

Latest Position of the HKMA's investigations in Lehman-related complaint cases CB(1)1490/09-10(01)

The Hong Kong Monetary Authority (HKMA) announced today (Friday) that investigation of over 99% of Lehman-related complaint cases has been completed.

Up to 25 March, out of the 21,541 complaints received, a total of 21,394 cases have been resolved or gone through the HKMA's investigation process. These cases include:

- 2,842 cases that have entered or are likely to enter into the disciplinary process;
- 3,691 cases that have been closed or are likely to be closed because of insufficient evidence and grounds for disciplinary process; and
- 14,861 cases that have been resolved under the Minibond Repurchase Scheme or through banks' enhanced complaint handling procedures after investigation on some of such cases have been completed.

The remaining 147 cases are still under investigation for a variety of reasons. For example, some cases have been lodged with the HKMA recently, some complainants are non-contactable or unavailable for interviews, and some cases involve multiple investment products. The HKMA will continue its investigation into these cases. Progress updates of these cases will be released on a weekly basis.

A [table](#) summarising the progress of the disciplinary and complaint resolution work in respect of Lehman-related complaints is attached.

The HKMA will inform complainants individually as soon as possible the results of its investigation on their cases once the relevant process is completed.

While the HKMA will seek to pursue enforcement action through the disciplinary process, it wishes to reiterate that it may be in the interest of complainants and banks to resolve the matter through settlement.

[Table](#)

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Hong Kong Monetary Authority
26 March 2010



Complaints statistics concerning Lehman-related investment products (Up to 25 Mar 2010)

Product type	No. of complaints received	Investigatory process in progress ¹	Investigatory process completed				Disciplinary process in progress			Disciplinary sanctions imposed	Cases received by the HKMA which have been resolved by settlements under s.201 of SFO ⁵	Cases received by the HKMA which have been resolved by enhanced complaint handling procedures pursuant to s.201 agreement ⁶
			Pending decision ²	Insufficient prima facie evidence or disciplinary grounds ³	Preliminary decision to impose sanction	Preparation of proposed disciplinary notice in progress	Proposed disciplinary notice or decision notice issued ⁴	Appeal to SFAT in progress				
Minibonds	13,846	36	515	91	394	30	30	-	-	-	13,059	236
CLNs referenced to Lehman	4,630	33	3,677	588	1,020	2,069	1,769	299	-	1	-	920
ELNs issued by Lehman	2,758	65	2,134	362	1,088	684	684	-	-	-	-	559
Others	307	13	207	43	163	1	1	-	-	-	-	87
Total	21,541	147	6,533	1,084	2,665	2,784	2,484	299	-	1	13,059	1,802
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)
	=(b)+(c)+(k)+(l)		=(d)+(e)+(f)			=(g)+(h)+(i)+(j)						

(For details on the various stages under the enforcement process (comprising the investigatory process and the disciplinary process), please refer to the flowcharts at http://www.info.gov.hk/hkma/eng/new/lehman/enforcement_process.pdf)

Note

- ¹ The Hong Kong Monetary Authority (HKMA) formally registers each complaint and reviews and decides for each case (a) whether additional information is being obtained from the complainant and the registered institution concerned to facilitate the HKMA's consideration of whether to open a case for investigation or (b) whether there are sufficient grounds for opening cases for investigation. The HKMA then conducts investigation into opened cases.
- ² These are cases in respect of which investigation work has been completed and are going through the internal review process to decide (a) whether there are sufficient grounds for disciplinary actions (58 cases) or (b) whether the cases should be closed because of insufficient evidence or lack of disciplinary grounds (1,026 cases).
- ³ These are cases in which (a) there is a lack of prima facie evidence for investigation, (b) the HKMA's investigation has not found sufficient evidence or grounds to proceed with the relevant individuals concerned or (c) investigations are unable to proceed further because the complainants have declined to provide further information to the HKMA. However, investigations at the bank level, if any, will continue. Investigation into these cases may be re-opened if more information is available.
- ⁴ These are cases in respect of which (a) proposed disciplinary notices have been issued and representations were pending, (b) representations have been received and are being reviewed, or (c) disciplinary decision notices have been issued and the persons concerned have been given 21 days to consider whether to appeal to the Securities and Futures Appeals Tribunal.
- ⁵ These are cases where settlement agreements have been reached by the SFC and the banks under section 201 of the SFO following the investigatory process and, in some cases, disciplinary process of the HKMA. Unless dishonesty, fraud or other criminal elements are involved, it is not the intention of the HKMA to take any disciplinary or enforcement action in relation to these cases.
- ⁶ These cases includes 394 cases where the banks have offered to settle with the complainants under the enhanced complaint handling procedures pursuant to s.201 agreement and the offers are being considered by the complainants.