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# *Lehman Brothers Europe Limited – In Administration*

Joint Administrators' progress  
report for the period 23 March 2011  
to 22 September 2011

21 October 2011

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# ***Section 1 Purpose of the Joint Administrators' progress report***

## ***Introduction***

This is the sixth progress report by the Joint Administrators (the "Administrators") of Lehman Brothers Europe Limited ("LBEL" or the "Company").

Creditors should have received the Administrators' proposals (the "Proposals") dated 14 November 2008 which were approved at a meeting of creditors held on 1 December 2008. Creditors should also have received the Administrators' previous progress reports.

This report provides an update on the work that the Administrators have undertaken and the progress made since our appointment, with particular focus on the six months to 22 September 2011 ("the Period").

## ***Business activities***

LBEL's principal activity was the provision of investment banking services such as advising on mergers and acquisitions ("M&A") transactions.

LBEL utilised employees from Lehman Brothers Limited and operated from the Lehman Group's former premises at 25 Bank Street, London, E14 5LE.

## ***Objectives of the Administration***

The Administrators are pursuing the objective of achieving a better result for LBEL's creditors as a whole than would be likely if LBEL were wound up (without first being in Administration).

The specific aims of the Administration are to:

- Protect and manage the Company's assets;
- Realise these assets; and
- Agree in principle the value of creditors' claims once there is some degree of certainty as to the likely dividend.

## ***Creditors' Committee***

A Creditors' Committee (the "Committee") was formed on 5 May 2009 with the following members:

- Lehman Brothers Holdings Inc. ("LBHI") – subject to Chapter 11 Bankruptcy proceedings in the US;
- Lehman Brothers Holdings plc – in Administration;
- Thomas Marsoner; and
- John Wakely

The Administrators have met with the Creditors' Committee three times and consulted with them on an ad-hoc basis on certain issues.

The Administrators will continue to manage the Administration in accordance with the Proposals and in consultation with the Committee.

## ***Outcome for creditors***

At this time the Administrators are unable to provide a reliable estimate of the likely dividend to ordinary unsecured creditors as there are significant uncertainties regarding net realisations and certain claims. The timing and level of any dividend therefore remains uncertain. However, as a result of the progress made with Lehman Brothers International Europe ("LBIE") in relation to the reverse repo transaction (described further below), it is anticipated that creditors will receive a significant dividend.

If you have not already submitted your claim to the Administrators please do so by completing and returning the attached statement of claim form.

## ***Administrators' remuneration***

The Committee's duties include approving the basis and quantum of the Administrators' remuneration. To date the Committee has approved remuneration of £2.8m including VAT.

## ***Extension of the Administration***

On the application of the Administrators, the High Court made an Order extending the period of the Administration to 30 November 2011. An application will shortly be made to the High Court to extend the Administration for a further period.

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### ***Future reports***

The Administrators will next report to creditors in approximately six months.

Signed:

A handwritten signature in black ink, appearing to be 'D Y Schwarzmann', with a long horizontal flourish extending to the right.

D Y Schwarzmann  
Joint Administrator  
Lehman Brothers Europe Limited

## ***Section 2 Joint Administrators' actions to date***

### ***Progress to date***

#### **Debts due from advisory services clients**

During the Period the Administrators have continued negotiations for the recovery of the few remaining M&A debts. Total recoveries to date are £23.1m.

#### **Inter-company claims**

LBEL had over 70 inter-company debtor and creditor balances, representing US\$1.2bn of debtors and US\$197m of creditors at book value on 12 September 2008.

In conjunction with other UK affiliates, the Administrators have reached agreement in principle with LBHI and certain other US debtors. This comprehensive inter-company claims settlement will involve LBEL and other UK affiliates committing their support to the third amended plan of reorganisation filed by LBHI and its US debtor affiliates in September 2011.

In the Period the Administrators have continued to investigate the other inter-company balances. The outcome of work conducted to date suggests that the majority of the balances will be relatively straightforward to agree. Claims have been submitted against inter-company debtors where appropriate.

#### **Repo transaction between LBIE and LBEL**

The Administrators have continued discussions with LBIE in relation to LBEL's claim to the title of certain securities returned to LBIE by JP Morgan Chase Bank N.A. ("JP Morgan"). These securities were part of a reverse repo transaction (under a Global Master Repurchase Agreement ("GMRA")) between LBEL and LBIE under which LBEL advanced the sum of US\$575m to LBIE and LBIE provided the securities as collateral. The securities were held by LBIE, as custodian for LBEL, with J P Morgan being engaged as a sub-custodian. The securities were valued prior to the Administration at c.US\$856m.

The settlement provisions relating to the termination of the GMRA are complex. The Administrators have now received an initial offer letter from LBIE with a settlement proposal which

they are currently reviewing. In the meantime, in accordance with an interim management agreement in place between LBIE and LBEL, LBIE has liquidated the majority of the securities that are not subject to competing claims. The proceeds of these disposals, approximately US\$373m, are being held by LBIE in a segregated account whilst the position in relation to the termination of the GMRA is resolved.

#### **Taxation**

The Administrators have agreed with HM Revenue and Customs ("HMRC") the corporation tax affairs of LBEL for accounting periods up to the date of Administration. After deductions pursuant to the group relief agreement, approximately £4.2m has been repaid to LBEL to date and an additional £44m should be repaid in November 2011.

#### **Pension liability**

On 13 September 2010, the Pensions Regulator's Determinations Panel (the "Panel") issued a Determination Notice under which it decided that a Financial Support Direction ("FSD") should be imposed against six Lehman companies, one of which is LBEL. This decision has been referred to the Upper Tribunal, which has powers under the Pensions Act 2004 to reconsider decisions made by the Panel. In addition, the trustees of the Lehman Brothers Pension Scheme have asked the Upper Tribunal to direct the Pensions Regulator to impose a FSD against the 38 other Lehman companies which are in a similar position.

The referrals to the Upper Tribunal have been stayed pending the outcome of an application to the High Court made by the Administrators of LBEL and the other three Lehman companies which are in administration and which the Panel decided should receive a FSD.

On 10 December 2010 the High Court ruled that a liability derived from a FSD would constitute an expense of the Administration (or a provable debt in a subsequent liquidation, in certain circumstances). This decision was appealed to the Court of Appeal and on 14 October 2011 the first instance decision was upheld. It is likely that there will be a subsequent appeal to the Supreme Court. In that event, the Upper Tribunal process is likely to remain stayed.

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As a consequence, it is likely that it will be a significant period of time before any potential pension liability against the Company can be quantified.

### ***Future strategy***

The Administrators will continue to:

- Seek to finalise negotiations with LBIE to arrive at a commercially beneficial settlement with regards to the reverse repo transaction;
- Pursue recoveries from the final outstanding M&A deals;
- Gather evidence and support for claims to be made against other Lehman estates;
- Liaise with HMRC with a view to agreeing the remaining tax computations and seeking any further tax repayments;
- Pursue routes to finalise the pension liability; and
- Consider the most appropriate route to distribute dividends to creditors.

## Section 3 Statutory and other information

<i>Court details for the Administration:</i>	High Court of Justice, Chancery Division, Companies Court - case 8243 of 2008.
<i>Full name:</i>	Lehman Brothers Europe Limited
<i>Trading name:</i>	Lehman Brothers Europe Limited
<i>Registered number:</i>	03950078
<i>Registered address:</i>	Level 23, 25 Canada Square, London E14 5LQ, United Kingdom.
<i>Company directors:</i>	D Gibb (resigned 17/07/09), JM Isaacs (resigned 29/09/08), IM Jameson (resigned 17/07/09), WT John (resigned 23/10/08), R Magnoni (resigned 22/10/08), JP Phizacherley (resigned 24/10/08), AJ Rush (resigned 23/10/08), PR Sherratt (resigned 06/10/2008) and A Wright (resigned 23/10/08).
<i>Company secretary:</i>	P Dave (resigned 25/01/10), M Smith (resigned 25/01/10) and ESE Upton (resigned 25/01/10).
<i>Shareholdings held by the directors and secretary:</i>	None of the directors own shares in the Company.
<i>Date of the Administration appointment:</i>	23 September 2008.
<i>Administrators' names and addresses:</i>	DY Schwarzmann, MJA Jervis, AV Lomas, SA Pearson and DA Howell of PricewaterhouseCoopers LLP, 7 More London Riverside, London, SE1 2RT, England.
<i>Appointer's name and address:</i>	The directors of the Company, whose address at appointment was 25 Bank Street, London, E14 5LE, United Kingdom.
<i>Objective being pursued by the Administrators:</i>	Achieving a better result for LBEL's creditors as a whole than would be likely if LBEL were wound up (without first being in Administration).
<i>Division of the Administrators' responsibilities:</i>	In relation to paragraph 100(2) Sch.B1 IA86, during the period for which the Administration is in force, any act required or authorised under any enactment to be done by either or all of the Administrators, may be done by any one or more of the persons for the time being holding that office.
<i>Details of any extensions of the initial period of appointment:</i>	The Court has granted an extension of the Administration to 30 November 2011.
<i>Proposed end of the Administration:</i>	The Administrators are not yet in a position to determine the most likely exit route from the Administration and wish to retain the options available to them.
<i>Estimated dividend for unsecured creditors:</i>	It is too early to estimate the likely dividend for unsecured creditors.
<i>Estimated values of the prescribed part and LBEL's net property:</i>	There is no prescribed part in this matter.
<i>Whether and why the Administrators intend to apply to court under Section 176A(5) IA86:</i>	Not applicable.
<i>The European Regulation on Insolvency Proceedings (Council Regulation (EC) No. 1346/2000 of 29 May 2000):</i>	The European Regulation on Insolvency Proceedings does apply to this Administration and these are the main proceedings.

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## ***Section 4 Financial information***

### ***Administrators' remuneration***

The manner in which Administrators' remuneration is determined and approved is set out in the Insolvency Rules 1986 2.106 to 2.109 (the "Rules").

At a meeting held by correspondence on 20 February 2009, the creditors resolved to form a Creditors' Committee whose duties would include approving the basis and quantum of the Administrators' remuneration.

There are two bases of determining the remuneration under the Rules, either:

- A percentage of the value of the property with which the Administrators have to deal; or
- By reference to the time properly given by the insolvency practitioner and his staff in attending to matters arising in the Administration.

The Rules also provide that in arriving at its decision on remuneration the Committee is required to consider the following matters:

- The complexity (or otherwise) of the case;
- Any responsibility of an exceptional kind or degree which falls on the Administrators;
- The effectiveness with which the Administrators appear to be carrying out, or have carried out, their duties; and
- The value and nature of the property which the Administrators have to deal with.

### ***Statement of Insolvency Practice No.9 ("SIP 9")***

In addition to the Rules, SIP 9, issued by the Joint Insolvency Committee, provides guidance to insolvency practitioners and Creditors' Committees in relation to the remuneration of Administrators.

The purpose of SIP 9 is to:

- Ensure that Administrators are familiar with the statutory provisions relating to office holders' remuneration;

- Set out best practice with regard to the observance of the statutory provisions;
- Set out best practice with regard to the provision of information to those responsible for the approval of remuneration to enable them to exercise their rights under the insolvency legislation; and
- Set out best practice with regard to the disclosure and drawing of disbursements.

When seeking agreement for remuneration, the Administrators are required to provide sufficient supporting information to enable those responsible for approving their remuneration ("the approving body") to form a judgement as to whether the proposed remuneration is reasonable, having regard to all the circumstances of the case. The nature and extent of the supporting information which should be provided will depend upon:

- The nature of the approval being sought;
- The stage during the Administration of the case at which it is being sought; and
- The size and complexity of the case.

### ***Remuneration review and approval process***

In accordance with SIP 9 the Committee has been provided with details of the charge-out rates for all grades of staff that have been or will be involved on the case.

In October 2008 a Court Order authorised the Administrators, subject to ratification by the Committee, to draw 75% of the time costs at the time of the application on a time and materials basis, being £2.8m including VAT.

At the instigation of the Committee it was resolved not to agree the Administrators' remuneration on a time and material basis but instead they determined that the Administrators' remuneration be fixed at 5% of the value of the property with which the Administrators have to deal.

To date, this results in a fee of £1.6m including VAT and the Committee has agreed to this remuneration. They have also agreed that the



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balance of £1.2m is to be held by the Administrators on account in accordance with the Committee's instructions.

### ***Receipts and payments account***

An account of the receipts and payments in the Administration for the six months to 22 September 2011, and a cumulative total since commencement of the Administration, are set out in section 5 to this report.

Significant receipts in the period covered by this report include:

- £45k in respect of interest income; and
- a corporation tax repayment of £65k.

The significant payment in the period covered by this report is £101k in respect of legal fees.

Total cash held as at 22 September 2011 was £17m.

## Section 5 Receipts and payments

	As at 22 September 2011			As at	Movements	As at	As at 22 March 2011 (GBP equivalent)
	GBP (£)	US (\$)	EUR (€)	22 September 2011	23 March 2011 to 22 September 2011	22 March 2011 (GBP equivalent) RESTATED at 22 September 2011 exchange rate	
	000	000	000	TOTAL GBP equivalent £	(GBP equivalent) £	£	As at 22 March 2011 (GBP equivalent) £
<b>RECEIPTS</b>							
Book debts	443	6,317	21,137	23,113	-	23,113	22,681
Interest	11	20	83	96	45	51	50
Corporation Tax repayment	4,263	-	-	4,263	65	4,198	4,198
Currency transfer	11,833	-	-	11,833	-	11,833	11,833
<b>Receipts Grand Totals</b>	<b>16,550</b>	<b>6,337</b>	<b>21,220</b>	<b>39,305</b>	<b>110</b>	<b>39,195</b>	<b>38,762</b>
<b>PAYMENTS</b>							
Employee costs	5,941	80	67	6,052	2	6,050	6,046
Building and occupancy costs	889	-	-	889	-	889	889
Legal fees	687	202	-	819	101	718	715
Office holders' remuneration*	2,760	-	-	2,760	-	2,760	2,760
Office holders' disbursements	11	-	-	11	-	11	11
Currency transfer	-	170	13,220	11,714	-	11,714	11,600
<b>Payments Grand Totals</b>	<b>10,288</b>	<b>452</b>	<b>13,287</b>	<b>22,245</b>	<b>103</b>	<b>22,142</b>	<b>22,021</b>
<b>NET POSITION</b>	<b>6,262</b>	<b>5,885</b>	<b>7,933</b>	<b>17,060</b>	<b>7</b>	<b>17,053</b>	<b>16,741</b>
<b>CASH BALANCES</b>							
Bank of England	0	1	1	2			
HSBC	742	1	251	962			
Money markets	5,520	5,883	7,681	16,096			
<b>Total Cash</b>	<b>6,262</b>	<b>5,885</b>	<b>7,933</b>	<b>17,060</b>			

Exchange rates as at 22 March 2011:

US\$ 1 : GBP	0.6105
EURO €1 : GBP	0.8696

Exchange rates as at 22 September 2011:

US\$ 1 : GBP	0.6518
EURO €1 : GBP	0.8777

Amounts include VAT where applicable

\* This amount had previously been paid by another Lehman Group company on behalf of LBEL.



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