

IN THE HIGH COURT OF JUSTICE

No. 7942 of 2008

CHANCERY DIVISION

COMPANIES COURT

THE HONOURABLE MR JUSTICE DAVID RICHARDS

TUESDAY 23 JUNE 2015

IN THE MATTER OF LEHMAN BROTHERS INTERNATIONAL (EUROPE)

(IN ADMINISTRATION)

AND IN THE MATTER OF THE INSOLVENCY ACT 1986

BETWEEN:

- (1) ANTHONY VICTOR LOMAS**
- (2) STEVEN ANTHONY PEARSON**
- (3) PAUL DAVID COPLEY**
- (4) RUSSELL DOWNS**
- (5) JULIAN GUY PARR**

**(THE JOINT ADMINISTRATORS OF LEHMAN BROTHERS INTERNATIONAL
(EUROPE) (IN ADMINISTRATION)**



Applicants

- and -

- (1) BURLINGTON LOAN MANAGEMENT LIMITED**
- (2) CVI GVF (LUX) MASTER S.A.R.L.**
- (3) HUTCHINSON INVESTORS LLC**
- (4) WENTWORTH SONS SUB-DEBT S.A.R.L.**
- (5) YORK GLOBAL FINANCE BDH, LLC**
- (6) GOLDMAN SACHS INTERNATIONAL**

Respondents

ORDER

UPON the First to Fifth Applicants (**“the Joint Administrators”**) issuing an application for directions, pursuant to paragraph 63 of Schedule B1 of the Insolvency Act 1986, dated 12 June 2014 (**“the Waterfall II Application”**);

AND UPON reading the application of Goldman Sachs International (**“GSI”**) dated 8 May 2015 to be added as a party to the Waterfall II Application and the First Witness Statement of Jonathan Patrick Knox Kelly dated 8 May 2015;

AND UPON hearing Mark Howard QC and Craig Morrison for GSI, William Trower QC and Stephen Robins for the Joint Administrators, Robin Dicker QC and Henry Phillips for the First to Third Respondents (**“the Senior Creditor Group”**) and Antony Zacaroli QC, David Allison QC and Adam Al-Attar for the Fourth Respondent (**“Wentworth”**);

IT IS ORDERED THAT:

1. GSI be added as the Sixth Respondent to the Waterfall II Application, with permission to participate in all parts of the proceedings as regards Issues 11-14 and 27 (**“the Default Rate Issues”**), such participation to be limited to the submission of evidence and the making of arguments which do not duplicate those made by the Senior Creditor Group.
2. The Joint Administrators shall serve upon GSI within 7 days of the date of this order copies of:
 - (1) The Application Notice for the Waterfall II Application;
 - (2) All Position Papers filed by the parties to date that relate to or concern the Default Rate Issues;
 - (3) All Orders made in the Waterfall II Application to date that relate to or concern the Default Rate Issues;
 - (4) Transcripts of all hearings in the Waterfall II Application at which the Default Rate Issues have been discussed, and all skeleton arguments of the parties for such hearings; and
 - (5) All correspondence and documents exchanged between the parties that relate to or concern the Default Rate Issues, including without limitation all correspondence relating to the reformulation of those issues, any agreement

between the parties on the answers to those issues, any change of position by any party in relation to those issues, and/or the calling of expert evidence by any party in relation to those issues;

3. GSI shall serve its Position Paper (and any admissible evidence of the factual matrix on which it wishes to rely) in relation to the Default Rate Issues on all other parties within 28 days of the date of final receipt of the materials set out in paragraph 2.
4. The Senior Creditor Group and Wentworth shall serve any Position Paper in reply to GSI's Position Paper within 14 days of service of GSI's Position Paper.
5. The Joint Administrators shall serve any Position Paper in reply to GSI's Position Paper and any Position Paper served by the Senior Creditor Group and/or Wentworth under paragraph 4 above within 28 days of service of GSI's Position Paper.
6. GSI shall serve any Position Paper in reply to any Position Papers served by the Senior Creditor Group, Wentworth or the Joint Administrators pursuant to paragraphs 4 and 5 above within 7 days of the date for service of any Position Paper to be served by the Joint Administrators pursuant to paragraph 5 above.
7. GSI's participation in the Waterfall II Application shall be subject to the procedural timetable set out in the Order of Mr Justice David Richards dated 9 March 2015 and sealed on 7 May 2015, the said timetable to apply to GSI on the same basis that it applies to the Senior Creditor Group.
8. The Fifth Respondent ("**York**") is to be served (at the same time as the other parties are to be served) with each of the Position Papers referred to in paragraphs 3-6 above, and further, for the avoidance of doubt, York is to be served (at the same time as the other parties are served) with all the Expert reports, statements and supplemental reports referred to in paragraphs 11-32 of the Order of Mr Justice David Richards dated 9 March 2015 and sealed on 7 May 2015, and with all the trial bundles and skeleton arguments referred to at paragraphs 36 and 37 of the said Order of Mr Justice David Richards.
9. The costs of the present application shall be costs in the Waterfall II Application.
10. Liberty to apply.

Service of the order

The Court has provided a sealed copy of this order to the serving party:

Linklaters LLP, One Silk Street, London EC2Y 8HQ (Ref: Airlie Goodman/Patrick
Robinson)

Solicitors for the Applicants