



**LB RE Financing No.3 Limited  
– in Creditors' Voluntary Liquidation**

**Joint Liquidators' sixth progress report to  
members and creditors for year ended 22 July  
2018**

**21 August 2018**

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# **1. The Joint Liquidators' report to members and creditors for the year ended 22 July 2018**

## **Introduction**

This is the sixth annual progress report prepared by the Joint Liquidators ("Liquidators") of LB RE Financing No. 3 Limited ("LBREF3" or the "Company").

This report provides an update on the work that the Liquidators have undertaken and the progress made since their appointment, with particular focus on the progress made in the year ended 22 July 2018 (the "reporting period").

## **Appointment of Joint Liquidators**

On 23 July 2012, LBREF3 moved into Creditors' Voluntary Liquidation following the conclusion of the Administration on the same day. DA Howell, MJA Jervis and AV Lomas were appointed Joint Liquidators.

Upon an application to the High Court of Justice ("the Court"), an order was made on 22 March 2013 that GE Bruce and JG Parr be appointed liquidators and that DA Howell and MJA Jervis cease to be liquidators of the Company.

Upon further application to the Court, an order was made on 2 July 2018 so that JG Parr and AV Lomas cease to be liquidators and Edward Macnamara be appointed as Joint Liquidator of the Company from 16 July 2018.

## **Asset realisations**

The current position with respect to the Company's assets is as follows:

### **Intercompany balances**

#### **(i) Storm Funding Limited**

Creditors will recall that in June 2012, LBREF3 submitted a claim against Storm Funding Limited ("Storm") comprising (a) a £6.2m claim in respect of an inter-company balance and (b) a €254.50m (£202.05m) claim in relation to Class A notes held by LBREF3 in a Special Purpose Vehicle known as Saphir 2 ("the Class A notes").

#### **(a) Intercompany balance**

In July 2015, Storm admitted LBREF3's £6.2m intercompany balance claim in full. In the reporting period, LBREF3 received ninth and tenth distributions totalling £332k, representing 5.35p in the £. To date, LBREF3 has received £2.55m from Storm in respect of this part of its claim, representing 41.1p in the £.

#### **(b) Class A notes**

Creditors will recall that in July 2016 a settlement was reached in relation to the Class A notes. Under the terms of the settlement, LBREF3's Class A notes claim was admitted for £147.35m, representing 80% of LBREF3's claim.

In the reporting period, LBREF3 received dividends totalling £490k in respect of its claim being 5.35p in the £. To date, LBREF3 has received a cumulative sum of £60.6m in respect of this part of the claim representing 41.4p in the £.

An eleventh distribution from Storm is expected in the third quarter of 2018 although the exact timing and quantum remains uncertain.

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## **(ii) Lehman Brothers International (Europe)**

As previously reported, LBREF3 received 100 pence in the pound in respect of its admitted claim of £1.78m against Lehman Brothers International (Europe) ("LBIE"), leaving its entitlement to post-insolvency statutory interest outstanding.

Creditors will recall that LBIE was seeking guidance from the Court as to how its creditors' entitlement to statutory interest should be determined through proceedings known as the Waterfall II Application.

On 22 December 2017, LBIE announced that it was preparing a proposal ("the Proposal") to be implemented by way of a scheme of arrangement ("the Scheme") pursuant to the UK Companies Act 2006. The Scheme would allow for full and final settlement of predominantly all litigation, disputes and claims in respect of entitlements to its surplus, including all matters which otherwise remain unresolved by Waterfall II, including the determination of statutory interest entitlement. As a result of LBIE's stakeholders' support for the Proposal, the remaining issues outstanding from Waterfall II were effectively settled.

On 18 June 2018, the Court sanctioned the Scheme and it became effective on 20 June 2018.

Shortly after the end of the reporting period, LBREF3 received £697k in relation to its entitlement to post-insolvency statutory interest.

### **Outcome for creditors**

All known, unsecured creditor claims have been adjudicated, with claims totalling £1.03bn admitted to rank for dividend purposes. There are no secured or preferential creditors.

In total, £63.8m has been distributed to unsecured creditors by way of first and second interim dividends of 5.425p and 0.738p in the £ respectively. The Liquidators anticipate that a third distribution will be made to unsecured creditors following receipt of the funds from LBIE and are currently considering making a distribution in specie of the Company's future receivables.

Having resolved the main issues in LBREF3's estate, and following the third distribution, the Liquidators can take steps to bring the Liquidation to a conclusion.

### **Investigations**

Nothing has come to the Liquidators' attention during the reporting 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.

### **Tax**

An application for tax clearance was granted by HM Revenue and Customs in January 2017. Subsequent to this, on 25 July 2018 the Company received a final payment of £697k in respect of statutory interest from LBIE. Per the new loss relief rules brought in from 1 April 2017 this income can be part sheltered by the Company's existing losses, (brought-forward losses can be used to shelter 50% of taxable profits in the period), with tax payable on the remaining taxable income at the current rate of 19%.

Given the significant tax losses available in the company, a decision was made to keep the estate open to determine whether its losses could be utilised for value by other group companies. This work is continuing.

# **1. The Joint Liquidators' report to members and creditors for the year ended 22 July 2018**

## **Receipts and payments account**

An account of the receipts and payments in the Liquidation showing movements for the last 12 months to 22 July 2018, together with cumulative transactions since commencement of the Liquidation, is set out in Section 2 of this report

## **Liquidators' expenses**

As required by Statement of Insolvency Practice 9 ("SIP9"), set out in Section 3 is a statement of expenses incurred by the Liquidators since their appointment, together with an estimate of future expenses.

## **Liquidators' remuneration**

In February 2015, the Liquidators requested and received approval from LBREF3's creditors for the Liquidators' remuneration to be fixed by reference to the time properly given by them and the various grades of their staff. The Liquidators were also authorised to draw their remuneration to 30 November 2014 and to draw subsequent remuneration on account of their costs from time to time.

In accordance with SIP9, the following information is provided in Section 4 of this report:

- (i) An analysis of the Liquidators' time costs for the period 1 July 2017 to 30 June 2018, including the cumulative total time costs from the date of the Liquidators' appointment to 30 June 2018; and
- (ii) A summary of the Liquidators' time costs for the reporting period, including the key categories of work undertaken, details of the work undertaken, a description of why the work was necessary and whether or not the work was of financial benefit to the creditors or if it was undertaken because it was required by statute.

In accordance with the resolutions passed by LBREF3's creditors, the Liquidators have drawn remuneration totalling £1,010,875 plus VAT in respect of time costs incurred to 31 May 2018.

Time costs for the reporting period total £122,004 plus VAT, representing 314 hours at an average hourly rate of £388. Details of time costs previously incurred have been provided in earlier reports.

An estimate of the Liquidators' future time costs is set out in Section 5 of this report.

## **Liquidators' disbursements**

The Liquidators are not required to seek approval to draw expenses or disbursements unless they are for shared or allocated services provided by our own 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 party who approves our fees.

Category 1 disbursements comprise payments to third parties, for example in relation to travel costs and insolvency office holders' insurance.

The Liquidators' expenses policy allows for all properly incurred expenses to be recharged to the Liquidation.

In the year ended 22 July 2018, the Liquidators incurred no Category 1 or 2 disbursements.

# **1. The Joint Liquidators' report to members and creditors for the year ended 22 July 2018**

## **Creditors' rights**

Creditors have the right to ask for information and challenge a liquidator's fees if they believe that they are too high. You can find an explanatory note online at:

[http://www.icaew.com/~media/corporate/files/technical/insolvency/creditors%20guides/2015/guide\\_to\\_liquidators\\_fees\\_oct\\_2015.ashx](http://www.icaew.com/~media/corporate/files/technical/insolvency/creditors%20guides/2015/guide_to_liquidators_fees_oct_2015.ashx)

Creditors can request a paper copy of the above guide free of charge by emailing [Lehman.affiliates@uk.pwc.com](mailto:Lehman.affiliates@uk.pwc.com).

## **Additional information**

Any creditor who requires further explanation in relation to any aspect of the Liquidators' progress report should contact [Lehman.affiliates@uk.pwc.com](mailto:Lehman.affiliates@uk.pwc.com). However, any request for further information regarding the Liquidators' remuneration or disbursements should be made in writing (Rule 18.9 of the IR 16).

## **Next report and enquiries**

The Liquidators will circulate their next report in approximately 12 months' time or at the end of the Liquidation, whichever is sooner. In the meantime, creditors with queries may contact Harmeet Harish on + 44 (0) 20 7583 5000



GE Bruce  
Joint Liquidator

*GE Bruce and EJ Macnamara have been appointed as Joint Liquidators of LB RE Financing No.3 Limited. The Joint Liquidators are licensed in the United Kingdom to act as insolvency practitioners by the Institute of Chartered Accountants in England and Wales.*

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

*The Joint Liquidators may act as controllers of personal data as defined by UK data protection law depending upon the specific processing activities undertaken. PricewaterhouseCoopers LLP may act as a processor on the instructions of the Joint Liquidators. Personal data will be kept secure and processed only for matters relating to the Joint Liquidators' appointment. Further details are available in the privacy statement on the [PwC.co.uk](http://PwC.co.uk) website or by contacting the Joint Liquidators.*

## 2. Receipts and payments account for the year ended 22 July 2018

	22 July 2018 (£)	Movements in Period (£)	23 July 2017 (£)
<b>Receipts</b> (Notes 1 and 2)			
Release of funds from the Administrators	54,918	-	54,918
Interest	13,542	-	13,542
Dividends from Storm Funding Limited	63,161,511	821,476	62,340,035
Dividends from Lehman Brothers International (Europe)	1,783,695	-	1,783,695
Sale of tax losses	1,785,612	-	1,785,612
Other	2,022	2,022	-
<b>Total receipts</b>	<b>66,801,300</b>	<b>823,498</b>	<b>65,977,802</b>
<b>Payments</b>			
Legal fees	177,374	14,525	162,849
Employee wages and associated costs	346,799	-	346,799
IT costs	5,741	-	5,741
Statutory costs	15,249	-	15,249
Bank charges	25	-	25
Former Joint Administrators' final remuneration	19,761	-	19,761
Joint Liquidators' remuneration (Note 3)	1,010,875	169,607	841,268
Joint Liquidators' category 1 disbursements	745	-	745
Joint Liquidators' category 2 disbursements	20,000	-	20,000
Insurance	85	-	85
Irrecoverable VAT (Note 4)	247,878	36,274	211,604
<b>Total payments</b>	<b>1,844,532</b>	<b>220,406</b>	<b>1,624,126</b>
<b>Total receipts less total payments</b>	<b>64,956,768</b>	<b>603,092</b>	<b>64,353,676</b>
<b>Distributions</b>			
First distribution to unsecured creditors of 5.425p in the £, declared 7 September 2016	56,114,662	-	56,114,662
Cash distribution made to minority creditor on 14 November 2016 (Note 5)	20,000	-	20,000
Second distribution to unsecured creditors of 0.738p in the £, declared 16 March 2017	7,627,629	-	7,627,629
<b>Total distributions</b>	<b>63,762,291</b>	<b>-</b>	<b>63,762,291</b>
<b>Total</b>	<b>1,194,477</b>	<b>603,092</b>	<b>591,385</b>
<b>Cash balances</b>			
HSBC current account	1,194,477	603,092	591,385
<b>Total cash</b>	<b>1,194,477</b>	<b>603,092</b>	<b>591,385</b>

### Notes:

- 1) Statement of Affairs figures have not been provided as the Liquidation follows an administration.
- 2) All of the Company's assets are uncharged, there being no secured creditors.
- 3) Joint Liquidators' remuneration paid in the reporting period covers time costs for the period from 1 March 2017 to 31 May 2018.
- 4) Due to the nature of the Company's former business, it is not entitled to recover input VAT on its costs.
- 5) A cash distribution of £20,000 was made in November 2016 to LBREF3's minority creditor in lieu of their share of any future distributions made.

### 3. Joint Liquidators' expenses

The table below provides details of the Liquidators' expenses. Expenses are defined as amounts payable by the Liquidators from the estate; they include the Liquidators' fees but exclude distributions to creditors. The table also excludes any potential tax liabilities that may be payable as a Liquidation expense, other than VAT, as amounts becoming due will depend on the position at the end of the tax accounting period.

The table should be read in conjunction with the receipts and payments account in Section 2 of this report, which shows expenses actually paid during the period and the total paid to date. In estimating future expenses, assumptions have been made relevant to the annual run rate where appropriate.

Sums have been rounded to the nearest £1k.

	<b>Brought forward from preceding period</b>	<b>Paid in the period</b>	<b>Cumulative paid</b>	<b>Incurred and not paid</b>	<b>Estimated future</b>	<b>Anticipated total</b>
	<b>£k</b>	<b>£k</b>	<b>£k</b>	<b>£k</b>	<b>£k</b>	<b>£k</b>
Legal fees	163	15	178	-	48	226
Employee wages and associated costs	347	-	347	-	4	351
IT costs	6	-	6	-	-	6
Statutory costs	15	-	15	-	15	30
Former Joint Administrators' final remuneration	20	-	20	-	-	20
Joint Liquidators' remuneration and disbursements	862	170	1032	5	150	1,187
Irrecoverable VAT	211	36	247	1	43	291
<b>Total</b>	<b>1,624</b>	<b>221</b>	<b>1845</b>	<b>6</b>	<b>260</b>	<b>2,111</b>

An explanation of the key issues remaining is provided in Section 4 of this report.



## 4. Joint Liquidators' time costs for the period 1 July 2017 to 30 June 2018

### Charging and disbursements policy

Time is charged to the Liquidation by reference to the time properly given by the Liquidators and their staff in attending to matters arising in the Liquidation. The minimum unit for time charged by the Liquidators and their staff is 0.05 of an hour.

It is the Liquidators' policy to delegate the routine administration of the Liquidation to junior staff in order to maximise the cost effectiveness of the work performed. These staff have been supervised by senior staff and the Liquidators. Any matter of particular complexity or significance that has required responsibility of an exceptional kind has also been dealt with by senior staff or the Liquidators.

Set out below are the maximum charge-out rates per hour for the Liquidators' staff actually or likely to be involved on the assignments from 1 July 2017. Time is charged by reference to actual work carried out on the assignment. There has been no allocation of any general costs or overhead costs.

Per the agreement with LBIE's creditors' committee, the LBIE charge-out rates were held unchanged from 1 July 2015 to 30 June 2017. An increase of 4% in charge-out rates came into effect on 1 July 2017 and in line with other Lehman Brothers Group affiliates controlled by the PricewaterhouseCoopers LLP's office holders, this approach has also been used for LBREF3.

<b>Grade</b>	<b>Max £ per hour From 1 July 2017</b>
Partner	935
Director	820
Senior Manager	548
Manager	462
Senior Associate	386
Associate	245

Specialist departments within PricewaterhouseCoopers LLP, such as tax, VAT, property and pensions, sometimes charge a number of hours should the Liquidators require their expert advice. Such specialists' rates do vary but the figures below provide an indication of the maximum rate per hour.

<b>Grade</b>	<b>Max £ per hour From 1 July 2017</b>
Partner	1312
Director	1152
Senior Manager	969
Manager	707
Senior Associate	525
Associate	245

In common with all professional firms, the scale rates used by the Liquidators may increase to cover annual inflationary cost increases.

There is no statutory requirement for the Liquidators to seek approval to draw expenses or disbursements. However, professional guidance issued to insolvency practitioners requires that, where the Liquidators propose to recover costs which, whilst being in the nature of expenses or disbursements, may include an element of shared or allocated costs (such as room hire, document storage or communication facilities provided by the Liquidators' own firm), they must be disclosed and be authorised by those responsible for approving their remuneration. Such expenses are known as "Category 2" disbursements. They must be directly incurred on the case and subject to a reasonable method of calculation and allocation. The Liquidators' expenses policy allows for all properly incurred expenses to be recharged to the case. Category 2 disbursements are approved by the creditors.

#### 4. Joint Liquidators' time costs for the period 1 July 2017 to 30 June 2018

Classification of work	Partner/Director		Senior Manager/Manager		Senior Associate		Associate/Support Staff		Total	
	Hours	£	Hours	£	Hours	£	Hours	£	Hours	£
Accounting and treasury	0.35	287	17.75	8,609	13.00	4,064	23.25	5,696	54.35	18,656
Strategy and planning	11.30	9,266	56.50	28,124	19.90	5,970	3.90	956	91.60	44,316
Creditors and distributions	0.50	410	5.40	2,512	34.00	9,661	0.25	61	40.15	12,644
Statutory and other compliance	6.70	5,494	25.30	13,211	66.70	19,605	26.95	6,603	125.65	44,913
Tax and VAT	-	-	2.00	1,258	0.70	217	-	-	2.70	1,475
<b>Grand total for the period 1 July 2017 to 30 June 2018</b>										
	<b>18.85</b>	<b>15,457</b>	<b>106.95</b>	<b>53,714</b>	<b>134.30</b>	<b>39,517</b>	<b>54.35</b>	<b>13,316</b>	<b>314.45</b>	<b>122,004</b>
<b>Average hourly rate for the 12 month period to 30 June 2018</b>										<b>388</b>
<b>Cumulative total to 30 June 2018</b>										<b>1,015,580</b>

Notes:

- (i) The cumulative total refers to the time costs incurred to 30 June 2018, of which £1,010,875 has been paid to date.

## **4. Joint Liquidators' time costs for the period 1 July 2017 to 30 June 2018**

The following narrative summarises the work undertaken by the Liquidators and their staff during the period.

### **Accounting and Treasury - £18,656**

An essential function for the management of funds held by the Liquidators on behalf of the Company, the Liquidators' treasury and cash management teams monitor and control the movement of funds, mitigate risk and seek to maximise the interest made on investments (where applicable) for the benefit of the Company's creditors.

Activities include:

- Monitoring the flow of funds into the bank account;
- Processing receipts and payments and coding of movements;
- Coding movements in and out of the bank accounts;
- Reconciling bank accounts for the purposes of statutory reporting; and
- Preparing monthly time costs in support of billing and statutory reporting.

### **Strategy and Planning - £44,316**

The Liquidators and their staff have invested a large proportion of their time in the planning and delivery of their strategy for the progression of the Liquidation.

Activities include:

- Reviewing and implementing the Liquidation strategy;
- Filing necessary documentation to receive Scheme distribution from LBIE;
- Updating strategy documents;
- Discussions with stakeholders in regards to this strategy;
- Reviewing financial information;
- Dealing with matters relating to the transfer of shares of LBREF3 to LB RE Financing No1 Limited from LB RE Financing No.2 Limited.
- Liaising with key Lehman staff and legal advisors in respect of case strategy; and
- Regular team meetings to update on case progression.

### **Creditors and distributions - £12,644**

Activities include:

- Maintaining and updating the creditor claims agreement database;
- Exploring possibilities of a distribution in specie of LBREF3's remaining assets; and
- Obtaining and reviewing professional advice in relation to a possible distribution in specie.

### **Statutory and Compliance - £44,913**

The following tasks were undertaken in accordance with the Liquidators' statutory obligations or internal compliance:

- Preparation and circulation of the Liquidators' fifth progress report to creditors;
- Preparation of the Liquidators' six monthly review summary;
- Circulating progress report to creditors and updating the dedicated LBREF3 website with the progress report;
- Preparation of receipts and payments account for report to creditors;

#### **4. Joint Liquidators' time costs for the period 1 July 2017 to 30 June 2018**

- Preparation of detailed remuneration summary;
- Maintaining case files and the Liquidation database;
- Statutory filings at Companies House and Court;
- Preparing statutory documentation in relation to the resignation of AV Lomas and JG Parr as Joint Liquidators; and
- Preparing and filing statutory documentation in relation to the appointment of EJ Macnamara as Joint Liquidator.

#### **Tax and VAT - £1,475**

The following tasks were undertaken in accordance with the Liquidators' statutory obligations or internal compliance. In addition, certain tasks were undertaken for the benefit of creditors.

Activities include:

- Responding to ad-hoc queries from the case management team;
- Performing routine administrative tasks;
- Dealing with internal compliance matters; and
- Preparing narrative for the Joint Liquidators' fifth report;

## 5. Joint Liquidators' estimate of future time costs

The Liquidators continue to actively progress all matters pertaining to the estate. This includes collecting distributions from LBREF3's admitted claims against LBIE and Storm and distributing funds (when possible to do so) to unsecured creditors.

The Liquidators estimate that their future time costs and disbursements to complete the Liquidation will be circa £0.15m, analysed as follows:

	£'000
Accounting and Treasury	20
Strategy and Planning	45
Creditors and distributions	20
Statutory and Compliance/Tax and VAT	65
	<hr/> 150

The above figures assume that:

- The Liquidation will be concluded within the next reporting period.
- Time costs relating to care and maintenance of the case will be incurred at a similar rate to the reporting period; and
- There will be a further cash distribution and a distribution in specie to unsecured creditors.

### Relationships

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

### Details of subcontracted work

Certain centralised services are undertaken on behalf of LBREF3 by employees retained by LBIE and LB SF Warehouse Limited. This includes the provision of certain tax and VAT services and key staff resource. The costs of such services are recharged to LBREF3 on a time costs basis and are invoiced directly to the estate. The services undertaken by LB SF Warehouse Limited are to provide specialist input regarding various matters relating to the Company.

### Legal and other professional firms

The Liquidators have instructed the following professionals on this case. The selection of individual legal firms is determined by the jurisdiction and nature of the advice being sought, and whether a conflict exists.

Service provided	Name of firm / organisation	Reason selected	Basis of fees
Legal services:	<i>Linklaters LLP</i>	<i>Industry knowledge</i>	<i>Time costs</i>
	<i>Dentons UKMEA LLP</i>	<i>Industry knowledge</i>	<i>Time costs</i>
Asset realisations:	<i>LB SF Warehouse Limited</i>	<i>Prior/Industry knowledge</i>	<i>Time costs</i>

All professional firms instructed by the Liquidators are required to provide a narrative explanation in support of invoices. All invoices are reviewed before being approved for payment. The Liquidators are satisfied that the level of legal costs are appropriate.