

**Subcommittee on Securities and Futures
(Futures Contracts) Notice 2012**

**List of follow-up actions arising from the discussion
at the meeting on 4 June 2012**

- A. The Administration and the Hong Kong Exchanges and Clearing Limited ("HKEx") are requested to:
1. consider the request that the HKSAR Government make a public statement that the Government will not in any circumstances use public money to bail out any central counterparty ("CCP") established in Hong Kong for clearing of over-the-counter ("OTC") derivatives transactions as a recognized clearing house ("RCH") under the Securities and Futures Ordinance (Cap. 571);
 2. provide financial information regarding the OTC CCP that has been established by the Hong Kong Exchanges and Clearing Limited ("HKEx") as a new Hong Kong-incorporated subsidiary of HKEx, including but not limited to -
 - (a) the estimated capital investment and recurrent expenditure; and
 - (b) the fees to be charged and their respective levels, the estimated turnover, the projected break-even point and the projected profit or loss situation for the initial years of operation.
 3. provide the fees information of overseas CCP that HKEx would make reference to in determining the fee levels of its OTC CCP subsidiary.
 4. given the various risk management measures that will be put in place by the established OTC CCP, as detailed in paper LC Paper CB(1)2079/11-12(02), under what circumstances will the following scenario occur: the financial resources of a local OTC CCP are not enough to absorb losses incurred by the CCP due to one or more clearing members' default and the CCP has to wind down all positions with a final mark to market settlement cycle; and if such an event occurs, which party will be responsible for taking forward the insolvency procedures in respect of the CCP.

If necessary, the information requested under items 2(b) and 3 can be provided in the form of confidential documents.

- B. The Legal Adviser to the Subcommittee is requested to review whether section 39 of SFO has the effect of ensuring the immunity of the HKSAR Government and HKEx as a recognized clearing house from any liability to the losses sustained by parties due to the default of one or more clearing members of the OTC CCP established by HKEx.

Council Business Division 1
Legislative Council Secretariat
12 June 2012