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# ***Lehman Brothers Europe Limited – In Administration***

Joint Administrators' progress  
report for the period 23 September  
2010 to 22 March 2011

20 April 2011

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

## ***Introduction***

This is the fifth 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' first, second, third and fourth progress reports dated 21 April 2009, 22 October 2009, 20 April 2010 and 21 October 2010 respectively.

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 March 2011.

## ***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 has been formed 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 twice 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 approved by creditors and in consultation with the Creditors' 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. The timing and level of any dividend therefore remains uncertain.

Until there is more certainty regarding the dividend prospects, claims agreement work will be restricted to gathering information. 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***

On 5 May 2009 a Creditors' Committee was formed, whose duties include approving the basis and quantum of the Administrators' remuneration. To date the Creditors' 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.

## ***Future reports***

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

Signed:



D Y Schwarzmenn  
Joint Administrator  
Lehman Brothers Europe Limited

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

### ***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.

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

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

During the period covered by this report the Administrators have continued negotiations with two parties for the recovery of remaining M&A debts. We have agreed a settlement of US\$1.2m with one of those parties and are currently drafting the appropriate agreements. Total recoveries to date are £22.7m.

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

The Administrators have submitted claims totalling US\$1.5bn against inter-company debtors. This includes a claim under an LBHI guarantee for amounts owed by Lehman Brothers International (Europe) ("LBIE") and Lehman Brothers Bankhaus AG.

At the commencement of the Administration LBEL had over 70 inter-company debtor and creditor balances, representing US\$1.2bn of debtors and US\$187m of creditors at book value on 12 September 2008.

In the period covered by this report the Administrators have continued to investigate inter-company balances and the outcome of work conducted to date would suggest the majority of the balances will be relatively straightforward to agree.

#### **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.. These securities were valued prior to the Administration at c.US\$856m.

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 £261m from this process are being held by LBIE in a segregated account until the ownership issue is resolved.

During the period, LBIE has taken further legal advice in respect of the ownership rights to the disputed securities. As a consequence of this LBEL expects to receive further information from LBIE in the near future.

#### **Taxation**

The corporation tax returns for the Company for all accounting periods to 22 September 2009 have now been submitted to HM Revenue & Customs ("HMRC"). All computations have been agreed to 2007.

As LBEL made significant profits in the accounting periods from 2004 to 2007, group losses need to be purchased to maximise tax repayments. LBEL is now party to an overarching tax sharing agreement which could recover tax paid in prior years of up to c.£45m after payments for group relief. To date LBEL has received £4.2m and HMRC has indicated that further repayments will be made in 2011.

#### **Pension liability**

The Pensions Regulator listed LBEL as one of the Lehman companies from which it was seeking a Financial Support Direction ("FSD") in relation to the Lehman Brothers Pension Scheme. The FSD requires financial support to be provided to the pension scheme in relation to the scheme's deficit. An FSD does not create a debt due from the targeted company (LBEL) to the pension scheme, but such a debt can be imposed by the Pensions Regulator at a later stage of the process.

On 13 September 2010, the Pensions Regulator's Determinations Panel decided to issue an FSD against LBEL and five other Lehman entities including three other UK companies in Administration. LBEL is appealing against this decision and the matter has been referred to the Upper Tribunal.

A Court application was also made by the Administrators in relation to LBEL and three other Lehman entities which are in Administration and which the Panel decided should receive an FSD.

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The Administrators sought directions from the Court on the status of an FSD liability in an Administration and, pending this decision, the referral to the Upper Tribunal was stayed.

On 10 December 2010, the Court ruled that a liability derived from an FSD would constitute an expense of the Administration (or a provable debt in a subsequent liquidation, in certain circumstances). This decision is being appealed to the Court of Appeal, and there could be a subsequent appeal to the Supreme Court. In the meantime, the Upper Tribunal process is likely to remain stayed.

### ***Future strategy***

The Administrators will continue to:

- Pursue recoveries from the final outstanding M&A deal;
- Gather evidence and support for claims to be made against the other estates;
- Establish title to the securities held with LBIE;
- Consider the most appropriate route to distribute dividends to the creditors;
- Liaise with HMRC with a view to agreeing the computations for 2008 and 2009 and seeking tax repayments; and
- Pursue routes to minimise the pension liability.

## 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 Schwarzmamm, MJA Jervis, AV Lomas, SA Pearson and DA Howell of PricewaterhouseCoopers LLP, Plumtree Court, London EC4A 4HT, 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 (the "Committee") whose duties will 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 has 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 current time costs 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 March 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:

- £26k in respect of interest income; and
- £4.2m in respect of a corporation tax refund.

Significant payments in the period covered by this report include:

- £2.8m in respect of Administrators fees; and
- £86k in respect of legal fees.

Total Cash held as at 22 March 2011 was £16.7m.

## Section 5 Receipts and payments

	As at 22 March 2011			As at 22 March 2011 TOTAL GBP equivalent	Movements 23 September 2010 to 22 March 2011 (GBP equivalent)	As at 22 September 2010 (GBP equivalent) RESTATEd at 22 March 2011 exchange rate	As at 22 September 2010 (GBP equivalent)
RECEIPT	GBP (£) 000	US (\$) 000	EUR (€) 000	£ 000	£ 000	£ 000	£ 000
Book debts	443	6,317	21,137	22,681	-	22,681	22,539
Interest	-	16	46	50	26	24	24
Corporation Tax repayment	4,198	-	-	4,198	4,198	-	-
Currency transfer	11,833	-	-	11,833	3,466	8,367	8,367
<b>Receipts Grand Totals</b>	<b>16,474</b>	<b>6,333</b>	<b>21,183</b>	<b>38,762</b>	<b>7,690</b>	<b>31,072</b>	<b>30,930</b>
<b>PAYMENT</b>							
Employee costs	5,939	80	67	6,046	1	6,045	6,046
Building and occupancy cost	889	-	-	889	-	889	889
Legal fees	662	86	-	715	86	629	631
Office holders' remuneration*	2,760	-	-	2,760	2,760	-	-
Office holders' disbursements	11	-	-	11	-	11	11
Currency transfer	-	170	13,220	11,600	3,500	8,100	7,966
<b>Payments Grand Totals</b>	<b>10,261</b>	<b>336</b>	<b>13,287</b>	<b>22,021</b>	<b>6,347</b>	<b>15,674</b>	<b>15,543</b>
<b>NET POSITION</b>	<b>6,213</b>	<b>5,997</b>	<b>7,896</b>	<b>16,741</b>	<b>1,343</b>	<b>15,398</b>	<b>15,387</b>
<b>CASH BALANCES</b>							
BoE	0	1	1	2			
HSBC	898	19	250	1,127			
Money markets	5,315	5,977	7,645	15,612			
<b>Total Cash</b>	<b>6,213</b>	<b>5,997</b>	<b>7,896</b>	<b>16,741</b>			

Exchange rates as at 22 September 2010:

US\$ 1 : GBP	0.6386
EURO €1 : GBP	0.8545

Exchange rates as at 22 March 2011:

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

Amounts include VAT where applicable

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

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