

Press release

LCQ3: Compensation from LB Holdings

Wednesday, March 28, 2012

Following is a question by the Hon Mrs Regina Ip Lau Suk-ye and a written reply by the Secretary for Financial Services and the Treasury, Professor K C Chan, in the Legislative Council today (March 28):

Question:

It has been reported by overseas media that Lehman Brothers Holdings Inc. (LB Holdings), an investment bank which filed for bankruptcy protection, announced on March 6 this year that it had formally exited from the bankruptcy protection process which lasted for as long as three years, which means that LB Holdings may start selling its remaining assets (including bonds and real estate, etc.) step-by-step for settlement of its debts with various creditors. According to LB Holdings, the first group of payments, which is expected to exceed US\$10 billion, can be paid back to its creditors from April 17 this year onwards at the earliest. In Hong Kong, quite a number of investors, who still hold Lehman Brothers-related Minibonds and other structured financial products (the investors), have yet to obtain any compensation as they have not yet reached settlement agreements with the distributing banks of such products. In this connection, will the Government inform this Council whether:

(a) the authorities have assessed if the aforesaid investors will obtain any compensation from LB Holdings; if such an assessment has been made, of the estimated time when the investors will receive their compensation; and

(b) the Government will assist the investors in Hong Kong in striving for compensation from LB Holdings?

Reply:

President,

My reply to the two parts of the question is as follows:

The US\$10 billion mentioned in the questions is a sum of money that eligible creditors can claim on Lehman via the liquidation process. The investors' right to make a claim to the Lehman liquidator through the liquidation process and the actual repayment amount they may receive depends on whether the claims are considered eligible and the amounts involved in and the priority of other eligible claims.

There are various Lehman-related investment products distributed in Hong Kong, which can broadly be divided into three main categories:

(i) The investment products that were arranged by Lehman and secured by collateral (including Lehman Minibonds).

Receivers appointed for the underlying collateral of these products have already put forward the claims to the liquidator on behalf of the investors. In fact, the Receivers of the underlying collateral of most Minibonds (i.e. Minibonds series 10-12, 15-23 and 25-36) had reached settlement agreements with the Lehman liquidator and distributed the recovered amounts together with the ex-gratia payment offered by the Distributing Banks to the investors.

(ii) The investment products that were issued by Lehman but not secured by any collateral (e.g. equity-linked notes)

The investment principals of these investors were claims against Lehman. Thus they are unsecured creditors of Lehman and can claim for repayment from the liquidator through the liquidation process.

In respect of this group of investors, the Hong Kong Monetary Authority (HKMA) has required Distributing Banks in Hong Kong to provide assistance, including setting up telephone hotlines and providing information relating to Lehman's liquidation process to help them in making claims. We understand that there are some cases in which the Distributing Bank had, upon the request and consent of the investors, made claims on behalf of the investors.

(iii) Credit-linked notes, with Lehman as one of the reference entities, issued by third parties (non-Lehman entities) (e.g. Octave notes)

The investment principals of these investors were not held by Lehman. Therefore, they are not Lehman's creditors and are thus ineligible for making claims to Lehman's liquidator. Besides, as a result of the occurrence of a credit event (with the collapse of Lehman being one of the reasons), the investors of most of these notes have lost all or part of their investment principals, and are ineligible for claims to Lehman's liquidator.

Since the processing of eligible creditors' claims by the liquidator of Lehman involves complex proceedings, it is unable to predict when the claimants in Hong Kong will receive the recovered amounts from the liquidator.

Many of the investors in the above three categories have already complained to the HKMA against the mis-selling practices by the Distributing Banks. The HKMA has finished handling over 99% of the complaints. As at mid-March, the investors of nearly 90% of these complaints have reached settlement agreements with the Distributing Banks.

Ends