

立法會

Legislative Council

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Paper for the House Committee meeting on 23 October 2009

Continuation of work of the Subcommittee to Study Issues Arising from Lehman Brothers-related Minibonds and Structured Financial Products

Purpose

This paper invites members to note the latest progress of work of the Subcommittee to Study Issues Arising from Lehman Brothers-related Minibonds and Structured Financial Products (the Subcommittee) and the need for the Subcommittee to continue its work in the 2009-2010 session.

Background

2. Following the collapse of the Lehman Brothers Holding Inc. in the United States in September 2008, there was a public outcry in Hong Kong as thousands of panicking investors feared substantial or total loss on their investment in Lehman Brothers (LB)-related Minibonds and structured financial products. Questions were also raised about the effectiveness of the existing regulatory regime in safeguarding investors' interest. On 17 October 2008, the House Committee endorsed the setting up of a subcommittee with the following Terms of Reference :

"To study issues arising from Lehman Brothers-related Minibonds and structured financial products and to make recommendations where necessary."

3. Pursuant to the decision of the House Committee at the same meeting, Ir Dr Hon Raymond HO, Subcommittee Chairman, moved a motion at the Council meeting on 12 November 2008 seeking authorization under section 9(2) of the Legislative Council (Powers and Privileges) Ordinance (Cap.382) for the Subcommittee to exercise the powers conferred by section 9(1) of the said Ordinance for the purpose of performing its functions. The motion was passed.

Work of the Subcommittee

The Subcommittee's practice and procedure

4. When the Subcommittee commenced work in October 2008, it consisted of 27 members. The Subcommittee currently comprises 21 members and the updated membership list is at the **Appendix**. As the Subcommittee is the first subcommittee set up under the House Committee which has been authorized to exercise the powers under Cap.382, it has drawn up its practice and procedure based on the relevant provisions in the Rules of Procedure and the House Rules applicable to subcommittees of committees of the Council. Its practice and procedure are also regulated by relevant provisions of Cap.382. The Subcommittee's "Practice and Procedure" was endorsed by the House Committee on 28 November 2008.

5. The Subcommittee has decided that, as a general rule, the taking of evidence should be conducted at open hearings. It has also agreed that all witnesses would be summoned and be examined on oath. The Subcommittee also holds closed meetings to deliberate on matters related to the Subcommittee's study. As a further measure to enhance transparency and public understanding of its work, the Subcommittee has taken the unprecedented initiative of posting its key decisions reached at closed meetings on the Subcommittee's webpage. The Chairman also briefs the media after each meeting.

Progress of the Subcommittee's work

6. Having regard to the wide range of issues involved in the study, the Subcommittee drew up its major areas of study in November 2008 and a tentative work plan. Members are keenly aware that as the Lehman Brothers incident is evolving and there are ongoing developments, there may be a need to fine-tune the areas of study and the order of studying them. At present, the Subcommittee has completed a substantial part of its study on the existing regulatory framework on the conduct of securities business by banks as enshrined in the Securities and Futures Ordinance and the Banking (Amendment) Ordinance 2002 which commenced operation in April 2003. During the 12-month period since the commencement of the Subcommittee in October 2008, the Subcommittee held a total of 21 meetings to deliberate on matters related to its study. In addition, from mid February to the end of October 2009, the Subcommittee conducted 21 open hearings and received evidence from the following witnesses:

- Prof K C CHAN, Secretary for Financial Services and the Treasury;
- Mr Joseph YAM, former Monetary Authority;
- Mr Y K CHOI, Deputy Chief Executive of Hong Kong Monetary Authority (DCE/HKMA);
- Mr Martin WHEATLEY, Chief Executive Officer of Securities and Futures Commission (CEO/SFC); and
- Mr Brian HO, Executive Director, Corporate Finance Division of SFC.

7. The CEO/SFC and DCE/HKMA will be required to continue to give evidence to the Subcommittee in November 2009 on a number of outstanding issues arising from past hearings. The Chairman and Deputy Chairman will also need to deal with a claim of public interest immunity made by CEO/SFC in accordance with the procedure set out in the Subcommittee's "Practice and Procedure". In addition, the Subcommittee has decided to summon Mr John TSANG, Financial Secretary, to attend before it in December 2009.

8. At the meeting of the Subcommittee held on 6 October 2009, members noted a detailed report on the progress of work of the Subcommittee and considered that to take forward the remaining stages of its work, it is necessary for the Subcommittee to continue its work in the 2009-2010 session.

Advice sought

9. Pursuant to Rule 26(c) of the House Rules, members are invited to note the latest progress of work of the Subcommittee and the need for it to continue its work in the 2009-2010 session.

Council Business Division 1
Legislative Council Secretariat
22 October 2009

**Subcommittee to Study Issues Arising from Lehman Brothers-related
Minibonds and Structured Financial Products**

**Membership list
(as at 22 October 2009)**

Chairman Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP

Deputy Chairman Dr Hon Philip WONG Yu-hong, GBS

Members Hon James TO Kun-sun
Hon CHAN Kam-lam, SBS, JP
Hon Emily LAU Wai-hing, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon LEUNG Kwok-hung
Hon WONG Ting-kwong, BBS, JP
Hon Ronny TONG Ka-wah, SC
Hon CHIM Pui-chung
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon KAM Nai-wai, MH
Hon Starry LEE Wai-king
Hon Paul CHAN Mo-po, MH, JP
Hon CHAN Kin-por, JP
Dr Hon Priscilla LEUNG Mei-fun
Dr Hon LEUNG Ka-lau
Hon IP Wai-ming, MH
Hon Mrs Regina IP LAU Suk-yeet, GBS, JP

(Total : 21 members)

Clerk Miss Polly YEUNG

Legal Adviser Mr KAU Kin-wah