of "black out" period and associated issues concerning enhancements to the Hong Kong disclosure regime;</p> <p>(ii) new arguments considered by the Listing Committee and new developments supporting these arguments (such as increased hostile takeovers by hedge funds following the collapse of the Lehman Brothers in September 2008 and impact of a recent court judgment on the tools available to listed issuers to counter</p>	<p>The Administration/SFC/HKEx's response to (c) was circulated to members vide LC Paper No. CB(1)1173/08-09 on 31 March 2009.</p>

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		<p>hostile takeovers); and</p> <p>(iii) findings of the Listing Division of HKEx's further analysis of dealings by directors during the year ended 31 December 2008.</p>	
<p>9. Briefing on the reports prepared by HKMA and SFC on the Lehman Brothers Minibonds incident</p>	<p>23 February 2009</p>	<p>(a) In response to the concern about the extensive impact of the Lehman Minibonds incident on retail investors in Hong Kong compared with overseas jurisdictions, the Administration/HKMA/SFC were requested to provide in writing the circumstances specific to Hong Kong (such as the market structure, regulatory regime governing the sale of structured financial products; conduct of banks/brokers; or awareness of the risks involved in these products etc.) leading to the large number of retail investors investing in Lehman Brothers-related Minibonds.</p> <p>(b) To address members' concern about HKMA's analyses and follow-up actions regarding the sale of credit-linked products without full principal protection, including those with collateralized debt obligations as underlying collateral, HKMA was requested to provide information obtained during its survey in late 2007 on the sale of such products by authorized institutions (AIs), including but not limited to the total value of these products distributed through AIs and the number of customers investing</p>	<p>Response awaited</p>

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		<p>in these products.</p> <p>(c) To address members' concern about the progress of handling and investigations of Lehman-related complaints, HKMA was requested to provide the latest information on the total number of complaints received and the number of cases which :</p> <ul style="list-style-type: none"> (i) had gone through preliminary assessment; (ii) HKMA had commenced investigation; (iii) pending due to inability to obtain necessary information from the complainants concerned; and (iv) had been referred to SFC. 	
<p>10. Investor protection under the existing regulatory framework for the securities market</p>	<p>23 February 2009</p>	<p>(a) To address member's concern about the protection of minority shareholders' interest in the privatization process of listed companies, SFC was requested to provide information in writing, on the powers conferred on SFC under the law, (notably section 214 of the Securities and Futures Ordinance (Cap. 571)), to seek remedies and/or to revert the decision of privatization after the scheme of arrangement for privatization had been approved by the court.</p>	<p>Response awaited</p>

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		<p>(b) In response to a member's concern about the existing arrangements of the Hong Kong Securities Clearing Company Limited (HKSCC) in respect of cases of lost share certificates, the Administration/SFC/HKEx were requested to provide information on:</p> <ul style="list-style-type: none"> (i) whether and how the interest of the investors concerned could be better protected, in particular on the requirement to obtain bank guarantee for re-issue of the lost certificates; and (ii) the arrangements to deal with dividends and bonus shares arising from these lost cases which the investors concerned failed to prove their entitlements. <p>(c) To address the concern about the exercise of voting rights by minority shareholders of listed companies, SFC was requested to provide information on the timing and details of the review on HKSCC's measures to enhance investor protection, including measures to increase shareholders' control of their securities and voting rights.</p>	
11. Budget of SFC for the financial year of 2009 – 2010	26 February 2009	In relation to the concern about the manpower resources allocated for the investigation of Lehman-related complaints, SFC was requested to provide information on	SFC's response was circulated to members vide LC Paper No.

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		the number of cases awaiting investigation and the number of existing and/or new SFC staff deployed to investigate these complaints.	CB(1)1173/08-09 on 31 March 2009.

Council Business Division 1
Legislative Council Secretariat
2 April 2009