

10 March 2014

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#### **Important Notices**

***This document is provided for the purpose of discussion pursuant to non-disclosure agreements dated on or around 10 March 2014 (“NDA”) entered into between the recipients of this document (the “Recipients”) and Lehman Brothers International (Europe) (in administration) (“LBIE”). This document and the matters contained herein (the “Proposed Terms”) should not be disclosed to any party or used for any purpose except in accordance with the NDA.***

***The Proposed Terms do not constitute a legally binding offer and LBIE shall be under no obligation to implement a transaction on the terms contained herein or upon any other terms which may be discussed between LBIE and the Recipients.***

***The Proposed Terms do not constitute an indication by LBIE as to the likely outcome of any litigation in relation to any of the issues which are the subject of proposed compromises. The Proposed Terms are without prejudice to any claims, rights, defences or positions which LBIE may assert in the future, including in any litigation, and LBIE reserves and retains all claims, rights, defences and positions.***

***This document does not purport to be comprehensive, or contain all the terms which it may be appropriate to include in any eventual compromise between LBIE and its creditors in relation to the issues which are the subject matter of the Proposed Terms.***

***The Proposed Terms are not an indication of any distribution that a creditor may receive from LBIE in the event that the Proposed Terms are implemented.***

***Recipients should make their own independent decision as to whether to support any proposal to creditors made by LBIE which is based on the Proposed Terms and as to whether the Proposed Terms are acceptable to them based upon their own judgement and upon advice from their advisers, as they deem necessary. Recipients should not rely on any information provided by LBIE as a recommendation or an inducement to approve the Proposed Terms, and any information and explanations relating to the Proposed Terms provided by LBIE during discussions with Recipients will be provided by LBIE on the understanding that they are not to be relied upon or treated as a recommendation or an inducement to approve any proposal which implements the Proposed Terms.***

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## **Introduction**

There is uncertainty regarding the entitlements of Creditors to any surplus remaining in the LBIE estate after payment of debts proved in its administration. The purpose of this document is to set out LBIE's proposal for a compromise of the various issues which the Joint Administrators are considering implementing by means of a scheme of arrangement or a company voluntary arrangement, which LBIE expects to present to Creditors in Q2/Q3 2014.

## **Proposed Terms**

### **1 Payment waterfall**

**1.1** The Surplus shall be applied by LBIE in the following order of priority:

- 1.1.1** first, in payment of simple interest at a rate of eight per cent. per annum (the "**Statutory Rate**") in respect of all Admitted Claims (including any Qualifying OTC Portions), *pari passu* and rateably amongst Ordinary Creditors until all Statutory Rate Entitlements have been paid in full;
- 1.1.2** second, in payment of the following, *pari passu* and rateably amongst each other:
  - (i) further simple interest at the rate of two per cent. per annum (the "**Standard Rate**") on the Qualifying OTC Portions of Qualifying OTC Creditors who have not sought to assert a Higher Rate Claim; and
  - (ii) further simple interest on the Qualifying OTC Portions of Qualifying OTC Creditors who have successfully asserted, or accepted a Higher Rate Offer from LBIE, each in accordance with paragraph 3, in respect of an entitlement to interest at a rate that is higher than the Standard Rate,until all Additional Entitlements have been paid in full;
- 1.1.3** third, in part payment of the Subordinated Debt to the Subordinated Creditor until the Priority Subordinated Debt Amount has been paid in full;
- 1.1.4** fourth, in the ratio of 70:30, respectively, until all Currency Conversion Entitlements are paid in full:
  - (i) in payment of Currency Conversion Entitlements, *pari passu* and rateably amongst Ordinary Creditors with a Currency Conversion Claim; and
  - (ii) in payment of the remainder of the Subordinated Debt to the Subordinated Creditor;
- 1.1.5** fifth, in payment of the balance (if any) of the Subordinated Debt to the Subordinated Creditor until the Subordinated Debt has been paid in full;
- 1.1.6** sixth, in payment of interest in respect of the Subordinated Debt; and
- 1.1.7** seventh, in payment of the Subordinated Creditor's Currency Conversion Entitlement to the Subordinated Creditor until the Subordinated Creditor's Currency Conversion Entitlement has been paid in full.

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## **2 Interest**

**2.1** Interest Entitlements in respect of each Admitted Claim shall be calculated at the relevant rate for the period commencing on the Date of Administration:

- (i) on the full amount of the Admitted Claim up to the date of payment by LBIE of the first distribution (including, where relevant, any catch-up distribution) in relation to the principal amount of the relevant Admitted Claim;
- (ii) thereafter, on the respective portion(s) of the relevant Admitted Claim remaining unpaid (if any) following the date(s) of payment of any further interim distribution(s) in relation to the principal amount of the relevant Admitted Claim; and
- (iii) ending on the date that the Admitted Claim is paid in full.

**2.2** Each Ordinary Creditor shall be entitled to simple interest upon its Admitted Claim at the Statutory Rate.

**2.3** Each Qualifying OTC Creditor and each Unagreed OTC Creditor shall have the following options in respect of its Qualifying OTC Portion:

**2.3.1** to receive a further payment of simple interest at the Standard Rate on its Qualifying OTC Portion, in addition to its entitlement to interest at the Statutory Rate, such that the total rate of interest payable on its Qualifying OTC Portion shall be 10 per cent. simple per annum; or

**2.3.2** to reject the Standard Rate and instead assert that it is entitled to a further payment of simple interest on its Qualifying OTC Portion or Unagreed OTC Portion (as relevant), in addition to its entitlement to interest at the Statutory Rate, at a rate that is higher than the Standard Rate, subject to a cap of 10 per cent. per annum (a “**Claimed Higher Rate**”). If a Higher Rate Claimant successfully asserts a Claimed Higher Rate, or accepts a Higher Rate Offer, each in accordance with the provisions of paragraph 3, it shall receive a right to further payment of interest in respect of its Qualifying OTC Portion at the Determined Rate. The Determined Rate shall be subject to a cap of 10 per cent. per annum such that the total interest payable to the Higher Rate Claimant in respect of its Qualifying OTC Portion shall never exceed 18 per cent. per annum.

**2.4** If a Higher Rate Claimant does not successfully assert a Claimed Higher Rate or accept a Higher Rate Offer, each in accordance with the provisions of paragraph 3, it shall only be entitled to interest on its Qualifying OTC Portion at the Statutory Rate and shall not receive an Additional Entitlement.

**2.5** All Additional Entitlements shall be paid *pari passu*:

**2.5.1** after payment of (or reserving for) interest at the Statutory Rate to all Ordinary Creditors; and

**2.5.2** in priority to other Claims to the Surplus.

## **3 Determination and Adjudication**

**3.1** For the purposes of this section the following definitions shall apply:

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**“Annual Cost of Funding”** means, in respect of each Cost of Funding Assessment Year, a rate per annum (expressed as a pounds sterling rate) equal to the lowest post-tax cost to the Original Counterparty of funding the amount of the Qualifying OTC Portion or the Unagreed OTC Portion, as relevant, from a Source of Funding;

**“Cost of Funding Assessment Date”** means, in respect of each Cost of Funding Assessment Year, 15 September;

**“Cost of Funding Assessment Period”** means the period commencing on the Date of Administration and ending on 14 September 2013;

**“Cost of Funding Assessment Year”** means each year during the Cost of Funding Assessment Period, commencing on the Cost of Funding Assessment Date;

**“Default Cost of Funding”** means the arithmetic mean of the Annual Costs of Funding during the Cost of Funding Assessment Period;

**“Original Counterparty”** means the counterparty as at the Date of Administration to a Qualifying OTC Agreement to which a Qualifying OTC Portion or an Unagreed OTC Portion (as relevant) relates;

**“Original Default Rate”** means the Default Cost of Funding plus 100 basis points (1 per cent.), expressed as a daily compounded rate; and

**“Source of Funding”** means a type of funding, with a minimum term of one year that was, or could have been, utilised by an Original Counterparty from its capital structure for the general funding of its business at the relevant Cost of Funding Assessment Date.

- 3.2** A Higher Rate Claim may be asserted by a Qualifying OTC Creditor or an Unagreed OTC Creditor no later than the date that is 90 days after the Plan Effective Date, by service upon LBIE of a Higher Rate Notice.
- 3.3** Any Qualifying OTC Creditor or Unagreed OTC Creditor who does not submit a Higher Rate Notice in accordance with paragraph 3.2 shall receive a Statutory Rate Entitlement and a Standard Rate Entitlement in full and final settlement of its Claims to statutory interest in respect of its Qualifying OTC Portion.
- 3.4** Higher Rate Claimants will be required to prove to the satisfaction of LBIE that the Original Counterparty's Original Default Rate exceeded the Statutory Rate by at least the amount of the Claimed Higher Rate, and will be required to provide LBIE, when serving its Higher Rate Notice, with substantiating evidence supporting such claim. Such evidence must include details and evidence of the basis on which the Higher Rate Claimant has identified the lowest post-tax Source of Funding available to the Original Counterparty and may include additional evidence, such as the following:
- 3.4.1** the terms of any executed transactions used as the basis of the determination of the Claimed Higher Rate;
  - 3.4.2** details (including the sources of) any pricing information or market data used in its calculations in the determination of its Claimed Higher Rate, including that provided by third parties;
  - 3.4.3** copies of any loan documentation or other agreements used in the determination of the Claimed Higher Rate;

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- 3.4.4 details and evidence of any models used (including details of the model provider) and a mechanism to explain how the model has determined the figures used in the calculation of its Claimed Higher Rate;
  - 3.4.5 details and evidence of the tax rate applied to calculate the Annual Cost of Funding used in the determination of its Claimed Higher Rate; and
  - 3.4.6 investor letters, financial statements, internal management reports, comparables, correspondence with potential funders and minutes of management meetings used in the determination of its Claimed Higher Rate.
- 3.5 The validity of a Higher Rate Claim shall be determined in the first instance by LBIE. If LBIE determines that the Original Counterparty's Original Default Rate exceeded the Statutory Rate by at least the amount of the Claimed Higher Rate, it shall issue to the Higher Rate Claimant a Higher Rate Determination Notice confirming (as relevant) that:
  - 3.5.1 the Qualifying OTC Creditor shall have a Determined Rate Entitlement at the Determined Rate, being the Claimed Higher Rate; or
  - 3.5.2 subject to the Unagreed OTC Creditor having a Qualifying OTC Portion, the Unagreed Creditor shall have a Determined Rate Entitlement at the Determined Rate, being the Claimed Higher Rate.
- 3.6 If LBIE determines that the Original Counterparty's Original Default Rate did not exceed the Statutory Rate by at least the amount of the Claimed Higher Rate, the following shall apply:
  - 3.6.1 if LBIE is satisfied that the Higher Rate Claimant is entitled to a rate of interest which is higher than the Standard Rate but lower than the Claimed Higher Rate, LBIE may offer the Higher Rate Claimant a rate of interest which is equal to such rate (a "**Higher Rate Offer**"). If the Higher Rate Offer is accepted by the Higher Rate Claimant within 14 days of issuance by LBIE of the Higher Rate Offer, LBIE shall issue to the Higher Rate Claimant a Higher Rate Determination Notice confirming (as relevant) that:
    - (i) the Qualifying OTC Creditor shall have a Determined Rate Entitlement at the Determined Rate, being the rate stipulated in the Higher Rate Offer; or
    - (ii) subject to the Unagreed OTC Creditor having a Qualifying OTC Portion, the Unagreed Creditor shall have a Determined Rate Entitlement at the Determined Rate, being the rate stipulated in the Higher Rate Offer; and
  - 3.6.2 if LBIE does not make a Higher Rate Offer to the Higher Rate Claimant, or if a Higher Rate Offer is not accepted by the Higher Rate Claimant in accordance with paragraph 3.6.1, LBIE shall issue to the Higher Rate Claimant a Higher Rate Rejection Notice which shall include a statement of its reasons for rejecting the Claimed Higher Rate.
- 3.7 If LBIE issues a Higher Rate Rejection Notice to the Higher Rate Claimant, the following shall apply:
  - 3.7.1 if the Higher Rate Claimant does not serve an Adjudication Notice upon LBIE within 14 days of the date of the Higher Rate Rejection Notice, the Higher Rate

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Claimant shall only receive interest on its Qualifying OTC Portion (if any) at the Statutory Rate and shall not receive an Additional Entitlement; or

- 3.7.2 if the Higher Rate Claimant serves an Adjudication Notice upon LBIE within 14 days of the date of the Higher Rate Rejection Notice, LBIE shall, within a reasonable period of time following receipt of the Adjudication Notice, provide in writing to the Higher Rate Claimant the names of two Experts willing to act in relation to the Higher Rate Claimant's Higher Rate Claim.
- 3.8 Within seven days of receipt of the names of two Experts in accordance with paragraph 3.7.2, the Higher Rate Claimant shall notify LBIE as to which of the two Experts it has selected to determine its Higher Rate Claim (the "**Selected Adjudicator**").
- 3.9 Within 14 days of the selection of the Selected Adjudicator, LBIE shall submit to the Selected Adjudicator (with a copy to the Higher Rate Claimant):
  - 3.9.1 a copy of the Adjudication Notice;
  - 3.9.2 a copy of the Plan Documents;
  - 3.9.3 a copy of the Higher Rate Rejection Notice; and
  - 3.9.4 any other evidence that LBIE considers may be necessary in order for the Selected Adjudicator to understand the reasons for its rejection of the Higher Rate Claim.
- 3.10 As soon as reasonably practicable following receipt of the information provided in accordance with paragraph 3.9, the Selected Adjudicator shall determine whether the Original Counterparty's Original Default Rate exceeded the Statutory Rate by at least the amount of the Claimed Higher Rate, and shall inform LBIE and the Higher Rate Claimant in writing of his decision.
- 3.11 The Selected Adjudicator shall make the determination set out at paragraph 3.10 above solely on the basis of the information provided in accordance with paragraph 3.9, save that the Selected Adjudicator may, in his sole discretion (i) request that the Higher Rate Claimant and/or LBIE submit further documents and/or evidence; or (ii) engage, and rely on the advice or services of, an adviser or expert of his choosing.
- 3.12 If the Selected Adjudicator determines that the Original Counterparty's Original Default Rate exceeded the Statutory Rate by at least the amount of the Claimed Higher Rate, LBIE shall issue to the Higher Rate Claimant a Higher Rate Determination Notice confirming (as relevant) that:
  - 3.12.1 the Qualifying OTC Creditor shall have a Determined Rate Entitlement at the Determined Rate, being the Claimed Higher Rate; or
  - 3.12.2 subject to the Unagreed OTC Creditor having a Qualifying OTC Portion, the Unagreed Creditor shall have a Determined Rate Entitlement at the Determined Rate, being the Claimed Higher Rate.
- 3.13 If the Selected Adjudicator determines that the Original Counterparty's Original Default Rate did not exceed the Statutory Rate by at least the amount of the Claimed Higher Rate, LBIE shall issue to the Higher Rate Claimant a Final Higher Rate Rejection Notice, in which case the Higher Rate Claimant shall only be entitled to interest on its Qualifying OTC Portion (if any) at the Statutory Rate and shall not receive an Additional Entitlement.

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- 3.14** The Selected Adjudicator's decision on the Higher Rate Claim shall be final and binding on the Higher Rate Claimant, the Joint Administrators and LBIE and there shall be no appeal against such decision.
- 3.15** The Selected Adjudicator's costs of determining a Higher Rate Claim (and the costs of any expert engaged by the Selected Adjudicator in accordance with paragraph 3.11) shall be paid by:
- 3.15.1** LBIE in the event that the Selected Adjudicator determines that the Higher Rate Claimant has a valid Higher Rate Claim; or
- 3.15.2** the Higher Rate Claimant in the event that the Selected Adjudicator determines that the Higher Rate Claimant does not have a valid Higher Rate Claim.
- 3.16** Before payment of any additional amounts, an Additional Interest Reserve will be established by LBIE in respect of potential Additional Entitlements arising from Higher Rate Claims that have not yet been determined or adjudicated. The Additional Interest Reserve shall be used to pay any Additional Entitlements as and when they are determined. Any amounts not required to be reserved following determination or adjudication of a Higher Rate Claim asserted by a Higher Rate Claimant will be released for application in accordance with the payment waterfall referred to at paragraph 1.

#### **4 Subordinated Debt**

- 4.1** The Subordinated Creditor will receive payment of the Priority Subordinated Debt Amount after payment of (or reserving for) Interest Entitlements in full and provided sufficient funds are available.
- 4.2** The balance of the Subordinated Debt will be payable in accordance with paragraph 1.1.

#### **5 Currency Conversion Claims**

- 5.1** After payment of (or reserving for) Interest Entitlements and the Priority Subordinated Debt Amount, Currency Conversion Entitlements shall be paid in accordance with paragraph 1.1 provided sufficient funds are available.
- 5.2** LBIE shall inform Creditors of the quantum of their Currency Conversion Entitlements (if any):
- 5.2.1** in the case of Creditors whose Admitted Claims are paid in full prior to the Plan Effective Date, within 30 days of the Plan Effective Date;
- 5.2.2** in the case of Creditors whose Admitted Claims are paid in full between the Plan Effective Date and the Record Date, within 14 days of their Admitted Claims being paid in full; and
- 5.2.3** in all other cases, within 14 days of Creditors' Unagreed Claims becoming (in whole or part) Admitted Claims.

#### **6 Calculation Statements**

- 6.1** LBIE shall provide a calculation statement (an "Original Calculation Statement") to Creditors:

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- 6.1.1 on or around the Plan Launch Date, in the case of Creditors who at the Plan Launch Date have an Admitted Claim that has been paid in full; or
  - 6.1.2 in all other cases, within 14 days of the Creditor's Admitted Claim being paid in full.
- 6.2 An Original Calculation Statement shall set out the following in respect of each Creditor:
  - 6.2.1 the amount of its Admitted Claim;
  - 6.2.2 where the Admitted Claim is comprised of Claims arising under multiple master agreements (or multiple balance types, where trades were undocumented), the apportionment of the amount of the Admitted Claim between such master agreements (or balance types as the case may be);
  - 6.2.3 its Qualifying OTC Portion;
  - 6.2.4 the amount of its Statutory Rate Entitlement;
  - 6.2.5 the amount of its Standard Rate Entitlement (if any); and
  - 6.2.6 its Currency Conversion Amount (if any).
- 6.3 In calculating the amounts set out at paragraph 6.2 above, the effect of any releases and exchange of Claims pursuant to Post Administration Contracts entered into by Creditors shall be disregarded insofar as they may relate to entitlements to statutory interest and Currency Conversion Claims.
- 6.4 When calculating the amounts set out in paragraph 6.2, in circumstances where the Creditor's Admitted Claim is a net balance arising as a result of the netting of debts due from and to LBIE, amounts due to LBIE from the Creditor shall be applied rateably against separate Claims under master agreements, or balance types as the case may be (as recorded in LBIE's books and records).
- 6.5 The amounts referred to at paragraph 6.2 will be calculated by LBIE by reference to its books and records and shall be binding, save that LBIE shall retain a discretion to amend an Original Calculation Statement pursuant to paragraphs 6.6 and 6.7, if it is, in its opinion, satisfied that the amounts set out in the Original Calculation Statement were incorrect due to (i) administrative error or (ii) error in application of the netting principles set out in paragraph 6.4.
- 6.6 Within 14 days of receiving an Original Calculation Statement, a Creditor may serve a Calculation Query Notice in writing upon LBIE. The Calculation Query Notice shall set out in reasonable detail an explanation of why the relevant Creditor has reason to believe that the amounts set out in the Original Calculation Statement are incorrectly stated or not calculated in accordance with the netting principles set out in paragraph 6.4 and request that LBIE reviews its books and records to ascertain whether the amounts set out in the Original Calculation Statement have been correctly stated or calculated in accordance with such netting principles.
- 6.7 Within a reasonable period of receipt of a Calculation Query Notice, LBIE shall review its books and records to verify the amounts set out in the relevant Calculation Query Notice and shall either (i) provide the Creditor with a revised Calculation Statement (a "**Revised Calculation Statement**") if the amounts set out in the Original Calculation Statement were incorrectly stated or not calculated in accordance with the netting principles set out in paragraph 6.4, in which case the amounts set out in the Revised Calculation Statement



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shall be binding upon the Creditor and LBIE; or (ii) notify the Creditor in writing that the amounts referred to in the Original Calculation Statement are in accordance with LBIE's books and records and the netting principles set out in paragraph 6.4, in which case, LBIE's determination shall be binding upon the Creditor and LBIE.

## **7 Other terms**

### **7.1 Distribution mechanics**

LBIE shall determine the amount payable to each Creditor in accordance with the provisions of the Plan, aggregating where convenient the amounts to be distributed in respect of several Claims of one Creditor. All payments shall be made in pounds sterling. The timing and method of payment is to be at the discretion of LBIE.

### **7.2 Bar Date**

Any person who has not submitted a proof of debt in respect of its Claims before 5pm (London time) on the date falling 30 days after the Plan Effective Date shall not be entitled to any distribution from the estate of LBIE which is available to its unsecured creditors or from the Surplus in respect of those Claims.

### **7.3 Interest accrual cut-off date**

**7.3.1** Where LBIE has made an offer in partial satisfaction of an Unagreed Claim on or prior to the Plan Launch Date (the amount of such offer being the "**Unagreed Claim Offer Amount**"), Interest Entitlements shall cease to accrue on the Unagreed Claim Offer Amount from (and including) the Plan Effective Date.

**7.3.2** In respect of the balance of Unagreed Claims (if any) and all other Claims, Interest Entitlements (if any) shall cease to accrue from (and including) the earlier of:

- (i) the dates of the respective distributions of principal in respect of such Claims which are accepted as Admitted Claims; and
- (ii) the date which is two years from the Plan Effective Date.

### **7.4 Releases**

The Released Parties shall be released and discharged from any liability (whether present, future, prospective or contingent) arising in connection with (i) their acts, omissions or defaults as Joint Administrators or advisers and (ii) the preparation, negotiation and implementation of the Plan or any matter ancillary to the Plan.

## **8 Implementation**

It is anticipated that the proposal contemplated by this term sheet will be implemented via a company voluntary arrangement under sections 1-7B of the Act or a scheme of arrangement under Part 26 of the Companies Act 2006 pursuant to which Creditors shall compromise their respective Claims, in exchange for rights granted under the Plan.

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## 9 Definitions

**“Act”** means the Insolvency Act 1986 in the form as at the Date of Administration;

**“Additional Entitlement”** means a Standard Rate Entitlement or a Determined Rate Entitlement;

**“Additional Interest Reserve”** means the reserve established by LBIE in accordance with paragraph 3.16;

**“Adjudication Notice”** means a notice served by a Higher Rate Claimant in accordance with paragraph 3.7 and including a copy of:

- (i) the Higher Rate Notice; and
- (ii) the evidence provided to LBIE in support of its Higher Rate Claim.

**“Admitted Claim”** means an unsecured Claim which has been admitted for dividend from the estate of LBIE, available to its unsecured Creditors pursuant to the Rules and the Act, except for any Claims of the Subordinated Creditor or Member Claimants;

**“AFB”** means the 1994 French Master Agreement relating to Transactions on Forward Financial Instruments;

**“Calculation Statement”** means an Original Calculation Statement or a Revised Calculation Statement;

**“Calculation Query Notice”** means a notice served by a Creditor to LBIE in respect of its Original Calculation Statement in accordance with paragraph 6.6;

**“Claim”** means a claim in law, in equity or otherwise and of whatsoever in nature, present or future, and whether presently known or unknown:

- (i) including any and all claims, actions, liabilities, rights and obligations for breach of contract, tort, statute, restitutionary claims and breach of trust; and
- (ii) whether arising by reason of, amongst other things, insolvency or the termination, whether voluntary or for cause, of any contractual obligation or for any failure of a person to perform any contractual, legal or regulatory obligation or otherwise or through the application of any close-out, set off, netting, withholding, combination of accounts or retentions or similar rights;

**“Claimed Higher Rate”** has the meaning given to it in paragraph 2.3.2;

**“CRA”** means the Claim Resolution Agreement between LBIE and certain counterparties of LBIE which became effective on 29 December 2009;

**“Creditor”** means a person with an unsecured Claim against LBIE or a person who has an Admitted Claim;

**“Currency Conversion Amount”** means the entitlement to payment of an amount in a Foreign Currency as a result of having a Currency Conversion Claim or a Deemed Currency Conversion Claim, determined by LBIE with reference to the relevant Creditor's Original Foreign Currency Amount as follows:

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- (i) in the case of an Admitted Claim paid in full on or before the Record Date, the relevant Exchange Rate(s) on the date(s) of the respective distribution(s) in respect of the relevant Creditor's Admitted Claim; or
- (ii) in the case of a Claim which becomes an Admitted Claim and is paid in full after the Record Date, the relevant Exchange Rate on the Record Date;

**"Currency Conversion Claim"** means a Claim which arises where:

- (i) a Creditor's Admitted Claim has been paid in full;
- (ii) the Creditor had, at the Date of Administration, a contractual right to be paid part or all of the principal amount of its Admitted Claim in a Foreign Currency; and
- (iii) the total amount received by the Creditor in respect of payments of principal relating to such part (or all) of its Admitted Claim relating to the Original Foreign Currency Amount, when converted into the relevant Foreign Currency at the relevant Exchange Rate upon the dates of distribution is less than the Original Foreign Currency Amount;

**"Currency Conversion Entitlement"** means, in respect of a Currency Conversion Amount, the entitlement to payment of such amount converted into pounds sterling using the relevant Exchange Rate as follows:

- (i) in the case of an Admitted Claim paid in full before the Plan Effective Date, the relevant Exchange Rate on the Plan Effective Date;
- (ii) in the case of an Admitted Claim paid in full between the Plan Effective Date and the Record Date, the relevant Exchange Rate on the date of the final distribution in respect of the Admitted Claim; and
- (iii) in the case of a Claim which becomes an Admitted Claim and is paid in full after the Record Date, the relevant Exchange Rate on the Record Date;

**"Date of Administration"** means 15 September 2008;

**"Deemed Currency Conversion Claim"** means, in the case of a Claim which becomes an Admitted Claim and is paid in full after the Record Date, a Claim which shall arise upon the Claim becoming an Admitted Claim:

- (i) where the Creditor had, at the Date of Administration, a contractual right to be paid part of all of the principal amount of its Admitted Claim in a Foreign Currency; and
- (ii) the total amount to be received by the Creditor in respect of payments of principal relating to such part (or all) of its Admitted Claim relating to the Original Foreign Currency Amount, when converted in to the relevant Foreign Currency at the relevant Exchange Rate on the Record Date, is less than the Original Foreign Currency Amount;

**"Determined Rate"** means, as relevant (i) the Claimed Higher Rate which is successfully asserted by a Higher Rate Claimant in accordance with paragraphs 3.5 or 3.12; (ii) or such rate (which is higher than the Standard Rate but lower than the Claimed Higher Rate) as set out in a Higher Rate Offer from LBIE and accepted by the Higher Rate Claimant in accordance with paragraph 3.6;

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**"Determined Rate Entitlement"** means an entitlement to interest on a Qualifying OTC Portion at a Determined Rate;

**"Exchange Rate"** means the middle exchange rate on the London foreign exchange market at the close of business on the date in question for a relevant Foreign Currency and pounds sterling;

**"Expert"** means an individual who in the reasonable opinion of LBIE has the appropriate financial, legal or other expertise in relation to the subject matter of the Higher Rate Claim and is capable of discharging the functions and powers of the Selected Adjudicator;

**"FBF"** means the French Master Agreements relating to Transactions on Forward Financial Instruments (2001 and 2007 versions);

**"Final Higher Rate Rejection Notice"** means a notice served by LBIE in accordance with paragraph 3.13;

**"Foreign Currency"** means a currency other than pounds sterling;

**"Higher Rate Claim"** means a Claim to a Claimed Higher Rate;

**"Higher Rate Claimant"** means a Qualifying OTC Creditor or an Unagreed OTC Creditor who has asserted a Higher Rate Claim;

**"Higher Rate Determination Notice"** means a notice served by LBIE in accordance with paragraphs 3.5, 3.6.1 or 3.12;

**"Higher Rate Notice"** means a notice confirming that a Qualifying OTC Creditor or an Unagreed OTC Creditor wishes to assert a Higher Rate Claim and specifying its Claimed Higher Rate;

**"Higher Rate Offer"** has the meaning given to it in paragraph 3.6.1;

**"Higher Rate Rejection Notice"** means a notice served by LBIE in accordance with paragraph 3.6.2;

**"Interest Entitlements"** means together the Statutory Rate Entitlements and the Additional Entitlements;

**"ISDA"** means the 1992 ISDA Master Agreement and the 2002 ISDA Master Agreement;

**"Joint Administrators"** means Anthony Victor Lomas, Steven Anthony Pearson, Paul David Copley, Russell Downs and Julian Guy Parr, each a partner of PricewaterhouseCoopers LLP, 7 More London Riverside, London, SE1 2RT;

**"LBIE"** means Lehman Brothers International (Europe) (in administration);

**"LFC"** means the ISDA Long Form Confirmation;

**"Member Claimant"** means any Creditor, other than the Subordinated Creditor, asserting a Claim against LBIE in respect of amounts owed by LBIE to its members;

**"Ordinary Creditors"** means all Creditors except for the Subordinated Creditor and Member Claimants, and **"Ordinary Creditor"** shall mean any one of them;

**"Original Calculation Statement"** has the meaning given to it in paragraph 6.1;

*Strictly confidential and without prejudice. Subject to contract; this proposal does not form the basis of any binding contract between LBIE and any Creditor.*

**"Original Foreign Currency Amount"** means the sum arising from a contractual right, at the Date of Administration, to be paid part or all of the principal amount of an Admitted Claim in a Foreign Currency;

**"Plan"** means a scheme of arrangement under Part 26 of the Companies Act 2006 or a company voluntary arrangement under sections 1-7B of the Act which implements the proposal contemplated by the Proposed Terms;

**"Plan Documents"** means the documents setting out the terms of the Plan which are required to be sent to Creditors;

**"Plan Effective Date"** means the date upon which the Plan becomes binding upon LBIE and its Creditors, and if relevant, its members;

**"Plan Launch Date"** means the date that the Plan Documents are sent to Creditors;

**"Post Administration Contract"** means the CRA, a claims determination deed or any other analogous agreement;

**"Priority Subordinated Debt Amount"** means £150,000,000;

**"Qualifying OTC Agreement"** means the ISDA, LFC, FBF or AFB;

**"Qualifying OTC Claim"** means a claim arising out of a Qualifying OTC Agreement;

**"Qualifying OTC Creditor"** means an Ordinary Creditor with a Qualifying OTC Portion;

**"Qualifying OTC Portion"** means in respect of a Qualifying OTC Creditor, such proportion of its Admitted Claim as is derived from a Qualifying OTC Claim as determined by LBIE and stated in an Original Calculation Statement or a Revised Calculation Statement;

**"Record Date"** means a date in advance of the first date that Currency Conversion Entitlements are paid, to be determined by LBIE in its sole discretion, expected to be approximately 30 days prior to the first date such Currency Conversion Entitlements are paid;

**"Released Parties"** means the Joint Administrators, their firm, its members, partners, directors, officers, employees, agents and representatives and the Joint Administrators' legal and other professional advisers, their respective firms, and their members, partners and employees;

**"Revised Calculation Statement"** has the meaning given to it in paragraph 6.7;

**"Rules"** means the Insolvency Rules 1986 as at the Date of Administration;

**"Selected Adjudicator"** has the meaning given to it in paragraph 3.8;

**"Standard Rate"** has the meaning given to it in paragraph 1.1.2(i);

**"Standard Rate Entitlement"** means an entitlement to interest on a Qualifying OTC Portion at the Standard Rate;

**"Statutory Rate"** has the meaning given to it in paragraph 1.1.1;

**"Statutory Rate Entitlement"** means in respect of an Ordinary Creditor, an entitlement to interest at the Statutory Rate;

*Strictly confidential and without prejudice. Subject to contract; this proposal does not form the basis of any binding contract between LBIE and any Creditor.*

**“Subordinated Creditor”** means Tonnara Investments S.a.r.l. (to be renamed Wentworth Sons Sub-Debt S.a.r.l.);

**“Subordinated Debt”** means an amount of £1,240,452,696 owing to the Subordinated Creditor pursuant to three subordinated loan agreements each dated 1 November 2006 between LB Holdings Intermediate 2 Limited and LBIE;

**“Surplus”** means any surplus remaining after payment of the unsubordinated debts proved in LBIE’s administration;

**“Unagreed Claim”** means an unsecured Claim against LBIE in respect of which a proof of debt has been filed, but which has not been admitted for dividend from the estate of LBIE;

**“Unagreed Claim Offer Amount”** has the meaning given to it in paragraph 7.3.1;

**“Unagreed OTC Creditor”** means an Ordinary Creditor with an Unagreed OTC Portion; and

**“Unagreed OTC Portion”** means in respect of an Unagreed OTC Creditor, such proportion of its Unagreed Claim that is asserted by the Unagreed OTC Creditor in its proof of debt as deriving from a Qualifying OTC Claim.