

**FOR IMMEDIATE RELEASE**  
**15 DECEMBER 2009**

**Lehman Brothers International (Europe) (in administration)  
Pre-Administration Client Money High Court Judgment**

The High Court today handed down judgment on an application brought by the joint administrators of Lehman Brothers International (Europe) ("LBIE") seeking directions relating to the client money held by LBIE prior to its administration.

The judgment follows the joint administrators' directions application issued on 1 May 2009 which sought to address a number of uncertainties in the FSA's client money rules. LBIE's records identified client money claims of some \$2.1bn. The Administrators hold some \$1bn in segregated pre-administration client money.

Mr Justice Briggs noted in his judgment that the FSA's rules were unclear in a number of important respects but found that:

- The pool of pre-administration segregated client money was to be distributed to those clients for whom LBIE had segregated client money prior to its administration in proportion to the amounts segregated for them.
- LBIE was not under any obligation to top up the client money pool to correct any shortfalls in the amount of client money held.

The effect of the judgment is that clients who were entitled to client money protection but for whom money was not segregated cannot participate in the pool of client money controlled by the joint administrators.

Andrew Clark, partner at PricewaterhouseCoopers leading the team managing the client money matters, said:

"There has been a significant uncertainty over who is entitled to claim the client money which LBIE is holding. This decision provides clarity and enables us to confirm client entitlements."

The judgment affirms the outcome expected by the joint administrators and their legal advisers, Linklaters. Stephen Fletcher, partner at Linklaters, commented:

"The court has provided much needed clarity on a cornerstone of the UK regulatory regime protecting clients."

"Whilst this decision is welcome, the breadth of the issues likely to be appealed will impact on the progress towards distribution that the joint administrators had been hoping to make."

Steven Pearson, joint administrator and partner at PricewaterhouseCoopers LLP, commented:

"Today's judgment confirms the way we have determined clients' entitlements to the client money we hold. We are keen to return client money as soon as possible and I hope that any appeal can be dealt with swiftly."

"I understand that the way in which LBIE determined entitlements to client money were market practice – this judgment could have wider market consequences if other market participants need to reappraise whether further amounts now need to be segregated"

An update on today's judgment will shortly be posted on the PwC website, which will set out further details on the issues on which directions were sought, the court's findings in relation to them and how those findings will affect clients with client money claims.

## **ENDS**

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### **Notes to Editor:**

Tony Lomas, Steven Pearson, Dan Schwarzmann, Michael Jervis and Derek Howell, all partners at PricewaterhouseCoopers, were appointed as joint administrators to Lehman Brothers International Europe and other related entities on 15 September 2008.

LBIE had \$2.1bn of client money segregated at 15 September 2008, of which \$1bn was deposited with Lehman Brothers Bankhaus AG ("Bankhaus"), its German affiliate. Bankhaus is in German insolvency proceedings and has advised the LBIE administrators that it is seeking to subordinate LBIE's client money claim to its other unsecured creditors. Such treatment would mean that there is a prospect of no recovery from sums due from Bankhaus and the client money pool has \$1bn deficit. LBIE is challenging this treatment.

Client money entitlements are determined in accordance with the FSA's Client Assets Sourcebook ("CASS") rules. A number of uncertainties exist regarding the interpretation of these rules.

The administrators' directions application raised 30 questions regarding the interpretation of CASS. The High Court took 11 days to hear the various submissions.

The administrators invited a number of respondents to the hearing, including the FSA, a number of Lehman affiliates and a number of third-party clients of LBIE.

Affiliates claimed that MiFID (the Markets in Financial Instruments Directive) required LBIE to segregate client money. It was not LBIE's practice to do so, but had it done so a further \$3bn or so could have been segregated.

Mr Justice Briggs observed that there had been under-segregation by LBIE. LBIE believed it had complied with CASS. Its application of CASS pre-administration was considered to be both consistent with the rules and other market participants' interpretation of the rules.

Six respondents have indicated they wish to appeal and they have until the end of January to file such an appeal. The administrators will respond to the appeal at that time.

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