

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS
OF ENGLAND AND WALES
COMPANIES COURT (ChD)

NO. 7492 OF 2008 / CR-2008-000012

CR-2018-003713

**IN THE MATTER OF LEHMAN BROTHERS INTERNATIONAL (EUROPE) (in
administration)**

-and-

IN THE MATTER OF THE COMPANIES ACT 2006

**CHAIRMAN'S REPORT OF
SCHEME MEETINGS**

A. INTRODUCTION AND COMPLIANCE WITH CONVENING ORDER

- 1** I, Russell Downs, am a licensed insolvency practitioner and a partner at PricewaterhouseCoopers LLP. I am one of the joint administrators of Lehman Brothers International (Europe) (in administration) (the "**Company**").
- 2** Defined terms which are not defined in this report have the meaning given to them in the Explanatory Statement.
- 3** I was appointed by the Court, pursuant to an order made by Mr Justice Hildyard in this matter on 11 May 2018 (the "**Convening Order**"), to act as Chairman of the Scheme Meetings convened pursuant to the Convening Order. The Scheme Meetings were summoned by a notice in the form contained in the Explanatory Statement given on 14 May 2018 (the "**Notice**") and in accordance with paragraph 7 of the Convening Order.
- 4** The Scheme and Explanatory Statement provided with the Notice were in the form of the versions approved by the High Court on 11 May 2018. The Scheme and Explanatory Statement were, however, subsequently subject to further revisions. Updated versions of the documents were published on the Website on 31 May 2018.

- 5 In accordance with paragraph 1 of the Convening Order and the Notice, four Scheme Meetings were held. The Convening Order sets out which Scheme Creditors were entitled to attend each Scheme Meeting.
- 6 The Scheme Meetings took place at the offices of Linklaters LLP at One Silk Street, London, EC2Y 8HQ on 5 June 2018. A short preliminary session was held at 4.00 pm dealing with various administrative matters (the “**Preliminary Session**”). Following this, the Scheme Meetings took place sequentially as detailed below.
- 7 I hereby report to the Court on the conduct and outcome of the Scheme Meetings.

B. PRELIMINARY SESSION

- 8 Prior to the commencement of the Preliminary Session, each attendee was invited to sign an attendance register. In the event, however, no Scheme Creditors, Scheme Creditors' proxy-holders (other than myself), or representatives of Scheme Creditors (other than persons attending as observers) attended the Scheme Meetings in person. Upon opening the Preliminary Session I noted this, and proposed that the observers remain for the duration of the Scheme Meetings. No objections were raised to this approach.
- 9 I referred those in attendance to the provision of the Scheme and Explanatory Statement to Scheme Creditors on 14 May 2018 and the fact that (as noted at paragraph 4 above), following their publication, a small number of amendments had been made to the Scheme. I noted that the updated version of the Scheme on which Scheme Creditors would be voting at the Scheme Meetings, together with an updated Explanatory Statement, was published on the Website and made available to all Scheme Creditors on 31 May 2018. Further copies of the Scheme, including a copy which had been signed by me for the purpose of identification, I noted, were available to those attending the Scheme Meetings should they wish to inspect them.
- 10 I advised those attending that the Notice convening the Scheme Meetings appeared as Appendix 3 to the Explanatory Statement and would be taken as read. I asked if there were any objections to this and no objections were raised.
- 11 Following this, I gave a short overview of the background to and rationale for the Scheme. I invited those attending to raise any questions. No questions were raised.
- 12 I also briefly explained to those attending that, pursuant to the Convening Order, Higher Rate Creditors who considered that they were entitled to voting rights greater than those calculated by applying an interest rate of 8% per annum had been invited to submit Increased Voting Rights Requests. I noted that nine Higher Rate Creditors had submitted such requests and that I had decided to accept them.

- 13** Finally, before closing the Preliminary Session and formally opening the Scheme Meetings, I asked whether there were any questions. No questions were asked.

C. PROCEDURE AT SCHEME MEETINGS

- 14** Having concluded the Preliminary Session, the Scheme Meetings were held. At each Scheme Meeting I:

- (a) informed those attending of the number of Scheme Creditors appointing me as their proxy, and noted that the Scheme Meeting was therefore quorate;
- (b) submitted a resolution (the “**Scheme Resolution**”) to approve the Scheme in the form set out below:

“We hereby resolve that the Scheme (in its present form or with, or subject to, any modification, addition or condition approved or imposed by the Court) a print of which has been produced to the meeting and, for the purpose of identification only, signed by the Chairman thereof, be and is hereby approved.”

- (c) noted the requirement that, in order to be approved, the Scheme Resolution would require the support of a majority in number representing over 75% in value of Scheme Creditors present and voting; and
- (d) informed those attending of the instructions I had received from those Scheme Creditors for whom I had been appointed proxy, including as regards Spilt-Holdings Requests.

- 15** In accordance with the Convening Order, I exercised my discretion to admit all proxy forms received.

- 16** Scheme Meeting 1 was formally opened at 4.12 pm. Scheme Meeting 2, Scheme Meeting 3 and Scheme Meeting 4 commenced subsequently at 4.15 pm, 4.17 pm and 4.19 pm respectively.

- 17** Having concluded the business of each Scheme Meeting, I declared the relevant meeting closed.

D. OUTCOME OF VOTING

- 18** The votes cast at the Scheme Meetings in respect of the Scheme Resolution are summarised in Table A below.

Table A – Summary of Votes Cast at Scheme Meetings:

Units	Votes FOR	Votes AGAINST	TOTAL	Turnout	Analysis of Votes FOR ¹	
Scheme Meeting 1: 8% Creditors and Specified Interest Creditors (excluding the SCG)					WW	Others
Number	129	3	132	130/249 ²	14	115
% by number	97.7%	2.3%	100.0%	52.2%	10.6%	87.1%
Value (£)	1,979,607,051	76,428,555	2,056,035,606	2,056,035,606 / 2,139,015,278	851,498,338	1,128,108,713
% by value	96.3%	3.7%	100.0%	96.1%	41.4%	54.9%
Scheme Meeting 2: Higher Rate Creditors (excluding the SCG)					WW	Others
Number	74	4	78	77/110 ³	12	62
% by number	94.9%	5.1%	100%	70.0%	15.4%	79.5%
Value (£)	1,471,874,244	201,170,254	1,673,044,498	1,673,044,498 / 1,763,362,308	1,140,479,940	331,394,304
% by value	88.0%	12.0%	100.0%	94.9%	68.2%	19.8%
Scheme Meeting 3: Members of the SCG						
Number	55	0	55	55/55		
% by number	100.0%	0.0%	100.0%	100.0% ⁴		
Value (£)	1,537,022,589	0	1,537,022,589	1,537,022,589 / 1,537,087,315		
% by value	100.0%	0.0%	100.0%	100.0%		
Scheme Meeting 4: Subordinated Creditor						
Number	1	0	1	1/1		
% by number	100.0%	0.0%	100.0%	100.0%		
Value (£)	1,242,162,410	0	1,242,162,410	1,242,162,410 / 1,242,162,410		
% by value	100.0%	0.0%	100.0%	100.0%		

¹ Votes for the Scheme Resolution at Scheme Meeting 1 and Scheme Meeting 2 are split out into votes cast by legal entities which are members of the Wentworth Group ("WW") and votes cast by legal entities which are not members of the Wentworth Group ("Others").

² 130 Scheme Creditors voted at Scheme Meeting 1. As some Scheme Creditors did not control all of their claims and had submitted Split-Holdings Requests, 132 votes were cast in total.

³ 77 Scheme Creditors voted at Scheme Meeting 2. As some Scheme Creditors did not control all of their claims and had submitted Split-Holdings Requests, 78 votes were cast in total.

⁴ One Scheme Creditor voting at Scheme Meeting 3 split its voting rights and abstained from voting in respect of one of its claims. Because the Scheme Creditor concerned voted in favour of the Scheme in respect of the remainder of its claims, however, percentage turnout by number remained 100.0%.

- 19** Percentage for and against figures are calculated by reference to those Scheme Creditors present and voting at the relevant Scheme Meeting. In the event, all Scheme Creditors voted by proxy (five Scheme Creditors at each of Scheme Meeting 1 and Scheme Meeting 2, as well as the Subordinated Creditor at Scheme Meeting 4, submitted hard-copy forms of proxy, with the remainder submitting their voting instructions via the Portal).
- 20** Turnout figures reflect the number and value of Scheme Creditors present and voting at each Scheme Meeting in absolute terms and as a percentage of all Scheme Creditors (by number and value) entitled to vote at the applicable Scheme Meeting. For the purposes of the above, Scheme Creditors submitting forms of proxy but abstaining from voting on the Scheme Resolution were not treated as “present and voting”.
- 21** In the event, only five Scheme Creditors submitted a form of proxy but opted to abstain from voting. Of these:
- (a) three abstained from voting at all Scheme Meetings at which they were entitled to vote, and chose the Settlement Payment Option in respect of their Higher Rate Claims;
 - (b) one only abstained from voting at Scheme Meeting 2 (having opted to vote in favour of the Scheme Resolution at Scheme Meeting 1). This Scheme Creditor chose the Certification Option in respect of its Higher Rate Claims; and
 - (c) one Scheme Creditor had submitted a Split Holdings Request and so the abstention only related to part of its portfolio of claims (specifically two of its Higher Rate Claims). The Scheme Creditor in question chose the Settlement Payment Option in respect of these two claims.
- 22** Table A also reflects that:
- (a) Pursuant to paragraph 12 of the Convening Order, Scheme Creditors holding more than one Admitted Claim but not controlling all such claims were given until 5.00 pm on 24 May 2018 to submit a Split-Holdings Request. In the event, five Scheme Creditors submitted a Split-Holdings Request by the deadline. All five Split-Holdings Requests were accepted and processed accordingly.⁵
 - (b) As referred to at paragraph 12 above (and paragraph 13 of the Convening Order), nine Higher Rate Creditors submitted Increased Voting Rights Requests and I exercised my discretion to allow all such requests for the full values requested. Further detail on this is provided at paragraphs 27 to 30 below.
- 23** Scheme Creditors with Undetermined Provable Claims were given the opportunity to object to their allocated voting rights prior to 31 May 2018 on the basis that the rights set out in

⁵ In the event, only three of these Scheme Creditors split their votes at the relevant Scheme Meetings.

their Voting Rights Letters were based on estimates as to the value of their claims. Scheme Creditors with Admitted Claims meanwhile were given the opportunity to object to the allocation of their claims between the 8% Interest Claims and Specified Interest Claims class on the one hand, and the Higher Rate Claims Class on the other. In the event, neither I nor the Company received any such objections.

E. SCHEME MEETING 1

- 24** I held forms of proxy for 130 Scheme Creditors entitled to vote at Scheme Meeting 1, two of whom had split their votes. Of the 132 votes cast, 129 votes cast were in favour of the Scheme Resolution, amounting to 97.7% support in terms of numerosity and 96.3% in terms of value. Three votes were cast against the Scheme.

F. SCHEME MEETING 2

- 25** I held forms of proxy for 77 Scheme Creditors entitled to vote at Scheme Meeting 2, one of whom had split their votes. Of the 78 votes cast, 74 votes cast were in favour of the Scheme Resolution, amounting to 94.9% support in terms of numerosity and 88.0% in terms of value. Four votes were cast against the Scheme.

- 26** As regards those present and voting at Scheme Meeting 2:

- (a) as explained at paragraph 4.7.3 of Part I of the Explanatory Statement, the members of the Wentworth Group had all committed to accept the Settlement Payment Option;
- (b) as regards the other Higher Rate Creditors present and voting at Scheme Meeting 2:
 - (i) 56 Higher Rate Creditors voting for the Scheme (holding Higher Rate Claims with a value of £204,322,411) chose the Settlement Payment Option and six Higher Rate Creditors voting for the Scheme (holding Higher Rate Claims with a value of £127,071,893) chose the Certification Option;
 - (ii) two Higher Rate Creditors voting against the Scheme (holding Higher Rate Claims with a value of £52,876,693) chose the Settlement Payment Option and two Higher Rate Creditors voting against the Scheme (holding Higher Rate Claims with a value of £148,293,561) chose the Certification Option.

- 27** The deadline for submitting Increased Voting Rights Requests was 5.00 pm (London time) on 31 May 2018. In total, nine Higher Rate Creditors submitted Increased Voting Rights Requests (one having been submitted three minutes after the deadline and one having been amended after the deadline to correct calculation errors).

- 28** Of the nine Higher Rate Creditors who submitted Increased Voting Rights Requests, seven voted for the Scheme and two voted against the Scheme.⁶ The combined value of the Increased Voting Rights Requests received from the seven Higher Rate Creditors voting in favour of the Scheme was £586,359,889 (compared to a combined value of £219,596,359 if the relevant claims were ascribed a value by reference to an interest rate of 8%).⁷ The combined value of the Increased Voting Rights Requests received from the two Higher Rate Creditors voting against the Scheme was £126,795,278 (compared to a combined value of £43,173,894 if the relevant claims were ascribed a value by reference to an interest rate of 8%).
- 29** Given the limited time available, a detailed due diligence exercise examining each of the Increased Voting Rights Requests was not carried out at this time. However, on the basis that none of the Increased Voting Rights Requests appeared to be obviously inconsistent with the Relevant Principles and that the voting outcome was not impacted by acceptance of the Increased Voting Rights Requests (i.e. the statutory majorities would still have been met), I exercised my discretion pursuant to paragraph 3.4.3 of Part III of the Explanatory Statement to allow all nine Higher Rate Creditors to vote in the amount stated in their requests (as amended where applicable). The figures referred to in Table A reflect my decision that all Increased Voting Rights Requests should be accepted in full.
- 30** I set out in Table B below how the voting figures for Scheme Meeting 2 would differ in the event that all Increased Voting Rights Requests received from Higher Rate Creditors voting for the Scheme Resolution had been rejected, but Increased Voting Rights Requests received from Higher Rate Creditors voting against the Scheme Resolution had all been accepted in full.

⁶ Although it should be noted that one of these entities also held claims controlled by other parties not covered by its Increased Voting Rights Requests, and which were voted differently pursuant to a Split-Holdings Request.

⁷ Of these seven, five Scheme Creditors were members of the Wentworth Group. The five Wentworth Group entities collectively sought increased voting rights of £467,888,896 in respect of claims recorded as having a combined value of £207,077,933 based on an interest rate of 8%.

Table B – Alternative Weighting of Votes Cast at Scheme Meeting 2 Dependent on Rejection of Increased Voting Rights Requests (“IVRRs”) from those voting for the Scheme:

	Ascribed Value (all IVRRs Accepted)		Alternative Value (Only IVRRs Submitted by those Opposing the Scheme Accepted)	
	Votes FOR	Votes AGAINST	Votes FOR	Votes AGAINST
Number	74	4	74	4
% by number	94.9%	5.1%	94.9%	5.1%
Value (£)	1,471,874,244	201,170,254	1,105,110,795	201,170,254
% by value	88.0%	12.0%	84.6%	15.4%

G. SCHEME MEETING 3

- 31** I held forms of proxy for 55 Scheme Creditors entitled to vote at Scheme Meeting 3. All 55 of these Scheme Creditors voted in favour of the Scheme, amounting to 100% support in terms of numerosity and value.

H. SCHEME MEETING 4


- 32** I was appointed proxy by the Subordinated Creditor and, in accordance with the Subordinated Creditor’s instructions, voted in favour of the Scheme Resolution on its behalf (meaning that the Scheme Resolution received 100% support in terms of numerosity and value at Scheme Meeting 4).

I. CONCLUSION

- 33** On the basis of the figures summarised in Table A above, the Scheme was approved by a majority in number representing over 75% in value of Scheme Creditors present and voting at each of the Scheme Meetings summoned pursuant to Section 896 of the Companies Act 2006.
- 34** At the closing of each Scheme Meeting I explained that the Administrators’ application to Court to sanction the Scheme was scheduled to be heard on 13 June 2018 and that Scheme Creditors were entitled to appear and make representations at such hearing should they wish to do so. I also explained to Scheme Creditors that, if the Court sanctioned the Scheme, a sanction order would be delivered to the Registrar of Companies as soon as reasonably practicable following the hearing of the petition brought by the Company before the US Bankruptcy Court for an order recognising the Scheme as a “foreign main proceeding” under Chapter 15 of the US Bankruptcy Code.

35 I confirm that the Company has complied with the Convening Order.

Signed:.....

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke, positioned over a dotted line.

Russell Downs

Chairman of the Scheme Meetings

Dated

8 June 2018