

**Responses to Follow-up Issues Arising from  
the Hearing on 18 December 2009**

1. *Please co-ordinate with the Securities and Futures Commission (SFC) and the Hong Kong Monetary Authority (HKMA) to provide the following information:*
  - (a) *as a result of the Minibond Repurchase Agreement announced on 22 July 2009, whether the regulators (SFC and HKMA) have discontinued their investigations into the Minibond-related complaint cases even if suspected or substantiated mis-selling is involved;*
  - (b) *the circumstances under which SFC and HKMA will continue investigation and where necessary, take disciplinary action; and*
  - (c) *a breakdown on the latest position of the Minibond-related complaint cases which are under investigation or undergoing disciplinary process, including the number of affected investors in such cases.*
- 1.1 According to SFC, the agreement made under section 201 of the Securities and Futures Ordinance (“SFO”) (“the Agreement”) among SFC, HKMA and the 16 banks dated 22 July 2009 ended the SFC’s investigations into Minibond complaints except where dishonesty, fraud, deceit or criminal offence was involved or there is a material breach of the Agreement. This applies irrespective of whether the complaint alleged misselling or not. HKMA has reserved the right to continue to investigate complaints by those who did not accept the Minibond repurchase offers under the Agreement (please refer to paragraph 1.2 below). On 17 December 2009, SFC announced the end of all of its top-down investigations into the 16 banks and three SFC-licensed brokers who distributed Minibonds.
- 1.2 According to HKMA, as the Agreement contains detailed arrangements for the settlement of claims and the implementation of robust systems for selling unlisted structured investment products and dealing with related customer complaints in future, it is not the intention of HKMA to take any disciplinary or enforcement action in relation to the complaints of any eligible customers who have accepted the distributing banks’ offer of settlement under the Agreement. HKMA will, however, continue its investigation into those cases involving dishonesty, fraud or other criminal elements, or customers who do not accept, or are not eligible for, the repurchase offer made by the relevant distributing banks under the Agreement and whose complaints could not be resolved by the enhanced complaint handling procedures introduced by the distributing bank concerned.

- 1.3 The breakdown on the latest position of the Minibonds-related complaint cases which are under investigation or undergoing disciplinary process (as of 17 December 2009) is set out in Table 1 below.

**Table 1**

Stage	Number of cases
Under investigation	735
Undergoing disciplinary process	55
Total	790

2. *With reference to paragraph 7.2 of the Financial Secretary (FS)'s written statement (W20(C)) that the Banking Advisory Committee (BAC) chaired by FS did discuss aspects of the regulation of banks' securities business and banks' non-interest income in the context of its contribution to banks' overall income generation and profitability, please provide the following information where practicable:*

- (a) the dates of BAC meetings at which the above-mentioned subjects were considered between April 2003 and mid-September 2008;*
- (b) the reason(s) for bringing up these subjects for discussion at the relevant BAC meetings and details of the discussion including any follow-up action taken; and*
- (c) whether HKMA had made any suggestion at the BAC meetings during the relevant period in relation to the development of banks' securities-related business including the retail sale of investment products.*

- 2.1 As I have explained at the hearing on 18 December 2009, the terms of reference of BAC cover matters connected with the Banking Ordinance, in particular matters relating to business activities of banks, restricted licence banks and deposit-taking companies. As such, there are discussions at BAC on aspects of the regulation of banks' securities business and banks' non-interest income from time to time. We have sought the assistance of HKMA, which provides secretariat support to BAC, in collating the relevant information in reply to question 2. With reference to the information available, the dates of BAC meetings at which aspects of the regulation of banks' securities business and banks' non-interest income in the context of its contribution to banks' overall income generation and profitability were discussed between April 2003 and mid-September 2008, and the reason(s) for bringing up such subjects for discussion and summary of

the discussion are set out in Table 2 below.

**Table 2**

<b>Date(s) of meeting(s)</b>	<b>Reason(s) for bringing up the subject and summary of discussion</b>
5 Jun 2003 & 4 Dec 2003	Reporting the possible impact on banks' non-interest income due to SARS in the first half of 2003, and the subsequent improvement in the fundamentals affecting the performance of the banking sector (including increased activity in the stock market leading to higher non-interest income) by year end in 2003.
11 Mar 2004, 3 Jun 2004, 2 Sep 2004, 6 Sep 2007, 6 Mar 2008 & 5 Jun 2008	Reporting and/or related discussion on the general growth of non-interest income (e.g. gains from treasury operations and increased income from fees and commissions).
9 Jun 2005	Commenting on the challenges being faced by banks in terms of profitability (e.g. continued pressure on interest margin, rising operating costs and increasingly difficult environment for fees and commission income businesses in the light of rising interest rates).

- 2.2 HKMA had not made any suggestion at the above-mentioned BAC meetings in relation to the development of banks' securities-related business including the retail sale of investment products.

31 December 2009