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# *Lehman Brothers Europe Limited – In Administration*

Joint Administrators' progress  
report for the period 23 March 2013  
to 22 September 2013

22 October 2013

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

## ***Introduction***

This is the tenth 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' previous nine progress reports. If any creditor requires copies of these reports, please contact Nigel Rackham at PricewaterhouseCoopers LLP, 7 More London Riverside, London, SE1 2RT. Alternatively, these are also available on the Administrators' website at <http://www.pwc.co.uk/business-recovery/administrations/lehman/lehman-brothers-europe-limited-in-administration.jhtml>.

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 September 2013 (the "Period").

## ***Business activities***

The Company'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 (in Administration) and operated from the Lehman 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 the value of creditors' claims and pay dividends as funds permit.

## ***Creditors' Committee***

A Creditors' Committee (the "Committee") was formed on 5 May 2009 and now has the following members:

- Lehman Brothers Commercial Services;
- Lehman Brothers Holdings plc (in Administration);
- Thomas Marsoner; and
- John Wakely.

The Administrators have met with the Committee five times 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 and in consultation with the Committee.

## ***First interim distribution***

On 25 June 2012, the High Court of Justice (the "Court") made an order pursuant to paragraph 65(3) of Schedule B1 to the Insolvency Act granting permission for the Administrators to make a distribution to unsecured creditors.

A last date for proving claims was subsequently set for 31 August 2012. On 9 November 2012 the Administrators paid a first interim dividend of 40 pence in the pound to creditors with agreed claims. A total of £35.8m was paid by way of dividend.

## ***Outcome for creditors***

Following a further application to the Court on 10 June 2013, an order was granted permitting the Administrators to make further distributions to unsecured creditors. The deadline to lodge proof of debt forms for inclusion in the next distribution to creditors passed on 12 September 2013.

The quantum of the second dividend is yet to be determined as some substantial claims remain to be resolved. It is, however, anticipated to be significant.

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## ***Administrators' remuneration***

The Committee's duties include approving the basis and quantum of the Administrators' remuneration. To date, remuneration of £17.2m (excluding Value Added Tax ("VAT")) has been drawn in accordance with that approval and details of the remuneration are provided in Section 4 of this report. Based on the value of the property realised to date, a further £5.3m is available to be drawn as remuneration.

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

Upon the application of the Administrators, the Court made an order on 25 June 2012 extending the period of the Administration to 30 November 2013. An application is currently being prepared to seek a further extension.

## ***Future reports***

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

Signed:



D Y Schwarzmann  
Joint Administrator  
Lehman Brothers Europe Limited

*DY Schwarzmann, 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 Schwarzmann, 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.*

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

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

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

The Administrators do not expect to recover any further material M&A debts.

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

##### **a) Repo transaction between LBEL and Lehman Brothers International (Europe) (in Administration) ("LBIE")**

The principal material debtor balance related to funds due to LBEL in connection with the Global Master Repurchase Agreement ("GMRA") between LBEL and LBIE.

As previously reported, LBEL and LBIE reached a full and final settlement in relation to the termination of the GMRA on 5 October 2012. £368.2m was subsequently received in respect of the realisation of securities, which were part of a reverse repo transaction under the GMRA.

Recoveries of £3.4m in relation to the realisation of remaining securities managed by LBIE were received during the Period. Further recoveries are not expected to be material.

The settlement agreement also gave rise to a small unsecured claim against LBIE.

##### **b) 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 four dividends from LBHI and its US debtor affiliates totalling \$5.3m, of which \$1.4m was received in October 2013. The quantum and timing of additional future dividends are uncertain.

##### **c) Debtors**

The Administrators have continued to investigate other inter-company balances in the Period. Claims have been submitted against inter-company debtors where appropriate.

### **Creditor claims**

The Administrators paid an initial dividend to creditors totalling £35.8m during the previous reporting period.

The majority of creditors' claims received to date by the Administrators have been agreed. However, some substantial claims remain to be resolved. In addition, a full reserve of £119m for the potential future pension liability has been made. The figure previously reported regarding this reserve included a notional £5m for legal costs. Such costs are now reserved and accounted for separately.

### **Taxation**

The Administrators have agreed LBEL's Corporation Tax affairs with HM Revenue and Customs ("HMRC") for all periods up to the year ended 22 September 2010.

Tax returns to 5 October 2012 have been submitted to HMRC. Following the GMRA settlement, tax returns are now prepared to the anniversary of the date LBEL ceased to trade for tax purposes, being 5 October, rather than the date of Administration. The return to 22 September 2012 shows a loss of £33.1m, of which a small amount has been carried forward to fully offset profits arising in the short period ended 5 October 2012, with the remainder carried back to offset profits made in 2011.

After deductions pursuant to the group relief agreement, approximately £48.4m has been repaid to LBEL to date. No further material Corporation Tax repayments are expected.

VAT repayments of £0.4m for returns filed to August 2012 have been paid to LBEL to date. Quarterly returns have been filed up to May 2013 and a recovery of £1.8m is expected in relation to these returns.

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## **Pension liability**

As previously reported, it may be a significant period of time before any potential liability for LBEL under a Financial Support Direction ("FSD") can be quantified.

Following a hearing in May 2013, the Supreme Court issued its judgment on 24 July 2013 in a case brought by LBEL and three other Lehman entities. The Court held that the liability derived from a FSD would constitute a provable unsecured claim in the Administration and not, as previously ruled, as an expense of the Administration.

The stay in the Upper Tribunal proceedings, which will determine whether LBEL will have any liability under a FSD, has come to an end following the Supreme Court judgment and directions for the future process have now been issued by the Upper Tribunal. LBEL will be required to respond to the cases put forward by the Pensions Regulator and the pension scheme trustees in early 2014, following which there will be a hearing in the Upper Tribunal.

The Administrators continue to monitor the pensions issue closely.

## ***Future strategy***

The Administrators will continue to:

- Gather evidence for any further claims to be made against other Lehman estates;
- Pursue finalisation of the pension liability; and
- Make further payments to creditors as funds permit.

## 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>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 name and address:</i>	The directors of the Company, whose address at appointment was 25 Bank Street, London, E14 5LE.
<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 of the Insolvency Act 1986, 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 an extension of the Administration to 30 November 2013. An application to extend the Administration further is currently being prepared.
<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>	A first dividend of 40 pence in the pound was paid on 9 November 2012. It is expected that a further significant dividend for unsecured creditors will be paid in 2013.
<i>Estimated values of LBEL's net property and the prescribed part:</i>	In the absence of qualifying floating charges, the Insolvency Act 1986 (Prescribed Part) Order 2003 does not apply to these proceedings.
<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 applies to this Administration and the proceedings are the main proceedings.

## ***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 Committee whose duties would 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 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 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 the instigation of the Committee it was resolved not to agree the Administrators' remuneration on a time cost basis, but instead 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.

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

An account of the receipts and payments in the Administration for the six months to 22 September 2013, and a cumulative total since commencement of the Administration, is set out on page 8.



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Significant receipts in the Period covered by this report include:

- Book debt receipts totalling £2.1m mainly comprise the third dividend from LBHI and its US debtor affiliates; and
- £3.4m of GMRA recoveries as discussed in the inter-company claims section on page 3.

No significant payments were made during the Period.

Total cash held as at 22 September 2013 was approximately £383m (GBP equivalent).

## Section 5 Receipts and payments account

RECEIPTS	As at 22 September 2013			As at 22 September 2013	Movements 23 March 2013 to 22 September 2013	As at 22 March 2013 (GBP equivalent) RESTATED at 22 September 2013 exchange rate	As at 22 March 2013 TOTAL GBP equivalent
	GBP (£)	US (\$)	EUR (€)	£	£	£	£
	000's	000's	000's	000's	000's	000's	000's
Book debts	2,073	13,733	21,168	28,528	2,123	26,405	26,968
GMRA settlement agreement proceeds	371,585	-	-	371,585	3,352	368,233	368,233
Interest	1,053	34	110	1,168	579	589	591
Corporation tax repayment	48,443	-	-	48,443	-	48,443	48,443
VAT repayment	376	-	-	376	(10)	386	386
Currency transfer*	22,216	-	-	22,216	-	22,216	22,216
<b>Receipts Grand Totals</b>	<b>445,746</b>	<b>13,767</b>	<b>21,278</b>	<b>472,316</b>	<b>6,044</b>	<b>466,272</b>	<b>466,837</b>
<b>PAYMENTS</b>							
Employee costs	5,985	80	67	6,092	10	6,082	6,086
Building and occupancy costs	877	-	-	877	(12)	889	889
Legal fees	1,408	227	-	1,549	261	1,288	1,295
Tax function costs	350	-	6	355	5	350	350
Payment for group relief losses	112	-	-	112	-	112	112
Distribution to unsecured creditors	35,044	-	918	35,819	159	35,660	35,668
Administrators' remuneration**	20,607	-	-	20,607	-	20,607	20,607
Administrators' disbursements	21	-	-	21	-	21	21
Investment management charges	2,420	-	-	2,420	-	2,420	2,420
Currency transfer*	-	9,734	18,220	21,467	-	21,467	21,927
<b>Payments Grand Totals</b>	<b>66,823</b>	<b>10,041</b>	<b>19,211</b>	<b>89,319</b>	<b>423</b>	<b>88,896</b>	<b>89,375</b>
<b>NET POSITION</b>	<b>378,922</b>	<b>3,726</b>	<b>2,067</b>	<b>382,997</b>	<b>5,621</b>	<b>377,376</b>	<b>377,462</b>
<b>CASH BALANCES</b>							
HSBC	1,176	293	298	1,611			
Money markets	377,746	3,433	1,769	381,386			
<b>Total Cash</b>	<b>378,922</b>	<b>3,726</b>	<b>2,067</b>	<b>382,997</b>			

### Exchange rates as at 22 March 2013:

US\$ 1 : GBP	0.6562
EURO €1 : GBP	0.8529

### Exchange rates as at 22 September 2013:

US\$ 1 : GBP	0.6250
EURO €1 : GBP	0.8443

### 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 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.



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