CB(1)286/12-13(02)

Legislative Council Panel on Financial Affairs
Follow-up to meeting on 19 November 2012

Item (a) – Report by the State Administration of Foreign Exchange on the monitoring of cross-border capital flow

Please see **Annex 1** and **Annex 2** respectively for the Report on the Monitoring of Cross-border Capital Flows 2010 (2010 Report) and the Report on the Monitoring of Cross-border Capital Flows 2011 (2011 Report) issued by the State Administration of Foreign Exchange (SAFE) (Chinese only).

2. In its 2010 Report, SAFE mentioned that the large scale of net inflows and the increases in foreign exchange reserves were basically in line with real economic activities. With its rising economic strength and the continued opening up of its economy, the impact of the flows of "hot money" on the accumulation of reserves and economic development on the Mainland had been diminishing. According to SAFE's estimates, the net inflow of "hot money" in 2010 amounted to only 0.6% of GDP. SAFE also mentioned that the impact of Hong Kong factor on the Mainland should not be overstated. It pointed out that vast majority of the bilateral economic and trading activities between Mainland and Hong Kong

were supported by genuine and legitimate transactions which had to undergo stringent regulatory process on the Mainland and should not be confused with unregulated flow of “hot money”. SAFE also noted in its 2011 Report that cross-border net inflows slowed down significantly in 2011 and some net outflows were even recorded in certain channels.

3. Please see **Annex 3** for SAFE’s response dated 21 November 2012 to media enquiries about recent developments in the foreign exchange market. When commenting on whether there was intensification in the pressure of “hot money” inflow recently, SAFE said that the October statistics did not suggest that the pressure of cross-border capital inflows had intensified significantly. As for foreign exchange settlement, there was still a net-selling of RMB in forward transactions in October. As for cross-border payments, there were modest outflows for two consecutive months, and in particular there remained to be net outflows to Hong Kong.

Item (b) – Regulation of the sale of insurance products by banks, in particular, whether the offering documents of any of the insurance products currently sold by banks are not subject to authorisation by a relevant regulator (e.g. Securities and Futures Commission, Office of the Commissioner of Insurance)

4. Generally speaking, insurers are required to obtain authorization from the Insurance Authority ("IA") to carry on the relevant class of business under the Insurance Companies Ordinance.

5. With regard to investment-linked assurance scheme ("ILAS") products which was mentioned by the Hon James TO during the discussion at the meeting of the Legislative Council Panel on Financial Affairs on 19 November 2012, they fall within the meaning of "collective investment scheme" as defined in Part 1 of Schedule 1 to the Securities and Futures Ordinance ("SFO"). Therefore, both the ILAS product and the offering documents of ILAS need to be authorized by the Securities and Futures Commission ("SFC") pursuant to sections 104 and 105 of the SFO before it can be offered to the public in Hong Kong unless the offer is made only to persons outside Hong Kong or to Professional Investors. The SFC Code on Investment-Linked Assurance Schemes specifies that an insurer is required to obtain authorization from the IA to carry on "linked long-term" business under the Insurance Companies Ordinance before applying for authorization of its ILAS. According to the information collected by the HKMA, in respect of ILAS products currently sold by banks in Hong Kong, the schemes and the offering documents have been authorized by the SFC.

6. In regard to other types of insurance products, our understanding from the IA is that the Insurance Companies Ordinance does not require insurance contracts to be subject to regulatory authorization.

7. In selling insurance products, banks are required to comply with the requirements imposed by the relevant self-regulatory organisation(s), e.g. the Hong Kong Federation of Insurers, through which the IA regulates the conduct of insurance intermediaries. In its regular supervisory process, the HKMA monitors banks' compliance with the requirements applicable to their sale of insurance products. In respect of the sale of ILAS products by banks, the HKMA has introduced additional requirements in view of the client profile and nature of operations of banks.

Hong Kong Monetary Authority

December 2012