

IN THE HIGH COURT OF JUSTICE

No. 7942 of 2008 — 008

CHANCERY DIVISION

COMPANIES COURT

**IN THE MATTER OF LEHMAN BROTHERS INTERNATIONAL
(EUROPE) (in administration)**

AND IN THE MATTER OF THE INSOLVENCY ACT 1986

ORDINARY APPLICATION

TAKE NOTICE that Anthony Victor Lomas, Steven Anthony Pearson, Michael John Andrew Jervis and Dan Yoram Schwarzmenn of PricewaterhouseCoopers LLP, Plumtree Court, London EC4A 4HT ("**Administrators**"), the Joint Administrators of Lehman Brothers International (Europe) ("**LBIE**") intend to apply to the Judge on:

Date: 4 DAY WINDOW 6/10/09

Time: TRC

Place: Court TRC, Royal Courts of Justice, Strand, London



For directions pursuant to paragraph 63 of Schedule B1 to the Insolvency Act 1986 as to whether, and if so in what circumstances:

1. on the true construction of clause 5.2 ("**Clause 5.2**") of LBIE's standard form International Prime Brokerage Agreement: Charge Version (the "**Charge IPBA**") (exhibited to the third witness statement of Andrew Peter Clark at pages 86 to 135 of exhibit APC3), the client of LBIE (the "**Client**") ranks as an unsecured creditor of LBIE in respect of cash received by LBIE


subsequent to the time of the Administrators' appointment, where such cash (a) is paid or distributed in respect of securities which were, as at 07:56 on 15 September 2008 (the "**Time of Administration**"), held by LBIE as custodian pursuant to clause 17.1 of the Charge IPBA and (b) is received by LBIE in respect of a corporate event or action which occurred after the Time of Administration (such cash being "**Post-Administration Cash**"); or

2. on the true construction of Clause 5.2, Post-Administration Cash is held on trust for the Client, whether (a) pursuant to the terms of the Charge IPBA and/or (b) pursuant to the FSA's rules relating to client money and/or (c) under a constructive trust and/or (d) on some other basis (subject in each case to any deductions which LBIE is entitled to make pursuant to the terms of the Charge IPBA or otherwise); or
3. the Administrators are permitted to procure LBIE to pay Post-Administration Cash to the client (subject to any deductions which LBIE is entitled to make pursuant to the terms of the Charge IPBA or otherwise) as an expense of the administration or on any other basis;

And for:

4. such further or other relief as the Court thinks fit; and
5. an Order that the costs of the Application will be provided for.

Signed:

 Euan Clarke

Administrators' Solicitors:

Linklaters LLP

Position held:

Partner

Address for service:

Linklaters LLP
One Silk Street
London
EC2Y 8HQ
Ref: Euan Clarke/Susan Roscoe/Lois Ambrose

Notice of this Application will be given to the Financial Services Authority, 25 The North Colonnade, Canary Wharf, London E14 5HS;

It is not intended to serve any person with this Application.

If you do not attend, the Court will make such order as it thinks fit

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