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Lehman Brothers Inc.

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re

LEHMAN BROTHERS INC.,

Debtor.

Case No. 08-01420 (JMP) SIPA

**TRUSTEE'S SIXTH INTERIM REPORT FOR THE PERIOD
APRIL 23, 2011 THROUGH OCTOBER 21, 2011**

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TO THE HONORABLE JAMES M. PECK,
UNITED STATES BANKRUPTCY JUDGE:

The Trustee's focus at this stage of the proceeding is to achieve the goals discussed with the Court at the August 9 State of the Estate presentation—allocating the estate's \$20 billion to the fund available to satisfy customer claims and to the fund available for all other claims in a manner consistent with the Court's earlier order, and effecting an interim distribution on allowed customer claims. The Trustee's view of proper allocation will be publically filed before the end of the year, and will be on notice to all creditors and other interested parties. The timing and extent of an interim distribution is dependent on a final ruling on that motion, and will be impacted by resolution of pending contingencies. The largest contingency stems from the challenges to the Trustee's determination and classification of the claims of Lehman Brothers International (Europe) ("LBIE"), which are before the Court and proceeding into discovery.

This Report summarizes progress toward these goals in the past six months for the benefit of customers and other creditors of Lehman Brothers Inc. ("LBI"), the largest and most complex broker dealer ever to fail. Several accomplishments are of note. Specifically, the Trustee:

- Reduced pending customer claims against the estate by \$5.9 billion;
- Increased allowed customer claims by \$2.2 billion;
- Recovered over \$1.45 billion, including the conclusion of a lengthy investigation of JPMorgan Chase Bank, N.A. that secured the return of approximately \$860 million of customer property;

- Entered into litigation schedules for most remaining categories of disputed claims;
- Moved forward with appeals and appropriate security arrangements in the Trustee's \$6.2 billion dispute with Barclays Capital Inc. ("Barclays");
- Progressed negotiations with the Lehman Brothers Holdings Inc. ("LBHI") and Chapter 11 Debtors in matters affecting both the Securities Investor Protection Act ("SIPA") proceeding and LBHI's proposed Plan of Reorganization;
- Presented comprehensive State of the Estate overview to the Court;
- Analyzed potential allocation of estate property and general estate claims in preparation for a motion to allocate property which the Trustee intends to file before the end of the year; and
- Unified information systems to increase efficiency and reduce reliance on third parties, thereby significantly reducing expenses.

As detailed in this and previous reports, by implementing the SIPA plan to return customer property and marshal assets for customers and other creditors, the Trustee has administered an estate of over \$117 billion, including distributions of \$92.3 billion for the benefit of 110,000 customer accounts transferred to other broker dealers. Distributions to date are many times more than any other SIPA proceeding, and are among the largest of any insolvency proceeding in history. In addition, the Trustee has determined more than 14,000 customer claims totaling well in excess of \$50 billion, in many cases requiring analysis of thousands, and in the case of LBIE, hundreds of thousands, of transactions. To date, approximately \$12.2 billion in customer claims have

been allowed.

On the asset side, starting from a position of virtually no assets or cash in his immediate control, the Trustee has marshaled over \$20 billion in property, with the prospect of some further recoveries from litigations or other efforts as described below. Similarly, from a position of piecemeal or non-existent access to the 2,700 legacy Lehman computer systems, and of being forced of necessity to rely on Barclays and others with whom the Trustee had material disputes for basic transitional services, the Trustee has assembled tailored information and data retrieval services with appropriate staffing and controls. The Trustee has also issued a preliminary investigative report with details of some aspects of and reasons for LBI's collapse and specific recommendations for future liquidations, several of which have been incorporated and cited in recent legislative and regulatory reform proposals. The Trustee has also provided information and responded to subpoenas in scores of investigations and litigations and returned hundreds of millions of dollars of misdirected funds.

In sum, much has been accomplished, but as the Trustee and SIPC emphasized at the State of the Estate, much remains to be done. The investigative, administrative, and asset recovery activities and litigations discussed below will necessarily continue. But the Trustee's principal focus is achieving as much clarity as possible on the total of legitimate claims for customer treatment and the assets available to satisfy those claims.

The Trustee's goal remains to make a substantial distribution on customer claims, and to make interim distributions when it is possible to do so, possibly as early as the spring of next year. Section XI of this report discusses the subject of allowed

customer claims distributions in more detail. As there noted, interim distributions will be a complex undertaking for a number of reasons, but the principal impediments to clarity and to distributions of customer property remain the four contingencies discussed in earlier reports: LBIE's remaining claims of approximately \$17 billion, even after allowance of approximately \$8.3 billion as compounded by the largely duplicative and overlapping claims of approximately 300 LBIE client hedge funds; the claims of LBHI and other affiliates totaling approximately \$7.9 billion; the over \$3 billion reserved and possible additional recoveries arising from the Barclays litigation now on appeal; and the need to define that which constitutes customer property. Of these issues, those surrounding LBIE's claims for customer treatment for proprietary transactions dwarf all others.

Finally, the Trustee is a major party in interest to, and among the largest creditors in, the LBIE proceeding. Until the LBIE estate is substantially advanced, including the pending litigation concerning client money and the passage of the LBIE bar date in December 2012, the Trustee cannot adequately assess affirmative recoveries or setoff with respect to LBIE claims. These issues impact the calculation of available assets against the size of customer claims in the SIPA proceeding and remain of material concern to the Trustee.

While not all contingencies need to be fully resolved for distributions to be feasible, some do. To that end, the Trustee has taken steps during this reporting period, and has instructed his counsel and staff to continue to take whatever steps are necessary, to resolve as many of these major contingencies as possible in a manner consistent with the SIPA statute, fairness, and the due process rights of all parties.

At all points the Trustee and his professionals have acted in close consultation with the Securities Investor Protection Corporation (“SIPC”), and also in consultation with the United States Securities and Exchange Commission (“SEC”), the Federal Reserve Bank of New York (“FRBNY”), the Commodities Futures Trading Commission (“CFTC”), and the Financial Industry Regulatory Authority (“FINRA”). The Trustee continues to respond regularly to formal and informal information requests from regulators and others as well as a steady flow of third-party subpoenas and information requests. Equally important, the Trustee and his professionals interact with scores of LBI’s customers and general creditors each week, and regularly communicate with other direct and indirect parties in interest including the Chapter 11 Debtors, their Creditors’ Committee and other creditors of those proceedings, and with LBIE and other foreign affiliates.

1. James W. Giddens (the “Trustee”), as trustee for the liquidation of LBI, respectfully submits this Sixth Interim Report (this “Report”) in accordance with the terms of the Order of the Court entered on November 7, 2008 (ECF No. 241), and pursuant to SIPA § 78fff-1(c).¹

2. This Report covers the period from April 23, 2011 through October 21, 2011 (the “Report Period”).²

3. All Interim Reports, along with a complete docket, regular progress updates, and substantial other information about this liquidation, may be downloaded from the Trustee’s website, www.lehmantrustee.com.

I. FINANCIAL CONDITION OF ESTATE

4. For information relating to the LBI Estate’s financing, including cash flow, assets on hand, and professional fee disbursements, see Exhibit 1.

5. This financial information reflects cash, cash equivalents, and other short-term liquid assets in the amount of \$11 billion and securities in the amount of \$12.686 billion. All of these assets are currently under the Trustee’s control. This information is based on a reasonable approximation of the market value of securities held by the Trustee. As with all other financial information in this Report, the value of the securities is only an estimate, is unaudited, and is subject to revision.

II. CLAIMS ADMINISTRATION

Customer Claims Processing Overview

6. During the Report Period, the Trustee allowed \$2.2 billion in customer claims, primarily relating to further reconciliation and determination of LBIE’s omnibus customer claim, as discussed below in ¶¶ 28-30.

7. During the Report Period, the Trustee filed, advanced, or resolved, four motions seeking to resolve more than 243 customer claims.

8. Additionally, the Trustee denied or otherwise reduced claims by approximately \$5.9 billion in the Report Period. This was primarily due to advancement in litigation on LBIE’s proprietary claims, where LBIE reduced the amount sought from

1. Subsequent references to SIPA through this Report will omit “15 U.S.C.”

2. Prior reports covered the periods from: September 19, 2008 through May 29, 2009 (the “First Interim Report”) (ECF No. 1151); May 30, 2009 through November 11, 2009 (the “Second Interim Report”) (ECF No. 2055); November 12, 2009 through May 10, 2010 (the “Third Interim Report”) (ECF No. 3244); May 11, 2010 through October 26, 2010 (the “Fourth Interim Report”) (ECF No. 3842, *corrected by* ECF No. 3864); and October 27, 2010 through April 22, 2011 (the “Fifth Interim Report”) (ECF No. 4245).

\$13.9 billion to \$8.9 billion after exhausting multiple requests to extend its objection period, as discussed below in ¶¶28-32.

9. In total, the Trustee has allowed approximately \$12.2 billion of claims: \$3.4 billion relate to 998 non-affiliate customer claims (this includes approximately \$521 million involved in claims objections); \$8.3 billion relate to LBIE's omnibus claim; \$523.1 million relate to four LBHI claims; and \$58.6 million relate to two international affiliate claims.

10. The Trustee has denied customer status to more than 10,000 claims, totaling approximately \$42.5 billion, which are now closed and final (i.e., no objection was filed, the objection was withdrawn, or the Trustee's determination was confirmed by Court Order).

11. There remain over 3,000 claims with an approximate value of \$42.1 billion that are unresolved. Of this, \$41.6 billion relates to denied claims that are disputed, while \$581 million relates to allowed claims where the claimant has objected or the time to object has yet to expire.

12. Through the SIPA account transfer and SIPA customer claims processes, the Trustee has dealt with approximately 125,000 customer claims seeking the return of more than \$180 billion. More than 110,000 of these claims, aggregating in excess of \$92.3 billion, were resolved through account transfers to solvent broker-dealers in prior report periods. (*See* Third Interim Report ¶¶ 5-10.)

13. In total, more than 14,000 customer claims have been reconciled and determined in the SIPA customer claims process. (*See* Fifth Interim Report § II.)

14. A summary of the customer claims categories by amount is set forth in the chart below:

Customer Claims Categories (In millions)	Allowed³	Denied and Closed (Includes Reclassified)	Denied and Disputed⁴	Grand Total
Non-Affiliate	\$ 3,365.5	\$ 24,090.9	\$ 14,058.9	\$ 41,515.3
LBIE	8,292.9 ⁵	5,052.9	16,932.0 ⁶	30,277.8
LBHI	523.1	11,362.5	7,998.8	19,884.4
Other Affiliates	58.6	1,996.1	2,565.7	4,620.4
Total Amount	\$ 12,240.1	\$ 42,502.4	\$ 41,555.3	\$ 96,297.8

15. For additional graphical summaries of customer claims processing, see Exhibit 2. The Trustee's efforts to resolve these claims by negotiation or litigation, including scheduled hearings or other significant dates, are set forth in § III.

16. Pursuant to § 78fff-3(a), the Trustee may request advances from SIPC in satisfaction of customer net equity claims in amounts up to \$500,000, of which up to \$100,000 may be used to satisfy claims to cash (the "SIPA Limits"). The Trustee has requested and received \$15.2 million from SIPC to satisfy 481 claims, and has completed distributions to 99% of these claimants. In order to qualify for an advance, among other things, a claimant must provide the Trustee with a fully executed release. The Trustee has administered SIPC advances for customer claims that are within, and in some circumstances slightly above, the SIPA Limits. The Trustee anticipates seeking additional SIPC advances for approximately 80 remaining similarly situated and eligible claims once those claimants return signed releases and provide the information necessary to complete the transfer of property.

17. The Trustee has not requisitioned to date, and does not presently anticipate having to requisition, any funds from SIPC in the course of the liquidation to pay administrative expenses.

General Creditor Claims

18. During the Report Period, the Trustee's professionals undertook a preliminary analysis of general creditor claims. The Trustee's analysis reflects that

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3. The total allowed claims equals approximately \$12.2 billion which includes approximately \$520.6 million of allowed amounts included in objections filed by non-affiliate claimants, and \$60.6 million for which the time to object has yet to expire.
 4. Includes several denied claims in which the time to object to a determination has yet to expire.
 5. Subject to it being established that allowed amounts belong to underlying customers. LBIE's time to object to the Trustee's determination of these allowed claims has not run, but the parties continue to work cooperatively to close these claims.
 6. This figure includes late-filed claims that are time-barred; LBIE disputes that these claims are invalid.

approximately 1,200 claims have been filed, with an asserted value of approximately \$3 billion, which seek pre-petition priority claim status under sections 507(a)(4), (5), (7) and (8) of the Bankruptcy Code. The Trustee currently projects that the allowed amount of these alleged priority claims may range from \$1.2 – \$1.5 billion. The Trustee has also received more than \$42 billion of general creditor or reclassified customer claims from LBHI, LBIE, and other former foreign and non-debtor affiliates of LBI. Claims of non-affiliates filed in amounts exceeding \$10 million, or which were filed as customer claims in such amounts but are now subject to reclassification as general creditor claims, exceed \$52 billion, although any actual allowable amount will be much less.

19. Even when eliminating clear duplicates or claims asserted against the wrong entity, the asserted amount of priority and general unsecured claims (without ascribing value to unliquidated amounts and not including for this purpose reclassified customer claims) appears to exceed \$47.5 billion. Moreover, in keeping with SIPA § 78fff-2(c)(1), any customer claims that are subsequently reclassified or cannot be fully satisfied from the fund of customer property become claims against the general estate.

20. In total, the Trustee received approximately 8,800 general creditor claims. The Trustee reclassified approximately 250 of these claims as customer claims based on the assets claimed and other information provided therein. Conversely, any claim filed as a customer claim but determined to be a general creditor claim has been reclassified as such, without requiring the claimant to re-file a claim to this effect. Of the over 14,000 customer claims received by the Trustee, approximately 4,000 have been reclassified as general creditor claims. Accordingly, the total number of general creditor claims currently subject to review and reconciliation is approximately 12,550.

21. In keeping with SIPA and § 704(a)(5) of the Bankruptcy Code, when the Trustee has reason to believe that there will be a meaningful distribution to general creditors, he will begin the process of reviewing general unsecured claims in greater detail and determining the validity and actual allowed amounts of secured, administrative and priority claims. This will necessarily involve court approval of allocation of property between the fund of customer property and the general estate, discussed in § IV.

22. The Trustee, by and through his Claims Agent, EPIQ Systems, maintains Customer and General Creditor Claims Registers (the “Registers”). Parties-in-interest may obtain online access to review both Registers and filed-claim forms by contacting EPIQ Systems at (646) 282-2400. Representatives of the Trustee, including counsel, are not authorized to answer questions about specific claims or claim amounts other than from owners of the claim. Parties should take notice of the disclaimers accompanying both Registers and the notes associated with the Customer Claims Register. In addition, parties should be aware that certain claims on the Customer Claims Register remain on that Register (rather than the General Creditor Claims Register) though the Customer Claims have been reclassified to General Creditor Claim status, subject to further determination by the Trustee in the General Creditor Claims process.

III. RESOLVING THE REMAINING DISPUTED CUSTOMER CLAIMS

23. As explained below, over 3,000 claims totaling approximately \$42 billion remain, including principally the multibillion dollar claims of LBIE and LBHI, and a number of hedge funds (this figure includes several claims that the Trustee has allowed but to which claimants have objected). Resolving these claims will be the principal focus of the rest of the liquidation.

24. Over the course of the liquidation, the Trustee has received 1,430⁷ objections (excluding duplicates and amendments) from non-affiliates in connection with the Trustee's customer claim determinations. The time for objections has expired with respect to 10,549 claims.

25. The Trustee's professionals continue to contact objecting claimants to discuss their claims and objections. In total, 212 non-affiliate objections have been voluntarily withdrawn, 26 of which were voluntarily withdrawn during the Report Period. (*See, e.g.*, ECF Nos. 3001, 3345, 3403, 3509, 3579, 4259, 4346, 4473.) As of September 30, 2011, 34 objections have also been expunged by Court Order. (*See, e.g.*, ECF Nos. 3111, 3418, 3523, 4205, 4374). The total value of the objections voluntarily withdrawn or expunged by Court Order is more than \$1 billion.

26. With respect to the remaining objections that are not withdrawn, the Trustee intends to continue to move toward resolving those objections. If the attempts of the Trustee's professionals to explain the Trustee's determination prove unsuccessful in persuading claimants to withdraw their objections, the Trustee intends to obtain determinations from the Bankruptcy Court. For efficiency's sake, the Trustee may seek determinations first of representative claims of a given type, with the goal of having other, similarly situated claimants withdraw their objections if the Bankruptcy Court should agree with the Trustee's determinations.

27. For information on the Trustee's claims adjudication procedures, which were approved by the Bankruptcy Court on November 7, 2008 (ECF No. 241). (*See* Fourth Interim Report ¶¶ 43-46.)

Claims Received From LBIE⁸

28. On January 30, 2009, LBIE filed an omnibus customer claim on behalf of approximately 1,143 LBIE client accounts (the "Omnibus Customer Claim") and a purely proprietary claim on its own behalf (the "House Claim"), both of which were subsequently amended by LBIE on May 29, 2009. The LBIE Omnibus Customer Claim included a securities-related cash balance of approximately \$4.5 billion, securities

7. A claimant may file one or more objections relating to a single claim that fall into multiple objection categories. In such instances, the objection(s) are counted in each respective objection category under which they fall.

8. The Trustee's claims against LBIE are discussed at ¶¶ 59-62.

positions of approximately \$6.3 billion, and commodities futures positions of \$146 million. The LBIE House Claim included a securities-related cash balance of approximately \$5.6 billion, a securities balance of approximately \$2.2 billion, and a securities financing-related balance of \$2.3 billion. In addition, LBIE asserted a failed trades claim with respect to over 100,000 “failed to deliver to LBI” trades and over 95,000 “failed to receive from LBI” trades (the “LBIE Failed Trades Claim”). On September 10, 2010, more than fifteen months after the claims bar date, LBIE sent to the Trustee purported second amendments to the LBIE Omnibus Customer Claim and the LBIE House Claim, which increased the total amounts of LBIE’s claims to \$16.4 billion and \$13.9 billion, respectively. The Trustee has rejected the new claims raised by the purported amendments as untimely.

29. On September 16, 2010, the Trustee issued letters of determination with respect to the LBIE Omnibus Customer Claim, the LBIE House Claim and the LBIE Failed Trades Claim. With respect to the LBIE Omnibus Customer Claim, the Trustee allowed over \$6 billion of the securities claim, deferred the cash claim, and denied the commodities futures claim (which concerned accounts transferred to Barclays). The Trustee denied in part and denied and reclassified in part the House Claim and denied the Failed Trades Claim, except to the extent expressly allowed or deferred as part of the determination of the Omnibus Customer or House Claims. After further investigation, on May 19, 2011, the Trustee issued an amended letter of determination for the Omnibus Customer Claim, amending the securities claim and allowing \$2.2 billion of the cash claim, for a total allowed claim of more than \$8.3 billion.

LBIE Omnibus Customer Claim (all claims determined)

(1,143 underlying LBIE client accounts; \$8.3 billion allowed; \$8.1 billion in dispute)

30. Since May 19, 2011, the Trustee has continued to work cooperatively with the LBIE Estate to resolve remaining questions regarding the cash and securities positions owed to LBIE’s underlying clients in the Omnibus Customer Claim. Through a significant, comprehensive, and cooperative process, and dedication of resources on both sides, the parties’ professionals have reconciled and largely agreed on the facts concerning tens of thousands of transactions that were processed between the date of LBIE’s administration (September 12) and the SIPA Filing Date (September 19). Substantial agreement has been reached on fundamental facts concerning the positions and balances reflected in the Customer Omnibus accounts as of the Filing Date. LBIE, however, does not agree with the disposition of some transactions as between the House account and the Customer Omnibus account and more fundamentally seems to disagree with net equity claims resulting from the largely agreed upon reconciliation. These issues remain under discussion but, if LBIE will not accept the result, will require litigation. To that end, LBIE’s deadline to object to the Omnibus Customer Claim determination is October 31, 2011.

LBIE Proprietary House Claim (all claims determined)

(\$13.9 billion asserted and denied in full as customer claim; \$8.9 billion in dispute)

31. With respect to the House Claim, at LBIE's request the Trustee extended the time for LBIE to object to his determination until August 1, 2011. On August 1, in accordance with a joint Initial Scheduling Order and Discovery Plan approved by the Bankruptcy Court of the Southern District of New York, LBIE filed its Objection. The Objection argues that LBIE should be treated as a SIPA "customer" on its House Claim, which LBIE now values at \$8.9 billion, despite the proprietary nature and the effect that the allowance of such a claim would have on customers, including LBIE's own omnibus account customers.

32. On September 30, 2011, the Trustee filed a statement of his position, asserting, among other things, that LBIE does not meet SIPA's requirements for "customer" status with respect to its House Claim, that treating LBIE's House Claim as a "customer" claim would contravene SIPA and its purposes, that many elements of the claim such as stock loans do not qualify as customer transactions, and that other elements are not supported by LBI's books and records or are untimely. The statement notes that, should any part of the claim ultimately be allowable, the net equity of the claim would include a substantial reduction reflecting LBIE's indebtedness to LBI on the Filing Date. LBIE has the right to file a responsive statement of position on or before November 15, 2011. The parties have commenced discovery, and trial is currently scheduled for early 2013.

Claims Received From LBIE Account Holders

(293 remaining claims; approximately \$13 billion in dispute)

33. Objections to the Trustee's denial of customer claims remain on behalf of 293 LBIE account holders asserting claims amounting to approximately \$13 billion. The affected parties are primarily hedge funds that entered into prime brokerage and related agreements with LBI, LBIE, and certain other Lehman entities, and chose to trade securities through LBIE rather than directly through LBI. For these claims, the Trustee has determined that the property claimed by these parties was not held in LBI accounts, but rather in LBIE omnibus accounts. Where LBI held U.S. positions as agent and clearing broker for LBIE on an undisclosed basis, LBI's books and records show, and the SIPA statute requires, that LBIE be treated as the account holder rather than the underlying LBIE clients.

34. As discussed above, the Trustee has determined LBIE's Omnibus Customer Claim, allowing it as a customer claim for more than \$8.3 billion. During the Report Period, the Trustee's professionals and professionals working for the LBIE Administrators have examined some direct claims of LBIE account holders who filed claims in both the LBI and LBIE proceedings. During the Report Period, the Trustee's professionals have begun a series of three-way discussions with the LBIE Administrators and the claimants in an effort to reconcile claims and eliminate duplicate claims. The Trustee hopes and expects that many or all the LBIE account holders' objections will be

resolved through the allowed Omnibus Customer Claim. However, some significant claims in this category may have to be litigated.

Claims Received From LBHI and the Chapter 11 Debtors⁹

(244 remaining claims; approximately \$7.9 billion in dispute)

35. The Chapter 11 Debtors and their subsidiaries filed 630 claims¹⁰ against LBI on behalf of themselves and their customers or counterparties with a total estimated value of approximately \$19.9 billion. The Trustee has been analyzing these claims and has sent letters of determination with respect to the Chapter 11 Debtors' claims. Where appropriate, and after extended discussions with the Chapter 11 Debtors to obtain the missing information, the Trustee sent deficiency letters indicating the additional information that the Chapter 11 Debtors need to supply in support of some of their claims.

36. The Trustee has allowed four customer claims of the Chapter 11 Debtors, for approximately \$523 million. The Trustee issued letters of determination subordinating approximately \$13.27 billion of the Chapter 11 Debtors' claims to all other creditors' claims, because these claims are subject to subordination agreements. The Chapter 11 Debtors' remaining customer claims were either reclassified as general creditor claims, determined to be deficient, had negative net equity, or denied for other reasons. The Trustee may have other defenses or reasons to subordinate or reduce, by setoff or otherwise, some claims by the Chapter 11 Debtors.

37. After receipt of the Trustee's determination letters, the Chapter 11 Debtors confirmed that approximately \$11.36 billion of such claims are subject to contractual subordination. Subordinated claims are not entitled to customer status. SIPA defines "customer" to exclude "any person to the extent that such person has a claim for cash or securities which by contract, agreement, or understanding, or by operation of law, is part of the capital of the debtor, or is subordinated to the claims of any or all creditors of the debtor, notwithstanding that some ground exists for declaring such contract, agreement, or understanding void or voidable in a suit between the claimant and the debtor." SIPA § 78III(2)(B). For the additional \$1.91 billion in customer claims that the Trustee determined to be subordinated, the Chapter 11 Debtors have not confirmed contractual subordination. The Trustee and Chapter 11 Debtors are continuing to research and exchange information relating to these claims.

38. For the remainder of the approximately \$6 billion in claims of the Chapter 11 Debtors potentially still pending, the Trustee either disputes or requires additional information to determine whether these claims meet SIPA's requirements to qualify as

9. The Trustee's claims against LBHI and the Chapter 11 Debtors are discussed at ¶ 74.

10. The Chapter 11 Debtors originally filed 632 claims. However, the Trustee has moved two such claims, which should have been asserted by Lehman Brothers (Luxembourg) Equity Finance SA, out of the Chapter 11 Debtors population. The Trustee's claims and dealings with other international affiliates are discussed in Section VII.

customer claims within the meaning of the statute. For these claims, the Trustee is working closely with the Chapter 11 Debtors to prioritize answers to factual questions and resolve discrepancies, beginning with some of the larger claims. This process includes an ongoing information exchange and frequent meetings between the Chapter 11 Debtors' and Trustee's respective financial and legal teams, as well as a joint reconciliation of the parties' respective claims. In order to allow this process to progress, at the request of the Chapter 11 Debtors, the Trustee extended the Chapter 11 Debtors' time to respond to the letters of determination through September 30, 2011.

39. On September 28, 2011, the Chapter 11 Debtors filed their Objection to the Trustee's Determination of Claims. (Objection of Lehman Brothers Holdings Inc. and Certain of Its Affiliates to the Trustee's Determination of Claims; ECF No. 4584.) As noted in the objection, discussions with the Chapter 11 Debtors, including efforts to globally resolve all of the Chapter 11 Debtors' claims, continue to progress. (*See id.* at ¶ 6.)

Other International Affiliate Claims¹¹

(11 remaining claims; approximately \$2.62 billion in dispute)

40. In addition to the claims filed against LBI by LBIE and LBHI on behalf of several of its affiliates, claims were filed against LBI by foreign Lehman affiliates from eleven different jurisdictions: Bermuda, the Dutch Antilles, Germany, Hong Kong, India, Japan, Luxembourg, the Netherlands, Singapore, Switzerland, and the United Kingdom.

41. A total of 49 customer claims have been filed by Lehman affiliates against LBI. Of these, the Trustee has allowed 2 claims, denied 18 claims, and determined that 29 claims do not qualify for customer status under SIPA and should be reclassified as general unsecured claims.¹² Included among the denied claims is a customer claim filed by Lehman Brothers Finance AG ("LBF") valued at approximately \$2.38 billion. (*See infra* ¶¶ 97-98.) Substantial portions of the LBF claim are subject to subordination and/or were untimely filed.

42. The Trustee has received 7 objections to determinations by not only LBF but also Lehman Brothers Commercial Corporation Asia Limited and Lehman Brothers Asia Capital Company Limited that have a total value of \$2.49 billion. Time to object has not run for the remaining unresolved affiliate claims.

43. The Trustee and his professionals continue to work with other Lehman affiliates to evaluate overall intercompany relationships and reconcile the claims of foreign Lehman affiliates against LBI on a bilateral basis and through the Global Cross-

11. The Trustee's claims and dealings with other international affiliates are discussed at § VII.

12. Since the Trustee's Fifth Interim Report, 8 claims by customer of Lehman Brothers Japan, Inc. previously included with the other international affiliate claims are now included with the non-affiliate customer claims. Of the eight, seven were allowed and one was denied.

Border International Protocol (the “International Protocol”) into which the Trustee and certain of the Lehman affiliates entered.

44. During the Report Period, representatives of the Trustee have participated in three meetings of the signatories to the International Protocol held in New York or by conference call. The next meeting is scheduled for November 15, 2011 and will be held in New York.

TBA and Other Forward Transactions

(1,118¹³ remaining claims; approximately \$317 million in dispute)

45. On June 24, 2011 the Trustee filed a motion for an order confirming the Trustee’s determination of claims related to open TBA contracts.¹⁴ The Trustee’s motion presents the legal arguments regarding why claims for contract damages on open to-be-announced (“TBA”) forward contracts for mortgage-related securities are not SIPA customer claims, based on the factual record for four representative claimants. The claimants are represented by counsel for three different asset management firms that collectively have filed more than a third of the objections in this category. In addition, other TBA claimants have been allowed to participate in the briefing. The parties have engaged in limited written and deposition discovery, and a hearing on the motion has been scheduled for November 17, 2011. The Trustee expects that the determination of the TBA motion will resolve most of the claims in this category and provide guidance for resolution of other, similar claims.

Repurchase Transactions

(43 remaining claims; approximately \$538 million in dispute)

46. As reported in previous reports, the Trustee has denied customer treatment to claims arising out of repurchase (“repo”) agreements entered into with LBI. These represent contractual financing arrangements and claims for breach damages rather than claims arising out of customer relationships. The claims have been re-classified as claims against the general estate of LBI.

47. Repo counterparties have filed objections to the Trustee’s determinations with respect to 43 claims. The Trustee and certain repo claimants with the largest claims by dollar amount (the “Test Case Claimants”) have agreed on a procedure for promptly and efficiently presenting to the Court the question of whether repo claims are entitled to customer status, as approved by the Court on July 13, 2011 (the “July 13 Order”) (ECF No. 4395). Pursuant to the July 13 Order, the Trustee is currently engaged in discovery with the Test Case Claimants, and expects to seek a status conference with the Court by

13. Claims relating to TBA contracts account for 649 of the 1,118 remaining claimants. The remainder relate to other forward contract claims.

14. Of the 1,777 claims filed by parties to open TBA Contracts, 1,128 claimants have accepted general creditor status related to their TBA Contract claims, either by declining to object to the Trustee’s reclassification or by initially filing their TBA Contract claims against LBI as general creditor claims. Holders of 649 TBA-related claims are asserting customer status.

October 30, 2011 in order to set a schedule for filing and briefing of the Trustee's motion to uphold his determination of the claims filed by the Test Case Claimants.

48. In addition, on September 30, 2011, the Trustee filed a separate stipulation with certain other repo claimants who have filed objections but are not participating in the litigation with the Test Case Claimants (the "Non-Participating Claimants"). This stipulation binds the Trustee and the Non-Participating Claimants to any legal rulings made by the Court with respect to the Test Case Claimants, except where the Court expressly provides that its rulings shall not apply to the Non-Participating Claimants, and requires the Trustee to offer any settlement to the Non-Participating Claimants on no less favorable terms than the terms, if any, offered to the Test Case Claimants, unless different settlement terms are justified by legal or factual distinctions. The Trustee is continuing to discuss whether other repo claimants will also sign on to the stipulation.

Foreign Currency Transactions (FX)

(3 remaining claims; approximately \$12 million in dispute)

49. The Trustee denied customer status to claims for foreign currency forward transactions and related cash. In total, the Trustee received 12 objections to such determinations. On July 19, 2010, the Trustee filed a motion to uphold his determination of four claims for termination damages related to foreign currency forward transactions allegedly due from LBI to the claimants pursuant to ISDA Master Agreements which governed the transactions (the "FX Damages Motion") (ECF No. 3490). Prior to the hearing of the FX Damages Motion scheduled for August 19, 2010, each of the claimants entered into stipulations with the Trustee withdrawing their objections and agreeing that the claims were not customer claims. On March 9, 2011 the Trustee filed a motion to uphold his determination of four claims for cash related to foreign currency forward transactions allegedly due from LBI to the claimants (the "FX Cash Motion") (ECF No. 4149). After adjourning the hearing date for the FX Cash Motion to discuss withdrawal of the objections, the claimants subject to this motion have now all agreed to withdraw their objections to denial of customer status and accepted general creditor status for their claims (ECF Nos. 4374, 4642). One additional objection, which was not subject to either of the motions, was withdrawn by the claimant without the need for Court intervention. The Trustee's professionals continue to engage in discussions with the three remaining claimants to resolve their objections.

Underwriting Fees

(all disputes resolved)

50. On March 16, 2010, the Trustee moved to uphold the determination that underwriters are not customers and that the fees related to underwriting are not customer property (ECF No. 2833; Fourth Interim Report ¶ 55). The hearing on this motion, scheduled for December 9, 2010, was adjourned indefinitely to accommodate ongoing discussions with the claimants. These claimants have now accepted reclassification of their claims to general creditor status.

Shorts Valuation Date

51. For information on the Court's ruling in favor of the Trustee's position that short positions in a customer account are to be valued as of the Filing Date, see the Fifth Interim Report ¶¶ 52-55.

Miscellaneous

(193 remaining claims; approximately \$848 million in dispute)

52. The Trustee denied customer status to several hundred claims for various reasons including that the claim was (i) not based on a relationship with LBI; (ii) based on an account that was empty as of the filing date; (iii) based on wages and compensation allegedly owed by LBI; or (iv) based on an account that transferred pursuant to the Court's December 14, 2009 Order Approving the Account Transfers (ECF No. 2338; *see also In re Lehman Brothers Inc.*, Case No. 1:10-cv-05740-RJS (S.D.N.Y. June 1, 2010)).

53. Many of the objections received in response to these determinations contend that the claimant is entitled to loss in value of their property suffered as a result of the Lehman collapse or alleged misconduct by LBI personnel prior to the Filing Date. For further information on these categories of claims and related objections, see the Fifth Interim Report ¶¶ 56-61.

54. On November 18, 2010 the Trustee filed a Motion for an Order to Uphold the Trustee's Determinations Denying Claims Based on Alleged Unauthorized Trading and Expunging the Related Objections Thereto (ECF No. 3903). All claimants subject to this motion have now stipulated to withdraw their objections.

55. The Trustee's professionals also have continued to contact claimants to resolve objections without litigation. During the Report Period, the Trustee successfully negotiated the withdrawal of 26 objections covering 37 customer claims with an approximate value of \$550 million. (*See e.g.*, ECF Nos. 4259, 4346, 4473). Additional withdrawals concerning some of these claims have been agreed upon in principle but are not yet fully documented or submitted to the Court.

IV. ALLOCATION MOTION

56. As previously reported, on March 2, 2010, the Court authorized the Trustee to reallocate property from other sources to the fund of customer property as necessary to cure certain compliance shortfalls identified in the Motion for Order Approving Trustee's Allocation of Property of the Estate, filed October 5, 2009 (the "Allocation Motion") (ECF No. 1866). (Order on Allocation Motion, ECF No. 2743.) The Court's Order also recognized that the Trustee may seek further order of the Court to the extent additional compliance issues are identified. (*Id.*) The Trustee is currently working with the estate's advisors to complete the analysis of compliance issues, as well as other bases for allocation of customer property under SIPA.

57. In addition, the Trustee's advisors are preparing an allocation of the cash and securities under the Trustee's control, which will identify the property in the Estate

that was held by LBI for the benefit of customers, or was derived from such property. The Trustee expects to file a motion before the end of the year which will address this customer property as well as the identified compliance issues and other bases for allocation.

**V. THE TRUSTEE'S CLAIMS AND INVOLVEMENT WITH LEHMAN
BROTHERS INTERNATIONAL (EUROPE)**

58. Because of the hundreds of thousands of transactions between the two affiliated entities, the ultimate outcome and final distributions in this SIPA liquidation will in part be unknown until LBIE has materially advanced its administration. While the Trustee has determined all of LBIE's claims to the estate, including an allowed claim of \$8.3 billion, none of the Trustee's claims to LBIE have been determined by LBIE. Indeed, LBIE's bar date will not run until December 2012 and may be again extended by the LBIE Administrators, and in the meantime the Trustee has had to litigate multiple issues in the U.K. with no allowance of any of the Trustee's claims in the LBIE proceeding to date. Accordingly, the outcome of the claims and proceedings described below, as well as the time by which LBIE is able to deal with them, are of material concern to the Trustee because it may impede the recoveries of customers and other creditors of LBI.

LBI's Claim Against LBIE¹⁵

59. On June 30, 2009, the Trustee filed two securities-related claims against LBIE: one relating to securities of LBI's customers and the other a proprietary claim on behalf of LBI. LBIE has taken the position that certain of the customers covered by the Trustee's claim were actually LBIE customers entitled to distribution of such assets by LBIE. LBIE and the Trustee have engaged in discussions seeking to resolve this issue.

60. On July 13, 2011, the Trustee submitted to LBIE a claim (the "July 13 Claim") with respect to all obligations of LBIE to LBI as of the date of LBIE's bankruptcy discovered so far by the Trustee, which included the securities claims filed on June 30, 2009. The total value of the July 13 Claim was \$15.9 billion, excluding certain claims for which valuation was not available. The July 13 Claim was, in general, calculated on a gross basis, without set-off for amounts claimed by LBIE against LBI, given some positions taken by LBIE on its claims in the U.S.

61. LBIE has disputed certain aspects of the July 13 Claim. For example, the July 13 Claim includes approximately \$3 billion of claims for certain transactions as to which LBIE asserts LBI is a debtor to LBIE. In addition, the July 13 Claim includes approximately \$1.2 billion relating to short positions in LBIE's omnibus customer account with LBI, which has been deducted in determination of the net equity of LBIE's allowed omnibus customer claim pursuant to SIPA § 78III(11). These short positions were included in the July 13 Claim as a precaution should such reduction in LBIE's omnibus customer claim not be given full effect.

15. Claims filed by LBIE are discussed at ¶¶ 28-32.

62. The Trustee and his professional advisors are currently engaged in discussions with LBIE's representatives regarding the extent to which LBIE will accept the July 13 Claim. LBIE's treatment of this claim, or possible litigation about it in the U.K., will have a material impact on the LBI Estate and the Trustee's ability to satisfy claims of customers and other creditors, both in terms of augmentation of the assets available to the Trustee and in terms of the effect on LBIE's House Claim in the SIPA liquidation. LBIE does not even have a claims bar date for well over a year, and the Trustee is concerned that significant delay and uncertainty about the amount of claims and what property is available to satisfy them in the U.K. will adversely affect the timing of distributions in the SIPA proceeding.

UK Court Proceedings (Client Money, Extended Liens, and RASCALS)

63. The SIPA liquidation of LBI has been recognised by the U.K. High Court as a foreign main proceeding.

Client Money

64. In May 2009, the Administrators of LBIE made an application to the U.K. High Court seeking directions concerning LBIE's obligations under applicable U.K. regulations in relation to the handling of client money by LBIE prior to the time of administration, and judgement on this application was handed down on December 15, 2009. *Lehman Brothers International (Europe) v. CRC Credit Fund Ltc & Ors* [2009] EWHC 3228 (Ch). LBI and certain other client money claimants of LBIE appealed such decision to the U.K. Court of Appeal, and judgement on the appeals was handed down on August 2, 2010. *CRC Credit Fund & Ors v. GLG Investments Plc Sub-Fund: European Equity Fund & Ors* [2010] EWCA Civ 917.

65. The Court of Appeal overturned the High Court's judgement on two issues. First, the Court of Appeal held that the U.K. client money rules require identifiable client money held by LBIE (at the time of administration) outside its segregated accounts to be pooled with the client money held in its segregated accounts. The lower court's judgement had held that (a) the pool was comprised only of the client money in LBIE's segregated accounts and (b) identifiable client money held outside those accounts should be returned to the specific clients for whom it was held. Second, the Court of Appeal held that all clients who ought to have had money segregated for them by LBIE as client money prior to administration are entitled to share in the client money pool, regardless of whether or not LBIE did in fact segregate client money for them. The lower court's judgment had held that only segregated client money claimants were entitled to claim against the pool. The Court of Appeal upheld the lower court's judgment that the statutory trust applicable to client money attaches at the point of receipt by LBIE, not the point of segregation, and that money which was due and payable by LBIE to a client prior to LBIE's administration but in respect of which no money had been specifically appropriate for that client prior to LBIE's administration is not client money. The Trustee has a claim against LBIE for a substantial amount of client money.

66. In December 2010, the U.K. Supreme Court approved the application for permission to appeal of another client money claimant, and the Trustee is a respondent to this appeal. The substantive hearing of this appeal is scheduled to commence on October 31, 2011 and is expected to last up to four days. It is presently anticipated that the Supreme Court's judgment will not be delivered until early 2012.

67. On April 8, 2011, the Administrators of LBIE made an application to the U.K. High Court seeking directions regarding (amongst other things) the legal principles to be applied to identify and trace pre-administration client money outside of segregated accounts. Given the overlap with the matters the subject of the pending Supreme Court hearing in the Administrators' earlier application, the High Court ordered at a procedural directions hearing on May 11, 2011, in which the Trustee appeared as a respondent, that the Administrators' latest application be adjourned until the Supreme Court hands down judgement.

68. The LBIE administrators sought in the U.K. Supreme Court to introduce new evidence to explain how funds were treated by LBIE and practical difficulties created by the Court of Appeal ruling. On July 21, 2011, the U.K. Supreme Court rebuffed this attempt.

"RASCALS"

69. In previous reports, the Trustee reported that certain Lehman affiliates appealed the November 19, 2010 judgment handed down by the U.K. High Court in the RASCALS (Regulation and Administration of Safe Custody and Local Settlement) Application. The application, which was commenced by the Administrators of LBIE in July 2009, sought the U.K. High Court's ruling as to the ownership of securities in LBIE's depots which were purchased by LBIE for the trading books of other Lehman affiliates, including LBI, and which were, as of LBIE's bankruptcy, the subject of the internal Lehman process known as "RASCALS."

70. A hearing on the appeal was held before three Justices of the U.K. Court of Appeal on October 10, 2011 through October 12, 2011. Although the Trustee did not actively participate in the appeal, he monitored the proceeding to consider its implications on other U.K. proceedings and the LBI Estate generally.

Back-to-Back Side-Letters

71. The LBIE Administrators have filed an application in the U.K. High Court for directions with respect to the construction of side-letters between LBIE and certain of its affiliates in relation to over-the-counter ("OTC") derivatives transactions entered into by LBIE with those affiliates and clients on back-to-back terms. On their face, the side-letters seek to limit LBIE's market and credit risk. No date has been set for a substantive hearing of the application but a scheduling order is in place. Given LBI's relatively small OTC exposure, the Trustee is not participating actively in the application, but will continue to monitor the proceeding and consider the outcome of the application in due course and its implications for the LBI Estate.

Extended Liens

72. On June 6, 2011 the Administrators of LBIE made an application to the U.K. High Court seeking directions in respect of the validity and effectiveness of provisions contained in LBIE's standard agreements with affiliates which confer upon LBIE liens and other security interest entitlements for the benefit of LBIE and its affiliates in respect of assets held by LBIE, as security for obligations owed by the asset-owning entities. The Trustee is continuing to seek the disclosure of information from the Administrators of LBIE necessary to determine where LBI's interests lie in the application. In order to protect LBI's position, the Trustee is currently named as a respondent. A further directions hearing is scheduled to take place later this year, with the substantive hearing likely to take place in mid-2012.

VI. THE TRUSTEE'S CLAIMS AND INVOLVEMENT WITH LEHMAN BROTHERS HOLDINGS INC. AND ITS AFFILIATES

73. Substantial progress has been made with the LBHI and the Chapter 11 Debtors.

LBI's Claims Against LBHI and the Chapter 11 Debtors¹⁶

74. Pursuant to the Stipulation, Agreement and Order Between the Debtors and the Signatories to the Cross-Border Insolvency Protocol with Respect to the Bar Date Order approved by the Bankruptcy Court on August 25, 2009 (LBHI ECF No. 4928), the deadline for the Trustee to assert LBI's claims against the Chapter 11 Debtors was November 2, 2009. The Trustee, with the agreement of the Chapter 11 Debtors, amended his claim. The Trustee has been involved in extensive discussions with the Chapter 11 Debtors to reconcile his claims, in conjunction with reconciliation of the claims filed by the Chapter 11 Debtors. Much of the reconciliation has been completed, and pending receipt of additional information from the Chapter 11 Debtors, the remainder of the process expected to be completed in the coming months. Informal communications between the Chapter 11 Debtors and the Trustee's legal and financial advisors take place on a very frequent basis with more formal meetings and/or calls occurring regularly.

PIK Notes Received From Lehman ALI Inc.

Transferred Entities PIK Note

75. On September 19, 2008, in the hours before the commencement of the SIPA proceeding, LBI, while still under the control of LBHI, transferred stock of 25 entities (some of which, in turn, had multiple subsidiaries) to Lehman ALI Inc. in

16. Claims filed by LBHI and the Chapter 11 Debtors are discussed at ¶¶ 35-39.

exchange for a payment-in-kind note (“PIK Note”).¹⁷ Under the terms of the PIK Note, its value is to be the “fair market value of the Acquired Stock as of” September 19, 2008.

76. The Trustee and the Chapter 11 Debtors have continued their dialogue both as to the appropriate methodology for determining the value of the PIK Note, and the PIK Note’s value. As part of this effort, the Trustee has requested, and received, financial information about the transferred PIK Note entities. Additional information will be required for the Trustee to complete his analysis, and the Chapter 11 Debtors have been working to provide that information. The Trustee has retained Charles River Associates as his valuation consultant to assist in the valuation efforts. A separate, independent, valuation expert has been retained should testimony concerning the valuation of the PIK Note become necessary. The Trustee believes that the parties are engaged in a constructive dialogue that will lead either to the consensual valuation of the PIK Note or to a judicial dispute on primarily legal questions of interpretation.

Transferred Intellectual Property PIK Note

77. In addition, concurrent with the transfer of the PIK Note, LBI, while still under the control of LBHI, transferred certain intellectual property (patents and trademarks) to Lehman ALI, Inc. in exchange for a payment-in-kind note with a value to be determined at a later date (the “IP PIK Note”). The Chapter 11 Debtors informed LBI that, rather than attempt to determine the value of the IP PIK Note, they may instead return the intellectual property. The Trustee continues to evaluate this proposal in light of the ongoing, mutual discussions among the parties.

Chapter 11 Debtors’ Plan and Disclosure Statement

78. On September 1, 2011, LBHI and the Chapter 11 Debtors filed an amended Plan of Reorganization and Disclosure Statement. The same day, the Bankruptcy Court entered an Amended Order (LBHI ECF No. 19631) (i) approving the Chapter 11 Debtors’ proposed Disclosure Statement and the form and manner of notice of the Disclosure Statement hearing, (ii) establishing solicitation and voting procedures, (iii) scheduling a confirmation hearing, and (iv) establishing notice and objection procedures for confirmation of the Chapter 11 Debtors’ Joint amended Plan of Reorganization. The confirmation hearing will be held on December 6, 2011.

79. The Trustee’s professionals and counsel have engaged in a productive and ongoing dialogue with the Chapter 11 Debtors with the hope of avoiding and minimizing disputes. Although the SIPA liquidation is a separate proceeding from the Chapter 11 proceedings, the Trustee is a claimant in the Chapter 11 proceedings and in that capacity the Trustee’s professionals and counsel have been receiving and monitoring

17. Contrary to statements by LBHI in its public disclosure statements, the Trustee never specifically consented to the transfer of subsidiaries. The Trustee was informed about them in a telephone conversation with lawyers at Weil Gotshal & Manges but had not even been appointed when this call occurred. Representatives of LBI advised by others, not the Trustee, voted for and executed the transaction.

developments with respect to the amended Chapter 11 Plan and Disclosure Statement and proposed alternative plans, and have been analyzing the effects of those filings on LBI claims and working with the Chapter 11 Debtors to ensure that the Trustee's interests are addressed. On October 20, 2011, the Trustee and the Chapter 11 Debtors entered into a Stipulation and Agreement for provisional allowance of LBI's claim against Lehman Brothers Commercial Paper Inc. in the amount of \$550,375,083 for purposes of voting on the Chapter 11 Debtors' Plan as further provided in the Stipulation and Agreement (LBHI ECF. No. 21069).

80. On April 14, 2011, the Bankruptcy Court entered an Order (LBHI ECF No. 16003) establishing discovery schedules and procedures (the "Discovery Protocol") in connection with the LBHI plan process which specifically do not apply to the SIPA proceeding or in any way limit the Trustee's investigatory powers. Pursuant to the Discovery Protocol, requests for discovery were propounded on the Trustee, but implementation of the Discovery Protocol was stayed by Order of the Court dated July 21, 2011 prior to any deadline for response to such requests.

81. In addition, the Trustee has and continues to participate in discussions concerning the amended plans, disclosure statements, and attendant discovery proposals with the members of the Cross-Border Insolvency Protocol to protect the Trustee's interest as a creditor and also to prevent unnecessary disruption of or interference with the separate SIPA liquidation.

VII. OTHER INTERNATIONAL AFFILIATES

82. Since the previous interim report, the Trustee and his professional advisors have focused on working with foreign Lehman affiliates to reconcile intercompany accounts and on making determinations of customer claims against LBI filed by such affiliates. The following summarizes the Trustee's principal activities relating to the foreign Lehman affiliates (other than LBIE).

Cayman Islands

83. The Trustee's representatives continue to monitor the proceedings of Lehman Brothers Equity Finance (Cayman) Ltd. ("LBEFC") and work with LBEFC to determine their indebtedness to LBI.

China

84. With the assistance of Norton Rose LLP ("Norton Rose") and Deloitte in Beijing, the Trustee continued to pursue the de-registration of the LBI representative office in Beijing, China, following the sale of most of its assets prior to the commencement of the LBI proceeding. The Trustee's professionals in Beijing have had discussions with the Chinese tax authorities regarding the steps required to de-register. Paperwork has been filed to appoint a new signatory for the Beijing office to help facilitate completion of the asset sale and de-registration.

Germany

85. The Trustee continues to monitor the proceedings of two German Lehman entities: Lehman Brothers Bankhaus AG (“Bankhaus”) and Lehman Brothers Capital GmbH (“LBCG”). Both Bankhaus and LBCG have general creditor claims, and the extent to which the claims are allowed as general creditor claims will be determined at a later date.

Hong Kong

86. The Trustee’s professionals continue to monitor the proceedings of the eight Lehman entities in Hong Kong and to liaise with the respective administrators regarding the respective intercompany claims.

87. An order related to the corporate actions application by Lehman Brothers Securities Asia Limited (in Liquidation) was granted on November 12, 2010. The Trustee’s representatives have reviewed the order and the Trustee determined that no action is required at this time. Since the order was granted, the Trustee’s representatives have received several notifications pursuant to the order and have responded when appropriate.

88. The Trustee’s representatives filed amended claims against Lehman Brothers Securities Asia Limited, Lehman Brothers Futures Asia Limited (in liquidation) (“LBFAL”) and Lehman Brothers Commercial Corporation Asia Limited (in liquidation) (“LBCCA”) in advance of the December 10, 2010 bar date for claims to assets held on a segregated basis. LBFAL responded to the claim by asserting certain set-off rights and deductions. Norton Rose is currently assisting the Trustee in this matter and has sent LBFAL a letter to ascertain the nature of these deductions and to reach an agreement on LBFAL’s indebtedness to LBI. No determination by the respective Hong Kong estates has been received.

89. Lehman Brothers Asia Capital Company Limited (in Liquidation) (“LBACC”) and LBCCA filed certain customer claims against LBI related to futures and options trading. These claims were denied customer status on September 12, 2010. LBACC and LBCCA filed an objection to this determination on January 12, 2011. The Trustee is in discussions with LBACC and LBCCA concerning the determinations, which also include discussions to settle all outstanding general creditor claims from the remaining Hong Kong-based affiliates.

90. The Trustee’s representatives have scheduled a series of calls and meetings with the Hong Kong administrators during September and October 2011, with the goal of reaching a final settlement of all issues among the estates.

Japan

91. On August 15, 2011 the Trustee’s representatives sent a letter to Lehman Brothers Japan Inc. (“LBJ”) regarding certain assets associated with LBI’s exchange traded derivatives trading on various Japanese futures exchanges, including the Japan

Securities Clearing Corporation and the Osaka Securities Exchange, Ltd. Based on the Court's February 22, 2011 Decision (*see infra* Section VIII) the Trustee requested that LBJ, as LBI's clearing broker, begin to work with the Trustee's professionals and the relevant exchanges to reconcile these accounts and return the assets to the Trustee.

92. As noted above, customer claims brought by LBJ and its underlying customers made in the SIPA proceeding were partially resolved. The Trustee allowed six of the eight claims made by LBJ's customers for assets that were custodied at LBI. On April 21, 2011, LBJ withdrew its duplicative claims for these assets. The remaining two claims are under discussion and LBJ has been granted a final extension of its time to object to the Trustee's determination of these claims until October 28, 2011.

Luxembourg

93. The Trustee's professionals continue to monitor the Lehman Brothers Luxembourg S.A. and the Lehman Brothers (Luxembourg) Equity Finance S.A. ("LBLuxEF") proceedings. The Trustee and LBLuxEF have claims against each other and are discussing resolution of these claims. On August 26, 2011 the Trustee's representatives issued determination letters to the joint liquidators of LBLuxEF for two customer claims that were filed on behalf of LBLuxEF in the SIPA proceeding. The determination letters denied customer status to both claims and reclassified one as a general creditor claim against LBI. LBLuxEF has been granted an extension until October 28, 2011 to object to the Trustee's determination of its claims.

Netherlands

94. The Trustee's professionals continue to monitor the Lehman Brothers Treasury Co. B.V. ("LBT") proceeding. LBI's claims were formally notified to the LBT administrators on November 8, 2010.

Singapore

95. As reported in the Fifth Interim Report, LBI formally notified the Lehman entities in Singapore of its claims on January 20, 2011, including a \$296 million claim against Lehman Brothers Pte Ltd. Since then, the Trustee's professionals continue to monitor the proceedings of the Singapore entities and to work with the administrators appointed for the Lehman entities in Singapore in respect of intercompany issues. On September 1, 2011, the Trustee's professionals participated in a call with the Monetary Authority of Singapore and the administrator for the Singapore entities to discuss the effect of regulatory action on LBI's claims against certain Singapore entities.

96. Norton Rose continues to assist the Trustee with issues related to the winding-up of the LBI Singapore branch office and the intercompany transactions between LBI and the Singapore entities.

Switzerland

97. The Trustee's representatives continue to monitor the proceedings of Lehman Brothers Finance AG ("LBF") in Switzerland. LBF's and the Trustee's professionals met on July 26, 2011 to discuss the extent of intercompany transactions between LBI and LBF. Pursuant to that meeting, LBF's and the Trustee's professionals continue to meet every two weeks to progress the reconciliation of the claims between LBI and LBF.

98. LBF filed a customer claim seeking the return of \$2.38 billion in securities that LBF held in an account with LBIE. LBF asserted that these securities were ultimately held at LBI through LBIE's accounts with LBI. The Trustee denied the claim as unrelated to LBI and LBF filed an objection. LBF has attempted to update the securities it claims, and the Trustee's representatives continue to discuss this customer claim with LBF. LBF's customer claim and other intercompany claims together have a claimed value of approximately \$5.9 billion. The Trustee believes that portions of LBF's customer claim are subordinated by agreement and understanding as reflected in LBI's books and records. In addition, portions of LBF's customer claim are duplicative of securities and accounts already claimed by LBIE. Certain accounts and securities were also included in an amended claim filed by LBF after the bar date and do not relate back to LBF's original claim. The Trustee believes a significant portion of LBF's customer claim will ultimately be denied and thus the total actual value of intercompany claims will be significantly less than \$5.9 billion.

VIII. BARCLAYS CAPITAL INC.

99. Based on competing interpretations of the Asset Purchase Agreement, Barclays and the Trustee each asserted claims to approximately \$7 billion of "Disputed Assets." The Disputed Assets consist of: assets in LBI's Rule 15c3-3 customer reserve accounts (the "Rule 15c3-3 Assets"), margin used to support LBI's derivatives trading (the "Margin Assets"), and certain assets in LBI's clearance boxes at DTCC (the "Clearance Box Assets"). Barclays has some of the Disputed Assets in its possession, while other Disputed Assets remain in the possession of the Trustee or third parties. The Trustee believes that the parties did not agree to, and the Bankruptcy Court did not approve, the transfer of any of the Disputed Assets to Barclays.

100. On September 15, 2009, the Trustee filed a motion with the Bankruptcy Court seeking a declaratory judgment that the Disputed Assets belong to the LBI Estate and recovery of the Disputed Assets in Barclays' possession. On January 29, 2010, Barclays likewise filed a motion with the Bankruptcy Court seeking an order directing that the Disputed Assets in the Trustee's possession be transferred to Barclays.

101. Following 34 days of evidentiary hearings and closing arguments (described in the Trustee's Fourth Interim Report), the parties filed post-hearing briefs on November 22, 2010. On February 22, 2011, the Bankruptcy Court issued an opinion (the "February 22, 2011 Opinion") in which it ruled that the Trustee is entitled to the Rule 15c3-3 Assets and the Margin Assets, which amount to approximately \$4.8 billion of the

Disputed Assets. The Bankruptcy Court ruled that Barclays is entitled to the Clearance Box Assets. The parties fixed the value of the Clearance Box Assets that have not been delivered to Barclays at \$1.1 billion.

102. On July 15, 2011, the Bankruptcy Court entered final orders and judgments (the “Orders and Judgments”) (ECF Nos. 4408-09; Adversary No. 09-01732, ECF Nos. 12-13 & 15) implementing its February 22, 2011 Opinion. The Bankruptcy Court ordered Barclays to pay the Trustee approximately \$2.3 billion, including prejudgment interest, as compensation for Margin Assets that are in Barclays’ possession. The Bankruptcy Court also ordered the Trustee to pay Barclays the \$1.1 billion value for the Clearance Box Assets that are in the Trustee’s possession. The Trustee and Barclays agreed to stay enforcement of the judgments pending appeal, providing appropriate protection of the Trustee’s interests, and the Bankruptcy Court approved that agreement on July 28, 2011. (ECF No. 4442.)

103. Also on July 15, immediately after the Bankruptcy Court entered the Orders and Judgments, Barclays filed a notice of appeal (ECF No. 4410) from the Bankruptcy Court’s rulings concerning the Rule 15c3-3 Assets and the Margin Assets. Because Barclays chose to appeal, the Trustee filed a notice of cross appeal on July 22, 2011 (ECF No. 4427). The Trustee’s cross appeal will focus on discrete issues concerning the disposition of the Clearance Box Assets.

104. Barclays’ appeal and the Trustee’s cross appeal have been assigned to The District Court for the Southern District of New York. Barclays will file a brief in support of its appeal and the Trustee will file a brief in support of his cross appeal on October 28, 2011. Barclays and the Trustee will file briefs in opposition to each other’s appeals on December 23, 2011. Barclays and the Trustee will file reply briefs in support of their respective appeals on February 10, 2012.

IX. RECOVERY EFFORTS

105. This section of the Report summarizes the Trustee’s efforts to recover funds through trade close-outs, unwinds, collections on customer receivables, avoidance and preference actions, and other recovery efforts to date.

106. During the Report Period, the Trustee recovered more than \$1.45 billion in property for the LBI Estate.

Close-Outs and Unwinds

107. The Trustee has collected in total approximately \$4.1 billion from close-outs and unwinds. During the Report Period, the Trustee and his professionals have continued to work diligently on the recovery of value from the unwinding of financial products transactions between LBI and other broker-dealers, financial institutions, and other parties. For a description of the transactions involved, see the Fourth Interim Report ¶ 135.

108. The Trustee continues to follow Court-approved due diligence procedures for reconciling and collecting the closeout amounts due to the LBI Estate. For a description of these procedures, see the Fourth Interim Report ¶¶ 136-37.

109. The Trustee continues to work with counterparties and their counsel who have come forward to settle the closeout value of transactions on a consensual basis. As described in the Fourth Interim Report ¶ 138, the Trustee has taken affirmative steps to contact all counterparties that did not reach out to the Trustee on their own.

110. In addition to the counterparties from whom such collections have been made or received, the Trustee and his professionals have contacted or are currently in active negotiations with all of the remaining counterparties. The Trustee's goal is to resolve all closeouts as soon as possible consensually. For those relatively few counterparties that do not consensually resolve their closeouts, the Trustee has commenced and will likely continue to commence adversary proceedings.

Swedbank Amicus Brief

111. For information on the brief of *amici curiae* filed by the Trustee and SIPC in support of LBHI in the bankruptcy appeal captioned *Swedbank AB v. Lehman Brothers Holdings Inc. (In re Lehman Bros. Holdings Inc.)*, No. 10-04532 (NRB), see the Fifth Interim Report ¶ 137.

JPMorgan Chase ("JPMorgan") Settlement

112. Following the completion of an exhaustive, two-year investigation referred to in prior reports (*see* Fifth Report ¶¶ 84-86), on June 23, 2011, the Bankruptcy Court entered an order approving a settlement agreement between the Trustee and JPMorgan, which resolved claims of the estate against JPMorgan relating to the alleged seizure of customer property, the application of proceeds of collateral liquidated by JPMorgan to its claims against the LBI estate and other pre- and post-petition actions of JPMorgan to the extent that they impacted LBI. In addition, the settlement agreement contained a reconciliation of JPMorgan's claims against the estate in connection with its role as clearing bank for LBI and contained general releases between the parties. Pursuant to the terms of the settlement agreement, on July 20, 2011, JPMorgan sent two wires in the aggregate amount of \$757.4 million to the Trustee's account at Union Bank and has delivered approximately \$106 million in physical securities (valued as of September 19, 2008) and accompanying transfer documents.

UBS AG

113. On November 23, 2010, the Trustee filed a motion to enforce the automatic stay and compel payment of approximately \$23 million in excess collateral that LBI posted with UBS AG ("UBS") to secure LBI's obligations to UBS in connection with foreign exchange trades entered into under an International Swaps and Derivatives Association Master Agreement executed by the parties in 2004 (ECF No. 3922). With respect to approximately \$21 million of the total, UBS has refused to return the excess collateral based on an asserted third-party setoff. The Trustee believes that the purported

third-party setoff is impermissible because it violates the Bankruptcy Code's mutuality requirement for setoff in bankruptcy. UBS filed its opposition to the Trustee's motion and cross-motion on January 21, 2011 (ECF No. 4056), and the Trustee filed his reply in further support of the motion on March 15, 2011 (ECF No. 4161). A hearing on the motion was held on August 9, 2011, and the Court reserved its decision. On October 4, 2011, the Court rendered a Memorandum Decision granting the Trustee's motion to direct the return of the excess collateral to the Trustee without further delay, while reserving judgment with respect to the rights of the parties to \$1.7 million (ECF No. 4617).

Israel Discount Bank Ltd.

114. On December 8, 2009, as a result of (i) the failure of Israel Discount Bank Ltd. ("IDB") to deliver to the Trustee assets from LBI's cash and securities accounts at IDB, including LBI customer assets, and to pay over \$80 million from the close-out of foreign exchange transactions between LBI and IDB, and (ii) Bank Leumi Ltd. ("Bank Leumi") causing to be attached these assets and receivables in an action by Bank Leumi in an Israeli court against other entities (and IDB having consented to the said attachment), the Trustee filed a motion seeking entry of an order enforcing the automatic stay and the stays in the LBI Liquidation Order and holding IDB and Bank Leumi in contempt for violating those stays and interfering with the Trustee's administration of the LBI Estate (ECF No. 2288).

115. On July 28, 2011 the Trustee filed a motion to approve complementary settlements with IDB and Bank Leumi, which would allow for the release of the attachment over LBI estate property in Israel as well as the return of over \$80 million to the Trustee, along with interest thereon. The motion was granted on August 17, 2011. Thereafter, the attachment was released and approximately \$80.3 million was paid by IDB to the Trustee. The additional amount of approximately \$2.9 million has been placed in escrow pending resolution of an unrelated issue.

Citibank

116. Matters attendant to Citibank are being handled by Menaker & Herrmann LLP ("Menaker & Herrmann"), special counsel to the Trustee. Menaker & Herrmann report as follows:

117. As discussed in the Fifth Interim Report, the Trustee has filed an adversary proceeding (Adv. Pro. No. 11-01681) against Citibank, N.A., Citigroup, Inc. and various of their affiliates ("Citibank") seeking the return of a \$1 billion deposit LBI made with Citibank during LBI's last week in operation which Citibank claims it setoff shortly before commencement of LBI's liquidation and seeking the turnover of approximately \$300 million deposited in LBI accounts at various Citibank locations around the world. A claim for approximately \$11 million is also asserted in connection with certain deferred compensation claims of former Citibank Smith Barney employees.

118. On May 26, 2011, Citibank filed a motion to dismiss most of the Trustee's claims in the adversary proceeding and to lift the automatic stay to permit additional setoffs. Citibank contends that the Bankruptcy Code safe harbor provisions permitted its setoff of LBI's \$1 billion deposit and require the immediate release to Citibank of additional LBI funds remaining in frozen deposit accounts. The Trustee filed responses to Citibank's motions on August 5, 2011, and Citibank filed replies on September 2, 2011. The Bankruptcy Court is expected to hear argument on the motions this fall. Meanwhile, the parties are proceeding with discovery.

RBS NV

119. Matters attendant to RBS NV are being handled by Menaker & Herrmann, which reports as follows:

120. ABN/AMRO, N.V., now RBS, N.V. ("RBS") has acknowledged holding \$347 million owing to the Trustee under an ISDA master agreement, subject to asserted setoff rights, mainly on behalf of an affiliate of RBS or of RBS itself against affiliates of LBI, totaling approximately \$917 million. The Trustee challenged, on grounds of lack of mutuality, the greater part of those setoffs under the same principles applied by the Court in the UBS matter (*see supra* ¶ 113). The issues have been vigorously litigated in the Bankruptcy Court, and RBS has also moved in the District Court to withdraw the removal of the SIPA proceeding and return the matter to District Court jurisdiction. On October 14, 2011, the parties reached a settlement in principle that would end all litigation and result in a payment by RBS to the LBI estate in the amount of \$215 million. A scheduled October 20 hearing in the Bankruptcy Court has been adjourned pending documentation of the settlement and approval by the Court.

Customer Receivables

121. The Trustee continues to pursue open and unsettled customer receivables. The Trustee's attorneys have contacted or are currently in active negotiations with each of these customers. For each of the customers, the Trustee's counsel engaged in discussions with them explaining the basis for the amount demanded and providing documentation of the open transactions. As a result of the process, the Trustee has collected approximately \$46 million and continues to engage in negotiations with the remaining customers. The Trustee anticipates that most, if not all, of its claims against these remaining customers will be resolved without court action.

Avoidance Actions / Preferences

122. The Trustee's professionals continue to pursue the avoidance and recovery of preferential transfers made by LBI in accordance with sections 544, 547, 548, and 550 of the Bankruptcy Code. To date, the Trustee resolved approximately 55% of the preference claims and has consummated settlements totaling over \$1,150,000. In order to continue to facilitate the amicable resolution of the preference claims and avoid the time and expense of litigation, the Trustee has continued to amend the original Tolling and Forbearance Agreements with all of the entities that received preferential transfers,

except one as against whom an adversary proceeding has been commenced.¹⁸ As part of the Trustee's continuing efforts to resolve avoidance claims in an efficient and cost-effective manner, the Trustee also filed, and the Court entered on December 8, 2010, an Amended Order Establishing Procedures Governing Claims Asserted and Adversary Proceedings Commenced by Trustee Pursuant to 11 U.S.C. §§ 544, 547, 548 and 550 (ECF No. 3964). The Trustee will continue efforts to resolve the seven adversary proceedings that are currently pending and all other tolled preference claims on a consensual basis.

123. In accordance with the Stipulation and Order between LBHI and the Trustee With Respect to Joint Claims Asserted and Joint Adversary Proceedings Commenced Pursuant to Bankruptcy Code Sections 544, 547, 548 and 550 (ECF No. 3664), the Trustee continues to confer with LBHI and its Creditors' Committee regarding settlements affecting both LBI and LBHI's interests in preferential transfers.

Recovery of Double Deliveries

124. In the course of finalizing the Private Investment Management Account Transfer (*see* Third Interim Report ¶¶ 5-10), the Trustee's professionals discovered certain double deliveries of securities to various broker-dealers as a result of Automated Customer Account Transfers ("ACAT"s) initiated by customers prior to the Filing Date. As a general fact pattern, LBI delivered securities from the customers' accounts prior to the Filing Date, but LBI's records did not reflect the transfer. When the accounts were then processed as part of the Account Transfers, the pre-ACAT amount was included in the conversion and the Trustee delivered the securities again to Neuberger Berman or Barclays. Subsequently, Neuberger Berman or Barclays also processed the ACAT, delivering the securities to third party brokers for the benefit of the former LBI customer. The Trustee's professionals initially believed the double delivered securities were valued at \$23.7 million across 74 different securities.

125. In the Report Period, the Trustee continued to work with various broker-dealers and individuals requesting their cooperation in the return of this property to the estate. Approximately \$9.1 million has been recovered as of the Report Date from broker-dealers and individuals. Following research and reconciliation with broker-dealers and individuals, \$6.59 million across five securities have been deemed not double deliveries. The Trustee continues to work with broker-dealers and individuals representing the remainder pool of approximately \$4.53 million in property. As of the Report Date, the Trustee has been unable to contact ten of the suspected recipients of double deliveries, valued at approximately \$3.24 million. The Trustee is pursuing avenues to locate these individuals and recover the property.

18. There are currently a total of seven adversary proceedings pending relating to preference claims. Five of the thirteen previously reported adversary proceedings have been resolved. No additional adversary proceedings have been commenced since the Fifth Interim Report.

Banking Matters

126. During the Report Period, the Trustee has continued to work to transfer into his accounts at Union Bank, N.A. all remaining U.S. dollar and foreign currency balances held in legacy LBI bank accounts maintained at domestic and overseas banks and to close such accounts. During the Report Period, substantially all of these remaining balances have been transferred and substantially all of these accounts have been closed, with the exception of certain accounts that remain linked to securities positions (which are in the process of being closed as the securities linked to such accounts are transferred to the Trustee's custody account at The Bank of New York Mellon), certain accounts that remain open for administrative or regulatory reasons or that are subject to an ongoing dispute with the depository bank, and a few accounts that are in the process of being closed. The Trustee continues to work with certain banks that maintain legacy LBI bank accounts in order to collect the funds in, and then close, such accounts.

X. ADVERSARY PROCEEDINGS

127. The Trustee has continued to enforce the automatic stay provisions of 11 U.S.C. § 362 and the LBI Liquidation Order (together, the "Automatic Stay") with respect to new complaints that name LBI as a defendant but are filed outside the Court in violation of the stay. In most of these instances, the Trustee has obtained dismissal of the action as against LBI.

128. Before this Court, the Trustee has defended against eleven adversary proceedings, including successfully negotiating the voluntary dismissal of claims in two actions, moving to dismiss in two actions, one of which was granted, and reaching settlement agreements in three others. One of the remaining actions is *The Options Clearing Corporation v. Barclays Capital Inc.*, Adv. Pro. No. 08-01759 (the "OCC Proceeding"). The Options Clearing Corporation (the "OCC") seeks to interplead LBI, Barclays, Australia & New Zealand Banking Group Ltd., Bank of Tokyo-Mitsubishi UFJ and Lloyds TSB Bank to adjudicate rights relating to the disposition of funds held by the OCC in connection with its draw down on five letters of credit (totaling ~\$80mm) deposited as margin in LBI's account. The parties exchanged their initial disclosures, served their initial document requests and interrogatories, served their written responses and objections to initial document requests and interrogatories, and produced responsive documents. On the commencement of the litigation between the Trustee and Barclays relating to the Asset Purchase Agreement, the parties to the OCC Proceeding agreed to stay further discovery pending a ruling in that litigation. After the Court issued its decision on the issues in the Barclays litigation on February 22, 2011, the parties to the OCC Proceeding agreed to stay discovery until the later of the deadline for filing a notice of appeal from that decision, or the entry of a final order on any appeal therefrom relating to the margin assets, at which point, the parties will meet and confer to agree upon a schedule and timetable for the completion of discovery. In June 2011, the Trustee reached agreement with the Australia & New Zealand Banking Group Ltd., which agreement the Bankruptcy Court approved. Pursuant to this agreement, ANZ has remitted to the Trustee \$82,938,179 and the parties have exchanged mutual releases. In

addition, ANZ has assigned its rights and claims in the OCC Interpleader Action to the Trustee, and was dismissed from that action.

129. The Trustee has also commenced thirteen adversary proceedings with respect to certain preference claim matters, discussed in more detail, *supra* ¶¶ 122-23, seven of which remain pending.

130. Separately, the Trustee has briefed objections to Rule 2004 requests by the Newport Global entities, the Deferred Compensation Parties, Bank of New York Mellon, and Carret and Evansville Insurance Ltd., as to the last of which the Court denied the Rule 2004 requests on March 31, 2009, after a hearing on the motion on March 25, 2009 (*see* ECF No. 913). Thereafter, the Trustee has continued to work with Newport Global with the goal of resolving on a consensual basis their individual information requests without incurring additional significant expense to the LBI Estate.

XI. POTENTIAL CUSTOMER CLAIM DISTRIBUTIONS

131. To assure that distributions to one claimant will not prejudice another, the Trustee will make distributions on allowed customer claims when major claims determination issues are resolved and there is sufficient clarity on, or resolution of, the major contingencies. Distributions may occur in stages depending on the value of all allowed claims and available assets.

132. As the Trustee and his counsel stated in the State of Estate presentations to the Court in August 2011, the Trustee's goal and aspiration is to return as close to 100% of allowed net equity claims as possible for customer property while maximizing value for all creditors. The Trustee has issued letters of determination on all 14,000 customer claims, allowing more than \$12 billion in customer claims, and denying more than \$37 billion in customer claims which are now final. However, resolution of the remaining asserted customer claims filed by LBIE (\$16.9 billion over and above the conditionally allowed \$8.3 billion customer omnibus claim; *see supra* ¶¶ 28-32), LBHI (*see supra* ¶¶ 35-39), LBIE's clients (*see supra* ¶¶ 33-34), along with the further allocation of property to the fund of customer property (*see* § IV), and resolution of the Barclays appeal (*see* § VIII) will largely determine the size of distributions to customer claims. The Trustee is engaged in bilateral discussions with LBHI and other claimants and affiliates to resolve issues consensually where possible and where not possible, as with many aspects of LBIE's claims, must initiate court proceedings, as described above.

133. The Trustee expects that a substantial percentage of estate assets will ultimately be in the fund of customer property, but the total of the fund remains undetermined. In 2010, some principles of allocation under SIPA and the SEC's customer protection regime were codified by the Court (*see* § IV). As noted above, the Trustee intends to file a proposed allocation to the Court on motion with notice to, and the opportunity to be heard by, all interested parties before the end of this year. The allocation will further quantify the property the Trustee proposes to allocate to the fund of customer property and the general estate.

134. Because of the need to reserve for claims such as LBIE's while the litigation is pending, the Trustee is committed to considering a partial interim distribution as soon as it is possible and makes sense to do so. Assuming resolution of some of the major contingencies such as the LBHI claim over the next several months, a distribution of a small but meaningful percentage on all presently allowed, non-conditional net equity claims might be theoretically possible, even though substantial amounts would have to be reserved for disputed or conditionally allowed claims such as LBIE's. An interim distribution may possibly be feasible by the spring of 2012.

Post-Petition Dividends and Interest

135. The Trustee believes that dividends and interest received by the Trustee on securities allocated to customer property after September 19, 2008 (the "Filing Date") are "customer property" to be returned to customers. However, the exact amounts and manner in which distribution of post-Filing Date dividends and interest could be made remains subject to the resolution of various contingencies that affect the distribution of property. The Trustee anticipates filing a motion requesting that the Court approve a method of determining and distributing dividends and interest on customer property received after the Filing Date once the universe of allowed claims is known and objections have been resolved.

136. During the Report Period, proceeds related to securities held previously in LBI's accounts at Depository Trust & Clearing Corporation ("DTCC") and now maintained by Bank of New York Mellon accrued in the amount of \$544 million. These amounts are specifically accounted for, separate from other estate assets, by the Trustee.

XII. RETURN OF MISDIRECTED FUNDS

137. The Trustee continues to receive and investigate requests for the return of funds misdirected into LBI bank accounts. The Trustee has returned more than \$569 million in misdirected funds since the commencement of the liquidation.

138. The Court-authorized procedures implemented in April 2010 to increase the efficiency and reduce the costs of administering the misdirected funds return process have proven effective. These procedures include (a) returning a substantial number of transfers of misdirected funds of \$250,000 or less without the need of obtaining further court approval, (b) surcharging new misdirected funds claims a processing fee equal to one percent (1%) of the return amount up to a maximum surcharge of \$5,000 per return, and (c) disallowing and expunging misdirected funds claims in which the party requesting a return fails to provide information or execute required documentation within sixty days of a final written notice by the Trustee requesting such information or documentation.

139. As of September 30, 2011, the Trustee has applied surcharges to 144 returns of transfers of misdirected funds, aggregating approximately \$63,000 in processing fees. In addition, the Trustee has disallowed and expunged 15 misdirected funds claims, aggregating approximately \$398,000, due to failure of the party requesting

the return to provide requested information or execute required documentation to effectuate the return.

140. In the Report Period, the Trustee received 9 new requests for the return of post-petition transfers of misdirected funds, aggregating approximately \$93,000, and returned 34 post-petition transfers of misdirected funds, aggregating approximately \$15.1 million.

141. For the Report Period, the number of new requests for the return of misdirected funds decreased approximately 66% compared to the previous six-month period. Furthermore, the Trustee has closed most of the bank accounts identified to have received misdirected funds, which should further and permanently reduce requests for returns of misdirected funds.

142. As of September 30, 2011, the Trustee had made approximately 900 returns of post-petition transfers of misdirected funds, aggregating approximately \$570 million, and has approximately 83 pending requests for return of funds alleged to have been misdirected post-petition, aggregating approximately \$23.3 million.¹⁹ See Exhibit 3.

XIII. TRUSTEE'S INVESTIGATION

143. The Trustee has the specific and important duty to conduct an investigation and prepare a report concerning "the acts, conduct, property, liabilities, and financial condition of [LBI], the operation of its business, and any other matter, to the extent relevant to the liquidation proceeding." SIPA §78fff-1(d). In furtherance of this duty, the Trustee obtained authority from the Court by Order dated January 15, 2009 to issue subpoenas in furtherance of this duty (*see* ECF No. 561), and since then has been actively engaged in pursuing numerous avenues of investigation.

144. The first of the Trustee's reports, his Preliminary Investigation Report and Recommendations ("Preliminary Report"), was completed and issued on August 25, 2010. The Preliminary Report addressed the broad topics of (i) the causes of LBI's demise and the events and transactions that preceded it, (ii) challenges that have arisen in the largest broker-dealer liquidation in history, and (iii) lessons learned from the LBI liquidation and legislative, regulatory, and other policy recommendations for the future.

145. With the active participation of SIPC, the Trustee has employed the approach of first pursuing voluntary cooperation, but resorting to invocation of his subpoena authority where necessary or at the request of the party from whom the information is being sought. In this effort, the Trustee has made document requests (both formal and informal) to financial institutions that have information relating to the events leading to LBI's collapse and has received productions amounting to hundreds of thousands of documents in response. Most entities approached have been cooperative but

19. Requests for returns of pre-petition transfers of misdirected funds are generally treated as bankruptcy claims subject to reconciliation in the General Creditor Claim process.

some have not, and the Trustee will issue subpoenas for the information necessary to complete his investigations to his satisfaction.

146. For information regarding the Trustee's investigation including discovery efforts and forensic analyses, see the Fifth Interim Report at § VI.

DTC Investigation

147. The Trustee continues to review the factual details of and legal basis for DTCC's activities during September 2008 when LBI was facing liquidation and when DTCC purported to invoke rules governing ceasing to act and/or winding-down of activities on behalf of LBI. The Trustee is conducting a comprehensive investigation into the actions taken by DTCC and its subsidiaries as part of their liquidation and closeout of LBI's open positions on the filing date. As part of this investigation, the Trustee's professionals continue to work with DTCC personnel and its outside counsel to obtain information necessary to complete a full accounting of DTCC actions that affect the LBI Estate's financial position and of funds and securities of the LBI Estate held by DTCC and its subsidiaries. The Trustee remains unsatisfied with the pace of the investigation and DTCC's continued failure to provide documents and privilege logs in a timely manner. The Trustee may take steps to impose enforceable deadlines.

148. DTCC, through its clearing agency subsidiaries, provides clearance and settlement services for broker-to-broker transactions in equities, corporate and municipal bonds, government and mortgage-backed securities, money market instruments, and over-the-counter derivatives. LBI relied extensively on DTCC's services to complete, in the ordinary course of its business, the clearance and settlement of transactions effected by LBI prior to the Filing Date, and processed through accounts at the Clearing Agency Subsidiaries. DTCC indicated in its 2008 Annual Report that, as of the Filing Date, more than \$500 billion in securities trades, largely held for the benefit of customers and other LBI counterparties, were reflected in the LBI accounts held through the Clearing Agency Subsidiaries.

149. LBI had direct relationships with three of the DTCC subsidiaries—Depository Trust Company ("DTC"), National Securities Clearing Corporation ("NSCC"), and Fixed Income Clearing Corporation ("FICC")—covering custodial, collection, clearance, and settlement services with respect to a broad range of securities. The Trustee's professionals have requested and obtained large volumes of information with respect to each of these subsidiaries, including the property they held on the Filing Date or received thereafter and the disposition of such property—whether to Barclays and other brokers receiving account transfers, to the Trustee as return of deposits or turnover of post-petition distributions, to a DTCC subsidiary as a cost or fee associated with the wind-down, or through liquidation to satisfy or close out open commitments of LBI. DTCC employed a liquidating agent to assist in liquidating the LBI Estate and the Trustee has requested and expects to receive information from that agent regarding its role in the liquidation.

CME Investigation

150. Information concerning the Trustee's investigation into the liquidation of LBI's proprietary options and futures positions at the CME Group, Inc.²⁰ in the days prior to the commencement of the SIPA proceeding are available in the Fifth Interim Report at ¶¶ 81-83. The Trustee will report his conclusions on this and other aspects of the investigation at the appropriate time.

XIV. GOVERNMENT AND THIRD PARTY INVESTIGATIONS

Government and Third Party Investigations

151. The flow of requests to the Trustee for historical LBI information from dozens of federal, state, and local government agencies has yet to ebb. Cooperation with investigations by these agencies is of paramount importance to the Trustee and SIPC. In addition, the Trustee has received and is responding in due course to an ever-increasing number of non-party subpoenas issued in connection with various litigations and arbitrations around the United States. Together, the Trustee has made a total of over 650 document productions in response to these governmental and non-party requests. These productions represent a volume of documents exceeding 1.2 million pages, in addition to hundreds of gigabytes of data in electronic form. Notwithstanding an appreciation for regulators and litigants' need for LBI historical information, the productions continue to be a significant expense for the LBI Estate. In some cases investigators and third parties are referred to the Trustee by Barclays or LBHI, who also may be in an equal or better position to supply the information.

Regulatory Matters

152. As a result of the complexities of administering LBI's Estate, the Trustee regularly meets and coordinates with the SEC, the New York Fed, the Commodities Futures Trading Commission, the Financial Industry Regulatory Authority, and other governmental entities. The Trustee has also terminated LBI's former broker-dealer registrations with the 50 states and other regulatory agencies, saving the LBI Estate from the significant costs associated with maintaining its registration status.

XV. DATA MANAGEMENT

153. Consistent with the LBI Liquidation Order, which authorized the Trustee to take possession of LBI's books and records (LBI Liquidation Order ¶ XIV), the Trustee has collected a vast amount of historical LBI data and migrated it to his own information infrastructure. The Trustee continues to require this data to liquidate LBI and perform his duties under SIPA and the Bankruptcy Code, including the litigations and investigations described elsewhere in this Report. The Trustee's information

20. The CME Group, Inc. is a Chicago-based company composed of four Designated Contract Markets: the Chicago Mercantile Exchange (CME-Exchange), the Chicago Board of Trade (CBOT), the New York Mercantile Exchange (NYMEX), and Commodity Exchange, Inc. (COMEX).

infrastructure also supports the Trustee's ongoing efforts to manage the estate's inventory of securities, as well as remaining customer accounts.

154. The Trustee's infrastructure includes a fully functioning data center, several large trading systems, a general ledger system, and several other systems. The hosting and management of the data center and the larger systems have been outsourced to leading technology service providers, and the entire infrastructure is integrated with, and accessible from, the Trustee's liquidation office. At present, the Trustee is largely self-sufficient for his data and information needs.

Collection of LBI's Books and Records – Data Migration

155. When Barclays purchased LBI's assets, it took possession of LBI's computer systems and the data stored within those systems. The Trustee's professionals reviewed the more than 2,700 Lehman computer systems that were in use as of the Filing Date and identified those that are of interest to the Trustee. At the time of the Fifth Interim Report, the Trustee's professionals had collected the data from 135 of 138 of these systems of interest and was in the process of migrating the data from the remaining three systems.

156. During the Report Period, the Trustee completed the migration of the data from these three systems. He also identified data from 11 additional systems that were needed to support the Trustee's investigations into the collapse of LBI and claims against third-parties. The Trustee's professionals have completed the migration of data from all 11 of these systems.

157. The Trustee manages the data from these 149 systems through his own information infrastructure, independently of Barclays. The Trustee has decommissioned all 149 systems, as well as other systems that contained no data themselves, but supported or provided functionality to the data systems. The decommissioning of these systems has resulted in reduced transition services fees of approximately \$31 million annually.

158. With the completion of the migration work that was undertaken during the Report Period, the Trustee has captured more than 227 billion transaction records and more than 143 terabytes of data. This data would, if printed, yield a stack of paper nearly 1,358 miles high, more than 247 times the height of Mt. Everest.

159. The Trustee devotes significant resources to managing and accessing this data. The Trustee's counsel and consultants are able to access this data through the Trustee's data management professionals. The Trustee's data management professionals have processed more than 2,000 data requests, including requests that originated from government regulators, claimants, and other third-parties who were seeking information relating to LBI's historical activities (*see supra* § XIV). The Trustee's professionals have also created tools that permit the Trustee's counsel and consultants to access portions of the archived data directly.

The Trustee's Information Infrastructure

160. As previously reported, the Trustee has completed the transfer of his data center from his offices in New York to a third-party vendor, SunGard Availability Services LP ("SunGard"). The outsourced data center houses the data migrated from the Barclays systems, as well as scanned versions of critical hard copy records. The data center enables the Trustee's professionals to access the Trustee's data and to fulfill data requests efficiently and independently, without having to rely on Barclays IT and non-Trustee resources.

161. Outsourcing the management, operations and maintenance of the data center to SunGard has reduced costs by eliminating the need for the Trustee to employ his own dedicated IT staff to perform those functions. It has also provided better support for the Trustee's data needs.

162. The Trustee's data needs have shifted as he has shed his reliance on Barclays' systems and personnel, and has assumed complete responsibility for managing the estate's securities positions. Moving the data center to SunGard has given the Trustee and his professionals greater flexibility and support in performing these remaining activities. SunGard provides the Trustee with increased security, enhanced service and maintenance capabilities, improved data access, and a full-scale disaster recovery solution.

163. The SunGard data center is fully integrated with the Trustee's liquidation office, a general ledger system, and several large trading systems, which, as explained in prior reports, the Trustee's professionals have recreated on platforms provided by Broadridge Securities Processing Solutions, Inc. ("Broadridge"). These trading systems continue in active operation, supporting the management of assets and the orderly liquidation of the estate.

The Iron Mountain Email Archive

164. The Trustee continues to require access to email and other electronic messages that had been received and sent by LBI employees. LBI stored its employees' email and other electronic messages in a third-party email archive provided by Iron Mountain Information Management Inc. ("Iron Mountain"). The Iron Mountain digital archive houses an estimated 3.2 billion messages, making it one of the largest email archives in the financial services industry.

165. Barclays assumed the Iron Mountain contract and has been charging the Trustee and LBHI a share of the monthly costs to access the digital archive. The Barclays TSA (defined below) provides the Trustee with continued access to the Iron Mountain digital archive at a reduced cost to the estate. Commencing as of November 1, 2009, the Trustee has been paying Barclays 25% of the costs relating to the data stored in the digital archive. The Trustee also paid all costs corresponding to assisted searches or project-based work that the Trustee requested through Barclays. As contemplated by the

Barclays TSA, on April 27, 2011 the Trustee entered into a direct agreement with Iron Mountain for assisted search services.

The Barclays TSA and the Amendment

166. On December 23, 2009, the Trustee and Barclays entered into a Transition Services Agreement that has governed the Trustee's access to LBI data, systems and legacy-Lehman personnel employed by Barclays (the "Barclays TSA"). On March 22, 2010, the Court approved the Barclays TSA (ECF No. 2883). On March 16, 2011, the Barclays TSA terminated under its terms, with the exception of certain provisions that survived such termination.

167. Prior to the termination of the Barclays TSA and a separate Transition Services Agreement between Barclays and LBHI (together with the Barclays TSA, the "TSAs"), the Trustee, LBHI, and Barclays negotiated an amendment to their respective TSAs to provide a protocol for continued access to certain information and personnel at Barclays following termination of their TSAs (the "TSA Access Amendment"). On February 23, 2011, the parties entered into the TSA Access Amendment. On March 2, 2011, the Court approved the TSA Access Amendment (ECF No. 4130).

168. The TSA Access Amendment reflects the fact that, although the Trustee has taken control of an enormous amount of data, this is only a fraction of the data and information that existed at Lehman prior to the Filing Date. The remaining Lehman-legacy data remains largely within the possession, custody or control of Barclays, and the TSA Access Amendment preserves the Trustee's ability to access this data if the need arises.

169. The TSA Access Amendment sets forth procedures and billing arrangements for each of the Trustee and LBHI to access (i) copies of electronic records on systems, (ii) copies of electronic records on tapes and or other electronic media, (iii) hard copy records or copies thereof, and (iv) Barclays employees whose knowledge is reasonably required by the Trustee or LBHI to respond to specific factual questions regarding the Business (as defined) and systems and processes related to the Business.

170. Prior to and then pursuant to the Barclays TSA, Barclays had charged the Trustee amounts ranging from more than \$2 million to more than \$5 million per month for its services. With the expiration of the Barclays TSA, as well as the successful completion of the data and systems migrations, these expenses will largely disappear. Under the TSA Access Amendment, the monthly amount paid by the Trustee to Barclays has been greatly reduced, as the Trustee is largely self-sufficient and operating independently from Barclays.

171. The Trustee has endeavored to perform his duties in a cost-effective manner, and he and his professionals continually evaluate the services required to support LBI's liquidation, including whether it is desirable for particular services to be provided by Barclays or other vendors, or through the Trustee's own staff. Through the TSA Access Amendment and the migration described above and otherwise, the Trustee has

achieved this goal. Indeed, the Trustee has reduced his reliance on Barclays and other vendors, significantly reducing related expenses.

Agreements with LBHI and LBIE/LBL

172. The Trustee has a data sharing agreement with LBHI. On June 2, 2010, the Trustee entered into a transition services agreement with LBHI covering services of a more modest scope than those required from Barclays.

173. Certain data required by the Trustee in connection with LBI's liquidation resides on former systems of Lehman Brothers International (Europe) ("LBIE") and Lehman Brothers Limited ("LBL"). On August 11, 2010, the Trustee entered into an agreement with LBIE and LBL, pursuant to which LBIE and LBL agreed (i) to determine whether LBI data requested by the Trustee is obtainable from these systems and (ii) under certain conditions to obtain the data and deliver it to the Trustee. Since then, the Trustee has received the data that he requested from LBIE. This agreement terminated under its terms on August 10, 2011.

XVI. TAX MATTERS

174. The Trustee's professionals continue to monitor several ongoing federal, state, and local tax audits, respond to tax-related information requests from international, federal, state, and local authorities, and coordinate all tax reporting requirements with respect to LBI and the Trustee.

175. *Federal: general.* LBI continues to file as part of the LBHI consolidated federal income tax return. The Trustee's professionals maintain ongoing discussions with LBHI's counsel, who has been handling substantial federal refund claims for the years 1997 through 2000 and audits for 2001 through 2007 where the Internal Revenue Service (the "IRS") is asserting deficiencies, as well as an ongoing IRS investigation regarding possible tax shelter promotion penalties that began pre-bankruptcy. LBHI has been working with outside counsel for several years on these matters. The Trustee's professionals are evaluating LBI's allocable share of any consolidated federal income tax deficiencies (for which each member of the group is fully liable as a matter of tax law) as well as its entitlement to a share of any refunds (the checks generally would be issued to LBHI in the first instance as a matter of tax law). In addition to and separate from the refund claims that relate to consolidated taxes, LBI filed a \$9.5 million refund claim with the IRS relating to the overpayment of payroll taxes for the third quarter of 2008. IRS representatives advised the Trustee that the IRS would hold any refunds to which LBI would otherwise be entitled pending a disposition of all outstanding LBI-IRS audits and assessments. On December 28, 2010, the IRS filed claims in both the LBI and the LBHI proceedings totaling approximately \$2 billion.²¹

21. LBI and LBHI had jointly entered into a stipulation extending the claims bar date for the IRS to December 31, 2010.

176. *State: general.* LBI continues to file as part of LBHI's consolidated and combined state income tax filings in a number of states and local jurisdictions. State tax refunds have also been claimed on consolidated and combined returns filed by LBHI. The Trustee's professionals are monitoring the status of these claims. There are also outstanding audits in states where LBI files separate company state tax audits. The Trustee's professionals are working with MMOR Consulting, Inc., a small firm that historically handled state tax audits for LBHI and LBI, to address these audits. As of the date of this Report, approximately \$700 million in state and local tax claims have been filed in the LBI Proceeding.

177. *State audits and refund claims: New York State.* New York State timely filed a claim against both LBI and LBHI for the same amount of sales tax liability (\$5 million). New York also timely filed claims against LBHI for more than \$1 billion in corporate income tax liability with respect to combined returns of the LBHI group and approximately \$8 million in withholding tax liability, but failed to file such claims in the LBI Proceeding. LBI filed a claim with New York State requesting a \$3 million refund, attributable to an overpayment of payroll taxes, and another claim requesting a refund of \$3 million, attributable to an overpayment of sales and compensating use tax. New York denied both refunds and the Trustee reserved the right to appeal the decisions.

178. LBHI, the Trustee, and the New York State Department of Finance reached a settlement, with Court approval, whereby New York agreed to withdraw all claims for taxes in exchange for a \$153 million payment by LBHI in full satisfaction of the combined LBHI income tax liability, and LBI's relinquishing of its refund claims. LBHI has reserved the right to file a general unsecured claim against LBI for LBI's share of the income tax liability.

179. *State audits and refund claims: New York City.* New York City timely filed claims against both LBI and LBHI for general corporation tax totaling approximately \$615 million with respect to combined returns of the LBHI group, and for commercial rent tax for approximately \$12 million. There are ongoing audits as to both types of tax. LBHI has entered settlement negotiations with New York City regarding these audits, and is maintaining ongoing discussions with the Trustee's tax professionals on these matters.

180. The Trustee's tax professionals are in discussions with representatives of LBHI regarding appropriate allocation among the entities of the historic Lehman group of consolidated and combined tax liabilities for which claims have been filed, and outstanding claims for refunds of consolidated and combined taxes.

Ongoing Compliance

181. The Trustee's professionals continue to hold bi-weekly calls with LBHI to coordinate preparation of an amended 2008 federal income tax return. LBHI timely filed the 2009 and 2010 federal income tax returns for the Lehman Group with the disclosure that the filings were based on estimated financial statements, with amended returns to follow once certain amounts are finalized. The completion of several separate company

LBI state income tax returns for 2007 was delayed due to the discovery that LBHI, which had prepared the returns for Deloitte Tax's review, had not taken certain tax items into account. For 2008, although final information is not yet available, state tax returns were prepared and timely filed based on estimated financials, again, with similar disclosures.

182. When finalized financial information is available, amended federal and state income tax returns will be filed if the information varies from the information originally reported in the tax returns. The Trustee timely filed all required 2009 and 2010 state and local income tax returns or extensions. A few of the 2010 state and local returns are not yet due; these returns will also be also filed using estimated financial information, with amendment once the federal returns are finalized.

183. The Trustee has filed closure forms with respect to employment and/or withholding tax accounts in all those states in which final employment and/or withholding tax returns were filed and is responding to related queries.

184. *Other taxes.* The Trustee's tax professionals continue to work with the Trustee's real estate attorneys and Deloitte Tax to determine any real or personal property tax liability, and possible nexus issues for state income tax liability or reporting obligations for the post-bankruptcy period, for LBI, as well as to comply with the Trustee's tax reporting obligations.

XVII. EMPLOYEE BENEFITS

185. In the Report Period, the Trustee achieved, subject to Bankruptcy Court approval, the resolution of all claims relating to, and the final disposition of, the Aceso Holdings Health Care Trust. For information regarding the Health Care Trust, see the Fourth Interim Report ¶ 196. A motion to approve this resolution is expected to be finalized and filed with the Court at or about the time of this Report. For information regarding bonus advances and tuition payment programs, see the Fourth Interim Report ¶¶ 197-98. For information regarding the termination of the LBHI Retirement Plan, see the Fourth Interim Report ¶ 200.

XVIII. EXECUTORY CONTRACTS

186. During the Report Period, the Court granted the Trustee's request to extend the time within which the Trustee may assume, assign or reject LBI's executory contracts and certain unexpired leases, as provided in section 365(d)(1) of the Bankruptcy Code to, and including, February 3, 2012. (*See* ECF No. 4293). The Extension Order has allowed the Trustee to continue to determine whether such remaining contracts would be beneficial to the estate and further the purposes of the liquidation or result in consideration to the estate through assignment to third parties.

XIX. INTERNAL CONTROLS AND BOOKKEEPING

187. The Trustee continues to employ administrative professionals who oversee the performance of the major efforts and work streams, provide guidance and review functions related to invoices, assist with information and technological needs,

provide historical knowledge of LBI's operations, and provide consultative advice on various matters. The Trustee and his professionals continue to monitor LBI's proprietary assets including, as appropriate, soliciting and/or evaluating bids for such assets.

188. The Trustee's professionals have established daily, monthly and ad hoc processes to support the ongoing processing of LBI's former brokerage business. These include:

- reconciling cash to approximately 420 legacy bank accounts (approximately 60 accounts have been closed), including ongoing research of 3,770 current and historical outstanding bank items;
- resolving 1,000 current and historical cash reconciliation items during Report Period;
- reconciling to depositories on a daily basis over 10,000 unique securities that equate to a share or par amount of over \$34.5 billion of equity and debt securities;
- coordinating relationship with BNY Mellon and Broadridge, both of whom are key service providers for the Estate;
- implementing controls around the vault at the Trustee's offices and conducting quarterly securities counts of the assets in the vault;
- processing journal entries to record transactions related to securities and cash movements authorized by the Trustee; and
- processing over 50,000 corporate actions related to securities held at various depositories around the world.

189. The Trustee's professionals rely on established controls for the payment and journaling of all expenses which include recording payment instructions and supporting documentation, reviewing time-entry diaries, and assessing the reasonableness of all rates and bills for services performed.

190. The Trustee continues receive inquiries relating to asset movement and related issues arising from customer claims and other historic and ongoing activities that affect the LBI Estate from time to time. The research for these items is distributed amongst the appropriate workstream within operations and claims research to provide the information and documentation requested.

XX. PROFESSIONAL RETENTION

191. At the request of and in consultation with SIPC, nearly every professional firm and consultant retained by the Trustee has agreed to a voluntary "public interest discount" of 10% or more from standard rates and has further agreed not to charge for a number of categories of expenses regularly paid to professionals in large bankruptcy proceedings, including overtime meals and after-hour travel services.

192. During the Report Period, Hughes Hubbard & Reed LLP (“HHR”), pursuant to the LBI Liquidation Order and the Order Regarding Disinterestedness of the Trustee and Counsel to the Trustee (ECF No. 243), continued to perform numerous tasks for the LBI Estate, its customers and creditors as the Trustee’s primary counsel.

193. HHR has not, does not, and will not represent any current or former client or their respective affiliates in this proceeding, the LBHI Chapter 11 proceedings, any other Lehman insolvency proceeding, or in any other matter adverse to the Trustee or the LBI Estate. Menaker & Herrmann, as special counsel, represents the Trustee on all matters relating to Citigroup Inc. and affiliates or syndicates, including Citibank, N.A., and RBS N.V. (acquirer of and successor to ABN AMRO Bank N.V.).

194. During the Report Period, the Court entered an order authorizing the Trustee to retain Levine Lee LLP, as special counsel, (ECF No. 4316) concerning claims asserted by and against LBHI (*see supra* ¶¶ 35-39, 73-81) and other matters. Mr. Kenneth E. Lee and two other attorneys founded Levine Lee LLP in April 2011. Mr. Lee was formerly a partner at HHR where he served as one of the Trustee’s principal counsel and the Trustee continues to rely on his advice on these matters.

195. As noted above, given the global nature of the LBI business and that Lehman insolvency proceedings have been commenced in numerous jurisdictions, the Trustee requires additional counsel to attend to certain matters. During the Report Period, Norton Rose LLP continued to advise the Trustee with respect to his and the LBI Estate’s rights, duties and powers in connection with the U.K. Administration and, in particular, representing LBI before the U.K. High Court in connection with the Client Money Application (*see supra* ¶¶ 63-72).

196. In addition, during the Report Period, (i) Steinmetz, Haring, and Gurman & Co. acted as special Israeli counsel to the Trustee before the District Court for Tel Aviv-Jaffa in the proceedings that have been commenced in Israel regarding other Lehman entities (*see supra* ¶¶ 114-115); and (ii) City-Yuwa Partners acted as Special Japanese Counsel in connection with LBJ matters (*see supra* ¶¶ 91-92).

197. Administrative expenses disbursed as of September 30, 2011 total \$641,986,000. Professional and consulting fees total \$543,973,000 including \$327,892,000 for Deloitte and \$168,700,000 for HHR. Transitional services total \$82,771,000 paid to Barclays and LBHI. Rent, data storage, and other operational costs total \$15,242,000.

XXI. INSURANCE

198. See Fifth Interim Report at ¶ 207.

XXII. CONCLUSION

The foregoing report represents a summary of the status of this proceeding and the material events that have occurred from April 23, 2011 through October 21, 2011. It will be supplemented and updated with further interim reports.

Dated: New York, New York
October 21, 2011

Respectfully submitted,

HUGHES HUBBARD & REED LLP

By: /s/ James B. Kobak, Jr.
A member of the firm

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Trustee for the SIPA Liquidation of
Lehman Brothers Inc.

EXHIBIT 1

Financial Condition of the Estate – Assets on Hand

Summary of Assets and Customer Property on Hand

As of September 30, 2011

Unaudited (in millions)

Cash and Cash Equivalents	\$276
Securities (a), (b)	
BNYM	13,122
International Depositories ^(c)	24
Goldman Sachs	3,852
Union Bank	6,309
Other	103
Total Securities	<u>\$23,410</u>
Total Assets Under Trustee Control^(d)	<u><u>\$23,686</u></u>
Reserves related to Post-petition Dividends & Interest	(1,375)
Reserves related to Barclays Litigation	<u>(3,069)</u>
Total Assets Under Trustee Control less Reserves^(e)	<u><u>\$19,242</u></u>

- a) Market value of securities calculated by the LBI Estate utilizing available market data; excludes value of customer name securities.
- b) See Summary of Securities on Hand on following page.
- c) International Depositories represents securities held by depositories that are under Trustee control.
- d) Does not include assets held in certain depositories, which are not under Trustee control.
- e) Barclays Reserves include \$1.1 billion for clearance box assets, \$769 million for 15c3-3 securities, and \$1.2 billion related to margin assets.

The information and data included in this exhibit are derived from sources available to the Trustee and his professionals. This exhibit is based on the information available at this time. All amounts are unaudited and subject to revision.

Financial Condition of the Estate – Summary of Securities on Hand as of September 30, 2011

	Number of CUSIPS	Number of Shares / Par Value	Market Value (USD)
BNYM			
Certificates of Deposit	16	1,813,970,000	1,816,504,335
Corporate Equities	6,767	926,062,506	8,697,876,218
Corporate Bonds	1,027	7,744,441,087	2,104,229,591
Mortgage and asset-backed securities	329	6,644,399,919	185,188,993
Municipal Bonds	87	107,439,587	94,324,173
Government and Agency Bonds	4	206,933	218,693
Other	766	1,532,072,402	223,771,670
International Depositories			
Corporate Equities	157	135,685,744	23,953,339
Corporate Bonds	1	200,000	296,350
Other	13	3,924,733	191,057
Goldman Sachs			
Certificates of Deposit	14	2,144,262,000	2,147,567,152
Corporate Equities	57	933,949	6,685,768
Corporate Bonds	3	1,523,122	832
Government and Agency Bonds	3	9,972,997	5,782,339
Promissory Notes	22	1,680,000,000	1,691,905,959
Union Bank			
Certificates of Deposit	30	5,094,600,000	5,102,588,081
Corporate Equities	14	1,624,177	2,407,829
Corporate Bonds	81	12,333,671	2,631,921
Government and Agency Bonds	117	826,709,796	1,201,024,219
Other (DTC, Vault, and Money Markets)			
Corporate Equities	126	35,705,465	98,233,105
Corporate Bonds*	7	20,006,004	55,966
Mortgage, asset-backed securities, other	468	5,772,909,916	4,278,097
TOTAL	10,109	34,508,984,008	23,409,715,687

* Includes foreign securities for which market values are not available

The information and data included in this exhibit are derived from sources available to the Trustee and his professionals. This exhibit is based on the information available at this time. All amounts are unaudited and subject to revision.

Financial Condition of the Estate – Cash Flow

Schedule of Cash Receipts and Disbursements ^(a)

September 19th, 2008 – September 30th, 2011

Unaudited (in millions)

Beginning Cash ^(b)			Investment in	Ending Cash and
(9/19/08)	Receipts	Disbursements	Liquid Assets	Cash Equivalents
				(09/30/11)
\$1,555	\$13,927	(\$4,473)	(\$10,733)	\$276

(a) Represents cash flows for Trustee controlled bank accounts. Foreign currency amounts are reflected in USD equivalents.

(b) Represents cash in legacy LBI bank accounts under Trustee control as of September 19, 2008. In interim reports, prior to the Fourth Interim Report, this balance was reported as \$1,221 million. Based on information obtained subsequent to September 19, 2008, the beginning cash balance was adjusted by \$153 million in August 31, 2010 and by \$181 million in January 31, 2011, resulting in a beginning cash balance of \$1.555 billion. These adjustments were made to reflect the removal of account balances that were in an overdraft position or not under the control of the Trustee as of September 19, 2008 and accounts that were subsequently seized.

The information and data included in this exhibit are derived from sources available to the Trustee and his professionals. This exhibit is based on the information available at this time. All amounts are unaudited and subject to revision.

EXHIBIT 2

Claims Administration – Summary of Customer Claims Processing

	<u>Claims</u>	<u>Total Amount (in Millions)</u>
Total Customer Claims ¹	124,989	\$188,599.1
Claims resolved by transfers to Barclays	72,527	\$43,249.3
Claims resolved by transfers to Neuberger Berman	38,106	\$45,566.7
Claims resolved through Trustee's Prime Brokerage Protocol	287	\$3,485.3
Claims Determined through the Claims Process	14,069	\$96,297.8
Total Customer Claims closed through the Claims Process ^{2, 3}	10,974	\$54,161.3
Claims Allowed ⁴	897	\$11,658.9
Claims Reclassified as General Creditor Claims	3,041	\$11,427.5
Claims Denied	7,036	\$31,074.9
Total Unresolved Customer Claims ⁵	3,095	\$42,136.5

(Additional details related to unresolved claims in subsequent page)

The information and data included in this exhibit are derived from sources available to the Trustee and his professionals. This exhibit is based on the information available at this time. All amounts are unaudited and subject to revision.

1. Excludes three Barclays Omnibus claims (House, Admin and duplicate).
2. No objection to the Trustee's determination has been filed, the objection has been withdrawn or the Trustee's determination has been confirmed by Court Order.
3. Does not include 104 allowed, 1,150 reclassified and 708 denied claims which are reported as Objections to Claim Determinations.
4. LBIE claims consist primarily of seven LBIE Omnibus customer claims (representing approximately 1,100 accounts), and three proprietary claims. The allowed amount of \$8,292.9M is in the Allowed Category and the following amounts are in the Unresolved LBIE Claims Categories: \$5,160.7M of reclassified amount and \$11,771.3M of denied amount (including amounts from late claims submitted by LBIE). The time to object to the Trustee's determination of the allowed amount of \$8,292.9M has not run, but the parties continue to work cooperatively to close these claims. The majority of the 1,100 accounts are allowed whereas a portion may be reclassified or denied.
5. An objection to the Trustee's determination has been filed and has not been resolved, the time to object to a determination has yet to expire, or the claimant has not provided supplemental information as requested by the Trustee.

Claims Administration – Summary of Customer Claims Processing

	Claims	Total Amount (in Millions)
Total Unresolved Non Affiliate Customer Claims ¹	1,726	\$14,581.5
Claims Allowed	1	\$2.0
Claims Reclassified as General Creditor Claims	0	\$0.0
Claims Denied	10	\$433.4
Objections to Claims Determinations ²	1,715	\$14,146.1
Total Unresolved Affiliate Customer Claims	1,369	\$27,555.0
LBIE Claims ³	1,114	\$16,932.0
LBHI Claims ⁴	244	\$7,998.7
Other Affiliates ⁵	11	\$2,624.3

The information and data included in this exhibit are derived from sources available to the Trustee and his professionals. This exhibit is based on the information available at this time. All amounts are unaudited and subject to revision.

1. An objection to the Trustee's determination has been filed and has not been resolved, the time to object to a determination has yet to expire, or the claimant has not provided supplemental information as requested by the Trustee.
2. Of 1,715 objections, approximately 103 represent allowed claims with allowed amount of \$520.6M.
3. LBIE claims consist primarily of seven LBIE Omnibus customer claims (representing approximately 1,100 accounts), and three proprietary claims. The allowed amount of \$8,292.9M is in the Allowed Category and the following amounts are in the Unresolved LBIE Claims Categories: \$5,160.7M of reclassified amount and \$11,771.3M of denied amount (including amounts from late claims submitted by LBIE). The time to object to the Trustee's determination of the allowed amount of \$8,292.9M has not run, but the parties continue to work cooperatively to close these claims. The majority of the 1,100 accounts are allowed whereas a portion may be reclassified or denied.
4. LBHI unresolved claims include 4 reclassified claims with no claim value, and objections to the Trustee's determinations of 240 claims with a claim value of \$7,998.7M. The objections relate to 1 allowed claim with no claim value, 33 reclassified claims with claim value of \$4,659.4M, 175 denied claims with claim value of \$812.7M and 31 deficient claims with a claim value of \$2,526.7M.
5. Other Affiliate unresolved claims include 2 allowed claims totaling \$58.6M, 6 reclassified claims totaling \$161.8M and 3 denied claims totaling \$2,403.9M (unresolved claims include 7 objections).

Claims Metrics Summary

Claims Determined Through the Claims Process

Customer Claims Categories (In millions)	Allowed¹	Denied and Closed (Includes Reclassified)	Denied and Disputed²	Grand Total
Non- Affiliate	\$ 3,365.5	\$ 24,090.9	\$ 14,058.9	\$ 41,515.3
LBIE	8,292.9 ³	5,052.9	16,932.0 ⁴	30,277.8
LBHI	523.1	11,362.5	7,998.7	19,884.3
Other Affiliates	58.6	1,996.1	2,565.7	4,620.4
Total Amount	\$ 12,240.1	\$ 42,502.4	\$ 41,555.3	\$ 96,297.8

1. The total allowed claims equal approximately \$12.2 billion which includes approximately \$520.6 million of allowed amounts included in objections filed by non-affiliate claimants.
2. An objection to the Trustee's determination has been filed and has not been resolved, the time to object to a determination has yet to expire, or the claimant has not provided supplemental information as requested by the Trustee. Allowed amounts of \$60.6 million, for which the time to object to a determination has yet to expire, are included in allowed claims.
3. LBIE's time to object to the Trustee's determination of these allowed claims has not run, but the parties continue to work cooperatively to close these claims.
4. This figure includes late-filed claims that are time-barred; LBIE disputes that these claims are invalid.

EXHIBIT 3

Return of Misdirected Funds

- The Trustee continues to receive requests for the return of misdirected funds alleged to have been sent in error to LBI bank accounts.
- The Trustee developed and implemented court-authorized procedures for the return of misdirected wires:
 - Protocol Regarding Misdirected Funds and Request Form for the Return of Misdirected Funds available on the Trustee's website (www.lehmantrustee.com).
 - Court authorization to return misdirected funds of \$250,000 or less without need for further court approval.
- The Trustee continues to investigate allegedly misdirected funds to confirm whether funds were in fact sent in error, and to return funds determined to have been sent in error.

POST-PETITION MISDIRECTED WIRE STATISTICS (THROUGH 09/30/11)		
	Number of Wires	Approximate Amount (USD in millions)
Returned		
• Without further court authorization	522	\$8.4
• With further court authorization	378	\$560.7
TOTAL	900	\$569.1
Pending	83	\$23.3

MISDIRECTED WIRES RETURNED IN THE REPORT PERIOD (BETWEEN 3/31/11 AND 09/30/11)	
Number of Wires	Approximate Amount (USD in millions)
34	\$15.1

The information and data included in this exhibit are derived from sources available to the Trustee and his professionals. This exhibit is based on the information available at this time. All amounts are unaudited and subject to revision.