

18th December 2008

Hong Kong Association of Banks
HKAB Task Force
Room 525, Prince's Building
Central
Hong Kong

Attn : Mrs. Ann Kung

Dear Mrs. Kung,

Further to the discussion in the Financial Affairs Panel this morning, I would be grateful for the following information as soon as possible.

The minibond holders have paid real money to purchase the minibonds from the various distributors banks and they have always been told that the collaterals held under the various series of the minibonds are the security that belong to the minibond holders. Hence the money to be realized from the sale of the collaterals belong to the minibond holders.

According to the recent announcement, the banks will contribute \$100 million to fund the litigation with the Lehman liquidators on the priority of these collaterals. However as disclosed by the Secretary for Financial Services and Treasury at the meeting today, the money will eventually be reimbursed from the sale proceeds of the collaterals. In short, it is the minibond holders who are funding the American litigation with their assets and bearing the risks of such litigation. Yet they are kept totally in the dark as to the details or valuation of these collaterals, the legal advice given in relation to such litigation or the decisions that have been made or will be made in relation to the minibonds or the legal disputes relating thereto. That is of course most unfair and unsatisfactory.

Please confirm:

1. If the money now incurred in relation to the valuation of these collaterals in particular if the fees payable to Ernst and Young are to be similarly reimbursed from the sale proceeds of the collaterals/the assets of the minibonds.
2. If the money now incurred in relation to the legal advice given in respect of the buy back scheme in particular if the fees payable to Mallesons Stephen Jacques are to be similarly reimbursed from the sale proceeds of the collaterals/the assets of the minibonds.

If so, the valuation and legal fees are also borne by the minibond holders. Hence please confirm:

1. You will as soon as possible inform the minibond holders of the valuation and legal fees incurred to date.
2. You will as soon as possible inform the minibond holders of the valuation and the legal advice which are paid for by them.
3. If you refuse to do so, please explain why in law you have the right to withhold the valuation or the legal advice from people who have paid for them?
4. It has been pointed out that Pacific International Finance Ltd, the issuer of the minibond is wholly owned by one of the companies of the HSBC group which also appoints its directors. Does it give rise to any conflict of interest?

Please also provide the details of the collaterals of each series and the information sought in the panel meeting today.

Yours sincerely,

Audrey Eu

c.c. Secretary for Financial Services and the Treasury
Hong Kong Monetary Authority
The Hongkong and Shanghai Banking Corporation Limited

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迷你債券專責小組主席
龔楊恩慈女士

龔太：

跟進今早的立法會財經事務委員會特別會議，懇請 閣下盡快提供以下資料。

迷你債券持有人真金白銀在分銷銀行購買有關產品，他們被告知各項迷你債券的抵押品，實際為他們所持有的擔保，故此，將來出售迷債抵押品所得的金錢，應該全部屬於迷債持有人。

銀行公會昨晚宣布，18 間分銷銀行將會墊支一億港元，協助受託人美國滙豐銀行在迷債抵押品清盤時所需的法律和財務支出。在今早的會議上，財經事務及庫務局局長陳家強承認，這筆開支將來會從出售抵押品所得的金錢中扣除。

換言之，所謂銀行墊支一億元，到頭來其實是迷債持有人付款和承擔訴訟的風險，可是，他們對此一無所知，包括抵押品的價值及詳情、清盤訴訟的法律意見、受託人已作出和將會作出的決定或其他相關的法律爭拗等等。

這樣，等於分銷銀行和信託人請客，迷債持有人埋單但又無權點菜和決定上哪家餐館、賓客名單和上菜時間，對他們十分不公平。

就此，本人希望 閣下確認：

1. 由替抵押品估值所導致的開支，尤其是向安永會計師事務所所支付的費用，將來會否從出售迷你債券抵押品或資產所得的金錢中扣除？
2. 就回購建議所尋求法律意見所導致的開支，尤其是向萬盛國際律師事務所所支付的費用，將來會否從出售迷你債券抵押品或資產所得的金錢中扣除？

若迷你債券持有人需承擔抵押品估值及法律費用，請確認：

1. 閣下將盡快將抵押品估值及尋求法律意見所牽涉的費用，通知迷債持有人；
2. 閣下將盡快將與抵押品估值及法律意見有關的一切資料，通知迷債持有人；
3. 若閣下認為無需向迷你債券持有人發佈與抵押品估值及法律意見的相關資料，請提供有關法律依據；
4. 另外，協助雷曼持有人向受託人美國滙豐銀行提出集體訴訟的美國律師 Patrick Daniels 指出，滙豐銀行集團其中一間公司擁有發行雷曼迷債的公司 Pacific International Finance Ltd 的 100% 股權，並任命這間公司的董事。滙豐銀行有否涉及角色衝突？

最後，希望閣下可盡快按各迷你債券提供其抵押品的資料，以及今早於立法會財經事務委員會上委員所要求的一切資料。

立法會議員余若薇謹啓

二零零八年十二月十八日