



HONG KONG MONETARY AUTHORITY
香港金融管理局

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Chief Executive

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總裁

Hon Margaret Ng
Member of Legislative Council
Room 116, New Henry House
10 Ice House Street
Hong Kong

(By post and by fax)

3 October 2008

Dear

Thank you for your letter of 2 October 2008 regarding complaints by members of the public who purchased investment products related to Lehman Brothers Inc. from banks in Hong Kong. I would like to assure you that the HKMA shares the community's concern over this matter and is giving it urgent attention.

While the HKMA is the frontline supervisor of the securities businesses of those banks in Hong Kong that have been registered with the Securities and Futures Commission (SFC) to conduct regulated activities (banks), it does not authorize the issue of advertisements, invitations or documents relating to investments under the regulatory framework of the Securities and Futures Ordinance (SFO).

In supervising the securities business of banks, the HKMA requires them to comply with the Code of Conduct for Persons Licensed by or Registered with the SFC in selling securities and futures products. The purpose of this requirement is to ensure a level playing field between the banks and persons licensed by the SFC. The Code requires financial intermediaries selling such products to explain the products and the risks they entail to their clients. Banks, like persons licensed by the SFC, are required to comply with relevant regulations under the SFO and to have adequate internal systems of control to ensure that they properly assess the suitability of investment products for their customers and adequately disclose the nature and risks of the products. Banks are also required to disclose whether they are acting as agent or principal and assure themselves that their clients understand the nature and risks of the product

they are buying and that the clients have sufficient net worth to assume such risks and bear any losses that might ensue. In addition, the HKMA has impressed upon banks the need to assess the risk appetite of customers and explain the risks of investment products. The HKMA conducts regular on-site examinations of banks' securities business and, where weaknesses are identified, issues guidance to the banks requiring them to strengthen their controls. For example, the HKMA has issued guidance emphasising the need to exercise special care in explaining products to vulnerable groups, including the elderly.

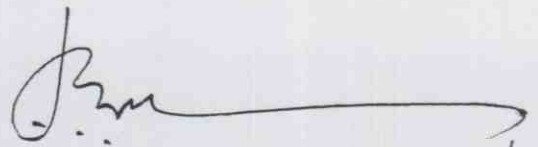
The HKMA has now received around (5,000) complaints regarding Lehman Brothers-related investment products sold by banks and we have begun processing them. As I am sure you will understand, it is essential that every complaint is dealt with thoroughly on its merits and without prejudging the issue. We are deploying significant resources to this task. While we expect to reach initial conclusions on some cases shortly, it will obviously take some time to complete all the work, particularly since we continue to receive new complaints.

As we arrive at a conclusion on individual cases, we will inform the complainants of our conclusions. In cases where we conclude that banks or their staff have been guilty of mis-selling the investment product which is the subject of the complaint, the HKMA may take appropriate disciplinary action against the Relevant Individuals, the executive officers or the bank concerned. The bank, the Relevant Individuals or the executive officers concerned may appeal to the Securities and Futures Appeals Tribunal. The HKMA does not have the power to order banks to compensate customers. However, where we conclude that banks or their staff have mis-sold investment products, customers are put in a better position to pursue their own civil remedies.

As you may be aware, the HKMA will provide the Financial Secretary with a report on the lessons to be learned from this incident within three months. In the meantime, the HKMA will be happy to brief Members of the Legislative Financial Affairs Panel on the matter when the new Council session begins.

With warmest regards.

Yours sincerely,



cc Mr John Tsang, Financial Secretary
Mr Martin Wheatley, Chief Executive Officer, Securities and Futures Commission