

# BANKRUPTCY REPORT

Bankruptcy report number 7 of the Bankruptcy Trustees of

**Lehman Brothers Treasury Co. B.V. ("LBT")**

**20 January 2011**

*The Bankruptcy Trustees communicate in two ways with holders of notes and certificates issued by LBT (jointly: "Noteholders"): (i) information the Bankruptcy Trustees are obliged to provide to Noteholders pursuant to the Dutch Bankruptcy Act, e.g. about the filing of claims, the date of creditors' meetings and any distribution, is also provided in "Notices to Noteholders". The Bankruptcy Trustees will send these notices through the electronic communication channels of the clearing systems; (ii) information about the progress of the bankruptcy will be made public by the Bankruptcy Trustees by issuing quarterly public reports. Both the notices and the public reports are available on [www.lehmanbrotherstreasury.com](http://www.lehmanbrotherstreasury.com).*

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## **Key items:**

- Lehman Brothers Holdings Inc. ("**LBHI**") and its affiliated U.S. debtors have filed a joint Chapter 11 plan with the U.S. Bankruptcy Court for the Southern District of New York which proposes a 50% reduction of the intercompany claim filed by the Bankruptcy Trustees in the Chapter 11 proceedings of LBHI;
- The Bankruptcy Trustees do not agree with the reduction proposed in this plan and are having ongoing discussions with LBHI for a better treatment of the intercompany claim. In these discussions the possibilities to come to a joint approach with respect to the valuation of Noteholders' claims in the LBT and LBHI estates are being explored;
- Various Noteholder groups have provided the Bankruptcy Trustees and, in certain cases, LBHI with proposals addressing the acceptance of LBT's intercompany claim and the valuation of claims in the LBT and LBHI insolvency proceedings;
- At the Status hearing held on January 13, 2011 before the United States Bankruptcy Court for the Southern District of New York, LBHI indicated that it will file an amended joint Chapter 11 plan with a disclosure statement within one week to ten days following the date of this hearing;

**Nothing in this report should be deemed or construed as an admission of liability or claims, or as a waiver of any rights, claims or defenses.**

- On December 15, 2010 the Ad Hoc Group of Lehman Brothers Creditors filed a Chapter 11 plan that is based on the substantive consolidation of LBHI and certain other U.S. debtors and foreign affiliates;
- The Bankruptcy Trustees are party to the Cross-Border Insolvency Protocol and have since the previous report participated in meetings with official representatives that are party to this protocol on 15 September 2010 and 3 November 2010;
- The Bankruptcy Trustees explicitly refer Noteholders to the website of LBHI ([www.lehman-docket.com](http://www.lehman-docket.com)) for detailed information regarding the Chapter 11 proceedings of LBHI and its affiliated debtors;
- The Bankruptcy Trustees do not intend to request the Amsterdam District Court to set dates for the filing of claims and for the claims admission meeting before mid 2011.

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Company details	: <b>Lehman Brothers Treasury Co. B.V.</b>
Bankruptcy number	: 08.0494-F
Date of court decision	: (Provisional suspension of payments: 19 September 2008) : Bankruptcy: 8 October 2008
Bankruptcy trustees	: Rutger J. Schimmelpenninck and Frédéric Verhoeven
Supervisory judge	: Ms W.A.H. Melissen
Company activities	: The objective of LBT in accordance with its articles of association was - briefly summarised - the financing of companies of the Lehman Brothers Group, by borrowing, lending and raising monies and participating in all kinds of financial transactions, including the issuance of financial instruments.
Period under review	: <b>1 July 2010 – 31 December 2010</b>
Hours spent in period under review:	1,655
Hours spent - total	: 13,420.2

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## 0. Preliminary comments

- 0.1 This is the seventh public report of the Bankruptcy Trustees. This report covers the period of 1 July 2010 through 31 December 2010. Key developments that have occurred before the date of this report are also included. The Bankruptcy Trustees emphasise that the information in this report - in particular the financial data - is subject to further investigation and change. At a later stage it may turn out that a major part of this information needs to be adjusted. This report should be read in conjunction with the previous reports. Definitions and abbreviations in this report are used in the same manner as in the previous reports.
- 0.2 The cross-border financial and legal aspects of the LBT bankruptcy are complicated. In this report the Bankruptcy Trustees present the current state of affairs in a simplified manner in accordance with the guidelines for bankruptcy reporting applicable in the Netherlands.

## 1. Statement of affairs

### 1.1. Management and organisation

LBT is a wholly-owned subsidiary of Lehman Brothers UK Holdings (Delaware) Inc, which company in turn is fully owned by LBHI, the holding company of the worldwide operating Lehman Brothers group of companies (the "**Lehman Brothers Group**").

### 1.2. Activities LBT

#### 1.2.1. *Introduction*

LBT was incorporated for the financing of the business activities of the Lehman Brothers Group by issuing financial instruments, in particular "**(structured) Notes**" to institutional and private investors. The characteristics of these Notes vary from relatively simple to very complex. In most cases – if not in all – the principal of the loan as well as the amount of the return are linked to movements of (embedded) derivative market elements. LBT on-lent the revenues of the Notes to LBHI.

- 1.2.2. LBT hedged the risks related to these derivative market elements by entering into swaps under ISDA-agreements with other entities of the Lehman Brothers Group.

### 1.3. Financial information

#### 1.3.1. *Accounting / Available financial information*

Nothing in this report should be deemed or construed as an admission of liability or claims, or as a waiver of any rights, claims or defenses.

As set out in the previous reports, Lehman Brothers (International) Europe ("**LBIE**") performed various administrative duties for LBT.

The Bankruptcy Trustees have, in addition to (book keeping) data previously been made available by LBT's management, LBIE and other affiliates, received a substantive amount of financial data from LBHI in the fourth quarter of 2010. This data has proven to be of significant value for the Bankruptcy Trustees when assessing – amongst other items – the intercompany trading and non-trading relations that LBT has entered into.

### 1.3.2. *Global close*

The global close of the accounts of the Lehman Brothers Group as of 12 September 2008 COB (as described in more detail in § 1.3 of the first report) was finalised in January 2009. The Bankruptcy Trustees refer to the previous reports with respect to the global close. The global close balance sheet of LBT as of 12 September 2008 COB is available on the LBT website.

### 1.3.3. *Swaps*

As stated in previous reports, in principle LBT covered the risks related to the derivative elements embedded in the Notes by entering into swap agreements with other Lehman Brothers Group entities. The Bankruptcy Trustees specifically refer to the overview on page 7 of the third report for the (provisional) status of the ISDA-agreements entered into by LBT.

Reference is also made to § 1.3.3 of the sixth report with respect to the Bankruptcy Trustees' conditional conclusions with respect to the respective termination dates of the various ISDA-agreements.

Lehman Brothers Finance S.A. ("**LBF**") has filed a claim of USD 3,816,016,451.61 on the basis of the ISDA-agreement existing between LBT and LBF. This claim amount appears to be based on the information derived from the global close balance sheet thereby taking 12 September 2008 as valuation date. LBF has provided no further substantiation at this stage.

Lehman Brothers Special Finance ("**LBSF**") had filed a claim of USD 1,014,490,346. This claim is stated be LBSF's position against LBT as of 12 December 2008, which is the date of the termination notice sent by LBSF to LBT.

The Bankruptcy Trustees assess the claims filed by LBF and LBSF against the background of the termination provisions of the applicable ISDA agreement and continue bilateral discussions with LBSF and LBF with respect to the reconciliation and valuation of these respective claims. In this respect, the

Bankruptcy Trustees note that within the Protocol-meetings intercompany settlement guidelines are being finalised that intend to provide a framework for the reconciliation and valuation of inter-company derivative claims. At the protocol meeting of January 27, 2011, a session will be dedicated to inter-company derivatives. The Bankruptcy Trustees continue to be engaged in bi-lateral discussions with LBF and LBSF (as well as other inter-company creditors) with respect to the valuation of inter-company claims.

#### 1.4 Lehman Brothers cross-border insolvency protocol

##### 1.4.1. *Meetings within the scope of the Protocol*

The official meetings held between the official representatives that joined the *Cross-Border Insolvency Protocol* (the "**Protocol**") and other participating representatives (jointly: the "**Protocol Parties**") during the last reporting period focussed mainly on the *Joint Chapter 11 Plan of LBHI and its affiliated debtors* dated 14 April 2010 and the disclosure statement of the same date (jointly: the "**Plan**").

At these meetings the counter proposal jointly prepared by the non-U.S. Protocol Parties were further discussed with LBHI. As mentioned in the previous report, the counter proposal addresses certain key points with respect to the Plan that are of interest to all or most of the non-U.S. Protocol Parties. Bi-lateral negotiations between LBHI and various Protocol Parties have intensified over the last reporting period.

The Bankruptcy Trustees expect that the results of part of these negotiations will be reflected in the amended Plan and disclosure statement that LBHI and its affiliated U.S. Debtors intend to file in the coming week (the "**Amended Plan**").

## 2. **Assets**

- 2.1. The balance of LBT's estate accounts at 31 December 2010 amounted to EUR 6.316.116,44.

## 3. **Debtors**

- 3.1. As set out in the first report, the intercompany receivable of LBT due from LBHI is based on a loan agreement between LBT and LBHI, dated 26 May 2000 (annex III to the first report) and amounts to USD 34,782,418,198 according to the balance sheet as at 31 August 2008 and USD 32,604,207,177 according to the balance sheet as at 7 October 2008. This difference is the result of: (i) repayments made in the period between 31 August 2008 and 7 October 2008 and (ii) currency fluctuations (the USD denominated loan consists of various

currencies. In this period the USD increased in value in respect of other currencies). The LBT intercompany receivable against LBHI as at 12 September 2008 COB amounts to USD 33,248,905,850.

The Bankruptcy Trustees refer to § 3.2 of the fourth public report for an overview of the proofs of claim filed by LBT against LBHI and various other U.S. entities of the Lehman Brothers Group. The proofs of claim with the respective addenda submitted by the Bankruptcy Trustees are available on LBHI's website ([www.lehman-docket.com](http://www.lehman-docket.com)).

- 3.2. The Plan states that LBT's intercompany claim against LBHI held by LBT shall be allowed in an aggregate amount equal to 50% of the net amount owed by LBHI to LBT as recorded on the books and records of LBHI as of 14 September 2008. The Plan furthermore does not recognize the intercompany claim's status as senior debt under LBHI's subordinated indentures. As stated in the previous report, the Bankruptcy Trustees do not agree with the proposed treatment of LBT's intercompany claims under the Plan. The negotiations with LBHI have intensified over the past few weeks and remain confidential.

The Bankruptcy Trustees have furthermore actively engaged in discussions with various groups of Noteholders that have presented various proposals to the Bankruptcy Trustees and LBHI with respect to the allowance of LBT's claims against LBHI and the treatment of third party guarantee claims filed by Noteholders against LBHI. Some of the Noteholder groups' presentations contain proposals with respect to the valuation of the various categories of claims under the Notes by LBHI and LBT.

In this respect, the Bankruptcy Trustees note that on 29 October 2010, LBHI filed the *LBT Note Issuance Valuation Memorandum* (the "**LBHI Valuation Memorandum**") as well as an "ISIN-by-ISIN" breakdown of the maximum allowable claims in LBHI's Chapter 11 proceedings per note issuance series.<sup>1</sup>

The LBHI Valuation Memorandum intends to inform Noteholders of the methodologies LBHI is using to value each of the Notes issued by LBT under the various programs. These values will be used by LBHI to evaluate claims that have been filed against LBHI as guarantor under these programs. Based on the terms of each series of Notes outstanding on the petition date, LBHI has separated the Notes in three categories ("*Par Par Notes*"; "*Zero Coupon Notes*" and "*Fair Market Value Notes*"). The Bankruptcy Trustees refer to the LBHI Valuation Memorandum with respect to the criteria applied by LBHI when

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<sup>1</sup> Both the LBHI Valuation Memorandum as the "ISIN-by-ISIN" breakdown can be found on [www.lehman-docket.com](http://www.lehman-docket.com).

classifying the Notes in the three categories mentioned. The methodologies applied by LBHI in the Memorandum are based on adjusted data derived from the global close as well as information derived from LBHI's claims filing data base.

Following the publication of the LBHI Valuation Memorandum, Note holder groups have commented on the methodologies applied by LBHI, the classification criteria as well as to certain adjustments made to the valuation of certain Notes.

In the settlement discussions with LBHI, the possibilities to come to a joint approach with LBHI in respect of the valuation of Noteholders' claims in the respective LBT and LBHI estates are being explored.

As stated in the previous report, any settlement with LBHI with respect to the allowance of LBT's intercompany claim must be conditioned upon the approval of the supervisory judge. When and if the Bankruptcy Trustees intend to put any settlement with LBHI before the supervisory judge for approval, such intent will be communicated to creditors via a notification on the website and by means of an email notification to those included on the mailing list.

#### **4. Bank / Security rights**

- 4.1. Claim from bank(s)  
See previous reports.

#### **5. Lawfulness**

- 5.1. Accounting obligation  
The Bankruptcy Trustees will give their view on the accounts and the accounting obligation at a later stage.
- 5.2. Filing of annual accounts  
According to the Commercial Register the most recent annual accounts of LBT (for 2007) were timely filed on 30 May 2008.
- 5.3. Auditor's report  
The annual accounts of LBT for 2007 have been provided with an unqualified auditors' report.
- 5.4. Management  
At a later stage, the Bankruptcy Trustees will further investigate the fulfilment of the duties of the board of directors (under the articles of association) or any de facto director.

5.5. Fraudulent acts (*Paulianus handelen*)

The Bankruptcy Trustees have made preparations with respect to book keeping information needed to investigate this further.

**6. Creditors**

6.1. Reactions to the Provisional Valuation Principles

The principles and views expressed in this paragraph may be subject to change and are therefore presented without prejudice. Reference is made to paragraph 6.4 of the fifth report for definitions of the capitalized terms used in this paragraph.

Discussions with Responding Noteholders have continued during the last reporting period. Whilst differences between the application of certain Provisional Valuation Principles still exist between the Bankruptcy Trustees and certain Responding Noteholders as well as between different groups of Responding Noteholders, discussions have also shifted to investigating the possibilities of having LBT (as primary obligor) and LBHI (as guarantor) jointly applying simplified valuation principles for various categories of Notes. Such unified approach could lead to a quicker resolution of the very complex legal and economic issues related to the valuation of claims under the Notes. In these discussions, the methodologies applied by LBHI in the LBHI Claims Filing Memorandum are taken into consideration.

6.2. Acceleration

In the past reporting period, Noteholders or Noteholders' representatives that have sent acceleration notices to the LBT Trustees have been requested in writing to provide additional information in order to assess whether the requirements for a valid acceleration notice have been met. In consultation with the relevant ICSD's the Bankruptcy Trustees have set up a process that enables Noteholders to provide such information. The Bankruptcy Trustees are still receiving information from parties that have sent acceleration notices and will reach out to those that have to date not provided the required information.

The Bankruptcy Trustees intend to identify which Notes appear to have been validly accelerated by publication on the LBT website in the coming quarter. A first assessment of the information received, leads to the *prima facie* assessment that most acceleration notices have been done in accordance with the respective terms.

## 6.2. Taiwan Taipei court proceedings

Reference is made to the previous report. On 6 January 2011, the Taiwan Taipei District Court ruled that it is not competent in the case brought forward by Chinatrust Commercial Bank (“**Chinatrust**”) against LBT. Chinatrust has subsequently appealed against this decision with the Taipei High Court. The Bankruptcy Trustees are currently awaiting the appeal brief that Chinatrust will have to file and will prepare a defense brief to be submitted to the Taipei High Court.

A similar proceeding has been initiated in Taiwan by First Commercial Bank Ltd. against LBT and other Lehman Brothers Group entities. No decision has yet been rendered in this proceeding and the next court hearing will take place on 31 January 2011.

## 7. **Miscellaneous**

### 7.1. Timing

The winding-up of the bankruptcy of LBT largely depends on the completion of the Chapter 11 proceedings of LBHI. The Bankruptcy Trustees intend to publish the next public report in April 2011.

### 7.2. Provision of information

This public report as well as the previous and next reports are available on [www.lehmanbrotherstreasury.com](http://www.lehmanbrotherstreasury.com). The original version in Dutch is also available on this website.

In the event of any difference between the Dutch version and the English translation, the Dutch text prevails. The public reports are also available for inspection at the Amsterdam District Court.

Creditors who are holders of a Note issued by LBT, which has been provided with an ISIN code that is included on the list of ISIN codes (which list is part of LBT’s balance sheet as of 31 August 2008, annex I to the first report), are requested to read the notice of 22 December 2008 (available on the LBT website) and to wait for further information from the Bankruptcy Trustees on the filing of claims in the bankruptcy.

Creditors who believe that they have a claim against LBT (other than claims arising under the Notes), are requested to submit those claims in writing, provided with underlying documents, to:

**Houthoff Buruma  
Attn. Frédéric Verhoeven  
PO Box 75505  
NL-1070 AM Amsterdam  
the Netherlands**

Amsterdam, 20 January 2011

Rutger J. Schimmelpenninck  
bankruptcy trustee

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