# In re Lehman Brothers Inc., Case No. 08-01420 (JMP) SIPA

## A Securities Investor Protection Act Liquidation*

James W. Giddens, Trustee

December 17, 2008

* The numbers and figures contained herein are approximations and remain subject to revision.

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# This Morning's Agenda (10:00 – 11:30)

- Call to order, opening remarks
  - James W. Giddens, Trustee
- SIPC's role
  - Kenneth Caputo, Senior Associate General Council, Securities Investor Protection Corporation
- Report to creditors
  - James B. Kobak, Jr., Counsel to the Trustee
- Demonstration of electronic claims filing
- Questions from Creditors

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# Report to Creditors on SIPA Liquidation of Lehman Brothers Inc. ("LBI")

- Only the U.S. broker-dealer entity
- Not LBHI or its subsidiaries, LBIE or its subsidiaries, or other foreign entities
- Different focus from these other proceedings
- www.lehmantrustee.com
- www.sipc.org

# SIPA Liquidation of LBI

- A liquidation proceeding, not a reorganization or Chapter 11, with special emphasis on returning customer property where possible
- Additional assets other than customer assets; many potential claims
- Active participation by the Securities Investor Protection Corporation, and oversight by regulators
- 5 Major Tasks

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# Five Major Tasks (all ongoing)

- Account Transfers
- The Claims Process
- Marshalling Assets
- Administration
- Trustee's Investigation and Report to the Court

# Task One: Account Transfers

- Consistent with Court approved APA and regulatory oversight, 139,000 accounts to Neuberger Berman and Barclays; over $140 billion of property
- Substantially completed within a few weeks
- Largest transfer ever in a liquidation
- Now processing prime brokerage account transfers in an innovative, consensual process
  - Complicated accounts
  - Non-customer transactions
  - Subject to claims of other entities

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# Task Two: The Claims Process

- A Court approved claims process administered by the Trustee with SIPC oversight is under way
- Process began December 1, 2008
  - Notice published in global editions of several newspapers
  - More than 925,000 claims filing packets mailed
  - Claims filing information posted on Trustee and SIPC websites
  - Forms can be filed electronically as well as manually, a first in a SIPC liquidation
- By far largest SIPA claims noticing process in history

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# Task Two: The Claims Process (cont'd)

- Customer Claims
  - Potentially 800,000 or more as identified from books and records
  - Deadline for claims eligible for the maximum possible SIPA coverage is January 30, 2009, though claims may be filed until June 1, 2009
  - Statutory deadline; cannot be extended
- General Creditor Claims
  - Potentially 120,000 or more as identified from books and records
  - Deadline is June 1, 2009
  - Statutory deadline for any claim; cannot be extended

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# Task Two: The Claims Process (cont'd)

- Over 100 Deloitte professionals, 13 specialist consultants from Financial Industry Technical Services, HH&R attorneys, and SIPC examiners will be involved in claims review and determination process
- Potential for claims to reach the Bankruptcy Court
- Trustee has duty to all claimants in keeping with statutory priority

# Task Three: Marshalling Assets

- Over $3 billion in assets marshalled to date
- Accountings for liquidation of collateral by banks and other depositories
- Misdirected wires, sale of assets, proceeds from transactions
- Intercompany claims and receivables, including notes for subsidiaries and intellectual property transferred to LBHI, all prior to Trustee's appointment
- Pursuit of voidable transfers and other causes of action

# Task Four: Administration

- Marshall Levinson appointed Chief Liquidating Officer
- Approximately 140 Deloitte employees, 40 designated legacy LBI employees, and a dedicated team of HH&R lawyers
- Will add own staff to some extent
- Negotiating service agreements with other entities and discussing cross-border protocols with LBIE and others

# Task Five: Trustee's Investigation and Report to Court

- Specific and important statutory duty of a SIPA Trustee
- Will pursue voluntary cooperation wherever possible but have subpoena power
- SIPC will participate
- Targeted in part to inform the broker dealer industry and regulators

# Task Five: Trustee's Investigation and Report to Court (cont'd)

Report will cover:

- Causes of LBI's demise and events and transactions that preceded it
- Potential causes of action
- Progress of liquidation
- Lessons learned from this liquidation and recommendations for the future

# Some Frustrations and Challenges

- Extreme size and complexity
- Unprecedented commencement for a SIPA liquidation
- Disruptive demands and inquiries and motions for special treatment
- Interrelation of Lehman entities and systems, including parts of business purchased by Barclays

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# Additional Information / Questions

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www.sipc.org

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