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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 SEVENTH INTERIM REPORT FOR THE PERIOD
OCTOBER 22, 2011 THROUGH APRIL 20, 2012**

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

The Trustee made significant progress on all major fronts of the liquidation over the past six months. This Report summarizes the Trustee's substantial activities and accomplishments during the Report Period for the benefit of customers and other creditors of Lehman Brothers Inc. ("LBI"). Specifically, the Trustee:

- Negotiated and achieved a settlement in principle with Lehman Brothers Holdings Inc. and certain of its affiliates ("LBHI") to resolve more than \$70 billion of disputed claims between the estates;
- Filed a motion seeking Court approval for the allocation of approximately \$24 billion of assets under the Trustee's control;
- Won a favorable ruling from the British Supreme Court regarding the failure of Lehman Brothers International (Europe) ("LBIE") to properly segregate billions of dollars in customer money, including money that LBIE failed to segregate for LBI which the Trustee believes entitles the estate to a judgment of at least \$1.2 to \$4 billion;
- Negotiated the withdrawal of more than a quarter-billion dollars in customer claims;
- Recovered more than a quarter-billion dollars from the close-out and unwind of financial derivatives transactions, bringing the total amount recovered from close-outs and unwinds to date to approximately \$4.3 billion;
- Won a favorable ruling from the Court confirming the Trustee's position that claims for damages arising from TBA Contracts are not customer claims under

SIPA, which will help resolve hundreds of millions of dollars in disputed claims constituting the largest category of disputed claims objections;

- Fully briefed the appeal and cross-appeal of the Trustee's \$6.2 billion dispute with Barclays Capital Inc. ("Barclays") in United States District Court for the Southern District of New York;
- Engaged in discovery with LBIE on its Omnibus Customer Claim and Proprietary House Claim, as well as other parties including Citibank and Goldman Sachs; and
- Advanced settlement negotiations with several former international affiliates.

The Trustee's primary objective is to implement the SIPA plan to return customer property and marshal assets for customers and other creditors. Distributions to date are many times greater than in any other SIPA proceeding, and the Trustee will continue to distribute property to customers through a substantial distribution on customer claims when it is possible to do so. The Trustee hopes to make an interim distribution on allowed customer claims before the end of the year. The timing and extent of an interim distribution will be impacted by a final ruling on the Allocation Motion discussed herein, and by resolution of pending contingencies. All material matters are now before the Court and will be resolved in a manner consistent with the SIPA statute, fairness, and the due process rights of all parties.

As detailed in this Report, the Trustee has resolved several of the major contingencies. However, LBIE's challenge of the Trustee's determination and classification of the LBIE claims remains the largest contingency. The Trustee is also among the largest creditors in the LBIE proceeding, and welcomes any advancement in that proceeding, including the passage of the LBIE bar date in 2012, so that the Trustee

may adequately assess affirmative recoveries or setoff with respect to LBIE claims.

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.

1. James W. Giddens (the “Trustee”), as trustee for the liquidation of LBI under the Securities Investor Protection Act (“SIPA”), 15 U.S.C. §§ 78aaa *et seq.*,¹ respectfully submits this Seventh 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).

2. This Report covers the period from October 22, 2011 through April 20, 2012 (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 and assets on hand, see Exhibit 1.

5. This financial information reflects cash, cash equivalents, and other short-term liquid assets in the amount of \$11.9 billion and securities in the amount of \$13.8 billion. All of these assets are currently under the Trustee’s control. This information is based on a reasonable approximation of the current 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.

6. The Trustee’s professionals have utilized available market data to calculate the market value of securities. Where market data is not available within 30 days of the report date, the security is valued at zero. Since LBI is in liquidation and does not carry on an active trading operation, the Trustee does not maintain a trading desk that can obtain reliable pricing information on securities that are not regularly traded. Going forward, the Trustee will obtain such information as necessary for the distribution process. As the Trustee moves toward resolving the contingencies discussed below so as to effect an interim distribution, the Trustee has a process in place through his professionals to evaluate and obtain pricing on such securities to the greatest extent possible.

1. Subsequent references to SIPA throughout 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); October 27, 2010 through April 22, 2011 (the “Fifth Interim Report,” ECF No. 4245); and April 23, 2011 through October 21, 2011 (the “Sixth Interim Report,” ECF No. 4657).

II. CLAIMS ADMINISTRATION

Customer Claims Processing Overview

7. During the Report Period, the Trustee filed, advanced, or resolved three motions seeking to resolve more than 255 customer claims; engaged in settlement negotiations which led to an agreement in principal with respect to LBHI's customer claims asserted in amounts of over \$7 billion; engaged in information exchanges and negotiations with foreign affiliates which should resolve a number of claims in the near future; actively litigated LBIE's objection to the Trustee's denials of billions of dollars in additional claims; and reached out to many non-affiliate claimants resulting in over 50 voluntary claim withdrawals aggregating in excess of \$280 million.

8. In total, the Trustee has allowed to date approximately \$12.2 billion of claims: \$3.3 billion relate to non-affiliate customer claims, while the remainder reflects affiliate claims.

9. The Trustee has denied customer status to more than 10,000 claims totaling approximately \$42.8 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). Overall, the Trustee has achieved final resolution of over 11,000 customer claims totaling \$55 billion.

10. There remain over 2,100 claims with an approximate value of \$41.7 billion that are unresolved. Of this amount, \$41.2 billion relates to denied claims that are disputed, while \$447.5 million relates to allowed claims where the claimant has objected or the time to object has yet to expire. In principle, a number of these claims involving several billion dollars have been largely resolved, pending negotiation and finalization of documentation. The principal remaining claims are largely those of LBIE, claims of LBIE prime brokerage customers related in large part to the resolution of the LBIE omnibus claims, and claims of LBF (defined *infra* ¶ 82) and a few remaining affiliates. The remaining claims and the Trustee's efforts to resolve them by negotiation or litigation, including scheduled hearings or other significant dates, are set forth in Section III below. For a graphical summary of customer claims processing, see Exhibit 2.

11. For information about the Trustee's use of SIPC advances to satisfy customer claims in amounts up to \$500,000, see Sixth Interim Report ¶ 16.

12. 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

13. Prior to the Report Period, the Trustee's professionals undertook a preliminary analysis of general creditor claims. This analysis reflects that 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 continues to estimate that the allowed amount of these alleged priority claims may range from \$1.2 to \$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.

14. Even when eliminating clear duplicates or claims asserted against the wrong entity, the asserted amount of all general creditor claims (without ascribing value to unliquidated amounts) appears to exceed \$60 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. For example, during the Report Period approximately \$30 million of TBA-related customer claims were reclassified as general creditor claims (see *infra* ¶¶ 45-47).

15. 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 13,000 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.

16. During the Report Period, the Trustee's professionals continued their analysis of general creditor claims to assist the Trustee with certain settlement negotiations and other projects. The Trustee's professionals also updated the General Creditor Claims Register to reflect claims withdrawals and allowances in connection with settlements entered into by the Trustee.

17. 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 below in Section IV.

18. The Trustee, by and through his Claims Agent, EPIQ Bankruptcy Solutions, LLC, 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.

III. RESOLVING THE REMAINING DISPUTED CUSTOMER CLAIMS

19. There remain approximately \$41.7 billion of unresolved claims, 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 remains the principal focus of the rest of the liquidation.

20. There are approximately 1,000 unresolved non-affiliate claims remaining (excluding duplicate claims and amendments). (*See infra* ¶¶ 23-56.) The time for objections has expired with respect to 10,784 claims.

21. The Trustee's professionals continue to contact objecting claimants to discuss their claims and objections. In total, 252 non-affiliate objections have been voluntarily withdrawn. (*See, e.g.*, ECF Nos. 3001, 3345, 3403, 3509, 3579, 4259, 4346, 4473, 4973.) As of March 31, 2012, 209 objections have also been expunged by Court Order. (*See e.g.*, ECF Nos. 3111, 3418, 3588, 4205, 4374, 4814, 4992). The total value of the objections voluntarily withdrawn or expunged by Court Order is more than \$1.4 billion.

22. With respect to the remaining objections that are not withdrawn, the Trustee intends to continue to move toward resolving those objections, either consensually or through determinations from the Bankruptcy Court. For information on the Trustee's claims adjudication procedures, which were approved by the Bankruptcy Court on November 7, 2008 (ECF No. 241) see the Fourth Interim Report ¶¶ 43-46.

LBIE Claims

23. On January 30, 2009, LBIE filed an omnibus customer claim on behalf of numerous 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. LBIE claimed over \$24 billion with respect to both claims. 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 amount of LBIE's claims to over \$30 billion – \$16.4 billion with respect to the Omnibus Customer Claim and \$13.9 billion with respect to the House Claim. The Trustee has rejected the new claims raised by the purported amendments as untimely.

24. On September 16, 2010 and May 19, 2011, the Trustee issued letters of determination with respect to the LBIE Omnibus Customer Claim. The Trustee allowed \$2.2 billion in cash (\$1.3 billion of which is subject to certain showings by LBIE) and certain securities positions then preliminarily valued (in part with values provided by

LBIE in its claim) at \$6.1 billion. The Trustee denied the commodities futures claim (which concerned accounts transferred to Barclays).

25. On September 16, 2010, the Trustee also issued letters of determination with respect to the LBIE House Claim and the LBIE Failed Trades Claim. 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.

26. On March 8, 2012, the Trustee, LBIE, and Barclays reached substantial agreement regarding assets in the commodities futures accounts that had been transferred to Barclays and claimed by LBIE as part of the Omnibus Customer Claim. Pursuant to the agreement, LBIE's claim with respect to the accounts has been withdrawn in substantial part.

LBIE Omnibus Customer Claim (all claims determined)

(up to an estimated \$8.3 billion conditionally allowed; \$6.7 billion in dispute)

27. Since the Trustee's May 19, 2011 determination, 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 commencement date of LBIE's administration (September 15) and the Filing Date (September 19).

28. Despite substantial agreement on fundamental facts concerning the positions and balances reflected in the customer omnibus accounts as of the Filing Date, LBIE continues to dispute significant portions of the Trustee's determination, and, on October 31, 2011, LBIE objected to the Trustee's determination. That objection acknowledged duplication of part of its cash claim, and therefore adjusted the total amount of the claim (including amounts claimed on September 10, 2010) to approximately \$15.1 billion. Further adjustment to take account of the agreement reached in connection with the commodities futures claim brings LBIE's Omnibus Customer Claim to approximately \$15.0 billion.

29. A significant portion of the remaining amount in dispute concerns the question of whether payables and short positions associated with LBI's settlement of trades for LBIE's underlying customers, immediately before and during the September 15-19, 2008 period, should offset the value in the customer omnibus accounts. Following LBIE's objection, the Trustee filed a Position Statement explaining the basis for his determination. (ECF No. 4865.) In short, the liabilities in the customer omnibus accounts (*e.g.*, payables and short positions) reduce LBIE's allowed claim under SIPA's net equity calculation. This consideration of liabilities in calculating net equity dovetails with broker-dealer regulatory requirements, which permit a broker-dealer to reduce its reserve requirements by "debit items," or amounts owed by customers to the broker-

dealer. (Motion for Order Approving Trustee's Allocation of Property of the Estate, ¶ 39, filed Oct. 5, 2009, ECF No. 1866.) To protect all of LBI's customers, the Trustee's determination incorporates this statutory and regulatory customer protection scheme. The parties have agreed on a schedule to litigate LBIE's objection, with the intention of making the matter ready for trial in early 2013.

LBIE Proprietary House Claim (all claims determined)

(\$13.9 billion asserted and denied in full as customer claim; \$8.9 billion in dispute)³

30. On August 1, 2011, in accordance with a joint Initial Scheduling Order and Discovery Plan approved by the Bankruptcy Court for the Southern District of New York, LBIE filed its Objection to the Trustee's determination of the House Claim. In that objection, LBIE has claimed approximately \$8.9 billion, which includes a variety of components including securities accounts, financing transactions (such as stock loans), and intercompany balances.⁴ LBIE argues that it should be treated as a SIPA "customer" for its House Claim, despite the proprietary nature of the claim, and the effect that the allowance of such a claim would have on public customers, including LBIE's own omnibus account customers.

31. On September 30, 2011, the Trustee filed a statement of his position. The Trustee asserted, among other things, that LBIE does not meet SIPA's requirements for "customer" status with respect to its House Claim, treating LBIE's House Claim as a "customer" claim would contravene SIPA and its purposes, many elements of the claim (such as alleged claims arising from stock loans) do not qualify as customer transactions, certain elements of the House Claim are not supported by LBI's books and records, and other elements of the House Claim are untimely. The statement notes that, should the Court determine that any part of the House Claim is allowable as a SIPA customer claim, the net equity of the claim would include a substantial reduction reflecting LBIE's indebtedness to LBI on the Filing Date. On November 15, 2011, LBIE filed a responsive statement of its position.

32. The parties have commenced discovery and intend to have the matter ready for trial in 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 as much as approximately \$13 billion. As reported previously, the affected parties are primarily hedge funds that chose

3. The Trustee's claims against LBIE are discussed at ¶ 61.

4. LBIE has reduced its House Claim to \$8.9 billion by withdrawing an unsubstantiated cash claim in its entirety and withdrawing other claims on a provisional basis. LBIE argues that the withdrawal of the latter claims is conditioned upon the ultimate determination of duplicate claims asserted by LBIE in the Omnibus Customer Claim.

to trade securities through LBIE rather than directly through LBI (*see* Sixth Interim Report at ¶¶ 33-34).

34. During the Report Period, the Trustee's professionals were actively engaged in three-way discussions with the LBIE Administrators and various claimants in an effort to reconcile claims and eliminate duplicate claims. At these three-way meetings, the Trustee's professionals have provided the objector with a workbook reflecting a joint analysis of the LBIE account holder's claims into LBI and LBIE. The meetings have provided the LBIE account holder with the opportunity to discuss the resolution of its direct claims against LBI through the allowed Omnibus Customer Claim.

35. The Trustee hopes and expects that many or all the LBIE account holders' objections will be resolved through the allowed Omnibus Customer Claim. They must look to LBIE for whatever they believe was being held for them by LBIE in the omnibus account and do not have allowable direct claims in the LBI liquidation with respect to that relationship. However, some significant claims in this category, arising from alleged direct relationships with LBI rather than LBIE, may have to be litigated.

LBHI/Chapter 11 Debtor Claims

(244 remaining claims; approximately \$8 billion in dispute)

36. The Chapter 11 Debtors and their subsidiaries filed 630 claims⁵ against LBI on behalf of themselves and their customers or counterparties with a total estimated value of approximately \$19.9 billion. The Trustee analyzed these claims and 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 additional information that the Chapter 11 Debtors need to supply in support of some of their claims.

37. 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 reclassified as general creditor claims, determined to be deficient, have 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.

38. 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

5. 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. See *infra* Section VII regarding the Trustee's claims and dealings with other international affiliates for discussion of these claims.

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 performed extensive research and exchanged information relating to these claims.

39. For the remaining approximately \$6 billion in claims of the Chapter 11 Debtors, the Trustee either disputed or required additional information to determine whether these claims meet SIPA’s requirements to qualify as customer property. For these claims, the Trustee worked closely with the Chapter 11 Debtors to prioritize answers to factual questions and resolve discrepancies. This process included 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 to and including September 30, 2011. 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.)

40. After completing the joint reconciliation process and exchanging additional information, the Chapter 11 Debtors and the Trustee announced on February 28, 2012 that an agreement in principle has been reached that would resolve all claims among their respective entities. The complex agreement in principle is subject to documentation and various approvals, including by the Bankruptcy Court. No details about the agreement in principle are available at this time, and there is no assurance that an agreement among the parties will be consummated. Should the parties fail to consummate a settlement, the Trustee would move for prompt determination of the remaining claims.

International Affiliate Claims⁶

(7 remaining claims; approximately \$2.6 billion in dispute)

41. 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, and Switzerland.

42. A total of 49 customer claims have been filed by foreign 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

6. The Trustee’s claims and dealings with other international affiliates are discussed in Section VII.

reclassified as general unsecured claims. The principal customer claims remaining are those of Hong Kong, Japan, Luxembourg, Singapore, and Switzerland. The state of these claims is discussed below in Section VII.

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-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 meetings of the signatories to the International Protocol held in New York and London. In connection with both the New York and London Protocol Meetings, the Trustee's professionals held bilateral meetings with various affiliates. Meeting with the representatives of other affiliates have been supplemented by teleconferences. The meetings and teleconferences have been successful in advancing the settlement process with several affiliates.

TBA and Forward Transactions

(527 remaining claims; approximately \$287.2 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 TBA Contracts ("TBA Motion," ECF No. 4360). Based upon a factual record of four claimants (whose claims were typical of the total population), the TBA Motion presented the legal arguments regarding why claims for damages arising out of certain unperformed forward contracts for the future purchase or sale of "to-be-announced" U.S. agency debt obligations ("TBA Contracts") are not customer claims under SIPA.

46. Following briefing and hearing on the TBA Motion, the Court issued a memorandum decision granting the Trustee's Motion. *In re Lehman Bros., Inc.*, 462 B.R. 53 (Bankr. S.D.N.Y. 2011). The resulting order addressed 227 claim objections regarding open TBA Contracts by the asset managers for the representative claimants. *See* Order Confirming the Trustee's Determination of Claims Related to TBA Contracts ("TBA Order," ECF No. 4814).⁷ The Court's Memorandum Decision and TBA Order will likely resolve remaining objections based on TBA Contracts and 25 other claimants have voluntarily agreed to withdraw their objections to the Trustee's determinations.

47. As of March 31, 2012, approximately 197 of the 610 objections based on TBA Contracts are fully resolved, 381 are resolved pending documentation, and 32 are partially resolved, with non-TBA issues pending. The ruling also provides guidance for resolution of 114 claim objections based on (i) damages arising from unperformed forward contracts for the future purchase or sale of U.S. Treasury instruments ("Treasury

7. Of the 227 claims subject to the TBA Order, 172 claims have no remaining objections and 55 have objections related to other non-TBA Contract issues.

Forwards”), (ii) claim objections based on collateral posted with LBI in connection with TBA Contracts and/or Treasury Forwards, (iii) or both.

Repurchase Transactions

(43 remaining claims; approximately \$353.8 million in dispute)

48. 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.

49. 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 schedule for presenting to the Court the question of whether repo claims are entitled to customer status, as approved by the Court on March 19, 2012 (the “March 19 Order,” ECF No. 4960). Pursuant to the March 19 Order, the Trustee filed his motion to uphold his determination of the claims filed by the Test Case Claimants on April 6, 2012 (ECF No. 5007), and a hearing on the motion is expected to occur before the end of the year.

50. In addition, as previously reported, the Trustee has 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.

Foreign Currency Transactions (FX)

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

51. 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 (ECF No. 3490). Prior to the hearing scheduled for August 19, 2010, each of these 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 (ECF No. 4149). The claimants subject to this motion have all withdrawn their objections to denial of customer status and accepted general creditor status for their claims. The Trustee’s

professionals continue to engage in discussions with the remaining claimants to resolve their objections.

Soft Dollars

(24 claims remaining; approximately \$4 million in dispute)

52. On March 20, 2012, the Trustee filed a motion to confirm his determinations denying customer status to twenty two claims based on soft dollar commission credits (ECF No. 4963). (A supplement was filed March 29, 2012 to address two additional claims in this category). As set forth in the motion, soft dollars are commission credits, which could be used to purchase research and other brokerage services, and lack essential attributes of customer property under SIPA. The motion was noticed for hearing on May 17, 2012 and any responses are due April 17, 2012.

Miscellaneous

(47 claims remaining; approximately \$278 million in dispute)

53. The Trustee denied customer status to hundreds of claims because 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)).

54. 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 objections, see the Fifth Interim Report ¶¶ 56-61.

55. On March 6, 2012, the Trustee filed a motion to uphold his determinations as to certain claims (i) arising from pre-petition misdirected wires; (ii) based upon foreign currency transactions with LBSF; and (iii) received by the Trustee after the bar date, and expunging objections thereto (ECF No. 4941). The objection to the denial of customer status to the pre-petition misdirected wire claim was voluntarily withdrawn prior to the hearing. After a hearing on March 27, 2012, the objections with respect to the other claims were expunged by order.

56. During the Report Period, the Trustee successfully negotiated the withdrawal of 40 objections covering 52 customer claims with an approximate value of \$284 million. (*See e.g.*, ECF No. 4973). The Trustee's professionals continue to contact claimants to resolve objections without litigation. Additional withdrawals concerning some of these objections have been agreed upon in principle but are not yet fully documented or submitted to the Court.

IV. ALLOCATION MOTION

57. SIPA requires the Trustee to allocate the cash and securities under his control between the fund of “customer property” and the general estate. As previously reported, on October 5, 2009, the Trustee filed a motion seeking to establish principles governing determination of whether particular items and categories of property constitute “customer property.” *See* Motion for Order Approving Trustee’s Allocation of Property of the Estate (the “First Allocation Motion,” ECF No. 1866). On March 2, 2010, the Court issued an Order approving those principles and also granting the Trustee authority to reallocate property from other sources to the fund of customer property as necessary to cure certain compliance shortfalls identified in the First Allocation Motion. *See* Order Approving Trustee’s Motion for Allocation of Property of the Estate (the “First Allocation Order,” ECF No. 2743).

58. Building on the principles established in the First Allocation Motion and approved by the Court in the First Allocation Order, the Trustee on December 1, 2011, filed a motion seeking Court approval for the allocation of the \$23.7 billion⁸ of assets under his control. *See* Second Motion for Order Approving the Trustee’s Allocation of Property (the “Second Allocation Motion,” ECF No. 4760). In broad outline, the Trustee seeks to allocate \$18.303 billion to the fund of customer property, comprising:

- a. \$11.615 billion in “core” customer property, those items of property “received, acquired or held” for the accounts of customers (SIPA § 78III(4));
- b. \$3.194 billion to cure compliance issues, that is, “any other property of the debtor” to the extent that the debtor was not in compliance with applicable rules governing segregation of customer property (SIPA § 78III(4)(D));
- c. \$2.010 billion in resources provided through the “use or realization” of customer “debit items” as defined by SEC rule (SIPA § 78III(4)(B)); and
- d. \$1.484 billion, representing a proportional share of assets that are related to both customer and proprietary interests.

See id. Ex. A. The Second Allocation Motion also seeks to establish the principles upon which assets now held in reserve or acquired in the future will be allocated.

59. LBIE, LBHI, and two other parties filed objections to the Second Allocation Motion (or reservations of rights) by the January 11, 2012 deadline. Certain other parties requested and received extensions of time to object. Throughout the first quarter of 2012, the Trustee engaged in discussions with these parties in the hope of achieving consensus on most, if not all, of the issues raised in the Second Allocation Motion. Determination of the allocation of property is material to the Trustee’s ability to

8. The numbers provided in the motion and this section are based on property that was under the Trustee’s control and valued as of September 30, 2011.

make distributions on a final or interim basis. Because of the importance to the administration of the estate and payment of distributions, the Trustee has sought a hearing on the Second Allocation Motion in the summer of 2012, although the objections seek to defer the hearing date.

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

60. 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 allowing the omnibus claim of as much as \$8.3 billion and commencing litigation currently in active discovery to resolve all its other customer claims, none of the Trustee's claims to LBIE have been determined by LBIE. Indeed, LBIE's bar date will not run until December 2012, though the Trustee welcomes LBIE's recent report that it may accelerate that deadline. 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 they may impede the recoveries of customers and other creditors of LBI.

LBI's Claim Against LBIE⁹

61. On July 13, 2011, the Trustee submitted a claim to LBIE (the "July 13 Claim") with respect to all obligations of LBIE to LBI as of the date of LBIE's bankruptcy, and discovered so far by the Trustee. The bar date for submission of unsecured claims in the LBIE U.K. administration proceedings is December 31, 2012. The Trustee and his professional advisors continue to engage in discussions with LBIE regarding the extent to which LBIE will accept the July 13 Claim. (*See also* Trustee's Sixth Interim Report ¶¶ 59-62.)

U.K. Court Proceedings

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

Client Money

63. 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 judgment on this application was handed down on December 15, 2009. *Lehman Brothers International (Europe) v. CRC Credit Fund Ltd & Ors* [2009] EWHC 3228 (Ch). The Trustee and certain other client money claimants of LBIE

9. Claims filed by LBIE are discussed at ¶¶ 23-32.

appealed such decision to the U.K. Court of Appeal, and judgment 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. A GLG Investments Plc fund ("GLG") appealed the Court of Appeal's decision to the U.K. Supreme Court, and judgment on the appeal was handed down on February 29, 2012. The Trustee appeared as a respondent to GLG's appeal. *Re Lehman Brothers International (Europe) (In Administration)* [2012] UKSC 6. The Trustee has a claim against LBIE for a substantial amount of client money.

64. The Supreme Court (upholding the Court of Appeal) dismissed GLG's appeal and held that (i) client money had been held on trust by LBIE from the time of receipt, as opposed to the time of segregation, (ii) the client money pool constituted on the commencement of LBIE's administration should be distributed to LBIE's clients in accordance with their contractual entitlements in respect of client money, irrespective of whether LBIE had in fact segregated client money for those clients (contrary to the judgment of the High Court); and (iii) the client money pool includes all client money identifiable in any account into which client money has been received and is not limited to client money in the firm's segregated accounts (contrary to the judgment of the High Court). The Trustee welcomes the Supreme Court's judgment as being consistent with the purpose of the scheme mandated by the underlying European Union directives, which is to provide a high level of protection to all clients of an investment firm and in respect of client money held in every client money account of the firm.

65. On April 8, 2011, the Administrators of LBIE made an application to the U.K. High Court seeking directions regarding (among 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 Supreme Court appeal, 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 handed down judgment. The Trustee awaits the renewal of the Administrators' application following the recent Supreme Court judgment and will respond appropriately.

"RASCALS"

66. In July 2009, the Administrators of LBIE made an application to the U.K. High Court seeking directions concerning 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 the subject of an internal Lehman process known as "RASCALS" (Regulation and Administration of Safe Custody and global Settlement). The RASCALS process, which was initiated by certain affiliates in 1996, consisted of a series of stock loans and repurchase transactions. Judgment on the Administrators' application was handed down on November 19, 2010, with the High Court holding that, although affiliates had a proprietary interest in the securities at the point of acquisition from third parties, they lost that ownership when those securities were subsequently subject to the RASCALS process. *Pearson & Ors v Lehman Brothers Finance SA & Ors* [2010] EWHC 2914 (Ch).

67. Lehman Brothers Finance SA appealed, and the Administrators of LBIE cross-appealed, the judgment of the High Court to the U.K. Court of Appeal, which handed down its judgment on December 21, 2011. The Trustee was not a party to the appeal. So far as relevant to LBI, the Court of Appeal has held that, where LBIE settled securities trades with a third party on behalf of an affiliate, it did so as trustee for that affiliate. The Court of Appeal decision is therefore favorable to the Trustee insofar as there is a dispute between LBIE and LBI regarding the ownership of securities which LBIE settled on behalf of LBI. *Pearson & Ors v Lehman Brothers Finance S.A.* [2011] EWCA Civ 1544.

Extended Liens

68. 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 purport to confer upon LBIE liens and other security interests 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 was named as a respondent to the application by the High Court at a directions hearing on July 15, 2011 and a further directions hearing took place on December 8, 2011. The substantive hearing is scheduled to take place in late September 2012.

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

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

LBI's Claims Against LBHI and the Chapter 11 Debtors¹⁰

70. 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 conducted extensive discussions with the Chapter 11 Debtors to reconcile his claims, in conjunction with reconciliation of the claims filed by the Chapter 11 Debtors. As noted, the parties have announced a global resolution of claims, which would cover these claims as well as the Trustee's claims owing from the Transferred Entities PIK Note and Intellectual Property PIK Note, as described in previous reports.

VII. OTHER INTERNATIONAL AFFILIATES

71. Since the previous interim report, the Trustee and his professional advisors have focused on working with foreign Lehman affiliates to reconcile intercompany

10. Claims filed by LBHI and the Chapter 11 Debtors are discussed at ¶¶ 36-40.

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). 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, and Switzerland.

Cayman Islands

72. The indebtedness owed to LBI by Lehman Brothers Equity Finance (Cayman) Ltd. ("LBEFC") is being resolved as part of the settlement in principle that is currently being finalized between the Trustee and the liquidators of the Hong Kong foreign affiliates. (*See infra* ¶ 86.)

China

73. With the assistance of Norton Rose LLP ("Norton Rose") and Deloitte in Beijing, the Trustee continued to pursue the deregistration 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 and involved banks regarding the steps required to deregister. Paperwork was filed to appoint a new signatory for the Beijing office to help facilitate completion of the asset sale and deregistration. However, challenges have arisen due to changes in Chinese banking policy, as well as recent modifications to the organizational structure of the Chinese tax bureau. The Trustee's professionals continue to pursue the deregistration process and are hopeful a resolution can be reached in the coming months.

Germany

74. 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

75. The Trustee's professionals successfully negotiated and are in the process of documenting a settlement in principle with the liquidators of the Hong Kong-based entities. The proposed settlement resolves all claims among LBI and the 12 separate foreign LBI affiliate entities under the control of the Hong Kong liquidators. The complex agreement in principle is subject to documentation and various approvals, including by the Bankruptcy Court. No details about the agreement in principle are available at this time, and there is no assurance that an agreement among the parties will be consummated.

Japan

76. The Trustee's professionals have increased the frequency of their meetings with the joint liquidators of Lehman Brothers Japan Inc. ("LBJ") and the other Japanese affiliates to discuss the status of claims, including regarding the return of 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 has requested that LBJ, as LBI's clearing broker, work with the Trustee's professionals and the relevant exchanges to reconcile these accounts and return the assets to the Trustee. The Trustee's professionals believe that considerable progress is being made and are hopeful that a resolution of the claims with LBJ can be reached in the next several months.

77. As noted above, customer claims brought by LBJ and its underlying customers made in the SIPA proceeding were 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 were allowed by the Trustee on March 2, 2012.

Luxembourg

78. The Trustee's professionals continue to monitor the Lehman Brothers Luxembourg S.A. and the Lehman Brothers (Luxembourg) Equity Finance S.A. ("LBLuxEF") proceedings. 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 objected to the reclassification on January 11, 2012 and accepted the denial of the other customer claim. On February 29, 2012, LBLuxEF's and the Trustee's professionals met to discuss resolution of these claims. Pursuant to that meeting, both parties' professionals continue to meet periodically to progress reconciliation of the claims between LBI and LBLuxEF, and the Trustee's professionals are hopeful that settlement can be reached in the next several months.

Netherlands

79. 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. On February 28, 2012, the Trustee filed an accelerating notice to preserve maximum value for LBI's claims pursuant to a notice issued by the liquidators of LBT.

Singapore

80. As reported in previous interim reports, 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 the previous interim report, the Trustee's

professionals have continued 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 February 13, 2012, the Trustee's professionals met with the administrators for the Singapore entities to discuss the status of the claims, and the professionals and administrators continue to meet periodically to progress the reconciliation process.

81. 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

82. The Trustee's professionals continue to monitor the proceedings of Lehman Brothers Finance AG ("LBF") in Switzerland. On February 14, 2012, based on the failure of LBF to provide documentation for its claims, the Trustee served LBF with a subpoena to produce documents and information. Since service of the subpoena, the Trustee's representatives have been in regular contact with LBF. LBF has provided some additional information in support of its claims. Notwithstanding the additional information provided by LBF, there continue to be significant portions of LBF's claims that LBF has failed to support. LBF's and the Trustee's professionals continue to meet regularly to progress the reconciliation of the claims between LBI and LBF.

83. LBF filed an objection to the Trustee's letter of determination denying LBF's customer claim seeking \$2.38 billion in securities that LBF held in an account with LBIE. LBF has attempted to update the securities it claims, and the Trustee's representatives continue to discuss this customer claim with LBF. LBF has asserted that its claims have a value of approximately \$5.9 billion.¹¹ As reported in the previous interim report, the Trustee believes significant portions of LBF's customer claim are subject to subordination, duplicative of assets claimed by LBIE, or barred as untimely because the claims were filed after the bar date. Since the previous report, the Trustee's professionals have communicated these grounds for denial to LBF's professionals as part of the ongoing discussions noted above. The Trustee continues to believe a significant portion of LBF's customer claim will ultimately be denied and thus the total actual value of LBF's aggregate claims will be significantly less than \$5.9 billion.

VIII. BARCLAYS CAPITAL INC.

84. 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 and other assets 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

11. This value represents the total value of customer and general creditor claims asserted by LBF.

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.

85. 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 possession of the Trustee or of third parties be transferred to Barclays.

86. 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," ECF No. 4105) 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, and that Barclays is entitled to the Clearance Box Assets.

87. After the Bankruptcy Court issued its February 22, 2011 Opinion, Barclays filed briefs in which it took the position that it was entitled to certain Margin Assets notwithstanding the rulings in that Opinion. On June 6, 2011, the Bankruptcy Court issued a bench ruling clarifying that the Trustee is entitled to all of the Margin Assets and awarding the Trustee five percent prejudgment interest on the Margin Assets in Barclays' possession.

88. On July 15, 2011, the Bankruptcy Court entered final orders and judgments (ECF Nos. 4408-09; Adv. No. 09-01732, ECF Nos. 12-13 & 15). The Bankruptcy Court ordered Barclays to pay the Trustee approximately \$2.3 billion, including prejudgment interest, as compensation for the Margin Assets that are in Barclays' possession. The Bankruptcy Court also ordered the Trustee to pay Barclays \$1.1 billion, which the parties agreed is the value of the Clearance Box Assets in the Trustee's possession.

89. Also on July 15, immediately after the Bankruptcy Court entered its final 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 seeks review of discrete issues concerning the disposition of the Clearance Box Assets. 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.)

90. Barclays' appeal and the Trustee's cross-appeal have been assigned to the Honorable Katherine B. Forrest of the United States District Court for the Southern District of New York. Barclays and the Trustee filed briefs in support of their respective appeals on October 28, 2011 and filed briefs in opposition to each other's appeals on December 23, 2011. The parties filed reply briefs on February 10, 2012. Oral argument

on Barclays' appeal and the Trustee's cross-appeal has been scheduled for April 20, 2012.

IX. RECOVERY EFFORTS

91. 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.

Close-Outs and Unwinds

92. During the Report Period the Trustee collected approximately \$253 million from close-outs and unwinds. The Trustee has now collected in total approximately \$4.3 billion from closeouts and unwinds. The Trustee estimates that there is approximately \$200 million remaining for potential collection from close-outs and unwinds.

93. 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.

94. 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.

95. 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. The Trustee has taken affirmative steps to contact all counterparties that did not reach out to the Trustee on their own. 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 consensually as soon as possible. For those relatively few counterparties that do not consensually resolve their closeouts, the Trustee has commenced or will likely soon commence adversary proceedings.

UBS AG

96. For information on the Trustee's motion to enforce the automatic stay and compel payment of approximately \$23 million in excess collateral that LBI posted with UBS AG ("UBS"), see Sixth Interim Report ¶ 113. The parties are currently in the process of reconciling the amounts owed to the Trustee, both under the Court's October 4, 2011 memorandum decision granting the Trustee's motion and in regards to the \$1.7 million for which the Court reserved judgment.

Israel Discount Bank Ltd.

97. On August 17, 2011, the Bankruptcy Court entered an Order approving complementary settlements with Israel Discount Bank Ltd. (“IDB”) and Bank Leumi Le-Israel B.M. (ECF No. 4503), which released the attachment in Israel of over \$80 million in LBI estate property and accomplished its return to the Trustee. The settlement with IDB also allowed for approximately \$2.9 million to be placed in escrow pending resolution of a failed trade issue. The Trustee and IDB were unable to reach factual resolution of the failed trade issue, and, pursuant to the terms of the settlement between the Trustee and IDB, the proceeds in escrow were returned to the parties in equal portion, with the Trustee recovering \$1.45 million. This matter is now substantially concluded.

Citibank

98. Matters attendant to Citibank are being handled by Menaker & Herrmann LLP (“Menaker & Herrmann”), special counsel to the Trustee. Menaker & Herrmann reports as follows:

99. As discussed in the Sixth 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.

100. 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 permit 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 parties are currently engaged in discovery; argument on the motions has not yet been scheduled.

RBS NV

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

102. ABN/AMRO, N.V., now RBS, N.V. (“RBS”) 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* Sixth Interim Report ¶ 113). The issues were vigorously litigated in the Bankruptcy Court, and RBS 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 to end all litigation in exchange for a payment by RBS to the LBI estate in the amount of \$215 million. RBS paid the settlement amount to the LBI estate on December 20, 2011, and orders dismissing the litigation were approved by the District Court on December 27, 2011 and by the Bankruptcy Court on January 3, 2012.

Customer Receivables

103. 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 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 is currently finalizing agreements with customers to collect an additional approximately \$9 million. The Trustee estimates that future recoveries or collections will not exceed \$10 million. The Trustee continues to engage in negotiations with the remaining customers, and anticipates that most, if not all, of its claims against these remaining customers will be resolved without court action.

Avoidance Actions / Preferences

104. The Trustee's professionals continue to pursue the avoidance and recovery of preferential transfers made by LBI and its assignors in accordance with sections 544, 547, 548, and 550 of the Bankruptcy Code. To date, the Trustee has resolved 67% of these preference claims and has consummated settlements aggregating approximately \$2 million. In his continuing effort to facilitate the amicable resolution of the remaining preference claims and avoid the time and expense of litigation, the Trustee has amended the original Tolling and Forbearance Agreements with 33 out of the remaining 37 entities subject to suit.¹² The Trustee aims to resolve the four adversary proceedings that are pending before the Bankruptcy Court pursuant to the 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), and all other tolled preference claims on a consensual basis.

105. 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's and LBHI's interests in preferential transfers.

12. There are currently a total of 4 adversary proceedings pending relating to preference claims. No additional adversary proceedings have been commenced since the preceding Interim Report.

Recovery of Double Deliveries

106. 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 ("ACATs") 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. As of the Report Date, after further reconciliation, the double delivered securities are now believed to be valued at \$16.2 million across 62 different securities.

107. 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 \$9.8 million has been recovered as of the Report Date from broker-dealers and individuals. The Trustee continues to work with broker-dealers and individuals representing the remainder pool of approximately \$6.4 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.

Banking Matters

108. 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. 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 Bank of New York Mellon), and certain accounts that remain open for administrative or regulatory reasons or that are subject to an ongoing dispute with the depositary bank, all legacy LBI bank accounts have been closed and the balances therein transferred to the Trustee.

X. ADVERSARY PROCEEDINGS

109. 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.

110. 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 four others. One of the remaining actions is *The Options Clearing Corporation v. Barclays Capital Inc.*, Adv. Pro. No. 08-01759 (the “OCC Proceeding”). 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 the Bankruptcy Court approved.

111. The Trustee has also commenced thirteen adversary proceedings with respect to certain preference claim matters, discussed *supra* ¶¶ 103-104, four of which remain pending.

112. 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).

113. The Trustee is continuing the process of determining amounts owed to the LBI Estate as a result of over 270 employee loans that were in collection as of the Filing Date (*see* discussion on employee benefits *infra* ¶¶ 146-148) and is employing cost-effective means to maximize collection of those amounts through a minimum of administrative expense.

XI. POTENTIAL CUSTOMER CLAIM DISTRIBUTIONS

114. To assure that distributions to one claimant will not prejudice another, the Trustee will make distributions on allowed customer claims when major claim 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.

115. 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 approximately 14,000 customer claims, allowing more than \$12 billion in customer claims, and denying more than \$42 billion in customer claims, which are now final. However, the size and timing of distributions on customer claims remains dependent on resolution of the remaining asserted customer claims filed by LBIE itself (\$16.8 billion over and above the conditionally allowed \$8.3 billion customer omnibus claim; *see supra* ¶¶ 23-32) and by LBIE's clients (*see supra* ¶¶ 33-35), the allocation of property to the fund of customer property (*see* Section IV), resolution of the Barclays appeal (*see* Section VIII), and final terms and Court approval of the agreed settlement in principle with LBHI (*see supra* ¶¶ 36-40).

116. In the Report Period, the Trustee filed the Second Allocation Motion applying the approved principles of allocation under SIPA and the SEC's customer protection regime. (ECF No. 4760; *see* Section IV). The Trustee expects that a substantial percentage of estate assets will ultimately be in the fund of customer property, but the total as yet remains undetermined.

117. Because of the need to reserve for claims such as LBIE's while the litigation is pending, the Trustee is bound to consider only a partial, interim distribution. With preliminary resolution of some of the major contingencies, a distribution of a small but meaningful percentage on all presently allowed, non-conditional net equity claims is possible, even though substantial amounts are to be reserved for disputed or conditionally allowed claims such as LBIE's. Resolution of the Second Allocation Motion would be a significant factor in accomplishing an interim distribution by establishing not only the percentage of amounts to be distributed net of reserves, but also the mix of securities and cash resources available to be returned. The Trustee is hoping to make such an interim distribution before the end of the year. Details will be presented to the Court upon motion with appropriate notice.

Post-Petition Dividends and Interest

118. As detailed in the Second Allocation Motion and in previous reports, the Trustee believes that dividends and interest received by the Trustee on securities allocated to customer property after 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. When appropriate in the scheme of all distributions to customers, 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.

119. 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 \$148 million. These

amounts continue to be specifically accounted for, separate from other estate assets, by the Trustee.

XII. RETURN OF MISDIRECTED FUNDS

120. The Trustee continues to receive and investigate requests for the return of funds misdirected into LBI bank accounts. For a description of court-authorized procedures implemented by the Trustee to increase the efficiency and reduce the costs of administering the misdirected funds return process, see the Sixth Interim Report ¶ 138.

121. For the Report Period, the number of new requests for the return of misdirected funds decreased from nine in the previous period to five. 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.

122. In the Report Period, the Trustee received 5 new requests for the return of post-petition transfers of misdirected funds, aggregating approximately \$24 million, and returned 29 post-petition transfers of misdirected funds, aggregating approximately \$8 million.

123. As of March 31, 2012, the Trustee has made approximately 515 returns of post-petition transfers of misdirected funds, representing approximately 930 individual wires, aggregating approximately \$580 million, and has approximately 55 requests pending for return of funds alleged to have been misdirected post-petition, aggregating approximately \$34 million.¹³ (*See* Exhibit 3.)

XIII. TRUSTEE'S INVESTIGATION

124. 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." 15 U.S.C. §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.

125. 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.

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

126. The Trustee's professionals have also reviewed hundreds of thousands of pages of internal LBI emails, including those of numerous high-level officers during the critical months leading up to the Filing Date, LBI account records, contractual agreements, and other documents from LBI's records, as well as innumerable quantities of electronic data from LBI's information systems. The LBI materials have been critical to the Trustee's investigation of causes of action against third parties, but have also led to the discovery of additional information regarding the causes of LBI's decline, matters concerning the financial condition of LBI, and events impacting the liquidation process.

127. The first of the Trustee's reports, his Preliminary Investigation Report and Recommendations ("Preliminary Report," ECF No. 3604), 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. The Trustee will issue one or more further investigative reports with information about other matters investigated, including those addressed below.

DTCC Investigation

128. The Trustee continues to review the factual details of and legal basis for DTCC's activities during and after 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. DTCC continues to hold \$60 million in funds due to the Estate and has requested additional payment for costs and expenses related to closeout of LBI positions, as well as costs incurred in providing the Trustee with the information necessary to complete his investigation and accounting. The Trustee expects to resolve remaining issues shortly and complete his investigation into DTCC's role in the liquidation of the LBI Estate.¹⁴

Investigation Into CME, Goldman Sachs, and Others

129. Information concerning the Trustee's investigation into the liquidation of LBI's proprietary options and futures positions at the CME Group, Inc.¹⁵ in the days prior

14. For additional background information on the relationship between LBI and DTCC and its subsidiaries, see Sixth Interim Report ¶¶ 148-149.

15. 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).

to the commencement of the SIPA proceeding are available in the Fifth Interim Report ¶¶ 81-83. The Trustee is also actively investigating other actors, and subpoenaed several current and former Goldman Sachs employees during the Report Period. The Trustee will report his conclusions on this and other aspects of the investigation at an appropriate time.

XIV. GOVERNMENT AND THIRD PARTY INVESTIGATIONS

Government and Third Party Investigations

130. The flow of requests to the Trustee for historical LBI information from dozens of federal, state, and local government agencies continues. 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 700 document productions in response to these governmental and non-party requests. These productions represent a volume of documents approaching 1.5 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

131. As a result of the complexities of administering LBI's Estate, the Trustee regularly meets and coordinates with the SEC, the FRBNY, the CFTC, FINRA, and the British Financial Services Authority. The Trustee has also terminated LBI's former broker-dealer registrations with all 50 states and other regulatory agencies, saving the LBI Estate from the significant costs associated with maintaining its registration status.

XV. DATA MANAGEMENT

132. 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. For more information regarding the Trustee's use and collection of data, see Sixth Interim Report Section XV.

XVI. TAX MATTERS

133. The Trustee's professionals continue to monitor federal, state, and local tax audits, assessments and claims, 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.

The Lehman Consolidated and Combined Groups

134. Prior to the Filing Date, and during the course of the SIPA Proceeding, LBI has been included in the consolidated federal income tax returns filed by the affiliated group of which LBHI is the common parent (the “Lehman Consolidated Group”). Under applicable U.S. Treasury regulations, LBHI, as common parent, is the sole agent for the Lehman Consolidated Group and has authority to act with respect to all matters relating to the federal income tax liability of itself and the members of the Lehman Consolidated Group, including LBI. All members of the group, including LBI, are severally liable for all of the Lehman Consolidated Group’s federal income tax liability. Once an affiliated group commences filing on a consolidated basis, it must continue to do so for all succeeding tax years unless the group no longer remains in existence or the IRS grants permission to cease such filing.

135. For New York State corporation franchise tax and New York City general corporation tax purposes, LBI is a member of a similar group, referred to under state law as a “combined group,” together with LBHI and other LBHI subsidiaries. The combined group files a combined return. As is the case under U.S. federal income tax law, New York State and City tax laws designate the parent of a combined group as the agent for the group and impose several liability on the members of the group.

136. The Trustee, with the help of his tax professionals, is analyzing the potential benefits to the LBI estate that would result from LBI’s disaffiliation from the Lehman Consolidated Group. For example, for periods after disaffiliation LBI would not be severally liable for the Lehman Consolidated Group’s federal income tax liability, nor would LBHI have authority to act as agent for LBI with respect to federal income tax matters. The continuing mandate to file consolidated income tax returns also requires that the Trustee’s representatives expend time and resources in preparing and providing certain financial data to LBHI as an ongoing matter; disaffiliation would significantly reduce this effort.

137. The Trustee’s professionals are currently engaged in discussions with representatives of LBHI regarding taking appropriate steps that would result in disaffiliation from the Lehman Consolidated Group. Such disaffiliation for federal income tax purposes would have the additional effect of “decombining” the New York State and New York City reporting groups.

Tax Audits and Refund Claims

138. *Federal: general.* 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 (the “Refund Claims”) and audits for 2001 through 2007 (the “Audits”) where the Internal Revenue Service (the “IRS”) is asserting deficiencies, as well as an IRS assessment of tax shelter promotion penalties.

139. On December 28, 2010, the IRS filed claims in both the LBI and the LBHI proceedings totaling approximately \$2 billion.¹⁶ The agreement in principle referred to in ¶ 40 would resolve LBI's allocable share of the Lehman Group's consolidated federal income tax liability or refunds.

140. 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.

141. *State and local: general.* LBI continues to file as part of LBHI's combined state income tax filings in New York State and City. 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. As of the date of this Report, approximately \$700 million in state and local tax claims have been filed in the LBI Proceeding.

142. *State and local audits: New Jersey.* At the time of the liquidation, the State of New Jersey had been conducting an audit of LBI with respect to corporate business tax and sales and use tax. (LBI filed corporate business tax returns on a separate company basis in New Jersey.) New Jersey timely filed claims against LBI totaling approximately \$25 million for these taxes for prepetition periods. A small firm that historically handled all state tax audits for LBHI and LBI is responding to requests by the State with respect to this audit.

143. The Trustee has filed a return for New Jersey corporation business tax for tax year 2007. The return serves as a claim for a refund of \$6.6 million dollars due to an overpayment of estimated taxes by LBI with respect to that tax year.

144. *State and local audits: 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. The agreement in principle with LBHI regarding global resolution of claims would resolve LBI's share of this potential liability.

Ongoing Compliance

145. The Trustee's professionals continue to work with LBHI's representatives to perform all required consolidated and combined tax filing requirements. Deloitte Tax

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

continues to assist the Trustee in complying with all tax filing requirements in jurisdictions where LBI files separate returns.

XVII. EMPLOYEE BENEFITS

146. On November 16, 2011, the Court held a hearing related to a motion filed by LBHI and LBI seeking the Court's approval related to LBI's sale of shares of Aceso, a wholly owned subsidiary of LBI, to LBHI and settlement of disputes between LBHI and LBI related to Aceso and a Voluntary Employee Beneficiary Association controlled by Aceso known as the Aceso Holdings Health Care Trust (the "Health Care Trust"). Although not before the Court for approval at that time, the motion filed by LBHI discussed LBHI's plan to seek a \$25 million reimbursement from the Health Care Trust to reimburse LBHI's costs related to employee benefits.

147. Following objections by a number of beneficiaries of the Health Care Trust related to the \$25 million reimbursement, the Court granted the requested relief, but conditioned entry of an order on LBHI's voluntary compliance with the Court's suggested conditions. The Court directed that LBHI and the Health Care Trust Trustee (an LBHI employee) provide meaningful information to beneficiaries related to the status of the Health Care Trust including when action would be taken by LBHI related to the Health Care Trust and how any actions may affect the rights of three classes of beneficiaries: current employees, retirees, and disabled employees. The Court also suggested that LBHI provide each class of beneficiaries with a funded lawyer. The Court stated that it would not enter the order unless and until it heard a report as to whether or not the Court's suggested conditions were arranged. The Court entered an order related to this motion on November 28, 2011 (ECF No. 4749; LBHI ECF No. 22695). For further information regarding the Health Care Trust, see the Fourth Interim Report ¶ 196.

148. 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

149. Since the Barclays transaction, the Trustee's professionals have undertaken extensive analysis to ascertain whether the contracts that remained would be beneficial to the LBI estate and further the purposes of the liquidation, or result in consideration to the estate through assignment to third parties. In order to conduct this review, the Trustee has sought and this Court has approved extensions of the time within which the Trustee may assume, assign or reject LBI executory contracts and unexpired leases, as provided in section 365(d)(1) of the Bankruptcy Code, to, and including, June 4, 2012 (see ECF No. 4913). As detailed in the Trustee's prior Interim Reports and extension motions to the Court, the Trustee has nearly completed this process and is currently confirming that all ongoing contractual commitments have been resolved.

XIX. INTERNAL CONTROLS AND BOOKKEEPING

150. 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.

151. The Trustee's professionals have established daily, monthly and ad hoc processes to support the ongoing processing of LBI's former brokerage business.¹⁷ These include:

- reconciling cash to legacy bank accounts;
- resolving current and historical cash reconciliation items during Report Period;
- reconciling equity and debt securities to depositories on a daily basis;
- generating financial information for tax reporting and providing the Trustee with point in time information of the assets under his control;
- 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;
- assisting the Trustee and his counsel in analyzing historical data in support of litigation and inquiries from claimants, regulators, and other parties;
- processing journal entries to record transactions related to securities and cash movements authorized by the Trustee; and
- processing over 56,500 corporate actions related to securities held at various depositories around the world.

152. The Trustee and his professionals evaluate all material voluntary corporate actions related to positions held by the Trustee. When it is deemed appropriate in the Trustee's business judgment, and in the best interests of the estate, the Trustee will participate in the corporate action or otherwise act to achieve those interests.

153. The Trustee's professionals rely on established controls for the payment and journaling of all expenses, which include recording payment instructions and

17. For information regarding the Trustee's securities holdings, see Exhibit 1.

supporting documentation, reviewing time-entry diaries, and assessing the reasonableness of all rates and bills for services performed.

154. The Trustee continues to 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 among the appropriate workstream within operations and claims research to provide the information and documentation requested.

XX. PROFESSIONAL RETENTION

155. 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. Hughes Hubbard & Reed LLP continues to perform numerous tasks for the LBI Estate, its customers, and creditors, as the Trustee’s primary counsel. Menaker & Herrmann LLP, Levine Lee LLP, and Norton Rose continue to advise the Trustee as special counsel on specific matters. For additional information regarding the Trustee’s counsel and special counsel, see Sixth Interim Report Section XX.

156. During the Report Period (i) the Court authorized the Trustee to retain and employ Lexolution LLC as provider of contract attorneys, *nunc pro tunc* to September 19, 2011 (ECF No. 4951); and (ii) City-Yuwa Partners acted as Special Japanese Counsel in connection with LBJ matters (*see supra* ¶¶ 76-77). During the Report Period, the Court also approved the final fee application of Steinmetz, Haring, and Gurman & Co., special Israeli counsel to the Trustee (ECF No. 4820).

157. Administrative expenses disbursed as of March 30, 2011 total \$733,461,000. Professional and consulting fees total \$629,371,000 including \$372,449,000 for Deloitte and \$202,288,000 for HHR. Transitional services total \$83,223,000 paid to Barclays and LBHI. The LBHI transition services agreement is scheduled to terminate under its terms on June 2, 2012. Rent, data storage, and other operational costs total \$20,867,000.

XXI. INSURANCE

158. The Trustee’s professionals have analyzed available insurance policies under which the LBI Estate and/or customers could benefit to determine their applicability, including an excess surety bond issued to LBI by the Customer Asset Protection Company (“CAPCO”), and have conferred during and before the Report Period with representatives of CAPCO and provided information, as requested and appropriate, regarding the progress of the customer claims process in connection with the excess surety bond.

XXII. CONCLUSION

The foregoing report represents a summary of the status of this proceeding and the material events that have occurred from October 22, 2011 through April 20, 2012. It will be supplemented and updated with further interim reports.

Dated: New York, New York
April 20, 2012

Respectfully submitted,

HUGHES HUBBARD & REED LLP

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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 March 30, 2012

Unaudited (in millions)

Cash and Cash Equivalents	\$306
Securities ^{(a), (b)}	
BNYM	18,000
International Depositories ^(c)	15
Goldman Sachs	1,902
Union Bank	5,426
Other	17
Total Securities	<u>\$25,360</u>
Total Assets Under Trustee Control^(d)	<u><u>\$25,666</u></u>
Reserves related to Post-petition Dividends & Interest	(1,917)
Reserves related to Barclays Litigation	<u>(3,229)</u>
Total Assets Under Trustee Control less Reserves^(e)	<u><u>\$20,520</u></u>

a) Market value of securities calculated by the LBI Estate utilizing available market data.

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 \$1.36 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 March 30, 2012

	Number of CUSIPS (2)	Number of Shares / Par Value	Market Value (USD)
BNYM			
Certificates of Deposit	40	4,285,286,000	4,294,802,767
Corporate Equities	6,700	861,256,699	10,388,830,570
Corporate Bonds	815	3,172,088,191	1,838,936,427
Mortgage and asset-backed securities (1)	583	3,477,843,287	148,691,581
Government and Agency Bonds (1)	130	964,393,128	1,328,321,291
Other	767	2,256,475,291	
International Depositories			
Corporate Equities	62	23,437,992	14,734,526
Other	18	3,252,095	-
Goldman Sachs			
Certificates of Deposit	10	1,383,781,000	1,386,541,731
Corporate Equities	56	935,156	8,439,624
Corporate Bonds	2	5,702	-
Government and Agency Bonds (1)	2	9,912,997	2,949,249
Promissory Notes	5	500,000,000	504,503,130
Union Bank			
Certificates of Deposit	36	5,414,600,001	5,426,002,637
Corporate Equities	2	2,532	44,688
Mortgage and asset-backed securities (1)	80	2,218	2,436
Government and Agency Bonds (1)	1	3,505	3,568
Other (DTC, Vault, and Money Markets)			
Corporate Equities	119	24,230,787	17,206,770
Corporate Bonds (3)	3	3,426,000	-
Mortgage, asset-backed securities (1)	22	555,548,170	2,674
Other	153	966,833,064	-
TOTAL	9,606	23,903,313,815	25,360,013,669

(1) For the seventh interim report, par value for fixed income securities has been adjusted to reflect pay downs and maturities.

(2) Total CUSIPs will not agree to detail of securities on hand schedules as this schedule shows CUSIPs by location. Note that there may be the same CUSIPs at multiple locations.

(3) 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 – Detail of Securities on Hand – Corporate Equities

	Number of CUSIPS	Number of Shares	Market Value(USD)
By Industry			
Basic Materials	369	19,445,564	514,214,298
Communications	654	65,023,940	1,251,066,403
Consumer,cyclical	650	72,783,702	2,023,999,771
Consumer, Non-cyclical	1,167	199,250,432	1,731,450,469
Energy	390	42,009,722	713,616,820
Financial	1,107	204,207,986	1,405,364,583
Funds	198	17,115,249	413,581,199
Industrial	739	43,695,625	892,006,497
Technology	472	59,239,000	1,109,856,855
Utilities	128	11,239,185	246,843,777
Other	1,039	175,852,761	127,255,506
Total	6,913	909,863,166	10,429,256,178
By Region			
United States	5339	549,183,736	9,239,246,925
Asia	254	126,326,018	320,292,073
Canada	317	15,169,920	137,447,478
Europe	282	64,602,841	385,992,005
Latin America	122	23,982,679	54,166,392
Other	599	130,597,972	292,111,305
Total	6,913	909,863,166	10,429,256,178
By Ranking			
Common	6,672	811,170,610	10,100,667,616
Preferred	174	34,049,164	328,534,378
Other	67	64,643,392	54,184
Total	6,913	909,863,166	10,429,256,178
Concentration (by Market Value)			
Top 5 CUSIPS		29,508,344	1,974,803,057
Top 20 CUSIPs		68,889,934	3,375,343,459
# of CUSIPs representing 20% of Equity Portfolio	6		

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 – Detail of Securities on Hand – Corporate Bonds

	AA or Better	A to A+	BBB- to BBB+	B- to BB+	C to CCC	Defaulted	Not Rated/Not Available	Total
CUSIP	39	85	91	213	69	6	316	819
Par Value	36,620,273	330,640,528	335,465,522	418,210,365	300,713,599	6,136,105	1,747,733,501	3,175,519,893
Market Value	36,584,823	313,275,063	383,814,248	413,983,152	268,495,829	3,728,398	419,054,914	1,838,936,427

	Investment Grade			Non-Investment Grade			Not Rated/Not Available		
	Number of CUSIPs	Par Value	Market Value (USD)	Number of CUSIPs	Par Value	Market Value (USD)	Number of CUSIPs	Par Value	Market Value (USD)
By Industry									
Basic Materials	17	31,137,000	35,623,195	11	16,589,113	15,371,111	6	1,828,200	1,223,257
Communications	24	150,148,178	185,315,284	30	163,052,389	153,405,513	15	24,635,172	13,340,276
Consumer,cyclical	5	22,928,000	26,090,869	52	125,582,318	114,853,828	22	159,768,997	124,988,616
Consumer, Non-cyclical	14	37,529,000	44,224,627	35	129,178,220	134,267,831	17	51,635,600	53,711,809
Energy	16	20,775,000	24,899,817	17	21,896,600	17,551,648	12	37,502,577	32,279,856
Financial	73	309,105,400	276,255,170	108	162,001,786	152,689,901	119	166,088,250	77,165,243
Other	66	131,103,745	141,265,172	35	106,759,643	98,067,547	125	1,306,274,705	116,345,857
Total	215	702,726,323	733,674,134	288	725,060,069	686,207,379	316	1,747,733,501	419,054,914

By Region			
United States	619	1,581,784,812	1,411,550,119
Canada	26	38,135,569	38,210,922
Europe	31	109,166,700	102,976,693
Latin America	25	61,625,863	51,641,672
Other (Incl. Asia)	118	1,384,806,949	234,557,021
Total	819	3,175,519,893	1,838,936,427

Concentration (by Market Value)	Number of CUSIPs	Par Value	Market Value (USD)
Top 5 CUSIPs		334,331,877	329,881,831
Top 20 CUSIPs		688,178,177	718,022,688
# of CUSIPs representing 20% of Corporate Bonds Portfolio	6		

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Financial Condition of the Estate – Detail of Securities on Hand – Mortgage and Asset-Backed Securities

	AA or Better	A to A+	BBB- to BBB+	B- to BB+	C+ to CCC-	Defaulted	Not Rated/Not Available	Total
CUSIP	14	10	7	21	45	63	525	685
Par Value	20,345,446	16,538,096	10,969,639	54,806,111	132,656,693	241,729,313	3,556,348,377	4,033,393,675
Market Value	1,277,115	14,120,187	9,010,265	17,868,166	39,317,601	14,390,380	52,712,977	148,696,691

	Investment Grade			Non-Investment Grade/Default			Not Rated/Not Available		
	Number of CUSIPs	Par Value	Market Value (USD)	Number of CUSIPs	Par Value	Market Value (USD)	Number of CUSIPs	Par Value	Market Value (USD)
ABS	10	22,108,870	16,492,671	39	192,484,489	42,272,025	84	794,744,728	1,346,298
MBS	10	4,310,046	3,686,240	34	63,065,766	19,343,287	65	128,358,481	45,884,104
CMO	6	6,994,839	3,208,853	41	87,258,939	9,958,161	353	1,904,485,827	4,919,372
Other	5	14,439,426	1,019,803	15	86,382,923	2,674	23	728,759,341	563,203
Total	31	47,853,181	24,407,567	129	429,192,117	71,576,147	525	3,556,348,377	52,712,977

Concentration (by Market Value)	Number of CUSIPs	Par Value	Market Value (USD)
Top 5 CUSIPs		71,134,578	61,367,891
Top 20 CUSIPs		123,442,741	103,912,069
# of CUSIPs representing 20% of Mortgage and Asset-Backed Securities Portfolio	2		

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Financial Condition of the Estate – Detail of Securities on Hand – Promissory Notes

Par Value	Market Value	Industry	Region	Number of Positions/Concentration
500,000,000	504,503,130	Financial Services	United States	5

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Financial Condition of the Estate – Detail of Securities on Hand – Government and Agencies

	Less Than 1 year	1 - 5 years	5 - 10 years	> 10 years	Total
US Government					
Number of CUSIPs	2	16	6	13	37
Par value	630,000	23,985,000	38,959,000	721,101,000	784,675,000
Market Value	696,936	26,168,177	45,784,322	1,130,094,932	1,202,744,367
Latin America					
Number of CUSIPs	3	8	5	24	40
Par value	2,872,000	12,622,500	298,000	131,582,439	147,374,939
Market Value	2,957,767	14,366,613	388,188	93,774,002	111,486,570
Other					
Number of CUSIPs	-	4	4	46	54
Par value		2,036,112	853,251	39,370,328	42,259,691
Market Value		2,324,719	154,077	14,564,375	17,043,171
Total					
Number of CUSIPs	5	28	15	83	131
Par Value	3,502,000	38,643,612	40,110,251	892,053,767	974,309,630
Market Value	3,654,703	42,859,509	46,326,586	1,238,433,310	1,331,274,108

Concentration (by Market Value)	Number of CUSIPs	Par Value	Market Value (USD)
Top 5 CUSIPs		642,783,000	1,031,046,756
Top 20 CUSIPs		871,987,109	1,275,213,198
# of CUSIPs representing 20% of Government and Agencies Portfolio	1		

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Financial Condition of the Estate – Cash Flow

Schedule of Cash Receipts and Disbursements^(a)

September 19, 2008 – March 30, 2012

Unaudited (in millions)

Beginning Cash^(b) (9/19/08)	Receipts	Disbursements	Investment in Liquid Assets	Ending Cash and Cash Equivalents (03/30/12)
\$1,550	\$14,914	(\$4,573)	(\$11,585)	\$306

(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, \$181 million in January 31, 2011, and \$5 million in March 31, 2012 resulting in a beginning cash balance of \$1,550 million. 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.

EXHIBIT 2

Claims Metrics Summary

Claims Determined Through the Claims Process

Customer Claims Categories (In millions)	Allowed Claims¹	Denied and Closed (Includes Reclassified)	Unresolved Claims²	Grand Total
Non- Affiliate	\$ 3,325.9	\$ 24,252.2	\$ 13,900.5	\$ 41,478.6
LBIE	8,292.9	5,189.3	16,795.5 ³	30,277.7
LBHI	523.1	11,362.5	7,998.7 ⁴	19,884.3
Other Affiliates	58.6	2,015.5	2,546.1	4,620.2
Total Amount	\$ 12,200.5	\$ 42,819.5	\$ 41,240.8	\$ 96,260.8

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1. The total allowed claims equals approximately \$12.2 billion which includes approximately \$342.4 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 \$105.1 million, for which the time to object to a determination has yet to expire, are included in allowed claims.
3. This figure includes late-filed claims that are time-barred; LBIE disputes that these claims are invalid.
4. The Trustee has negotiated and achieved a settlement in principle with LBHI to resolve these claims.

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 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 03/31/2012)		
	Number of Wires	Approximate Amount (USD in millions)
Returned		
• Without further court authorization	529	\$9
• With further court authorization	404	\$572
TOTAL	933	\$581
Pending	54	\$34

MISDIRECTED WIRES RETURNED IN THE REPORT PERIOD (BETWEEN 10/22/11 AND 03/31/12)	
Number of Wires	Approximate Amount (USD in millions)
29	\$8

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