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Joint Administrators' progress  
report for the period 23 September  
2015 to 22 March 2016

22 April 2016

***Lehman Brothers  
Europe Limited  
(in administration)***

High Court of Justice, Chancery Division,  
Companies Court

Case 8243 of 2008

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# Section 1 Abbreviations and definitions

The following table shows the abbreviations and insolvency terms used in this report.

Abbreviation or definition	Meaning
“Administrators”	DY Schwarzmann, AV Lomas, SA Pearson and JG Parr
“Administration”	LBEL’s administration
“Committee”	The LBEL creditors’ committee
“Company” or “LBEL”	Lehman Brothers Europe Limited (in administration)
“Contribution Claim”	Claim from LBIE pursuant to Section 74 of the IA86 arising from LBL’s shareholding in LBIE.
“Court”	The High Court of Justice
“Firm”	PricewaterhouseCoopers LLP
“Group”	Lehman Brothers UK group
“HMRC”	HM Revenue & Customs
“IA86”	Insolvency Act 1986
“IR86”	Insolvency Rules 1986
“LBIE”	Lehman Brothers International Europe (in administration)
“LBHI”	Lehman Brothers Holdings Inc.
“LBL”	Lehman Brothers Limited (in administration)
“M&A”	Mergers and Acquisitions
“Period”	The six months from 23 September 2015 to 22 March 2016
“Proposals”	The Administrators’ statement of proposals for achieving the purpose of the Administration, dated 14 November 2008
“SIP 9”	Statement of Insolvency Practice No.9
the “Rules”	IR86 2.106 to 2.109
“unsecured creditors”	Creditors who are neither secured nor preferential
“VAT”	Value Added Tax

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## ***Section 2 Purpose of the Administrators' progress report***

### ***Introduction***

This is the 15<sup>th</sup> progress report by the Administrators of LBEL.

Creditors should have received the Proposals which were approved at a meeting of creditors held on 1 December 2008. Creditors should also have received the Administrators' previous 14 progress reports. If any creditor requires copies of the Proposals or these reports, these are available on the Administrators' website at <http://www.pwc.co.uk/business-recovery/administrations/lehman/lehman-brothers-europe-limited-in-administration.jhtml>. Alternatively, please contact Nigel Rackham at PricewaterhouseCoopers LLP, 7 More London Riverside, London, SE1 2RT.

This report provides an update on the work that the Administrators have undertaken and the progress made since our appointment with particular focus on this Period.

### ***Business activities***

The Company's principal activity before the Administrators' appointment was the provision of investment banking services such as advising on M&A transactions.

LBEL utilised employees from LBL and operated from the 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 LBEL's assets;
- Realise these assets; and
- Agree creditors' claims and pay dividends as funds permit.

### ***Creditors' Committee***

The Committee was formed on 5 May 2009 and now has the following members:

- Lehman Brothers Commercial Services;
- Lehman Brothers Holdings Plc;
- Thomas Marsoner; and
- John Wakely.

The Administrators have met with the Committee 15 times and consulted with it 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.

### ***Interim distributions and outcome for creditors***

To date, the Administrators have paid dividends totalling 100 pence in the pound on admitted claims.

Any further potential payments would relate to statutory interest. The Administrators are not yet in a position to estimate the likely timing or quantum of any further distributions because of the matters referred to in Section 3 of this report.

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

Upon the application of the Administrators, the Court made an order on 5 November 2015 extending the period of the Administration to 30 November 2019.

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## ***Future reports***

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

Signed:



D Y Schwarzmman  
Joint Administrator  
Lehman Brothers Europe Limited

*DY Schwarzmman, AV Lomas, SA Pearson and JG Parr were appointed as Joint Administrators of Lehman Brothers Europe Limited to manage its affairs, business and property as agents without personal liability.*

*DY Schwarzmman, AV Lomas, SA Pearson and JG Parr are licensed in the United Kingdom to act as insolvency practitioners by the Institute of Chartered Accountants in England and Wales.*

*The Joint Administrators are Data Controllers of personal data as defined by the Data Protection Act 1998. PricewaterhouseCoopers LLP will act as Data Processor on their instructions. Personal data will be kept secure and processed only for matters relating to the Administration.*

*The joint administrators are bound by the Insolvency Code of Ethics which can be found at:  
<https://www.gov.uk/government/publications/insolvency-practitioner-code-of-ethics>.*

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## Section 3 Administrators' actions to date

### Progress to date

The key outstanding matters and developments in the Period are described below.

#### Debtor claims

##### a) LBHI and its US debtor affiliates

LBEL, in conjunction with other UK affiliates, reached a final settlement agreement with LBHI and its US debtor affiliates in Chapter 11. This agreement became fully binding and operational on 6 March 2012.

As a result, LBEL has received seven dividends from LBHI and its US debtor affiliates totalling \$7.1m, \$0.1m of which was received in the Period. Approximately \$4m of the total dividends received relates to a claim against LBHI in respect of affiliate claims guaranteed by LBHI. In accordance with the terms of the agreement, in the event that the underlying claims are paid in full, any dividend received under the LBHI guarantee claim will be subject to a potential clawback. As not all the underlying claims have been adjudicated, LBEL is not in a position to assess whether any clawback is due to LBHI. The timing and quantum of future distributions from LBHI remain uncertain.

##### b) LBL

The Administrators consider that LBL is a debtor of the Company and have made a claim against LBL in the sum of £447m in October 2014. LBL has in turn submitted a claim against LBEL as detailed below in the 'Creditor claims' section.

##### c) Other Debtors

LBEL does not expect to submit any further inter-company claims. The Administrators have continued to settle claims against inter-company debtors where appropriate. The timing and quantum of future distributions from debtor claims remains uncertain.

#### Creditor claims

The only material claim that remains to be resolved is the claim submitted by LBL.

Pre-administration, LBL was the service company for the Group. LBL employed the majority of the personnel who worked in the UK and arranged for their secondments to other entities within the Group,

including LBEL. It also held most of the service contracts and maintained general infrastructure and back office services to support the needs of the Group. Consequently, the Group entities did not incur direct costs and liabilities in respect of personnel, premises, IT and other services and LBL would recharge costs it incurred in respect of these services through various mechanisms. LBL's Administrators continue to receive claims which are to be recharged to LBEL making the agreement of LBL's inter-company accounts with LBEL challenging.

In the last progress report the Administrators reported that LBL had increased the amount of its claim from £243m to £4.9billion. LBL's revised claim includes the following additional items, which have not been substantiated to the satisfaction of the Administrators and are not agreed:

1. £4.5billion relating to the recharge of the Contribution Claim. As LBIE is an unlimited company its shareholders may be liable for any shortfall in its estate. LBL has asserted that a proportion of any liability arising from the Contribution Claim can be claimed against LBEL. Whether LBIE is able to pursue the Contribution Claim is subject to appeal before the Supreme Court, which is listed for hearing on 17 October 2016;
2. £399m relating to the recharge of a projected shortfall on inter-company receivables owed to LBL by other Lehman companies;
3. an additional £180m in respect of the recharge of a third party landlord claim, which is currently being disputed by LBL and is subject to court proceedings; and
4. £22m relating to the recharge of a proportion of the costs of LBL's administration.

The Administrators continue to seek evidence from LBL to substantiate the above additional items. Court proceedings may ultimately be necessary in order to determine the above elements of LBL's claim.

Discussions with LBL have continued in the Period in order to agree as many parts of the inter-company position between LBEL and LBL as possible.

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## ***Surplus***

LBEL has paid 100 pence in the pound on agreed claims. Until the claim from LBL is resolved the Company does not have sufficient funds to make any further distributions in relation to statutory interest. If there is a surplus once the remaining claim is resolved, it will also be necessary to establish creditors' entitlements to post-administration statutory interest and how potential issues such as currency conversion claims will be dealt with.

## ***Taxation***

The Administrators had previously agreed LBEL's Corporation Tax affairs with HMRC for all periods up to 5 October 2012.

The tax return for the year ended 5 October 2013 has also been agreed since the last report to creditors and shows a loss of £3.5m which may be carried forward to shelter future profits.

The tax return for the year ended 5 October 2014 has been drafted and will be submitted to HMRC in the near future. The draft return indicates that there is a tax loss in the year.

To date, VAT totalling £3m has been repaid to LBEL, including £23k in the Period in relation to the November 2014, May 2015 and August 2015 VAT returns. VAT repayments of approximately £0.2m for the 28 February 2015 and 30 November 2015 VAT returns have been received by the VAT group representative member and are in the process of being distributed.

## ***Investigations and actions***

Nothing has come to the Administrators' attention during the Period to suggest that they need to do any more work in line with their duties under the Company Directors' Disqualification Act 1986 and Statement of Insolvency Practice No.2.

## ***Future strategy***

The Administrators will continue to:

- Deal with the remaining creditor claim;
- If appropriate, review the treatment of creditors' claims in connection with their eligibility to receive statutory interest; and
- Formulate an exit plan for the Administration.

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## Section 4 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>Date of the Administration appointment:</i>	23 September 2008.
<i>Administrators' names and addresses:</i>	DY Schwarzmann, AV Lomas, SA Pearson and JG Parr of PricewaterhouseCoopers LLP, 7 More London Riverside, London SE1 2RT.
<i>Appointer's / applicant's name and address:</i>	High Court of Justice, Chancery Division, Companies Court on the application of the directors, Level 23, 25 Canada Square, London E14 5LQ, 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) Schedule B1 of the IA86, during the period for which the Administration is in force, any act required or authorised under any enactment to be done by any or all of the Administrators may be done by any or 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 five successive extensions to the Administration period being to 30 November 2010, 30 November 2011, 30 November 2013, 30 November 2015 and, more recently, to 30 November 2019.



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## ***Section 5 Financial information***

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

The manner in which the Administrators' remuneration is determined and approved is set out in the Rules.

There are two bases of 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 fee approving body 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 with which the Administrators have to deal.

In October 2008 a Court order authorised the Administrators, subject to ratification by the Committee, to draw remuneration of 75% of the time costs incurred at the time of the application, being £2.8m including VAT. At a meeting held by correspondence on 20 February 2009, the creditors resolved to form a Committee whose duties would include approving the basis and quantum of the Administrators' remuneration.

The Committee did not agree that the Administrators' remuneration be fixed on a time cost basis, but instead the independent members of the Committee resolved that the Administrators' remuneration be fixed at 5% of the value of the property with which the Administrators have to deal. The Administrators were authorised to draw such remuneration as and when realisations became available.

To date, remuneration of £22.6m (excluding VAT) has been drawn in accordance with the above approval. Based on the value of the property

realised to date, a further £0.3m is available to be drawn as remuneration.

### ***SIP 9***

In addition to the Rules, SIP 9, issued by the Joint Insolvency Committee, provides guidance to insolvency practitioners in relation to the disclosure of payments to insolvency office holders and their associates.

The purpose of SIP 9 is to set out the principles and key compliance standards with which insolvency practitioners are required to comply with regard to the provision of information to creditors and other interested parties who have a financial interest in the level of office holders' remuneration, disbursements and expenses paid from an insolvent estate.

In accordance with SIP 9, which was revised with effect from 1 December 2015, section 7 of this report shows a summary of the work undertaken by the Administrators in the Period and, to the extent that is not prejudicial to the interests of the Company, the expected future work the Administrators are to carry out to achieve the purpose of the Administration.

### ***Relationships***

The Administrators have no business or personal relationships with the parties who approve the basis of their fees or who provide services to the Administration where the relationship could give rise to a conflict of interest.

### ***Disbursements***

The Administrators are not required to seek approval to draw expenses or disbursements unless they are for shared or allocated services provided by their Firm, including room hire, document storage, photocopying and communication facilities. These types of expenses are called "Category 2" disbursements and they must be directly incurred on the case, subject to a reasonable method of calculation and allocation and approved by the same parties which approve the Administrators' fees.

The Administrators' expenses policy allows for all properly incurred expenses to be recharged to the Administration.

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No Category 2 disbursements were incurred during the Period.

### ***Creditors' rights***

An explanatory note giving creditors a statement of their rights in relation to the Administrators' remuneration and expenses, and their rights to request further information, can be found online at:

<http://www.icaew.com/~media/Files/Technical/Insolvency/creditors-guides/a-creditors-guide-to-administrators-fees-010407.pdf>

A free copy can be obtained from the Administrators by sending an email to [lbl.claims@uk.pwc.com](mailto:lbl.claims@uk.pwc.com).

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

An account of the receipts and payments in the Administration for the six months to 22 March 2016, and a cumulative total since commencement of the Administration, is set out overleaf.

Significant receipts in the Period include:

- Book debt receipts totalling £0.2m comprising dividends from various affiliates; and
- £0.6m in relation to interest earned on funds invested.

Significant payments in the Period include:

- £1.5m in relation to the Administrators' fees; and
- £0.2m in respect of legal fees.

Total cash held as at 22 March 2016 was approximately £273.3m (GBP equivalent).

The Administrators are not in a position to provide an estimated outcome for comparative purposes because this information is commercially sensitive and may be prejudicial to the Administration.

### ***The Administrators' expenses***

Expenses are amounts properly payable by the Administrators from the estate including fees but excluding distributions to creditors.

In addition to expenses paid in the Period shown in the receipts and payments account, the Administrators incurred expenses of £23,132 plus

VAT in respect of outstanding legal fees and £4,483.47 in respect of tax services by PricewaterhouseCoopers Advisory SPA, which have not yet been paid.

As stated above, the Administrators have also incurred accrued fees of £0.3m and nothing in respect of subcontracted work (see below).

Future expenses cannot be estimated as they are subject to potential litigation.

### ***Subcontracted work***

LBEL has contracted out tax services to the Lehman finance team whose employer is LBIE. This work has been subcontracted because it is more cost efficient than if the Administrators were to do it themselves.

### ***Legal firms***

The Administrators have instructed Linklaters LLP to act as their legal advisors in the Period because of their prior knowledge of LBEL. Linklaters LLP is remunerated on a time-cost basis.

All third-party professionals are required to submit a detailed time-cost analysis and narrative in support of all invoices rendered.

## Section 6 Receipts and payments account

	As at 22 March 2016				As at 22 March 2016 TOTAL GBP equivalent £	Movements 22 September 2015 to 22 March 2016 (GBP equivalent) £	As at 22 September 2015 (GBP equivalent) RESTATED at 22 March 2016 exchange rate £	As at 22 September 2015 TOTAL GBP equivalent £
RECEIPTS	GBP (£)	US (\$)	EUR (€)					
	000's	000's	000's	000's	000's	000's	000's	000's
Book debts	3,955	17,593	21,267		33,124	217	32,907	30,666
GMRA settlement agreement proceeds	371,589	-	-		371,589	-	371,589	371,589
Interest	3,805	34	110		3,916	624	3,292	2,754
Corporation tax repayment	48,443	-	-		48,443	-	48,443	48,443
VAT repayment	2,997	-	-		2,997	23	2,974	2,974
Foreign currency conversions*	28,526	-	1,541		29,742	250	29,492	29,389
<b>Receipts Grand Totals</b>	<b>459,315</b>	<b>17,627</b>	<b>22,918</b>		<b>489,811</b>	<b>1,114</b>	<b>488,697</b>	<b>485,815</b>
<b>PAYMENTS</b>								
Employee costs	6,047	80	67		6,156	-	6,156	6,149
Building and occupancy costs	946	-	-		946	38	908	885
Legal fees	2,640	240	-		2,809	169	2,640	2,472
Tax function costs	350	-	6		355	-	355	355
Payment for group relief losses	4,925	-	-		4,925	-	4,925	4,925
Distribution to unsecured creditors	89,918	-	2,677		92,032	65	91,967	91,788
Pension settlement	50,418	-	-		50,418	-	50,418	50,418
Administrators' remuneration**	27,034	-	-		27,034	1,482	25,552	25,487
Administrators' disbursements	39	-	-		39	-	39	39
Investment management charges	2,433	-	-		2,433	-	2,420	2,420
Foreign currency conversions*	1,250	17,290	20,165		29,337	273	29,064	27,156
<b>Payments Grand Totals</b>	<b>186,000</b>	<b>17,610</b>	<b>22,915</b>		<b>216,484</b>	<b>2,027</b>	<b>214,444</b>	<b>212,094</b>
<b>NET POSITION</b>	<b>273,315</b>	<b>17</b>	<b>3</b>		<b>273,327</b>	<b>(913)</b>	<b>274,253</b>	<b>273,721</b>
<b>CASH BALANCES</b>								
HSBC	36,475	17	3		36,487			
Money markets	236,840	-	-		236,840			
<b>Total Cash</b>	<b>273,315</b>	<b>17</b>	<b>3</b>		<b>273,327</b>			
Exchange rates as at 22 September 2015:								
US\$ 1 : GBP	0.6441							
EURO €1 : GBP	0.7256							
Exchange rates as at 22 March 2016:								
US\$ 1 : GBP	0.6942							
EURO €1 : GBP	0.8982							

Amounts include VAT where applicable

\* The difference in total GBP equivalents arises from converted sums being converted at exchange rates as at the end of each reporting period. No actual gains/losses on currency were made in the Period.

\*\* This amount includes £2.76m that had previously been paid by another Lehman Group company on behalf of LBEL.

# ***Section 7 Summary of work performed by the Administrators***

## ***Work carried out in the Period***

Whilst this is not an exhaustive list, the key areas of work have been as follows:

### **Accounting and treasury**

The Administrators' statutory duties are to manage the affairs, business and property of the Company and keep proper books and records. The work undertaken in this area was necessary in order to pay Administration expenses, to maintain the books and records of LBEL and to ensure that funds invested are maximised at minimum risk. Approximately £0.6m in interest on funds invested was received in the Period:

- Processing payments and receipts in various currency accounts;
- Performing bank account reconciliations for all bank accounts;
- Exploring investment strategies to maximise returns on the invested funds and monitoring of the £270m held on deposit;
- Monitoring of credit limits and counterparty credit ratings, credit default swap prices and market capitalisation to minimise risk;
- Ensuring deposits are repaid from counterparty banks on the correct value date;
- Preparing and reviewing the receipts and payments reports, authorising all payments and reviewing and managing cashflow;
- Producing monthly management and ad hoc reporting; and
- Managing the relationships with key counterparties.

### **Committee meetings**

The meetings in the Period were requested by the Committee. The Administrators continue to apprise the Committee when appropriate, in accordance with the Rules:

- Preparing and consulting with legal advisors in respect of various agenda items for the Committee meetings;
- Preparing for and attending two Committee meetings; and
- Drafting minutes of the meetings and circulating them to all parties.

### **Claims**

The Administrators have a duty to act in the best interests of all creditors. It is the objective of the Administration to realise assets and distribute funds to unsecured creditors with admitted claims:

- Liaising with other Lehman affiliates in respect of the inter-company claims submitted by LBEL;
- Updating debtor schedule as and when required;
- Drafting settlement agreements and negotiating terms with counterparties; and
- Investigating evidence provided by LBL and agreeing as many parts of the inter-company position as possible.

### **Strategy and planning**

The Administrators are required by statute to perform their functions as quickly and efficiently as possible. The activities undertaken in the Period were necessary to resolve outstanding matters in line with the purpose of the Administration to achieve a better outcome for creditors

than would be the case if the Company went into liquidation (without first being in administration):

- Meetings with the shareholder to discuss strategy;
- Meetings with legal advisors to discuss strategy on the remaining claims;
- Reviewing enquiries from members of the Committee and consulting with legal advisors where necessary;
- Setting and agreeing the strategy for the estate including regular meetings of the team;
- Preparing detailed status updates for the Administrators to review strategy and key issues;
- Preparing for and attending first and second partner review meetings;
- Reviewing and authorising payments and receipts; and
- Reviewing and authorising monthly payroll recharges of Lehman staff and occupancy costs.

### **Statutory and compliance**

The work in this area was necessary in order for the Administrators to comply with regulatory requirements or statute:

- Preparing and finalising the witness statement and application to Court in respect of the extension of the Administration;
- Attending Court hearing in respect of the extension of the Administration;
- Preparing and finalising the 14th progress report and circulating to all creditors;
- Ensuring Administrators' statutory obligations are discharged;
- Ensuring that time recording is properly managed and reviewed;
- Preparing budget for future Administration costs; and
- Updating compliance database and PwC internal databases.

### **Tax and VAT compliance**

The following activities were undertaken in compliance with duties as proper officers for tax. £0.2m has been received during the Period by the Group in respect of submitted VAT returns. Corporation Tax losses calculated may be used to shelter future profits;

- Review and submission of the 2014 Corporation Tax computation;
- Calculating tax provisions;
- Reviewing of options in respect of LBEL Italian branch;
- Finalising VAT reconciliations for the returns submitted in 2013 and 2014 and preparation of VAT reconciliation for returns submitted in 2015;
- Preparing the VAT return for the first quarter in 2016;
- Negotiating a new service agreement with LBIE for the provision of tax services;
- Attending regular strategy meetings; and
- Tax input into progress report to creditors.

### ***Future work***

The Administrators will need to do the following work to achieve the purpose of administration. The following descriptions excludes matters which are commercially sensitive.

### **Accounting and treasury**

Work in this area may increase the returns on the funds invested and ultimately funds available for distribution, as well as managing associated risks:

- Preparing, reviewing and processing payment of post-appointment invoices;
- Reconciling post-appointment bank accounts to internal systems;
- Investing funds in accordance with investment strategy; and
- Monitoring and reviewing invested funds.

## **Claims**

The Administrators will continue agreeing the remaining claim so that funds currently reserved may be released, which can be distributed to unsecured creditors:

- Liaise with LBL on the outstanding claim;
- Adjudicate any additional claims received;
- Settle or withdraw the Company's claims; and
- If applicable, distribute statutory interest on admitted creditor claims.

## **Strategy and planning**

The Administrators have an overriding duty to realise the assets to the best advantage and distribute the proceeds, net of costs, among creditors and shareholders according to their rights:

- Internal meetings to review and update ongoing strategy;
- Allocating tasks between team members and following up on progress;
- Seeking input from the Committee on proposed strategy as appropriate;
- Consulting with legal advisors as required; and
- Considering appropriate exit route planning including settlement of open positions.

## **Statutory and compliance**

This work is required by statute:

- Compliance requirements including six monthly review process;
- Preparing and circulating of Administrators' six monthly and the final progress reports to creditors and meeting with committee from time to time; and
- Bringing the Administration to an end in line with the Proposals.

## **Tax and VAT**

This work is required by statute. Tax losses may shelter future profits, thus reducing the level of Corporation Tax and maximising returns to creditors. VAT refunds will increase the level of funds available for distribution:

- Calculating and submitting Corporation Tax and VAT returns;
- Liaising with HMRC in regard to any queries;
- Agreeing and settling LBIE subcontractor costs;
- Resolving LBEL's Italian branch tax affairs;
- Considering appropriate exit route planning including settlement of open tax positions; and
- Obtaining tax clearance in due course.



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