

**Questions and answers about Lehman Brothers Minibonds  
Repurchase Scheme by Distributing Banks**

**1. Which are the distributing banks that participate in the Repurchase Scheme?**

The 16 Distributing Banks that participate in the Repurchase Scheme are:

- (1) ABN AMRO Bank N.V.
- (2) Bank of China (Hong Kong) Ltd
- (3) Bank of Communications Co Ltd
- (4) The Bank of East Asia, Ltd
- (5) Chiyu Banking Corporation Ltd
- (6) Chong Hing Bank Ltd
- (7) CITIC Ka Wah Bank Ltd
- (8) Dah Sing Bank Ltd
- (9) Fubon Bank (Hong Kong) Ltd
- (10) Industrial and Commercial Bank of China (Asia) Ltd
- (11) Mevas Bank Ltd
- (12) Nanyang Commercial Bank, Ltd
- (13) Public Bank (Hong Kong) Ltd
- (14) Shanghai Commercial Bank Ltd
- (15) Wing Hang Bank Ltd
- (16) Wing Lung Bank Ltd

**2. Who is eligible to receive a repurchase offer from a Distributing Bank?**

A customer who fits the following description is eligible to receive a repurchase offer:

- (i) purchased through any of the above 16 Distributing Bank Outstanding Minibonds<sup>1</sup> as part of a primary offering; and
- (ii) are holding open positions in such Outstanding Minibonds,

but does not fall into any one of the following categories:

---

<sup>1</sup> Minibond Series 5, 6, 7, 9, 10, 11, 12, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36.

- (aa) a customer who has, in the three years preceding their first purchase of Minibonds, executed five or more transactions in Leveraged Products<sup>2</sup>, Structured Products<sup>3</sup> or a combination of these products;
- (bb) a non-individual<sup>4</sup> who hold an account with the Distributing Bank in the name of an entity incorporated or formed in Hong Kong or elsewhere;
- (cc) a professional investor falling under paragraph (a) to (i) of the definition of “professional investor” in Part 1 of Schedule 1 to the Securities and Futures Ordinance;
- (dd) a professional investor under section 3 of the Securities and Futures (Professional Investor) Rules (Cap. 571D) and classified by a Distributing Bank and agreed by the customer to be treated as such in accordance with paragraphs 15.3 and 15.4 of the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission at the time he/she purchased the Minibonds; or
- (ee) a customer who has previously settled their claims in relation to the distribution of Minibonds with the Distributing Bank.

**3. What are the terms of the repurchase offer and what will the eligible customer get if he/she accepts the offer?**

A customer who is eligible to receive a repurchase offer (“**Eligible Customer**”) will be offered and, if he/she accepts the repurchase offer, will receive from the Distributing Bank the following:

*Initial Payment*

- (a) a sum equivalent to **60%** of the nominal value of the principal invested for Eligible Customer **below the age of 65 as at 1 July 2009**; or

---

<sup>2</sup> For the purpose of the Repurchase Scheme, a “Leveraged Product” means any unlisted securities product which involves leverage (i.e., any method by which an investor increases his or her exposure to a particular market, risk or asset class, whether through borrowing of cash, through the use of derivatives or by any other means);

<sup>3</sup> For the purpose of the Repurchase Scheme, a “Structured Product” means a derivative or other product which is structured in the form of a debenture, other security or deposit and which contains, references, or is based on, a derivative or a derivative strategy. It comprises exclusively: (i) credit-linked notes, (ii) equity-linked notes, (iii) equity-linked deposits, and (iv) private placement notes, but does not include any principal-protected product or listed securities.

<sup>4</sup> “Non-individual” does not include any sole proprietorship, exempt charitable body (under section 88 of the Inland Revenue Ordinance) or not-for-profit organisation whose assets are not managed by an SFC licensed fund manager.

- (b) a sum equivalent to **70%** of the nominal value of the principal invested for Eligible Customer **aged 65 or above as at 1 July 2009** (irrespective of whether they hold the Minibonds jointly with customers under the age of 65);

AND

Further Payment

After the value of the collateral of a series of Minibonds is recovered and paid to the Distributing Bank, the Distributing Bank will make a further payment to Eligible Customers who held Minibonds in that series in accordance with the following:

- (i) Eligible Customers below the age of 65 as at 1 July 2009 will receive a further payment pro rata to their initial investment of (as illustrated in the table below):
- the actual amount recovered, if the percentage of the recovery for that series is less than 10% of the total principal amount of that series;
  - 10% of the principal amount, if the percentage of recovery for that series is between 10% and 70% of the total principal amount of that series; or
  - the amount in excess of 60% of the principal amount, if the percentage of recovery for that series exceeds 70% of the total principal amount of that series.

<b>Collateral amount</b>	0%	5%	10%	20%	30%	40%	50%	60%	70%	80%	90%	100%
<b>Total amount of Initial and Further Payments</b>	60%	65%	70%	70%	70%	70%	70%	70%	70%	80%	90%	100%

- (ii) Eligible Customers aged 65 or above as at 1 July 2009 (irrespective of whether they hold the Minibonds jointly with customers under the age of 65) will receive a further payment of the amount in excess of 70%, if the percentage of recovery for that series exceeds 70% of the total principal amount of that series (as illustrated in the table below):

<b>Collateral amount</b>	0%	5%	10%	20%	30%	40%	50%	60%	70%	80%	90%	100%
<b>Total amount of Initial and Further Payments</b>	70%	70%	70%	70%	70%	70%	70%	70%	70%	80%	90%	100%

**4. Will an Eligible Customer who previously reached Minibonds settlement with a Distributing Bank get any offer?**

The Distributing Bank will make a voluntary offer to pay an amount to a customer who: (i) has previously settled with the Distributing Bank in relation to any claim concerning the

Distributing Bank's distribution of Minibonds; and (ii) would, but for the previous settlement, have qualified for a payment under the Repurchase Scheme in an amount exceeding the total amount received or will be received under the previous settlement ("**Settled Eligible Customer**"). (For those who settled with the Distributing Bank without selling his Minibonds to the Distributing Bank, he will be given an offer to repurchase at the relevant amounts below.)

The amount that will be offered to the Settled Eligible Customer will be:

- (a) *if the Settled Eligible Customer was below the age of 65 as at 1 July 2009 and the settlement amount is below 60% of the principal invested:*
- the difference between 60% of the principal invested and the total settlement amount, plus
  - any Further Payment in accordance with Answer (i) to Question 3 above after realisation of collateral.
- (b) *if the Settled Eligible Customer aged 65 or above as at 1 July 2009 and the settlement amount is below 70% of the principal invested:*
- the difference between the 70% of the principal invested and the total settlement amount, plus
  - any Further Payment in accordance with Answer (ii) to Question 3 above after realisation of collateral.
- (c) *if the Settled Eligible Customer: (i) was below the age of 65 as at 1 July 2009 and the settlement amount was 60% of the principal invested or above; or (ii) aged 65 or above as at 1 July 2009 and the total settlement amount was 70% of the principal invested or above:*
- any amount realised from the collateral in accordance with Answers (i) and (ii) to Question 3 above (as applicable) in excess of the total amount received or will be received under the previous settlement.

#### **5. Should an Eligible Customer accept the repurchase offer?**

An Eligible Customer should carefully consider the terms of the offer and his/her personal circumstances before deciding whether to accept the offer. If necessary, he/she should consider seeking independent legal and financial advice.

#### **6. What is the procedure for accepting the offer?**

The Distributing Banks will start issuing the offer letters by registered mail on 7 August 2009. It will take around five business days for them to complete issuing the offer letters. Eligible Customers with Hong Kong addresses should be able to receive the offer letters by 14 August 2009 and Eligible Customers with overseas addresses may take longer time.

If the Eligible Customer decides to accept the offer, he/she is required to sign and return the Form of Acceptance attached to the Offer Letter to the Distributing Bank agreeing to, in summary:

- (a) transfer the Minibonds to the Distributing Bank;
- (b) release the Distributing Bank and its present and former staff from any claims arising from the sale of Minibonds;
- (c) withdraw and permanently discontinue any ongoing legal proceedings or mediation arising from or in connection with Minibonds; and
- (d) withdraw any complaints arising from the sale of Minibonds.

For those Settled Eligible Customers, the Distributing Bank will similarly issue a letter in the week of 3 - 10 August 2009 (on a date to be announced shortly) notifying them of the voluntary payments or repurchase offer as specified in the answer to Question 4 above.

**7. *What is the deadline for an Eligible Customer to accept the offer?***

If the Eligible Customer decides to accept the offer, he/she must do so by returning the signed Form of Acceptance attached to the Offer Letter to the Distributing Bank within 60 days from the date of the Offer Letter.

**8. *What if the Eligible Customer does not see the Offer Letter in time?***

If the Eligible Customer gives a valid reason for not accepting the offer within the original 60-day deadline, the Distributing Bank must treat the offer as still being valid and give the client a further 30 days to accept the offer. If the Eligible Customer does not accept the offer within the further 30 days, the offer will lapse automatically.

**9. *Is an Eligible Customer obliged to accept the offer?***

An Eligible Customer is not obliged to accept the offer. Any rejection of the offer will not affect his/her legal rights (if any) to pursue any claim in relation to the sale of Minibonds.

**10. *What should an Eligible Customer do if he/she does not want to accept the offer?***

If an Eligible Customer decides not to accept the offer, he/she may send the Rejection Form attached to the Offer Letter to the Distributing Bank. Alternatively, the offer will be deemed to have been rejected automatically if not accepted within the time limit.

**11. *If an Eligible Customer accepts the offer, when will payment be made?***

**Initial Payment**

Within 30 days after the Distributing Bank receives a completed Form of Acceptance from the Eligible Customer, the Distributing Bank will make the Initial Payment (see the answer to Question 3 above) to the Eligible Customer.

For Settled Eligible Customers, the Initial Payment (if any) will be paid to them by 22 September 2009.

Further Payment

Within 30 days after the Distributing Bank receives the collateral amount for a series of Minibonds, the Distributing Bank will make the Further Payment (see Question 3 above), if any, to the Eligible Customers/Settled Eligible Customers who held Minibonds in that series.

**12. What is the currency of payment?**

The Initial Payment and any Further Payment will be made in Hong Kong dollars except that for those series of Minibonds denominated in US dollars, the Distributing Bank will make the payments in US dollars.

**13. What are the contact details of the Distributing Banks for the repurchase scheme?**

If a customer who purchased Minibonds from one of the Distributing Banks has any queries about this Repurchase Scheme (including their eligibility for a repurchase offer) or any complaint about the way the Repurchase Scheme is administered, he/she should contact the relevant Distributing Bank directly.

The contact details of The Bank of East Asia are set out below:

<b>The Bank of East Asia, Ltd</b>	
Hotline:	2211 1311 0900 to 1700 hours Hong Kong time, Monday to Friday 0900 to 1300 hours Hong Kong time, Saturday
Fax:	3608 6078
Email:	lebddcobr@hkbea.com
Website:	www.hkbea.com

**14. When determining whether a customer has executed five or more Leveraged and/or Structured Products within the three years preceding his first purchase of Minibonds, do these transactions only include transactions with the relevant Distributing Bank that gives the offer, or do they also include transactions with other banks or brokers?**

The Distributing Bank will only take into account transactions which the customer has executed with that bank and will not include transactions with other banks or brokers.

**15. Do “Leveraged Products” and “Structured Products” include leveraged forex transactions, currency-linked deposits, margin trading facilities, or IPO subscription?**

No, although any transaction in unlisted securities carried out on a margined basis will be counted.

**16 Are “buy” and “sell” transactions counted as different transactions?**

A transaction means a purchase of or a subscription for any Leveraged Product or Structured Product only. In other words, any disposal or sale of the Leveraged Product or Structured Product will not be counted as a separate transaction.

**17 Do “unlisted securities” in footnote 2 include warrants?**

“Unlisted securities” include unlisted warrants but not listed warrants.

**18 Footnote 4 provides that “non-individual” does not include sole proprietorship, exempt charitable body or non-for-profit organisation. What will be the repurchase offer for these categories?**

Eligible sole-proprietors will get the same repurchase offer as other Eligible Customers (i.e. 60% initial payment for sole proprietors below the age of 65 as at 1 July 2009, and 70% initial payment for sole proprietors aged 65 or above as at 1 July 2009). For eligible exempt charitable bodies and non-for-profit organisations, they will get the same repurchase offer as other Eligible Customers below the age of 65 (i.e. 60% initial payment plus the same top ups upon recovery of the relevant collateral).

**19. What is the point of time for determining whether a customer is a professional investor under section 3 of the Securities and Futures (Professional Investor) Rules?**

Whether a customer is a “professional investor” under section 3 of the Securities and Futures (Professional Investor) Rules is determined by whether the relevant Distributing Bank had classified the customer as a professional investor and that the customer had signed a declaration consenting to being treated as a professional investor in accordance with paragraphs 15.3 and 15.4 of the SFC Code of Conduct **at the time of the customer’s purchase of Minibonds from that Distributing Bank.**

**20. For a joint account, if only one of the joint account holders is an Eligible Customer, is the joint account entitled to a repurchase offer? How will the repurchase amount be apportioned?**

The joint account is entitled to a repurchase offer in this case. The apportionment of the amount received is a private matter between the joint account holders.

**21. If an Eligible Customer accepts the repurchase offer, will he lose his right to take class action against the trustee of the collateral in the US?**

Generally, Eligible Customers who accept the repurchase offer are required to waive their claims (if any) against the relevant Distributing Bank and its officers or employees. We cannot advise Minibond investors on their right to participate in the US class action. Affected investors should consider seeking US legal advice.

**22. Is the acceptance form (to be issued by the 16 Distributing Banks) a standard form among the banks? Has the SFC vetted the form?**

Yes, it is a standard form for all 16 Distributing Banks. The SFC and HKMA have reviewed it for consistency with the Repurchase Agreement. The terms of the acceptance form cannot be amended by customers; the Distributing Bank is entitled to disregard any acceptance form that has been amended.

**23. If a customer has purchased several series of Minibonds from a Distributing Bank, can he accept the repurchase offer for certain series but not others?**

No, the customer is not allowed to partially accept the repurchase offer. They must accept it for all Outstanding Minibond series or for none.

**24. Why can't the SFC disclose the remaining value of the collateral for each series of Minibonds so that the Eligible Customers can take into account this information before deciding whether to accept or reject the repurchase offer?**

The SFC considered the best available information about the value of the collateral at the time of negotiating the agreement which is contained in the report on the structure and pricing of Minibonds prepared by Ernst & Young, which was submitted to the Legislative Council by the Lehman Incident Task Force of the Hong Kong Association of Banks (the "Task Force") on 29 December 2008. Pages 17 and 18 of Ernst & Young report contained a table setting out the remaining value of each particular series of Minibonds as at 21 November 2008 (link: <http://www.legco.gov.hk/yr08-09/english/panels/fa/papers/fa1230cb1-489-3-e.pdf>).

The SFC has no other independent expert opinion, nor is the SFC aware of the existence of any other expert opinion, on the current value of the collateral.

The agreement has already taken into account that the recoverable value of the collateral is not certain. The Repurchase Scheme should ensure that Eligible Customers who accept the repurchase offer will, subject to the recovery and distribution of the underlying collateral, receive a total amount that is equal to or greater than what they would otherwise recover if they were simply paid the recovered value of the collateral.



Even if the recoverable value of the collateral is below the values estimated by Ernst & Young, the proposal will still deliver a return for the Eligible Customers that is equal to or exceeds 60% of their investment or 70% for customers aged 65 or above, without the uncertainties, delays and costs of litigation, which was beyond the means of many Minibond investors. If the collateral is worth less than 60-70%, the agreement will at least ensure investors recover this much. If the collateral is worth more than this, the banks will pass the surplus to investors.

Investors are not worse off for accepting the offer. In fact, for a number of early Minibond series, the investors will likely get substantially more than what they will get from the collateral recovered.