

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re:

LEHMAN BROTHERS HOLDINGS INC., *et al.*,  
  
Debtors.

Chapter 11

Case No. 08-13555 (SCC)

(Jointly Administered)

LEHMAN BROTHERS HOLDINGS INC.,  
LEHMAN BROTHERS SPECIAL FINANCING  
INC., LEHMAN BROTHERS COMMODITY  
SERVICES INC. and LEHMAN BROTHERS  
COMMERCIAL CORP.,

Adv. Proc. No. 13-01676 (SCC)

Plaintiffs,

-against-

CREDIT SUISSE AG, CREDIT SUISSE  
INTERNATIONAL, CREDIT SUISSE ENERGY  
LLC, CREDIT SUISSE SECURITIES  
(EUROPE) LTD. and CREDIT SUISSE LOAN  
FUNDING LLC.

Defendants.

**SEVENTH AMENDED SCHEDULING ORDER AND DISCOVERY PLAN**

**WHEREAS** Plaintiffs Lehman Brothers Special Financing, Inc., Lehman Brothers  
Commodity Services Inc., Lehman Brothers Commercial Corp. and Lehman Brothers Holdings  
Inc. (collectively, “Lehman”) filed an adversary complaint and claims objection against Credit  
Suisse, Credit Suisse International, Credit Suisse Energy LLC and Credit Suisse Securities  
(Europe) Ltd. (collectively with Credit Suisse Loan Funding LLC, “Credit Suisse”; together with  
Lehman, the “Parties”) on November 6, 2013;

**WHEREAS** the Parties filed a Scheduling Order and Discovery Plan with the Court on  
January 22, 2014, which was approved by the Court on February 19, 2014;

**WHEREAS** the Parties filed an Amended Scheduling Order with the Court on June 20, 2014, which was approved by the Court on June 30, 2014;

**WHEREAS** the Parties filed a Second Amended Scheduling Order with the Court on October 27, 2014, which was approved by the Court on November 3, 2014;

**WHEREAS** the Parties filed a Third Amended Scheduling Order with the Court on May 12, 2015, which was approved by the Court on May 19, 2015;

**WHEREAS** the Parties filed a Fourth Amended Scheduling Order with the Court on November 20, 2015, which was approved by the Court on November 30, 2015;

**WHEREAS** the Parties filed a Fifth Amended Scheduling Order with the Court on August 25, 2016;

**WHEREAS** Lehman filed an amended adversary complaint against Credit Suisse AG, Credit Suisse International, Credit Suisse Energy LLC, Credit Suisse Securities (Europe) Ltd. and Credit Suisse Loan Funding LLC on March 17, 2017;

**WHEREAS** the Parties filed a Sixth Amended Scheduling Order with the Court on October 6, 2017, which was approved by the Court on October 13, 2017;

**WHEREAS** the Court entered additional orders regarding document discovery following the hearing on September 18, 2017 of Lehman's Motion to Compel the Credit Suisse Defendants to Produce Documents by a Date Certain on October 19, 2017; and

**WHEREAS**, the Parties having reached agreement on the terms of this Seventh Amended Scheduling Order, the Court hereby adopts the following schedule and discovery plan.

**Amended Schedule**

**1. Fact Discovery**

- a. All fact depositions shall be completed on or before **May 7, 2018**.

Notwithstanding this deadline, any individual who appears on a Party's trial witness list who has

not been deposed during fact discovery may be deposed before trial. The parties reserve their rights to object to such depositions on bases other than that the deposition is beyond the close of fact discovery.

b. Requests for admissions shall be served on or before **August 3, 2018**. No response to any request for admission shall be required of any Party until **August 31, 2018**.

c. Discovery from third parties shall be completed on the same schedule as Party discovery, or as necessary to accommodate the needs of third parties.

## **2. Expert Discovery**

a. The Defendants shall disclose the identities of any testifying expert witnesses and serve any expert reports pursuant to Fed. R. Civ. P. 26(a)(2)(B) (made applicable to this matter pursuant to Fed. R. Bankr. P. 7026) no later than **May 21, 2018**.

b. The Plaintiffs shall serve any expert report intended to rebut any other expert report no later than **July 2, 2018**.

c. The Defendants shall serve any expert report intended to reply to any expert rebuttal report no later than **August 6, 2018**. The Plaintiffs reserve the right to submit sur-reply reports responding to any new matter appearing in reply reports.

d. All expert reports served in the proceedings must be served with all supporting data and analysis relied upon by the expert in forming the opinions set out in the expert report.

e. All expert depositions shall be completed on or before **September 17, 2018**.

## **3. Dispositive Motions**

a. Subject to the requirements of Local Bankruptcy Court Rule 7056-1 (including the requirement that a Party seeking to file a motion for summary judgment first seek

a pre-motion conference), dispositive motions shall be filed and served on or before **August 6, 2018**.

b. Oppositions to any dispositive motions shall be filed and served on or before **August 27, 2018**.

c. Reply briefs in further support of any dispositive motion shall be filed and served on or before **September 10, 2018**.

#### **4. Pretrial Briefs**

a. Pretrial briefs, not to exceed one hundred and twenty (120) pages shall be served on or before **September 17, 2018**.

b. Hard-copy and electronic, hyperlinked courtesy copies of the parties' pretrial briefs will be provided to the Court on **September 19, 2018** and **September 21, 2018**, respectively.

c. Each party shall provide notice if any of its confidential material contained in the opposing party's pretrial brief can be de-designated as no longer confidential by **September 24, 2018**.

d. Pretrial briefs shall be filed, along with any motion to seal confidential materials (if necessary) on **September 28, 2018**.

e. Pretrial reply briefs, not to exceed seventy five (75) pages, shall be served on or before **October 8, 2018**.

f. Hard-copy and electronic, hyperlinked courtesy copies of the parties' pretrial reply briefs will be provided to the Court on **October 10, 2018** and **October 12, 2018**, respectively.

g. Each party shall provide notice if any of its confidential material contained in the opposing party's pretrial reply brief can be de-designated as no longer confidential by **October 15, 2018**.

h. Pretrial reply briefs shall be filed, along with any motion to seal confidential materials (if necessary) on **October 19, 2018**.

## **5. Pretrial Motions**

a. Pretrial motions shall be served on **September 24, 2018**, with courtesy copies of any pretrial motions provided to the Court on **September 27, 2018**.

b. Each party shall provide notice if any of its confidential material contained in the opposing party's pretrial motions can be de-designated as no longer confidential by **September 28, 2018**.

c. Pretrial motions shall be filed, along with any motion to seal confidential materials (if necessary) on **October 2, 2018**.

d. Oppositions to pretrial motions shall be served on **October 15, 2018**, with courtesy copies of the parties' oppositions to any pretrial motions provided to the Court on **October 17, 2018**.

e. Each party shall provide notice if any of its confidential material contained in the opposing party's oppositions to its pretrial motions can be de-designated as no longer confidential by **October 22, 2018**.

f. Oppositions to pretrial motions shall be filed, along with any motion to seal confidential materials (if necessary) on **October 26, 2018**.

## **6. Pretrial Exchanges**

a. The parties shall exchange the following on or before **September 14, 2018**:

- i. Witness lists;
  - ii. Exhibit lists, along with electronically stamped exhibits on  
or around the same date;
  - iii. Deposition designations; and
  - iv. Proposed joint statement of facts.
- b. Objections, counter-designations, and/or oppositions to each of the above shall be exchanged on or before **October 1, 2018**.
- c. Objections to counter-designations shall be exchanged on a rolling basis, approximately ten (10) days before trial relating to the subject matter of the underlying deposition. The first exchange of objections to counter-designations shall be on **October 8, 2018**.

**7. Joint Pretrial Order**

- a. A joint pretrial order shall be filed on or before **October 15, 2018**.

**8. Trial**

- a. A trial in this matter shall commence on **October 29, 2018**.

**9. Modification of Schedule**

- a. The Parties, separately or by agreement, may apply to the Court for modification of any part of the schedule.

Dated: March 26, 2018  
New York, New York

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**SO ORDERED.**

Dated: March 26, 2018  
New York, New York

/S/ Shelley C. Chapman  
Honorable Shelley C. Chapman  
United States Bankruptcy Judge