

立法會
Legislative Council

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Paper for the House Committee meeting on 22 October 2010

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

Purpose

This paper seeks members' endorsement for the Subcommittee to Study Issues Arising from Lehman Brothers-related Minibonds and Structured Financial Products (the Subcommittee) to continue its work up to the end of the current term in 2012.

The Subcommittee

2. The Subcommittee was set up under the House Committee on 17 October 2008 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."

The Subcommittee was also authorized by resolution of the Council on 12 November 2008 to exercise the powers conferred by section 9(1) of the Legislative Council (Powers and Privileges) Ordinance (Cap.382) for performing its functions.

3. When the Subcommittee commenced work in October 2008, it consisted of 27 members. As at 22 October 2010, it comprises 18 members and the latest membership list as at 22 October 2010 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.

Progress of the Subcommittee's work

4. Noting the complexity and wide range of issues involved and the fact that there are ongoing developments in the Lehman incident, the Subcommittee drew up its major areas of study in November 2008 and took forward its work by stages and in phases. After completing preparatory work under Stage 1, the Subcommittee took forward Phase I of its Stage 2 study and completed taking evidence on the existing regulatory framework governing the sale of structured financial products as enshrined in the Securities and Futures Ordinance and the Banking (Amendment) Ordinance 2002 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, former Deputy Chief Executive of Hong Kong Monetary Authority;
- Mr Martin WHEATLEY, Chief Executive Officer of Securities and Futures Commission (SFC);
- Mr Brian HO, Executive Director, Corporate Finance Division of SFC; and
- Mr John TSANG, Financial Secretary.

The Subcommittee also received evidence from a former employee of SFC. A total of 32 hearings, including two closed hearings, were held under this phase of study. The Subcommittee also dealt with a number of complex legal and procedural issues involving claims of secrecy, sub-judice and public interest immunity.

5. The Subcommittee is in the course of conducting Phase II of its Stage 2 study to receive evidence from the top and senior management staff of six banks. As at 19 October 2010, the Subcommittee has held 27 hearings, including eight closed hearings, and taken evidence from 11 witnesses from the top and senior management of the following banks under this phase of work:

- DBS Bank (Hong Kong) Limited;
- Standard Chartered Bank (Hong Kong) Limited;
- Citibank (Hong Kong) Limited;
- The Royal Bank of Scotland N.V.; and
- Bank of China (Hong Kong) Limited.

Two witnesses from Dah Sing Bank, Limited will testify to the Subcommittee in November 2010. In addition to holding hearings to receive evidence from witnesses of the six banks, the Subcommittee has also examined and responded to requests and concerns raised by the six banks, either separately or jointly, on various legal and procedural issues.

6. In addition to hearings, the Subcommittee has, since its commencement, held 33 meetings (three open and 30 closed meetings) up to mid-October 2010 to deliberate on matters related to its study.

7. The Subcommittee plans to proceed with Phase III of its Stage 2 study to obtain evidence from certain frontline staff of the aforesaid six banks who were involved in the sale of Lehman Brothers-related Minibonds and structured financial products starting from late November/early December 2010. Preparatory work is underway to identify the prospective witnesses and make appropriate arrangements for their attendance before the Subcommittee. Subject to any further view of the Subcommittee, arrangements will be made to summon affected investors to testify to the Subcommittee under Phase IV, after receiving evidence from the frontline staff. In conducting its work, the Subcommittee is aware that it is not tasked to investigate into specific complaint cases or to assist individual investors to seek compensation for their losses.

8. The Subcommittee has been working against a very tight schedule and aims to complete the taking of evidence from all witnesses before the end of April 2011. Afterwards, it will need to proceed to Stage 3 of its work to analyze and deliberate on the evidence obtained and work on its report. During this stage, considerable time will be required by the Subcommittee in writing the report and considering comments from relevant persons, in compliance with the requirements set out in the Subcommittee's Practice and Procedure. It is therefore expected that the Subcommittee would need to continue its work in the 2010-2011 and 2011-2012 sessions with a view to submitting its report to the Council before July 2012.

9. At the meeting of the Subcommittee held on 14 September 2010, members agreed that the Subcommittee should continue its work up to the end of the current term and that the endorsement of the House Committee be sought accordingly.

Advice sought

10. Pursuant to Rule 26(c) of the House Rules, members are invited to note the latest progress of work of the Subcommittee and give endorsement for it to continue its work up to the end of the current term in 2012.

Council Business Division 1
Legislative Council Secretariat
21 October 2010

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

**Membership list
(As at 22 October 2010)**

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 Abraham SHEK Lai-him, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon WONG Ting-kwong, BBS, JP
Hon Ronny TONG Ka-wah, SC
Hon CHIM Pui-chung
Hon KAM Nai-wai, MH
Hon Starry LEE Wai-king, JP
Hon Paul CHAN Mo-po, MH, JP
Hon CHAN Kin-por, JP
Dr Hon Priscilla LEUNG Mei-fun
Hon IP Wai-ming, MH
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Hon LEUNG Kwok-hung

(Total : 18 members)

Clerk Miss Polly YEUNG

Legal Adviser Mr KAU Kin-wah