

Lehman Brothers International (Europe) (in administration) – update on proposed scheme of arrangement concerning client asset claims.

This is the first of two client alerts concerning the Lehman group.

The joint administrators of Lehman Brothers International (Europe) (“**LBIE**”) have announced that on 26 June 2009, a letter was sent to various clients who, according to LBIE’s records, appear to have a claim to LBIE client assets.

The letter (a generic copy of which can be accessed [here](#)) provides information about the proposed scheme of arrangement in relation to LBIE, as explained further in the joint administrators’ Progress Report of 14 April 2009 (summarised in the [Mayer Brown client alert dated 16 April 2009](#)). In summary, the objective of the proposed scheme of arrangement is to provide a mechanism to enable a speedier return of client assets to entitled creditors of LBIE.

Key Points

The key things to note from the recent letter are:

- 1) It is re-iterated that the aim of the proposed scheme will be to increase the speed of the return of certain client assets.
- 2) “Client assets” in this context means assets which LBIE holds for its clients which are recorded in LBIE’s books and records (and those of its direct custodians/ clearing systems) as being held in client segregated accounts separately from other general accounts. The term also refers to money received after LBIE’s entry into administration which is derived from such assets.
- 3) The joint administrators, as part of the proposed scheme, envisage that a ‘bar date’ will be imposed in relation to creditor claims against LBIE. It is stated in the letter that any ‘bar date’ would not take effect before 31 December 2009 in any event.
- 4) The joint administrators consider that the benefits of the proposed scheme will be to:
 - achieve finality of the population of claimants to client assets;
 - identify and resolve competing claims to stock lines;
 - define scheme creditors’ trust and unsecured claims;
 - define rules for dealing with assets shortfalls;
 - allow distributions without the need for recipients to give indemnities;

- ensure finality of asset distributions;
 - ensure no future claims may be made against LBIE for assets distributed under the scheme;
 - allow the controlled termination of open contracts;
 - apply a consistent set of rules for a number of issues, including valuation methodology, allocation of client assets and dispute resolution;
 - allow the valuation of all positions once they have been terminated and the application of unsecured claims and/or assets in satisfaction of any resulting net liabilities to LBIE; and
 - allocate and make provision for the costs of implementing the scheme and distributing assets pursuant to the scheme.
- 5) The joint administrators intend to apply to the Court for permission to hold meetings of potential scheme creditors to consider and approve the scheme of arrangement "...within the next few months". Creditors are reminded that once approved by the requisite majorities at the creditors' meetings, and if sanctioned by the Court, the scheme once registered will become binding on all of those creditors that fall within its terms. Those affected by a proposed scheme of arrangement can expect generally to be permitted to attend and make representations at the hearing for directions.
 - 6) In relation to the scheme creditor meetings, the joint administrators are proposing to calculate the voting rights only of scheme creditors for the purposes of the approval of the scheme on the basis of a valuation of scheme creditor claims as at 30 June 2009.
 - 7) Where creditors have provided termination notices to LBIE with regard to any derivative or financing positions, but have not provided valuation statements in relation to those positions, a valuation statement should be provided by 14 July 2009 or LBIE/the joint administrators will use their own valuation of the terminated positions to calculate creditor voting rights.
 - 8) In relation to open positions, the joint administrators confirm that no further action is required with respect to valuations, as LBIE will undertake its own estimation of value for the purposes of calculating creditor voting rights in relation to the scheme.

What to do if you do not receive a letter from the joint administrators

The joint administrators' letter was not sent to all LBIE counterparties as it is not considered that all LBIE creditors will be scheme creditors. However, clients who feel that they have a claim to client assets and who do not receive the letter by 6 July 2009 should contact the joint administrators through the newly designated scheme mailbox: schemeofarrangement@lbia-eu.com.

The 1 May 2009 application

Clients are also reminded that, on 1 May 2009, the joint administrators of LBIE made an application to the English High Court for directions on certain questions relating to 'client money'. The aim of the application is to identify those accounts that will form part of the client money pool, and to determine, among other things, which clients have an entitlement to the client money pool, the method for calculating the amount of any entitlement, and the time when entitlement should be determined. The hearing of the application has been listed for 10:30 a.m. on 15 and 16 July 2009. We will keep you informed of any significant developments in connection with the application.

For further information, or if you would like advice about how the proposed scheme of arrangement or the 1 May 2009 application may affect you, please contact your normal Mayer Brown representative or:

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