

## **Press Release**

### **LCQ2: Financial products offered by Mainland financial institutions**

Wednesday, February 26, 2014

Following is a question by the Hon Dennis Kwok and a written reply by the Secretary for Financial Services and the Treasury, Professor K C Chan, in the Legislative Council today (February 26):

Question:

It has been reported that partly due to the policy of the State Council on the reform of the financial system on the Mainland, financial disintermediation, interest rate deregulation and development of Internet finance have all gathered pace on the Mainland in recent years. These have resulted in an increase in the range of financial products offered by mainland financial institutions, but the risks of such products are uncertain due to inadequate regulation of such products and related financial institutions and the volatile situation of the "shadow" banking industry on the Mainland. However, quite a number of Hong Kong people and financial institutions have been attracted by the high returns of such products and invested directly or indirectly in such products, sometimes through unofficial or even unlawful channels. In this connection, will the Government inform this Council if it knows whether the Hong Kong Monetary Authority as well as the Securities and Futures Commission:

- (1) have plans to introduce measures to protect the interests of Hong Kong investors who have invested or intend to invest in mainland financial products (e.g. launching education campaigns, enhancing cooperation with mainland authorities); if so, of the details; if not, the reasons for that; and
- (2) have assessed the short-term and long-term risks of mainland financial products posed to the Hong Kong financial system, including assessing whether the financial institutions in Hong Kong are over-exposed to the risks of mainland financial products; if so, of the details and whether they have formulated and implemented corresponding regulatory measures; if they have not assessed, the reasons for that?

Reply:

President,

(a) Under the Securities and Futures Ordinance (SFO), the offer of securities, collective investment schemes and structured products to the public of Hong Kong is subject to authorisation requirements by the Securities and Futures Commission (SFC) unless otherwise exempted. Specifically, it is a criminal offence for any person, including any Mainland or overseas financial institution, to issue any offering document or marketing material for such investment products to the Hong Kong public, unless such issuance is authorised by the SFC or an exemption applies. Such exemptions include, among other things, offers made via private placement and offers to professional investors as defined under the SFO.

Intermediaries carrying on regulated activities must be licensed or registered under the SFO. If investment products are marketed to the public of Hong Kong, then the intermediaries may be regarded as conducting a regulated activity and may be required to be licensed by or registered with the SFC. The conduct of intermediaries is governed by the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission (Code of Conduct). In particular, the suitability requirement set out in the Code of Conduct would apply whenever an intermediary makes a recommendation or solicitation to a client in relation to an investment product. The SFC and the Hong Kong Monetary Authority (HKMA) supervise the intermediaries by conducting ongoing off-site monitoring and on-site inspections regularly.

Where investment products are offered to the public of the Mainland or any jurisdictions other than Hong Kong, the activities associated with the issuance, offer and sale of such investment products are subject to the relevant legal and regulatory requirements in the relevant jurisdictions. In this connection, any disputes that may arise from investing in such products or investing in the Mainland and overseas will be handled in accordance with the laws and regulations of such jurisdictions.

Under the existing bilateral arrangements, the SFC will seek the assistance of the China Securities Regulatory Commission (CSRC), the securities regulator in the Mainland, in investigating Mainland entities and, in appropriate cases, refer cases involving suspected improper conduct of

Mainland financial institutions to CSRC for further action.

Regulators and the Investor Education Centre (IEC) have been making effort in enhancing investor education and reinforcing the message that investors should understand the nature and risks of an investment product, as well as their rights in case of default, before making an investment decision. To this end, the SFC issued an investor education article in January 2012 highlighting the extra risks associated with overseas investment through a local intermediary. The IEC will from time to time alert investors about overseas investment.

(b) The Securities and Futures (Financial Resources) Rules (FRR) require licensed corporations investing in financial products offered by Mainland financial institutions with their own money to make full provision for the risks of the investment against its regulatory capital upfront, since onshore Renminbi is subject to remittance control. All licensed corporations are also required under the Code of Conduct to prudently manage the firm's financial risks by closely monitoring and managing their concentration exposures.

On the banking front, the HKMA has collected information from Hong Kong banks and communicated with the Mainland banking authority to ascertain the situation of the selling of financial products by the operations of Hong Kong banks on the Mainland, and assessed the associated risks posed to Hong Kong banks. So far, available information does not give rise to supervisory concerns or indicate material risks to Hong Kong banks.

Together with SFC and HKMA, we will continue to maintain close dialogue with the regulatory authorities in the Mainland and closely monitor the situation.

Ends