

BANKRUPTCY REPORT

Bankruptcy report number 4 of the trustee of

Lehman Brothers Securities N.V.

13 April 2010

Company name	: Lehman Brothers Securities N.V. (" LBS ")
Bankruptcy reference	: E.J.F. 2/2009
Bankruptcy date	: 30 January 2009
Trustee	: Mr. M.R.B. Gorsira (the " Trustee ")
Supervisory judge	: Mrs. A.M.P. Geelhoed
Activities Company	: The objective of LBS is the structuring and issuing of derivative products linked to equity securities with the purpose to obtain a return on investment.
Turnover data	: Operating income according to the audited annual accounts 2007 (as of 30 November 2007): USD 21,895
Reporting period	: 24 November 2009 up to and including 2 April 2010
Hours spent in period under review	: 1.028,2
Total hours spent to date	: 2.506,2

Summary of key issues

- The Trustee is a party to the *Cross-Border Insolvency Protocol* (the "**Protocol**") and has participated in meetings with the official representatives that are also party to this Protocol (the "**Official Representatives**" or the "**Protocol-parties**") on 13 and 14 January 2010 in New York (the "**Third Protocol Meeting**"). The Fourth Protocol Meeting will be organized in Hong Kong on 21, 22 and 23 April 2010.
- On 15 January 2010 the Official Representatives and other participating affiliates have published the Report of Activities (the "**Report**"). The Report was finalized during the Third Protocol Meeting and signed by the co-chairs, Edward S. Middleton and Rutger Schimmelpenninck, on January 15, 2010.; and

- The Trustee has published all available documentation (excluding the Final Terms) regarding the Warrant and Certificate Program (UK law), the Warrant and Certificate Program (Germany) and the Warrant and Certificate Program (Switzerland) (the "**Program Documentation**") on the dedicated website.¹
- In February 2010 the Trustee has visited Euroclear Bank S.A./N.V. in Brussels, Clearstream Banking in Luxembourg, Clearstream Banking in Frankfurt and SIS Sega Inter Settle in Zurich (the "**Clearing Systems**").
- Neither a claims filing date nor a date for the claims admission meeting have been set.

1. General

- 1.1 This is the fourth bankruptcy report of the Trustee. The information provided in this report – especially the financial information – is still subject to further investigation. Please be advised that information may have to be substantially amended following such further investigation.
- 1.2 With regard to the progress of the bankruptcy, the Trustee will communicate with creditors and other interested parties via electronic mailings and the website: www.ekvandoorne.com/bankruptcy-lehman-brothers-securities/38-general-information.

2. Lehman Brothers Securities N.V.

2.1 General

LBS was incorporated on 31 October 2003 and is a wholly-owned subsidiary of Lehman Brothers Asia Holdings Limited ("**LBAHL**"), seated in Hong Kong, which in turn is a wholly-owned subsidiary of LBHI. LBHI is incorporated in Delaware in the United States and is the holding company of the worldwide operating Lehman Brothers group (the "**Lehman Brothers Group**").

LBS had its corporate seat at E-Commerce Park, Vredenberg, Curacao, the Netherlands Antilles. Mr. Jonathan Josef Knapp is listed in the Commercial Register as the Managing Director of LBS (the "**Managing Director**").

¹ <http://www.ekvandoorne.com/bankruptcy-lehman-brothers-securities/42-program-documentation>

2.2 *Cause of bankruptcy*

On 15 September 2008 LBHI filed a petition in the United States Bankruptcy Court for the Southern District of New York seeking relief under Chapter 11 of the United States Bankruptcy Code. The Lehman Brothers Group has subsequently closed all its subsidiaries globally. As LBS was then unable to pay its debts, LBS requested the Court of First Instance of the Netherlands Antilles, venue Curacao, that it be declared bankrupt in January 2009.

2.3 *The Securities*

LBS issued warrants and certificates (the "**Securities**") to institutional and private investors under various programs, such as:

- Lehman Warrant and Certificate Program;
- Warrant and Certificate Program (Germany);
- Warrant and Certificate Program (Switzerland); and
- Warrant and Certificate Program (Nordic States).

The abovementioned programs are hereinafter collectively referred to as the "**Programs**". Under the Programs a great variety of Securities with individually distinct terms and conditions were issued.

2.4 The Securities are linked to derivative instruments, such as the price developments of specific shares, basket of shares or commodities (the "**Underlying**"). The risks related to these derivative instruments were hedged by LBS by entering into (hedging) agreements under ISDA master agreements (the "**ISDA-Agreement**") with Lehman Brothers Finance S.A. ("**LBF**"). The idea was that, by entering into these (hedging) agreements, LBS did not run any market risk of value movements with respect to the Securities. LBF as LBS' main hedge counterparty subsequently covered (part of) the risks they had assumed from LBS by entering into hedging agreements with external parties.

2.5 The Securities have all been issued under guarantee of LBHI. In addition to the previous reports in which the Trustee mentioned that the proceeds were being used to finance LBHI and its group companies, part of the proceeds of the issuance of Securities was also used to enter into hedging arrangements with especially LBF.

3. Settlement bankruptcy

3.1 *General comments*

In the third bankruptcy report the Trustee mentioned under paragraph 3.1 that he has initiated discussions with other parties, involved in the issuances of the Securities, such as the various clearing systems in Europe and the US. In that respect the Trustee has visited the Clearing Systems and he has continued the discussions regarding the (notional amount and the number of outstanding) Securities which are and should be registered in their systems. These discussions will be continued and further extended.

3.2 *Global Close, Financial information and Derivatives*

During the last reporting period significant work has been done with respect to the reconciliation of Global Close Balance Sheet. The investigation with regards to the numerous (outstanding) Securities on the LBS balance sheet continues. See also paragraph 3.1 of this report.

Within the framework of the Protocol, book keeping information and other LBS data have been shared between LBS and LBHI and other (derivative) counterparties that are party to the Protocol. In that respect the Trustee has also had meetings with LBF in Zurich and other (potentially) US hedging counterparties.

The Trustee notes that in order to finalize the reconciliation exercises more data and time is needed.

3.3 *Derivatives*

Next to the ISDA-Agreement entered into with LBF, LBS also entered into an ISDA-agreement with LBHI. Up to date it is not clear whether LBS and LBHI actually entered into hedging trades. This is still subject to further investigation. In addition to the ISDA-Agreement with LBF, LBS entered into an equity hedging agreement with LBF (the "**Equity Hedging Agreement**") in 2007, which agreement is governed by Swiss law. The purpose of the Equity Hedging Agreement was *to flatten the risk in Lehman Brothers Securities N.V. ("LBS") on a monthly basis and to transfer the risk from LBS to Lehman Brothers Finance SA, Netherlands Antilles branch ("LBFNA" or the "Branch")*, together with both ISDA-agreements: the "**Hedging Agreements**"). Documentation and information that has been made available to the Trustee shows that the Securities or part of them, contrary to what was intended and perhaps by mistake, were possibly not fully hedged.

The Trustee has not received any termination notices regarding the Hedging Agreements yet, nor did he send any termination notices. The Trustee expects to provide more information on this matter in the next bankruptcy report.

4. Cross-border insolvency protocol

4.1 Protocol Meetings

The Third Protocol Meeting was organized in New York on 13 and 14 January 2010.

The Trustee refers to **Annex 1** for the Report of Activities since the first Protocol meeting in London on 16 and 17 July 2009 until the third meeting in New York on 13 and 14 January 2010.

The Fourth Protocol Meeting will be organized in Hong Kong on 21, 22 and 23 April 2010.

The Procedures Committee continues to hold regular conference calls to monitor the progress in the process and to address specific issues.

5. Debtors

5.1 Lehman Brothers Holdings Inc.

The Trustee refers to paragraph 6.1 of the third bankruptcy report for an overview on the proofs of claim filed against LBHI and the various U.S. entities of the Lehman Brothers Group. The proofs of claim with the respective addenda submitted by the Trustee are available on LBHI's website (www.lehman-docket.com).

5.2 Joint Chapter 11 Plan of Lehman Brothers Holdings Inc. and its Affiliated Debtors

On 15 March 2010 LBHI has filed the Joint Chapter 11 Plan of Lehman Brothers Holdings Inc. and its Affiliated Debtors (the "**Plan**"). In the Plan LBHI and its US affiliates propose a resolution of the outstanding claims against them.

According to the Plan LBS' Security Holders filed a total claim of USD 746 million under the guarantee granted by LBHI to the Security Holders (Third Party Guarantee). See paragraph 4.7 of the Plan. The claims filed under the transaction guarantee and the board resolution by LBS against LBHI have been allowed for USD 283 million (USD 111 million relates to Transaction Guarantees and USD 172 million relates to the Board Resolution). Due to a lack of (sufficient analysis of the available) data, it could not be confirmed yet whether the intercompany claim of around USD 6 billion against LBHI (the net amount is around USD 5,4 billion against LBHI and its US affiliates) will be recognized and honored by LBHI. In order to assess whether (part

of) this intercompany claim will and/or has to be allowed, the Trustee and LBHI are analyzing in good cooperation all available data and have initiated discussions. The analysis and discussions still continue. The Trustee expects to provide more detailed information about this issue in the next bankruptcy report.

LBHI will file the disclosure statement on or about 14 April 2010, which disclosure statement will include an estimate of the best figures LBHI can produce at that moment.

5.3 *Lehman Brother International (Europe)*

On 18 March 2010 the Trustee filed a(n) (unliquidated) claim with the joint administrators of LBIE with regard to Trust Assets (as defined in the Claim Resolution Agreement between LBIE and the Eligible Offerees). At the time of filing this claim it has not been possible for the Trustee to ascertain whether any of these assets amount to Trust Assets. The Trustee invited the joint administrators of LBIE to enter into discussions in order to get more clarity on this issue.

6. **Valuation principles**

6.1 *General*

The Securities that have been issued from LBS are complex, both from a legal and financial perspective. Various legal issues must be resolved before any calculation of the value of the claims arising from the Securities can be made. The principles and views expressed in this chapter may be subject to change and are therefore presented without prejudice.

In this report, the Trustee addresses the valuation of claims under the Programs and not the valuation of any claims under the guarantee granted by LBHI to the Security Holders.

6.2 *Valuation of claims*

The starting point for the valuation of claims arising from the Securities remains the terms and conditions of the relevant Offering Circular and the Pricing Supplement (also known as the "**Final Terms**") under which they were issued. The terms and conditions of the Offering Circular and the Final Terms to each Security, specify the amounts that are payable to the Security Holders under such terms (the "**Contractual Amount**"²) and when such amounts are due and payable.

In order to formulate valuation principles, an understanding of the point in time when such become due and payable is important.

² In the previous bankruptcy report the Contractual Amount was defined as Settlement Amount.

According to the applicable Final Terms of the Securities and the law that applies to such Final Terms, as a general principle, the Securities do not automatically become due and payable as a result of the Chapter 11 procedure of LBHI or LBS' bankruptcy. Furthermore, Netherlands Antilles insolvency law does not contain any rule pursuant to which the Securities (automatically) become due and payable as a result of LBS' bankruptcy. In principle, the Securities become due and payable on the Settlement Date (applicable to Warrants) or the Redemption Date (applicable to Certificates). However, due to the intrinsic nature of structured products such as the Securities, numerous exceptions exist which have a fundamental bearing on their valuation and add an additional layer of complexity to this process. These exceptions are described below.

The majority of the Securities contained, among others, "trigger events", "kick-in events", "early redemption events" or "early exercise events" whose effects would cause an early settlement or early redemption of the Security involved. Market tools such as *triggers*, *strikes* and *barriers*, to name some of the most frequently employed, were linked to the market fluctuations of the Underlying. In the event that the value of the Underlying, taken as a collective or merely individually within a basket, infringed upon such thresholds, settlement or redemption would then occur.

Any valuation therefore requires both an examination of the terms and conditions of the Final Terms as well as the pricing history of each Underlying during the lifetime of the respective Security.

6.3 *Netherlands Antilles valuation principles*

Under the Netherlands Antilles Bankruptcy Decree 1931 (the "**Bankruptcy Decree**"), creditors must file their claims with the Trustee in order to be entitled to a distribution out of the bankruptcy proceeds on the basis of the admitted claim. To determine the amount of the admissible claims, and as a consequence, of a distribution, the value of the claims must be admitted. In principle the value of the claims to be filed with the Trustee will be determined on the basis of the valuation principles as set out in the Bankruptcy Decree. In that respect especially three articles are important:

Article 124 of the Bankruptcy Decree (to the extent relevant, informal translation)

Interest accruing after the bankruptcy order may not be admitted unless secured by a pledge or mortgage. [...]

Article 126 of the Bankruptcy Decree (informal translation)

1. *A claim with an uncertain due date or which entitles the creditor to periodic payments shall be admitted for its value at the date of the bankruptcy order.*
2. *All claims which become payable within one year after the date of the commencement of the bankruptcy order shall be considered due and payable at that time. All claims which become payable one year thereafter shall be admitted for their value one year from the date of the commencement of the bankruptcy.*
3. *Only the time and method of the installment payments, a profit opportunity, where applicable, and, if the claim bears interest, the agreed interest rate shall be taken into account for the calculation.*

Article 128 of the Bankruptcy Decree (informal translation)

Claims having an indeterminate or uncertain value or whose value is not expressed in Curacao currency or not expressed in money at all, shall be admitted for their estimated value in Curacao currency.

6.4 *Valuation for different categories of Securities*

The Contractual Amount at the moment at which the Securities become due and payable is in principle established at i) the Redemption Date or the Settlement Date; or ii) the Mandatory Early Redemption Date or the Mandatory Early Settlement Date; or iii) Early Redemption Date or the Early Settlement Date, (whichever is applicable) in accordance with the requirements of and as defined in the applicable Final Terms.

For the purpose of formulating valuation principles, the Trustee has distinguished the following categories of Securities.

I. Claims arising from Securities that became due and payable before the Bankruptcy Date

In the case of Securities that were due and payable before the Bankruptcy Date the Admissible Amount is the Contractual Amount (in the Final Terms defined as Cash Settlement Amount), increased by any interest that accrues to the benefit of the Security Holder in accordance with the Final Terms. Such contractual interest will in principle accrue for the period that begins when the Securities became due and payable and ends at the Bankruptcy Date (Article 124 of the Bankruptcy Decree). If no contractual interest applies the Trustee will assess whether a statutory default interest is applicable.

II. Claims arising from Securities that became due and payable within one year after the Bankruptcy Date (30 January 2009 – 30 January 2010)

In principle the Admissible Amount of claims arising from Securities that became due and payable within one year after the Bankruptcy Date is the Contractual Amount (Article 126b of the Bankruptcy Decree, paragraph 2, first sentence). Any component of the Contractual Amount that corresponds to the interest due over the period from the Bankruptcy Date to the date that the Security became due and payable is not taken into account (Article 124 of the Bankruptcy Decree).

As such, claims arising from Securities that became due and payable within one year after the Bankruptcy Date are admissible for the Contractual Amount provided that these amounts will not include any interest accrued after the Bankruptcy Date.

With regard to category III and IV, the Trustee notes that he is still investigating the nature of the various Securities, the relevant Final Terms and in which way Netherlands Antilles valuation principles apply to these categories. Therefore, the Trustee can only provide general comments.

III. Claims arising from Securities that become due and payable later than one year after the Bankruptcy Date but before the Claims Filing Date

The Admissible Amount is determined by calculating the present value of the Contractual Amount at the date of the first anniversary of the bankruptcy (30 January 2010). Whether a discount rate will be used to calculate the present value and, if so to what extent, is subject to further investigation.

IV. Claims arising from Securities that become due and payable after the Claims Filing Date

After a first preliminary investigation of the final terms, it is expected that at the Claims Filing Date a number of Securities will be still outstanding because these Securities will not have reached their Settlement Date or Redemption Date or have not been early settled or redeemed.

For this category of claims the Trustee makes a distinction between claims with a determined amount (*bepaalde waarde*) and claims with an undetermined amount (*onbepaalde waarde*). Whether a claim has an undetermined or a determined amount i) will be assessed on the Claims Filing Date and ii) depends on the specific terms and conditions of each Security.

The Trustee will further elaborate on this issue in the next bankruptcy report.

7. Improper management

The Trustee will further investigate the manner in which the Managing Director has fulfilled his duties.

8. Fraudulent acts in respect of creditors

The Trustee will further investigate whether fraudulent acts (*paulianus handelen*) have been committed.

9. Miscellaneous

9.1 As the timing, the Trustee notes that the winding-up of the bankruptcy of LBS largely depends on the completion of the Chapter 11 proceedings of LBHI.

9.2 This third bankruptcy report (as well as every subsequent bankruptcy report) will be available on <http://www.ekvandoorne.com/bankruptcy-lehman-brothers-securities/38-general-information>. The bankruptcy reports are also available for inspection at the Court of First Instance of the Netherlands Antilles, venue Curacao.

9.3 All creditors, including but not limited to the Security Holders, who believe that they have a claim against LBS, are requested to submit those claims in writing, with documents supporting such claim, to:

VanEps Kunneman VanDoorne
Attn. Robert F. van Beemen
Julianaplein 22
P.O. Box 504, Curacao
Netherlands Antilles

or by e-mail to:

bankruptcy_lbs@ekvandoorne.com or beemen@ekvandoorne.com

10. Plan of action

- i) Continuing the retrieval and analysis of the Program, legal, financial and trade documentation;
- ii) Continuing the reconciliation of the Global Close Balance Sheet;
- iii) Investigating the Hedging Agreements and outstanding hedge positions, including, but not limited to, the hedge positions with LBF;
- iv) Assuming the valuation principles that need to be applied in respect of claims based on the Securities;

- v) Further discussions with the Clearing Systems to be expanded with the clearing systems in the Nordic states; and
- vi) Investigating the role of the accountant.
