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To Whom It May Concern

I am Tony Lomas, Partner, PwC. I lead the Lehman Brothers International (Europe) "LBIE" insolvency administration on behalf of PwC.

PwC understands that ESMA has been consulting with the securities industry since 2014 in respect of any potential benefits that may be derived from segregated client accounts for AIFs/UCITS at all levels in the custody chain. We further understand that ESMA may be of the view that segregating AIF/UCITS assets from other client assets could expedite the return of AIF/UCITS assets in the event of default of one or more custody intermediaries in the custody chain, and further that the return of client assets in respect of the Lehman administration would have been materially shorter than seven years, if assets had been held in segregated accounts at the sub-custodians.

BNY Mellon has asked PwC to explain whether the omnibus account structure that LBIE operated, with approximately 95 sub-custodians globally, had any bearing on the length of time it took for us as the administrator to return client assets and whether the return of any client assets might have been expedited by a segregated account structure. I should make it clear that much of the LBIE estate was in fact returned to investors many years ago and that only assets that had been sub-custodied in New York with fellow failed broker dealer, Lehman Brothers Inc together with a very small portion of other assets, have taken an extended time to return.

The LBIE custody model was one of omnibus accounts and following my appointment as administrator, we undertook a significant reconciliation of sub-custodian records to the records held in LBIE's books, recognising that at the time of LBIE's failure, there were many transactions in flight, open reconciliation breaks and various claims (in both directions) against or in favour of LBIE and its counterparties for failed trades, late settlements, use of funds etc. Even where there were accounts where there were no reconciliation breaks and both the LBIE statement and sub-custodian statement were aligned, we could not begin to release those assets until we were certain that all of the other accounts were correct, on the basis that, in common with all business failure environments that I have experience of, we could not be sure of the accuracy of LBIE's management information in the immediate aftermath of the collapse.

More specifically, whilst an Insolvency Practitioner must respect third party rights to assets that are in the Practitioner's possession or under the Practitioner's control, the Practitioner must satisfy themselves both that the claimant has undisputed legal title to an asset, that no other claimant has a competing claim against the same asset and that the insolvent entity itself doesn't have a right to it. In the LBIE case, whilst in almost all instances it was eventually possible for us to match a claimed security with a line of securities held at a sub-custodian, we were unable to return assets immediately because

(1) We needed to be confident that we had no greater quantity of claims against that security than we had quantity of the same securities held by sub-custodians and we could not

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immediately rely on the accuracy of the management information available to us. We needed to verify this and that exercise took a long time,

(2) LBIE's sub-custodian first wanted to assess its own exposure to LBIE (if any) before returning securities so we needed to await the result of this, even though a LBIE House versus LBIE Client split may have been obvious and there appeared to be no credible basis for the sub-custodian to argue offset, and

(3) LBIE needed to assess whether the claimant had other positions or debt with LBIE that needed to be taken into account before a return would be authorised.

It is also pertinent that Insolvency Practitioners are personally appointed to their role as administrator and as a result are exposed to personal risk if they were to ignore any of the three matters referred to above. As a result, caution abounds.

In the event that LBIE's sub-custodians had maintained individually segregated accounts containing securities custodied on behalf of individual LBIE counterparties, we would have needed to carry out the steps noted above before we would have consented to the transfer of those securities to LBIE's counterparties (assuming our consent was required), and we would have needed to carry out any additional reconciliation work that the maintenance of sub-custodian segregated accounts might entail to ensure that there were no shortages on any of those segregated accounts for security lines that were custodied (albeit separately) for more than one counterparty.

In summary, without the ability immediately to rely on the failed firm's management information systems, based on the LBIE experience it is not clear that sub-custodian segregated client accounts would make any material difference to the speed of asset recovery to counterparties.

These comments are made with the objective of assisting and informing the debate that is ongoing.

Kind regards

AV Lomas