

Lehman Brothers' Administration – Frequently Asked Questions

1. What happened to Lehman Brothers and what is PricewaterhouseCooper's involvement?

After an attempt to find a private buyer failed, Lehman Brothers Holding Incorporated (the parent company of the UK Lehman Brothers firms) filed for bankruptcy in the US courts on 15 September. Accordingly at 7.56am on 15 September, four of the UK and European entities of the group were placed into administration. Four partners of the UK firm of PricewaterhouseCoopers were appointed as administrators for the four Lehman Brothers entities (Lehman Brothers Limited, Lehman Brothers Holdings plc, Lehman Brothers International (Europe) and LB UK RE Holdings Ltd). Since then additional entities have been placed in administration.

2. Which Lehman Brothers companies are in administration?

Partners from PricewaterhouseCoopers UK were initially appointed as Administrators to the following Lehman companies:

- Lehman Brothers Limited – the service company for the UK, employing all staff
- Lehman Brothers Holdings plc – an intermediate holding company owning shares in the investment banking and asset management subsidiaries
- Lehman Brothers International (Europe) – the principal UK trading company with overseas branches or representative offices in many other jurisdictions
- LB UK RE Holdings Limited – an intermediate holding company with numerous real estate investment Special Purpose Vehicles (SPVs)

There are many subsidiary companies within the Lehman Brothers group which are either asset owning or dormant companies, the future of which will be decided in the coming weeks and months. Some of these have already been placed into administration.

3. What is the role of the Administrators?

Administration is a procedure available in the UK to a company that is insolvent, or is likely to become so. The procedure involves placing the company under the control of one or more insolvency practitioners and the protection of the UK courts.

The Administrators of the Lehman Brothers entities in administration are PricewaterhouseCoopers UK partners who are specifically licensed to accept insolvency appointments. They use the resources of PricewaterhouseCoopers to assist in taking control of the companies' affairs and pursuing the objectives of the administration. Once appointed the PricewaterhouseCoopers UK partners acting as Administrators became officers of the court and have a fiduciary responsibility to protect and realise the assets for the benefits of all creditors. Accordingly, the key objectives of the Administrators are to maximise the values of assets and realise this

for the benefit of all creditors. No individual creditor or group of creditors can be preferred in any way. All creditors have to be treated equally.

4. What are the guiding principles of administration?

The Administrators have to act under the following guiding principles:

- The primary duty of the Administrators is to realise assets for cash for the benefit of all creditors. They need to obtain the best price for the assets, in the light of the prevailing market for such assets and any special circumstances requiring them to realise assets quickly
- Each legal entity must be treated separately. The Administrators will only convey whatever right, title and interest Lehman Brothers companies in administration have over the asset.
- Creditors of the same type or class (e.g. unsecured) must be dealt with on a *pari passu* or equal basis since the estate is insolvent. The Administrators are officers of the court and have to deal with creditors on an even-handed basis.
- Assets and liabilities which are not owned by the Lehman Brothers companies in administration do not form part of the insolvent estates. The Administrators, therefore, need to determine the status of all assets and liabilities. Where assets are held in trust, the Administrators may deal with them (e.g. return them to the owner), but the Administrators need to ensure that creditors in the same class are not disadvantaged; Administrators may insist that the costs of dealing with this are borne by the owner and not by the rest of the estate.
- Where actions or queries are of no, or minimal, value to creditors, the Administrators reserve the right not to spend any time in dealing with them
- Where the Administrators settle with a counterparty, they may insist on no set-off in relation to pre-administration acts or omissions
- The Administrators act without personal liability.

5. What is particularly difficult about the Lehman Brothers situation?

Lehman Brothers was a very significant and complex global organisation, operating in multiple territories and across most areas of financial services. Its collapse also coincided with a period of unprecedented turmoil in financial markets. The US operations of Lehman Brothers, and the UK and European Lehman Brothers' entities in administration, are now being dealt with through separate legal procedures and it is as if they are no longer part of the same group. This has significant practical consequences for the Administrators in meeting their objectives. As with most global financial services organisations, on a day to day basis Lehman Brothers was previously managed and run mainly along global product lines. Following Lehman Brothers' bankruptcy in the US, and the UK and European Lehman entities being placed into insolvency proceedings, a legal entity focus is now paramount and all information relating to the group's activities now has to be captured and assessed on a legal entity basis instead. Funding, and other interdependencies, existed between the US and various UK and European Lehman Brothers' entities and these links are now broken. These factors add further complexity to the administration. The sale of the North American investment banking and capital markets business of Lehman Brothers to Barclays also complicates the situation faced by the Administrators.

6. What is unusual about this administration?

Administrators generally have the opportunity to work with a company's directors prior to the decision being made to put the company into administration, often for a period of many weeks. This was not the case with Lehman Brothers, where a very rapid decision had to be taken to place the relevant entities into administration. Combined with the inherent complexity of the Lehman Brothers' organisation, the Administrators were faced with a significant initial task to stabilise (as far as possible) the entities' operations, to arrange funding and take such other steps as were necessary to enable the entities to continue an appropriate level of activity.

7. What other PricewaterhouseCoopers resources are involved?

A very large team of PricewaterhouseCoopers partners and staff have been deployed to assist the Administrators, sourced from a wide range of specialist areas with the firm. This includes partners and staff from the Administrators' own team of specialists as well as partners and staff with detailed banking and capital markets knowledge. These have been involved from the outset in order to help and advise on various specific aspects of the administration, from the operational aspects of capturing and settling trades, to assessing valuation and other asset and liability specific questions, and realising cash for the Lehman Brothers UK estate.

8. What are the most significant issues faced by the Administrators in relation to the market?

There are two main issues: The first is the settlement of trades and the associated issues around failed and open trades including short positions. The second relates to Client Assets and Client Money, in particular in dealing with specific monies or assets that can be categorised as client monies or assets. The Administrators have prioritised both these areas and have been working closely with relevant regulators, including the FSA, their legal advisors, the court and relevant counterparties and exchanges. Both areas are inherently complex and will take time to resolve. The Administrators are aware of the interest in these areas from counterparties and other relevant stakeholders.

9. What is being done in relation to the settlement of trades and failed trades on exchanges?

As with any similar organisation, Lehman Brothers was involved in high volume trading activities. The settlement of trades, both on exchanges and OTC markets, was a key element of its operations.

Against this background, subsequent to the administration, the following took place:

- (a) The majority of exchanges froze all Lehman Brothers' accounts.
- (b) Several exchanges, clearing houses and counterparties issued Default Notices, resulting in trades being unwound under the legal requirements of their Default provisions. This was made significantly more complex as some of the Default Notices were legally served on Lehman Brothers' entities outside the UK

Extract from Website PriceWaterhouseCoopers
http://www.pwc.co.uk/eng/issues/lehman_faq.html#

(c) The non receipt of data that would normally be received and automatically processed in Lehman's books and records resulted in a significant number of trades showing as currently failed or unsettled

As a result of these factors, significant concerns arose as to which trades were unsettled or failed. What decisions can be taken by the Administrators are then governed by their need to show that any action taken has a benefit to the creditors, the estate and that there is no downside impact on the Administrators' and Company's position.

The Administrators are working closely with the exchanges, clearing houses and other relevant market participants involved to resolve this situation. Each exchange, clearing house and Central Securities Depository has its own procedure and, therefore, different processes are being followed and there is no single process which is common for all.

The following factors also impact the Administrators' strategy:

- (a) Access to cash for settlements
- (b) Limitations on data to confirm positions and client balances. Access to information required to confirm and reconcile positions has been restricted

10. What is the relationship between the Administrators and the regulatory bodies?

The Administrators and the Financial Services Authority (FSA)

The Administrators are currently keeping the FSA informed of their activities on a daily basis, with a dedicated team of regulatory professionals working alongside Lehman Brothers Legal & Compliance teams to secure the orderly wind down of FSA authorised and regulated companies.

Lehman Brothers Senior Executives and many staff have FSA Approved Persons status, in addition to any legal and fiduciary duties they may have as Directors.

The Administrators, European and other International Regulators

Lehman Brothers has a considerable number of branches and offices throughout Europe and the Rest of the World. The Administrators are working with these offices and, as part of this work, are liaising with enquiries and investigations instigated by international regulators.

11. How do interested parties register an interest in acquiring assets from Lehman?

Parties interested in acquiring any or all of the assets of the Lehman Brothers entities in administration can contact the Administrators by clicking [here](#).

12. How do creditors register a claim and/or ask the Administrators a question?

Immediately following the Administration event an exceptionally large number of queries were received by the Administrators personal email accounts. The volume meant that these mail accounts became non operational. An exercise to sort and respond to queries sent to these email accounts was then necessary.

To ensure that queries regarding the Lehman entities in administration are dealt with in the most effective manner, the relevant e-mail address from those below should be used and the following information included in the text of any emails:

- Name/Company name;
- Entity to which the query pertains;
- Any relevant event or expiry dates;
- If this relates to specific transactions, please include full details of each transaction (e.g. estimated value, product type, account number, etc.); and
- Full contact details.

Once a query has been submitted it will be dealt with by the relevant team. Those submitting queries will then be contacted by this team. This may take some time. Queries not submitted to these e-mail addresses may not be answered (except those raised prior to 20 September 2008 which are being dealt with).

All enquiries submitted via voicemail to employees at Lehman Brothers or PricewaterhouseCoopers were required to be resubmitted using the e-mail addresses below to ensure each query is properly recorded.

Business queries

Fixed Income derivative products - uk.fidotcqueries@lehman.com
Fixed Income cash - uk.fidcashqueries@lehman.com
International Equities - uk.equitycashqueries@lehman.com
Equity derivative products - uk.equityderivativequeries@lehman.com
Prime Brokerage - uk.primeservicesqueries@lehman.com
Commodities - uk.commoditiesqueries@lehman.com
Futures - uk.futuresqueries@lehman.com

Employee queries

For all employee related queries, including resignations, please contact:
enquiries.lehmanbrothers@uk.pwc.com

General Administrator queries

For any other general queries, the following email address should be used:
enquiries.lehmanbrothers@uk.pwc.com

Process for registering interest for acquiring assets

Extract from Website PriceWaterhouseCoopers
http://www.pwc.co.uk/eng/issues/lehman_faq.html#

For parties interested in acquiring any or all of the assets of the Lehman Brothers entities in administration, the email address below should be used:
salesprocess.lehmanbrothers@uk.pwc.com

Termination notices

If a query relates to termination notices, it can be sent to
huw.merriman@lehman.com.
(Termination notices have to be communicated in accordance with each agreement with Lehman Brothers.)

13. What issues are created by the interdependency between Lehman in the US and the UK companies in Administration?

Lehman Brothers was operated as one global business and there were interdependencies between the US and UK operations and also across other jurisdictions. This included front office (e.g. trading, confirmations and settlement) and middle and back office support functions (e.g. finance, operations, HR). The challenge now is to establish an operating framework with the US and UK working together.

14. Lehman Brothers International (Europe) (LBIE) acted as a clearing broker for clients on London Clearing House (LCH) and Eurex. Have all of LBIE's client positions now been transferred to other clearing brokers?

The vast majority of client positions have now been transferred to other clearing brokers. We understand that process was completed on Monday 22 September.

During the week beginning Monday 15 September both LCH and Eurex issued notices declaring LBIE to be in default under their rules. The default powers under those rules include the ability to direct the transfer of LBIE client positions with respect to futures and option transactions to other brokers.

15. It took several days to complete the transfers - why was that?

London Clearing House (LCH) and Eurex exercised their legal powers to instruct and direct the transfer of client positions and were provided access to relevant client data to do this. LCH and Eurex assumed responsibility for this transfer. However, for operational reasons it took some time for the transfer process to be completed.

16. What has happened to the client monies and margins in relation to those client positions transferred and when can clients expect to have those monies returned?

The vast majority of LBIE client's futures and options positions held at LCH and Eurex have been transferred. However, client monies and margins in respect of those client positions were not transferred at the same time. This is due to Administrators duties to ensure that all such client monies and assets are appropriately identified and have been segregated appropriately in accordance with FSA client money rules. As

Extract from Website PriceWaterhouseCoopers
http://www.pwc.co.uk/eng/issues/lehman_faq.html#

noted on PricewaterhouseCoopers website the process required to be undertaken to ensure all such client monies are identified and reconciled will take some time.

17. How long is the Administration likely to last?

It is not possible at this stage to predict how long the administration will last as the Administrators have only been in place for a short period of time. Although significant progress has already been made (e.g. completion of transaction with Nomura and in realising some other assets), the administration is a very significant and complex exercise and it is likely to be many months before the position becomes clearer.

18. What will happen to any client related balances which clients believe should have been transferred to them prior to Administration but wasn't because of alleged operational error by Lehman?

If the transfer was not made prior to the Administration, for whatever reason, the client will have the same recourse as any other client with assets held. The fact that a transfer should have happened does not impact the client's position.

19. How will short positions be liquidated? Will these amounts be cash settled or will clients be required to return borrowed securities?

Under the terms of the stock loan and borrowing agreements, counterparties may take action on short positions in accordance with the underlying agreements. The PricewaterhouseCoopers team is in the process of taking advice and obtaining data from clients on the actions that counterparties have taken.

20. Can the Administrators comment on the size or the relative quality of assets within Lehman?

The Administrators cannot yet make any comment on what assets may or may not be realisable and at what values. The Administrators will continually focus on maximising the realisable values of all other assets.

21. Is there a creditors committee?

At present, there is no creditors committee. However, there will be one elected for each of the entities in administration. The first of these is expected to take place before 21 November.

Trust property FAQs

22. What steps have the Administrators taken with regard to client assets?

The Administrators issued a press release on 10 October which describes the steps taken by them with respect to client assets, the objective of which is the identification and return of those client assets. The priority has always been to develop a logical, efficient and fair process for dealing with client asset claims that have been and continue to be properly registered with the Administrators.

Extract from Website PriceWaterhouseCoopers
http://www.pwc.co.uk/eng/issues/lehman_faq.html#

This has been, and remains, a major priority for the Administrators and specifically this includes a High Court approved process and methodology supported by a dedicated and appropriately skilled PwC and Linklaters team, made up of expertise in both administration as well as banking and capital markets technical skills.

23. What process will the Administrators adopt to return Trust Property?

Full details of the process the Administrators will adopt in accordance with the Court Order dated 7 October 2008 are set out at:

[Client money and assets update](#)

In summary, the Trust Property Team are now undertaking *inter alia* the following steps, in parallel:

- i. development of an IT system onto which will be uploaded all of the data available from the internal systems of LBIE relating to client deposits and securities that may be Trust Property;
- ii. implementation of a process to reverse or amend the LBIE records for failed or broken trades as a consequence of the Administration, to enable the Trust Property to be more fully identified;
- iii. identification of the impact of termination notices that have been served post-administration, validating these events and other activities of third parties and either reviewing the clients' valuation of the impact of the termination or undertaking a valuation of the impact of termination on the rights of LBIE under various contracts; and
- iv. development of a protocol in relation to the implementation of corporate actions that may need to be undertaken in relation to Trust Property.

The Trust Property Team are in contact with third party custodians, agents, counterparties, exchanges and clearing houses ("Depots") where Trust Property may be located to obtain confirmation of the securities that are being held, to agree a procedure whereby the Administrators can have online access in relation to data regarding the securities and to obtain formal written confirmation of the position by security and by Depot.

The Administrators are also seeking to establish that they have complete or adequate control over the securities for the ultimate benefit of the counterparties with Trust Claims or LBIE and that any liens asserted by the Depots are assessed and valued. Once the data is available, the Trust Property Team will reconcile the books of LBIE to those of the Depots, by security and by Depot, with a view to identifying and resolving discrepancies. Where appropriate, this process will take account of the interests of LBIE in its "house accounts".

The books of LBIE will be further reconciled to the client position responses obtained through the circularisation of clients.

Extract from Website PriceWaterhouseCoopers
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Further to the data collection process, Linklaters are reviewing the various contracts utilised by LBIE in its dealings with all counterparties and the various categories of legal issues that will need to be determined before a proposal for the distribution of the Trust Property can be prepared.

24. I believe I have client assets, but I have not received an information request letter from the Administrators. How can I inform the Administrators of my positions?

If you did not receive a letter or email from the Administrators, please consult the relevant letter and appendix at the following website:

[Client money and assets update 15/10/08](#)

You should return your information by email to clientpositionresponses@lehman.com or by post to Cathy Stewart, Trust Property Team, Lehman Brothers International (Europe) (in administration), 25 Bank Street, London, E14 5LE.

In any correspondence please state the full name of the legal entity concerned and provide a contact name, postal address and e-mail address, if available.

25. Where are client assets typically located and what issues have arisen?

Client assets are generally located at sub custodians, settlement agents, exchanges and clearing houses.

- LBIE itself was not a custodian but rather had some 97 relationships with global sub custodians and settlements agents and was active on most of the global exchanges and clearing houses either directly as LBIE or indirectly through brokers. The Administrators have an ongoing dialogue with these institutions and have written to them all to obtain relevant information that can be used to help locate the assets.
- Custodians and settlement agents continue to liquidate LBIE excess collateral required to meet their obligations. Final liquidation statements are being obtained from them.
- Typically the custodians have three LBIE accounts, being house (for the benefit of LBIE), prime brokerage nominees (where LBIE may have a charge over the assets) and safe custody (split into two accounts where one has right of set off against the assets and the other one does not). The Administrators have asked for details of all accounts that exist.

26. What is the current position with exchanges and clearing houses?

Most global securities and derivative exchanges and clearing houses have suspended and defaulted LBIE activity. To the extent that positions have been closed out the Administrators are seeking the safe return of house and client monies. For securities exchanges the Administrators are dependent on the operation of the relevant exchange default rules, some of which take some time to take effect eg. LSE has exercised its default rules and is in the process of calculating net settlement for LBIE and each of its counterparties using the hammer price of 11am on 15 September 2008.

27. What is the position in respect of failed trades?

There are over 140,000 failed LBIE trades across global markets. These global markets have their own complexity with different approaches and rules to deal with failed trades. The timetable for resolving this issue will vary by jurisdiction, for example the EUI have enforced a match delete process in Crest. However this process does not remove each party's contractual obligation to honour the trades and these will need to be dealt with bilaterally by the Administrators on a counterparty by counterparty basis.

Of the 140,000 failed trades approximately 82,500 are in Europe, approximately 12,500 in Americas and approximately 45,000 in Asia. More progress is being made in respect of European fails as LBIE Operations have responsibility for processing these trades and thus the Administrators have the benefit of data and resources in London. The Administrators are also engaged with the various European stakeholders eg FSA in the UK, and AMF in France, to work on solutions to the failed trades issues in the respective local markets.

The Administrators proposals for dealing with failed trades are set out on the PwC website. These are also, however, subject to compliance with local legal and regulatory rules.

In respect of failed trades in America and Asia, only Lehman resources in those locations have access to all the necessary data and processing. Resources for these entities are employed outside LBIE and thus outside the Administrators direct control. Access is therefore proving more difficult. The Administrators are working with these entities and resources to establish appropriate protocols of gaining assistance to resolve these issues. Some of these entities are also in their own local insolvency proceedings which is adding further complexity to the process.

More detailed information about failed trades is included on the PwC website.

28. What prioritisation criteria are being adopted by the Administrators?

In their press release dated 10 October the Administrators set out a set of principles to be applied to prioritising claims. This largely revolves around the quality and timing of data provided by counterparties together with simplicity of the case at hand and any associated legal issues. It also involves an analysis of other claims being made over the particular asset class and whether a situation could arise where there is a risk of shortfall of the asset in question to be distributed back to clients. In all cases the Administrators need to examine LBIE's wider relationship with relevant counterparties and ensure there are no offsetting claims against the estate.

In situations where the Administrators make an early return of a client asset, they need to mitigate the risk of competing future claims being made against the asset in question. This involves requiring both an acceptable form of indemnity from the counterparty and a guarantee from a sufficiently well rated institution, such as a AA rated bank to protect against any situation which arises whereby an asset has wrongly been given back to a particular client.

29. What practical legal issues arise in relation to client assets?

As well as realising the estate for the benefit of creditors the Administrators are managing for the benefit of clients, the trusts of assets and monies that are owned by clients.

Client monies are subject to a strict set of rules and are held on a pooled basis for all clients with a client money entitlement. This money needs to be identified by the Administrators, collected in from the banks where it is held and then distributed.

In respect of client assets, the Administrators must ascertain what are client assets and what are house assets, by reconciling to third party data and reviewing all relevant contracts. Each counterparty has a suite of contracts and master agreements which can include, amongst others, Prime Brokerage Agreements, Futures Agreements, Stock Lending Agreements, ISDA Master Agreements and Cross Margining and Netting Agreements. These can be in several forms. They may be, and often are, individually modified by agreement or side letter or even e mail. Some of them are subject to New York law and some of them are subject to English law. Their effect and interrelationship has never been tested in a situation like Lehman and complex issues of legal analysis are likely. Significant practical issues therefore arise in identifying and reviewing contracts and understanding all relevant terms. In particular, the extent of any security or hypothecation needs to be verified and checked to ensure that it is compliant with the Agreement and LBIE's rights.

Some of the practical issues and areas of legal analysis likely to arise are:

- At what point does reuse extinguish a client asset claim? What is the situation where assets have been reused in excess of agreed limits?
- To what extent should losses be borne by clients where they share in a pool of securities? For example similar assets can be listed on different markets in different forms? How are shortfalls allocated? What if there has been a series of movements on the account? What if the house also has claims on the pool?
- To what extent can tracing claims be made?
- What is the impact of close out on settling net liabilities between house and client?
- How do foreign laws impact on trust and contractual claims?

30. Will the Administrators be calling for additional collateral or margin where the net equity has decreased on open trades in relation to prime brokerage clients?

The Administrators must protect the estate from loss and will have particular regard to the risk of loss from uncovered net credit exposures, further, they must be mindful of LBIE's contractual rights with regard to the ability to request collateral from a counterparty. When evaluating whether LBIE has the right to call for additional collateral as exposures change over time, the Administrators will examine whether the counterparty has other positions with LBIE that mitigate an apparent debit position. This matter remains under consideration whilst the Administrators consider how best to protect the interests of the LBIE estate.

31. If I have not got all of the information required by the Administrators can I obtain or use information from LBIE?

As LBIE's books and records were not fully updated from the point of Administration, you cannot rely on any information obtained after 07:56 on 15 September 2008 from Lehman's Live or any other Lehman's source. Therefore, you should not rely on statements produced after this time. Please provide the Trust Property Team with information which is as complete as possible from your own records. This will assist the Trust Property Team to develop as full an understanding as possible of your position with LBIE and to compare your information to that held by the Company.

Where possible, please provide information in Microsoft Excel format and send it via email to clientpositionresponses@lehman.com

32. If I send in all of the information requested by the Administrators, will I get my assets/monies back immediately?

Due to the complexity and the various stages in the process, it will not be possible to return client assets/monies immediately.

The Administrators and Lehman's staff are actively working through a process to reconcile positions on a client by client basis. In parallel, the aggregate position for all clients needs to be determined and reconciled to the assets held in custody and in the bank accounts.

The Administrators have sought guidance from the Court on how this complex process should be undertaken. Details can be found at:

[Client money and assets update](#)

Additionally, the Administrators need to reconcile actions taken by counterparties (e.g. actions

following default notices) and reflect these before an up to date picture can be produced. This process will necessarily take time to complete.

33. I have submitted information to the Trust Property Team by email or post. What work is currently being done with this information?

The Trust Property Team is currently working through the responses received to date via post and email. Initially, this entails identifying and responding to queries, and reviewing documents received to check for completeness of the information supplied to the Trust Property Team.

34. Can you provide me with an estimate of the timeframe for reviewing my account(s) and returning my assets/monies?

The Trust Property Team is working towards reviewing all accounts and returning assets in an orderly and efficiently manner.

Extract from Website PriceWaterhouseCoopers
http://www.pwc.co.uk/eng/issues/lehman_faq.html#

The priority of the Administrators at the moment is to determine the positions of LBIE both in aggregate and also at an individual client level. A joint Lehman's and PwC team is working on reconciling LBIE's books to external custodians and to information received from clients.

The review process is extremely complex and we are presently unable to provide an estimate of the timeframe for returning client assets and monies.

We are mindful of the uncertainty experienced by counterparties and their need to resolve matters as quickly as possible. If it is possible to advance the process in stages, resolving a particular issue that affects a number of accounts in the same way, at the same time, without having to wait for all other issues to be resolved, we will look to do that.

35. How will the Prioritisation and Hardship Committees function?

The Administrators will consider the following factors, when assessing a claim for prioritisation:

- i. the quality and timing of data being available to the Administrators;
- ii. the speed of response of counterparties in dealing with the Administrators' questions, coupled with the quality and accuracy of the data supplied, the complexity of the data and the legal issues relevant to the determination of a particular claim;
- iii. the number of claims that may be made to a particular class or category of Trust Property and; the risk of a shortfall in that particular class of category of Trust Property;
- iv. the cost efficiency and expediency of the relevant process; and
- v. market stability and confidence.

The Administrators have established a hardship sub-committee and may prioritise claims presented to it, in line with High Court Order obtained on 7 October 2008.

36. If my assets have been rehypothecated, will they be returned?

Client positions will be reviewed on a case-by-case basis to determine the extent, if any, of rehypothecation of their assets. Title to securities transfers when assets are rehypothecated in accordance with Prime Brokerage agreements and therefore these assets become part of the estate. If assets have been rehypothecated, these will not be available for return to you. The extent to which your assets could be rehypothecated is set out in your agreements with LBIE.

Prime Services FAQs

37. I have both long and short positions. Can the Administrator provide an update as to whether I can at least close my short positions?

Very few clients have terminated their prime broker agreements. As a result most clients of LBIE and LBIE itself continue to be exposed to market risk. Where a client makes a proposition to LBIE, intended to mitigate the market risk of both parties, the Administrators will enter into bi-lateral conversations with such counterparties. It must be recognised that if a counterparty seeks to crystallise a position, the Administrators must be able to demonstrate that such crystallisation is in the interests of the estate and that the Administrators are not in fact preferring one creditor over another.

38. Have the administrators determined the settlement date for claims due to and from LBIE?

Under the rules of certain exchanges there is a predefined process for determining the respective liabilities of each party to a failed transaction and the Administrators are working with the various exchanges to confirm the basis of such failed trades. In other circumstances, the contractual position may dictate the terms under which contracts are terminated and the Administrators are working through the numerous variants of individual contractual positions to determine the appropriate settlement date. In respect of contracts that remain open, these will contain terms in relation to settlement. It is therefore likely that the settlement date of positions will be determined on a case by case basis.

39. Is it a reasonable assumption to make that counterparties from whom LBIE has borrowed securities will have bought these securities back in?

We believe this it is. A number of counterparties have confirmed they have closed out the borrowing by buying securities back in.

40. Is it the intention of the Administrators, where clients have held assets in safe custody accounts and where the Administrators are able to satisfy themselves that there is no other claim to these assets, to release these assets?

Yes, it is subject to there being no other debit position with the same client, which needs to be taken into account. Some assets, which are held at depots in segregated custody accounts and to which there is no legal right of set off, are currently under consideration for return to clients subject to appropriate indemnities being in place.