



葉劉淑儀議員辦事處

Office of Hon. IP LAU Suk Yee, Regina

Our Ref.: LA2/FIN/08-09

17 June 2009

Hon CHAN Kam-lam, SBS, JP
Chairman, Panel on Financial Affairs
Legislative Council
8 Jackson Road
Hong Kong

Dear Mr Chairman,

Recent Developments of Lehman Brothers-related Issues

I. Lehman Brothers Subsidiaries in Administration

Since the Lehman Brothers Holdings Inc. (LBHI) filed for bankruptcy protection in September 2008, insolvency proceedings of its near 80 subsidiaries around the globe are being administered in different jurisdictions in dozens of countries in accordance of their respective laws and procedures.

It is worth noting that the liquidators for Lehman Brothers' U.S. (Alvarez & Marsal North America LLC, A&M) and European subsidiaries (PricewaterhouseCoopers UK, PwC) went separate ways. According to press reports, A&M plans to seek approval from a federal judge for "an international framework for coordinating bankruptcy proceedings among subsidiaries spread across the globe" (*Wall Street Journal*, 27 May 2009); while PwC is arguing that they are governed by local rules and the interests of their own creditors. Therefore it is working with a U.K. judge to "draw up a so-called scheme of arrangement that would be designed to speed up the return of Lehman clients' asset" (*Financial Times*, 17 March 2009).

In respect of Lehman Brothers' Hong Kong subsidiaries in administration, I notice that KPMG, liquidator appointed by the High Court, has opted for the "international framework" proposed by A&M. I suggest that the Financial Services and the Treasury Bureau (FSTB), the Securities and Futures Commission (SFC) and the liquidator be invited to brief Members of this

Panel on the rationale for their decision and whether such a decision would be in the best interest of Hong Kong's noteholders of Lehman Brothers-related structured financial products.

II. Reinvestment of Collateral for Underlying Securities

According to a notice sent to noteholders by HSBC Bank USA as trustee dated 27 May 2009, [part of] the underlying securities constituting collateral for Minibonds series 19, 22-23, 25-36, issued by Pacific International Finance Limited, "has been liquidated in full and the redemption proceeds have been reinvested by Bank of New York Mellon (BoNY) [as custodian] in 4-week United States treasury bills. BoNY has reinvested such proceeds pending resolution of legal issues arising under United States bankruptcy law with respect to the distribution of such proceeds".

This is an important development with significant implications for Hong Kong's noteholders. I suggest that FSTB, SFC and HSBC be invited to brief Members of this Panel on the latest position and when they expect HSBC would be able to re-pay Hong Kong's noteholders. I would request that this item be put on the agenda of this Panel as a matter of priority, so that we could have an early discussion before LegCo's Summer Recess.

Yours sincerely,



IP LAU Suk-ye, Regina

Encl.

c.c. Prof. K C Chan, SBS, JP, Secretary for Financial Services and the Treasury
Mr. Martin Wheatley, JP, Chief Executive Officer, Securities and Futures Commission

It's Lehman vs. Lehman in bankruptcy court

BY MIKE SPECTOR
AND JEFFREY MCCrackEN

America's largest bankruptcy is causing an international standoff between Lehman Brothers Holdings Inc.'s U.S. and U.K. operations.

Administrators for Lehman's U.S. estate plan to ask a federal judge Tuesday to approve an international framework for coordinating bankruptcy proceedings among subsidiaries spread across the globe. But administrators representing Lehman's main European arm in the U.K. are balking at the agreement, saying they are governed by local rules and the interests of their own creditors.

The stalemate is significant because Lehman's U.K. estate held about a third of the firm's roughly \$630 billion in assets before it filed for bankruptcy. The London-based estate also holds data essential to insolvency proceedings among other smaller European subsidiaries.

When a large company with global operations seeks Chapter 11 protection, it can spawn numerous legal proceedings with different rules in other countries. Since the U.S.'s fourth-largest investment bank filed for Chapter 11 in September, nearly 80 Lehman subsidiaries world-wide have folded in more than a dozen countries and legal jurisdictions. On the horizon: a possible bankruptcy filing by General Motors Corp., the world's largest auto maker with operations in some 140 countries.

Lehman's U.S. team wants to

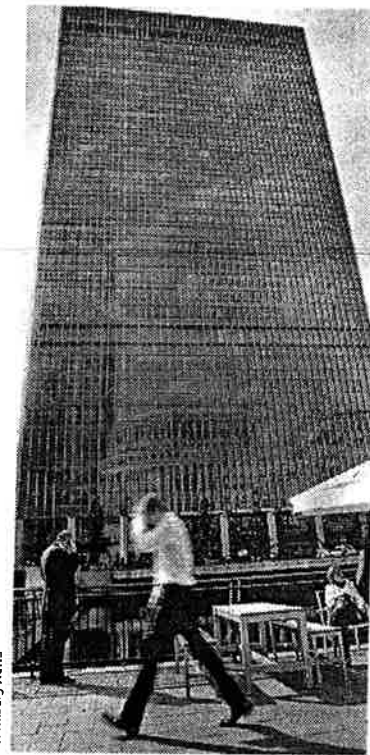
work with other estates to hold and manage assets with a goal of recovering more for creditors, rather than watching other estates sell assets at fire-sale prices. The international agreement would also discourage subsidiaries from lengthy reviews of accounting records when settling debts between estates.

Supporters of the international protocol fear Lehman could be mired in bankruptcy for years without some agreements to speed administration of certain claims and other matters.

In the Netherlands, a Lehman subsidiary issued some 4,000 notes that were mainly drawn up by Lehman officials in the U.K., said Rutger Schimmelpenninck, a court-appointed bankruptcy trustee for Lehman's Dutch subsidiary and partner at Dutch law firm Houthoff Buruma. Mr. Schimmelpenninck hasn't yet received all the information he needs from the U.K. estate to help him value those notes.

In addition, some subsidiaries failed well after Lehman sought bankruptcy protection in New York, raising questions about the proper accounting dates to use when valuing certain claims and other contracts, he said.

Lehman's U.S. administrators haven't pointed to any specific actions taken by the U.K. estate that would undermine other bankruptcy proceedings. But the international protocol document outlines areas where Lehman's U.S. restructuring team hopes to align estates' admin-



Lehman's European arm, whose London headquarters are shown here in September, wants to act locally.

istration. Administrators in Hong Kong, Singapore, Germany, Luxembourg and Australia have signed on to the protocol. The pact won't be legally enforceable, as administrators are bound by rules in their own jurisdictions. Still, U.S. Bankruptcy Judge James Peck has said international cooperation should be "pursued

with vigor and in good faith" to smooth Lehman's trip through Chapter 11.

"There need to be international standards when dealing with a global company that collapses," said Bryan Marsal, Lehman's chief restructuring officer and co-CEO of turnaround firm Alvarez & Marsal LLC. "Otherwise, every country acts like 'Every man for themselves.'"

PricewaterhouseCoopers, which administers Lehman's U.K. estate, said it has made progress reaching other agreements with subsidiaries to coordinate restructurings and won't submit to multilateral negotiations. A global protocol is "unnecessary, insufficiently tailored and unacceptably burdensome" for Lehman's U.K. estate and its creditors, said Tony Lomas, a PricewaterhouseCoopers partner and administrator of the London estate.

International protocols have emerged in bankruptcy cases before, but never on such a massive scale. Lehman's efforts to persuade estates to submit to the framework underscore the complexities wrought by a new wave of bankruptcies flowing from the global financial crisis.

"With the increased internationalization of bankruptcy, it's more and more important for the different jurisdictions to come to an informal agreement," said Edward Altman, a New York University business professor who focuses on bankruptcies. "There is no official code that brings them together."

Hopes for return of Lehman assets

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By Jennifer Hughes and Megan Murphy in London

Published: March 17 2009 02:00 | Last updated: March 17 2009 02:00

Lehman Brothers' European administrators want to reach agreement by the end of July on a scheme to return creditors' assets, representatives told a London court yesterday.

Six months after the US behemoth collapsed, a judge approved plans by PwC, the administrators, to draw up a so-called scheme of arrangement that would be designed to speed up the return of Lehman clients' assets. It would then need to be approved by the court.

Client assets, known as trust property, are subject to stronger claims than those of unsecured creditors, but the complexity of the collapsed bank and its use of almost 100 third-party custodians have complicated efforts to identify claims, track down the assets and then take control over them.

Lehman's European operations were responsible for about \$29bn worth of client assets when the bank collapsed. Administrators have told clients they now have control over about \$22bn of those with the remaining assets held mostly at Lehman's US operations, in Japan and in a German subsidiary.

About \$12bn of assets have in fact been returned to clients, including some hedge funds, but only in what have been described as the simplest cases. Those whose assets have been returned have, however, signed agreements that should the administrators need them back - for example if they had discovered a swathe of assets were in fact missing - they must be returned.

The scheme of arrangement, would lay out the details of how creditor claims are dealt with and the timing and method of returning assets.

It would split clients into several "classes" that have similar interests and requires all classes to agree to the deal.

Every affected creditor has a vote, and agreement needs 75 per cent of each class by value and 50 per cent by number. Yesterday, PwC was confident it could reach a deal.

"We're trying to speed up materially the return process," said Steve Pearson, a partner at PwC and one of the lead administrators for the collapsed bank. "We think the scheme is do-able. Frankly, the alternative is so ugly because if we don't get this, the returns will take us years."

Yesterday, the London Investment Banking Association raised concerns that the scheme could set a risky precedent if it were seen to limit property rights.

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Court confirms KPMG Partners as Liquidators

In-house counsel appointed for Lehman entities

Liquidators set to establish a global protocol

**Meet the Team**

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Lehman team members

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Lehman Brothers

Hong Kong Incorporated Entities

Liquidators set to establish a global protocol

March 2009

The Liquidators are currently working with other insolvency practitioners to establish a Global Protocol.

This initiative is being driven by the US bankruptcy courts and Alvarez and Marsal (A&M), the firm restructuring the US assets.

A&M is also trying to encourage other practitioners to sign the agreement, the terms of which are currently being discussed and an agreement is expected shortly.

The major driving force behind the development of the Protocol is to see what can be done globally to work through the very complex inter-company positions on a cooperative basis, thus reducing the need to involve courts or other tribunals in these positions.

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February 2009



Oasis: KPMG appointed
as Liquidators

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HSBC Bank USA, National Association, as Trustee
(the "**Trustee**")

**NOTICE OF COMPLETION OF REINVESTMENT OF COLLATERAL
FOR UNDERLYING SECURITIES**

NOTICE IS HEREBY GIVEN to the holders (the "**Noteholders**") of the Notes (the "**Notes**") issued by Pacific International Finance Limited (the "**Issuer**") listed on Schedule A hereto.

The Trustee notified the Noteholders on 18 March, 2009 (the "**18 March Notice**") that requests for redemptions in full for the underlying securities constituting collateral for the Notes secured in part by shares in the Lehman Brothers US Dollar Liquidity Fund (the "**Fund**") were submitted by The Bank of New York Mellon or its affiliates, as custodian and/or trustee with respect to the underlying securities ("**BoNY**").

The Trustee has been informed that the Fund has been liquidated in full and the redemption proceeds have been reinvested by BoNY in 4-week United States treasury bills. BoNY has reinvested such proceeds pending resolution of legal issues arising under United States bankruptcy law with respect to the distribution of such proceeds.

Noteholders who have any questions for the Trustee are invited to contact the representative of the Trustee by email at lbnyinquiries@us.hsbc.com.

This Notice is given by
HSBC Bank USA, National Association,
as Trustee
Dated: 27 May, 2009

Schedule A

Issuer	Series	ISIN
Pacific International Finance Limited	Series 27 A	XS0266951804
Pacific International Finance Limited	Series 27 B	XS0266952281
Pacific International Finance Limited	Series 27 C	XS0266952794
Pacific International Finance Limited	Series 27 D	XS0266953255
Pacific International Finance Limited	Series 29A	XS0279846223
Pacific International Finance Limited	Series 29B	XS0279848609
Pacific International Finance Limited	Series 29C	XS0279848195
Pacific International Finance Limited	Series 29D	XS0279848948
Pacific International Finance Limited	Series 26 A	XS0258956738
Pacific International Finance Limited	Series 26 B	XS0258956902
Pacific International Finance Limited	Series 26 C	XS0258957207
Pacific International Finance Limited	Series 34 A	XS0338557704
Pacific International Finance Limited	Series 34 B	XS0338558181
Pacific International Finance Limited	Series 32 A	XS0311435787
Pacific International Finance Limited	Series 32 B	XS0311438377
Pacific International Finance Limited	Series 32 C	XS0311436082
Pacific International Finance Limited	Series 32 D	XS0311438708
Pacific International Finance Limited	Series 31 A	XS0296675605
Pacific International Finance Limited	Series 31 B	XS0296677056
Pacific International Finance Limited	Series 31 C	XS0296675944
Pacific International Finance Limited	Series 31 D	XS0296677486
Pacific International Finance Limited	Series 25 A	XS0252325005
Pacific International Finance Limited	Series 25 B	XS0252325690
Pacific International Finance Limited	Series 25 C	XS0252326318
Pacific International Finance Limited	Series 25 D	XS0252327399
Pacific International Finance Limited	Series 28 A	XS0272928879
Pacific International Finance Limited	Series 28 B	XS0272929091
Pacific International Finance Limited	Series 28 C	XS0272929414
Pacific International Finance Limited	Series 28 D	XS0272929687

Issuer	Series	ISIN
Pacific International Finance Limited	Series 30 A	XS0285418215
Pacific International Finance Limited	Series 30 B	XS0285419023
Pacific International Finance Limited	Series 30 C	XS0285419619
Pacific International Finance Limited	Series 30 D	XS0285420468
Pacific International Finance Limited	Series 23 A	XS0243200143
Pacific International Finance Limited	Series 23 B	XS0243200812
Pacific International Finance Limited	Series 23 C	XS0243201463
Pacific International Finance Limited	Series 23 D	XS0243201620
Pacific International Finance Limited	Series 36 A	XS0363491829
Pacific International Finance Limited	Series 36 B	XS0363492124
Pacific International Finance Limited	Series 35 A	XS0348459131
Pacific International Finance Limited	Series 35 B	XS0348459487
Pacific International Finance Limited	Series 22 A	XS0236382585
Pacific International Finance Limited	Series 22 B	XS0236382742
Pacific International Finance Limited	Series 22 C	XS0236382825
Pacific International Finance Limited	Series 19 A	XS0220695604
Pacific International Finance Limited	Series 19 B	XS0220695943
Pacific International Finance Limited	Series 33 A	XS0318915823
Pacific International Finance Limited	Series 33 B	XS0318916631
Pacific International Finance Limited	Series 33 C	XS0318916128
Pacific International Finance Limited	Series 33 D	XS0318916987