Chronology of Selected Events Related to JPMorgan

Date	Summary	Description
2007	JPMC does not require haircuts on triparty repos.	JPMC's Chief Risk Office Barry Zubrow states in his written FCIC testimony that "as of late 2007, JPMorgan took no margin on the large discretionary loans it made each morning in connection with the triparty repo unwind. Whereas the triparty investors would take a 'haircut' overnight — paying less that 100 cents for each dollar of securities — JPMorgan took no such haircut when it took over the investors' position each morning. This enhanced the risk that JPMorgan would be unable to recoup the full amount of its advances through the liquidation of collateral, since it was advancing 100 cents on the dollar to LBI intraday." **TAB 1** Written Statement of Barry Zubrow Before the Financial Crisis Inquiry Commission, September 1, 2010 at 2-3.
Early 2008	JPMC begins to impose haircuts on triparty repos to reduce risk.	Zubrow states in his written FCIC testimony that "[i]n consultation with the Federal Reserve, JPMorgan decided in early 2008 to begin mitigating this risk by taking haircuts on its intraday advances to broker-dealer clients, including Lehman. JPMorgan determined that it would be appropriate to take, at a minimum, the same haircuts during the day that the triparty repo investors took overnight. However, in order to allow its clients time to adjust to this change, JPMorgan implemented the haircuts gradually." **TAB 1** Written Statement of Barry Zubrow Before the Financial Crisis Inquiry Commission, September 1, 2010 at 3.
2/26/08	Lehman emails re JPMC imposing haircuts.	Lehman's Craig Jones and Dan Fleming exchange emails about JPMC's proposal to hold back margin on collateral, to impose the requirement incrementally, and that it will be a problem for Lehman. **TAB 2** E-mail from Janet Birney, Lehman, to Daniel J. Fleming, Lehman, et al. (Feb. 26, 2008) [LBEX-DOCID 280175]. [Valukas FN 3990]
3/17/08	JPMC takes additional steps to reduce risk after the near-collapse of Bear Stearns; Triparty repo market peaks at $2.8 trillion.	Zubrow states in his written FCIC testimony that "on March 17, 2008 — shortly after the near-collapse of Bear Stearns — JPMorgan began by increasing the margin it required from Lehman by 20 percent of the haircut that the triparty investors had been requiring, with an expectation that it would ramp up to 100 percent by the end of June." The increased margin was deceased by Lehman officials in a 3/17/08 email: "Chase just notified us that they will begin charging us intra day margin (20% of the 2%)." According to a FRBNY White Paper, the triparty repo market peaked at $2.8 trillion in March 2008. Zubrow also states this in his written FCIC testimony. **TAB 1** Written Statement of Barry Zubrow Before the Financial Crisis Inquiry Commission, September 1, 2010 at 3. **TAB 3** E-mail from Jack Fondacaro, Lehman, to Janet Birney, Lehman, et al. (Mar. 17, 2008) [LBEX-DOCID 280168) [Valukas FN 4000] **TAB 4** Tri-Party Repo Infrastructure Reform, A White Paper Prepared by The Federal Reserve Bank of New York, May 17, 2010.
Spring and Summer of 2008	JPMC works with "CRMPGIII" to address triparty repo risks.	Zubrow states in his written FCIC testimony that "throughout the spring and summer of 2008, JPMorgan participated as a member of the Counterparty Risk Management Policy Group III ("CRMPGIII"), an industry led group of large bank, broker-dealer and investor firms, formed to discuss best practices and structural risks in the market. CRMPGIII specifically addressed the issues inherent in the triparty repo marketplace and articulated a series of best practices to be adopted by broker dealers, investors, and agent banks — including practices relating to clearing bank intraday margin. JPMorgan discussed these best practices with each of its broker-dealer clients, including Lehman, and strongly recommended to its clients the importance of conforming to the recommendations. These recommended best practices were discussed with the Federal Reserve Bank of New York and other regulators." **TAB 1** Written Statement of Barry Zubrow Before the Financial Crisis Inquiry Commission, September 1, 2010 at 4.

Date	Summary	Description
6/2/08	JPMC and Lehman meet to discuss triparty repo risks and agree JPMC will delay the time in which Lehman must post additional collateral.	Zubrow states in his FCIC written testimony that "around June 2008, JPMorgan held high-level meetings with its large broker dealer clients to discuss these risks. For Lehman, such a meeting was held on June 2, 2008. JPMorgan explained the unique risks it faced and pointed to an approximately $6 billion dollar margin shortfall. In response, Lehman executives agreed to pledge additional collateral. Meanwhile, JPMorgan agreed at Lehman's request to begin taking only 40 percent of investor margin by the beginning of July, and not to reach 100 percent until mid-August." **TAB 1** Written Statement of Barry Zubrow Before the Financial Crisis Inquiry Commission, September 1, 2010 at 3. Lehman agrees to post $5 billion in securities in response to this request, which the parties attempted to reduce to writing in July. **TAB 5** E-mail from Daniel J. Fleming, Lehman, to Mark G. Doctoroff, JPMorgan, et al. (July 16, 2008) [LBEX-AM 001354] **TAB 6** Letter from JPMorgan to Paolo R. Tonucci, Lehman, re: Delivery to JPMorgan Chase Bank, N.A. of $5 billion of Securities [Draft] (July 2008) [LBEXAM 001356]. [Valukas FN 4019] Lehman achieves 100 percent triparty-investor margin on August 14, 2008. **TAB 7** E-mail from Daniel J. Fleming, Lehman, to Paolo R. Tonucci, Lehman (Sept. 3, 2008) [LBEX-AM 000870] [Valukas FN 4032]
7/10/08	Federated tells Lehman it will no longer provide repo financing to Lehman because JPMC is unwilling to negotiate in good faith with Federated.	Federated's Karl Mocharko writes to Lehman and JPMC that "Because JP Chase the triparty clearing bank is unwilling to negotiate in good faith with Federated, we will no longer pursue additional business with Lehman. We will also do as much current REPO as possible with dealers that utilize BONY as their custodian and only back with JP Chase as necessary." **TAB 8** George V. Van Schaick, Lehman, to John Feraca et al. (July 10, 2008) [LBEX-DOCID 110245]
7/11/08	FRBNY concerned that Federated (along with Dreyfus) pulled their repo lines from Lehman.	In response to reports that Federated and Dreyfus pulled their repo lines from Lehman, Fed Research Director Pat Parkinson writes that "there are other such reports but overall LB's funding seems to have held up thus far. Lots of anxiety nonetheless." **TAB 9** 7/11/08 email, FCIC-155481.
7/12/08	Fed is concerned throughout the summer that JPMC might not unwind.	Fed Research Director Pat Parkinson notes that the Fed should be willing to lend to Lehman under the PDCF with conservative haircuts if Lehman was judged to be sound and that the Fed should tell JPMC that with the PDCF in place, JPM's "refusing to unwind is unnecessary and would be unforgiveable." **TAB 10** 7/12-13/08 email, FCIC-155510-12.

Date	Summary	Description
8/18/08	JPMC sends amendments to Lehman so that the holding company can guarantee subsidiaries.	JPMC presents Lehman with a set of documents that altered the clearance relationship between the parties, including adding Lehman as a guarantor of the obligations of LBI and other Lehman subsidiaries under their 2000 Clearance Agreement. JPM's Executive Director of Financial Institutions Mark Doctoroff emailed these documents to Lehman's Daniel Fleming to "allow for the lien in all the clearance accounts in Lehman's broker/dealer group." These agreements – the "8/08 Amendment," "8/08 Guaranty," "8/08 Security Agreement" – were executed on 8/26/08. **TAB 11** E-mail from Mark G. Doctoroff, JPMorgan, to Daniel J. Fleming, Lehman (Aug. 18, 2008) [LBEXDOCID 451527]. [Valukas FN 4079] **TAB 12** Amendment to Clearance Agreement (Aug. 26, 2008) [JPM-2004 0005856]. [Valukas FN 4092]. **TAB 13** Security Agreement (Aug. 26, 2008) [JPM-2004 0005867]. [Valukas FN 4092]. **TAB 14** Guaranty (Aug. 26. 2008) [JPM-2004 0005879]. [Valukas FN 4092]. **Lehman Position.** The Estate alleges that "[w]hile the August Agreements purported to give JPMorgan significant new rights against LBHI, they gave LBHI nothing of value in exchange," and "LBHI did not even receive reasonably equivalent value from guaranteeing its subsidiaries' obligations because, among other things, on information and belief, certain of those subsidiaries, including LBI, were insolvent at the time the August Agreements were executed." **TAB 15** Lehman Estate Complaint at pp. 10-12. **JPMC Position.** Zubrow states in his written FCIC testimony that when Lehman pledged additional securities in July, "LBI's corporate parent, Lehman Brothers Holdings Inc. ('LBHI'), was the source of these additional securities, [and thus] LBHI entered into appropriate documentation in late August 2008 to grant JPMorgan a security interest in the collateral." **TAB 1** Written Statement of Barry Zubrow Before the Financial Crisis Inquiry Commission, September 1, 2010 at 4-5.
9/1/08	JPMC pitches itself as a financial advisor to KDB on Lehman deal.	Steve Black, co-CEO of JPMC's Invest Banking, forwards an email to CEO Jamie Dimon regarding JPMC's pitch to be a "financial advisor" to Korean Development Bank deal given that "JPM knows Lehman best as the largest liquidity provider and #1 financing bank for Lehman." JPMC also tells KDB that "[Steve Black] and Jamie Dimon know Dick Fuld CEO very well, are also close to Hank Paulson of US Treasury to discuss any potential support to the deal / KDB." **TAB 16** E-mail from Steven Lim, JPMorgan, to Steven D. Black, JPMorgan, et al. (Sept. 1, 2008) [JPM-2004 0006139) **TAB 17** E-mail from Steven D. Black, JPMorgan, to Jamie L. Dimon, JPMorgan, et al. (Sept. 1, 2008) [JPM-2004 0006152]. [Valukas FN 2557] **TAB 15** Lehman Estate Complaint at pp. 13-14. **Lehman Position.** The Estate alleges that "As early as August 2008, JPMorgan's top management had also reached out to KDB's Chairman, in the hope of representing KDB in connection with its proposed investment in Lehman…. As a result of its relationship with KDB, JPMorgan's leadership learned on the morning of September 5, 2008 that KDB was unlikely to press forward with the transaction." **TAB 15** Lehman Estate Complaint, at 13-14. **JPMC Position.** Black states that "in late-August 2008, JPMC offered to serve as KDB's financial advisor in connection with a potential equity investment by KDB in Lehman, pending a conflicts check. KDB never retained JPMC and did not pursue the potential transaction with Lehman." He adds, "I first was made aware of KDB's decision not to invest in Lehman on the same day that KDB's decision was reported publicly in the media."

Date	Summary	Description
9/4/08	JPMC meets with Lehman re 3Q and Fitch presentation preview.	Zubrow and other JPMC senior executives meet with Lehman to discuss Lehman's "upcoming 3Q results" and plans going forward (KDB; sale of investment management division; sale of real estate assets; good bank / bad bank). JPM's briefing memorandum states that "we expect they will have further significant asset write-downs primarily originating from their commercial and residential real estate related assets." **TAB 18** JPMorgan, Lehman Brothers Holdings Inc. Briefing Memorandum (Sept. 4, 2008), at p. 1 [JPM-2004 0006171] **TAB 19** See also Lehman, JP Morgan Agenda (Sept. 4, 2008) [LBEX-DOCID 445367]. [Valukas FN 3132]. **TAB 15** Lehman Estate Complaint at p. 13. At lunch, JPMC asks to preview Lehman's presentation to Fitch. Later that night, Lehman's Treasurer Paolo Tonucci emails the draft presentation to JPM's Mark Doctoroff and Jane Buyers-Russo, asking them to forward to Zubrow. Tonucci's email states, "there is a lot of confidential info so please keep to the minimum people." Lehman CFO Ian Lowitt emails Zubrow the following day stating that "the materials we sent you are obviously very sensitive, and trust they will be kept to the limited group we met with and your rating advisory team." **TAB 20** E-mail from Paolo R. Tonucci, Lehman, to Mark G. Doctoroff, JPMorgan, et al. (Sept. 4, 2008) [JPM-2004 0006300]. Lehman highlighted the sensitive nature of these documents multiple times. **TAB 21** E-mail from Ian T. Lowitt, Lehman, to Barry L. Zubrow, JPMorgan (Sept. 5, 2008) [JPM-2004 0006314] **TAB 22** E-mail from Ian T. Lowitt, Lehman, to Barry L. Zubrow, JPMorgan (Sept. 7, 2008) [JPM-2004 0006317]. **TAB 15** Lehman Estate Complaint at p. 13.
9/9/08	JPMC executives meet with Paulson and Bernanke.	During day, JPM's Dimon, Black and Zubrow meet with Paulson and Bernanke in DC (separately). FCIC Interview of Zubrow. **Lehman Position.** The Estate alleges that "On the morning of September 9, 2008, Jamie Dimon and other senior officers of JPMorgan met in Washington D.C., with the Chairman of the Federal Reserve, Ben Bernanke. That same morning Dimon also met with the Secretary of the United States Treasury, Henry Paulson." It was also alleged that "Dimon and the JPMorgan team discussed the financial state and future prospects of Lehman, as well as the United States government's intent not to rescue Lehman should it be forced to file for bankruptcy. From those conversations, the JPMorgan leadership determined that they would accelerate their efforts to secure LBHI collateral and capitalize on a Lehman bankruptcy." **TAB 15** Lehman Estate Complaint at 14. **JPMC Position.** In his written response to FCIC questions, Black states, "I was in Washington DC on 9/9/08 with other JPMC executives, and met with Secretary Paulson and members of his staff. I am not aware of any discussions between JPMC personnel, on the one hand, and Secretary Paulson or any other government officials, on the other hand, regarding Lehman on September 9, 2008."

Date	Summary	Description
9/9/08	JPMC executives meet with Lehman executives.	JPMC sends team (Braunstein, Hogan, Dellosso, Wilsey, Zajkowki, Zames, Molluso) to meet with Lehman regarding "capital raise options." After the meeting, JPMC's Hogan emails Black that "They [Lehman] sent the Junior Varsity – they have no proposal and are looking to us for ideas/credit to bridge them to the first quarter when they intend to split into good bank / bad bank." Black responds, copying Dimon on the email, that "Let's give them an order for the same drugs they have apparently been taking to think that we would do something like that." **TAB 23** E-mail from Jane Buyers-Russo, JPMorgan, to Tim Main, JPMorgan (Sept. 9, 2008) [JPM-2004 0006361]. [Valukas FN 4203] **TAB 24** E-mail from John J. Hogan, JPMorgan, to Steven D. Black, JPMorgan (Sept. 9, 2008) [JPM-2004 0006362]. [Valukas FN 4204] **Lehman Position**. The Estate alleges that "Black and Fuld followed up on a discussion Dimon had with Fuld two days earlier in which Dimon suggested JPMorgan might be willing to provide funding to Lehman by purchasing preferred shares. Black agreed to send a team to a diligence session." "Rather than sending the dealmakers Lehman expected, JPMorgan sent a team that included senior risk managers. The risk team was not there to conduct due diligence on a potential acquisition, as portrayed to Lehman, but rather to probe into Lehman's confidential records and plans." **TAB 15** Lehman Estate Complaint at 14-15. **JPMC Position.** In his written response to FCIC questions, Black states, "I am not aware that JPMC ever offered to provide funding to Lehman (apart from continued discretionary extensions of credit under JPMC's Clearance Agreement with Lehman's broker-dealer subsidiary). I recall that Richard Fuld, the CEO of Lehman, requested on a September 9, 2008 phone call that JPMC consider making an investment in Lehman. Later that night, in response to another request by Fuld, JPMC bankers attended a meeting with Lehman employees to consider whether there was any additional assistance that JPMC could provide to Lehman. I am not aware that JPMC agreed to take any action as a result of that meeting."

Date	Summary	Description
9/9/08	JPMC demands additional collateral.	JPMC's Black demands $5 billion in additional collateral from Lehman to cover its lending positions. Fuld persuades Black to settle for $3 billion right away, leaving the $5 billion request unresolved. Although Zubrow states in his FCIC written testimony that JPMC asked for $5 billion on 9/9, contemporaneous notes of the meeting by JPM's Buyers-Russo state that "Black called Dick [,] asked for $3 b – said OK," and her email to Doctoroff that day states, "Black spoke with Fuld who agreed to the $3B." **TAB 25** E-mail from Daniel J. Fleming, Lehman, to Mark G. Doctoroff, JPMorgan (Sept. 12, 2008) [LBEX-DOCID 405652] [Valukas FN 4132] **TAB 26** E-mail from Jane Buyers-Russo, JPMorgan, to Susan Stevens, JPMorgan, et al. (Sept. 9, 2008) [JPM-2004 0006331] **TAB 27** Jane Buyers-Russo, JPMorgan, Unpublished Notes (Sept. 9, 2008), at p. 3 [JPM-EXAMINER00006052] **Lehman Position.** The Estate alleges that "in response to JPMorgan's demands, on September 9, 2008, LBHI posted $1 billion in cash and $1.67 billion in money market funds. On September 10, 2008, LBHI delivered to JPMorgan approximately $200 million of cash. Similarly, on September 11, 2008, LBHI posted additional cash in the amount of $600 million in collateral for JPMorgan. Even though JPMorgan did not intend to secure intra-day clearing exposure with this collateral, the demands were made under color of the September Agreements, and were backed by the improper threat that, if LBHI did not comply, JPMorgan would immediately stop extending intra-day credit to, and clearing trades for, Lehman, in violation of its obligations under the 2000 Clearance Agreement. Although LBHI protested these demands, it had no choice but to comply." **TAB 15** Lehman Estate Complaint at 22. **JPMC Position.** In his written response to FCIC questions, Black states, "I called Richard Fuld of Lehman on September 9, 2008 and requested that Lehman pledge $5 billion in cash collateral. It is my understanding that Lehman pledged $3.6 billion in response to that request." In his written FCIC testimony, Zubrow states, "A primary impetus for the decision to request additional collateral was JPMorgan's growing derivatives exposure. The $5 billion figure was far from sufficient to cover all of JPMorgan's potential exposures to Lehman — including triparty repo and clearance and settlement-related exposures — but JPMorgan believed that it was an amount that Lehman reasonably could provide. When JPMorgan conveyed its request to Lehman on September 9, 2008, Lehman executives agreed to pledge additional collateral, and delivered approximately $3.6 billion worth of collateral to JPMorgan over the next few days. Lehman did not indicate that JPMorgan's request was putting undue pressure on Lehman." **TAB 1** Zubrow Testimony at 6.

Date	Summary	Description
9/9/08 8:50-11:30 p.m.	JPMC demands that Lehman execute amendments to broaden protection.	JPMC demands that Lehman amend its operative agreements, with the effect that Lehman would guarantee all exposures of all JPMC entities to all Lehman entities ("September Agreements"). JPMC demands that Lehman sign before the 3Q08 earnings call scheduled for 9/10/08 at 7:30 a.m. Valukas Report at 1134-39. PIR at 35-37. **TAB 28** E-mail from Jeffrey Aronson, JPMorgan, to Andrew Yeung, Lehman, et al. (Sept. 9, 2008) [JPM-2004 0005594] [Valukas FN 4223]; **TAB 29** E-mail from Jeffrey Aronson, JPMorgan, to Andrew Yeung, Lehman, et al. (Sept. 9, 2008) [JPM-2004 0005039] [Valukas FN 4224] **TAB 30** Email from Charles Witek, Lehman, to George V. Van Schaick, Lehman, et al. (April 23, 2008) [LBEX-DOCID 110245] [Valukas FN 4239] **TAB 31** E-mail from Andrew Yeung, Lehman, to Gail Inaba, JPMorgan, et al. (Sept. 10, 2008) [JPM-2004 0002032] **TAB 32** E-mail from Daniel J. Fleming, Lehman, to Mark G. Doctoroff, JPMorgan (Sept. 10, 2008) [LBEXDOCID 457582] **TAB 33** E-mail from Andrew Yeung, Lehman, to Gail Inaba, JPMorgan, et al. (Sept. 10, 2008) [JPM-2004 0005218] [Valukas FN 4255, 4257, 4258] **Lehman Position.** The Estate alleges that "JPMorgan executives led Fleming and other LBHI personnel to believe that if LBHI did not execute the proposed agreements before LBHI's earnings call, JPMorgan would immediately stop extending intra-day credit to, and clearing trades for Lehman." "The September Agreements radically altered the relationship between JPMorgan and LBHI. Pursuant to these documents, JPMorgan required that LBHI guarantee and secure all exposures of all JPMorgan entities to all Lehman entities… and to convert all unsecured and unguaranteed exposures into guaranteed and secured exposures.") **TAB 15** Lehman Estate Complaint at 15-20. **JPMC Position.** In Black's written response to FCIC questions, Black states that they were "concerned that, in the absence of a plan to resolve Lehman's problems that the market would find credible, Lehman's situation might deteriorate further. JPMC always desired to remain supportive of Lehman during this period. It requested that Lehman execute the September Agreements so that it could continue to do so." He adds, "JPMC never told Lehman that it would stop extending credit and clearing if the September Agreements were not executed before the markets opened on September 10, 2008." Zubrow states in his written FCIC testimony, "As part of JPMorgan's attempt to obtain appropriate protection for the entirety of its exposure to Lehman, on the morning of September 10, LBHI executed new documentation granting JPMorgan a security interest in the new collateral to cover all obligations of all Lehman entities to JPMorgan. This protection allowed JPMorgan to continue making tens of billions of dollars in advances to Lehman, to continue trading with Lehman on its own behalf and for prime brokerage customers, and to accept novations." **TAB 1** Zubrow Testimony at 6.

Date	Summary	Description
9/11/08	JPMC demands $5 billion in cash or it will not clear for Lehman.	JPMC demands another $5 billion in cash during call between JPMC's Dimon, Black, and Zubrow and Lehman's Fuld, McDade, Lowitt, and Tonucci in which JPMC threatened not to unwind Lehman's trades. According to Tonucci, when he asked why JPMorgan wanted the collateral, a participant, perhaps Dimon responded "no reason." When Tonucci further asked "What is to keep you from asking for $10 billion tomorrow?", Dimon responded: "nothing" and "maybe we will." Tonucci told FCIC staff that JPMorgan's response was along the line, "that's not your problem. We just want the cash." That evening, JPMC sends written notice to Lehman that it will "decline to extend credit" the following day if it does not receive $5 billion cash before open of business. Contemporaneous documents support their belief. FCIC Interview of Paolo Tonucci. **TAB 34** E-mail from Jane Buyers-Russo, JPMorgan, to Bryn Thomas, JPMorgan, et al. (Sept. 12, 2008) [JPM-2004 0050095] **TAB 35** E-mail from Jane Buyers-Russo, JPMorgan, to Paolo R. Tonucci, Lehman (Sept. 11, 2008) [JPM-2004 0005411]. [Valukas FN 4320] **TAB 36** E-mail from Ian T. Lowitt, Lehman, to Paolo R. Tonucci, Lehman (Sept. 12, 2008) [LBEX-DOCID 70144] (September 12, Ian Lowitt e-mailed Paolo Tonucci to ask "Deposit to jpm. Do we have ability to call it back at end of the day or could they hold it over weekend?") E-mail from Paolo R. Tonucci, Lehman, to Ian T. Lowitt, Lehman (Sept. 12, 2008) [LBEX-DOCID 70144] (Tonucci responded, "We should be be able to call back.") [Valukas FN 4306] **Lehman Position.** The Estate alleges that "internal JPMorgan documents demonstrate that it made the improper demand simply because JPMorgan desired to have an 'extra cushion.'" In addition, "JPMorgan promised that it would return the $5 billion at the close-of-settlement on Friday, September 12, 2008." **TAB 15** Lehman Estate Complaint at pp. 20-23. **JPMC Position.** Zubrow states in his written FCIC testimony that "[w]hen the true nature of Lehman's collateral came to light on September 11, 2008, it became apparent that JPMorgan was holding a substantial amount of inappropriate collateral, and that it would need additional collateral if it were to continue supporting Lehman. JPMorgan decided that $5 billion in cash was an appropriate request, even though its potential collateral shortfall was greater, as it was a number that JPMorgan believed Lehman could handle." He adds, "JPMorgan sent Lehman a letter stating that, if Lehman did not post the collateral by the open of business the next day, JPMC would exercise its right to decline to extend credit to Lehman." Black states that "JPMC analysts conducted a broad review of Lehman's collateral securities on September 11, 2008. This review indicated that some of the largest pieces of collateral pledged to JPMC were illiquid, could not reasonably be valued, and were supported largely by Lehman's own credit. When JPMC realized that a substantial portion of those securities were inappropriate as collateral, it determined that it would require an additional $5 billion in collateral in order to continue supporting Lehman. Jamie Dimon, Barry Zubrow, and I conveyed this request to Lehman on a phone call with Richard Fuld, Ian Lowitt, and others." **TAB 1** Zubrow Testimony at 7.
9/12/08	JPMC has $8.6 billion of cash and collateral from Lehman.	After receiving the $8.6 billion that week, JPMC sweeps the funds out of the Lehman accounts on which JPMC had a lien and into other accounts held by JPMC. JPMC goes radio silent and allegedly refuses to return the $5 billion in cash. **Lehman Position.** The Estate alleges, "On Friday, September 12, 2008, and throughout the weekend until Monday morning, LBHI repeatedly requested access to this excess collateral for use overnight and over the weekend. However, during this period, JPMorgan locked down and denied LBHI access to its collateral." **TAB 15** Lehman Estate Complaint at 24-25. **JPMC Position.** In his written response to FCIC questions, Black responds that "I do not recall any discussion with Lehman regarding the return of the $5 billion in collateral at the close-of-settlement on 9/12/08." "I do not recall requests from Lehman for return of the $5 billion in cash collateral received on 9/12/08."

Date	Summary	Description
9/14/08	Question whether JPMC threatens not to unwind.	In his written response to FCIC questions, Black states that "In response to the question of "whether you know if JPMC ever said to the Fed, NY Fed, or any other government official in 9/08 that JPMC would not unwind Lehman's tri-party repo" "I do not have any knowledge or recollection of JPMC making such comments." Zubrow states in his written testimony, "Even *after* LBHI filed for bankruptcy on September 15, 2008, JPMorgan continued, at the urging of LBHI and the Federal Reserve Bank of New York, to extend many tens of billions of dollars of credit to LBI on a daily basis, without imposing any additional collateral requirements.") **TAB 1** Zubrow Testimony at 9.

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TAB 1

Written Statement of Barry Zubrow
Before the Financial Crisis Inquiry Commission

September 1, 2010

Chairman Angelides, Vice-Chairman Thomas, and Members of the Commission, my name is Barry Zubrow. I am the Chief Risk Officer of JPMorgan Chase & Co., and have served in that role since I began working for the bank in December 2007. I thank the Commission for the invitation to appear, and I hope that my testimony will assist the Commission in its efforts to examine the causes of the financial crisis.

The Commission has asked me to address several topics related to JPMorgan, including its triparty repo program generally and its relationship with Lehman Brothers specifically. This is an important topic of inquiry for the Commission, as the triparty repo market is of vital importance to broker-dealers and others in the financial industry. It contributes significantly to the liquidity and efficiency of the securities markets in the United States. Indeed, the average daily volume of the triparty repo market grew to *$2.8 trillion* in 2008. The importance of the U.S. triparty repo market is underscored by the fact that it facilitates the financing by dealers of their U.S. Government and Agency securities inventories, an important source of liquidity through which the Federal Reserve operationally implements U.S. monetary policy.

JPMorgan is one of two major banks providing triparty repo clearing services in the United States. In its role as clearing bank, JPMorgan serves as the agent between a broker-dealer, on the one hand, and repo investors, such as money-market funds, on the other. In a typical transaction, the broker-dealer sells securities to repo investors in the evening with a promise to buy them back at a slight premium in the morning. JPMorgan provides services such

as obtaining prices for the collateral pledged by the broker-dealers, applying and enforcing specific rules dictated by the investors regarding collateralization, and moving cash and collateral among accounts belonging to the broker-dealers and the investors.

JPMorgan served as triparty agent for Lehman's broker-dealer subsidiary, Lehman Brothers Inc. ("LBI"). At the beginning of each trading day, in a process known as the "unwind," JPMorgan would repay LBI's triparty repo investors the cash they had provided overnight, and move LBI's securities into accounts on which JPMorgan held a lien. JPMorgan thus would advance for LBI the large amounts of cash needed to buy back the securities LBI had sold the night before. These advances always were entirely discretionary, as JPMorgan was not contractually obligated to make them. In addition, as LBI's principal clearing bank, JPMorgan typically made substantial discretionary advances on LBI's behalf in connection with other repurchase agreement and financing activity, as well as advances in connection with the clearance and settlement of other LBI securities trading activity. Before LBI's final week, JPMorgan's intraday advances typically exceeded $100 billion daily.

JPMorgan's intraday exposure from the triparty repo program would last until the triparty investors and other financing sources returned in the evening for a new round of repos. During the day, JPMorgan thus faced the risk that the securities it held as collateral would drop in value, that the broker-dealer would default, and that the triparty investors and other financing sources would not re-invest with the broker-dealer in the evening to allow the broker-dealer to repay JPMorgan.

As of late 2007, JPMorgan took no margin on the large discretionary loans it made each morning in connection with the triparty repo unwind. Whereas the triparty investors

would take a "haircut" overnight — paying less that 100 cents for each dollar of securities — JPMorgan took no such haircut when it took over the investors' position each morning. This enhanced the risk that JPMorgan would be unable to recoup the full amount of its advances through the liquidation of collateral, since it was advancing 100 cents on the dollar to LBI intraday.

In consultation with the Federal Reserve, JPMorgan decided in early 2008 to begin mitigating this risk by taking haircuts on its intraday advances to broker-dealer clients, including Lehman. JPMorgan determined that it would be appropriate to take, at a minimum, the same haircuts during the day that the triparty repo investors took overnight. However, in order to allow its clients time to adjust to this change, JPMorgan implemented the haircuts gradually. On March 17, 2008 — shortly after the near-collapse of Bear Stearns — JPMorgan began by increasing the margin it required from Lehman by 20 percent of the haircut that the triparty investors had been requiring, with an expectation that it would ramp up to 100 percent by the end of June.

Increasing margin requirements, however, still did not protect JPMorgan fully from the risks it faced in extending tens of billions of dollars of credit to broker-dealers each morning as part of the unwind. JPMorgan, unlike any single triparty investor, took on a broker-dealer's *entire* triparty repo book each day. This meant it would face far greater risks in a liquidation scenario. Furthermore, JPMorgan had no assurance that investors would return to fund the broker-dealer in the evening, such that the broker-dealer would be provided with the cash necessary to repay JPMorgan's intraday advances. Moreover, the haircuts negotiated between investors and the broker-dealers did not, in many cases, fully reflect the liquidation risk

for the increasingly large amount of structured, difficult-to-value securities that were being financed through the triparty repo program.

In addition, throughout the spring and summer of 2008, JPMorgan participated as a member of the Counterparty Risk Management Policy Group III ("CRMPGIII"), an industry-led group of large bank, broker-dealer and investor firms, formed to discuss best practices and structural risks in the market. CRMPGIII specifically addressed the issues inherent in the triparty repo marketplace and articulated a series of best practices to be adopted by broker-dealers, investors, and agent banks — including practices relating to clearing bank intraday margin. JPMorgan discussed these best practices with each of its broker-dealer clients, including Lehman, and strongly recommended to its clients the importance of conforming to the recommendations. These recommended best practices were discussed with the Federal Reserve Bank of New York and other regulators.

Around June 2008, JPMorgan held high-level meetings with its large broker-dealer clients to discuss these risks. For Lehman, such a meeting was held on June 2, 2008. JPMorgan explained the unique risks it faced and pointed to an approximately $6 billion dollar margin shortfall. In response, Lehman executives agreed to pledge additional collateral. Meanwhile, JPMorgan agreed at Lehman's request to begin taking only 40 percent of investor margin by the beginning of July, and not to reach 100 percent until mid-August.

In mid-June 2008, Lehman pledged various structured securities (not cash) — which it valued at approximately $6 billion — in response to JPMorgan's request for additional margin. Because LBI's corporate parent, Lehman Brothers Holdings Inc. ("LBHI"), was the

source of these additional securities, LBHI entered into appropriate documentation in late August 2008 to grant JPMorgan a security interest in the collateral.

By late August and early September 2008, Lehman's deteriorating financial condition was becoming increasingly apparent. It became widely recognized by market participants that Lehman was encountering large losses and would face serious problems over the coming weeks absent a significant transaction. In addition, it came to light that many of the securities Lehman had pledged to JPMorgan in June were illiquid, structured debt instruments that appeared to have been assigned overstated values. Nevertheless, JPMorgan was determined to remain supportive of Lehman. It continued to unwind the triparty repo book each morning and otherwise act on a business-as-usual basis.

But JPMorgan's exposure to Lehman was growing. This included exposure in areas unrelated to triparty repo clearing. For example, JPMorgan faced Lehman entities as a counterparty to derivatives transactions, and in each instance where JPMorgan held a position that was "in the money," it incurred the risk of a Lehman default. This included not only derivatives transactions for JPMorgan's own account, but also derivatives transactions between JPMorgan and Lehman entered into for their respective prime brokerage customers, for which JPMorgan shouldered the credit exposure in the event of a Lehman default. Furthermore, JPMorgan continued to accept "novations" in favor of Lehman's counterparties to derivatives transactions: when a counterparty held an "in the money" position but did not want to take on the attendant Lehman exposure, it could request a novation, and JPMorgan, at its sole discretion, would step into the counterparty's shoes and take on the derivative contract and the Lehman exposure itself.

JPMorgan and Lehman understood that Lehman's credibility in the markets could collapse instantly if JPMorgan declined to take on this additional exposure for prime brokerage customers and novations. JPMorgan therefore searched for a way to protect itself without triggering a run on Lehman. After taking all factors into account — including its current derivatives exposure, its potential derivatives exposure in the event Lehman defaulted and the several days it would take for JPMorgan to close-out its open derivatives transactions, the expectation that novations would continue to rise, and its continuing triparty repo and clearance and settlement-related exposures — JPMorgan determined that it could continue to face Lehman in the market if it had $5 billion in additional collateral.

A primary impetus for the decision to request additional collateral was JPMorgan's growing derivatives exposure. The $5 billion figure was far from sufficient to cover all of JPMorgan's potential exposures to Lehman — including triparty repo and clearance and settlement-related exposures — but JPMorgan believed that it was an amount that Lehman reasonably could provide. When JPMorgan conveyed its request to Lehman on September 9, 2008, Lehman executives agreed to pledge additional collateral, and delivered approximately $3.6 billion worth of collateral to JPMorgan over the next few days. Lehman did not indicate that JPMorgan's request was putting undue pressure on Lehman.

As part of JPMorgan's attempt to obtain appropriate protection for the entirety of its exposure to Lehman, on the morning of September 10, LBHI executed new documentation granting JPMorgan a security interest in the new collateral to cover all obligations of all Lehman entities to JPMorgan. This protection allowed JPMorgan to continue making tens of billions of dollars in advances to Lehman, to continue trading with Lehman on its own behalf and for prime brokerage customers, and to accept novations.

JPMorgan meanwhile continued to evaluate its margin position with respect to Lehman. Its daily margin requirements for triparty repo clearance were rising as Lehman was increasing the amount of illiquid securities in its triparty repo book. During the second week of September 2008, JPMorgan analysts conducted a broad review of Lehman's collateral securities. This review indicated that some of the largest pieces of collateral pledged to JPMorgan were illiquid, could not reasonably be valued and were supported largely by Lehman's own credit. This was inappropriate collateral — essentially, claims against Lehman pledged to secure other claims against Lehman. When the true nature of Lehman's collateral came to light on September 11, 2008, it became apparent that JPMorgan was holding a substantial amount of inappropriate collateral, and that it would need additional collateral if it were to continue supporting Lehman. JPMorgan decided that $5 billion in cash was an appropriate request, even though its potential collateral shortfall was greater, as it was a number that JPMorgan believed Lehman could handle.

On the evening of September 11, 2008, JPMorgan representatives made a series of phone calls informing Lehman that JPMorgan wanted to continue to be supportive of Lehman through the extension of credit and other services, but that $5 billion was needed for JPMorgan to continue to support Lehman in as stabilizing a way as possible. JPMorgan explained that it preferred to have Lehman post cash collateral rather than reducing lines of credit or ceasing trading, which would be more visible to the market. Lehman agreed to honor this request. Later that night, JPMorgan sent Lehman a letter stating that, if Lehman did not post the collateral by the open of business the next day, JPMorgan would exercise its right to decline to extend credit to Lehman. On the morning of September 12, 2008, JPMorgan unwound Lehman's triparty repo book, and Lehman delivered $5 billion of cash collateral during the morning and early afternoon. JPMorgan continued to extend credit to Lehman throughout that critical period and thus never

had to assess its options concerning further extensions of credit in the face of a failed collateral request.

Despite JPMorgan's constant efforts to support Lehman and not do anything to frighten the market, a run on the bank eventually ensued for reasons unrelated to JPMorgan. Throughout early September, investors raised their haircuts substantially. By September 12, hedge funds and other major customers were withdrawing their assets from Lehman and some of the largest investors pulled back entirely, refusing to provide Lehman with the overnight financing it desperately needed to keep operating.

During the weekend of September 13 and 14, 2008, I and other senior JPMorgan executives — along with representatives from other financial institutions — participated in discussions at the Federal Reserve Bank of New York concerning the financial crisis generally, and Lehman's difficulties in particular. Government representatives made it clear to everyone present that the government would not provide financial assistance to save Lehman, and that discussions should focus on either a strategic transaction for Lehman or a funding package provided by a consortium of banks. After a potential deal with Barclays Capital fell through due to regulatory issues in the United Kingdom, LBHI filed for bankruptcy in the early morning hours of September 15, 2008.

Throughout all of this, JPMorgan did not cut and run but stood by our client. As other parties withdrew from Lehman, JPMorgan continued to make enormous — discretionary — extensions of credit to the ailing bank, and it continued to trade with Lehman and perform novations. JPMorgan never turned its back on its client, even as others did.

Even *after* LBHI filed for bankruptcy on September 15, 2008, JPMorgan continued, at the urging of LBHI and the Federal Reserve Bank of New York, to extend many tens of billions of dollars of credit to LBI on a daily basis, without imposing any additional collateral requirements. JPMorgan's willingness to continue making clearing advances to LBI during those tumultuous days, when it had no obligation to do so, allowed LBI to keep operating and made possible the sale of LBI's business and assets to Barclays Capital, as well as the loss-free transfer of more than 100,000 customer accounts.

As a result of JPMorgan's willingness to extend credit to Lehman in reliance on the collateral it had been provided, JPMorgan ended up with nearly $30 billion in claims against Lehman's bankruptcy estate. The overwhelming majority of those claims — more than $25 billion — arose out of clearing advances made to LBI *after* LBHI's bankruptcy filing. In addition, more than $3 billion of JPMorgan's claims arose from its exposure under derivative agreements, many of which JPMorgan entered into — or assumed through novations — as part of JPMorgan's efforts to support Lehman in increasingly distressed markets.

I appreciate this opportunity to share my views, and I look forward to your questions.

TAB 2

From: Jones, Craig L <cljones@lehman.com>
Sent: Tuesday, February 26, 2008 11:13 PM (GMT)
To: Fleming, Dan (TSY) <dfleming@lehman.com>
Subject: RE: JPMC US Clearance Collateral Review- Call Summary

---

Dan- debiting the NFE for the margin will be a problem. Historically our NFE averaged $5-7bn but my understanding is this has been reducing lately as HIC has reduced. We have hit our NFE limit several times over the last few weeks which stops our clearance until we send cash down to Chase. Our margin from triparty is probably ~$4bn. The RTA margin calculation is not calculating the amount correctly so I am just taking 2% of the $200bn book. This would obviously be the Treasury only spread and all the other asset classes would have wider margins. We are putting together the actual margin now. I also requested for Chase to begin providing the daily NFE snapshot so we can get a better estimate of our current position.
Craig

> ____
> From: Birney, Janet
> Sent: Tuesday, February 26, 2008 5:19 PM
> To: Fleming, Dan (TSY); Ullman, Neal (NY); Fondacaro, Jack; Cornejo,
> Emil; Feraca, John; Tonucci, Paolo; Palchynsky, John N
> Cc: Boyle, Julie; Jones, Craig L
> Subject: JPMC US Clearance Collateral Review- Call Summary
>
>
>
>
> JPMC Attendees:
> Jon Ciciola, MD Broker Dealer Services
> Mark Doctoroff, Relationship Manager
> Ray Stancil, Broker Dealer Operations (via phone)
>
> Lehman Attendees:
> Emil Cornejo, Relationship Manager
> Jack Fondacaro, Operations
> Janet Birney, Network Management
>
> Regrets: John Feraca, Neal Ullman
>
>
> Background: JPMC requested the meeting which had two purposes: 1)
> Relationship Appreciation and 2) Market Risk
>
> 1) Relationship Appreciation:
> In recognition of our overall relationship and continued increase in
> business growth, Jon offered to reprice our government clearing and
> Triparty business.
>

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> Proposal:
> 1. Eliminate the current tiering of trades <50,000 a month so that
> all trades are priced at $1.25.
> 2. Reduce the bps charge on Triparty collateral from .50 to .45.
> Based on 2007 levels, this equates to an annualized save of ~$1.4
> million.
>
> 2007 Cost Savings Percentage
> Government $8,900,000 $525,000 5.90%
> Triparty $8,500,000 $858,125 10.10%
> Total $17,400,000 $1,383,125 7.95%
>
> Response:
> Based on increases of 11% and 14% year over year, we asked if they
> could look to add further tiers for each business for improved upside
> protection.
>
> 2) Market Risk:
> The recent market turmoil has prompted the Fed to question JPMC on the
> viability of Triparty financing in the event of broker dealer default.
> The senior management team (up to and above Heidi Miller) have focused
> a great deal of effort on this initiative. They have spent
> considerable time analyzing hard-to-price collateral and have looked
> at scenarios for both overnight and intraday.
>
> Proposal:
> JPMC will hold back the margin on the collateral as a counter debit to
> the Net Free Equity (NFE) calculation, e.g. - for an asset at 102 they
> would keep the 2. The rationale being if this methodology is applied
> to all asset classes, the risk of a misprice would be offset by a more
> liquid asset. JPMC said this was not something they would implement
> "big bang" but could be done incrementally. It is their understanding
> that BONY does this currently. The implementation timeline would be
> over the next 5-6 weeks.
>
> Response:
> Lehman reiterated the importance of NFE and the continued concern
> internally about the cost of Daylight Overdraft. We asked specifically
> for JPMC to share the analysis on this so we could assess the impact
> from a cost and processing standpoint.
>
> Next Steps:
> * JPMC to provide analysis early next week of impact based on what
> we are putting through Triparty this week.
> * Engage the appropriate Lehman team to evaluate the assessment
> and overall impact (Dan Fleming, etc).
>
>
>
> Janet Birney
> Senior Vice President
> Lehman Brothers
> Treasury-Global Head of Network Management
> 1301 Avenue of the Americas- 6th Floor
> New York, NY 10019
> Phone: 212-320-4489

> Fax: 212-548-9525
>
>

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LBEX-DOCID 280175

TAB 3

From: Fondacaro, Jack <jfondaca@lehman.com>
Sent: Monday, March 17, 2008 5:43 PM (GMT)
To: Birney, Janet <jbirney@lehman.com>; Fleming, Dan (TSY) <dfleming@lehman.com>; Ullman, Neal (NY) <Neal.Ullman@lehman.com>; Cornejo, Emil <emil.cornejo@lehman.com>; Feraca, John <joferaca@lehman.com>; Tonucci, Paolo <paolo.tonucci@lehman.com>; Palchynsky, John N <jpalchyn@lehman.com>
Cc: Boyle, Julie <julie.boyle@lehman.com>; Jones, Craig L <cljones@lehman.com>
Subject: RE: JPMC US Clearance Collateral Review- Call Summary

---

All,
Chase just notified us that they will begin charging us intra day margin (20% of the 2%). In light of the market conditions, they are not waiting to implement their plan as they mentioned at our last meeting.

Jack Fondacaro
Lehman Brothers, Inc.
tel: 201-499-8428
fax: 646-758-3091
email: jfondaca@lehman.com

> ____
> From: Birney, Janet
> Sent: Tuesday, February 26, 2008 5:19 PM
> To: Fleming, Dan (TSY); Ullman, Neal (NY); Fondacaro, Jack; Cornejo, Emil; Feraca, John; Tonucci, Paolo; Palchynsky, John N
> Cc: Boyle, Julie; Jones, Craig L
> Subject: JPMC US Clearance Collateral Review- Call Summary
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> JPMC Attendees:
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> Jack Fondacaro, Operations
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> 2. Reduce the bps charge on Triparty collateral from .50 to .45. Based on 2007 levels, this equates to an annualized save of ~$1.4 million.
>

	2007 Cost	Savings	Percentage
> Government	$8,900,000	$525,000	5.90%
> Triparty	$8,500,000	$858,125	10.10%
> Total	$17,400,000	$1,383,125	7.95%

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> Response:
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>
> Proposal:
> JPMC will hold back the margin on the collateral as a counter debit to the Net Free Equity (NFE) calculation, e.g. - for an asset at 102 they would keep the 2. The rationale being if this methodology is applied to all asset classes, the risk of a misprice would be offset by a more liquid asset. JPMC said this was not something they would implement "big bang" but could be done incrementally. It is their understanding that BONY does this currently. The implementation timeline would be over the next 5-6 weeks.
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>
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> Janet Birney
> Senior Vice President
> Lehman Brothers
> Treasury-Global Head of Network Management
> 1301 Avenue of the Americas- 6th Floor
> New York, NY 10019
> Phone: 212-320-4489
> Fax: 212-548-9525

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>

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TAB 4

Tri-Party Repo Infrastructure Reform

A White Paper Prepared by

The Federal Reserve Bank of New York

May 17, 2010

White Paper:

Tri-Party Repo Infrastructure Reforms

Federal Reserve Bank of New York
May 17, 2010

Executive Summary

The Federal Reserve Bank of New York (FRBNY) has issued this white paper to discuss policy concerns regarding weaknesses in the infrastructure of the tri-party repo market as well as to seek comment on industry recommendations to address these concerns. The FRBNY asked the Payments Risk Committee (PRC)—a private-sector group of senior U.S. bank officials that is sponsored by the FRBNY—to form a task force to address the weaknesses that became visible over the course of the financial crisis. The PRC responded by creating the Tri-Party Repo Infrastructure Reform Task Force in 2009. The task force is now publishing its recommendations.

A key focus of the recommendations is to reduce reliance by market participants on intraday credit provided by tri-party repo agents. Other complementary recommendations are designed to foster improvements to credit and liquidity risk management practices of market participants, enhance market transparency, and decrease the likelihood and mitigate the negative effect of default by a large cash borrower.

Feedback received on this white paper from a broad range of stakeholders is intended to help FRBNY staff and others with regulatory and supervisory responsibilities to assess the recommendations and identify additional or alternative measures that should be considered.

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VI. Questions for Comment…………………………………………………………………………………..18

Appendix I: Detailed Example of a Tri-Party Repo

Appendix II: Final Report of the Tri-Party Repo Infrastructure Reform Task Force

In conjunction with the release of this white paper, the FRBNY has launched a web page devoted to tri-party repo infrastructure reform, where you will find a direct link to submit comments as well as answers to Frequently Asked Questions.

We invite you to visit it at <http://www.newyorkfed.org/banking/tpr_infr_reform.html>.

I. Introduction

As conditions in credit markets deteriorated in 2008 and 2009, weaknesses were revealed in the infrastructure supporting tri-party repurchase agreements (repos). These weaknesses had the potential to amplify instability in the financial system. To avert a collapse in confidence in the tri-party repo market, the Federal Reserve took extraordinary actions—for example, the central bank established the Primary Dealer Credit Facility (PDCF) and the Term Securities Lending Facility (TSLF) to help primary dealers meet their funding needs and provide liquidity to other market participants.[1] Although these measures were largely effective in stabilizing the tri-party repo market, they were temporary, and both facilities have since expired. Concerns about the infrastructure persist, however, and must be addressed to increase the resiliency of this critical market to future stresses.

Analysis conducted by the Federal Reserve Bank of New York (FRBNY), which is broadly consistent with observations by market participants and by other policymakers, points to three significant policy concerns associated with the design of the tri-party repo market infrastructure that left the market vulnerable to a severe disruption: (1) the market's reliance on large amounts of intraday credit made available to cash borrowers by the clearing banks that provide the operational infrastructure for these transactions, (2) the risk management practices of cash lenders and clearing banks—practices that were, with the benefit of hindsight, clearly inadequate and vulnerable to procyclical pressures, and (3) a lack of effective plans by market participants for managing the tri-party collateral of a large securities dealer in default without creating potentially destabilizing effects on the broader financial system.

In 2009, the FRBNY asked the Payments Risk Committee (PRC) to form a task force to address these FRBNY policy concerns.[2] The resulting Tri-Party Repo Infrastructure Reform Task Force brought

---

[1] See <http://www.federalreserve.gov/monetarypolicy/bst_lendingprimary.htm> for information on the PDCF and TSLF.

[2] The PRC is a private-sector group of senior U.S. bank officials sponsored by the FRBNY. For information on the committee and the press release announcing the formation of the task force, see <http://www.ny.frb.org/prc>.

together market participants to design and recommend enhancements to the tri-party infrastructure. Task force members represent the most active broker-dealers and the most active segments of cash lenders in the tri-party market as well as clearing banks and relevant industry groups. The task force met regularly to discuss potential changes to the infrastructure, defined broadly as the set of policies, procedures, and systems supporting the tri-party repo market. Members have concluded their work, and their final recommendations have been published (see Appendix II).

Although the task force was asked to focus on infrastructure weaknesses, it is clear that dealers were made vulnerable to runs on their tri-party repo financing by additional factors, such as maturity mismatches on their books, their degree of leverage, and assumptions about the durability of secured financing that proved too optimistic. Although these factors are technically beyond the scope of the task force's work, they are central to a stable tri-party repo market and it was necessary to consider them alongside the infrastructure concerns. Ultimately, infrastructure reforms in the tri-party repo market should complement broader, ongoing efforts to increase the resiliency of dealers to strained market conditions.

The FRBNY has two main objectives in publishing this white paper. First, it seeks to illuminate the policy concerns that led to the formation of the task force. Second, it invites feedback on the task force recommendations from the broad range of stakeholders in the tri-party repo market. Comments are requested on the anticipated impact of the recommendations, implementation challenges, and additional steps that could be taken to strengthen the resiliency of the infrastructure supporting this market. Responses to the questions posed in Section VI of this paper will inform implementation and contribute to the analysis of future actions to strengthen this critical market, for consideration by policymakers.

Section II of this paper defines repo market terms and describes the current market structure and its primary benefits. In Section III, we discuss the areas of concern with respect to the current design

of the tri-party repo infrastructure. Section IV introduces the task force. Section V presents some initial views on what the task force recommendations accomplish and do not accomplish as well as anticipates potential implementation challenges. We conclude in Section VI with the aforementioned questions designed to elicit feedback on the recommendations.

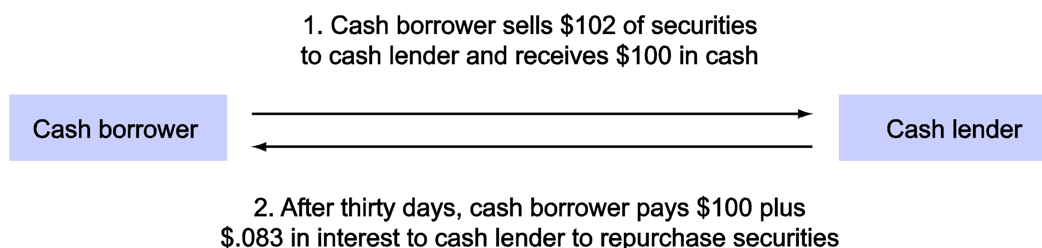
II. Repo Market Definitions and Market Overview

A repo is a sale of securities coupled with an agreement to repurchase the securities at a specified price on a later date.[3] It is economically similar to a secured loan. The cash lender loans cash to a borrower and receives the borrower's securities as collateral. The proceeds of the initial securities sale can be thought of as the principal amount of the loan, and the excess paid by the cash borrower to repurchase the securities corresponds to the interest paid on the loan, also known as the repo rate. The difference between the amount of cash loaned and the value of the collateral posted is called the "haircut" or "margin," and it functions as a buffer for the lender against short-term variations in the value of the collateral. Figure 1 illustrates a simple bilateral repo transaction.

Figure 1

A Bilateral Repo Transaction

$100 Repo at 1% Repo Rate and 2% Haircut for Thirty Days



[3] For a discussion, see <http://www.newyorkfed.org/research/epr/06v12n1/0605garb.html>.

Tri-party repo transactions are similar to bilateral repo transactions, but a third party, the tri-party agent, participates in the transaction along with the cash borrower and the cash lender or investor. Cash lenders—primarily money market mutual funds, custodial banks investing cash collateral on behalf of their securities lending clients, and other asset managers—have funds that they are willing to lend against collateral. Cash borrowers, typically fixed-income securities broker-dealers, seek to finance securities that can be used as collateral. Cash lenders use tri-party repos as investments that offer liquidity maximization, principal protection, and a small positive return, while cash borrowers rely on them as a major source of short-term funding. The tri-party agent facilitates transactions by providing operational services, such as custody of securities, settlement of cash and securities, valuation of collateral, and optimization tools to allocate collateral efficiently. In the U.S. market, government securities clearing banks serve as tri-party agents; in addition to providing operational services, the agents extend large amounts of intraday credit to dealers to enable them to meet delivery obligations on securities financed in tri-party repos. The role of the clearing bank is explained in more detail in the "Current Practices and Infrastructure" discussion.

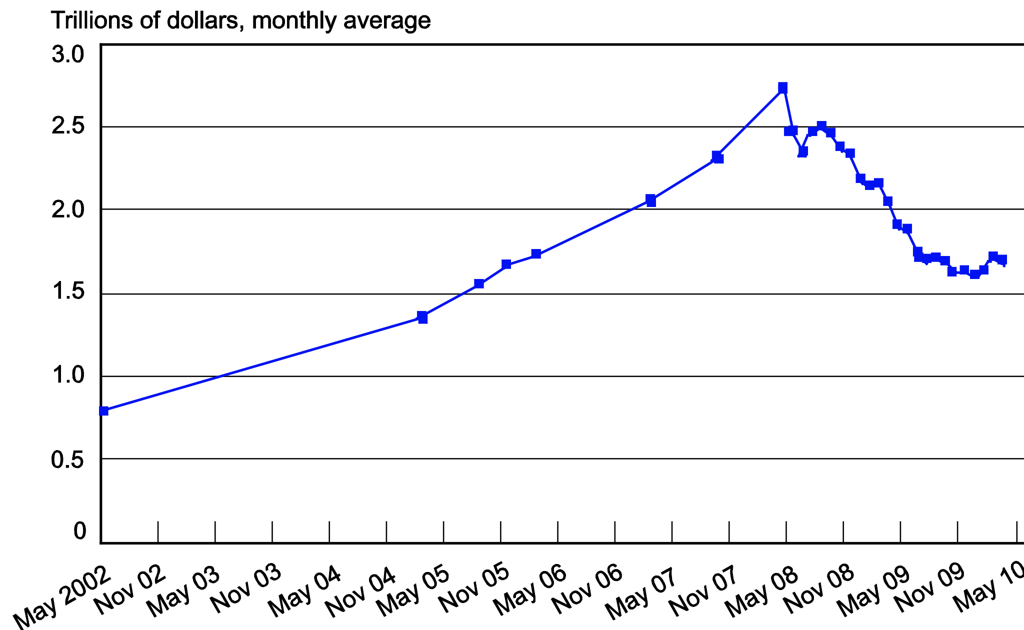
Tri-party repos are the most prevalent form of repo contract in the United States. Broker-dealers obtain a significant portion of financing for their own and their clients' securities inventories through the market. During first-quarter 2010, the value of securities financed by tri-party repos averaged $1.7 trillion.[4] The size of the market has declined notably since the peak of about $2.8 trillion in early 2008. Figure 2 shows the growth of tri-party repo transactions over the past eight years.

[4] Federal Reserve Bank of New York calculations, based on data from The Bank of New York Mellon and JPMorgan Chase.

Figure 2

Growth of Tri-Party Repo Market

Aggregate Value of Market



Sources: The Bank of New York Mellon; JPMorgan Chase.

Notes: Limited data were provided by clearing banks prior to April 2008. The figure reflects the data provided, indicated by the markers, and the smoothed trend line between them.

Activity in the tri-party repo market is highly concentrated: the top ten cash borrowers account for approximately 85 percent of the value of tri-party repo securities being financed, and the top ten cash investors provide about 65 percent of the funds invested.[5] The largest individual borrowers routinely finance more than $100 billion in securities through these transactions. At the peak of market activity, the largest dealer positions exceeded $400 billion. While the value of the largest portfolios has declined, it remains significant, at more than $200 billion. The largest cash investors individually provide more than $100 billion in tri-party repo financing daily.

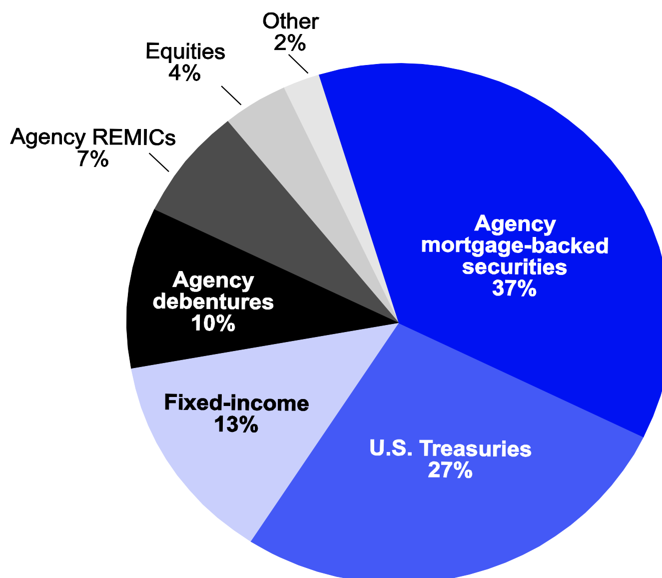
[5] Here, "investor" refers to a single firm. A single firm can include the securities lending division of a bank as well as the asset management division. Similarly, a money market mutual fund complex, considered a single investor here, may represent many separate funds under a single management umbrella.

The collateral used to secure tri-party repos consists largely of U.S. Treasuries and agency mortgage-backed securities and debentures.[6] As of first-quarter 2010, this type of collateral represented slightly more than 80 percent of all collateral in the tri-party market. Other assets financed through tri-party repos include fixed-income securities and equities on deposit at the Depository Trust & Clearing Corporation (DTCC) as well as whole loans (currently less than 1 percent of assets financed).[7] These asset types are primarily, but not exclusively, investment-grade securities. Some are materially less liquid than traditional government and agency securities. At the market's peak in early 2008, this type of collateral made up nearly 30 percent of the total.[8] Figure 3 presents the breakdown of tri-party repo market collateral at March 31, 2010.

Figure 3

Breakdown of U.S. Tri-Party Repo Market Collateral

2010:Q1



Sources: The Bank of New York Mellon; JPMorgan Chase.

Note: REMICs are real estate mortgage investment conduits.

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[6] "Agency" here refers to securities issued by Fannie Mae, Federal Home Loan Mortgage Corporation (FHLMC) securities, and securities guaranteed by the Government National Mortgage Association (Ginnie Mae).

[7] DTCC fixed-income assets include corporate bonds, asset-backed securities, money market instruments, private-label collateralized mortgage obligations, and municipal bonds. For more information, see <http://www.dtcc.com/about/business/>.

[8] Since the start of the financial crisis, the value of non-Treasury, non-agency collateral financed in the tri-party repo market has declined by more than $600 billion, as dealers deleveraged their balance sheets and investors became less willing to accept nontraditional, less liquid collateral to secure their tri-party investments.

Current Practices and Infrastructure

According to current operational practices, a cash lender and a cash borrower arrange their tri-party repo transactions bilaterally in the morning, agreeing on the tenor of the repo, the amount of cash provided, the value of the collateral provided, and the repo rate, among other parameters. The actual securities used as collateral are assigned later by the tri-party agent (or, in some cases, by the cash borrower), such that they meet the schedule of acceptable collateral specified by the cash lender. After the terms of the transaction are agreed upon, the dealer notifies its clearing bank. In some cases, only the very basic terms of the repo are communicated. (A typical repo "day" is illustrated in Figure 4, on page 11. A detailed example of a tri-party repo transaction, related processes, and risk ramifications can be found in Appendix I.)

Late in the day, the clearing bank, adhering to the terms of the transaction provided by the borrower, settles the repos by simultaneously transferring collateral and cash between the borrower's and lender's cash and securities accounts at the clearing bank. In other words, securities are moved from the borrower's securities account to the lender's securities account and the corresponding cash amounts are transferred from the lender's cash account to the borrower's cash account; this process "locks" the borrower's securities in the lender's account. A dealer allocates specific securities to each transaction using its clearing bank's or its own collateral optimization engine, as constrained by the schedule of acceptable collateral. Overnight, the lender holds the collateral, which exceeds the value of the cash loan by the value of the haircut, to offset the risk that the borrower will not be able to return the appropriate amount of cash the following day.

Prior to 8:30 a.m. each day, the clearing bank extends credit to each dealer and returns the securities that were pledged as collateral so that the dealer can deliver any securities that are sold to

buyers.[9] This process of returning the collateral to the dealer is referred to as "unwinding" the repo, and it generally applies to all repo transactions, even those term transactions not maturing that day. The unwinding each morning creates an overdraft in the dealer's cash account at its clearing bank when the clearing bank returns the repo collateral to the dealer and returns the cash borrowed by the dealer to the lender's demand deposit account. Once their cash is returned through the unwinding, the majority of cash lenders elect to leave the cash in uncollateralized demand deposit accounts at the clearing banks, because most of this cash is typically reinvested at the end of the day.

Throughout the business day, broker-dealers buy and sell securities for their own and their client-owned positions. These securities are delivered into and out of the dealer's securities account at its clearing bank.[10] Concurrently, the dealer's cash account at the clearing bank is adjusted for the offsetting cash transactions. Because dealers typically do not have sufficient cash balances at their clearing bank to pay for their securities purchases during the day, the clearing bank extends intraday credit to the dealer and takes a lien on the dealer's security as collateral.

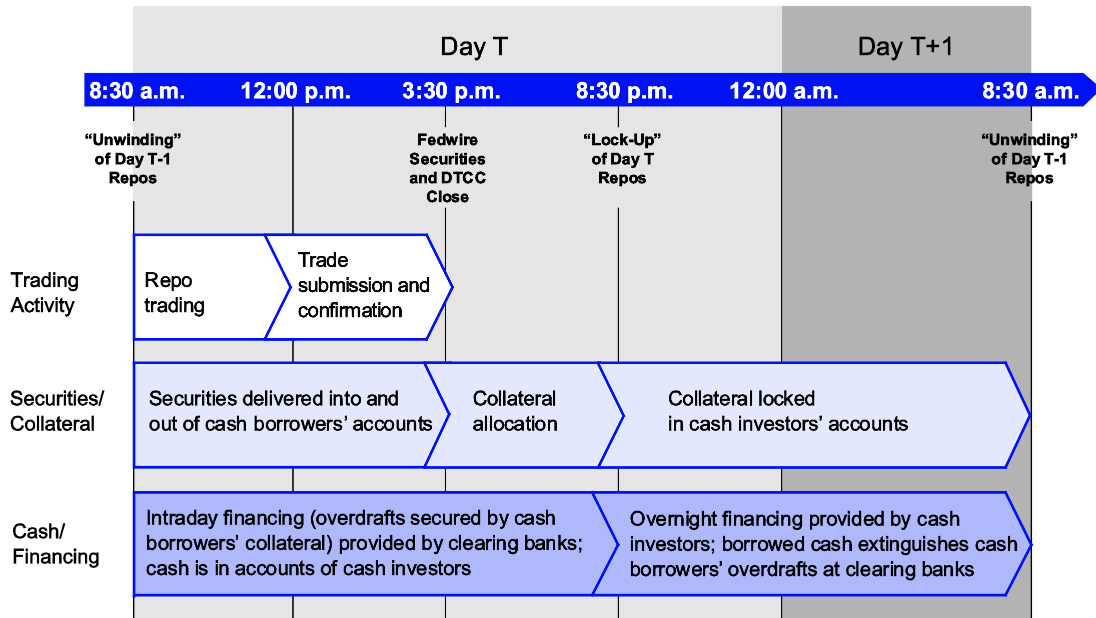
The intraday overdraft, which remains in place between the morning unwinding and the end-of-day lock-up, or "rewinding," imposes on the clearing bank a credit exposure to the dealer that is collateralized by the securities in the dealer's account. Dealers use the cash they receive from lenders at the end of the day to extinguish these overdrafts.

[9] Deliveries can be made by book-entry if both the buyer and seller have securities accounts at the same clearing bank, or made via Fedwire to a custodial account at another depository institution.

[10] Broker-dealers do not have access to central bank credit and are not direct participants in Fedwire. As a result, they rely on clearing banks—which have such access—to provide both the credit and operational infrastructure required to support their securities clearing and settlement activities.

Figure 4

Key Elements of Current Daily Repo Process



Note: Timeframes are approximate.

Benefits of Tri-Party Repos

Compared with other types of repurchase agreements, tri-party repos offer a number of advantages that have contributed to their growing use over the years. First, tri-party repo transactions settle via book-entries at a clearing bank, whereas "deliver-out" repos settle by transferring government securities from a cash borrower to a cash lender, and then returning them the next day, over the Federal Reserve's Fedwire Securities Service or the Fixed Income Clearing Corporation. The settlement of tri-party repo transactions internally on the books of a borrower's clearing bank reduces counterparties' transaction costs and operational burdens (such as the need for cash investors to maintain a processing infrastructure), which become significant when many small-denomination securities are used to collateralize the repos. Second, tri-party repo services give borrowers greater flexibility in allocating collateral. Each lender specifies the general types of securities that are acceptable repo collateral. The

clearing bank must then allocate a dealer's available securities; it accomplishes this by optimizing the allocations to the many cash lenders that a dealer has lined up. Third, settlement of new tri-party repo transactions (as well as the recreation of term repos) occurs late in the afternoon, after the close of Fedwire Securities. Late-afternoon settlement gives dealers a better chance of obtaining repo financing for securities that were delivered to them during the afternoon. Investors benefit as well, from a greater opportunity to find a short-term investment for surplus cash that becomes available late in the day.

III. How Tri-Party Repo Infrastructure Arrangements Propagate Systemic Risk

As the financial condition of dealers deteriorated and collateral valuations became uncertain, weaknesses in the policies, procedures, and systems supporting the tri-party repo market were exposed. Given the magnitude of the exposures generated and the vital importance of this market to dealer funding, a breakdown in the tri-party market had the potential to destabilize the financial system. On March 17, 2008, in the wake of the Bear Stearns collapse, the Federal Reserve Board took the extraordinary action of creating the Primary Dealer Credit Facility relying on emergency lending authorities under section 13(3) of the Federal Reserve Act.[11] The PDCF permitted broker-dealers, which do not have access to the Federal Reserve's discount window, to obtain short-term collateralized loans through this temporary lending facility.[12] The PDCF was intended to preserve market stability by providing emergency liquidity when financing was no longer available from cash lenders and other private sources.

[11] The PDCF was created under section 13(3) of the Federal Reserve Act, which requires that the Federal Reserve Board make a finding of "unusual and exigent" circumstances. For additional analysis of the market stress that led to the facility's creation, see <http://www.newyorkfed.org/research/current_issues/ci15-4.html>.

[12] Concerns about the lack of access by money market mutual funds to emergency liquidity motivated the creation of two other Federal Reserve programs, the Asset-Backed Commercial Paper Money Market Mutual Fund Liquidity Facility and the Money Market Investor Funding Facility. Information on all the Federal Reserve's liquidity facilities is available at <http://www.federalreserve.gov/monetarypolicy/bst.htm>. The Federal Reserve provides loans to depository institutions through the discount window. For more information, see <http://www.frbdiscountwindow.org>.

While market conditions have improved—and, as a result, the PDCF was allowed to expire—concerns about the existing infrastructure arrangements remain. The three fundamental areas of concern are the reliance of broker-dealers on intraday credit from tri-party clearing banks, risk management practices that are vulnerable to procyclical pressures, and the lack of effective and transparent methods to manage the liquidation of a defaulted broker-dealer's collateral.

Market dependence on intraday credit. The market's dependence on a substantial amount of intraday credit supplied by the clearing banks to facilitate the clearing and settlement of securities creates the potential for two important destabilizing outcomes. First, the daily hand-off of credit extensions between overnight cash lenders and clearing banks creates an incentive for each to reduce its exposure quickly by pulling away from a potentially troubled dealer before the other one does. Indeed, as dealers came under severe stress, clearing banks reconsidered their longstanding practice of routinely extending intraday credit, as they recognized the potential risk it posed to them. In the event of an intraday default, a clearing bank would have to take the dealer's entire portfolio onto its balance sheet. This could affect the financial health of the clearing bank because its intraday exposures are large relative to its capital. At the same time, a sudden withdrawal of intraday credit would have significant ramifications. If the dealer did not find an alternative source of funding for its securities, a sudden withdrawal would trigger a default. As a result, cash investors would be faced with the dual challenge of trying to liquidate collateral without incurring losses while also addressing their own liquidity needs. To avoid credit losses and liquidity pressures, they could withdraw funding more broadly—potentially jeopardizing the ability of the remaining dealers to finance their securities. Generally speaking, the expectation of liquidity perpetuated by the daily unwinding of repos may lead cash lenders to underestimate their credit and liquidity risks, which could leave gaps in their contingency plans for responding to an actual dealer default.

Second, another longstanding concern—rooted in the clearing bank practice of extending large amounts of intraday credit to dealers—involves the loss of confidence in a clearing bank. A loss of confidence could disrupt funding to a large segment of the dealer community if investors became concerned about the safety of holding their cash deposits at the clearing bank (resulting from the daily unwinding of repos).[13]

***Risk management practices*.** Risk management practices may have exacerbated the pressure on dealers during the credit crisis. During normal times, competitive dynamics and an abundance of market liquidity led investors and clearing banks to adopt liberal policies on collateral eligibility, the size and concentration of portfolios, and haircuts. During times of financial stress, the desire by investors and clearing banks to protect themselves can lead to sudden withdrawals of credit or sharp increases in margins and haircuts.

***Lack of effective and transparent plans to support orderly liquidation of a defaulted dealer's collateral*.** When they were faced with the prospect of counterparty default, it became apparent that neither clearing banks nor lenders were well prepared to conduct an orderly liquidation of a large dealer's tri-party repo collateral. Either group would face challenges with respect to operational arrangements, sources of liquidity during a (potentially lengthy) liquidation period, and the impact of distressed asset prices on their own balance sheets. The lenders and clearing banks both believed that, in the event of an imminent dealer default, each could withdraw credit before the other. Under existing practices, a clearing bank would have a lien on the securities backing the intraday extension of credit if a borrower failed during the day. Lenders, however, would have to liquidate the collateral if the failure occurred at night. Without transparent procedures and increased clarity concerning the rules that would apply to all market participants during such an event, the failure of one cash borrower could lead to a

[13] The industry effort to create what became known as "New Bank" to replace a troubled clearing bank was intended to address this problem. New Bank was not fully implemented, however. Work was suspended in 2008 in anticipation of the need for more fundamental infrastructure reforms.

loss of confidence in the market itself. This, in turn, could lead investors to withdraw their repo funding en masse or clearing banks to discontinue all provision of intraday credit, thus affecting tri-party borrowers more broadly.

Furthermore, an uncoordinated liquidation of potentially hundreds of billions of dollars in collateral could create "fire-sale" conditions as collateral is sold into a stressed environment. Investors could realize significant losses during the liquidation, while much lower asset prices observed during the fire-sale conditions could further tighten liquidity pressure on the remaining, otherwise healthy, dealers.

IV. The Tri-Party Repo Infrastructure Reform Task Force

The PRC, at the request of the FRBNY, formed a task force to address the FRBNY policy concerns described above. Members of the Tri-Party Repo Infrastructure Reform Task Force represent major tri-party repo market participants and service providers as well as relevant industry groups. Market participants represent the most active broker-dealers and the most active segments of cash lenders in the tri-party repo market.

Recognizing that it would not be practical for all market participants and stakeholders to contribute directly to the process, the task force took measures to make its work transparent and to encourage inclusiveness. In December 2009, task force members published an interim report on their work and highlighted draft recommendations.[14] To engage a broader range of market participants in the dialogue, the task force hosted a workshop in February 2010 to present its ideas. Work concluded on May 17, 2010, with publication of the final task force recommendations (Appendix II). To enable other stakeholders not participating in the task force to provide input, the FRBNY is seeking comments on this analysis and the task force's final recommendations.

[14] See <http://www.ny.frb.org/prc/report_091222.pdf> for the full interim report.

The key element of the task force recommendations is to reduce reliance by market participants on intraday credit provided by tri-party repo agents. Other complementary recommendations are designed to foster improvements to credit and liquidity risk management practices of market participants, enhance market transparency, and decrease the likelihood and mitigate the negative effect of default by a large cash borrower.

V. The FRBNY's Comments on the Task Force Recommendations

The FRBNY commends the Tri-Party Repo Infrastructure Reform Task Force for its efforts to address the policy concerns relating to current market practices and infrastructure.

These recommendations, when implemented, should help reduce the potential for problems at one firm to spill over to others, clarify the credit and liquidity risks borne by market participants, and better equip market participants with the tools to manage these risks appropriately. Specifically, the recommendations—by reducing the amount of intraday credit provided by clearing banks and eliminating the wholesale daily unwinding of all tri-party repo trades—should minimize two important channels through which a problem at one firm could affect others. First, a clearing bank's exposure to its own clients should be reduced to a manageable level. Second, the tri-party repo market should be more resilient to concerns about the financial well-being of a clearing bank, because cash investors will have secured exposures to their counterparties instead of unsecured exposures to a clearing bank during the day.

The proposed elimination of the practice of unwinding all tri-party repos each morning will also highlight the credit and liquidity risks borne by cash investors—making it clear that an investor's ability to withdraw funding and receive cash from a troubled borrower is linked to that borrower's ability to secure another source of funding. The complementary recommendations to create increased

transparency regarding the size and composition of borrower portfolios will better equip cash investors to understand the conditions they would face in a liquidation.

However, the task force recommendations do not address all areas of concern in the tri-party repo market. For example, the steps proposed to increase cash investors' preparedness for the sudden failure of a large dealer do not directly address concerns that such failure could prompt the simultaneous liquidation of large amounts of assets and create fire-sale conditions. The task force report discusses several alternatives that were considered but ultimately failed to gain broad support. While fire-sale concerns are not unique to this market, it should be noted that the significant value of assets financed by individual dealers and the short-term liquidity needs of tri-party repo cash lenders make this issue particularly relevant to the tri-party repo market. Regulators and market participants will need to continue to explore options to assess the level of risk this poses to financial stability and to seek appropriate solutions to mitigate this risk.

In addition, the recommendations will not materially alter the propensity of cash investors to run from a troubled dealer—in fact, they may withdraw funding from a troubled counterparty sooner because of increased awareness of the risk of having to accept collateral in lieu of cash in the event of default. As a result, dealers will need to recognize and accommodate this lack of durability of secured financing in their liquidity contingency planning and regulators will want to ensure that dealers' plans take these vulnerabilities into consideration. This is likely to increase dealer funding costs—particularly for assets that are not highly liquid.

The task force recommendations are ambitious and will require a focused and sustained effort by market participants and clearing banks to achieve their objectives. To eliminate reliance on intraday credit, clearing banks will need to develop systems to support robust collateral substitution, and other market participants will need to make fundamental changes to their business practices and process flows.

It is expected that the heads of the most active firms in the tri-party repo market will make a formal commitment to implement needed enhancements to tri-party repo infrastructure in a timely manner, including those initiatives described in the task force report. Additionally, the FRBNY will engage the primary regulators of clearing banks and major market participants to incorporate the enhancements into rules and supervisory plans, as appropriate.

In conclusion, the tri-party repo market and short-term funding markets will continue to evolve as broader regulatory reforms take shape, and enhancements to infrastructure—such as those proposed by the task force—are implemented. Because it is not possible to anticipate the full impact of these combined forces, it will be imperative to monitor the evolution of the tri-party repo and other short-term funding markets closely. The FRBNY intends to take additional actions, as necessary, to promote the safety and soundness of the market participants under its direct supervision and, working closely with other regulatory and supervisory authorities, to support the stability and resilience of financial markets more broadly.

VI. Questions for Comment

The FRBNY invites comment on all aspects of the proposed recommendations of the Tri-Party Repo Infrastructure Reform Task Force, as well as on the policy concerns described in this paper. The questions below are designed to encourage meaningful discussion and thoughtful analysis of the issues and to help us assess the task force recommendations. Responses to the questions will inform the next steps toward the implementation of specific enhancements and will contribute to the analysis of future actions considered by the FRBNY. Comments received will be made public on our website.

Please e-mail all responses by June 16, 2010 to: TPR.Reform@ny.frb.org.

1. Have the sources of systemic risk in the tri-party repo market been identified correctly? What additional vulnerabilities or material risks should be considered in evaluating the need for reforms in this critical market?

2. Are the recommendations proposed by the task force appropriate and adequate to address the policy concerns articulated in this paper?

a) Please comment on specific recommendations that you think are most likely to be effective.

b) Please comment on specific recommendations that you believe will not be effective.

c) Please comment on specific recommendations that you believe may have unintended consequences.

d) Are there additional specific measures within the general approach proposed in the task force report that should be considered?

3. Are the task force recommendations, including targets for reduction of intraday credit extension by clearing banks, achievable in the timeframes outlined? What barriers or challenges to implementation do you anticipate?

4. What business impact do you anticipate from the recommendations? For example, what impact would you expect this series of reforms to have on the structure, volumes, collateral, or other parameters of the tri-party repo market?

5. Considering a dealer default scenario, what additional measures should be considered to address concerns regarding potential liquidity pressures on cash lenders and surviving dealers, and the potential for fire-sale conditions?

6. What measures could be taken to reduce the likelihood of cash lenders running from a troubled dealer?

a) Are there ways to increase a lender's ability to effectively deal with a scenario in which it must accept collateral in lieu of cash following a dealer default?

7. What other approaches to assessing and mitigating systemic risk in tri-party repo business arrangements should the Federal Reserve or industry leaders consider?

a) For example, would implementation of a central counterparty be desirable in this market? If so, what specific features of a central counterparty would be most desirable, and why?

Appendix I

Detailed Example of a Tri-Party Repo

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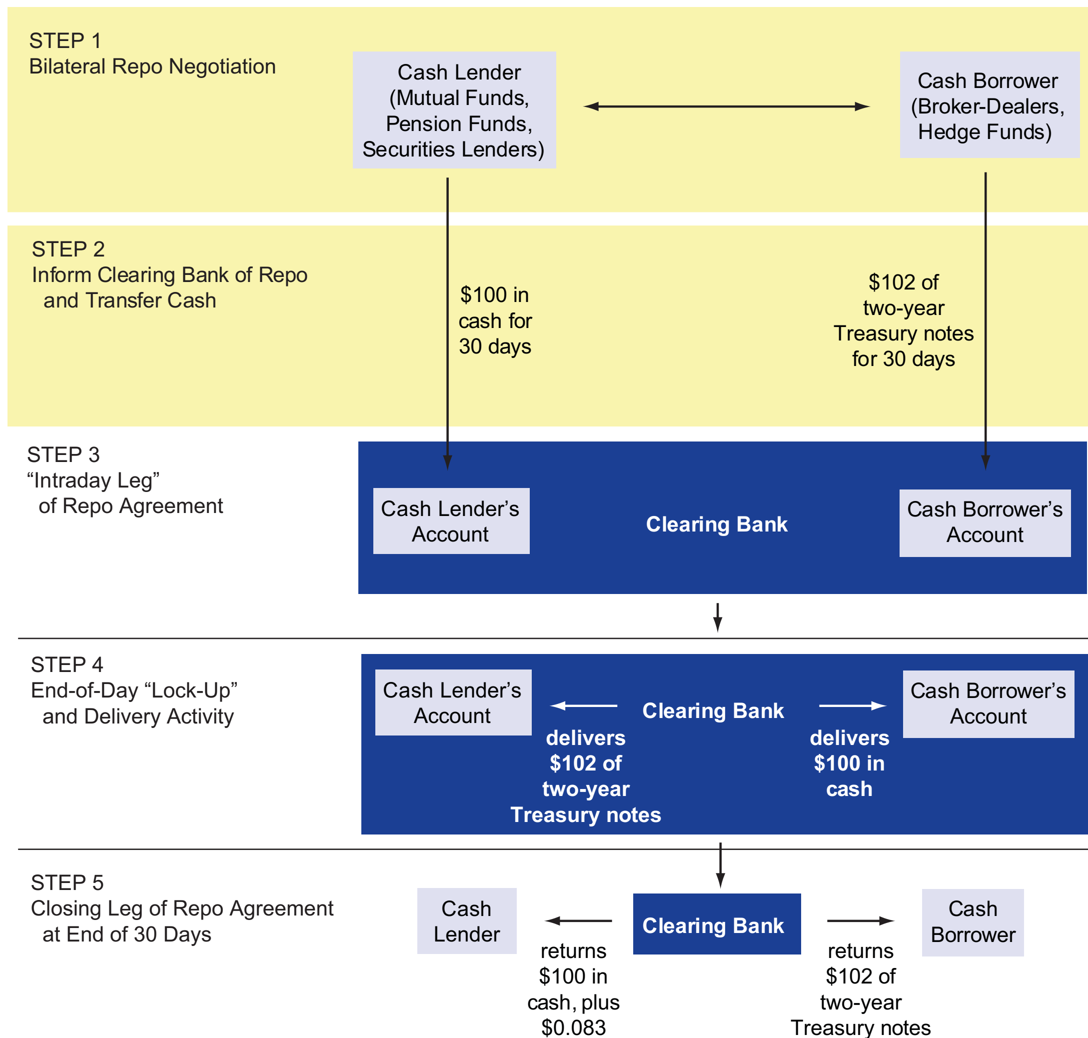
Detailed Example of a Tri-Party Repo



STEP 1
Bilateral Repo Negotiation

- Cash borrower, seeking short-term funding to finance portions of its inventory, negotiates with cash lenders, creating a repo collateralized by borrower's securities.
- Both parties agree on repo terms:

  a) amount to be lent: $100

  b) margin (haircut on collateral): 2% (= $2)
  a) + b) = value of collateral provided: ($100 + $2)

  c) repo term commitment: 30 days

  d) repo rate (cost of borrowing cash): 1%

  e) acceptable collateral: two-year Treasury notes

STEP 2
Inform Clearing Bank of Repo and Transfer Cash

- Cash borrower informs its clearing bank of repo.
- Cash lender sends loan amount to cash borrower's clearing bank.
- Cash borrower authorizes allocation of collateral from clearing bank account.

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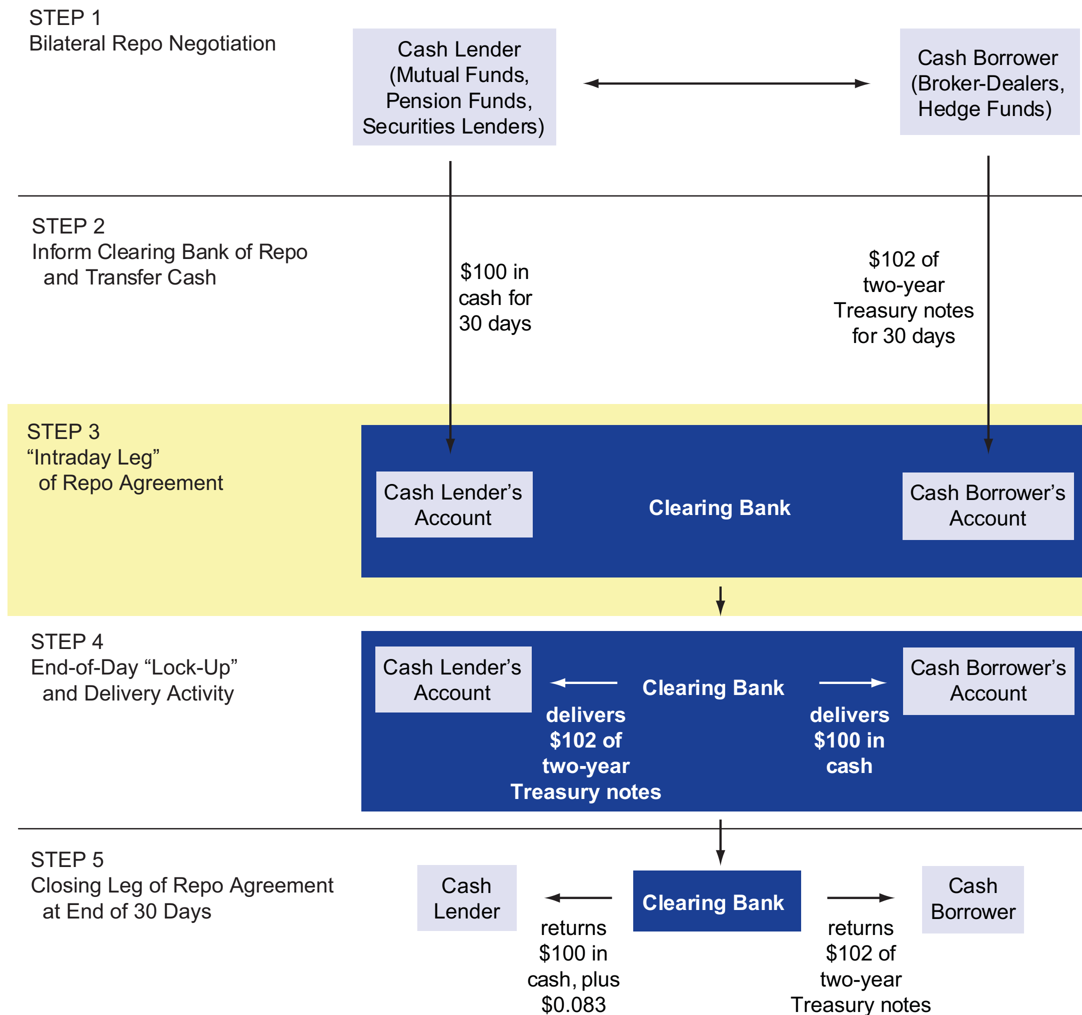

STEP 3
"Intraday Leg" of Repo Agreement

- **Daily "Unwinding"**: At 8:30 a.m., all repos, regardless of maturity, are "unwound" by clearing banks to provide intraday credit to cash borrowers.
  - Credit allows cash borrowers to settle buy-sell transactions throughout day.

- **Intraday Credit Calculation**: Amount of allowable credit is discretionary, but generally based on a daily calculation:

  Cash Lender's Account[1]
  $100 in cash

  Cash Borrower's Account[1]
  $102 in two-year Treasury notes
  $0 cash balance
  3% clearing bank margin

  Allowable Intraday Credit
  Cash Borrower Total Collateral + Cash Borrower Total Cash Balance - Clearing Bank Margin:
  $102 + $0 – ($102 x 3%) = **$98.94**.

- **Intraday Risks**
  - **Clearing Bank** has secured exposure to cash borrower for intraday credit extended.
  - **Cash Lender** has unsecured exposure to clearing bank for cash left in its account at bank.
  - **Cash Borrower** is vulnerable to change in discretionary amount of intraday received and to disruption to trading/settlement if clearing bank fails.

[1] For simplicity, we assume that participants have only one repo and no other balances at clearing bank.

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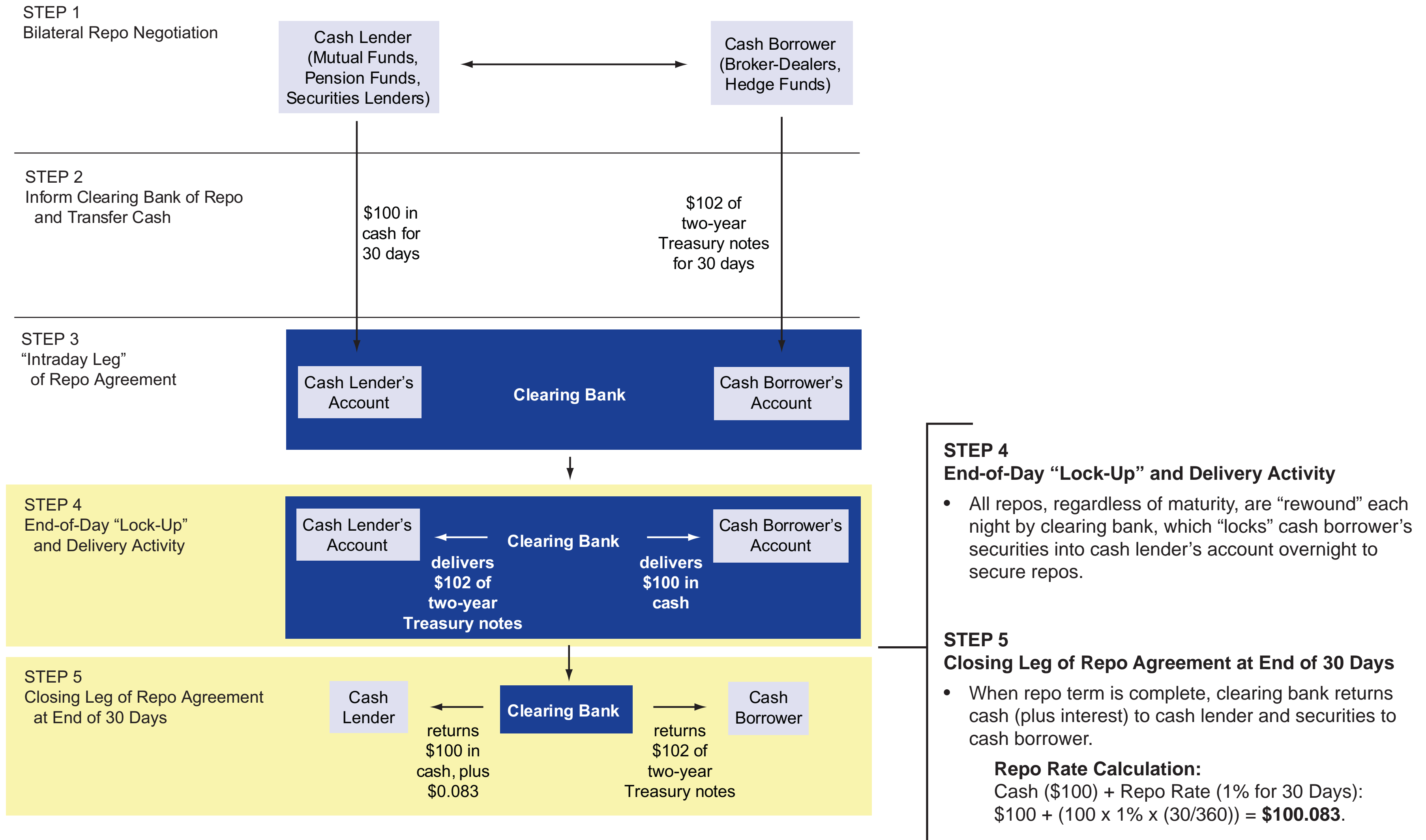

STEP 4
End-of-Day "Lock-Up" and Delivery Activity

- All repos, regardless of maturity, are "rewound" each night by clearing bank, which "locks" cash borrower's securities into cash lender's account overnight to secure repos.

STEP 5
Closing Leg of Repo Agreement at End of 30 Days

- When repo term is complete, clearing bank returns cash (plus interest) to cash lender and securities to cash borrower.

Repo Rate Calculation:
Cash ($100) + Repo Rate (1% for 30 Days):
$100 + (100 x 1% x (30/360)) = **$100.083**.

Appendix II

Tri-Party Repo Infrastructure Reform Task Force Report

Task Force on Tri-Party Repo Infrastructure

Payments Risk Committee

Report

May 17, 2010

The Task Force on Tri-Party Repo Infrastructure was formed in September 2009 under the auspices of the Payments Risk Committee, a private sector body sponsored by the Federal Reserve Bank of New York. The Task Force membership includes representatives from multiple types of market participants that participate in the tri-party repo market, as well as relevant industry associations. Federal Reserve and SEC staff participated in meetings of the Task Force as observers and technical advisors.

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Section 1: Introduction and Summary

In the fall of 2009, to address the systemic risk that had become evident during the financial crisis, the Federal Reserve asked market participants to review and make recommendations regarding opportunities for improvement to the tri-party repo infrastructure.

The Task Force on Tri-Party Repo Infrastructure was formed and this Report contains its findings and recommendations. The Report and the work underlying it have been developed through the joint effort of a large number of market participants, representing multiple types of financial institutions that participate in the tri-party repo market. The work of the Task Force was the subject of a workshop in February 2010 attended by representatives from more than 100 different organizations.

Federal Reserve and SEC staff attended Task Force meetings and provided clarification of relevant policy concerns and positions. However, it is important to make clear that the conclusions of the Task Force are its own. No endorsement of its conclusions has been sought or received from any regulatory authority. The Task Force is aware of and supports the Federal Reserve's simultaneous issuance of a White Paper that provides its perspective on the issues covered in the Task Force Report and requests public comment.

It is important to emphasize that the tri-party repo market and the markets for the underlying collateral are dynamic. Task Force members are committed to ongoing industry assessment of the issues addressed in this Report.

Description of Tri-Party Repo Market

The tri-party repo market is large and important, but not very well understood. It represents a significant part of the overall U.S. repo market, in which market participants obtain financing against collateral and their counterparties invest cash secured by that collateral. Large U.S. securities firms and bank securities affiliates finance a large portion of their fixed income securities inventories, as well as some equity securities, via the tri-party repo market. This market also provides a variety of types of investors with the ability to manage cash balances by investing in a secured product. The "tri-party" label refers to repo transactions that settle entirely on the books of one of two "Clearing Banks" in the U.S. market: Bank of New York Mellon (BNYM) and JP Morgan Chase (JPMC). The Clearing Bank is thus a third party involved in the repo transaction between a "Dealer" (party, not necessarily a Broker-Dealer, borrowing cash against securities collateral) and a "Cash Investor" (party lending cash against securities collateral).[1]

The attractiveness of the tri-party repo market is driven by the treatment of repurchase transactions in bankruptcy, the use of securities as collateral (including daily margining and haircuts), and the custodian services of the Clearing Banks which provide protections that do not exist for bilateral repo investors or unsecured creditors. As a result, the U.S. repo market contributes significantly to the liquidity and efficiency of the U.S. Treasury and Agency (including Agency MBS) securities markets, which collectively make up approximately 75% of the total collateral in the U.S. repo market. The importance of the U.S. repo market is underscored by the fact that it is the market in which the Federal Reserve operationally implements U.S. monetary policy.

The tri-party repo structure developed in the mid 1980s in response to the desire by Cash Investors to have collateral held by a third-party agent. The tri-party market continued to grow as the Clearing Banks invested in infrastructure advancements that allowed Dealers and Cash Investors to optimize their use of the platform. At peak levels in 2008, over $2.8 trillion in securities were being financed through the U.S. tri-party repo market. The U.S. repo market in general and the tri-party repo market in particular have provided important benefits (e.g. flexibility and reduced funding costs due to credit protections and operational efficiencies) to the financial system

[1] For clarity and consistency, this Report uses the capitalized terms "Clearing Bank", "Dealer", and "Cash Investor" throughout the Report to refer to these three parties to a tri-party repo transaction.

and have helped to reduce the cost of borrowing for the U.S. Treasury, thereby lowering debt-service costs borne by taxpayers. [2]

At several points during the financial crisis of 2007-2009, the tri-party repo market took on particular importance in relation to the failures and near-failures of Countrywide Securities, Bear Stearns, and Lehman Brothers. The potential for the tri-party repo market to cease functioning, with impacts to securities firms, money market mutual funds, major banks involved in payment and settlements globally, and even to the liquidity of the U.S. Treasury and Agency securities, has been cited by policy makers as a key concern behind aggressive interventions to contain the financial crisis.

Summary of Recommendations

Based on its analysis, the Task Force identified the following areas where improvements are needed:

- Operational Arrangements – Largely to obtain operational efficiencies, current arrangements – including the "daily unwind" of all transactions regardless of term – require massive amounts of intraday credit to be provided by the two Clearing Banks. The lack of clear understanding concerning the ultimate allocation of credit and liquidity risks among repo market participants weakened incentives to manage and constrain those risks.

- Dealer Liquidity Risk Management – Some Dealers did not properly anticipate the potential for secured financing to be unavailable, even for high quality collateral. Some Dealers became excessively reliant on short-term repo financing, especially in regard to collateral types that were or became illiquid and subject to valuation uncertainty, contributing to greater leverage in the system.

- Margining Practices – Market participants in many cases did not anticipate the extent to which market conditions could worsen and did not set margins accordingly, leading to pro-cyclical increases in those margins when conditions did worsen during the crisis. Most Cash Investors did not anticipate the potential for losses as collateral prices declined.

- Contingency Planning – In many cases, Cash Investors were unprepared to cope with the consequences of a Dealer default, in particular the potential need to manage and liquidate collateral securing a defaulted repo position. In some cases, Cash Investors financed assets that they would not normally hold outright.

- Transparency – There was insufficient transparency with respect to many aspects of the tri-party market, including its aggregate size and composition, the extent of concentrations, and typical levels of margin. This contributed to the build-up of exposures and the lack of prior concerted action to address the issues identified in this Report.

The detailed recommendations contained in the main body of the Report address all of these areas.

Operational Arrangements

First and foremost, the Task Force has focused on the specific actions needed to fundamentally strengthen the operational arrangements at the heart of the tri-party repo market. These actions are necessary to reduce the market's reliance on intraday credit provided by the Clearing Banks and clarify the credit and liquidity risks borne by market participants. Substantial effort has been undertaken to identify the precise steps necessary and the key dependencies involved. Tangible steps have been taken and intraday exposures are lower than at the outset of the Task Force's work. The percentage of tri-party repo trades unwound on a daily basis decreased an average of

[2] Benefits of the tri-party repo market are discussed in the FRBNY White Paper on the Tri-Party Repo Infrastructure Reform Task Force.

10% from September 2009 to March 2010.[3]

The Task Force believes that the objective should be the "practical elimination" of intraday credit provided by the Clearing Banks, defined by the Task Force as a point beyond which the residual amounts of intraday credit extensions are both small and can be governed by transparent bilateral arrangements, known in advance to participants. The key operational advancement needed to achieve this objective is "auto-substitution", which will allow for the automated substitution of securities collateral supporting a tri-party repo transaction, while that transaction remains in place. Both Clearing Banks have committed to implement this functionality by February 2011. The Task Force believes achievement of the "practical elimination" objective can and should be achieved within six months following the implementation of "auto-substitution", implying a target date of mid-year 2011.

Alongside this effort to radically reduce the amount of intraday credit provided by Clearing Banks, the Task Force believes it is critical to reinforce that Cash Investors are "at risk" if their repo counterparty defaults. Clarity in this respect helps to ensure strong incentives to mitigate risks and to undertake appropriate contingency planning.

Dealer Liquidity Risk Management

Tri-party repo activity must be an essential focus for liquidity risk management. Dealers should not assume that secured financing is inherently stable. Since Cash Investors are "at risk" if the Dealer defaults, Dealers should realize that some Cash Investors may reduce and/or eliminate funding as the credit quality of the Dealer deteriorates, despite the existence of collateral. As such, Dealers should account for the loss of secured funding within their liquidity risk management plans and liquidity stress tests. Dealer liquidity buffers should be sized accordingly. Had such an approach been in place consistently across the industry during the crisis, it is much more likely that illiquid collateral would have been matched by a corresponding liquidity buffer, limiting the potential systemic impact of the loss of that financing.

In addition, Dealers should lengthen and stagger the maturity profile of their financing, seek to combine short-term and long-term financing with the same counterparty and should continue exploring alternative mechanisms that may be able to achieve more durable financing of certain types of securities. The Task Force supports the increased emphasis on liquidity risk management by supervisors and regulators.

These recommendations on liquidity risk management echo those of many other reports and papers analyzing aspects of the financial crisis. The Task Force believes that the recommendations in this area have particular relevance for tri-party repo transactions.

Margining Practices

Margining practices must be broadly strengthened in the wake of the crisis. The Report outlines a number of margining best practices but stops short of recommending one specific approach. Market participants should undertake statistical analysis and stress testing of collateral price movements that allows them to assess the potential for losses at different levels of margins and to make decisions based on their appetite and capacity to absorb losses. Cash Investors should seek information that allows them to assess the potential concentration of repo counterparties with respect to a particular type of security; where such information is not forthcoming, they should use aggregate market information and/or make conservative inferences.

Margin pro-cyclicality refers to the process by which margin levels are reduced in good times and increased in bad times. Pro-cyclicality cannot be fully eliminated, since quantitative measures used to guide margin levels fluctuate over time. Nevertheless, improvements can be made. The approach to margining should be understood across market participants. Margin agreements should avoid precipitous and unanticipated increases in margins. Margins should be set in accordance with regulatory liquidity risk management and margin risk management standards. The regular publication of margin levels in the tri-party repo market and qualitative surveys of credit

[3] Figures are based on aggregates provided by the Clearing Banks.

terms, as proposed in a recent BIS report on margin requirements and haircuts, can aid market participants in setting appropriate margin levels.

Contingency Planning

Cash Investors should develop "liquidation plans" for the management and liquidation of repo collateral in the event of a Dealer default. These plans should cover both practical aspects such as custodial arrangements, as well as stress tests of potential losses due to collateral price movements and stress tests of possible liquidity needs. Exploration of additional liquidity tools and mechanisms by Cash Investors should also be considered. Cash Investors should regularly review their liquidation plans with their senior management and boards as appropriate depending on the nature of the organization.

Cash Investors should be able to demonstrate that potential stress scenarios on their single largest repo counterparty will not lead to destabilizing losses, even when associated collateral valuations are subjected to reasonably severe stress tests.

Additionally, DTCC and/or other interested providers should explore the development of a "collateral liquidation manager" service that would be made available to a broad range of market participants on a voluntary basis, as well as tools that will legally support offsetting of secured exposures related to the defaulting party.

Impediments to the rapid initiation of liquidation plans by Cash Investors would increase uncertainty and systemic risk. Therefore, the Task Force believes that SIPC (Securities Investor Protection Corporation) should agree not to impose a stay on repo counterparties exercising their contractual remedies. This is consistent with the approach that SIPC has taken in prior Dealer defaults.

Transparency

The tri-party repo market requires greater transparency. The Task Force has worked closely with the Federal Reserve to develop a template for regular publication of key information provided by the Clearing Banks. A pilot version of this template with actual data as of April 2010 is included on the following page and is discussed in the Report. This shows the aggregate size of the tri-party market, broken down by asset category, with associated measures of Dealer concentration. The second table reports on margin haircut levels reported by the Clearing Banks for each asset category. Measures of Dealer concentration are also included on an anonymous basis.

Transparency of collateral valuation is an essential component of secured funding. Collateral that is prone to illiquidity and significant uncertainties in valuation adds to systemic risk when funded in the overnight repo market. Market participants should evaluate the prudence of funding this type of collateral in the short term repo markets.

The Task Force will establish a working group of valuation specialists across tri-party repo market participants to evaluate collateral pricing methodologies and make recommendations for improvements, including the feasibility of same day pricing.

Table 1
Tri-party Repo Statistics as of April 9, 2010
See Annex 3 for Explanatory Notes

Composition and Concentration of Tri-Party Repo Collateral

Asset Group	Collateral Value ($ billions)	Share of Total	Concentration by Top 3 Dealers
ABS (Investment and non-investment grade)	41.7	2.4%	45%
Agency CMOs	112.7	6.6%	46%
Agency Debentures (including strips)	179.5	10.5%	33%
Agency MBS	584.9	34.2%	45%
CMOs Private Label Investment grade	25.2	1.5%	48%
CMOs Private Label Non investment grade	18.9	1.1%	47%
Corporates Investment grade	79.6	4.7%	39%
Corporates Non investment grade	34.7	2.0%	54%
Equities	73.3	4.3%	59%
Money Markets	27.4	1.6%	74%
US Treasuries excluding strips	474.4	27.7%	39%
US Treasury Strips	38.7	2.3%	46%
Other	19.5	1.1%	
Total	**1,710.5**	100%	38%

Distribution of Investor Haircuts in Tri-Party Repo

Asset Group	Collateral Value ($ billions)	Haircuts		
		10th Percentile	Median	90th Percentile
ABS (IG and non-IG)	41.7	0%	5%	8%
Agency CMOs	112.7	2%	3%	5%
Agency Debentures (including strips)	179.5	2%	2%	5%
Agency MBS	584.9	2%	2%	4%
CMOs Private Label Investment grade	25.2	2%	5%	7%
CMOs Private Label Non investment grade	18.9	0%	8%	8%
Corporates Investment grade	79.6	2%	5%	8%
Corporates Non investment grade	34.7	5%	8%	15%
Equities	73.3	5%	8%	20%
Money Markets	27.4	2%	3%	5%
US Treasuries excluding strips	474.4	2%	2%	2%
US Treasury Strips	38.7	2%	2%	2%
Other	19.5			
Total	**1,710.5**			

Assessment of Recommendation Impact

The recommendations summarized above and detailed in the Report are ambitious, far-reaching, and will substantially mitigate the systemic risk potential associated with the tri-party repo market.

- Through the "practical elimination" of intraday credit extended by the Clearing Banks, any potential threat to the solvency of either Clearing Bank due to this exposure, however remote, is likewise removed. This alone is a substantial mitigation of systemic risk.

- By clarifying the responsibility for credit and liquidity risks among tri-party repo participants, incentives for robust risk management are strengthened.
  - Good incentives work best when situated within a highly transparent environment with well articulated expectations and frequent opportunities for effective benchmarking by authorities with the power to compel changes in behavior.
  - The Task Force recommendations in the areas of contingency planning, margin practices and valuation, and transparency are meant to provide these additional "support mechanisms" for strong risk management practices.

- The Task Force's recommendations to bring greater transparency to the tri-party repo market via regular reporting of volumes, margin levels, and relative concentrations by asset category and across Dealers will substantially enhance the ability for supervisors and market participants to assess trends and call attention to emerging issues before they become systemic in nature.

- The implementation by Dealers of stronger liquidity risk management practices, as recommended by numerous other reports and supervisory reviews, has a number of important benefits in regard to tri-party repo transactions, and must proceed hand-in-hand with the other recommendations to reduce the systemic risk potential.
  - For example, feedback between forced sales and asset price declines and the loss or change in the terms of short-dated repo financing can be mitigated either by an extension in the maturity of that financing or by sizing liquidity buffers to absorb the loss of repo financing on less liquid collateral.
  - In the extreme case where markets are under severe stress, there is a potential for a sudden pullback in repo availability to become a self-fulfilling solvency event as the impacted Dealer is forced to sell large amounts of illiquid assets under extreme time pressure. This potential is again mitigated if the pullback in repo financing can be met via sale of high-quality assets from the Dealer's liquidity buffer.
  - This stronger approach to liquidity risk management implies that in cases where a Dealer's default is preceded by a period of deterioration, there should be greater scope to reduce the size of the repo book in advance of default and therefore the amount of collateral that Cash Investors would need to liquidate at the point of default.

- The Task Force believes that the combination of measures it is recommending will reduce the scope for Dealers to use the tri-party repo market as a mechanism to finance excessive levels of illiquid collateral.

In spite of these substantial improvements, the Task Force believes it is important to be clear about what its recommendations will not do.

- These recommendations will not make tri-party repo financing "stable" in the face of events that give rise to concerns with counterparty credit standing.
  - Discussions within the Task Force emphasized repeatedly that some Cash Investors focus principally on Dealer credit quality. Anytime a Dealer's financial condition is visibly weakened, tri-party repo financing may be subject to withdrawal.

  - At the height of the financial crisis, contagion concerns affected counterparty risk assessments by many market participants.
  - However, the Task Force believes that some Cash Investors will become more comfortable in relying on tri-party collateral as a credit risk mitigant due to risk-based margining and improved transparency. This will improve the stability of this financing.

- Implementation of the Task Force's recommendations will not eliminate the possibility of the sale of large amounts of repo collateral due to a Dealer default. However, the Task Force recommendations may change the manner in which a stress scenario involving Dealers would evolve.
  - Improvements in transparency and in risk management practices by all participants, as well as ongoing enhancements to the regulatory framework, should improve the resiliency of a Dealer to a withdrawal of repo financing following a weakening in its financial condition.
  - There will also be much greater clarity regarding the status of exposures on an intraday basis and importantly who will bear the exposures in the event of a default.

- The Task Force considered and rejected recommending the mandatory use by all Cash Investors of a single liquidation agent in such circumstances to effect a coordinated liquidation.
  - Cash Investors represented on the Task Force were concerned that such an approach would result in sub-optimal outcomes relative to allowing Cash Investors flexibility in choosing how to manage this situation. They believed that a mandatory approach would result in less value for their constituents.
  - Task Force discussions focused on the importance of access to funding as the critical pre-requisite to avoid fire sale impacts.[4] Centralizing the liquidation problem does not address the underlying problem of where such funding would come from. The Task Force did not believe it was appropriate to assume that a Federal Reserve or other official liquidity facility would be made available to a centralized liquidation agent and the premise of the "fire sale" concern is precisely that private market funding is not available.
  - The Task Force believes that a better balance will be achieved by recommending that Cash Investors plan in advance for a Dealer default and manage their exposures to individual Dealers in light of the potential impact of such a default on their overall portfolio liquidity.

Additional Concepts and Topics

The Task Force discussed several concepts that have been put forward as possible ideas that could be considered in the future.

- These include the following concepts.
  - A Liquidity Stabilization Utility (LSU) that would function as a bank with the explicit purpose of providing liquidity against collateral to Cash Investors after a Dealer default.
  - Cash Investors obtaining committed lines of credit.
  - A central counterparty facility that would substitute its credit standing for that of individual Dealers in the tri-party market.
  - An Emergency Bank that a troubled Dealer could transfer its repo portfolio to, possibly supplemented by an additional guarantee fund.

- Task Force discussions highlighted a number of challenges with each of these concepts and accordingly the Task Force is not endorsing any of these concepts.

[4] See Brunnermeier and Pedersen, "Market Liquidity and Funding Liquidity", *Review of Financial Studies* 2009, Vol. 22, No. 6, pp. 2201–2238, for an economic analysis of this linkage.

- As noted earlier, the Task Force is aware and highly supportive of the Federal Reserve's plan to simultaneously issue a White Paper that requests further comment on these and any other issues raised by the Task Force's Report and recommendations.

Conclusion

The following Sections of the Report spell out the specific recommendations individually and then address the issues and recommendations in each area of the Task Force's work. The Task Force is convinced that these recommendations can and should be implemented and that they will collectively make a material difference in the extent of systemic risk potential associated with the tri-party repo market infrastructure. The Task Force greatly appreciates the time and efforts of all who contributed to its discussions.

Section 2: Summary List of Task Force Recommendations

Operational Arrangements – The Task Force Recommendations set out the milestones for the industry action plan developed and agreed by the Task Force to eliminate to the greatest extent possible Clearing Bank extensions of intraday credit by enhancing operational arrangements in the tri-party repo market. Recommendations are addressed to all tri-party repo market participants unless specified.

Recommendation	Date
1. Implement operational enhancements to achieve the "practical elimination" of intraday credit by the Clearing Banks, where "practical elimination" is defined as a point beyond which the residual amounts of intraday credit extensions are both small and can be governed by transparent bilateral arrangements, known in advance to participants[5].	30 Jun 2011
1A. Clearing Banks to provide project plans in relation to their implementation of robust automated collateral substitution ("auto-substitution") capability.	15 July 2010
1B. Eliminate remaining sources of ambiguity or inaccuracy in tri-party repo booking procedures and trade communications to the Clearing Banks, including information related to the term of the transaction.	31 Aug 2010
1C. Agree to standardized intraday settlement time(s) for maturing repo trades (e.g., Morning Settlement, End of Day Settlement), that will be implemented following pre-requisite enhancements (e.g., auto-substitution).	31 Aug 2010
1D. Agree solution(s) for three-way, real-time, point of trade confirmations for tri-party repo transactions, inclusive of discussions with third-party vendors.	15 Oct 2010
1E. Clearing Banks to complete development of software to support auto-substitution capability and confirm timelines for full implementation.	15 Feb 2011
1F. Dealers and Cash Investors to confirm that internal processes related to all aspects of tri-party repo are prepared for the operational enhancements recommended in this Report.	15 Feb 2011
1G. Implement market-wide, three-way, real-time, point of trade confirmation solution(s) which memorializes legally binding repo transactions entered into between Cash Investors and Dealers.	15 Apr 2011
2. Dealers and Cash Investors to undertake regular due diligence reviews of Clearing Banks that cover, at a minimum, operational and contractual conformity, adherence to collateral allocation rules, and collateral pricing methodologies.	Ongoing

[5] Market participants should target the reduction in intraday credit to be less than 10% of a Dealer's notional tri-party book (representing the estimated portion of a Dealer's book that reaches final maturity and is not rolled on a given day).

Dealer Liquidity Risk Management – The Task Force Recommendations support other assessments of the financial crisis in emphasizing the importance of stronger liquidity risk management.

Recommendation	Timing
3. Dealers need to incorporate lessons from the financial crisis experience related to tri-party repo in making appropriate improvements to liquidity risk management and planning.	Ongoing
4. Dealers should not assume that short-term tri-party repo financing with all of their counterparties throughout all market conditions is inherently stable.	Ongoing
5. Dealers and Clearing Banks to assess and clarify terms for the potential availability of secured intraday credit facilities (both discretionary and committed) to mitigate the liquidity risks associated with maturing repo trades.	15 Nov 2010

Margining Practices – The Task Force Recommendations support a broad strengthening of margining practices, based on the principles that margins should be risk-based, should not be pro-cyclical, and should be based on objective/transparent criteria.

Recommendation	Timing
6. Cash Investors, Dealers, and Clearing Banks to determine appropriate collateral margins in line with the principles set out in Section 6 of this Report, taking note of monthly Tri-Party Repo Statistics to be published on the Federal Reserve Bank of New York website.	Ongoing
7. Clearing Banks to continue to share information on intraday margin methodologies and processes with respective Dealers.	Ongoing

Contingency Planning – The Task Force Recommendations support improving the preparedness of Cash Investors and the tri-party repo market to cope with a Dealer default.

	Recommendation	Date
8.	Cash Investors to undertake regular stress tests of tri-party repo counterparty exposures that consider a default of the largest repo counterparty together with potential changes in the market value of the underlying collateral.	Ongoing
9.	Cash Investors to put in place and regularly review contingency plans for a Dealer default that cover, at a minimum, a process for effectively managing collateral, including a plan to manage liquidity and risk exposure during the liquidation process.	15 Jan 2011
10.	Relevant industry associations in conjunction with their constituents are encouraged to publish comprehensive Best Practice guidance for Cash Investors.	30 Sep 2010
11.	DTCC and its affiliates to work with other market participants to maximize the potential for offsetting of positions in the event of a Dealer default; DTCC and/or other interested parties can provide a viable collateral liquidation management service for those Cash Investors wishing to delegate these activities.	30 Nov 2010
12.	All market participants to continue exploring additional concepts that have the potential to add to the stability and resilience of tri-party repo financing and/or reduce the potential for collateral "fire sales" in the event of a Dealer default.	Ongoing

Transparency – The Task Force Recommendations are intended to increase transparency with respect to the size, composition, and concentration of the tri-party repo market, the range of margins applied, and the valuation methodologies applied to the underlying repo collateral.

	Recommendation	Date
13.	Initiate monthly publication, via the Federal Reserve, of aggregate statistics on tri-party repo collateral and Cash Investor margin levels, with disclosure by asset class, based on information provided by the Clearing Banks. (See Table 1 for a pilot version.)	30 Jul 2010
14.	The Task Force will establish a working group of valuation specialists across tri-party repo market participants to evaluate collateral pricing methods and make recommendations for improvements, including the feasibility of same-day pricing.	15 Oct 2010
15.	Cash Investors to regularly validate tri-party collateral for pricing, appropriateness, and classification. Dealers to regularly compare collateral marks on their own books and records with vendor prices provided by the Clearing Banks.	Ongoing
16.	Dealers to inform Cash Investors and Clearing Banks in cases where the Dealer's marks are materially below the vendor prices provided by the Clearing Bank.	Ongoing

Section 3: Background

The accompanying White Paper issued by the Federal Reserve provides additional detail on the history and mechanics of the tri-party repo market. Accordingly, the Task Force is not replicating that material here. In this section we simply review some of the main points necessary as a starting point for further analysis.

Tri-party repo grew from its origin as a funding instrument for U.S. Treasuries to include nearly all securities held by Dealers. The growth of the tri-party repo market mirrored the growth of Dealer balance sheets. The market evolved from a strictly overnight market to include significant term trading.

At peak levels in 2008, over US$ 2.8 trillion in securities were being financed through tri-party repo transactions, many with very short maturities, and involving the daily transfer of nearly the full amount of associated cash and securities on the accounts of one or the other of the two tri-party “Clearing Banks”: Bank of New York Mellon (BNY) and JPMorgan Chase (JPM).

Individual Dealers (repo sellers / borrowers) routinely financed more than US$ 100 bn in securities via the tri-party mechanism. The largest single firm exposure peaked at more than US$ 400 bn. Tri-party repo arrangements were at the center of the liquidity pressures faced by securities firms at the height of the financial crisis, especially as the pricing transparency and liquidity of some forms of tri-party collateral deteriorated at the same time that counterparty credit concerns were escalating.

Cash Investors in the tri-party market include money market mutual funds (2a-7 funds), securities lending agents (typically major custodian banks), and other institutional investors or fund managers (including commercial banks and corporate treasurers) who seek to invest cash short-term. The repo trades can be overnight trades, term trades with some fixed future maturity date, or open trades which remain in place until one or the other parties elects not to renew the trade.

At its heart, the tri-party repo market matches a large demand on the part of Cash Investors for safe, flexible, short-term investments with the desire for banks and securities dealers to finance their securities inventories on a more efficient and reliable basis than they can borrow on an unsecured basis. The treatment of repurchase transactions in bankruptcy, the use of securities as collateral (including daily margining and haircuts), and the custodian services of the Clearing Banks provide protections to repo Cash Investors that do not exist for unsecured creditors.

This mechanism for financing Dealer securities inventories grew during the last decade to become a substantial portion of total Dealer balance sheet liabilities. For reference, the daily volume of tri-party transactions is a multiple of the entire financial commercial paper market. Dealers collectively believed that this method of financing would be more stable than unsecured financing in the event of market or firm-specific stress events given the protections described above, in particular the fact that the repo Cash Investor is collateralized.

Currently, the bulk of the entire secured exposure passes from the Cash Investors to the Clearing Banks intraday to provide operational efficiency. The bulk of tri-party repo transactions currently are “unwound” vs. cash on the Clearing Banks’ books each day (normally around 8 am) , with new allocations effected on the books of the Clearing Banks beginning in the afternoon. As a result, the amount of secured credit and market risk exposure borne by the two Clearing Banks in the normal course of business today is extreme and there is uniform support from all tri-party repo market participants on the importance of reducing this intraday exposure as the top priority from a systemic risk perspective.

Section 4: Operational Arrangements

The Task Force workstream covering operational arrangements focused first on identifying the processes that must be enhanced to enable large reductions in intraday credit extensions by the Clearing Banks without hindering the trading and financing functionality associated with the current platform.[6] Three core processes were identified.

- Trade Booking Process: Some market participants do not submit complete trade information to the Clearing Banks on a timely basis after trade execution. Booking and submission flaws are two reasons Clearing Banks return collateral to Dealers and cash to Cash Investors every day, even when the repo has a maturity date beyond one day.

- Trade Confirmation: There is no industry-wide formalized two-way (Dealers and Cash Investors) or three-way (adding Clearing Bank) trade confirmation practice at the time of trade execution. Cash Investors and Dealers generally confirm their trades bilaterally. The timely reporting of trade information to Clearing Banks gives them more information for better risk management.

- Intraday Collateral Management: In most tri-party repo trades the Clearing Bank returns collateral to the Dealer and cash to the Cash Investor every day, even for term repo transactions. This practice is called the "unwind." The purpose of the "unwind" is operational in that it gives Dealers access to the collateral for daily settlement activity. The result is that most of the secured exposure is transferred from the Cash Investors to the Clearing Banks until collateral is returned to the Cash Investor later in the business day, resulting in excessive, albeit secured, intraday exposures for the two Clearing Banks.

The Task Force concluded that enhancements in these areas, in particular the development of robust automated intraday collateral substitution ("auto substitution") capability, together with implementation of new standardized settlement times for maturing repo trades, should enable very substantial reductions in intraday exposures without loss of functionality. Accordingly, the Task Force has developed and agreed on an ambitious industry action plan to achieve this objective. This action plan culminates in the "practical elimination" of intraday exposure by the middle of next year.

Recommendation 1.	**Implement operational enhancements to achieve the "practical elimination" of intraday credit by the Clearing Banks, where "practical elimination" is defined as a point beyond which the residual amounts of intraday credit extensions are both small and can be governed by transparent bilateral arrangements, known in advance to participants[7]. (30 Jun 2011)**

The use of the "practical elimination" standard as defined in this Recommendation reflects the desire to measure progress tangibly and quantitatively, while also recognizing that zero intraday secured financing is not a realistic target in this timeframe.

[6] Clearing Banks have employed two tactical solutions to reduce intraday exposures since December 2009:
- By eliminating the unwind of selected term repos, participating Dealers keep specific term loans fully collateralized and perform a minimal level of substitution in coordination with the Clearing Banks,
- By delaying the morning unwind process, Dealers reduce delivery obligations and can then re-allocate trades to eliminate intraday exposure.

Participation has been broad-based and has achieved an approximate $150 billion reduction in the daily unwind at the two Clearing Banks. Market participants are committed to implementing tactical solutions until the strategic solution is implemented. Term trades represent 10%-40% of the entire market. Going forward, market participants can reduce intraday exposure by replacing overnight maturing trades with term maturing trades and by segregating overnight maturing trades from open maturities.

[7] Market participants should target the reduction in intraday credit to be less than 10% of a Dealer's notional tri-party book (representing the estimated portion of a Dealer's book that reaches final maturity and is not rolled on a given day).

The action plan consists of additional intermediate milestones that the Task Force believes are necessary to achieve success with respect to the overall objective. These are as follows.

Trade Booking Process

An important pre-requisite for more ambitious changes is to first ensure as high a level of accuracy as possible in the recording and communication of all relevant trade details.

Recommendation 1B.	**Eliminate remaining sources of ambiguity or inaccuracy in tri-party repo booking procedures and trade communications to the Clearing Banks, including information related to the term of the transaction. (31 Aug 2010)**

Trade Confirmation

A three-way confirmation process will improve the quality and timeliness of trade information received by the Clearing Banks. Errors will be caught and resolved earlier in the day. Since most trades are executed early in the morning, Clearing Banks will have the essential funding information necessary to make an informed decision about extension of intraday credit to individual Dealers. The Task Force supports the use of open architecture and standard messaging protocols in regard to possible trade confirmation solution(s).

Recommendation 1D.	**Agree solution(s) for three-way, real-time, point of trade confirmations for tri-party repo transactions, inclusive of discussions with third-party vendors. (15 Oct 2010)**
Recommendation 1G.	**Implement market-wide, three-way, real-time, point of trade confirmation solution(s) which memorializes legally binding repo transactions entered into between Cash Investors and Dealers. (15 April 2011)**

It is essential that all repo participants agree that tri-party repo trades are legally binding agreements which are memorialized at the point of confirmation. See Annex 1 for the 'Minimum Parameters Required for Trade Matching' developed by the Task Force.

Intraday Collateral Management

There are two primary elements to the operational improvements needed in intraday collateral management. First, the Clearing Banks will need to develop and provide robust auto-substitution capability that allows Dealers to access and settle trades involving collateral being financed with tri-party repo without unwinding the underlying tri-party repo transaction. The second change in intraday collateral management needed is to establish agreed 24 hour settlement cycles that keep investors collateralized and borrowers funded throughout that period, since this will by definition reduce the need for routine intraday credit extensions by the Clearing Banks. In sum, the model that this will support has the following aspects for each major participant.

Dealers

- Preserves liquidity by allowing ready access to encumbered collateral
- Reduces credit dependency on the Clearing Banks as credit exposure is kept with Cash Investors
- Minimal impact to current trading practices as process becomes fully automated and highly efficient

Cash Investors

- Greatly reduces unsecured depositor risk to the Clearing Banks
- Ensures appropriate margined collateralization with eligible securities and cash throughout the day

Clearing Banks
- Greatly reduces the outsized intraday credit extension to Dealers resulting from the daily unwind
- Allows for greater clarity in credit lines and credit relationships with Dealers

Key milestones in relation to the Clearing Bank implementation of auto-substitution are as follows.

Recommendation 1A.	**Clearing Banks to provide project plans in relation to their implementation of robust automated collateral substitution ("auto-substitution") capability. (15 Jul 2010)**
Recommendation 1E.	**Clearing Banks to complete development of software to support auto-substitution capability and confirm timelines for full implementation. (15 Feb 2011)**

The second change in intraday collateral management that is needed is to establish agreed settlement times that keep Cash Investors collateralized and borrowers funded throughout the period, since this will by definition reduce the need for routine intraday credit extensions by the Clearing Banks.

Recommendation 1C.	**Agree to standardized intraday settlement time(s) for maturing repo trades (e.g., Morning Settlement, End of Day Settlement), that will be implemented following pre-requisite enhancements (e.g., auto-substitution). (31 Aug 2010)**

Although the new standardized settlement times will not be implemented right away, it is important to reach agreement on them within the next few months in order to plan other elements around them. In this context, it is also critical to recognize the agreement by the Legal Subcommittee regarding confirmation (via the three-way, point of trade confirmation) of the legally binding repo transactions entered into between Dealers and Cash Investors at the point of trade, as this will create a more solid foundation within which the industry will operate. Market participants should ensure that legal documentation is appropriately supportive of this obligation.

The following points summarize the current thinking in regard to potential standardized settlement times, taking into account the work done by the Task Force's legal workstream, as summarized in Annex 2 of the Report. These concepts will be discussed further and vetted across the industry prior to final decisions by the Task Force.

- Market participants should weigh the merits of developing a standard settlement for maturing transactions during the afternoon, unless the two counterparties otherwise agree to a morning settlement.
  - The benefits of a twice-daily settlement period for final maturity of transactions are significant; it would provide additional opportunities to reduce intraday credit extensions by the Clearing Banks, it would allow additional time for Cash Investors to provide final allocation account information to the Dealers and Clearing Banks, and it would keep Cash Investors fully secured through the 24 hour cycle.
  - These benefits need to be balanced with the challenges of introducing a second settlement period, including operational complexity during a compressed end of day timeframe, as well as the inability of Cash Investors to take possession and/or liquidate collateral late in the day.

- As agreed by the Legal Subcommittee, all trades entered into between a Cash Investor and a Dealer, including block trades, represent legally binding commitments to provide financing from Cash Investor to Dealer which is memorialized via the three-way confirmation. Otherwise, this solution will not effectively mitigate intraday exposure. (See Annex 2).

- It is incumbent upon Cash Investors to deliver sub-account trade information as early as possible during the day to transfer the risk of Dealer default to the appropriate specific entity(s) providing financing to the Dealer.

- Cash Investors and Dealers should seek to execute and confirm repos prior to 10 a.m. Note that later-day trades should still be able to be settled; however if both parties agree to a transaction in the morning it should be communicated through the confirmation process immediately so the Clearing Bank has an appropriate assessment of daily financing activity.

Readiness for Change

The operational changes discussed here will require a large amount of coordination and cooperation to achieve, especially in the rapid timeframe envisioned. Clearing Banks have a major role to play in laying out their plans and working closely with their customers. Cash Investors and Dealers also need to work constructively and aggressively to be sure they are ready for these changes.

Recommendation 1F.	**Dealers and Cash Investors to confirm that internal processes related to all aspects of tri-party repo are prepared for the operational enhancements recommended in this Report. (15 Feb 2011)**

The Task Force has identified the following areas for market participants to consider as they prepare for these changes in operational arrangements.

- Extensive operational and technology changes are required of all parties to support a significant increase in the lock-up of collateral from the current model.
- Substitutions, accounting (including the calculation and payment of interest), collateral valuation methodologies, and related processes need to be adapted to the new model.
- Cash Investors and Dealers require real-time information of the composition of collateral securing a term trade at any point during the day.
- Defining collateral substitution process for interbank GCF Repo collateral pledged to term trades.
- Efficiently targeting intraday securities and cash substitutions to minimize Cash Investors' unsecured depositor exposure to the Clearing Banks
- A transparent process for managing fails will need to be developed pending agreement on new standardized settlement times.

Impact

When collectively implemented, the new operational arrangements will drastically reduce the need for intraday credit from the Clearing Banks. Estimates from Clearing Banks are an immediate 10-40% reduction in intraday credit to Dealers from tactical solutions already underway, with reductions targeted at 90% or more when the strategic solutions are in place.

Ongoing Due Diligence

In addition to the action plan developed to support improvements in operational arrangements, the Task Force supports both Dealers and Cash Investors reviewing the operational practices of the Clearing Banks on a regular basis. This should include monitoring collateral allocations to ensure that collateral has been properly allocated and checking the price of the allocated collateral.

Recommendation 2.	**Dealers and Cash Investors to undertake regular due diligence reviews of Clearing Banks that cover, at a minimum, operational and contractual conformity, adherence to collateral allocation rules, and collateral pricing methodologies. (Ongoing)**

Section 5: Dealer Liquidity Risk Management

Dealer liquidity contingency plans and liquidity risk management practices pre-crisis had evolved predominantly during stable environments and in many cases were predicated on short-term secured funding being more stable during times of stress than unsecured funding. These approaches to liquidity risk management did not sufficiently appreciate the sensitivity of many Cash Investors to counterparty concerns even in the presence of high-quality collateral, the potential for a broad pullback in tri-party repo financing, and the loss of price transparency and liquidity for certain collateral types.

Dealers have taken these lessons to heart and have been applying them to their liquidity risk management practices. The supervisory and regulatory community has also made liquidity risk a priority issue and have been driving further improvements through proposed regulatory changes and heightened supervisory review. Among the areas of emphasis that have been highlighted in Task Force discussions are the following.

- Improving liquidity risk measurement and reporting capabilities, with respect to both granularity and frequency and the capture of instruments with contingent liquidity implications.

- Undertaking more systematic and detailed liquidity risk stress tests and using the results to help size more robust liquidity buffers.

- Making greater use of term funding where available. Staggering maturities and combining short-term and long-term funding with the same counterparty to modify incentives to withdraw short-term funding.

- More robust governance and increased senior management focus.

Liquidity risk management was not intended to be a primary focus of the Task Force, but is a crucial aspect for the analysis of how future stress scenarios could evolve and therefore for the assessment of systemic risk in relation to tri-party repo activity. In terms of Recommendations, the Task Force supports the broad emphasis on strengthening liquidity risk management practices and wishes to highlight the need for Dealers to ensure that the liquidity risk management aspects of tri-party repo activities receive priority attention.

Recommendation 3.	**Dealers need to incorporate lessons from the financial crisis experience related to tri-party repo in making appropriate improvements to liquidity risk management and planning. (Ongoing)**

In the context of the tri-party repo market, the “lesson learned” that stands out the most is the over-reliance on short-term secured funding and its presumed stability. Discussions in the Task Force emphasized repeatedly that many Cash Investors focus primarily if not almost exclusively on counterparty concerns and that they will withdraw secured funding on the same or very similar timeframes as they would withdraw unsecured funding.

Recommendation 4.	**Dealers should not assume that short-term tri-party repo financing with all of their counterparties throughout all market conditions is inherently stable. (Ongoing)**

Intraday Credit

A particular aspect of liquidity risk in the tri-party market going forward will be the treatment of maturing repos. If a Dealer is unable to roll over repo financing or otherwise finance the maturing assets, the Clearing Bank may choose not to allow the repo to mature, meaning the Cash Investor will retain the risk. Dealers will naturally be eager to prevent events from reaching this point, especially if it is not reflective of a broader deterioration in the Dealer’s condition.

Dealers therefore have a strong interest in clarifying the terms under which Clearing Banks would be willing to provide intraday secured financing, either on a discretionary basis or possibly on a committed basis. Clearing Banks have an interest in understanding the assumptions Dealers are making with respect to potential requests for Clearing Bank credit in a stress event. Bilateral discussions to explore these topics and address the range of terms involved (e.g., amount, drawdown conditions, maturity, fees, expiration, collateral eligibility, margin levels) will be beneficial in providing clarity to both Dealers and Clearing Banks ahead of future stress events.

Recommendation 5.	**Dealers and Clearing Banks to assess and clarify terms for the potential availability of secured intraday credit facilities (both discretionary and committed) to mitigate the liquidity risks associated with maturing repo trades. (15 Nov 2010)**

Section 6: Margining Practices

Recent market events have highlighted several issues related to margining practices. These issues include:

- Margin Levels: Margin levels in certain asset classes were insufficient to cover the close-out/liquidation risk of the securities held as collateral.

- Valuations: Market participants did not sufficiently anticipate the potential for some types of repo collateral to lose price transparency and liquidity for extended periods of time.

- Margining Process between Dealer and Clearing Bank: The Clearing Bank unwind and margining process was not well understood by all Dealers and Cash Investors

Due to the issues highlighted above, some Cash Investors were becoming more exposed to counterparty credit risk at the same time that counterparty credit concerns were escalating. As a result, behavior started to trend closer to the behavior of unsecured credit investors, resulting in Cash Investors exiting the repo market or drastically changing their collateral requirements. Given the heavy reliance on the repo market for financing, this pull back in funding and the meaningful increases in margin requirements in a deteriorating market contributed to systemic risk concerns.

To address these issues, the Task Force initiated a workstream on margining practices, which has developed a set of principles for firms to use in setting margins. The Task Force believes that if Cash Investors and Clearing Banks fully incorporate these principles into their margin processes, the result will be more robust, less pro-cyclical, and more transparent and predictable margins. In turn, this will contribute to the stability of the repo market in future times of market stress.

It is important to note that the Task Force is not endorsing standardization of margining methodologies or of margin levels across the market. The Task Force believes the margining process is a risk management tool, and each institution should be afforded the flexibility to manage their risk in accordance with their own risk management policies, principles, and processes.

Principles to Consider For Margin Requirements

Risk Based

As volatility increased throughout 2008, market participants recognized that the liquidation value of the collateral received might not be sufficient to recover 100% of the repo financing in the event of a Dealer default. The Task Force believes that this uncertainty can lead to instability as Cash Investors are more likely to exit the repo market or exclude broad asset types in order to avoid unsecured exposure in a deteriorating market.

In hindsight we believe that this uncertainty was largely driven by an underestimation of how quickly a healthy market can transition into a stressed market in which a Dealer's credit quality and asset liquidity becomes a concern.

There is broad agreement within the Task Force that Clearing Banks and Cash Investors should set margin requirements considering the potential price decline of the securities held as collateral during a period of market stress and volatility while assuming a strong correlation with a Dealer's failure to perform. This risk based analysis should also consider:

- Portfolio concentration risks: A portfolio of diverse assets may perform better than a highly concentrated portfolio. In other words, an increase in portfolio concentrations will correspond to an increase in security-specific, idiosyncratic gap risk.

- Liquidation horizon: A conservative liquidation time horizon should be assumed to support an orderly liquidation of collateral and to account for potential delays in liquidating a portfolio. These delays can be driven by potential stay periods (e.g. SIPC Stay) or by asset concentrations (e.g. a security holding may exceed the daily traded volume, and therefore multiple days may be required for the market to absorb the position), or possibly other factors.

- Implied & historical asset volatility: When calculating counterparty risk exposure, market participants should complement a historical volatility analysis with the implied volatility in the markets. This is important since history is not always a good proxy for the future.

- Stress testing: In cases of stable markets where implied volatility is low and historical volatility assumptions have decayed, an overlay of market stress testing to determine margin levels is critical to ensure that a low volatility environment does not lead to pro-cyclical behavior.

It is important to note that although the Task Force encourages all market participants to fully analyze all risks inherent in the tri-party repo market, it is not intended to be a risk-free market. Market participants should have flexibility to scale their margining levels up or down in exchange for incremental yield based upon their individual risk appetite. The key is for market participants to size their appetite for unsecured credit risk and then set assumptions and margins accordingly[8].

Granularity
In order to properly quantify the liquidation risk, the margin analysis should be conducted at least at a level granular enough to distinguish the risk between the various asset classes, credit ratings, durations, etc. As an example, it may not be sufficient to look at the historical price volatility of Corporate Bonds. The Corporate Bond asset class is very broad and includes sub-asset classes that may have different risk and liquidity profiles.

By enabling margin levels to be set at a more granular level Clearing Banks/Cash Investors will be in a better position to understand/assess the risk of collateral that they hold, as well as ensure that the margin properly covers their liquidation risk.

Periodic Review
It is important to review the methodologies and assumptions that are used in the calculation on a periodic basis in order to recalibrate the haircuts. Although the initial haircuts have already assumed a stressed scenario, the recalibration will be required if changes in market conditions prove that various assumptions were too aggressive or too conservative.

Reliable 3rd Party Valuations
Collateralizing tri-party repo trades with assets that have reliable 3rd party valuations is an integral part of any risk based margining process. This is discussed further in Section 8 below.

Practicality
As a counterbalance to the principles above, any margining proposal should consider the practicality of the calculation/implementation. Simply put, a robust risk-based algorithm that analyzes stress levels and volatility at the cusip level may be ideal from a risk management approach, but the practical requirements of building this infrastructure and rolling out this approach to all market participants is beyond what market-wide infrastructure can currently manage. For most Cash Investors, the Task Force believes that setting margin levels by asset class provides an appropriate balance, allowing credit ratings and maturities to be taken into account, with sufficient granularity to ensure sufficient risk differentiation but also ensuring that the number of collateral types associated with margin levels is manageable. In addition, the repo market will need to balance any new risk based approaches with the potential cost of implementation as well as the operational difficulties associated with day-to-

[8] As discussed in Section 5, some Cash Investors assign more weight to the Dealer credit quality, independently of the collateral pledged, so risk-based margining may not prevent Cash Investors from exiting tri-party repos with a deteriorating Dealer.

day management. However, the principles outlined here should be followed by all market participants, regardless of the risk management tools and the specific approach they use to implement them. This may mean that some securities are not appropriate for certain Cash Investors. This will be driven, at least in part, by the Cash Investors' ability to analyze the risk of the specific asset class given their internal risk systems.

Avoid Pro-Cyclical Behavior

As risk was perceived to be lower and spreads tightened throughout the last credit cycle a common trend was to see reductions in the amount of collateral that was provided in the repo market. At the time, the market accepted this practice based upon the prevailing stable market.

As the markets deteriorated in 2008 and 2009 market participants changed margin rule sets by excluding certain asset types and increasing margin levels in order to offset the perceived higher collateral liquidation risk due to the increase in price volatility. At the extreme, some participants pulled out of the repo market because they became uncomfortable with the unsecured credit risk resulting from insufficient margin. This pro-cyclical behavior incented risk-taking in periods of stability and it constrained liquidity at the worst possible time. In some cases, this also resulted in particular concern as some Dealers relied on Clearing Banks to finance collateral no longer accepted by Cash Investors while alternative financing was sought.

In general, the Task Force believes the margining process should avoid pro-cyclical behavior whereby Clearing Banks and Cash Investors change their rule sets in a sudden and capricious way in times of stress, leaving Dealers with little financing options for illiquid collateral. As a more risk-focused and stress-based haircut approach is incorporated we believe this pro-cyclical behavior will be reduced because of the higher margin levels that will be applied ex ante and regularly adjusted throughout the market cycle. This should reduce dramatic or unexpected calls for additional collateral. Furthermore, this through-the-cycle margin will provide sufficient protection such that increases in volatility or reductions in liquidity and price transparency will not have the same significant impact on repo funding or margin arrangements.

Objective & Transparent Methodology

Misunderstandings related to the tri-party margining process between Dealers and Clearing Banks was another driver of instability in the recent market crisis. While both Clearing Banks and Cash Investors had discretion to increase their margin, there was no framework to disclose or explain the margin methodology or underlying drivers and assumptions.

In contrast, the Task Force believes that an objective, well defined, and transparent methodology that reduces unexpected increases or decreases in margin requirements should contribute to the elimination of this uncertainty. Furthermore, we believe a more transparent approach will reduce the need for unanticipated and poorly understood margin calls. A key feature of this approach will be disclosure that explains the drivers and rationale of the calculation, as well as its underlying assumptions and mechanics (e.g., how are credit risk, interest rate risk, liquidity, concentration risks, etc. accounted for?).

Additionally, any changes to the methodology should be communicated to all parties, and should be phased into the margining process with reasonable notice time. Although the ability to increase haircuts is a key component to risk management, the phasing-in of changes to the margining process should not materially impact the various parties' credit exposure analysis as the agreed upon through-the-cycle haircuts have already assumed a stress based cushion. Additionally, this phased-in approach will give Dealers sufficient time to prepare for increased haircuts or to otherwise manage their inventory if posting the incremental margin is uneconomic. As a result, we believe this process will reduce the possibility that changes in repo margining will have a destabilizing impact on the market.

Determining Appropriate Margins

Because of the complexities of the margining process, the Task Force is not making detailed technical Recommendations on margin approaches. Instead, the Task Force has articulated the principles just described and

recommends that market participants adopt these principles within their own risk management approaches. In addition, the Task Force recommends that market participants review the regular publication of tri-party repo margin levels that will become available as the result of the Task Force's Recommendations in Section 8 of the Report. These should serve as a benchmark for assessing margin levels but are not a substitute for undertaking one's own analysis. Information on the relative concentration of Dealers in different asset categories may be informative with respect to the potential for larger liquidity effects on pricing in the event of a liquidation and therefore might be particularly useful in the margin context.

Recommendation 6.	**Cash Investors, Dealers, and Clearing Banks to determine appropriate collateral margins in line with the principles set out in Section 6 of this Report, taking note of monthly Tri-Party Repo Statistics to be published on the Federal Reserve Bank of New York website. (Ongoing)**

Although this Recommendation is addressed to both Clearing Banks and Cash Investors, it is important to note that the implementation considerations are different. Therefore, it should not be expected that the specific margining methodologies/processes would be the same between Clearing Banks and Cash Investors.

Margining Process between Dealer and Clearing Bank

The Clearing Bank unwind and margining process was not well understood by all Dealers. As highlighted above, the Task Force does not propose a precise margining methodology to be used by all Clearing Banks. Instead we recommend that Clearing Banks / Dealers work together to improve transparency and reduce subjectivity in the daily margining process.

Recommendation 7.	**Clearing Banks to continue to share information on intraday margin methodologies and processes with respective Dealers. (Ongoing)**

Section 7: Contingency Planning

The focus of this part of the Task Force's efforts has been on improving preparedness to cope effectively with the default of a Dealer firm. Given the Recommendations on operational arrangements and the envisioned reductions in Clearing Bank provision of intraday credit, it follows that Cash Investors should have even stronger incentives to engage in effective contingency planning for such events.

A critical starting point for such contingency planning is the assessment of potential impacts from such a default event. This type of stress analysis should consider the default of the Cash Investor's single largest repo counterparty (as measured by exposure), a standard that has long been applied to participants in systemically important payment and settlement arrangements. In addition, it should consider the impact of that Dealer's default on the price of the collateral that would need to be liquidated, the length of time the Cash Investor believes would be available for such liquidation, and any other factors that might impact the proceeds from collateral liquidation. The results of the stress analysis should factor into the risk assessment and risk appetite of Cash Investors as well as their collateral concentration limits and margin setting processes. These results should be discussed with senior management and boards as appropriate depending on the nature of the organization.

Recommendation 8.	**Cash Investors to undertake regular stress tests of tri-party repo counterparty exposures that consider a default of the largest repo counterparty together with potential changes in the market value of the underlying collateral. (Ongoing)**

After a Dealer default, Cash Investors have the right to seize and liquidate the collateral and should have appropriate processes and procedures to handle collateral management and liquidation. In the event that the collateral liquidation proceeds are insufficient to offset the entire amount of the Cash Investor's claim, the Cash Investor retains an unsecured claim against the Dealer for the amount not satisfied. Thoughtful management of the collateral can minimize the impact to an individual Cash Investor and to the market as a whole.

Cash Investors should be prepared for a borrower default by having policies, procedures, and systems in place to be able to facilitate the delivery of collateral. This plan could include instructing the Clearing Bank that holds the collateral on behalf of the Cash Investor prior to the default to transfer the collateral to a segregated collateral account at the Clearing Bank. The Cash Investor, either directly or with the assistance of an agent, must be able to price the collateral in order to assign a price to their defaulted repo position held by the Cash Investor (e.g., market value of defaulted repo position is dependent upon the market value of the collateral it expects to receive upon liquidation).

Cash Investors should have a cohesive strategy and resources to support the orderly liquidation of a defaulted Dealer's tri-party repo collateral. Depending upon market conditions, immediate liquidation may not be the best option for some Cash Investors. The defaulted repo position could be an illiquid holding and the Cash Investor may need liquidity before the repo collateral is liquidated. Each Cash Investor should have an overall liquidity plan which takes into account the possibility of a Dealer default. Some Cash Investors may choose to manage the sale of collateral directly while others may elect to use a delegated liquidation agent. Cash investors should establish, monitor, and test these procedures to ensure that agents are able to accept the delivery of collateral at any time.

Recommendation 9.	**Cash Investors to put in place and regularly review contingency plans for a Dealer default that cover, at a minimum, a process for effectively managing collateral, including a plan to manage liquidity and risk exposure during the liquidation process. (15 Jan 2011)**

Building on the work of Task Force, to which it has contributed substantially, the Investment Company Institute is developing a more comprehensive set of Best Practice guidance for the Cash Investor community, with a particular focus on money market mutual funds. The Task Force strongly supports this initiative.

Recommendation 10.	**Relevant industry associations in conjunction with their constituents are encouraged to publish comprehensive Best Practice guidance for Cash Investors. (30 Sep 2010)**

Mitigating liquidity impact of Dealer default

There are several possible ways to reduce the liquidity impact of a failing Dealer on Cash Investors, in addition to the obvious approach of reducing the size of repo exposures in the first place.

Pre-arranging secured liquidity facilities

Cash Investors may choose to enter into a committed liquidity facility that would allow them to obtain temporary liquidity secured by high-quality unencumbered securities that they own. Many Cash Investors own sufficient high-quality, short-dated securities that could collateralize the funding under such a facility. The facility would reduce the need to engage in a "fire sale" of collateral that could depress securities prices. Cash investors would need to gauge how large a credit facility might be needed to cover their liquidity needs. This must be reassessed regularly. The potential use of such facilities by regulated Cash Investors should be discussed with those regulators.

Netting/offset of Dealer positions through DTCC (The Depository Trust & Clearing Corporation)

Offseting positions that Cash Investors hold relative to a defaulted Dealer and those that the Dealer held with its other clients reduces the number of positions that need to be liquidated. The more potential offsets that can be identified, the less potential liquidation needs to occur

In the event of a Dealer default, Clearing Banks and DTCC should review all FICC (Fixed Income Clearing Corporation), NSCC (National Securities Clearing Corporation), and DTC (The Depository Trust Company) sell positions in order to identify tri-party repo collateral that can be used to satisfy the defaulted Dealer's short positions through a netting/set-off process, which could result in less collateral to be liquidated in the open market. Procedures need to be in place to control this flow. DTCC has existing infrastructure in place with Clearing Banks that could potentially be leveraged to accommodate this process. DTCC did a preliminary sample analysis of three large tri-party repo portfolios based on data received from each of the Clearing Banks. The analysis focused on U.S. Treasury and U.S. Agency debt collateral. Netting opportunities ranged from 9% to 18%.

Recommendation 11.	**DTCC and its affiliates to work with other market participants to maximize the potential for offsetting of positions in the event of a Dealer default; DTCC and/or other interested parties can provide a viable collateral liquidation management service for those Cash Investors wishing to delegate these activities. (30 Nov 2010)**

Additional Concepts

Liquidity Stabilization Utility

This is a more far-reaching concept as mentioned in Section 1 of the Report. The idea would be to establish an ongoing bank entity, the Liquidity Stabilization Utility (LSU), which would exist for the primary purpose of providing liquidity to Cash Investors. The LSU could provide Cash Investors a collateralized loan transaction secured by high quality short term assets owned by the Cash Investors. Cash Investors could then dispose of the repo collateral received from the defaulted Dealer in an orderly manner.

As a bank, the LSU could in principle raise cash to fund the loans to the Cash Investors by pledging the high quality assets to the Federal Reserve discount window. The objective would be to eliminate as far as possible the risk of loss to the LSU or the Federal Reserve by having the relevant Cash Investors contractually obligated to bear the

first loss of any shortfalls due to the prices obtained in the ultimate liquidation. Capital would be built up in the LSU over time through fees, allowing it to play a greater role in providing liquidity as it grows.

As noted in Section 1, the LSU raises a number of issues, including its ultimate reliance on Federal Reserve liquidity, and therefore the Task Force is not including a recommendation regarding the LSU.

Central Counterparty

Another far-reaching concept is the notion of a central counterparty or "CCP" for tri-party repo transactions. At the heart of the CCP idea is the concept of mutualization of any losses above the margins charged by the CCP. These are expected to be higher than those charged in bilateral transactions. The mutualization could occur across the Dealer community, or across some combination of Dealers and Cash Investors, and would not necessarily imply any change in infrastructure relative to that maintained by the two Clearing Banks. Because the CCP stands in as the counterparty facing Cash Investors in its tri-party transactions, in principle it could finance the liquidation of collateral associated with a defaulted Dealer simply by undertaking new tri-party transactions. As long as the credit quality of the CCP itself was not in question, this approach would therefore have potential to address concerns both with respect to the "fire sale" liquidation of collateral and with respect to the stability of tri-party financing. The costs and complexity of the issues involved, however, especially prior to the operational enhancements needed to eliminate the need for intraday credit, lead the Task Force to avoid making a specific recommendation regarding a central counterparty.

Recommendation 12.	**All market participants to continue exploring additional concepts that have the potential to add to the stability and resilience of tri-party repo financing and/or reduce the potential for collateral "fire sales" in the event of a Dealer default. (Ongoing)**

Section 8: Transparency

The tri-party repo market has historically seen only limited disclosures regarding the aggregate size of the market, collateral types, and margin levels. This lack of transparency contributes to market uncertainty during times of stress and also may have contributed to under-estimates of the extent of pro-cyclicality inherent in pre-crisis margin levels and in the systemic risk potential of the tri-party repo market overall.

Recommendation 13. **Initiate monthly publication, via the Federal Reserve, of aggregate statistics on tri-party repo collateral and Cash Investor margin levels, with disclosure by asset class, based on information provided by the Clearing Banks. (See Table 1 for a pilot version.) (30 Jul 2010)**

The pilot version of the report does not yet include term information, however the plan is to provide this once it is available and reviewed by the Task Force.

Collateral Valuation

As highlighted in the discussion of margining practices, margins will only be effective to the extent they are being applied in conjunction with an accurate price for the securities held as collateral. If inaccurate prices are being supplied by third party vendors the Clearing Bank/Cash Investor may be exposed to a situation where the market value of collateral is insufficient to cover the repo notional. This could potentially result in unsecured counterparty credit exposure resulting from 'collateral valuation risk'.

In order to minimize the collateral valuation risk the Task Force believes the valuation process requires robust, reliable and independent pricing sources. Managing collateral valuation risk requires that participants understand the nature and type of sources that are being used together with associated methodologies, in particular where model-based prices are being used, as well as the assumptions and input sources associated with those models. There may also be some collateral types where collective efforts by Dealers could further enhance the transparency of valuation. For example, in some markets, third party services have enabled anonymous compilation of marks applied and thereby provided additional useful information on the range and central tendency of such marks.

Given the loss of liquidity and the increase in valuation uncertainty that some collateral types experienced during the crisis, there may also be benefit in exploring whether additional information on the range and nature of valuations could be useful in measuring the extent of valuation uncertainty. Cash Investors would also benefit from understanding as rapidly as possible when and where valuation uncertainty is increasing.

Lastly, in the current environment, there are many asset classes for which the vendors provide pricing as of the *previous* day's close of business. In a volatile market, this stale pricing can misstate the current value of the assets. As a result, there is a need to evaluate the possibility of providing same day pricing valuations across a wider range of assets included within the tri-party repo market.

For all these reasons, the Task Force believes that it is desirable to establish a focused working group of valuation specialists to look at these and other issues and to make recommendations.

Recommendation 14. **The Task Force will establish a working group of valuation specialists across tri-party repo market participants to evaluate collateral pricing methods and make recommendations for improvements, including the feasibility of same-day pricing. (15 Oct 2010)**

On a regular basis, both Dealers and Cash Investors should be comparing or testing valuations provided by Clearing Banks. Cash Investors should test the vendor prices provided by the Clearing Bank to determine if the level of over-collateralization is appropriate. Running independent pricing analysis can help Cash Investors identify

potential issues and correct them. Cash Investors should be able to price the collateral they receive and should validate their prices with Clearing Banks and Dealers. This supports validating the prices used by Clearing Banks and increases price transparency across the tri-party repo market. Dealers should likewise include a comparison of valuations as part of their regular interactions with Clearing Banks. This could include establishing bilateral tolerance levels that trigger greater review or discussion between the Dealer and the Clearing Bank.

Recommendation 15.	**Cash Investors to regularly validate tri-party collateral for pricing, appropriateness, and classification. Dealers to regularly compare collateral marks on their own books and records with vendor prices provided by the Clearing Banks. (Ongoing)**

A special case arises when the Dealer's marks for a given security are materially below the prices provided by the Clearing Banks, which obtain them from third party vendors. In such cases, Dealers should highlight the variations to Cash Investors and Clearing Banks to ensure that repo transactions are not financing securities at levels that would imply a material shortfall of margin, assuming the Dealer's valuation is the correct one.

Recommendation 16.	**Dealers to inform Cash Investors and Clearing Banks in cases where the Dealer's marks are materially below the vendor prices provided by the Clearing Bank. (Ongoing)**

Section 9: Assessment

As discussed in Section 1 of this Report, the recent credit crisis highlighted material weaknesses in the U.S. tri-party repo market that exposed the global financial markets to systemic risk. These weaknesses can be grouped into the following categories:

- Operational Arrangements: The daily unwind process resulted in the two Clearing Banks extending up to $2.8 trillion dollars in intraday funding. This also resulted in uncertainty as to where the credit exposure resided throughout the day.

- Dealer Liquidity Risk Management: Examples include Dealers' reliance on very short-dated repo financing, as well as Dealers' reliance on uncommitted funding to support the daily unwind process.

- Margining Practices: Pro-cyclical margining practices resulted in a loss of liquidity for Dealers in a stressed market.

- Contingency Planning: Insufficient preparation for market participants to cope with a Dealer default.

- Transparency: The market generally lacked transparency in terms of market depth and risk.

In aggregate, the proposals that are detailed in this Report will drastically reduce, although not eliminate, many of these risks. The following paragraphs will summarize, through specific examples, where this risk is reduced.

The practical elimination of the daily unwinds for non-maturing trades will reduce the intraday credit by the Clearing Banks to less than 10%[9]. At its peak, this would have resulted in a *$2.5* trillion reduction in Clearing Banks' credit risk. Furthermore, by potentially re-setting the market standard for unwinding maturing trades until later in the day, the Clearing Banks' remaining credit risk will be further reduced to an afternoon window period in a given day with regards to the unwind process for maturing trades[10].

In order to improve Cash Investors' capacity to manage a Dealer default, the Recommendations in this Report (1) encourage a more risk based, non pro-cyclical margining process that will improve the expected recovery rate in a default scenario, and (2) provide an industry netting mechanism and support an optional liquidation agent. These enhancements will improve the resiliency of the product as participants will have greater access to a fully functional operational process for collateral liquidation.

From a Dealer's perspective, although the amount of intraday funding required from the Clearing Banks is limited, a transition from uncommitted funding facilities to committed funding facilities would greatly reduce a Dealer's liquidity risk. Additionally, by the market moving to a risk-based, non pro-cyclical margining process the Dealers will be less likely to see a massive withdrawal of funding as they enter a stressed environment.

Lastly, the industry is undertaking an effort to improve market transparency. This transparency will come in various forms: (1) the industry's first monthly publication which details the overall size and depth of the U.S. tri-party repo market, (2) Tri-Party Repo Best Practices guidance for Cash Investors which will educate all market participants as to the risks of the product and the best practices to manage these risks, (3) a three-way, real-time trade confirmation process, and (4) practical elimination of the daily unwind process which will ensure clarity on intraday exposures. This will substantially enhance the ability for supervisors and market participants to assess trends and call attention to emerging issues before they become systemic in nature.

[9] The 10 % represents the estimated portion of a Dealer's book that matures or receives initial funding on a given day.

[10] Clearing Banks may additionally provide some intraday credit related to cash substitutions prior to trade maturity. We do not expect these amounts to be material.

It is important to note that the Task Force was not mandated to opine on the liquidity risk management practices of the various Dealers. Although the Report has touched briefly on some general best practices on this topic, it also seems clear that upcoming regulatory changes (e.g. Basel III, etc) will further reduce, although not eliminate, the probability of a Dealer default by increasing capital and liquidity standards generally. The standards proposed in relation to liquidity are particularly relevant as they are likely to mean that lower-quality collateral funded via short-dated repo must be matched by liquid assets within the firm's liquidity buffer.

The benefits of these modifications are illustrated by the following simplified transaction examples that compare (1) the current tri-party framework, and (2) the framework after implementation of all proposals:

Example #1: Business As Usual Scenario - Repo Trade Is Extended[11]

- Assumptions
  - Dealer has a single, $1.0bn repo maturing today
  - Dealer and Cash Investor agree to enter into a new $1.0bn repo prior to the morning deadline
  - The collateral allocation is static (e.g. no collateral substitutions are required)

- Current Market Process
  - The Clearing Bank is not notified of the new trade details
  - The Clearing Bank extends a $1.0bn intraday loan to the Dealer as part of the daily unwind process
  - The Clearing Bank credits a $1.0bn deposit into the Cash Investor's account
  - The Dealer is reliant on a discretionary line of credit from the Clearing Bank to manage the operational flows on this trade
  - At the end of the day: the Clearing Bank reallocates the collateral to the Cash Investor; withdraws the cash deposit from the Cash Investor's account, and closes out the intraday loan to the Dealer
  - Cash Investor's credit risk is transferred between secured Dealer risk and unsecured Clearing Bank deposit risk. The timing of this risk transfer is unknown to Cash Investor throughout the day

- Post Task Force Implementation
  - The Dealer, Cash Investor, and Clearing Bank confirm the details of the new trade via the three-way, real time confirmation process
  - The trade is no longer subject to the daily unwind
  - The Clearing Bank will not need to extend any credit to the Dealer in the context of this example
  - The Cash Investor has repo exposure to the Dealer all day

Example #2: Business As Usual Scenario – Repo Trade Matures

- Assumptions
  - Dealer has a single, $1.0bn repo maturing today
  - The Dealer and Cash Investor are unable to agree on a new repo trade
  - The collateral allocation is static (e.g. no collateral substitutions are required)
  - In the Post Implementation Task Force scenario, the original trade will be subject to the End of Day Settlement time discussed in Section 4 of the Report.

- Current Market Process
  - In the morning, the Clearing Bank extends a $1.0bn intraday loan to the Dealer as part of the daily unwind process
  - The Clearing Bank credits a $1.0bn deposit into the Cash Investor's account

[11] With the exception of the confirmation process, a non-maturing term trade will have similar mechanics

   - The Dealer is reliant on a discretionary line of credit from the Clearing Bank to manage the operation flows on this trade
   - Cash Investor withdraws this cash in the morning leaving the Clearing Bank with sole exposure to the Dealer
   - At the end of the day, the Dealer repays the $1.0bn to the Clearing Bank to close out the intraday loan

- Post Task Force Implementation
   - *At the end of the business day and subject to the terms of the committed funding line in place between the Dealer and the Clearing Bank*[12], the Clearing Bank extends a $1.0bn loan to the Dealer, and credits $1.0bn of cash into the Cash Investors account
   - From the Dealer's perspective, the intraday loan is committed subject to the terms of the agreement
   - The Cash Investor withdraws its cash at the end of the day
   - The Dealer will repay the intraday loan prior to the end of the day

Example #3: Dealer Stress Scenario ($1.0bn repo trade does not mature due to Dealer default)

- Assumptions
   - Dealer has a single, $1.0bn repo maturing today
   - In the Post Implementation Task Force scenario, Dealer is unable to meet the terms of its committed intraday funding facility from the Clearing Bank (e.g. unable to post the necessary collateral), and the Dealer is unable to repay the principal amount due

- Current Market Process
   - Due to the stress in the market, there is general uncertainty as to how the unwind process will work:
      - The Clearing Bank may or may not unwind this trade
      - The Dealer does not have any clarity as to whether the trade will unwind
      - The Cash Investor does not know if/how the maturing trade will be unwound
      - If the trade is not unwound and the Dealer defaults, there is uncertainty regarding the liquidation process

- Post Task Force Implementation
   - At the end of the day, the Clearing Bank makes a margin call to the Dealer; Dealer is unable to meet the call
   - Per the terms of the committed funding facility the Clearing Bank will not unwind the maturing trade (i.e. no credit will be extended to the Dealer, collateral will remain in the Cash Investors account). As a result, the Cash Investor will retain its risk to the Dealer
   - At the end of the day, if the Dealer has not repaid the principal due, the collateral liquidation process will begin
      - The industry netting process would pair off trades to reduce the inventory that will be delivered to the Cash Investors
      - If elected, the remaining collateral after netting will be transferred to the third party liquidation agent who will act on behalf of the Cash Investor
      - In general, the Cash Investor will be better prepared to manage this scenario due to their improved contingency planning

[12] Terms may include maximum funding capacity, collateral eligibility, defined haircuts, etc

Section 10: Next Steps

Upon the publication of this Report the Task Force's *original* mandate will be completed. However, in order to maintain the current momentum through to execution, the Task Force proposes to take ownership of the implementation phase from a collective industry perspective. This proposal is intended to combine the benefits of continuity with the flexibility to evolve the Task Force and the individuals that are participating. The Task Force also recognizes that other groupings may in time be seen as more natural points of governance for certain issues discussed in this Report. Nevertheless, the Task Force believes the greater concern in the short run must be to maintain momentum and drive the operational improvements needed in the tri-party repo infrastructure.

Accordingly, the focus of the Task Force's next phase will consist of: (1) the execution of its Recommendations, in particular the industry action plan to improve tri-party repo operational arrangements, and (2) analyzing and adapting these Recommendations based upon potential regulatory developments and responses to the Federal Reserve's White Paper. The Task Force will maintain a working group focused primarily on operational infrastructure improvements and will establish a second working group on valuation issues as outlined in the Recommendations. The Task Force will also continue to seek input from market participants not directly represented on the Task Force.

The Task Force wishes to thank all market participants and staff at official agencies who provided input or otherwise contributed to this Report. A full listing of the Task Force members and those who contributed to its work streams is included as Annex 4 of the Report.

Section 11: Annexes

Annex 1 - Minimum Parameters Required for Trade Matching

A minimum number of parameters must agree in order for a booked trade to be matched.

These parameters have been listed and defined below. There are certain economic terms of a repo trade, such as the actual benchmark used, which may not have been defined in the initial booking, but which are not required for a successful match. All fields listed below must be populated, at least with default values. No fields can be blank unless otherwise noted below.

1. Buyer legal entity. The Buyer's legal name. For the initial morning trades, prior to beneficial owner sub-account allocations being ready, the Buyer's legal name may belong to the top account owner, the investment advisor, or another affiliated entity representing the eventual beneficial owner(s). In the afternoon, once allocations are available, this field would be populated with beneficial owner's legal name.

2. Seller legal entity. The Seller's legal entity name.

3. Transaction type. (Repo, B/P, [other]) The default would be Repo.

4. Trade date. (MM/DD/YYYY) The date the trade's terms are agreed.

5. Settlement/start date. (MM/DD/YYYY) The date on which the Buyer's cash begins funding the Seller's inventory.

6. Currency. (CCY) This will default to USD.

7. Principal. The size of the repo financing, listed in the units of CCY.

8. Rate type. (fixed or floating)

9. Rate. (NNNN bps) If "Rate type" is fixed, the fixed rate is entered. If the "Rate type" is floating, the applicable spread to the benchmark would be included. The benchmark would be included in a subsequent communication.

10. Maturity date. (MM/DD/YYYY) The date when a trade matures, whether it is an overnight trade or a term trade longer than overnight. Open trades will have a standard representation TBD in this field.

11. Collateral type identification. The Seller and Buyer will input the same identifier to represent the collateral agreed to under the trade. The Clearing Bank will need to be able to recognize, at the very least at a high level, what this collateral basket is (e.g., Treasuries, common equities, etc.) in order to do allocations. Note: this may require a standard collateral classification across all market participants, as well as more standard collateral schedules.

12. Block trade identification. This field is necessary to be populated by the Matching Service in order for subsequent allocations to beneficial owner sub-accounts can cancel and replace the original early morning top account trades. This will only be used for trades that have afternoon allocations.

13. Initial/Revised Breakdown. (Will become final breakdown if no subsequent submission received at "end of day" - to be defined)

14. Morning/Afternoon settlement. (If convention is adopted by industry)

15. Rolled Trade. (Y/N)

Annex 2 - Summary of Work of the Legal Subcommittee of the Task Force on Tri-Party Repo Infrastructure

Overview
Under the leadership of the Federal Reserve Bank of New York, the Legal Subcommittee of the Tri-Party Repo Task Force included legal representatives from Cash Investors (asset managers/repo Buyers, Dealers (repo Sellers), and Clearing Banks. The work of the Legal Subcommittee focused on trying to provide legal solutions to the following two challenges in the tri-party repo market:

1. Confirming the legal certainty regarding repo commitments made early in the day between various funds and/or joint account(s) and their Dealer counterparties (on a principal to principal basis) while maintaining flexibility to change allocations to specific principals after the overall commitment is established; and
2. Eliminating the daily unwind of cash and collateral currently performed by the Clearing Banks in respect of term repurchase transactions and, to the greatest extent possible, eliminating the daily unwind of cash and collateral performed by the Clearing Banks in respect of all other repurchase transactions.

The proposal of the Legal Subcommittee is described below, in broad terms. This proposal is intended to cover all types of repurchase transactions, including transactions which involve joint trading accounts as well as transactions involving government and non-government securities, with the understanding that there will no longer be daily unwinds for term repurchase transactions. In addition, the Legal Subcommittee thought it was important to note that each time a Cash Investor and a Dealer enter into a new repurchase transaction (even if that transaction is between the same Cash Investor and Dealer and for the same Purchase Price as the transaction entered into on the prior day), such subsequent transaction is legally a new transaction. The use of capitalized terms refers to common definitions in master repurchase agreements.

Note that as discussed in Section 4 Operational Arrangements, these proposals on new standardized settlement times have not yet been agreed or finalized. The below is an outline of how a Morning Settlement and or End of Day Settlement could work.

Operational Assumptions
This summary assumes that the Clearing Banks would be able to support two operational changes to current practice:

1. Dealers would be able to substitute collateral in Cash Investors' account throughout the Business Day in compliance with applicable margin requirements; and
2. There will be a three party confirmation system through which Cash Investors, Dealers and Clearing Banks will have complete information regarding what has been agreed to between Cash Investors and Dealers early in the trading day and through which repurchase transactions may be allocated among Cash Investors and the allocations adjusted at agreed upon intervals during the Business Day. Such confirmation system shall be referred to herein as the "Three Party Confirmation".

Lifecycle of an Overnight Repurchase Transaction

- As a general rule, subject to the provisions below, the maturity of an overnight repurchase transaction agreed to on any Business Day will occur at the end of the day on the following Business Day.

- Alternatively, and as an exception to the general rule described above, Cash Investor and Dealer may, at the time such parties agree to enter into such repurchase transaction, agree to a "morning settlement" in respect of all or any portion of the repurchase transaction agreed to on such Business Day, whereby such repurchase transaction (or portion thereof subject to morning settlement) shall mature on the morning of the following Business Day. If only a portion of the repurchase transaction agreed to on such Business Day is subject to morning settlement, the parties will treat such portion as a separate transaction with its own Three Party Confirmation, and the balance will mature at the end of the day on the following Business Day.

Allocation of Transactions

- On any Business Day that Cash Investor and Dealer agree to enter into a repurchase transaction, Cash Investor or Cash Investor's agent, along with Dealer and Clearing Bank, shall confirm in the morning the legally-binding agreement entered into with Dealer, with a provisional notice (the "Initial Notice"), which shall take the form of the Three Party Confirmation, and which shall indicate the specific principal(s) or joint account(s) that are expected to participate in such repurchase transaction. If more than one principal or joint account will participate in a repurchase transaction, the Initial Notice will indicate the portion of the Purchase Price to be paid by each principal or joint account specified in the Initial Notice.

- In respect of any repurchase transaction evidenced by an Initial Notice, Cash Investor or Cash Investor's Agent may subsequently adjust the identity of the principal(s) or joint account(s) and their respective allocations (but not the aggregate principal amount) of the Purchase Price specified in the Initial Notice by providing Dealer and Clearing Bank with a revised notice delivered no later than the end of the day on the date of the Initial Notice (the "Final Notice"); it being understood that (i) Cash Investor may provide one or more revised notices on such date, but only the latest revised notice relating to such repurchase transaction and confirmed by Cash Investor, Dealer and Clearing Bank shall be deemed to be the Final Notice, (ii) if Cash Investor does not provide any such revised notice to Dealer, the Initial Notice shall be deemed to be the Final Notice, and (iii) any revised notices, including the Final Notice, shall take the form of the Three Party Confirmation.

- Promptly upon Dealer's declaration of a Cash Investor Event of Default, and in any event before noon New York City Time on the next Business Day, Cash Investor(s) agree to inform Dealer and Clearing Bank of (i) each Cash Investor responsible for the Event of Default (each a "Defaulting Cash Investor"), and (ii) each Defaulting Cash Investor's share of the Purchase Price of the account Transactions specified in the Final Notice. Only such Defaulting Cash Investor's allocated share of the Purchase Price for such Transaction shall be deemed subject to such Cash Investor Event of Default.

Daily Maintenance of Transactions

- If, on any Business Day following the date a Final Notice was provided in respect of a repurchase transaction between Cash Investor and Dealer, Cash Investor and Dealer agree to a subsequent repurchase transaction, and Cash Investor, Dealer and Clearing Bank have confirmed such transaction via an Initial Notice, subject to any morning settlement agreed to either on the trade date or as described in the following paragraph, Clearing Bank will unwind[13] only the portion of the repurchase transaction entered into on the previous Business Day that exceeds the Purchase Price specified on the current Business Day's Final Notice at the end of the day on the current Business Day.

- On any Business Day following the date a Final Notice was provided in respect of a repurchase transaction between Cash Investor and Dealer, Cash Investor and Dealer may agree to a "morning settlement" in respect of all or any portion of the repurchase transaction agreed to on the previous Business Day, whereby (upon notice of the mutually agreed morning settlement to Clearing Bank) such repurchase transaction (or portion thereof subject to morning settlement) shall mature on the morning of the current Business Day. Subject to the preceding paragraph, any repurchase transaction (or portion thereof) not subject to morning settlement will mature at the end of the day on the current Business Day. For the avoidance of doubt, the morning settlement option may be agreed to by Cash Investor and Dealer both at the time of entering into a repurchase transaction and on the morning of the following Business Day.

If, on any Business Day following the date a Final Notice was provided in respect of a repurchase transaction between Cash Investor and Dealer, Cash Investor and Dealer do not agree to a subsequent repurchase transaction, unless the transaction is subject to morning settlement, Clearing Bank will unwind the repurchase transaction entered into on the previous Business Day at the end of the day on the current Business Day.

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[13] Nothing contained in this summary is intended to create any obligation on behalf of Clearing Bank to extend credit to the Seller in order to support any unwind upon the maturity of a repurchase transaction contemplated herein.

Annex 3 - Explanatory notes to the table on investor haircuts and the table on collateral composition

1. The tables are based on the market value including and margin percentages applied in tri-party repurchase transactions in the U.S. The summary statistics are being provided to market participants in the interest of creating greater transparency on the size and nature of the U.S. tri-party repo market. Each investor should make risk-based decisions appropriate for his or her own institution with proper consideration for the credit quality of the parties to a transaction.

2. The figures in the table are derived from the entire population of securities allocated in tri-party repurchase transactions for which Bank of New York Mellon (BNYM) and JP Morgan Chase (JPMC) serve as agents. These transactions are executed on their U.S.-based tri-party platforms.
   a. Because the data set comprises the entire population of tri-party repos, the figures shown are all-inclusive and are not estimates that are obtained by drawing a sample.
   b. Readers should be aware that while this data reflects all U.S. tri-party repo, it does not account for any bilateral repo trades, and thus does not reflect the entire U.S. repo market.

3. The data set was obtained for a single date, specifically the close of business on 4/9/2010. This date, the seventh business day of the month, was selected because it is judged to be a typical business date. Days such as the first or last business day of the month, or a mortgage-backed securities settlement day, could introduce distortions into the data.
   a. It is proposed that these tables be published monthly as of the seventh business day of each month unless such date is deemed by the FRBNY or the two Clearing Banks to be an atypical business day in which case an alternate date will be selected.

4. The data consists of the market values applied by BNYM and JPMC using their standard processes and third party vendor sources. The figures shown in the first table are based on the haircuts (also called margins) applied to the value of the securities used as collateral, expressed as a percent of the valuation given to the securities. The collateral values used for calculating the totals are the value of collateral (including accrued interest) before the haircut.
   a. For each asset group, a median value and a range of haircuts are shown.
   b. Concentration data is shown for the three largest Dealer holdings both by asset group and for the entire population of tri-party repo. For the entire population, the dollar value of the top three largest Dealer portfolios was summed and divided by the total dollar value of all tri-party Dealer portfolios.

5. The data set comprises 5,419 individual repurchase agreements (“deals”). It is common practice to use a combination of securities from two or more asset groups to serve as the collateral for a single repurchase agreement. Securities taken from each asset group may have a different haircut applied to them. For example, a mix of Treasury securities, agency debentures, and agency MBS could collateralize a single repurchase agreement. The respective haircuts could be 2 percent, 2.5 percent, and 3 percent. In this example, the single repurchase agreement would yield these three data points. As a result, in the haircut table, the number of data points (or collateral allocations) is 7,774 which is greater than the number (5,419) of repurchase agreements.

6. Definition of asset groups

Asset group	Definition
Asset-Backed Securities (Investment Grade and Non-Investment Grade)	Securities that are secured by cash flows of a discrete pool of receivables or other financial assets, further divided by the following, if the 1% threshold* is met: • ABS Investment grade securities and • ABS Non-Investment grade securities.
Agency CMO (Collateralized Mortgage Obligations)	REMIC and CMO securities issued by GSEs supporting the housing market – FNMA, FMAC, and GNMA.
Agency MBS (Mortgage-Backed Securities)	MBSs issued by Government Sponsored Enterprises (GSEs) that support the housing market – FNMA, FMAC, and GNMA.
Agency Debentures and Agency Strips	Debt securities issued by federal agencies or GSEs. These agencies and GSEs are: FNMA, FMAC, GNMA, FHLB, TVA, SLMA, REFCO, FICO, USPS, FFCB, FMHA, FAMC, FCFAC, and FLBB, further divided by the following, if the 1% threshold is met: • Agency Debentures excluding Strips and • Agency Strips.
Private Label Collateralized Mortgage Obligations (CMOs), (Investment Grade and Non-Investment Grade.	CMOs issued by corporations or private institutions, further divided by the following, if the 1% threshold is met: • CMOs Private Label Investment grade and • CMOs Private Label Non-Investment grade.
Corporate Securities (Investment Grade and Non-Investment Grade	Unsecured debt securities issued and guaranteed by a corporation, further divided by the following, if the 1% threshold is met: • Corporate Investment grade and • Corporate Non-Investment grade.
Equities	Common and Preferred Stock, ETFs, ADRs, UITs, Mutual Funds, Warrants & Rights, and Convertible Bonds.
Money Market	CP, CDs, BAs, and Bank Notes.
US Treasuries excluding Strips and US Treasury Strips	Bills, bonds, and notes issued by the U.S. Treasury, including TIPS, further divided by: • US Treasuries excluding Strips and • US Treasury Strips.

** Please see explanatory note 7 for additional detail regarding the 1% threshold.*

7. A materiality threshold of 1 percent of total market value of securities allocated in tri-party repo is applied for inclusion of an asset group in the haircut tables. For the tables based on March 9 data, the threshold for inclusion of an asset group is $17 billion, or one percent of $1.7 trillion. The sum of collateral value of the asset groups not shown within the “Other” category is $19.49 billion, a little more than 1 percent of total collateral value. As the total collateral value in tri-party repo agreements rises or falls over time, the threshold value will change accordingly. This may result in the inclusion of more or fewer asset groups in the monthly reports.

   a. Although the Task Force members requested that haircut data be broken out by Investment Grade and Non-Investment Grade for the following asset classes: ABS, CMO Private Label securities and Corporate Securities, this breakout is only displayed if the 1% threshold is met. If this threshold is not met, the Investment Grade portion is combined with the Non-Investment Grade portion for the purposes of displaying haircut data. Similarly, while Task Force members also requested that Agency Strips be broken out from Agency Debentures, this detail is only displayed for haircut data if it meets the 1% threshold.
   b. Additional asset groups that do not meet the 1% threshold and therefore do not appear in the current haircut table are: Collateralized Debt Obligations, International Securities, Municipal Securities, Trust Receipts, and Whole Loans. Municipal Securities is the largest of the asset groups that do not appear.

8. Both sides of the tri-party repo market are characterized by at least moderate levels of concentration.
   a. On the cash borrowing side, the broker-dealers that are most active in the market engage in a substantial number of repo contracts. As a result, several of the data points have the same broker-dealer as the counterparty. This pattern is true for the entire data set as well as for a particular asset group.
   b. On the cash lending side, entities that are most active in the market also engage in a substantial number of repo contracts, and as a result, several of the data points have the same financial institution or legal entity as the counterparty. In the case of money market mutual funds, this pattern is described in their semi-annual reports. In the reports, a Money Market Mutual Fund (MMMF) lists its entire portfolio holdings, including repurchase agreements. A large MMMF may be engaged in as many as 50 repurchase agreements on a given day.
   c. Concentration on both sides of the market also yields some repetition in the data set for a specific counterparty pair (for example, Barclays Capital as cash borrower, and Fidelity Cash Reserves as cash lender). The repetitions occur not only in the data set as a whole, but also for specific asset groups (for example, equities). In effect, there are fewer independent observations than the number of collateral allocations, which each yields one data point.

The repetition of counterparty pairs in the data is an additional reason to establish a threshold such as one percent of total collateral value before including an asset group in the table.

Annex 4 - Tri-party Repo Infrastructure Reform Task Force and Workstream Participants

Tri-Party Repo Task Force Members			
Role	Member	Alternate	Firm
Task Force Chairman	Darryll Hendricks		*UBS Investment Bank*
PRC Oversight	Don Monks		*BNY Mellon*
Clearing Banks	Art Certosimo	James Malgieri	*BNY Mellon*
	David Weisbrod	Sandie O'Connor Kelly Mathieson	*JPMorgan Chase*
Dealers	Dick Seitz		*Bank of America*
	David Lohuis	John Feraca	*Barclays Capital*
	Barrie Ringelheim	Thomas Mellina	*Citigroup Global Markets Inc*
	Paul Scheufele		*Credit Suisse*
	Tom Devine	Joe Rice	*Deutsche Bank*
	Robin Vince	Michael Kurlander	*Goldman Sachs*
	Craig Delany		*JP Morgan Chase*
	Tom Wipf	Ed Corral	*Morgan Stanley*
	Colin Parry		*UBS Investment Bank*
Investors	Robert Dolecki		*Fannie Mae*
	Debbie Cunningham		*Federated Investors*
	Norm Lind		*Fidelity*
	Laurie Brignac		*Invesco*
	Sean Dillon		*State Street*
Hedge Funds	Dan Dufresne		*Citadel Investment Group*
Utilities	Murray Pozmanter	Gary Chan	*DTCC*
Industry Groups	Brian Reid		*ICI*
	Rob Toomey		*SIFMA*
	Carl Kennedy		*Managed Funds Association*
Secretariat	Emily Gu		*UBS Investment Bank*
	Michele Braun		*FRBNY Payments Policy*
	Joanna Wisniecka		*FRBNY Payments Policy*
	Kirsten Harlow		*FRBNY Payments Policy*
Technical Advisors			
Federal Reserve Board of Govs.	Matt Eichner		*Research & Statistics*
	Jeff Stehm		*Rsv Bk Ops & Payment Sys.*
FRBNY	Lucinda Brickler		*Payments Policy*
	Larry Radecki		*Payments Policy*
	Brian Begalle		*Bank Supervision*
	Michael Alix		*Credit Risk*
	Chris Burke		*Markets Group*
	Antoine Martin		*Research*
	Michael Schussler		*Legal*
SEC	Mike Macchiaroli		*Trading & Markets*
	Richard Bookstaber		*Risk, Policy & Fin. Innovation*
	Daniele Marchesani		*Investment Management*

Operational Workstream			
Member	Firm	Member	Firm
Ed Corral (Lead)	*Morgan Stanley*	Sean McWeeney	*Goldman Sachs*
Michael Kurlander (Lead)	*Goldman Sachs*	Karl Mocharko	*Federated Investors*
Gary Chan	*DTCC*	Al Morabito	*Federated Investors*
Ricardo S. Chiavenato	*JP Morgan Chase*	John Morik	*BNY Mellon*
Dan Dufresne	*Citadel Investment Group*	Jeff Petro	*Federated Investors*
Enrico Giardina	*Morgan Stanley*	Murray Pozmanter	*DTCC*
Emily Gu	*UBS Investment Bank*	Mark Robinson	*BNY Mellon*
Elke Jakubowski	*DTCC*	Paul Scheufele	*Credit Suisse*
Peter Kelly	*DTCC*	Michael Schroeder	*BNY Mellon*
Mike Limeri	*Morgan Stanley*	Mark D Trivedi	*JP Morgan Chase*
James Malgieri	*BNY Mellon*	James White	*Goldman Sachs*
Kelly Mathieson	*JP Morgan Chase*	John Morik	*BNY Mellon*

Tactical Reductions in Intraday Exposure Workstream			
Member	Firm	Member	Firm
Paul Scheufele (Lead)	*Credit Suisse*	Sharon Lester	*Invesco*
Michael Albanese	*JP Morgan Chase*	Larry Mahler	*Credit Suisse*
Jim Beckenhaupt	*Barclays*	James Malgieri	*BNY Mellon*
Tony Blasi	*Credit Suisse*	Kelly Mathieson	*JP Morgan Chase*
Laurie Brignac	*Invesco*	Shirley McCoy	*JP Morgan Chase*
John Butler	*UBS Investment Bank*	Sean McWeeney	*Goldman Sachs*
Francesco Cafagna	*Goldman Sachs*	Karl Mocharko	*Federated Investors*
Gary Chan	*DTCC*	John Morik	*BNY Mellon*
Ricardo Chiavenato	*JP Morgan Chase*	Sandie O'Connor	*JP Morgan Chase*
Edward Corral	*Morgan Stanley*	John Palchynsky	*Barclays*
Craig Delany	*JP Morgan Chase*	Jeff Petro	*Federated Investors*
Sean Dillon	*State Street*	Murray Pozmanter	*DTCC*
Linda Felchak	*Invesco*	Christian Rasmussen	*UBS Investment Bank*
John Feraca	*Barclays*	Paul Ritchie	*UBS Investment Bank*
Daniel Fleming	*Barclays*	Jeffrey Scott	*UBS Investment Bank*
Kevin Gaffney	*Fidelity*	Dick Seitz	*Bank of America*
Emily Gu	*UBS Investment Bank*	Brian Smith	*Invesco*
Jacqueline Hakimzadeh	*Invesco*	Douglas Sorin	*UBS Investment Bank*
James Hraska	*Barclays*	Brian Swann	*Goldman Sachs*
Joseph e Johnston	*Bank of America*	Brandy Talge	*Invesco*
Craig Jones	*Barclays*	Mark Trivedi	*JP Morgan Chase*
Michael Kurlander	*Goldman Sachs*	Gilbert Vinluan	*Bank of America*

Legal Workstream			
Member	Firm	Member	Firm
Michael Schussler (Lead)	*FRBNY*	Michael Kurlander	*Goldman Sachs*
Ted Amley	*Morgan Stanley*	Joseph Lallande	*Invesco Aim*
Jeff Aronson	*JP Morgan Chase*	Moses Lin	*GSAM*
Peter Bonanno	*Goldman Sachs*	Karl Mocharko	*Federated Investors*
Mary Breslin	*Deutsche Bank*	Jennifer Maloni	*Bank of America*
Gary Buki	*BNY Mellon*	Karrie McMillan	*ICI*
Deena C. Ethridge	*State Street*	Kevin Meagher	*Fidelity*
Alexander Gordon	*GSAM*	Frank J Nasta	*JP Morgan Chase Asset Management*
Shannon Hales	*Citibank*	James Panella	*Morgan Stanley*
Jane Heinrichs	*ICI*	Anastasia Sheffler-Wood	*Invesco/Stradley Ronon*
Debra Hong	*Invesco/Stradley Ronon*	Robert Toomey	*SIFMA*
Gail Inaba	*JP Morgan Chase*	Kathleen Tripp	*JP Morgan Mutual Fund*
Bruce Ismael	*Deutsche Bank*	Andrew Waskow	*Goldman Sachs*
Stephen Keen	*Federated Investors/Reed Smith*	Keith Weller	*UBS Global Asset Management*
Jason Ketchen	*Fidelity*	Todd Zerega	*Federated Investors/Reed Smith*

Margining Workstream			
Member	Firm	Member	Firm
Seth Kammerman (Lead)	*Goldman Sachs*	Sue Hill	*Federated Investors*
Stephen Brennan	*BNY Mellon*	Sanja Hukovic	*UBS Investment Bank*
Laurie Brignac	*Invesco*	Joseph Johnston	*Bank of America*
Kevin Caffrey	*BNY Mellon*	Stephen Keen	*Federated Investors/Reed Smith*
Ricardo Chiavenato	*JPMorgan Chase*	David Lamb	*JPMorgan Chase*
Richard Coffin	*Barclays Capital*	Matt Leisen	*Goldman Sachs*
Michael Curran	*UBS Investment Bank*	Lawrence Radecki	*FRBNY*
Craig Delany	*JPMorgan Chase*	Mike Reiffsteck	*Bank of America*
Tom Devine	*Deutsche Bank*	Mark Robinson	*BNY Mellon*
Keith Donohue	*BNY Mellon*	Jeffrey Scott	*UBS Investment Bank*
Dan Dufresne	*Citadel Investment Group*	Guido Storemer	*UBS Investment Bank*
John Feraca	*Barclays Capital*	Mark Trivedi	*JPMorgan Chase*
Eric Graham	*Fidelity*	Joanna Wisniecka	*FRBNY*
Kirsten Harlow	*FRBNY*		

Liquidation Workstream			
Member	Firm	Member	Firm
Murray Pozmanter (Lead)	*DTCC*	Elke Jakubowski	*DTCC*
David Weisbrod (Lead)	*JPMorgan Chase*	Peter Kelly	*DTCC*
Gary Chan	*DTCC*		

Annex 5 - Bibliography

Abate, Joseph, "Money Markets: Tri-Party Repo Concerns," Barclays Capital Research, US Economics & Rates Strategy, March 12, 2009.

Bank for International Settlements, "The Role of Margin Requirements and Haircuts in Procyclicality", www.bis.org/publ/cgfs36.htm, March 2010.

Bank for International Settlements, "The Role of Valuation and Leverage in Procyclicality", www.bis.org/publ/cgfs34.htm, April 2009.

Brunnermeier, Markus K. and Lasse Heje Pedersen, "Market Liquidity and Funding Liquidity," *Review of Financial Studies*, 2009, Vol. 22, No. 6, pp. 2201–2238, December 2008.

Dudley, William, "Some Lessons from the Crisis," Remarks at the Institute of International Banks Membership Luncheon, October 13, 2009.

Duffie, Darrell, "How Big Banks Fail and What to do About It", March 2010, Manuscript, forthcoming *Princeton University Press.*

Ewerhart, Christian and Jens Tapking, "Repo Markets, Counterparty Risk, and the 2007/2008 Liquidity Crisis," Working Paper 909, European Central Bank, 2008.

Gorton, Gary, *Slapped in the Face by the Invisible Hand: The Panic of 2007,* Oxford University Press, 2010.

Hordahl, Peter and Michael R. King, "Developments in Repo Markets During the Financial Turmoil," *BIS Quarterly Review*, www.bis.org/publ/qtrpdf/r_qt0812.pdf, December 2008.

Scott, Kenneth and John Taylor, eds. *Ending Government Bailouts as we Know Them*, Hoover Press, 2010.

Tuckman, Bruce, "Systemic Risk and the Tri-Party Repo Clearing Banks," Technical Report, Center for Financial Stability, February 2010.

Valukas, Anton, "Report of Anton R. Valukas, Examiner" In re: Lehman Brothers Holdings Inc., et al, March 2010.

TAB 5

From:	Fleming, Dan (TSY) [dfleming@lehman.com].	Sent:7/16/2008 11:06 AM.
To:	Mark G Doctoroff [mark.g.doctoroff@jpmorgan.com].	
Cc:	Jeffrey Aronson [JAronson@bear.com]; Piers Murray [piers.murray@jpmorgan.com].	
Bcc:	.	
Subject:	RE: Letter.	

Mark,

I received revisions from my legal team based on my description of net free equity and rationale for the $5bn LCPI collateral pledge. Please review and let me know if you are in agreement with the revised wording. If so I will get Paolo to sign.

Thanks,
Dan

From: Mark G Doctoroff [mailto:mark.g.doctoroff@jpmorgan.com]
Sent: Friday, July 11, 2008 6:44 PM
To: Fleming, Dan (TSY)
Cc: Jeffrey Aronson; Piers Murray
Subject: Letter

Dan,

I know you must be as happy as I am that it is the end of the week!

Enclosed is the letter that we had promised to send for your review and execution. Once you have had a chance to look through and think about it, feel free to come back to me. I have cc: Jeffrey Aronson who my partner in our legal team working on this and Piers Murray who is my colleague in our credit department.

Appreciate all your help and partnership this week. Have a relaxing weekend. Best, Mark

Mark G. Doctoroff

Executive Director

Financial Institutions

JPMorgan Chase Bank, N.A.

277 Park Avenue, 14th Floor

TEL# (212) 622-1878

CONFIDENTIAL TREATMENT REQUESTED BY
LEHMAN BROTHERS HOLDINGS, INC.

FAX#(917) 464-6265

Mobile# (917) 885-9268

_____

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TAB 6

July --, 2008

Lehman Brothers Inc.
Lehman Commercial Paper Inc.
745 Seventh Avenue
New York, New York 10019

Attention: Paolo Tonucci
Treasurer

Re: Delivery to JPMorgan Chase Bank, N.A. of $5 billion of Securities

Ladies and Gentlemen:

The following shall clarify our understanding with respect to the delivery by Lehman Brothers Commercial Paper Inc. ("LBCP") of securities (the "LBCP Collateral") to JPMorgan Chase Bank, N.A. ("JPMC").

1. The delivery of the LBCP Collateral is in connection with advances or loans extended by JPMC to LBCP and Lehman Brothers Inc. ("LBI") pursuant to the Clearance Agreement between JPMC, LBCP and LBI dated June 15, 2000, as amended (the "Agreement"). For the avoidance of doubt, the LBCP Collateral shall constitute Collateral as defined under the Agreement.

2. The LBCP Collateral shall be held at JPMC as Collateral on the terms and conditions set forth in the Agreement (including without limitation that such LBCP Collateral may be used by JPMC to satisfy obligations of LBCP and LBI under the Agreement).

3. The Net Free Equity of LBCP, LBI and their affiliates, as determined by JPMC in its sole discretion, shall include the LBCP Collateral.

4. JPMC has identified certain modifications to its calculation of Net Free Equity which are in the process of being implemented, until such time as JPMC implements such enhancements it is understood that Net Free Equity pursuant to the Agreement shall be reduced by $5 billion (including the LBCP Collateral in such calculation).

5. This letter agreement and the performance of all transactions contemplated hereunder have been duly authorized by LBCP, LBI and JPMC in accordance with all requisite action.

Acknowledged and agreed as of this __ day of July, 2008:

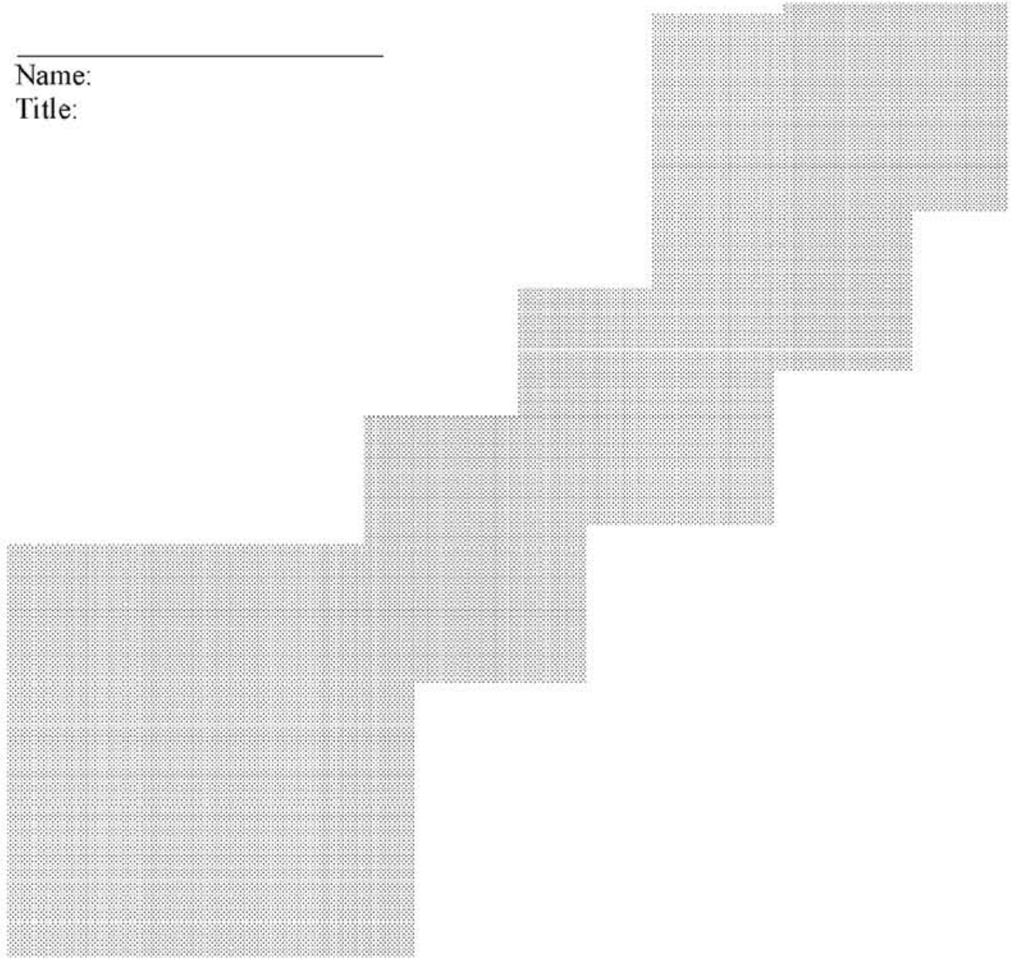
LEHMAN BROTHERS COMMERCIAL PAPER INC.

CONFIDENTIAL TREATMENT REQUESTED BY
LEHMAN BROTHERS HOLDINGS, INC.

By: ___________________________
Name:
Title:

LEHMAN BROTHERS INC.

By: ___________________________
Name:
Title:



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LEHMAN BROTHERS HOLDINGS, INC.

TAB 7

From: Fleming, Dan (TSY) [dfleming@lehman.com]. Sent:9/3/2008 4:51 PM.
To: Tonucci, Paolo [paolo.tonucci@lehman.com].
Cc: .
Bcc: .
Subject: NFE Data_090308.ppt

Paolo,

Attached are three slides relating to of our Net Free Equity position at JPM since Aug 14th (the day we completed the implementation of 100% investor margin haircuts). Thought this might be of interest to you in prep for your meeting tomorrow.

* First slide is the average NFE position by time of day since Aug 14th plus average $ value of collateral pledged.
* Second slide is the high, low and average NFE position by day since Aug 14 plus the average $ value of collateral pledged.
* Third slide lists the assets we have pledged from LBHI and LCPI.

Let me know if you have any questions or would like to discuss.

Dan

<<NFE Data_090308.ppt>>

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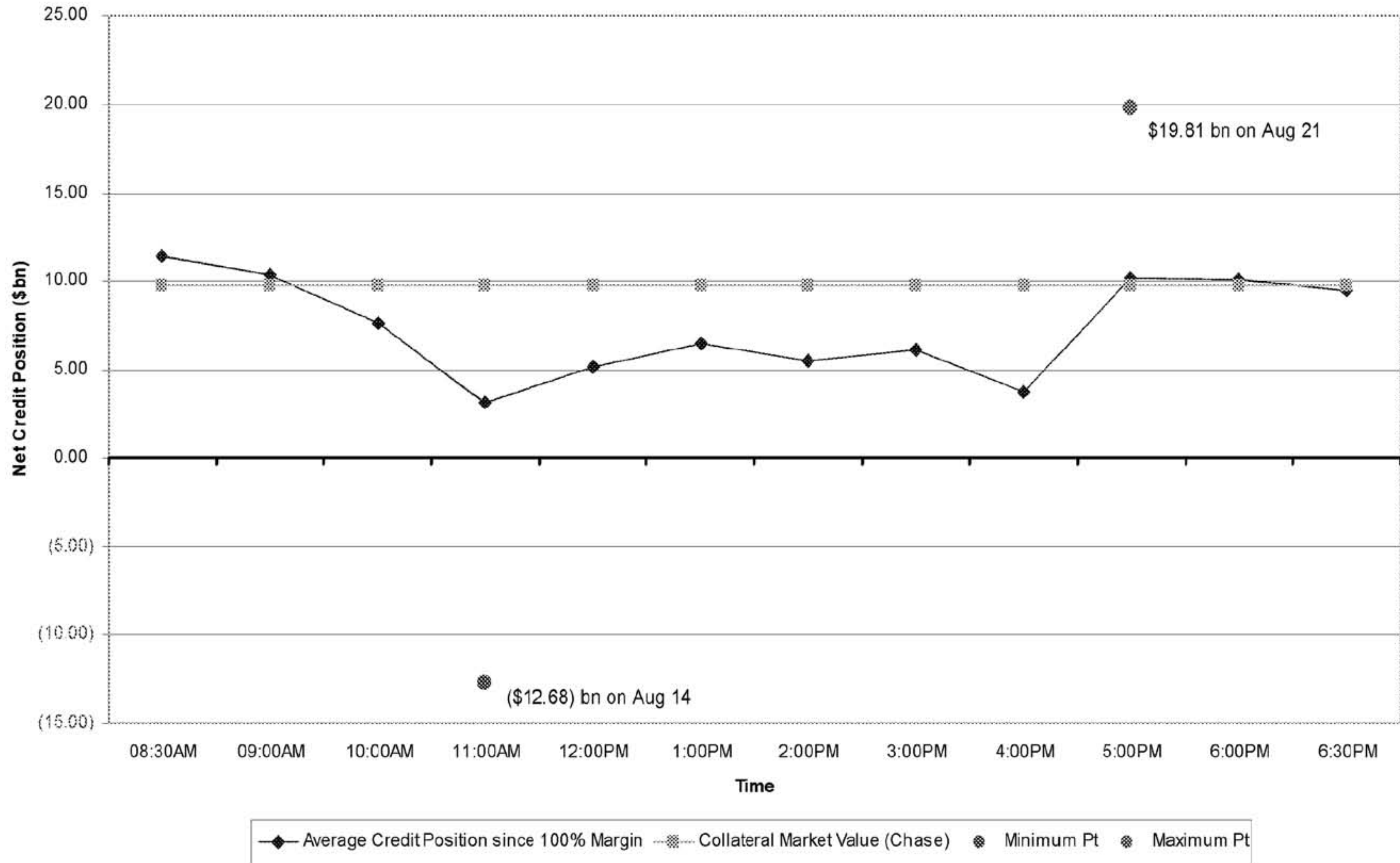
NFE Intra-Day Since August 14



LBEX-AM 000871

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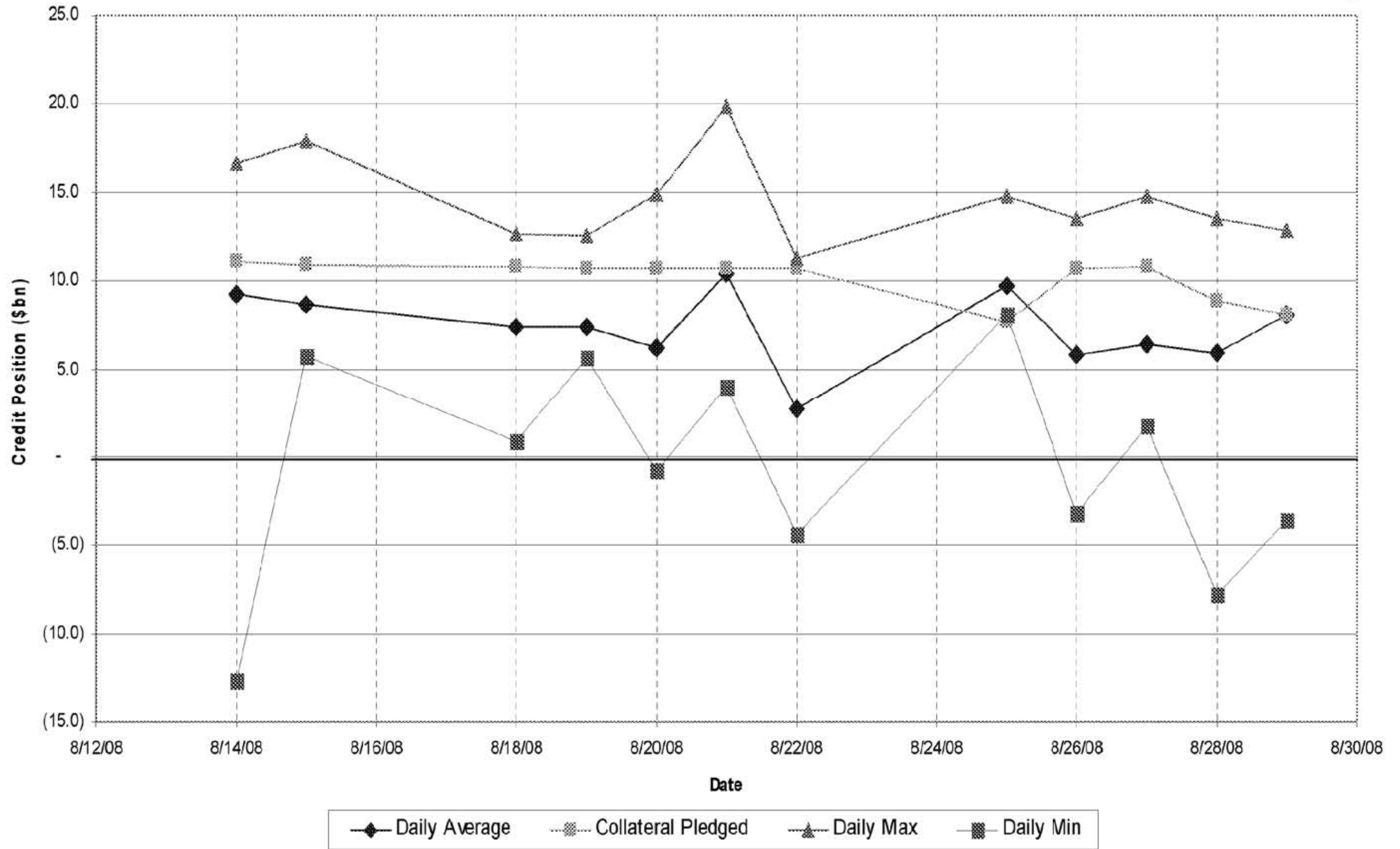
NFE Daily Since August 14



LBEX-AM 000872

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NFE Collateral as of EOD 9/2/08

Note	Cusip	LEH Price	LEH MV	Chase Price	Chase MV	Product	LEH Company	Moody Rating	S&P Rating
Fenway	31465DJA3	99.94	3,001,781,720.26	100.00	3,003,563,000.00	CP	LBHI		
Pine	722490AA7	100.00	924,021,662.72	100.00	1,025,000,000.00	Corp	LBHI	A3	A-
Pine	722490AB5	100.00	48.86	n/a	n/a	Corp	LBHI	A3	A-
Pine	722490AD1	100.00	13.24	n/a	n/a	Corp	LBHI		
Pine	722490AE9	100.00	24,600,000.00	n/a	n/a	Corp	LBHI		
Spruce	852079AB8	97.00	709,222,644.37	97.00	868,965,640.10	ABS	LBHI	A2	A
Spruce	852079AC6	100.00	168,700,000.00	n/a	n/a	ABS	LBHI		
Verano	92336PAA4	100.00	1,352,600,000.00	100.00	1,352,600,000.00	Corp	LBHI	A3	A-
Verano	92336PAC0	100.00	270,500,000.00	n/a	n/a	Corp	LBHI		
Subtotal			**6,451,426,089.45**		**6,250,128,640.10**				
Kingfisher	19567YAA5	101.06	970,198,954.37	101.05	970,051,345.83	ABS	LCPI		BBB+
Loan FNG	R3JNRNOTE	24.70	67,323,926.80	24.70	67,323,930.12	MTN	LCPI		
SASCO	78403WAA6	98.10	477,467,251.69	98.09	477,405,273.91	CMO	LCPI		A
SASCO	78403W207	88.23	1,221,905,606.95	n/a	n/a	CMO	LCPI		
Delta Topco	WE370	11.78	73,955,586.79	-	0.00	Corp	LCPI		
Cayman Partners	H20083FRN	100.00	172,876,141.00	100.00	172,876,141.00	Corp	LCPI		
Cayman Partners	APQCAYMAN	100.00	41,633,014.42	100.00	41,633,014.42	Corp	LCPI		
Cayman Partners	PQHDSFRNA	100.00	78,162,508.00	100.00	78,162,508.00	Corp	LCPI		
HD Supply	40415RAC9	66.00	53,760,614.82	66.00	53,791,160.55	Corp	LCPI	Caa	CCC+
Subtotal			**3,157,283,604.84**		**1,861,243,373.83**				
GRAND TOTAL					**8,111,372,013.93**				

LBEX-AM 000873

TAB 8

From: Van Schaick, George V <gvanscha@lehman.com>
Sent: Thursday, July 10, 2008 6:34 PM (GMT)
To: Feraca, John <joferaca@lehman.com>
Subject: FW: Federated SubCustodial Agreement - JPMC's comments

---

From: Cornejo, Emil
Sent: Thursday, July 10, 2008 12:41 PM
To: Guglielmo, Robert; Roberts, Garrett; Shanley, Gail
Cc: Van Schaick, George V; Luglio, Thomas; Webb, Michael A; Fleming, Dan (TSY); Tonucci, Paolo; Miller, Marjorie A; Coghlan, John F. (Prime Services); Witek, Charles; Boron, Lisa-Lynn; Lista, William; McMurray, Locke R
Subject: RE: Federated SubCustodial Agreement - JPMC's comments

Spoke to Mark. Expect feedback shortly. Thanks

Emil F. Cornejo

LEHMAN BROTHERS

Emil F. Cornejo
Senior Vice President
Treasury
1301 Avenue of the Americas
New York, NY 10019

Phone: 212-320-4495
Fax: 212-520-0838
Email: emil.cornejo@lehman.com

From: Guglielmo, Robert
Sent: Thursday, July 10, 2008 12:20 PM
To: Roberts, Garrett; Shanley, Gail
Cc: Van Schaick, George V; Luglio, Thomas; Webb, Michael A; Fleming, Dan (TSY); Tonucci, Paolo; Miller, Marjorie A; Coghlan, John F. (Prime Services); Witek, Charles; Boron, Lisa-Lynn; Lista, William; Cornejo, Emil; McMurray, Locke R

Subject: RE: Federated SubCustodial Agreement - JPMC's comments

Garrett,
We discussed with Emil Cornejo in Credit & Bank Relations who is responsible for the JPM Chase relationship. He is following up with Michael Doctoroff at JP Morgan Chase.
Regards,
Rob

From: Roberts, Garrett
Sent: Thursday, July 10, 2008 12:01 PM
To: Guglielmo, Robert; Shanley, Gail
Subject: FW: Federated SubCustodial Agreement - JPMC's comments

---

From: Van Schaick, George V
Sent: Thursday, July 10, 2008 11:44 AM
To: Van Schaick, George V; Feraca, John
Cc: Roberts, Garrett; Lista, William; Luglio, Thomas; Webb, Michael A; Fleming, Dan (TSY); Tonucci, Paolo; Miller, Marjorie A; Coghlan, John F. (Prime Services)
Subject: RE: Federated SubCustodial Agreement - JPMC's comments

From: Mocharko, Karl [mailto:KMocharko@federatedinv.com]
Sent: Thursday, July 10, 2008 11:14 AM
To: Shanley, Gail; Roberts, Garrett; julia.a.fox@jpmorgan.com
Cc: RS: Beneigh, Sara; RS: Zerega, Todd; RS: Dugan, Erin; RS: Whetzel, James
Subject: RE: Federated SubCustodial Agreement - JPMC's comments

Because JP Chase the triparty clearing bank is unwilling to negotiate in good faith with Federated, we will no longer pursue additional business with Lehman. We will also do as much current REPO as possible with dealers that utilize BONY as their custodian and only back with JPChase as necessary.

Karl Mocharko

Assistant Vice President / Senior Trader

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Federated Investors

Business: 412-288-1975

Personal: 412-288-1447

kmocharko@federatedinv.com

______

From: Van Schaick, George V
Sent: Thursday, July 10, 2008 11:31 AM
To: Feraca, John
Cc: Roberts, Garrett; Lista, William; Luglio, Thomas; Webb, Michael A; Fleming, Dan (TSY); Tonucci, Paolo; Miller, Marjorie A; Coghlan, John F. (Prime Services)
Subject: FW: Federated SubCustodial Agreement - JPMC's comments

John,

We have been trying to negotiate triparty docs on new Federated funds with Chase for over 6months now. These new funds would have cash for "Non-Traditional collateral" (IG and NON-IG ABS, PL, Corps, etc.). Charles Witek previously outlined the issues below, and we sent to Mike Scarpa at JPM, after our April meeting with them. The issues are all changes from JPM's previous triparty docs.

Today Federated has notified us that JPM would now like to re-negotiate all its existing docs with Federated.

Federated has stated they are considering pulling all funding from Dealers that use JPM as a triparty agent and moving exclusively to BONY. They are more comfortable with them Legally, Operationally, and from a Client Service perspective.

They currently fund 900mm NON-IG PL/ABS, and would have at least another 500mm in these new funds.

I think we need to raise the issue again with JPM, but ultimately this might just be a good candidate to use in the BONY migration.

Thanks.
George

______

From: Witek, Charles
Sent: Wednesday, April 23, 2008 3:41 PM
To: Van Schaick, George V
Cc: Shanley, Gail
Subject: RE: Federated SubCustodial Agreement - JPMC's comments

OK.

To avoid confusion, we'll deal with Federated first, as it is a large issue, then I'll address the others in a third E-mail.

The markup of the Federated agreement, as JPMorgan would change it, is attached. I'll only discuss the major issues, but the fact that JPMorgan is choosing to make numerous changes to an agreement it accepted as recently as November is a problem in itself.

Significant issues include (listed by section):

1(j) JPMorgan added the language "The Margin Value of Securities shall equal or exceed the Sale Price at the times calculated by Bank pursuant to this Agreement." In effect, JPMorgan negated the agreement of the parties to margin on the Repurchase Price and substituted, for its own operational convenience, its own requirement that collateral be margined on the Sale (i.e. Purchase) Price. While that would normally be better for Lehman, as a registered investment company governed by the Investment Company Act of 1940, Federated feels that it is legally obligated to margin on the Repurchase Price, and will not enter into an agreement if margining on the Repurchase Price does not take place. JPMorgan's position that it will not margin on the Repurchase Price, for operational reasons, is new, having only arisen in the past month or so. Lisa-Lynn Boron conducted a substantial investigation into the issue in relation to one of her accounts, and discovered that there is no operational impediment at Lehman or at JPMorgan that prevents margining on the Repurchase Price.

1(n) Related to 1(j), above, JPMorgan deleted the definition of "Repurchase Price" and substituted its own simplified definition, which is not amenable to margining a term repo based on the Repurchase Price.

3(b) Again, as in point 1(j) JPMorgan changed the actual terms of the Transaction agreed to by Lehman and Federated, altering "Margin Value equal to the Repurchase Price" to "Margin Value equal to the Sale Price." Quite bluntly, whether we choose to margin on the Sale (Purchase) Price or the Repurchase Price is a business decision arising out of a negotiation between Lehman and Federated; it is none of JPMorgan's business and they should not be interfering in the economic terms of the transaction, particularly when Federated (and most investment companies) view this as a regulatory issue. Similar changes also occur in Section 3(c), 3(e).

3(d) JPMorgan inserted language that, in the event that Federated is undercollateralized or Lehman has insufficient cash to repurchase the Purchased Securities on the Repurchase Date, JPMorgan can, without notice to Lehman, advance cash on Lehman's behalf and charge Lehman interest for such advance. That is contrary to the clearance arrangement between Lehman and JPMorgan, and JPMorgan Legal has been reminded of that fact on multiple occasions, yet they persist in demanding the change.

11 Indemnification provides the most egregious examples of JPMorgan

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high-handedness. ISSUE 1) The original Lehman/Federated agreement provided for Lehman giving JPMorgan a full indemnification for any losses not attributable to the Bank's negligence or willful misconduct, while Federated only indemnified for its own negligence, breach, insolvency or instructions, again with the carve-out for JPMorgan's negligence or willful misconduct. Such a "split indemnification" was commonly used in custodial undertakings involving a large or sophisticated counterparty, and has been accepted practice at both JPMorgan and The Bank of New York for years (and doesn't really harm Lehman, as JPMorgan could, in the event of an insolvent counterparty, always argue that Lehman already had an obligation to fully indemnify pursuant to the terms of the clearance agreement). However, a few months ago (I believe it was the late fall of 2007), JPMorgan, without any prior notice to or discussion with Lehman, arbitrarily decided that "split" indemnification would no longer be acceptable. In the case of Federated, they insisted that both parties provide a full indemnification to JPMorgan, a provision wholly unacceptable to Federated and contrary to prior agreements between JPMorgan and either Lehman or Federated.
ISSUE 2: To make matters worse, JPMorgan is insisting upon a new provision, which would have both Lehman and Federated "absolutely" indemnify JPMorgan (i.e., no carve out, even for JPMorgan's gross negligence or willful misconduct) for any losses "incurred as a result of complying with the instructions of" Lehman or Federated, even if following such instruction "constitutes or is alleged to constitute a violation of the rights of any party or a violation of an injunction, stay, order or law"! Pursuant to such agreement, if JPMorgan followed an instruction, no matter how obviously wrong or even illegal, JPMorgan would be entitled to full indemnification for any damages or claims that it suffered as a result. Needless to say, Lehman has never agreed to such a provision, does not have it in its boilerplate agreement, and is unwilling to accept it in the Federated document. Federated is equally opposed.

There are a number of other, lesser changes (although it should be noted that what seems "lesser" to me may be of greater importance to Federated.) However, the above points, in which JPMorgan 1) takes it upon itself to change the terms of the agreement between Lehman and Federated re margin, 2) is, through its Legal Department, insisting on changing the terms of the business relationship between Lehman and JPMorgan re advances and 3) is insisting on burdensome and unnegotiated changes in the customary indemnification provisions, should be viewed as the most offensive positions.

_____

From: Van Schaick, George V
Sent: Wednesday, April 23, 2008 2:37 PM
To: Witek, Charles
Cc: Shanley, Gail
Subject: RE: Federated SubCustodial Agreement - JPMC's comments

please include all issues (not just Federated). we met with Chase this afternoon and hopefully that will result in some progress.

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From: Witek, Charles
Sent: Wednesday, April 23, 2008 2:34 PM
To: Van Schaick, George V
Cc: Shanley, Gail
Subject: FW: Federated SubCustodial Agreement - JPMC's comments

George--

Before I send an E-mail outlining the precise legal issues (which I'll begin preparing immediately upon sending this one), I wanted to forward the below to you, because it gives a good overview of the issue.

Federated has a proprietary agreement that it negotiated with various dealers, including Lehman, and JPMorgan many years ago. The agreement was modified not long before I came to Lehman in order to modernize the document. As recently as last November, Federated, Lehman and JPMorgan entered into such document with no problems. However, JPMorgan reversed course with regard to the current Federated agreement, and refuse to agree to it without the substantial changes discussed in Todd Zerega's E-mail.

Although I recognize that Federated is a priority issue, I would point out that this is not a unique instance. In the past year or so, JPMorgan has become increasingly uncooperative, reneging on previous agreements regarding acceptable language, dictating the form of agreements that they will review (e.g., they will no longer review a .pdf version of an agreement marked up by the client, but instead insist that Lehman or the client take the time to convert such .pdf into a blacklined Word document, in order to save JPMorgan the trouble of working with an inconvenient file) and taking positions contrary to either the clear language of an agreement (e.g., refusing to accept cash as repo collateral, despite a statement in the document that says "Securities shall always include cash") or refusing to take language acceptable in the Lehman-boilerplate form if inserted in a different form provided by the counterparty--something very similar to what is happening here.

From: marcus.c.johnson@jpmchase.com
[mailto:marcus.c.johnson@jpmchase.com]
Sent: Friday, April 18, 2008 2:06 PM
To: Zerega, Todd P.
Cc: Shanley, Gail
Subject: Re: Federated SubCustodial Agreement - JPMC's comments

Todd:

We cannot use this form without the changes that we have made. Feel free to call me if you wish to discuss specific comments.

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----- Original Message -----
From: "Zerega, Todd P." [TZerega@ReedSmith.com]
Sent: 04/18/2008 01:28 PM AST
To: Marcus Johnson
Cc: <gail.shanley@lehman.com>
Subject: FW: Federated SubCustodial Agreement - JPMC's comments

Marcus,

I wanted to get back to you regarding your extensive comments on Federated's Subcustodial Undertaking. A master form of this Subcustodial Undertaking specifically for Federated Investors, which I have attached for reference, was negotiated with your predecessor Charles Witek. This form of agreement has also been approved by all of Federated's repo counterparties. The agreement is currently is use for all Federated repo counterparties. However, due to a change in custodian on certain Funds Federated needs to put in place the same agreement as in place currently for its other Funds. Federated does not wish to renegotiate an agreement that was painstakingly finalized to the satisfaction of all parties. For example, the indemnification language, definition provisions, and representations were also discussed at length among all parties until an acceptable form was drafted. To revisit this issue would cause Federated to incur unnecessary legal expenses and costs as well as delay the execution of agreements that they wish to utilize. With that being said, it is our understanding that the language added regarding fund transfers (Section 12) is something that Federated has agreed to in the form of a side letter and therefore Federated is willing to agree to add it to the master agreement.

Please let me know if you would like to discuss further but based on my conversations with Sara Lehman only had one minor comment on the subcustodial which Federated accepted and we would like to move forward with execution.

Best Regards,

Todd

From: Shanley, Gail [mailto:gail.shanley@lehman.com]
Sent: Thursday, April 03, 2008 1:53 PM
To: Beneigh, Sara M.
Cc: Roberts, Garrett
Subject: FW: Federated SubCustodial Agreement - JPMC's comments

Sara,

I received the attached from Marcus at JPMC. After you have had a chance to review let's chat.
Thanks

Gail

_____

From: Euisun.Lisa.Lee@chase.com [mailto:Euisun.Lisa.Lee@chase.com]
Sent: Thursday, April 03, 2008 12:14 PM
To: Shanley, Gail
Cc: Janowski, John Patrick; marcus.c.johnson@jpmchase.com
Subject: Fw: Federated SubCustodial Agreement

Hi Gail: attached please find clean and marked versions of the acceptable Federated agreement. Thanks!

Redline:

Clean:

Euisun Lisa Lee
Assistant Vice President
JPMorgan Chase Bank, NA
1 Chase Manhattan Plaza, 25th Floor
New York, NY 10005
NY1-A424
Tel: (212) 552-1618
Fax: (212) 383-0250
euisun.lisa.lee@chase.com

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pdc1

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TAB 9

From: Patrick M Parkinson
To: Pat White
Subject: Fw: Update on Lehman
Date: 07/11/2008 05:14 PM

Federated is one of the very largest tri-party repo investors. Pat

▼ David Marshall

----- Original Message -----

From: David Marshall
Sent: 07/11/2008 03:45 PM CDT
To: Patrick Parkinson; William Dudley; Patricia Mosser; William English
Cc: Pat White; Alejandro LaTorre
Subject: Update on Lehman

Kim Taylor sent me a follow-up e-mail. The repo lines that were pulled from Lehman were from Dreyfus and Federated. These are mid sized players, but not dealers. Kim thought that this represented an improvement to the picture.

-- David

David Marshall
Senior Vice President
Financial Markets Group
Federal Reserve Bank of Chicago
(312) 322-5102

TAB 10

From:	Joseph Sommer
To:	Patrick M Parkinson
Subject:	Re: another option we should present re triparty?
Date:	07/13/2008 12:39 PM

I agree, if you are willling to fund the firm indefintely, and maybe enter the private equity business. The question, in my mind, is whether we will be perceived as a credible investor by counterparties and employees. If so, the only question is going-concern value

----

Sent from my BlackBerry Handheld.

▼ Patrick M Parkinson

----- Original Message -----

From: Patrick M Parkinson
Sent: 07/13/2008 12:35 PM EDT
To: Joseph Sommer
Cc: Antoine Martin; Arthur Angulo; Brian Begalle; Catherine Kung; Chris McCurdy; HaeRan Kim; Jamie McAndrews; Jan Voigts; Lawrence Sweet; Lucinda Brickler; Meg McConnell; Michael Schussler; Morten Bech; Sandy Krieger; Terrence Checki; Thomas Baxter; Til Schuermann; William BRODOWS; William Dudley
Subject: Re: another option we should present re triparty?

But the point of our PDCF lending would be to head off a massive run. Perhaps in a world where "headline risk" is an important concern a run would still occur. But if so we would end up lending at the end of the day an amount that still would be no higher(and could be far smaller) than what others seem to want to commit to lend at the beginning of the day. I assume that our judgment that an institution is sound refers to its going concern value, not its fire sale value.

Pat

▼ Joseph Sommer/NY/FRS@FRS

Joseph Sommer/NY/FRS@FRS

07/13/2008 11:21 AM

To: William BRODOWS/NY/FRS@FRS, Antoine Martin/NY/FRS@FRS, Patrick M Parkinson/BOARD/FRS@BOARD, Lucinda M Brickler/NY/FRS@FRS

cc: Arthur Angulo/NY/FRS@FRS, Brian Begalle/NY/FRS@FRS, Catherine Kung/NY/FRS@FRS, Chris McCurdy/NY/FRS@FRS, HaeRan Kim/NY/FRS@FRS, Jamie McAndrews/NY/FRS@FRS, Jan Voigts/NY/FRS@FRS, Lawrence Sweet/NY/FRS@FRS, Meg McConnell/NY/FRS@FRS, Michael Schussler/NY/FRS@FRS, Morten Bech/NY/FRS@FRS, Sandy Krieger/NY/FRS@FRS, Terrence Checki/NY/FRS@FRS, Thomas Baxter/NY/FRS@FRS, Til Schuermann/NY/FRS@FRS, William Dudley/NY/FRS@FRS

Subject: Re: another option we should present re triparty?

I only wish. Balance-sheet capital isn't too relevant if you're suffering a

massive run. And capital is the difference between two large numbers--
sensitive to asset value fluctuations.
I suppose this is where we come in. If we indeed do come in.

Sent from my BlackBerry Handheld.

▼ William BRODOWS

----- Original Message -----
From: William BRODOWS
Sent: 07/13/2008 11:19 AM EDT
To: Antoine Martin; Patrick Parkinson; Lucinda Brickler
Cc: Arthur Angulo; Brian Begalle; Catherine Kung; Chris McCurdy; HaeRan Kim; Jamie McAndrews; Jan Voigts; Joseph Sommer; Lawrence Sweet; Meg McConnell; Michael Schussler; Morten Bech; Sandy Krieger; Terrence Checki; Thomas Baxter; Til Schuermann; William Dudley
Subject: Re: another option we should present re triparty?

Given that lehman has 32 billion in capital (which is also in liquid form), there are few scenarios over the next few weeks in which one could contemplate an intra-day determination that they would become bankrupt.

Sent from my BlackBerry Handheld.

▼ Antoine Martin

----- Original Message -----
From: Antoine Martin
Sent: 07/13/2008 10:07 AM EDT
To: Patrick Parkinson; Lucinda Brickler
Cc: Arthur Angulo; Brian Begalle; Catherine Kung; Chris McCurdy; HaeRan Kim; Jamie McAndrews; Jan Voigts; Joseph Sommer; Lawrence Sweet; Meg McConnell; Michael Schussler; Morten Bech; Sandy Krieger; Terrence Checki; Thomas Baxter; Til Schuermann; William BRODOWS; William Dudley
Subject: Re: another option we should present re triparty?

JPMC should be willing to unwind as long as we can commit to lend at the PDCF. If we cannot commit, they may be worried that by the end of the day, we would judge that LB is not solvent and then we could not use the PDCF.

Of course, in that case we would do something else to rescue LB, but the negotiating position of JPMC would be much weaker than in the morning, before they unwind.

Antoine

Sent from my BlackBerry Wireless Handheld

▼ Patrick M Parkinson

----- Original Message -----
From: Patrick M Parkinson
Sent: 07/13/2008 09:21 AM EDT
To: Lucinda Brickler
Cc: Antoine Martin; Arthur Angulo; Brian Begalle; Catherine Kung; Chris McCurdy; HaeRan Kim; Jamie McAndrews; Jan Voigts; Joseph Sommer; Lawrence Sweet; Meg McConnell; Michael Schussler; Morten Bech; Sandy Krieger; Terrence Checki; Thomas Baxter; Til Schuermann; William BRODOWS; William Dudley
Subject: Re: another option we should present re triparty?

I think this option is much too complex. To answer a question others

have asked, the biggest difference between today and when Bear lost access to financing is that the PDCF is in place. As long as we judge that LB is sound we should be willing to lend to it through the PDCF at conservative haircuts (as previously envisioned). With the PDCF in place there is no need to use JPMC as an intermediary.

And we should tell JPMC that with the PDCF in place refusing to unwind is unnecessary and would be unforgivable. It is unnecessary because even if JPMC is right that LB will have trouble rolling its repos with private counterparties we will provide the credit necessary to obviate any credit extensions to LB by JPMC. Failing to unwind would be unforgivable because it would force us to immediately lend an amount equal to the entire amount of LB's outstanding tri-party financing when private parties may be willing to continue to fund a significant portion, especially after we demonstrate that they are not vulnerable to a run because of our willingness to lend.

Pat

▼ Lucinda M Brickler/NY/FRS@FRS

Lucinda M Brickler/NY/FRS@FRS

07/12/2008 06:20 PM

To: Chris.McCurdy@ny.frb.org, Patrick M Parkinson/BOARD/FRS@BOARD, Sandy.Krieger@ny.frb.org, Lawrence.Sweet@ny.frb.org, Arthur Angulo/NY/FRS@FRS, Til Schuermann/NY/FRS@FRS, William BRODOWS/NY/FRS@FRS, Jamie McAndrews/NY/FRS@FRS, Morten Bech/NY/FRS@FRS, Antoine Martin/NY/FRS@FRS, Michael Schussler/NY/FRS@FRS, Joseph Sommer/NY/FRS@FRS, Meg McConnell/NY/FRS@FRS, HaeRan Kim/NY/FRS@FRS, Catherine Kung/NY/FRS@FRS, Brian Begalle/NY/FRS@FRS, Jan Voigts/NY/FRS@FRS, William Dudley/NY/FRS@FRS, Terrence Checki/NY/FRS@FRS, Thomas Baxter/NY/FRS@FRS

cc:

Subject: another option we should present re triparty?

Perhaps another option we could offer Tim on triparty...

If JPMC refuses to unwind LB's triparty one morning out of fear of being caught with the entirety of this exposure when the music stops, by that evening they (and we) will likely have a much bigger problem to deal with as scores of investors pull away from triparty repo.

Instead of merely offering to take all of the risk to LB on our shoulders by stepping in as the intraday creditor (as the current proposal suggests), perhaps we just need to offer JPMC an outcome that is slightly more palatable.

TAB 11

From: Mark G Doctoroff <mark.g.doctoroff@jpmorgan.com>
Sent: Monday, August 18, 2008 3:52 PM (GMT)
To: Fleming, Dan (TSY) <dfleming@lehman.com>
Subject: Legal Documents - Clearance
Attach: Lehman CA Amendment.DOC;Lehman Guaranty.DOC;Lehman Security Agreement.DOC

Dear Dan,

Welcome back from vacation -- hope you were able to relax. Attached are the documents that we wanted to supply that will allow for the lien in all the clearance accounts in Lehman's broker/dealer group.

Let me know is these are good from your perspective, or if we need to have the legal people to huddle, let me know. I am back in the office. Best, Mark

Mark G. Doctoroff

Executive Director

Financial Institutions

JPMorgan Chase Bank, N.A.

277 Park Avenue, 14th Floor

TEL# (212) 622-1878

FAX#(917) 464-6265

Mobile# (917) 885-9268

Generally, this communication is for informational purposes only and it is not intended as an offer or solicitation for the purchase or sale of any financial instrument or as an official confirmation of any transaction. In the event you are receiving the offering materials attached below related to your interest in

hedge funds or private equity, this communication may be intended as an offer or solicitation for the purchase or sale of such fund(s). All market prices, data and other information are not warranted as to completeness or accuracy and are subject to change without notice. Any comments or statements made herein do not necessarily reflect those of JPMorgan Chase & Co., its subsidiaries and affiliates. This transmission may contain information that is privileged, confidential, legally privileged, and/or exempt from disclosure under applicable law. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or use of the information contained herein (including any reliance thereon) is STRICTLY PROHIBITED. Although this transmission and any attachments are believed to be free of any virus or other defect that might affect any computer system into which it is received and opened, it is the responsibility of the recipient to ensure that it is virus free and no responsibility is accepted by JPMorgan Chase & Co., its subsidiaries and affiliates, as applicable, for any loss or damage arising in any way from its use. If you received this transmission in error, please immediately contact the sender and destroy the material in its entirety, whether in electronic or hard copy format. Thank you. Please refer to http://www.jpmorgan.com/pages/disclosures for disclosures relating to UK legal entities.

TAB 12

AMENDMENT TO CLEARANCE AGREEMENT

WHEREAS, Lehman Brothers Inc. and Lehman Commercial Paper Inc. (the "Customer") and JPMorgan Chase Bank, N.A. (formerly The Chase Manhattan Bank, the "Bank") have entered into that certain Clearance Agreement dated as of June 15, 2000, as amended by the Amendment to Clearance Agreement dated as of May 30, 2008 (the "Agreement"); and

WHEREAS, the Customer and the Bank desire to amend the Agreement to add Lehman Brothers Holdings Inc., Lehman Brothers International (Europe), Lehman Brothers OTC Derivatives Inc., Lehman Brothers Commercial Bank and Lehman Brothers Japan Inc. as additional Customers under the Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed as follows:

1. The Agreement is hereby amended by adding Lehman Brothers Holdings Inc., Lehman Brothers International (Europe), Lehman Brothers OTC Derivatives Inc. and Lehman Brothers Japan Inc. as additional Customers.

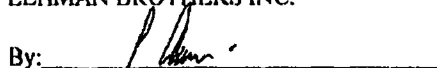
2. The Agreement is hereby amended by adding a new Section 2.5 which will read as follows: "Notwithstanding anything provided for herein to the contrary, except for the obligations of Lehman Brothers Holdings Inc. under the Guaranty and Security Agreement dated August 26, 2008, the obligations and liabilities of each of the Lehman entities which are a party to this Agreement under this Agreement shall be several and not joint and any security interest, lien, right of set-off or other collateral accommodation provided by any Lehman entity pursuant to this Agreement shall not be available to support the obligations and liabilities of any other Lehman entity pursuant to this Agreement."

3. All other terms and conditions of the Agreement are hereby ratified, and the Agreement shall, except as expressly modified herein, continue in full force and effect.

4. This Amendment shall be governed by and construed in accordance with the laws of the State of New York without giving effect to the conflict of laws principles thereof.

IN WITNESS WHEREOF, the parties have caused their duly authorized representatives to execute this Amendment as of the 26th day of August, 2008.

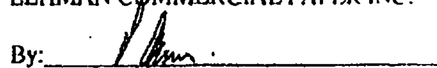
LEHMAN BROTHERS INC.

By: 

Name: Paolo Tonucci

Title: Managing Director, Global Treasurer

LEHMAN COMMERCIAL PAPER INC.

By: 

Paolo Tonucci

Managing Director

Global Treasurer

#377228v3-clean

Name:
Title:

LEHMAN BROTHERS HOLDINGS INC

By: ______________________________
Name: Paolo Tonucci
Title: Managing Director
Global Treasurer

LEHMAN BROTHERS INTERNATIONAL (EUROPE)

By: ______________________________
Name
Title:

LEHMAN BROTHERS OTC DERIVATIVES INC.

By: ______________________________
Name: Paolo Tonucci
Title: Managing Director
Global Treasurer

LEHMAN BROTHERS JAPAN INC.

By: ______________________________
Name:
Title:

JPMORGAN CHASE BANK, N.A.

By: ______________________________
Name:
Title:

#377228v3-clean

Title:

LEHMAN BROTHERS HOLDINGS INC

By:______________________________
Name:
Title:

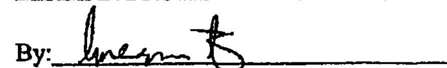
LEHMAN BROTHERS INTERNATIONAL (EUROPE)

By:______________________________
Name
Title:

LEHMAN BROTHERS OTC DERIVATIVES INC.

By:______________________________
Name:
Title:

LEHMAN BROTHERS JAPAN INC.



By:______________________________
Name: GREGORY ITO
Title: AUTHORIZED SIGNATORY

JPMORGAN CHASE BANK, N.A.

By:______________________________
Name:
Title:

Title:

LEHMAN BROTHERS HOLDINGS INC

By:______________________________
Name:
Title:

LEHMAN BROTHERS INTERNATIONAL (EUROPE)

By: [signature]
Name EMILY UPTON
Title: AUTHORISED SIGNATORY

LEHMAN BROTHERS OTC DERIVATIVES INC.

By:______________________________
Name:
Title:

LEHMAN BROTHERS JAPAN

By:______________________________
Name:
Title:

JPMORGAN CHASE BANK, N.A.

By:______________________________
Name:
Title:

Name:
Title:

LEHMAN BROTHERS HOLDINGS INC

By:______________________________
Name:
Title:

LEHMAN BROTHERS INTERNATIONAL (EUROPE)

By:______________________________
Name
Title:

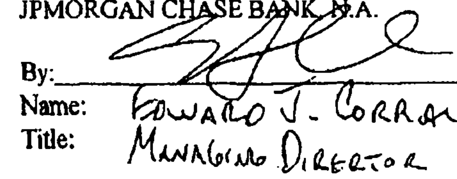
LEHMAN BROTHERS OTC DERIVATIVES INC.

By:______________________________
Name:
Title:

LEHMAN BROTHERS JAPAN INC.

By:______________________________
Name:
Title:

JPMORGAN CHASE BANK, N.A.

By:
Name: EDWARD J. CORRAL
Title: MANAGING DIRECTOR

#377228v3-clean

TAB 13

SECURITY AGREEMENT

In consideration of one or more loans, letters of credit or other financial accommodation made, issued or extended by JPMORGAN CHASE BANK, N.A. and any of its successors or assigns party to the Clearance Agreement referred to below (hereinafter, the "Bank"), the undersigned hereby agree(s) that the Bank shall have the rights, remedies and benefits hereinafter set forth.

The "Accounts" means (i) the securities account of the Guarantor at the Bank known as LCE or any subaccount or replacement accounts thereto (the "Securities Account"), (ii) DDA# 066-141-605 (the "Cash Account") and (iii) any other account at the Bank to which Guarantor transfers (A) cash from the Cash Account, (B) any interest, dividends, cash, instruments and other property from time to time received, receivable (including without limitation sales proceeds) or otherwise distributed in respect of or in exchange for any or all of the cash or securities in the Securities Account or the Cash Account or (C) any cash or securities from the Securities Account or the Cash Account during such time as the Guarantor or an Other Obligor has an outstanding obligation or liability to the Bank under the Guaranty or the Clearance Agreement.

The "Guaranty" means the Guaranty of even date herewith made by the undersigned in favor of the Bank.

The "Other Obligors" mean Lehman Brothers Inc., Lehman Brothers International (Europe), Lehman Brothers OTC Derivatives Inc., Lehman Brothers Commercial Paper Inc. and Lehman Brothers Japan Inc. and their respective successors.

The "Clearance Agreement" means the Clearance Agreement dated as of June 15, 2000 to which one or more of the Other Obligors and the Bank are parties (as amended by (i) the Amendment to Clearance Agreement dated as of May, 30, 2008 and (ii) the Amendment to Clearance Agreement dated as of even date herewith and as it may be further amended from time to time).

The term "Liabilities" shall mean (a) all "Liabilities" as defined in the Guaranty, (b) all obligations of the undersigned under this Security Agreement and (c) without duplication of the foregoing, all costs, expenses and charges (including without limitation fees and charges of external legal counsel for the Bank and costs allocated by its internal legal department) incurred by the Bank in connection with the preparation, performance or enforcement of the Guaranty and this Security Agreement.

The term "Security" means (i) the Accounts, together with any security entitlements relating thereto and any and all financial assets, investment property, funds and/or other assets from time to time held in or credited to the Accounts or otherwise carried in the Accounts (or to be received for credit or in the process of delivery to the Account), (ii) any interest, dividends, cash, instruments and other property from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all

of the then existing Security and (iii) all proceeds of any and all of the foregoing Security.

As security for the payment of all the Liabilities, the undersigned hereby grant(s) to the Bank a security interest in, and a general lien upon and/or right of set-off of, the Security. Further, for the avoidance of doubt and not in limitation of the rights of the Bank under Sections 9-104(a)(1), 9-106(a) and 8-106(e) of the Uniform Commercial Code as adopted by the State of New York (the "Code"), the undersigned and the Bank (acting as a bank with respect to any Accounts consisting of deposit accounts and as a securities intermediary with respect to any Accounts consisting of securities accounts), acknowledge and agree with respect thereto, that the Bank, as the secured party hereunder, may issue instructions to direct disposition of any and all of the funds in the deposit accounts (and acting as the bank will comply with such instructions) and may issue entitlement orders with respect to any and all securities accounts (and acting as the securities intermediary will comply with such entitlement orders), in either case, without the consent of the undersigned. Terms used herein and defined in Articles 1, 8 and/or 9 of the Code shall have the meanings set forth therein. The undersigned and the Bank agree that the jurisdiction of the Bank (including, without limitation, in its capacities as a bank, a securities intermediary and a commodity intermediary) for purposes of the Code is the State of New York.

The undersigned hereby represents and warrants to the Bank as follows: (a) it is duly organized and validly existing under the laws of the jurisdiction of its incorporation or organization and has all requisite power and authority to execute and deliver this agreement; (b) the execution, delivery and performance of this agreement has been duly authorized by all necessary corporate action of the undersigned and this agreement constitutes the legal, valid and binding obligation of the undersigned, except as may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or limiting creditors' rights generally or by equitable principles relating to enforceability (whether enforcement is sought in equity or at law); (c) the execution, delivery and performance of this agreement does not and will not conflict with the provisions of its governing instruments and will not violate any provisions of applicable law or regulation or any order of any court or regulatory body and will not result in the breach of, or constitute a default, or require any consent, under any material agreement, instrument or document to which the undersigned is a party or by which it or any of its property may be bound or affected; (d) it is the sole owner of the Security; (e) the Security is and will be free and clear of any lien, charge, security interest, claim, encumbrance or other adverse interest whatsoever, except for that created by this agreement, the Guaranty or the Clearance Agreement and other liens in favor of the Bank arising under applicable laws, and (f) it has not agreed to resell any of the Security pursuant to a repurchase agreement or similar arrangement.

The right is expressly granted to the Bank, in each case upon the occurrence and during the continuation of a Default or to preserve the Security or its value, to transfer to or register in the name of itself or its nominee any of the Security; to exchange any of the Security for any other property upon any reorganization, recapitalization or other readjustment and in connection therewith to deposit any of the Security with any committee or depositary upon such terms as it may determine; to notify any account debtor or obligor on an instrument to make payment to the Bank; and to exercise or cause its nominee to exercise all or any powers with respect to the Security with the same force and effect as an absolute owner thereof and to file one or more financing statements under the Uniform Commercial Code naming the undersigned as debtor and the Bank as secured party and indicating therein the types or describing the items of Security herein specified; all without notice (except such notice as may be required by applicable law and cannot be waived) and without liability except to account for property actually received by it. Without limiting the generality of the foregoing, payments, distributions and/or dividends, in securities, property or cash, including without limitation dividends representing stock or

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liquidating dividends or a distribution or return of capital upon or in respect of the Security or any part thereof or resulting from any split-up, revision or reclassification of the Security or any part thereof or received in exchange for the Security or any part thereof as a result of a merger, consolidation or otherwise, shall be paid directly to and retained by the Bank and held by it until applied as herein provided, as additional collateral security pledged under and subject to the terms hereof. Without the prior written consent of the Bank the undersigned will not file or authorize or permit to be filed in any jurisdiction any such financing or like statement covering the Security in which the Bank is not named as the sole secured party.

The Bank upon the occurrence and during the continuation of a Default or to preserve the Security or its value may, whether any of the Liabilities may be due, in its name or in the name of the undersigned or otherwise, demand, sue for, collect or receive any money or property at any time payable or receivable on account of or in exchange for, or make any compromise or settlement deemed desirable with respect to, any of the Security, but shall be under no obligation so to do, or the Bank may upon the occurrence and during the continuation of a Default or to preserve the Security or its value extend the time of payment, arrange for payment in installments, or otherwise modify the terms of, or release, any of the Security, without thereby incurring responsibility to, or discharging or otherwise affecting any liability of, the undersigned. Notwithstanding anything contained herein to the contrary, the Bank shall not be required to take any steps necessary to preserve any rights against prior parties to any of the Security. The Bank may upon the occurrence and during the continuation of a Default or to preserve the Security or its value use or operate any of the Security for the purpose of preserving the Security or its value in the manner and to the extent the Bank deems appropriate, but the Bank shall be under no obligation to do so.

Except as otherwise provided herein, at the end of a business day, if the undersigned has determined that no Obligations (as defined in the Clearance Agreement) remain outstanding, the undersigned may transfer to an account (the "Overnight Account") any and all Security held in or credited to or otherwise carried in the Accounts. Any determination of the undersigned or the Other Obligors that no Obligations remain outstanding shall not be binding upon the Bank.

The Bank shall have in addition to all other rights and remedies available to it under law or otherwise, the rights and remedies with respect to the Security of a secured party under the Uniform Commercial Code (whether or not the Code is in effect in the jurisdiction where the rights and remedies are asserted). In addition, with respect to any security or interest issued by an open-end management or investment company registered as such under the Investment Company Act of 1940 in which the Bank has a security interest hereunder, the Bank shall have upon the occurrence and during the continuation of a Default the right to redeem such securities or interests. Further, with respect to the Security, or any part thereof, upon the occurrence and during the continuation of a Default, the Bank may sell or cause to be sold in the Borough of Manhattan, New York City, or elsewhere, in one or more sales or parcels, at such price as the Bank may deem best, and for cash or on credit or for future delivery, without assumption of any credit risk, all or any of the Security, at any broker's board or at public or private sale, in any reasonable manner permissible under the Uniform Commercial Code (except that, to the extent permissible thereunder, the undersigned hereby waives the requirements of said Code), and the Bank or anyone else may be the purchaser of any or all of the Security so sold and thereafter hold the same absolutely, free from any claim or right of whatsoever kind, including any equity of redemption, of the undersigned, any such demand, notice or right and equity being hereby expressly waived and released. In this regard, the undersigned recognizes that due to certain prohibitions contained in the Securities Act of 1933, as amended, or applicable state securities laws, the Bank may consider it advisable to resort to one or more private sales to a restricted

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group of purchasers who will agree to acquire such of the Security consisting of securities for their own account for investment and not to engage in a distribution or resale thereof, and that private sales so made may be at prices and on other terms less favorable to the seller than if such Security were sold at public sale. The undersigned agrees that private sales made under the foregoing circumstances shall be deemed to have been made in a commercially reasonable manner. The undersigned acknowledges that the Security is of a kind that is customarily sold on a recognized market and is the subject of widely distributed standard price quotations. The undersigned will pay to the Bank all expenses (including reasonable and documented attorneys' fees and legal expenses incurred by the Bank) of, or incidental to, the enforcement of any of the provisions hereof or of any of the Liabilities, or any actual or attempted sale, or any exchange, enforcement, collection, compromise or settlement of any of the Security or receipt of the proceeds thereof, and for the care of the Security and defending or asserting the rights and claims of the Bank in respect thereof, by litigation or otherwise, including expense of insurance; and all such expenses shall be Liabilities within the terms of this agreement. The Bank, at any time, at its option, may apply the net cash receipts from the Security to the payment of principal and/or interest on any of the Liabilities, whether or not then due, making proper rebate of interest or discount. Notwithstanding that the Bank, whether in its own behalf and/or in behalf of another or others, may continue to hold Security and regardless of the value thereof, the undersigned shall be and remain liable for the payment in full of any balance of the Liabilities and expenses at any time unpaid. THE RIGHTS OF THE BANK SET FORTH HEREIN ARE WITHOUT LIMITATION OF, AND IN ADDITION TO, ANY OTHER RIGHT OF THE BANK UNDER ANY OTHER DOCUMENT EVIDENCING OR EXECUTED IN CONNECTION WITH THE LIABILITIES.

If at any time any sum payable upon any of the Liabilities shall not be paid when due (which, for sums payable by the Guarantor in respect of the Liabilities as defined under the Guaranty, are due on demand); or if the undersigned or the Other Obligors shall default in the payment or performance of the Guaranty, the Clearance Agreement, any of its agreements herein or in any instrument or document delivered pursuant hereto, or in connection herewith; or if a decree or order shall be entered for relief by a court having jurisdiction of the undersigned or the Other Obligors in an involuntary bankruptcy case under the federal bankruptcy laws, as now or hereafter constituted, or under any other applicable federal or state bankruptcy, insolvency, or other similar law, or appointing a receiver, liquidator, assignee, custodian, trustee or sequestrator of the undersigned or the Other Obligors or for any substantial part of its property; or ordering the reorganization, dissolution, winding-up of or liquidation of its affairs, and the continuation of any such decree or order shall be unstayed and in effect, or any case or other proceeding seeking any such decree or order shall continue undismissed, for a period of 60 consecutive days; or if the undersigned or the Other Obligors shall, or (if a corporation) shall take any corporate action to, commence a voluntary case under the federal bankruptcy laws, or now or hereafter constituted, or seek to take advantage of any other applicable federal or state bankruptcy, insolvency, or similar law, or apply for or consent to the appointment of or taking of possession by a receiver, liquidator, assignee, trustee, custodian or sequestrator of the undersigned or the Other Obligors or for any substantial part of its property, or the making by the undersigned or the Other Obligors of any assignment for the benefit of creditors; or the undersigned or the Other Obligors shall admit in writing its inability, or be generally unable, to pay its debts as they become due; or if the undersigned or shall suspend the transaction of his, its or their usual business, or if any governmental authority (including, without limitation, the Securities Investor Protection Corporation or any successor) or any court at the instance thereof shall, or shall appoint a receiver or trustee to, take possession of any substantial part of the property of, or assume control over the affairs or operations of, or a receiver or trustee shall be appointed for, or with respect to any substantial part of the property of, or a writ or order of attachment or garnishment shall be issued or made against any substantial part of the property of, the undersigned or the Other Obligors; or if the

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undersigned or any of the Other Obligors shall (x) default in the payment of any indebtedness (other than indebtedness incurred under the Clearance Agreement or the Guaranty) having an aggregate principal amount of $100,000,000 (or its equivalent in any other currency or currencies) or more beyond the period of grace (not to exceed 30 days), if any, provided in the instrument or agreement under which such indebtedness was created, or (y) default in the observance or performance of any agreement or condition relating to any indebtedness (other than indebtedness incurred under the Clearance Agreement or the Guaranty) or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event shall occur or condition shall exist, the effect of which default or other event or condition is to cause any such indebtedness to become due prior to its stated maturity in the aggregate principal amount of $100,000,000 (or its equivalent in any other currency or currencies) or more; or any indebtedness of the undersigned or any of the Other Obligors in the aggregate amount of $100,000,000 (or its equivalent in any other currency or currencies) or more shall be declared due and payable prior to the stated maturity thereof; or if the undersigned shall be dissolved; thereupon, unless and to the extent that the Bank shall otherwise elect, it shall be a DEFAULT under this agreement.

The undersigned acknowledges and agrees that the Bank may from time to time request further security or payments on account of any of the Liabilities.

Upon the occurrence and continuation of a Default, the Bank may assign, transfer and/or deliver to any transferee of any of the Liabilities and/or any or all of the Security; and thereafter shall be fully discharged from all responsibility with respect to the Security so assigned, transferred and/or delivered. Such transferee shall be vested with all the powers and rights of the Bank hereunder with respect to such Security, but the Bank shall retain all rights and powers hereby given with respect to any of the Security not so assigned, transferred or delivered. No delay on the part of the Bank in exercising any power or right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any power or right hereunder preclude other or further exercise thereof or the exercise of any other power or right. The rights, remedies and benefits herein expressly specified are cumulative and not exclusive of any rights, remedies or benefits which the Bank may otherwise have. The undersigned hereby waive(s) presentment, notice of dishonor and protest of all instruments included in or evidencing the Liabilities or the Security and any and all other notices and demands whatsoever, whether or not relating to such instruments.

No provision hereof shall be modified or limited except by a written instrument expressly referred hereto and to the provision so modified or limited. This agreement shall be binding upon the assigns or successors of the undersigned, shall constitute a continuing agreement, applying to all future as well as existing transactions applying to all future as well as existing transactions, whether or not of the character contemplated at the date of this agreement, and if all transactions between the Bank and the undersigned shall be at any time closed, shall be equally applicable to any new transactions thereafter; and shall be governed by and construed according to the internal laws of the State of New York without reference to principles of conflicts of laws. By the execution hereof the undersigned hereby submits to the jurisdiction of the Federal and State courts located in New York. The undersigned hereby consents to the service of process in any action or proceeding brought against it by the Bank by means of registered mail to the last known address to the undersigned. Nothing herein, however, shall prevent service of process by any other means recognized as valid by law within or without the State of New York. Unless the context otherwise requires, all terms used herein which are defined in the Uniform Commercial Code shall have the meanings therein stated. All references to agreements, guaranties, documents and other writings herein refer to such writings as the same may be hereafter amended, modified, supplemented and/or restated.

THE UNDERSIGNED HEREBY WAIVES AND AGREES TO WAIVE THE RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM INSTITUTED WITH RESPECT TO ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED TO THIS AGREEMENT.

New York, New York

LEHMAN BROTHERS HOLDINGS INC.

Dated: As of August 26, 2008

By:

Name:

Title:

Paolo Tonucci
Managing Director
Global Treasurer

CONFIDENTIAL INFORMATION

JPM-2004 0005872

TAB 14

GUARANTY

GUARANTY dated as of August 26, 2008 made by the undersigned (the "Guarantor") in favor of JPMORGAN CHASE BANK, N.A. and any of its successors or assigns (hereinafter, the "Bank").

PRELIMINARY STATEMENT: Lehman Brothers Inc., Lehman Brothers International (Europe), Lehman Brothers OTC Derivatives Inc., Lehman Brothers Commercial Paper Inc. and Lehman Brothers Japan Inc. (collectively, with their respective successors, the "Borrowers"), each a wholly-owned direct or indirect subsidiary of the Guarantor, desire to transact business with and/or to obtain credit, clearing advances, clearing loans or other financial accommodation from the Bank or to continue such extensions of credit, clearing advances, clearing loans or other financial accommodation or such business in each case under or in connection with the Clearance Agreement (as defined below) or transactions pursuant thereto, and the Bank has requested that it receives the following guaranty of the undersigned before it will consider extending such credit. The Guarantor derives, and expects to continue to derive, substantial direct and indirect benefits from the business of the Borrowers and the credit, clearing advances, clearing loans and other financial accommodations provided by the Bank to the Borrowers.

THEREFORE, for good and valuable consideration and in order to induce the Bank from time to time, in its discretion, to extend or continue credit, clearing advances, clearing loans or other financial accommodations to the Borrowers under the Clearance Agreement (as hereinafter defined) (all of the foregoing extensions of credit, advances, loans or accommodations under the Clearance Agreement being the "Facilities" and any writing evidencing, supporting or securing a Facility, consisting of (i) the Clearance Agreement, (ii) this Guaranty, and (iii) the Security Agreement as of even date hereof (the "Security Agreement") and entered into by Guarantor for the benefit of the Bank, as each such writing may be amended, modified or supplemented from time to time being a "Facility Document"), the Guarantor agrees as follows:

Section 1. **Guaranty of Payment**. The Guarantor unconditionally and irrevocably guarantees to the Bank the punctual payment of all obligations and liabilities (including without limitation the "Obligations" as defined in the Clearance Agreement) of the Borrowers to the Bank of whatever nature, whether now existing or hereafter incurred, whether created directly or acquired by the Bank by assignment or otherwise, whether matured or unmatured and whether absolute or contingent, when the same are due and/or due and payable, whether on demand, at stated maturity, by acceleration or otherwise, and whether for principal, interest, fees, expenses, indemnification or otherwise (all of the foregoing sums being the "Liabilities"), pursuant to the Clearance Agreement, dated as of June 15, 2000, to which one or more of the Borrowers and the Bank are parties, as it may be further amended from time to time (the "Clearance Agreement") and subject to the last sentence of this Section 1. The Liabilities include, without limitation, (a) interest accruing after the commencement of a case or proceeding under bankruptcy, insolvency or similar laws of any jurisdiction at the rate or rates provided in the Facility Documents, regardless of whether such interest is allowed or allowable as a claim in such case or proceeding and (b) the obligations of the Borrowers under section 16 of the Clearance Agreement. This Guaranty is a guaranty of payment and not of collection only. The Bank shall not be required to exhaust any right or remedy or take any action against the Borrowers or any

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other person or entity or any collateral. All moneys available to the Bank for application in payment or reduction of the Liabilities may be applied by the Bank to the payment or reduction of such of the Liabilities as the Bank may elect in its sole discretion and in such manner and in such amounts and at such time or times as it may see fit. The Guarantor agrees that, as between the Guarantor and the Bank, the Liabilities may be declared to be due and payable for the purposes of this Guaranty notwithstanding any stay, injunction or other prohibition which may prevent, delay or vitiate any declaration as regards the Borrowers and that in the event of a declaration or attempted declaration, the Liabilities shall immediately become due and payable by the Guarantor for the purposes of this Guaranty. The Guarantor's maximum liability under this Guaranty shall adjust each day and for each such day shall be equal to the dollar amount of cash and securities (based on the market value of such securities as determined by the Bank in its reasonable discretion) (i) held on such day in the accounts of the Guarantor subject to the Clearance Agreement and the Security Agreement and (ii) that the Bank has notified the Guarantor to be delivered to the Bank on such day in support of this Guaranty.

Section 2. **Guaranty Absolute**. The Guarantor guarantees that the Liabilities shall be paid strictly in accordance with the terms of the Facilities and any Facility Documents. The liability of the Guarantor under this Guaranty is absolute and unconditional irrespective of: (a) any change in the time, manner or place of payment of, or in any other term of, all or any of the Facilities, the Facility Documents or Liabilities, or any other amendment or waiver of or any consent to departure from any of the terms of any Facility, Facility Document or Liability including, without limitation, any increase or decrease in the rate of interest thereon; (b) any release or amendment or waiver of, or consent to departure from, any other guaranty or support document, or any exchange, release or non-perfection of any collateral, for all or any of the Facilities, Facility Documents or Liabilities; (c) any present or future law, regulation or order of any jurisdiction (whether of right or in fact) or of any agency thereof purporting to reduce, amend, restructure or otherwise affect any term of any Facility, Facility Document or Liability; (d) without being limited by the foregoing, any lack of validity or enforceability of any Facility, Facility Document or Liability; and (e) any other setoff, defense, or counterclaim whatsoever (in any case, whether based on contract, tort or any other theory) or circumstance whatsoever with respect to the Liabilities, the Facilities or the Facility Documents contemplated thereby which might constitute a legal or equitable defense available to, or discharge of, the Borrowers or a guarantor; and the Guarantor irrevocably waives the right to assert such defenses, set-offs or counterclaims in any litigation or other proceeding relating to the Liabilities, the Facilities or the Facility Documents contemplated thereby.

Section 3. **Guaranty Irrevocable**. This Guaranty is a continuing guaranty of the payment of all Liabilities (absolute or contingent) now or hereafter existing and shall remain in full force and effect until the later of (hereinafter the "Termination Date") (i) payment in full of all Liabilities and other amounts payable under this Guaranty (ii) the expiration or termination of the Clearance Agreement and all of the Borrowers' accounts at the Bank in connection with the Clearance Agreement; and (iii) the fulfillment of all obligations and commitments of the Borrowers under the Facilities and any Facility Documents.

Section 4. **Reinstatement**. This Guaranty shall continue to be effective or be reinstated, as the case may be, if at any time any payment of any of the Liabilities arising or

incurred prior to the Termination Date is rescinded or must otherwise be returned by the Bank on the insolvency, bankruptcy or reorganization of the Borrowers or otherwise (including, without limitation, on the grounds of preference or fraudulent transfer), all as though the payment had not been made.

Section 5. **Subrogation**. The Guarantor shall not exercise any rights which it may acquire by way of subrogation, by any payment made under this Guaranty or otherwise, until the Termination Date. If any amount is paid to the Guarantor on account of subrogation rights under this Guaranty at any time prior to the Termination Date, the amount shall be held in trust for the benefit of the Bank and shall be promptly paid to the Bank to be credited and applied to the Liabilities, whether matured or unmatured or absolute or contingent, in accordance with the terms of the Facilities. If the Guarantor makes payment to the Bank of all or any part of the Liabilities and the Termination Date shall have occurred, the Bank shall, at the Guarantor's request, execute and deliver to the Guarantor appropriate documents, without recourse and without representation or warranty, necessary to evidence the transfer by subrogation to the Guarantor of an interest in the Liabilities resulting from the payment.

Section 6. **Subordination**. Without limiting the Bank's rights under any other agreement, any liabilities owed by the Borrowers to the Guarantor in connection with any extension of credit or financial accommodation by the Guarantor to or for the account of the Borrowers, including but not limited to interest accruing at the agreed contract rate after the commencement of a bankruptcy or similar case or proceeding (regardless of whether such interest is allowed or allowable as a claim in such case or proceeding), are hereby subordinated to the Liabilities, and such liabilities of the Borrowers to the Guarantor, if the Bank so requests, shall be collected, enforced and received by the Guarantor as trustee for the Bank and shall be paid over to the Bank on account of the Liabilities but without reducing or affecting in any manner the liability of the Guarantor under the other provisions of this Guaranty.

Section 7. **Payments Generally**. All payments by the Guarantor shall be made in the manner, at the place and in the currency (the "Payment Currency") required by the Facility Documents; provided, however, that if the Payment Currency is other than U.S. dollars the Guarantor may, at its option (or, if for any reason whatsoever the Guarantor is unable to effect payments in the manner required by the Facility Documents, the Guarantor shall be obligated to) pay to the Bank at its office located at 277 Park Avenue, New York, New York 10017 the equivalent amount in U.S. dollars computed at the selling rate of the Bank, most recently in effect on or prior to the date the Liability becomes due or if such rate is unavailable, at a selling rate chosen by the Bank, for cable transfers of the Payment Currency to the place where the Liability is payable. In any case in which the Guarantor makes or is obligated to make payment in U.S. dollars, the Guarantor shall hold the Bank harmless from any loss incurred by the Bank arising from any change in the value of U.S. dollars in relation to the Payment Currency between the date the Liability becomes due and the date the Bank is actually able, following the conversion of the U.S. dollars paid by the Guarantor into the Payment Currency and remittance of such Payment Currency to the place where such Liability is payable, to apply such Payment Currency to such Liability.

Section 8. [Intentionally Omitted.]

Section 9. **Representations and Warranties**. The Guarantor represents and warrants that: (a) the execution, delivery and performance by the Guarantor under this Guaranty: (i) has been duly authorized by all necessary corporate action; (ii) does not, conflict with or violate any material agreement or instrument or any constitutive document, law, regulation or order applicable to the Guarantor; (iii) does not require the consent or approval of any person or entity, including but not limited to any governmental authority, or any filing or registration of any kind; and (iv) is the legal, valid and binding obligation of the Guarantor enforceable against the Guarantor in accordance with its terms except to the extent that enforcement may be limited by applicable bankruptcy, insolvency and other similar laws affecting creditor's rights generally; and (b) in executing and delivering this Guaranty, the Guarantor has (i) without reliance on the Bank or any information received from the Bank and based upon such documents and information it deems appropriate, made an independent investigation of the transactions contemplated hereby and the Borrowers, the Borrowers' business, assets, operations, prospects and condition, financial or otherwise, and any circumstances which may bear upon such transactions, the Borrowers or the obligations and risks undertaken herein with respect to the Liabilities; (ii) adequate means to obtain from the Borrowers on a continuing basis information concerning the Borrowers; (iii) has full and complete access to the Facility Documents and any other documents executed in connection with the Facility Documents; and (iv) not relied and will not rely upon any representations or warranties of the Bank not embodied herein or any acts heretofore or hereafter taken by the Bank (including but not limited to any review by the Bank of the affairs of the Borrowers). The Guarantor hereby further represents and warrants that the Guarantor owns (directly or indirectly) a substantial amount of the stock or other ownership interests of the Borrowers and is financially interested in its affairs.

Section 10. **Remedies Generally**. The remedies provided in this Guaranty are cumulative and not exclusive of any remedies provided by law.

Section 11. **Setoff**. The Guarantor agrees that, in addition to (and without limitation of) any right of setoff, banker's lien or counterclaim the Bank may otherwise have, the Bank shall be entitled, at its option, to offset balances (general or special, time or demand, provisional or final) held by it for the account of the Guarantor at any of the offices of the Bank, J.P. Morgan Securities Inc., or any other affiliate, in U.S. dollars or in any other currency, against any amount payable by the Guarantor under this Guaranty which is not paid when due (regardless of whether such balances are then due to the Guarantor), in which case it shall promptly notify the Guarantor thereof; provided that the Bank's failure to give such notice shall not affect the validity thereof.

Section 12. **Formalities**. The Guarantor waives presentment, notice of dishonor, protest, notice of acceptance of this Guaranty, notice of creation, renewal, extension or accrual of any Liability and notice of any other kind and any other formality with respect to any of the Liabilities or this Guaranty. The Guarantor also waives the right to require the Bank to proceed first against the Borrowers upon the Liabilities before proceeding against the Guarantor hereunder.

Section 13. **Amendments and Waivers**. No amendment or waiver of any provision of this Guaranty, nor consent to any departure by the Guarantor therefrom, shall be

effective unless it is in writing and signed by the Bank, and then the waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. No failure on the part of the Bank to exercise, and no delay in exercising, any right or remedy under this Guaranty shall operate as a waiver or preclude any other or further exercise thereof or the exercise of any other right or remedy.

Section 14. Expenses. The Guarantor shall reimburse the Bank on demand for all costs, expenses and charges (including without limitation the reasonable and documented fees and charges of external legal counsel for the Bank) incurred by the Bank in connection with the preparation, performance or enforcement of this Guaranty. The obligations of the Guarantor under this Section shall survive the termination of this Guaranty.

Section 15. Assignment. This Guaranty shall be binding on, and shall inure to the benefit of the Guarantor, the Bank and their respective successors and assigns; provided that the Guarantor may not assign or transfer its rights or obligations under this Guaranty.

Section 16. Captions. The headings and captions in this Guaranty are for convenience only and shall not affect the interpretation or construction of this Guaranty.

Section 17. Governing Law, Etc. **THIS GUARANTY SHALL BE GOVERNED BY THE LAW OF THE STATE OF NEW YORK. THE GUARANTOR CONSENTS TO THE NONEXCLUSIVE JURISDICTION AND VENUE OF THE STATE OR FEDERAL COURTS LOCATED IN THE CITY OF NEW YORK. SERVICE OF PROCESS BY THE BANK IN CONNECTION WITH ANY SUCH DISPUTE SHALL BE BINDING ON THE GUARANTOR IF SENT TO THE GUARANTOR BY REGISTERED MAIL AT THE ADDRESS SPECIFIED BELOW OR AS OTHERWISE SPECIFIED BY THE GUARANTOR FROM TIME TO TIME. THE GUARANTOR WAIVES ANY RIGHT THE GUARANTOR MAY HAVE TO JURY TRIAL IN ANY ACTION RELATED TO THIS GUARANTY OR THE TRANSACTIONS CONTEMPLATED HEREBY AND FURTHER WAIVES ANY RIGHT TO INTERPOSE ANY COUNTERCLAIM RELATED TO THIS GUARANTY OR THE TRANSACTIONS CONTEMPLATED HEREBY IN ANY SUCH ACTION. TO THE EXTENT THAT THE GUARANTOR HAS OR HEREAFTER MAY ACQUIRE ANY IMMUNITY FROM JURISDICTION OF ANY COURT OR FROM ANY LEGAL PROCESS (WHETHER FROM SERVICE OR NOTICE, ATTACHMENT PRIOR TO JUDGMENT, ATTACHMENT IN AID OF EXECUTION OF A JUDGMENT, EXECUTION OR OTHERWISE), THE GUARANTOR HEREBY IRREVOCABLY WAIVES SUCH IMMUNITY IN RESPECT OF ITS OBLIGATIONS UNDER THIS GUARANTY.**

Section 18. Integration; Effectiveness. This Guaranty and the Facility Documents sets forth the entire understanding of the Guarantor and the Bank relating to the guarantee of the Liabilities and constitutes the entire contract between the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof.; provided, however, that notwithstanding anything to the contrary, this Guaranty shall not effect or impair any other Guaranty made by the Guarantor in support of any of the obligations or liabilities of the Borrowers with respect to or in connection

with extensions of credit or facilities other than those related hereto. This Guaranty shall become effective when it shall have been executed and delivered by the Guarantor to the Bank. Delivery of an executed signature page of this Guaranty by telecopy shall be effective as delivery of a manually executed signature page of this Guaranty.

IN WITNESS WHEREOF, the Guarantor has caused this Guaranty to be duly executed and delivered by its authorized officer as of the date first above written.

[signature]

By:
Name: Ian Lowitt
Title: Chief Financial Officer

Address: 745 7th Ave. 31st Fl.
New York, NY 10019

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TAB 15

CURTIS, MALLET-PREVOST,
COLT & MOSLE LLP
101 Park Avenue
New York, New York 10178-0061
Telephone: (212) 696-6000
Joseph D. Pizzurro
L. P. Harrison 3rd
Michael J. Moscato
Nancy E. Delaney
Counsel for Plaintiff, Debtor Lehman Brothers Holdings Inc.

QUINN EMANUEL
URQUHART & SULLIVAN, LLP
865 South Figueroa Street, 10th Floor
Los Angeles, California 90017-2543
John B. Quinn
Erica Taggart
Counsel for Proposed Plaintiff/Intervenor, the Official Committee of Unsecured Creditors of Lehman Brothers Holdings Inc.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re: LEHMAN BROTHERS HOLDINGS INC., *et al.*, Debtors.	Chapter 11 Case No. 08-13555 (JMP)
LEHMAN BROTHERS HOLDINGS INC., and OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF LEHMAN BROTHERS HOLDINGS INC., Plaintiff and Proposed Plaintiff Intervenor, -against- JPMORGAN CHASE BANK, N.A., Defendant.	Adversary Proceeding No.: 10-_______ (JMP) **COMPLAINT**

Plaintiff, Lehman Brothers Holdings Inc. ("LBHI"), by its undersigned attorneys, alleges the following against defendant, JPMorgan Chase Bank, N.A. ("JPMorgan"):

NATURE OF THE CASE

1. A century ago, John Pierpont Morgan used his position atop the world of finance to shore up a teetering firm and rescue the nation from the brink of financial collapse. A century later, when the nation faced another epic financial crisis, Morgan's namesake firm stripped a faltering Lehman Brothers of desperately needed cash. On the brink of LBHI's bankruptcy, JPMorgan leveraged its life and death power as the brokerage firm's primary clearing bank to force LBHI into a series of one-sided agreements and to siphon billions of dollars in critically-needed assets. The purpose of these last-minute maneuvers was to leapfrog JPMorgan over other creditors by putting itself in the position of an overcollateralized creditor, not just for clearing obligations, but for any and all possible obligations of LBHI or any of its subsidiaries that JPMorgan believed could result from an LBHI bankruptcy. The effect of JPMorgan's actions – taken with the benefit of unparalleled inside knowledge – was devastating. JPMorgan not only took billions of dollars more than it needed from LBHI, but it also accelerated LBHI's freefall into bankruptcy by denying it an opportunity for a more orderly wind-down, costing the LBHI estate tens of billions of dollars in lost value.

2. JPMorgan accomplished its design, in part, by using the threat that it would stop providing LBHI's subsidiaries, including Lehman Brothers Inc. ("LBI"; LBHI and all of its subsidiaries, "Lehman"), with the essential clearing services that were the lifeblood of Lehman's broker-dealer business. With this financial gun to LBHI's head, JPMorgan was able to extract extraordinarily one-sided agreements from LBHI literally overnight. JPMorgan then relied on those overreaching and invalid agreements to extract billions of dollars in collateral from LBHI shortly before the bankruptcy, collateral that JPMorgan used not for clearing exposures, but to

secure billions of dollars of grossly exaggerated exposures that it now claims were incurred as a result of Lehman's bankruptcy filings. JPMorgan did this at a time when LBHI, and many of its subsidiaries, were insolvent, and JPMorgan provided no consideration in return, let alone anything resembling reasonably equivalent value. Those billions of dollars in collateral rightfully belong to the LBHI estate and its creditors.

3. JPMorgan was able to achieve its goal only because of its unique position as primary clearing bank to Lehman's broker-dealer business. In the eight years before LBHI's bankruptcy, JPMorgan provided clearing services to LBI pursuant to a clearance agreement. Each trading day, JPMorgan served as the third party intermediary for the vast majority of LBI's trades and triparty repurchases, acting as custodian over the securities and cash subject to those transactions until the counterparties had each delivered their matching part of the transaction. LBI's ability to buy and sell securities quickly, and to effect repurchase transactions, was an essential feature of Lehman's business, and could not be accomplished without these clearing services. JPMorgan was compensated well for this critical service, receiving hundreds of millions of dollars in fees over the years for its role as trading intermediary.

4. In the weeks preceding LBHI's bankruptcy filing, JPMorgan's top management were the ultimate insiders to the evolving crisis, enjoying real-time access to the key decision-makers at the United States Treasury and the Federal Reserve Bank of New York. JPMorgan's investment bankers were also attempting to assist Lehman's primary potential bidder, the Korea Development Bank, and consequently had first-hand knowledge of its intentions regarding a potential acquisition. JPMorgan also had direct access to internal financial information about Lehman, including an advance opportunity to review and comment on Lehman's presentation to the rating agencies. At one crucial point, JPMorgan was invited to a meeting with Lehman to

consider rescue financing proposals, but instead used it as an opportunity to probe Lehman's financial condition and business plans from a risk management perspective. With all of the bank's tentacles encircling the financial crisis at Lehman, JPMorgan was uniquely positioned to capitalize on the opportunities that crisis presented.

5. With the benefit of its unparalleled access to critical nonpublic information about Lehman, JPMorgan grew increasingly concerned about Lehman's solvency and financial viability in August and September 2008. In response, JPMorgan was able to flex the power of its clearing bank position to take swift and severe steps to catapult itself ahead of all of LBHI's other creditors. In late August 2008, JPMorgan insisted that LBHI enter into a guaranty of the clearing obligations of many of its subsidiaries, including LBI, and also required that LBHI become a party to the clearance agreement and execute a security agreement securing LBHI's obligations under the guaranty. Then, in the days immediately preceding LBHI's bankruptcy filing, JPMorgan required LBHI to enter into a new series of agreements – dictated by JPMorgan – that were designed to ensure that JPMorgan would stand ahead of all other creditors should LBHI be forced to file for bankruptcy. JPMorgan forced LBHI to sign these agreements in the early hours of September 10, 2008, just minutes before the rest of the world would hear LBHI's earnings report. JPMorgan coerced LBHI's compliance with the threat that Lehman's ability to clear trades would be cut off, which would have forced the immediate collapse of Lehman's business. LBHI received nothing in return for incurring the obligations set forth in those agreements, and they were executed at a time when LBHI was insolvent and/or undercapitalized, and when, on information and belief, many of LBHI's subsidiaries were also insolvent.

6. JPMorgan did not stop there. It also drained LBHI of desperately needed cash by making repeated demands that LBHI increase the amount of collateral payments it posted. In the

last four business days before LBHI's chapter 11 filing, JPMorgan seized $8.6 billion of cash collateral, including over $5 billion in cash on the final business day. All the while that JPMorgan was aggressively leveraging its position to grab increasingly more collateral, JPMorgan knew that it was already overcollateralized by billions of dollars.

7. JPMorgan's insistence on the new agreements in August and September 2008, its unjustified demands for billions in additional collateral, and its refusal to return that collateral in the critical days before LBHI's bankruptcy filing, severely constrained LBHI's liquidity and impeded its ability to pursue and implement alternatives and initiatives that would have resulted in the preservation of billions in value. Instead, LBHI's liquidity constraints compelled an exigent chapter 11 filing that has resulted in tens of billions of dollars in additional lost value to the LBHI estate and its creditors.

8. It is now too late to undo all the harm caused by the LBHI bankruptcy. It is not too late, however, to return to LBHI's estate and its creditors the billions of dollars of LBHI assets that JPMorgan illegally converted and continues to hold, and to compensate LBHI for all the damages that flow directly from JPMorgan's misconduct. This lawsuit seeks to return that value to the LBHI estate and to restore all of the creditors to the position they would have occupied but for JPMorgan's wrongful conduct.

THE PARTIES

9. LBHI is a Delaware corporation with its former principal business address at 745 Seventh Avenue, New York, New York 10019, and its current principal business address at 1271 Avenue of the Americas, New York, New York 10020.

10. JPMorgan is a national banking association chartered under the laws of the United States, with its principal business address at 270 Park Avenue, New York, New York 10012.

VENUE AND JURISDICTION

11. On September 15, 2008 (the "Petition Date"), LBHI filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, as amended (the "Bankruptcy Code"). LBHI continues to operate its business and manage its property as a debtor in possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code.

12. The Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. § 1334(b) and (c). This is a core proceeding within the meaning of 28 U.S.C. § 157(b). The claims asserted include proceedings to determine, avoid and recover preferences and fraudulent transfers, obligations and/or conveyances. In addition, resolution of the claims asserted will have an effect upon the administration of LBHI's chapter 11 case, the value of its estate and any distribution to its creditors.

13. Pursuant to 28 U.S.C. §§ 157(a) and 157(b)(1) and the district court's reference of proceedings to the bankruptcy court, this Court may exercise subject matter jurisdiction. Venue in this district is proper in accordance with 28 U.S.C. § 1409(a).

14. LBHI brings this adversary proceeding pursuant to and under Rule 7001 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and seeks relief under Sections 105(a), 362, 502(d), 506(d), 541, 542, 544, 547, 548, 550, 551 and 553 of the Bankruptcy Code, 28 U.S.C. § 2201 and applicable provisions of state law.

FACTUAL ALLEGATIONS

Overview of the JPMorgan-Lehman Relationship

15. Prior to its bankruptcy, Lehman was the fourth largest investment bank in the United States. Founded in 1855, it offered an array of financial services in equity and fixed income sales, trading and research, investment banking, asset management, private investment management, and private equity. It also provided prime broker services to professional investors and hedge funds, allowing them to borrow securities and cash to be able to invest on a leveraged basis using borrowed funds, or debt, to increase the returns on equity. In order for Lehman to provide its services, especially the prime broker services, it needed the ability to buy and sell billions of dollars of securities each day for itself and its customers.

16. During all relevant periods, JPMorgan was Lehman's primary bank. It provided secured and unsecured intra-day credit advances for Lehman's clearing activities. It was the leading credit provider to Lehman, including acting as lead arranger and administrative agent for LBHI's $2 billion unsecured revolving credit facility. JPMorgan was also Lehman's main depository bank for deposit accounts, one of Lehman's largest global counterparties for derivatives activity in terms of numbers of trades and aggregate notional amounts, Lehman's first overall counterparty among United States banks for fixed income and equity securities transactions, and the agent for securities clearing activities for Lehman worldwide.

17. Overall, Lehman entities paid fees exceeding $180 million to JPMorgan and its affiliates from the beginning of 2005 through the first six months of 2008.

The 2000 Clearance Agreement

18. Among its many roles, JPMorgan served as the principal clearing bank for LBI, LBHI's United States capital markets broker-dealer subsidiary. As such, JPMorgan acted as LBI's intermediary and agent in all securities trades entered into by LBI. JPMorgan would make

payments, transfer securities, and facilitate trades on behalf of LBI. JPMorgan also acted as LBI's agent in triparty repurchasing agreements that LBI used to obtain short-term financing. This clearing function was essential to LBI's business.

19. JPMorgan acted as clearing bank for LBI pursuant to a Clearance Agreement entered into on June 15, 2000 (hereinafter, the "2000 Clearance Agreement"), between LBI and The Chase Manhattan Bank ("Chase"), JPMorgan's predecessor-in-interest. This document served as the operative contract for JPMorgan's clearing services for LBI over the next eight years.

20. The terms and provisions of the 2000 Clearance Agreement generally followed the format of customary and ordinary clearance agreements. The 2000 Clearance Agreement included: (i) a lending provision authorizing Chase to make loans to facilitate the clearance process; and (ii) lien provisions giving Chase a lien over certain assets to secure "any advances or loans [Chase] may extend to [LBI] pursuant to this Agreement."

21. As is typical in the industry and as expressly provided under the 2000 Clearance Agreement, JPMorgan extended daily credit to LBI to cover its exposure for processing trades. For example, in the purchase of a security, JPMorgan would wire transfer the purchase price to the clearance agent of the seller before JPMorgan received the security being purchased. By sending out cash or securities in anticipation of receiving the matching security or cash, clearing banks incur what is referred to as "intra-day exposure." The normal pattern was that the intra-day exposure to JPMorgan would be reduced to zero by the end of the settlement process each trading day, except for exposure from "failed" trades, which were generally insignificant.

22. The intra-day exposure for advances made by JPMorgan to LBI under the 2000 Clearance Agreement was secured by a lien on certain accounts maintained by LBI with

JPMorgan, and the cash and securities on deposit in those accounts. Because JPMorgan was the primary clearing bank for LBI, virtually all LBI's securities and cash used in its trading activities were on deposit with JPMorgan or in JPMorgan accounts at depositories. Thus, all LBI's trading assets against which JPMorgan maintained a lien were subject to that security interest and served as collateral for all intra-day exposures of JPMorgan under the 2000 Clearance Agreement.

23. JPMorgan's security rights to LBI's collateral were limited, however, to the assets in LBI's accounts subject to JPMorgan's lien and did not extend to the accounts of any other Lehman entity. In addition, pursuant to the parties' understanding and course of dealing over the next eight years, LBI had the right to access its collateral at the close of settlement each day in order to use such collateral for overnight funding and other purposes.

24. The 2000 Clearance Agreement provided that the advances of funds and other extensions of credit in connection with clearance activities would be made at Chase's discretion, and that reimbursement by LBI was to be made upon demand. Significantly, however, the parties acknowledged a course of dealing between themselves with respect to the advancement of credit and, as a result, required that notice be given prior to any refusal to extend such credit. Section 5 of the 2000 Clearance Agreement provided:

> Notwithstanding the fact that we may from time to time make advances or loans pursuant to this paragraph or otherwise extend credit to you, whether or not as a regular pattern, we may at any time decline to extend such credit at our discretion, *with notice* and if we are precluded from extending such credit as a result of any law, regulation or applicable ruling. (Emphasis supplied.)

25. The 2000 Clearance Agreement further provided that LBI could transfer money out of its Clearing and Custody accounts "to the extent that after such transfer [JPMorgan] remain[ed] fully collateralized." Nothing in the 2000 Clearance Agreement gave JPMorgan the right to be overcollateralized.

26. The 2000 Clearance Agreement itself could not be terminated without proper notice. Section 17 of the 2000 Clearance Agreement provided that either party could terminate the agreement by written notice if: (i) the other party entered into a proceeding for bankruptcy; (ii) the other party failed to comply with any material provision of the agreement, which failure was not cured within 30 days after notice of such failure; or (iii) any representation or warranty made in the agreement by the other party shall have proven to have been, at the time made, false or misleading in any material respect.

27. The initial term of the 2000 Clearance Agreement commenced on June 15, 2000, and ended on October 7, 2002. The parties continued to operate under the 2000 Clearance Agreement from 2000 on, and amended it in 2008 (as discussed below). Prior to LBHI's bankruptcy filing, JPMorgan never provided written notice of a continuing material default or alleged that any representations or warranties were false or misleading at the time they were made. Consequently, the 2000 Clearance Agreement was still in effect when LBHI filed for bankruptcy.

The August Agreements

28. After operating under the original 2000 Clearance Agreement for eight years, on or about August 18, 2008, JPMorgan presented Lehman with a set of documents altering the terms of the clearance relationship between the parties. These alterations included adding LBHI as a guarantor of the obligations of LBI and other Lehman subsidiaries under the 2000 Clearance Agreement. The new documents were executed on or about August 29, 2008. They included an amendment to the 2000 Clearance Agreement (the "August Amendment"), a guaranty agreement (the "August Guaranty"), and a security agreement (the "August Security Agreement"; collectively, the "August Agreements").

29. On information and belief, at the time the parties entered into the August Agreements, LBHI was undercapitalized, and certain of the Lehman subsidiaries whose obligations were guaranteed under those agreements, including LBI, were insolvent.

30. Notwithstanding LBHI's undercapitalization, LBHI agreed under the August Agreements to post collateral to guarantee the intra-day trading obligations of LBI and the other Lehman subsidiaries arising under the 2000 Clearance Agreement. The parties further agreed that LBHI's maximum liability under the August Guaranty would be limited to the value of LBHI collateral held by JPMorgan (measured on a daily basis) in two specified accounts subject to JPMorgan's lien.

31. The parties also negotiated a crucial provision that confirmed LBHI's right to access its collateral at the end of each trading day. Specifically, the August Security Agreement provided that, to the extent LBHI determined that its collateral was no longer required to secure the intra-day clearance obligations of its subsidiaries, it was entitled to transfer its posted collateral from the accounts specifically pledged under the August Security Agreement to a lien-free account (the "Overnight Account"). In this regard, the August Security Agreement provided:

> … at the end of a business day, if [LBHI] has determined that no Obligations (as defined in the Clearance Agreement) remain outstanding, [LBHI] may transfer to an account (the 'Overnight Account') any and all Security held in or credited to or otherwise carried in the Accounts.

32. As explained above, by the nature of the clearance process, the intra-day clearance-related exposures of JPMorgan to the Lehman subsidiaries would typically be reduced to zero at the end of each trading day. Thus, the August Security Agreement provided for the right of LBHI to have access to all – or at least a substantial majority – of its collateral overnight.

33. While the August Agreements purported to give JPMorgan significant new rights against LBHI, they gave LBHI nothing of value in exchange. JPMorgan's obligations to the Lehman entities remained essentially the same as they were prior to the August Agreements. Further, LBHI did not even receive reasonably equivalent value from guaranteeing its subsidiaries' obligations because, among other things, on information and belief, certain of those subsidiaries, including LBI, were insolvent at the time the August Agreements were executed.

34. According to Lehman's Code of Authorities, only Ian Lowitt (as LBHI's Chief Financial Officer ("CFO")) or someone of equivalent or higher corporate rank could approve a guaranty such as the August Guaranty, while Paolo Tonucci (as LBHI's Treasurer) had the authority to execute the August Amendment and the August Security Agreement. Thus, while the August Security Agreement and the August Amendment were signed by Tonucci, the August Guaranty was signed by Lowitt. Significantly, the August Guaranty, because it had to be executed by Lowitt, was transmitted to JPMorgan separately from the August Amendment and August Security Agreement.

As The Ultimate Insider, JPMorgan Learns Confidential Information About Lehman

35. By September 2008, JPMorgan had obtained unparalleled access to and knowledge of Lehman's financial condition and prospects. As Lehman's most significant relationship bank, JPMorgan was invited into Lehman's strategic planning and was given access to Lehman's most confidential information, results, plans and outlook, as the firm held itself out as Lehman's trusted partner, advisor, and potential investor. And given JPMorgan's role in the nation's financial system, and the close relationships its leaders had with key policymakers, JPMorgan management was invited into the United States government's inner circle as it planned its efforts to address the issues relating to Lehman's financial distress. JPMorgan also

leveraged these relationships to gain an inside track on representing Lehman's main suitor, the Korea Development Bank ("KDB").

36. On September 4, 2008, senior management of LBHI met with senior officers of JPMorgan, including its senior risk officer, Barry Zubrow. According to a JPMorgan-prepared agenda, the purpose of the meeting was to discuss Lehman's upcoming third quarter results, including the expected significant asset write-downs from Lehman's commercial and residential real estate assets, and Lehman's plans going forward. After the meeting, Zubrow and the JPMorgan executives expressed skepticism about the viability of Lehman's plans.

37. JPMorgan also offered to assist Lehman by providing feedback on Lehman's draft presentations to the ratings agencies. On the evening of September 4, 2008, Paolo Tonucci of LBHI e-mailed a copy of Lehman's Fitch presentation to JPMorgan executives for their comments. Tonucci warned in the cover e-mail that the presentation contained "a lot of confidential info." Senior JPMorgan executives, including Zubrow and Mark Doctoroff, the primary Lehman relationship manager, reviewed and commented on the presentation. In response, Lowitt e-mailed Zubrow to remind him that: "The materials we sent you are very sensitive, and trust that they will be kept to the limited group we met with and your rating advisory team."

38. As early as August 2008, JPMorgan's top management had also reached out to KDB's Chairman, in the hope of representing KDB in connection with its proposed investment in Lehman. JPMorgan subsequently pitched KDB on three key points: (1) "JPM knows Lehman best as the largest liquidity provider and #1 financing bank for Lehman"; (2) that JPMorgan could perform prompt and thorough diligence on Lehman; and (3) that Steve Black (Co-Chief Executive Officer of the Investment Banking Division of JPMorgan) "and Jamie Dimon

[JPMorgan's CEO] know Dick Fuld [LBHI's Chairman] very well, are also close to Hank Paulson of US Treasury to discuss any potential support to the deal/KDB." As a result of its relationship with KDB, JPMorgan's leadership learned on the morning of September 5, 2008 that KDB was unlikely to press forward with the transaction.

39. In addition, on the morning of September 9, 2008, Jamie Dimon and other senior officers of JPMorgan met in Washington, D.C., with the Chairman of the Federal Reserve, Ben Bernanke. That same morning, Dimon also met with the Secretary of the United States Treasury, Henry Paulson.

40. On information and belief, at these September 9, 2008 meetings with the principal financial services policymakers, Dimon and the JPMorgan team discussed the financial state and future prospects of Lehman, as well as the United States government's intent not to rescue Lehman should it be forced to file for bankruptcy. From those conversations, the JPMorgan leadership determined that they would accelerate their efforts to secure LBHI collateral and capitalize on a Lehman bankruptcy.

41. LBHI originally intended to release its preliminary earnings report for the third fiscal quarter of 2008 on September 17, 2008. However, because news in the marketplace of the collapse of talks with KDB and analysts' estimates of losses caused a sharp drop in LBHI's stock price on September 9, 2008, senior management of LBHI decided to release the preliminary earnings report earlier, on Wednesday, September 10, 2008, at 7:30 a.m. Given its unique access to Lehman and its affairs, JPMorgan knew what Lehman was going to announce to the market.

42. Also on September 9, 2008, Black and Fuld followed up on a discussion Dimon had with Fuld two days earlier in which Dimon suggested JPMorgan might be willing to provide

funding to Lehman by purchasing preferred shares. Black agreed to send a team to a diligence session.

43. Rather than sending the dealmakers Lehman expected, JPMorgan sent a team that included senior risk managers. The risk team was not there to conduct due diligence on a potential acquisition, as portrayed to Lehman, but rather to probe into Lehman's confidential records and plans. JPMorgan's team, led by Douglas Braunstein and John Hogan, left the meeting and reportedly called Dimon and Black in Washington to tell them what was learned at the "diligence" session in New York. In an e-mail that evening, Hogan reported to Black, Dimon and other senior officers of JPMorgan that Lehman was seeking help, such as a credit line from JPMorgan. Despite promising Fuld that morning that he would send a team of JPMorgan bankers to explore just such a possibility, Black responded by asking about the "drugs they apparently have been taking to think that we would do something like that."

JPMorgan Demands That LBHI Enter Into the September Agreements

44. By September 9, 2008, JPMorgan had learned that the federal government was unlikely to provide support to Lehman, had been informed that the leading acquirer, KDB, had dropped talks with Lehman, and had previewed LBHI's planned preliminary earnings announcement. In light of the unique information it gained as the ultimate insider, JPMorgan wasted no time maneuvering to gain a preferred position over LBHI's other creditors.

45. According to JPMorgan's own calculations, at least as of September 4, 2008, as a result of the billions in securities and cash that LBHI and other Lehman entities had posted in the prior months to secure the clearing-related obligations of the Lehman subsidiaries, JPMorgan was more than fully collateralized for intra-day clearing risk. JPMorgan further acknowledged that LBHI, too, believed JPMorgan was overcollateralized against any intra-day risks.

46. Nevertheless, with the benefit of the highly material nonpublic information that JPMorgan learned from Lehman and federal policymakers, and upon learning that LBHI would publicly release its earnings earlier than expected, JPMorgan required LBHI to enter into a new series of agreements to ensure that JPMorgan would stand ahead of all other LBHI creditors – not just for its clearance exposure, but for all possible exposure that could result from an LBHI bankruptcy. Even though the parties had just executed the August Agreements, Diane Genova, in-house counsel for JPMorgan, called Andrew Yeung, a junior in-house lawyer for LBHI, on the evening of September 9, 2008, and advised that her team was putting together a new set of security agreements that LBHI would need to sign. At 8:50 p.m. on the night of September 9, 2008, JPMorgan forwarded a guaranty (the "September Guaranty") and security agreement (the "September Security Agreement") to Yeung. At some point later that evening, JPMorgan forwarded the remaining agreements, including a further amendment to the 2000 Clearance Agreement (the "September Amendment") and an "Account Control Agreement" (the "Account Control Agreement"; collectively, the "September Agreements").

47. Late that same evening, JPMorgan executives made multiple calls to Paolo Tonucci and Dan Fleming of LBHI, neither of whom had the authority to execute the September Guaranty, and demanded that the draft September Agreements be approved by Ian Lowitt and executed before LBHI's earnings call, scheduled for 7:30 a.m. the next day. However, JPMorgan was advised that Lowitt was home, and that he could not be disturbed because of his role in the crucial earnings call scheduled for the next morning.

48. JPMorgan executives led Fleming and other LBHI personnel to believe that, if LBHI did not execute the proposed agreements before LBHI's earnings call, JPMorgan would

immediately stop extending intra-day credit to, and clearing trades for, Lehman. In fact, JPMorgan would have taken such action if LBHI did not accede to its demands.

49. Although either action, if taken without commercially reasonable notice, would have constituted a breach of the parties' clearance agreement, LBHI was in no position to insist on its contract rights. All parties knew that if JPMorgan immediately ceased clearing activities or extending intra-day credit to Lehman, Lehman's entire business would immediately collapse. JPMorgan was one of only two banks, the other being the Bank of New York, that could provide the clearing services required by Lehman. It would have taken several months, if not longer, to transfer clearing responsibilities to the Bank of New York, and Lehman could not have survived for more than a day without a bank to clear its trades. Under these circumstances, LBHI had no alternative but to accede to JPMorgan's demand to enter into the September Agreements.

50. During the course of the evening, JPMorgan's in-house counsel further represented to Yeung that LBHI's Chairman, Dick Fuld, had previously agreed to the terms of the September Agreements in a conversation with Steve Black of JPMorgan. Yeung did not realize that this was not true. However, because LBHI's senior executives were all exclusively occupied with preparing for the next morning's critical earnings call, Yeung was unable to verify the truth or falsity of the misrepresentation made to him.

51. The September Agreements radically altered the relationship between JPMorgan and LBHI. Pursuant to these documents, JPMorgan required that LBHI guarantee and secure all exposures of all JPMorgan entities to all Lehman entities, without regard to the nature, legal vehicle or jurisdiction, and to convert all unsecured and unguaranteed exposures into guaranteed and secured exposures. For example, JPMorgan has since asserted that the September Agreements guarantee and secure over $3 billion in purported derivatives obligations of LBHI

subsidiaries that were previously unsecured, as well as approximately $720 million in claims arising out of losses incurred not by JPMorgan, but by its customers who invested in JPMorgan funds.

52. The September Guaranty further purported to amend the cap on LBHI's liability set forth in the August Guaranty by providing as follows: "The Guarantor's maximum liability under the Guaranty shall be THREE BILLION DOLLARS ($3,000,000,000) or such greater amount that the Bank has requested from time to time as further security in support of this Guaranty."

53. In addition, while the August Security Agreement provided that only two specific LBHI accounts (and the assets therein) would be subject to JPMorgan's security interest, the proposed September Agreements included the new September Security Agreement that covered all accounts of LBHI at JPMorgan or any of its affiliates.

54. The September Agreements also included the Account Control Agreement, which purported to give JPMorgan control over certain LBHI-owned money market funds.

55. Crucially, the September Agreements deleted the provision in the August Security Agreement that expressly gave LBHI the right to transfer its collateral from the pledged accounts to the lien-free overnight account – an important right that had been negotiated and confirmed only two weeks earlier. In its place, the September Agreements provided that LBHI would only be allowed to access its collateral "upon three days written notice to the Bank." Thus, even if all exposures of JPMorgan to Lehman for clearing services had been fully eliminated at the end of the trading day, JPMorgan now purported to gain the right to withhold LBHI's collateral for three days following written notice by LBHI.

56. While the September Agreements purported to give JPMorgan significant new rights vis-à-vis LBHI, they gave LBHI nothing in exchange. JPMorgan did not give up any rights or incur any new obligations under the proposed September Agreements. Instead, JPMorgan's obligations would remain the same as they were under its clearance-related agreements with Lehman prior to September 9, 2008.

57. On the evening of September 9, 2008, Yeung sent an e-mail to Tonucci and Fleming (and others) in which he attempted to advise them of the onerous and unreasonable terms of the September Agreements. However, because Tonucci was preparing for the next morning's crucial earnings call, he did not review that e-mail. Nor did he otherwise become aware of the terms of the proposed agreements until after their execution. Similarly, neither Lowitt nor any other LBHI executive with the authority to bind LBHI to the September Guaranty reviewed or approved that guaranty and related agreements.

58. Instead, believing that JPMorgan would cease extending credit and clearing if the September Agreements were not executed prior to 7:30 a.m. on September 10, 2008 (which would have been a breach of the 2000 Clearance Agreement), Fleming instructed Yeung to "proceed as though we will agree to all the terms laid out by JPM." Legal counsel for the parties thus worked through the night of September 9, 2008, to finalize the agreements. Throughout the course of the evening of September 9, 2008, and the early morning of September 10, 2008, JPMorgan rejected any attempt by LBHI to negotiate or alter any material terms of the September Agreements.

59. Early on the morning of September 10, 2008, Tonucci executed the most significant of the September Agreements, *i.e.*, the September Guaranty, the September Security Agreement, the September Amendment, and the Account Control Agreement. Pursuant to

JPMorgan's demand that the September Agreements be executed prior to LBHI's earnings call, at 7:33 a.m. on the morning of September 10, 2008, Yeung e-mailed the executed signature pages to JPMorgan showing Tonucci's signature.

60. At that time, LBHI and its subsidiaries were only days away from bankruptcy, and were insolvent. Given JPMorgan's unique access to information concerning Lehman's financial state and future prospects, JPMorgan was or should have been aware of that fact.

61. Neither Tonucci nor any other LBHI employee received approval of the September Guaranty from Ian Lowitt or any other senior LBHI executive with the authority to bind LBHI to those agreements. As stated above, under Lehman's Code of Authorities, the CFO or someone of equivalent or higher corporate rank was required to approve the September Guaranty. JPMorgan was well aware that Tonucci, as Treasurer, was not authorized to sign the September Guaranty. Notwithstanding its knowledge that Ian Lowitt was unavailable, and that his approval was required to bind LBHI to the September Guaranty, JPMorgan, in its rush to put itself ahead of all other creditors of LBHI, accepted the September Guaranty even though it had been executed by a person not authorized to sign it.

JPMorgan Demands Even More Excess Collateral

62. During the last week of LBHI's existence, JPMorgan used the September Agreements as a pretext to improperly extract billions of dollars in cash from LBHI as additional collateral. JPMorgan made these demands for additional collateral even though, at the time, JPMorgan had already concluded that it held sufficient collateral to cover its intra-day clearing risk. In fact, although the demands were made pursuant to a purported amendment to the 2000 Clearance Agreement, as well as a guaranty and security agreement executed in the context of the 2000 Clearance Agreement (*i.e.*, the September Agreements), JPMorgan's collateral demands had nothing to do with intra-day clearance obligations. Instead, JPMorgan officials have since

admitted that the billions of dollars in cash collateral demands were based primarily on the possibility of closing out derivatives contracts on favorable terms in the event of an LBHI bankruptcy, and were not made in connection with exposure under the 2000 Clearance Agreement. JPMorgan did not make this intent known to LBHI when it made its demands.

63. At the time, the JPMorgan entities had no right to demand additional collateral from the LBHI subsidiaries under the derivatives contracts themselves. On a net basis, the LBHI subsidiaries were "in-the-money" under those contracts, as demonstrated by the fact that JPMorgan was obliged to post approximately $1 billion to the LBHI subsidiaries as collateral to cover those obligations. In fact, absent an LBHI bankruptcy, if the market continued to move in the direction it had been trending, the trading position of the parties was such that the JPMorgan entities would have been obliged to post significantly more collateral with their Lehman counterparties.

64. Moreover, the terms of the derivatives contracts did not permit the JPMorgan entities to demand collateral from LBHI. Because JPMorgan could not legitimately demand the collateral from LBHI or the Lehman counterparties under the derivatives contracts, JPMorgan attempted to circumvent those contracts by cloaking its demands with the September Agreements.

65. Although the LBHI subsidiaries were "in-the-money" under the derivatives contracts at the time (on a net basis), JPMorgan's collateral demands were based on risk models that apparently assumed a future LBHI bankruptcy. Even so, JPMorgan demanded billions of dollars worth of collateral in excess of what even its own risk models suggested was the total amount to which it could be entitled in the event of a Lehman bankruptcy default under the derivatives contracts.

66. JPMorgan's accelerated demands for additional collateral, which continued through the eve of LBHI's bankruptcy filing, contributed significantly to LBHI's inability to meet the liquidity needs of its business. Indeed, LBHI was already insolvent at that time. Specifically, in response to JPMorgan's demands, on September 9, 2008, LBHI posted $1 billion in cash and $1.67 billion in money market funds. On September 10, 2008, LBHI delivered to JPMorgan approximately $300 million of cash. Similarly, on September 11, 2008, LBHI posted additional cash in the amount of $600 million as collateral for JPMorgan. Even though JPMorgan did not intend to secure intra-day clearing exposure with this collateral, the demands were made under color of the September Agreements, and were backed by the improper threat that, if LBHI did not comply, JPMorgan would immediately stop extending intra-day credit to, and clearing trades for, Lehman, in violation of its obligations under the 2000 Clearance Agreement. Although LBHI protested these demands, it had no choice but to comply.

67. Then, late in the evening of September 11, 2008, JPMorgan e-mailed to LBHI a written "Notice" requiring confirmation that LBHI would wire to JPMorgan an additional $5 billion in cash prior to the open of business on Friday, September 12, 2008. In the Notice, JPMorgan threatened that, if it did not receive the demanded additional collateral, "we intend to exercise our right to decline to extend credit to you under the [Clearance] Agreement."

68. JPMorgan's threat to stop advancing credit, if implemented without commercially reasonable notice, would have constituted a breach of the parties' clearance agreement. This is particularly so given that JPMorgan was fully collateralized against intra-day clearance exposure. Nonetheless, LBHI was well aware that refusing JPMorgan's demand for this additional $5 billion was not an option. For example, on September 12, 2008, LBHI senior officers circulated via e-mail a "Back-Up Contingency Plan," wherein it was noted, "JPM as 'clearing bank'

continues to ask for more cash collateral. If we don't provide the cash, they refuse to clear, we fail . . .."

69. JPMorgan made this last-minute demand for $5 billion in cash notwithstanding the fact that it was already overcollateralized and that LBHI was insolvent. In fact, internal JPMorgan documents demonstrate that it made the improper demand simply because JPMorgan desired to have an "extra cushion."

70. JPMorgan promised that it would return the $5 billion at the close-of-settlement on Friday, September 12, 2008. However, notwithstanding this representation and promise, JPMorgan had no intention of returning any of LBHI's collateral, but instead had determined to deny LBHI access to that collateral – regardless of any request by LBHI for its return.

71. To have any hope of surviving through the day, Lehman needed JPMorgan's clearing services. After struggling to locate such an enormous sum on such short notice, on September 12, 2008, LBHI delivered what was essentially its last available $5 billion of cash to JPMorgan. LBHI delivered the $5 billion in cash only by pulling virtually every unencumbered asset it could deliver.

72. Upon receiving the approximately $8.6 billion in cash and money market funds that it extracted from LBHI during this last week, JPMorgan swept those assets out of the LBHI account on which JPMorgan purportedly had a lien pursuant to the August Agreements and into other accounts held by JPMorgan. Accordingly, as of September 12, 2008, there was a zero balance in the cash account pledged by LBHI under the August Agreements, and JPMorgan had forfeited any lien it may have held over the $8.6 billion in cash and money market funds pursuant to those agreements.

JPMorgan Prevents LBHI's Access to Its Cash and Other Collateral Held by JPMorgan

73. As of close-of-trading on Friday, September 12, 2008, after settlement of all intra-day clearance liabilities, JPMorgan had no clearance exposure whatsoever to Lehman. Nonetheless, JPMorgan retained billions of dollars in LBHI collateral.

74. JPMorgan's overreaching collateral grabs destroyed LBHI's remaining liquidity pool. As JPMorgan was aware, LBHI's ability to access its collateral on September 12, 2008 and during the following weekend was critical to Lehman's efforts to stave off bankruptcy long enough to facilitate a sale of its business or, at the very least, to organize an orderly wind-down and preserve as much value as possible for creditors. On Friday, September 12, 2008, and throughout the weekend until Monday morning, LBHI repeatedly requested access to this excess collateral for use overnight and over the weekend. However, during this period, JPMorgan locked down and denied LBHI access to its collateral.

75. JPMorgan conceded in its internal communications that, at this time, JPMorgan held billions of dollars in excess LBHI collateral. Indeed, an internal JPMorgan analysis concluded that, as of September 12, 2008, JPMorgan was overcollateralized by as much as $6.1 billion for the clearance exposures alone. Nevertheless, JPMorgan refused each demand from LBHI that it be given access to its own assets. In numerous internal e-mails circulated throughout the weekend and Monday morning, JPMorgan management gave orders not to allow LBHI to access its collateral, or to otherwise allow any LBHI cash or securities to be sent out from JPMorgan, for any reason.

76. At the same time that JPMorgan was refusing LBHI's requests for access to its collateral, Dimon was attending a meeting at the New York Federal Reserve with the heads of the other major United States financial institutions. The purpose of the meeting was ostensibly to discuss whether the attendees' firms could formulate a plan to avoid the collapse of Lehman

and the catastrophic impact such a failure would have on the global financial system. Such a plan never materialized.

77. At all times, JPMorgan was aware that the failure of one of its key competitors would redound to JPMorgan's benefit. And these benefits did materialize almost immediately following Lehman's demise. As Dimon later boasted during JPMorgan's earnings call for the fourth quarter of 2008, JPMorgan saw "exceptional" market share gains in trading and investment banking, including equity and debt capital markets, M&A and corporate client coverage.

LBHI Is Forced to File for Bankruptcy on September 15, 2008

78. On the morning of Monday, September 15, 2008, London time, a London-based subsidiary of LBHI, Lehman Brothers International (Europe) ("LBIE"), was short on its capital requirements and, under United Kingdom law, LBIE could not open for business without its directors potentially incurring personal liability for that shortfall. In light of this risk, LBIE was forced to file for administration in London (the U.K. equivalent of bankruptcy) on the morning of September 15, 2008, London time. That same morning, LBHI filed for bankruptcy under chapter 11 of the Bankruptcy Code.

79. JPMorgan's demands for and receipt of the billions of dollars in cash collateral, and its refusal to allow LBHI to access its own assets, contributed to the exigency of LBHI's bankruptcy filing. Had LBHI been able to file a well-prepared and orderly chapter 11, as a company of Lehman's size and complexity ordinarily would, circumstances would have been very different for the estate. At the very least, LBHI could have organized a more orderly wind-down that could have prevented the destruction of billions of dollars in value to the LBHI estate that followed the September 15, 2008 filing. JPMorgan's overreaching collateral demands thus

caused losses of tens of billions of dollars, due to Lehman's inability to engage in pre-filing measures to preserve estate value.

80. For example, much of the value destruction came from the bankruptcy filing of LBHI as parent guarantor, which triggered a cascade of defaults at Lehman subsidiaries that held trading contracts. This resulted in a termination of hundreds of thousands of separate derivatives contracts with counterparties, including JPMorgan. Among the terminated contracts were those in which Lehman was substantially in-the-money. The additional time which would have been available but for JPMorgan's improper collateral grab, could have allowed Lehman to transfer or unwind many of its 1.1 million derivatives trades, preserving enormous value.

JPMorgan Continues to Hold Billions of Dollars of LBHI Assets

81. JPMorgan's demands for, and improper withholding of, the approximately $8.6 billion in cash and money market funds it extracted from LBHI in the week leading up to LBHI's bankruptcy were made under color of the September Agreements. But those agreements – which were executed when LBHI and, on information and belief, its subsidiaries were insolvent – are invalid and unenforceable under the fraudulent conveyance provisions of the Bankruptcy Code. As set forth below, the September Agreements are not entitled to the "safe harbor" protections of the Bankruptcy Code. As such, the approximately $8.6 billion of cash and money market funds that was transferred under color of those agreements are property of the LBHI estate that should have been in LBHI's possession as of the Petition Date. JPMorgan has no right to keep this collateral at the expense of LBHI's other creditors.

82. Moreover, the September Agreements are invalid and unenforceable pursuant to the common law, because they were procured by JPMorgan through unlawful economic coercion, they lacked consideration, and further because the LBHI employee who executed the September Guaranty lacked the authority to bind LBHI to that contract. Accordingly, JPMorgan

has no right to continue to withhold or apply the $8.6 billion in cash and money market funds demanded and received by JPMorgan pursuant to the September Agreements.

83. Similarly, the August Guaranty and the August Security Agreement are invalid and unenforceable and are not entitled to the safe harbor protections of the Bankruptcy Code. Therefore, JPMorgan had no right to demand and withhold the billions of dollars in LBHI securities that were transferred to JPMorgan to secure obligations purportedly arising under those agreements.

84. Even if the August Guaranty and August Security Agreement were valid, JPMorgan was required to return the $8.6 billion of cash and money market funds because those assets were not held in any account in which JPMorgan had a security interest pursuant to the August Agreements. Therefore, LBHI's obligations under the August Guaranty were capped at the value of the LBHI securities held in the pledged accounts, and JPMorgan had no right to retain or apply any of the $8.6 billion in cash and money market funds to satisfy those obligations. JPMorgan would have also breached the August Guaranty as well as the August Security Agreement, because it locked down and refused LBHI access to the billions of dollars in LBHI collateral that it held on the evening of September 12, 2008, even though JPMorgan had no clearance-related exposure at that time. JPMorgan would further be in breach of the August Agreements because, to the extent those agreements were the purported basis for demanding and retaining the $8.6 billion of cash and money market funds in the week prior to LBHI's bankruptcy, the demands for those amounts far exceeded what was reasonably required at the time to secure the clearance-related obligations arising under those agreements. In fact, unbeknownst to LBHI, JPMorgan made its demands for the $8.6 billion in cash and money

market funds with the intent to secure obligations <u>other than</u> the clearance obligations arising under the August Agreements.

85. As a result of the foregoing, LBHI's estate is entitled to the return of LBHI's assets pursuant to various provisions of the Bankruptcy Code, because the transfers of such assets are not entitled to safe harbor protections, and they constitute actual or constructive fraudulent transfers, improper preference payments, and an impermissible build up of collateral for the purpose of putting JPMorgan in a position of having more assets against which it could setoff claims. Separate and apart from the relief provided by the Bankruptcy Code, as a result of JPMorgan's misconduct, LBHI is also entitled to damages.

86. JPMorgan should not be allowed to retain the benefit of its wrongful conduct. The billions of dollars in improperly withheld assets should be returned to LBHI's estate, and all other damages resulting from JPMorgan's misconduct should be awarded, for the benefit of LBHI's creditors.

CAUSES OF ACTION

COUNT I
(Avoidance of September Agreements as Actually Fraudulent Under Section 548 of the Bankruptcy Code)

87. The allegations in paragraphs 1 through 86 are incorporated by reference as though fully set forth below.

88. Within two (2) years of the Petition Date, LBHI entered into the September Agreements.

89. Entry into the September Guaranty was an obligation incurred by LBHI to or for the benefit of JPMorgan. Entry into the remainder of the September Agreements was either a transfer made or an obligation incurred by LBHI to or for the benefit of JPMorgan.

90. Entry into each of the September Agreements was made with an actual intent to hinder, delay, and/or defraud LBHI's creditors. Such an intent can be inferred from the traditional badges of fraud surrounding LBHI's entry into the September Agreements. Among other things, on September 10, 2008, the global markets were experiencing a meltdown, LBHI and many of its subsidiaries were insolvent, LBHI received no consideration in exchange for its expanded obligations under the September Agreements, and the September Agreements were executed on a hasty, rushed basis without any meaningful negotiation between LBHI and JPMorgan.

91. As a result of LBHI's entry into the September Agreements, LBHI and its creditors have been harmed.

92. The September Agreements are avoidable under Section 548(a)(1)(A) of the Bankruptcy Code.

COUNT II
(Avoidance of August Guaranty and August Security Agreement as Actually Fraudulent Under Section 548 of the Bankruptcy Code)

93. The allegations in paragraphs 1 through 92 are incorporated by reference as though fully set forth below.

94. Within two (2) years of the Petition Date, LBHI entered into the August Agreements.

95. Entry into the August Guaranty was an obligation incurred by LBHI to or for the benefit of JPMorgan. Entry into the August Security Agreement was a transfer made by LBHI to or for the benefit of JPMorgan.

96. Entry into the August Guaranty and the August Security Agreement was made with an actual intent to hinder, delay, and/or defraud LBHI's creditors. Such an intent can be inferred from the traditional badges of fraud surrounding LBHI's entry into the August Guaranty

and the August Security Agreement. Among other things, on August 29, 2008, the global markets were experiencing a meltdown, on information and belief LBHI was undercapitalized and many of its subsidiaries were insolvent and/or undercapitalized, and LBHI received no consideration in exchange for its expanded obligations under the August Agreements.

97. As a result of LBHI's entry into the August Guaranty and the August Security Agreement, LBHI and its creditors have been harmed.

98. The August Guaranty and the August Security Agreement are avoidable under Section 548(a)(1)(A) of the Bankruptcy Code.

COUNT III
(Avoidance of Collateral Transfers as Actually Fraudulent Under Section 548 of the Bankruptcy Code)

99. The allegations in paragraphs 1 through 98 are incorporated by reference as though fully set forth below.

100. Within two (2) years of the Petition Date, LBHI transferred certain securities to JPMorgan and JPMorgan retained such securities after the close of business on September 12, 2008 in the absence of the existence of any clearance exposure (the "Securities Transfers").

101. On September 9, 2008, within two (2) years of the Petition Date, LBHI transferred $2.67 billion in cash and money market funds to JPMorgan and JPMorgan retained such funds after the close of business on September 12, 2008 in the absence of the existence of any clearance exposure (the "September 9 Cash Transfer").

102. On September 10, 2008, within two (2) years of the Petition Date, LBHI transferred $300 million of cash to JPMorgan and JPMorgan retained such funds after the close of business on September 12, 2008 in the absence of the existence of any clearance exposure (the "September 10 Cash Transfer").

103. On September 11, 2008, within two (2) years of the Petition Date, LBHI transferred $600 million of cash to JPMorgan and JPMorgan retained such funds after the close of business on September 12, 2008 in the absence of the existence of any clearance exposure (the "September 11 Cash Transfer").

104. On September 12, 2008, within two (2) years of the Petition Date, LBHI transferred $5 billion of cash to JPMorgan and JPMorgan retained such funds after the close of business on September 12, 2008 in the absence of the existence of any clearance exposure (the "September 12 Cash Transfer" and, collectively with the September 9 Transfer, the September 10 Cash Transfer and the September 11 Cash Transfer, the "September Transfers"). The Securities Transfers and the September Transfers are collectively referred to as the "Collateral Transfers."

105. Each of the Collateral Transfers was a transfer made by LBHI to or for the benefit of JPMorgan.

106. Each of the Collateral Transfers was made with an actual intent to hinder, delay, and/or defraud LBHI's creditors. Such an intent can be inferred from the traditional badges of fraud surrounding LBHI's entry into the Collateral Transfers. Among other things, at the time of each of the Collateral Transfers, the global markets were experiencing a meltdown, on information and belief LBHI and many of its subsidiaries were insolvent and/or undercapitalized, LBHI received no consideration in exchange for the Collateral Transfers, and the Collateral Transfers were made on a hasty, rushed basis.

107. As a result of the Collateral Transfers, LBHI and its creditors have been harmed.

108. Each of the Collateral Transfers is individually avoidable under Section 548(a)(1)(A) of the Bankruptcy Code.

COUNT IV
(Recovery of Avoided Fraudulent Transfers Under Section 550 of the Bankruptcy Code)

109. The allegations in paragraphs 1 through 108 are incorporated by reference as though fully set forth below.

110. The Collateral Transfers are avoidable as actual fraudulent transfers pursuant to Section 548(a)(1)(A) of the Bankruptcy Code, and accordingly, pursuant to Section 550(a) of the Bankruptcy Code, LBHI is entitled to recover from JPMorgan the value of the Collateral Transfers plus interest from the transfer dates, and costs and fees to the extent available, for the benefit of LBHI's estate.

COUNT V
(Avoidance of September Agreements as Constructively Fraudulent Under Section 548 of the Bankruptcy Code)

111. The allegations in paragraphs 1 through 110 are incorporated by reference as though fully set forth below.

112. Within two (2) years of the Petition Date, LBHI entered into the September Agreements.

113. Entry into the September Guaranty was an obligation incurred by LBHI to or for the benefit of JPMorgan. Entry into the remainder of the September Agreements was either a transfer made or an obligation incurred by LBHI to or for the benefit of JPMorgan.

114. LBHI received less than reasonably equivalent value in exchange for its entry into the September Agreements.

115. When LBHI entered into the September Agreements, LBHI was insolvent or became insolvent as a result of the transfers and/or incurrence of obligations; was engaged in business or a transaction, or was about to engage in business or a transaction, for which its

remaining property was unreasonably small capital; and/or intended to incur, or believed that it would incur, debts that would be beyond its ability to pay as such debts matured.

116. The safe harbor provisions of Section 546(e) of the Bankruptcy Code do not apply to the September Agreements.

117. The September Agreements are avoidable under Section 548(a)(1)(B) of the Bankruptcy Code.

COUNT VI
(Avoidance of September Guaranty as Constructively Fraudulent Under Section 548 of the Bankruptcy Code)

118. The allegations in paragraphs 1 through 117 are incorporated by reference as though fully set forth below.

119. Within two (2) years of the Petition Date, LBHI entered into the September Guaranty.

120. Entry into the September Guaranty was an obligation incurred by LBHI to or for the benefit of JPMorgan.

121. LBHI received less than reasonably equivalent value in exchange for its entry into the September Guaranty.

122. When LBHI entered into the September Guaranty, LBHI was insolvent or became insolvent as a result of the incurrence of the obligation; was engaged in business or a transaction, or was about to engage in business or a transaction, for which its remaining property was unreasonably small capital; and/or intended to incur, or believed that it would incur, debts that would be beyond its ability to pay as such debts matured.

123. The safe harbor provisions of Section 546(e) of the Bankruptcy Code do not apply to the September Guaranty.

124. The September Guaranty is avoidable under Section 548(a)(1)(B) of the Bankruptcy Code.

COUNT VII
(Avoidance of August Guaranty as Constructively Fraudulent Under Section 548 of the Bankruptcy Code)

125. The allegations in paragraphs 1 through 124 are incorporated by reference as though fully set forth below.

126. Within two (2) years of the Petition Date, LBHI entered into the August Guaranty.

127. Entry into the August Guaranty was an obligation incurred by LBHI to or for the benefit of JPMorgan.

128. LBHI received less than reasonably equivalent value in exchange for its entry into August Guaranty.

129. On information and belief, when LBHI entered into the August Guaranty, LBHI was engaged in business or a transaction, or was about to engage in business or a transaction, for which its remaining property was unreasonably small capital.

130. The safe harbor provisions of Section 546(e) of the Bankruptcy Code do not apply to the August Guaranty.

131. The August Guaranty is avoidable under Section 548(a)(1)(B) of the Bankruptcy Code.

COUNT VIII
(Avoidance of Collateral Transfers as Constructively Fraudulent Under Section 548 of the Bankruptcy Code)

132. The allegations in paragraphs 1 through 131 are incorporated by reference as though fully set forth below.

133. Within two (2) years of the Petition Date, LBHI transferred the Collateral Transfers.

134. Each of the Collateral Transfers was a transfer made by LBHI to or for the benefit of JPMorgan.

135. LBHI received less than reasonably equivalent value in exchange for its transfer of each of the Collateral Transfers.

136. On information and belief, when LBHI transferred each of the Collateral Transfers, LBHI was insolvent or became insolvent as a result of the transfers; was engaged in business or a transaction, or was about to engage in business or a transaction, for which its remaining property was unreasonably small capital; and/or intended to incur, or believed that it would incur, debts that would be beyond its ability to pay as such debts matured.

137. The safe harbor provisions of Section 546(e) of the Bankruptcy Code do not apply to the Collateral Transfers.

138. Each of the Collateral Transfers is avoidable under Section 548(a)(1)(B) of the Bankruptcy Code.

COUNT IX
(Recovery of Avoided Fraudulent Transfers Under Section 550 of the Bankruptcy Code)

139. The allegations in paragraphs 1 through 138 are incorporated by reference as though fully set forth below.

140. The Collateral Transfers are avoidable as constructive fraudulent transfers pursuant to Section 548(a)(1)(B) of the Bankruptcy Code, and accordingly, pursuant to Section 550(a) of the Bankruptcy Code, LBHI is entitled to recover from JPMorgan the value of the Collateral Transfers plus interest from the transfer dates, and costs and fees to the extent available, for the benefit of LBHI's estate.

COUNT X
(Avoidance of September Agreements as Constructively Fraudulent Under Section 544 and Applicable State Fraudulent Conveyance or Fraudulent Transfer Law)

141. The allegations in paragraphs 1 through 140 are incorporated by reference as though fully set forth below.

142. Pursuant to Section 544(b) of the Bankruptcy Code, LBHI has the rights of an existing unsecured creditor of LBHI. Section 544(b) permits LBHI to assert claims and causes of action that such a creditor could assert under applicable state law.

143. Prior to the Petition Date, LBHI entered into the September Agreements.

144. Entry into the September Guaranty was an obligation incurred by LBHI to or for the benefit of JPMorgan. Entry into the remainder of the September Agreements was either a transfer made or an obligation incurred by LBHI to or for the benefit of JPMorgan.

145. LBHI did not receive fair consideration, or a fair equivalent, or reasonably equivalent value in exchange for its entry into the September Agreements.

146. When LBHI entered into the September Agreements, LBHI was insolvent or became insolvent as a result of the transfers; was engaged in business or a transaction, or was about to engage in business or a transaction, for which its remaining property was unreasonably small capital; and/or intended to incur, or reasonably should have believed that it would incur, debts that would be beyond its ability to pay as such debts matured.

147. The safe harbor provisions of Section 546(e) of the Bankruptcy Code do not apply to the September Agreements.

148. The September Agreements are avoidable under Section 544 of the Bankruptcy Code and applicable state law.

COUNT XI
(Avoidance of September Guaranty as Constructively Fraudulent Under Section 544 and Applicable State Fraudulent Conveyance or Fraudulent Transfer Law)

149. The allegations in paragraphs 1 through 148 are incorporated by reference as though fully set forth below.

150. Pursuant to Section 544(b) of the Bankruptcy Code, LBHI has the rights of an existing unsecured creditor of LBHI. Section 544(b) permits LBHI to assert claims and causes of action that such a creditor could assert under applicable state law.

151. Prior to the Petition Date, LBHI entered into the September Guaranty.

152. Entry into the September Guaranty was an obligation incurred by LBHI to or for the benefit of JPMorgan.

153. LBHI did not receive fair consideration, or a fair equivalent, or reasonably equivalent value in exchange for its entry into the September Guaranty.

154. When LBHI entered into the September Guaranty, LBHI was insolvent or became insolvent as a result of the incurrence of the obligation; was engaged in business or a transaction, or was about to engage in business or a transaction, for which its remaining property was unreasonably small capital; and/or intended to incur, or reasonably should have believed that it would incur, debts that would be beyond its ability to pay as such debts matured.

155. The safe harbor provisions of Section 546(e) of the Bankruptcy Code do not apply to the September Guaranty.

156. The entry into the September Guaranty is avoidable as a fraudulent incurrence of an obligation under Section 544 of the Bankruptcy Code and applicable state law.

COUNT XII
(Declaratory Judgment Invalidating August Security Agreement)

157. The allegations in paragraphs 1 through 156 are incorporated by reference as though fully set forth below.

158. There is an actual and justiciable controversy between LBHI and JPMorgan as to the validity and enforceability of the August Security Agreement.

159. LBHI is entitled to a declaratory judgment pursuant to 28 U.S.C. § 2201 that the August Security Agreement is invalid and unenforceable. For the reasons set forth above, the August Guaranty is invalid and unenforceable. The failure of the August Guaranty results in the invalidity and unenforceability of the August Security Agreement, because the August Security Agreement is meaningless without the August Guaranty.

COUNT XIII
(Declaratory Judgment Invalidating the September Security Agreement, the September Amendment, and the Account Control Agreement)

160. The allegations in paragraphs 1 through 159 are incorporated by reference as though fully set forth below.

161. There is an actual and justiciable controversy between LBHI and JPMorgan as to the validity and enforceability of the September Security Agreement, the September Amendment, and the Account Control Agreement.

162. LBHI is entitled to a declaratory judgment pursuant to 28 U.S.C. § 2201 that the September Security Agreement, the September Amendment, and the Account Control Agreement are invalid and unenforceable. For the reasons set forth above, the September Guaranty is invalid and unenforceable. The failure of the September Guaranty results in the invalidity and unenforceability of the September Security Agreement, the September

Amendment, and the Account Control Agreement, because those agreements are meaningless without the September Guaranty.

COUNT XIV
(Avoidance of Collateral Transfers as Constructively Fraudulent Under Section 544 and Applicable State Fraudulent Conveyance or Fraudulent Transfer Law)

163. The allegations in paragraphs 1 through 162 are incorporated by reference as though fully set forth below.

164. Pursuant to Section 544(b) of the Bankruptcy Code, LBHI has the rights of an existing unsecured creditor of LBHI. Section 544(b) permits LBHI to assert claims and causes of action that such a creditor could assert under applicable state law.

165. Prior to the Petition Date, LBHI transferred the Collateral Transfers.

166. Each of the Collateral Transfers was a transfer made by LBHI to or for the benefit of JPMorgan.

167. LBHI did not receive fair consideration, or a fair equivalent, or reasonably equivalent value in exchange for its entry into each of the Collateral Transfers.

168. On information and belief, when LBHI transferred each of the Collateral Transfers, LBHI was insolvent or became insolvent as a result of the transfers; was engaged in business or a transaction, or was about to engage in business or a transaction, for which its remaining property was unreasonably small capital; and/or intended to incur, or reasonably should have believed that it would incur, debts that would be beyond its ability to pay as such debts matured.

169. The safe harbor provisions of Section 546(e) of the Bankruptcy Code do not apply to the Collateral Transfers.

170. Each of the Collateral Transfers is avoidable under Section 544 of the Bankruptcy Code and applicable state law.

COUNT XV
(Recovery of Avoided Fraudulent Transfers Under Section 550 of the Bankruptcy Code)

171. The allegations in paragraphs 1 through 170 are incorporated by reference as though fully set forth below.

172. The Collateral Transfers are avoidable as constructive fraudulent transfers pursuant to Section 544 of the Bankruptcy Code and applicable state law, and accordingly, pursuant to Section 550(a) of the Bankruptcy Code, LBHI is entitled to recover from JPMorgan the value of the Collateral Transfers plus interest from the transfer dates, and costs and fees to the extent available, for the benefit of LBHI's estate.

COUNT XVI
(Avoidance of Preferential Transfer of September Security Agreement Under Section 547 of the Bankruptcy Code)

173. The allegations in paragraphs 1 through 172 are incorporated by reference as though fully set forth below.

174. Within ninety (90) days prior to the Petition Date, LBHI entered into the September Security Agreement to or for the benefit of JPMorgan and JPMorgan was a creditor of LBHI.

175. The September Security Agreement was a transfer made by LBHI to or for the benefit of JPMorgan because it attempted to secure previously unsecured obligations of LBHI.

176. The September Security Agreement was made for, or on account of, an antecedent debt (within the scope of Section 547(b) of the Bankruptcy Code) owed by LBHI to JPMorgan.

177. The September Security Agreement was made while LBHI was insolvent or was presumed to be insolvent pursuant to Section 547(f) of the Bankruptcy Code.

178. The September Security Agreement enabled JPMorgan to receive a larger share of LBHI's estate than if such transfer had not been made and if JPMorgan had received payment of such debt in a liquidation of the Debtors' assets under chapter 7 of the Bankruptcy Code.

179. The safe harbor provisions of Section 546(e) of the Bankruptcy Code do not apply to the September Security Agreement.

180. The September Security Agreement is avoidable as a preference under Section 547(b) of the Bankruptcy Code.

COUNT XVII
(Avoidance of Preferential Transfer of Account Control Agreement Under Section 547 of the Bankruptcy Code)

181. The allegations in paragraphs 1 through 180 are incorporated by reference as though fully set forth below.

182. Within ninety (90) days prior to the Petition Date, LBHI entered into the Account Control Agreement to or for the benefit of JPMorgan and JPMorgan was a creditor of LBHI.

183. The Account Control Agreement was a transfer made by LBHI to or for the benefit of JPMorgan.

184. The Account Control Agreement was made for, or on account of, an antecedent debt (within the scope of Section 547(b) of the Bankruptcy Code) owed by LBHI to JPMorgan.

185. The Account Control Agreement was made while LBHI was insolvent or was presumed to be insolvent pursuant to Section 547(f) of the Bankruptcy Code.

186. The Account Control Agreement enabled JPMorgan to receive a larger share of LBHI's estate than if such transfer had not been made and if JPMorgan had received payment of such debt in a liquidation of the Debtors' assets under chapter 7 of the Bankruptcy Code.

187. The safe harbor provisions of Section 546(e) of the Bankruptcy Code do not apply to the Account Control Agreement.

188. The Account Control Agreement is avoidable as a preference under Section 547(b) of the Bankruptcy Code.

COUNT XVIII
(Avoidance of Preferential Transfer of September Transfers Under Section 547 of the Bankruptcy Code)

189. The allegations in paragraphs 1 through 188 are incorporated by reference as though fully set forth below.

190. Within ninety (90) days prior to the Petition Date, LBHI, directly or through a conduit, transferred, or caused to be transferred, each of the September Transfers, to or for the benefit of JPMorgan and JPMorgan was a creditor of LBHI.

191. Each of the September Transfers was a transfer made by LBHI to or for the benefit of JPMorgan.

192. Each of the September Transfers was made for, or on account of, an antecedent debt (within the scope of Section 547(b) of the Bankruptcy Code) owed by LBHI to JPMorgan.

193. Each of the September Transfers was made while LBHI was insolvent or was presumed to be insolvent pursuant to Section 547(f) of the Bankruptcy Code.

194. Each of the September Transfers enabled JPMorgan to receive a larger share of LBHI's estate than if such transfers had not been made and if JPMorgan had received payment of such debt in a liquidation of the Debtors' assets under chapter 7 of the Bankruptcy Code.

195. The safe harbor provisions of Section 546(e) of the Bankruptcy Code do not apply to the September Transfers.

196. Each of the September Transfers is avoidable as a preference under Section 547(b) of the Bankruptcy Code.

<u>COUNT XIX</u>
(Recovery of Avoided Preferential Transfers Under Section 550 of the Bankruptcy Code)

197. The allegations in paragraphs 1 through 196 are incorporated by reference as though fully set forth below.

198. The September Transfers are avoidable as preferential transfers pursuant to Section 547 of the Bankruptcy Code, and accordingly, pursuant to Section 550(a) of the Bankruptcy Code, LBHI is entitled to recover from JPMorgan the value of the September Transfers plus interest from the transfer dates, and costs and fees to the extent available, for the benefit of LBHI's estate.

<u>COUNT XX</u>
(Turnover of Property Held by JPMorgan Under Section 542 of the Bankruptcy Code)

199. The allegations in paragraphs 1 through 198 are incorporated by reference as though fully set forth below.

200. On the evening of September 12, 2008, JPMorgan held collateral posted by LBHI that did not secure any obligations of LBHI to JPMorgan (the "Excess Collateral").

201. The Excess Collateral is property of the estate because the September Agreements are void and invalid, and accordingly, JPMorgan did not have a contractual right to hold the Excess Collateral.

202. JPMorgan is in possession, custody and/or control of the Excess Collateral, which is of substantial value or benefit to the estate and which is property belonging to LBHI that may be used, sold or leased by LBHI. JPMorgan should be ordered to turn over the Excess Collateral or the value thereof to LBHI immediately.

COUNT XXI
(Avoidance of September Transfers as Transfers Made for Purpose of Obtaining a Right to Setoff Under Section 553(a)(3) of the Bankruptcy Code)

203. The allegations in paragraphs 1 through 202 are incorporated by reference as though fully set forth below.

204. Within ninety (90) days prior to the Petition Date, LBHI transferred each of the September Transfers.

205. At all times on and during the ninety (90) days immediately preceding the Petition Date, LBHI was insolvent for purposes of Section 553(c) of the Bankruptcy Code.

206. JPMorgan caused LBHI to transfer the September Transfers for the purpose of obtaining a right to setoff against LBHI.

207. The safe harbor provisions of the Bankruptcy Code do not apply to the September Transfers.

208. Each of the September Transfers is avoidable under Section 553 of the Bankruptcy Code.

COUNT XXII
(Avoidance of September Transfers as Improvement in Position Under Section 553(b) of the Bankruptcy Code)

209. The allegations in paragraphs 1 through 208 are incorporated by reference as though fully set forth below.

210. As of ninety (90) days prior to the Petition Date, and at all relevant times prior to and including the Petition Date, JPMorgan was a creditor of LBHI. JPMorgan has asserted that, at certain times within ninety (90) days of the Petition Date, it held a claim against LBHI.

211. Within ninety (90) days prior to the Petition Date, LBHI entered into each of the September Transfers.

212. At all times on and during the ninety (90) days immediately preceding the Petition Date, LBHI was insolvent for purposes of Section 553(c) of the Bankruptcy Code.

213. JPMorgan improved its position through LBHI's transfer of the September Transfers because the amount of the insufficiency on the date of the setoff was less than the insufficiency on the later of ninety (90) days prior to the Petition Date and the first date during the ninety (90) days immediately preceding the Petition Date on which there was an insufficiency. For purposes of this Count, insufficiency means the amount by which any claims asserted by JPMorgan exceeded any mutual debt owing to LBHI by JPMorgan.

214. The safe harbor provisions of the Bankruptcy Code do not apply to the September Transfers.

215. Pursuant to Section 553(b) of the Bankruptcy Code, JPMorgan is liable for the amount by which the September Transfers enabled it to improve its credit position with respect to LBHI in the ninety (90) days preceding the Petition Date.

COUNT XXIII
(Recovery of Avoided Transfers as Impermissible Improvement in Position Under Section 550 of the Bankruptcy Code)

216. The allegations in paragraphs 1 through 215 are incorporated by reference as though fully set forth below.

217. The September Transfers are avoidable as impermissible improvements in position pursuant to Section 553(b) of the Bankruptcy Code, and accordingly, pursuant to Section 550(a) of the Bankruptcy Code, LBHI is entitled to recover from JPMorgan the value of the September Transfers plus interest from the transfer dates, and costs and fees to the extent available, for the benefit of LBHI's estate.

COUNT XXIV
(Equitable Subordination Under Sections 510(c) and 105(a) of the Bankruptcy Code)

218. The allegations in paragraphs 1 through 217 are incorporated by reference as though fully set forth below.

219. JPMorgan engaged in and benefited from inequitable conduct that resulted in injury to LBHI's creditors and conferred an unfair advantage to JPMorgan. This inequitable conduct has resulted in harm to LBHI and its entire creditor body because general unsecured creditors are less likely to recover the full amounts due to them.

220. JPMorgan's conduct has been inequitable, egregious, unconscionable and/or outrageous and has harmed LBHI, its employees, creditors and other stakeholders. In equity and good conscience, any claim or interest of JPMorgan in respect of LBHI's estate should be equitably subordinated pursuant to Section 501(c) of the Bankruptcy Code and/or disallowed to the fullest extent permitted by law. Equitable subordination as requested herein is consistent with the provisions and purposes of the Bankruptcy Code.

COUNT XXV
(Disallowance of Claims Under Section 502(d) of the Bankruptcy Code and Avoidance of Liens Securing Such Claims Under Section 506(d))

221. The allegations in paragraphs 1 through 220 are incorporated by reference as though fully set forth below.

222. Claims held by JPMorgan against LBHI are subject to disallowance under Section 502(d) of the Bankruptcy Code unless and until JPMorgan has turned over to LBHI all property transferred, or paid LBHI the value of such property, for which JPMorgan is liable under Sections 542, 550 or 553 of the Bankruptcy Code.

223. In the event that (a) the property is recoverable from JPMorgan under Sections 542, 550 or 553 of the Bankruptcy Code, or (b) any of the transfers made to JPMorgan

are avoidable under Sections 544, 547 or 548 of the Bankruptcy Code, then all of the claims of JPMorgan against LBHI should be disallowed unless and until JPMorgan has turned over to LBHI all property transferred, or paid LBHI the value of such property, for which it is liable under Sections 542, 550 or 553 of the Bankruptcy Code.

224. Based on the foregoing, to the extent a lien secures a claim that is disallowed, such liens are void under Section 506(d) of the Bankruptcy Code.

COUNT XXVI
(Imposition of Constructive Trust and Turnover of $5 Billion of Cash)

225. The allegations in paragraphs 1 through 224 are incorporated by reference as though fully set forth herein.

226. On September 11, 2008, in the context of the confidential relationship between JPMorgan and LBHI, JPMorgan demanded that LBHI post $5 billion in cash as purported collateral by the next day, September 12, 2008.

227. In connection with this demand, JPMorgan agreed that it would return the $5 billion in cash to LBHI at the end of the settlement day on September 12, 2008.

228. In reliance upon JPMorgan's representation that it would return the $5 billion in cash at the close of the settlement day, LBHI posted the $5 billion in cash as collateral with JPMorgan.

229. Notwithstanding demands from LBHI that JPMorgan return, *inter alia*, the $5 billion in cash following the close of settlement on September 12, 2008, JPMorgan breached its agreement and refused to return the $5 billion to LBHI. To date, JPMorgan is unjustly enriched by its continual and wrongful withholding of the $5 billion cash.

230. The $5 billion in cash is property of the estate because JPMorgan holds such funds in a constructive trust for LBHI.

231. JPMorgan is in possession, custody and/or control of the $5 billion in cash, which is of substantial value or benefit to the estate and which is property belonging to LBHI that may be used, sold or leased by LBHI. JPMorgan should be ordered to turn over the $5 billion to LBHI immediately.

COUNT XXVII
(Violation of Automatic Stay)

232. The allegations in paragraphs 1 through 231 are incorporated by reference as though fully set forth herein.

233. JPMorgan violated the automatic stay and Section 362(a)(7) of the Bankruptcy Code when it effected various seizures and setoffs against funds transferred to JPMorgan under color of the September Agreements to satisfy obligations purportedly owed to JPMorgan and its related parties under certain derivatives contracts.

234. The collateral used by JPMorgan to effectuate the setoffs was not posted pursuant to, and was not sufficiently related to, the derivatives contracts. Thus, any setoff is not protected by the safe harbor provisions of the Bankruptcy Code. In fact, the $8.6 billion of collateral was posted by LBHI at a time when JPMorgan did not have the contractual right to demand collateral under the derivatives contracts.

235. Pursuant to 28 U.S.C. § 2201 and Bankruptcy Rule 7001, LBHI requests that this Court issue a judgment that JPMorgan's wrongful setoffs against funds transferred in connection with the September Agreements were willful violations of the automatic stay under Section 362(a)(7).

COUNT XXVIII
(Turnover of Funds Seized in Violation of Automatic Stay)

236. The allegations in paragraphs 1 through 235 are incorporated by reference as though fully set forth herein.

237. The funds that were seized by JPMorgan to satisfy obligations allegedly owed to JPMorgan and its related parties under certain derivatives contracts are property of LBHI's estate under Section 541 of the Bankruptcy Code.

238. JPMorgan should be ordered to turn over the funds seized or their equivalent to LBHI immediately.

COUNT XXIX
(Declaratory Judgment Invalidating the September Agreements)

239. The allegations in paragraphs 1 through 238 are incorporated by reference as though fully set forth herein.

240. LBHI is entitled to a declaratory judgment that the September Agreements never took effect, and are otherwise invalid and unenforceable, because they were the product of coercion, were not properly authorized, and lacked consideration.

Coercion and/or Duress

241. As set forth above, pursuant to the 2000 Clearance Agreement (as amended), JPMorgan was obligated to provide clearing services to Lehman. JPMorgan had no right to immediately cease clearing for Lehman. The 2000 Clearance Agreement further provided that JPMorgan had an obligation to continue to provide intra-day credit to Lehman in connection with these clearing services, until such time as JPMorgan gave commercially reasonable notice of its intent to cease extending such credit. JPMorgan was further required by the covenant of good faith and fair dealing to refrain from immediately ceasing to clear and/or provide credit to Lehman, especially when fully collateralized at the time, because of the parties' years of prior practice and the devastating effect such action would have on Lehman's business.

242. On the evening of September 9, 2008, JPMorgan threatened that, if LBHI did not execute the proposed agreements before LBHI's earnings call, scheduled for 7:30 a.m. the next

day, JPMorgan would immediately stop extending intra-day credit to, and clearing trades for, Lehman.

243. Notwithstanding the fact that this threatened action, if taken, would have constituted a violation of the 2000 Clearance Agreement and/or the covenant of good faith and fair dealing, LBHI could not refuse JPMorgan's demand that it enter into the September Agreements. If JPMorgan ceased providing clearing services and/or intra-day credit to Lehman, Lehman's business would have immediately collapsed.

244. Nor was there an alternative to entering the September Agreements available to LBHI. As described above, JPMorgan was one of only two banks that could provide the required clearing services to Lehman (the other being the Bank of New York) – and it would have been impossible to transfer Lehman's business to the Bank of New York in the eleven overnight hours between JPMorgan's demand on the night of September 9, 2008, and the deadline given by JPMorgan of 7:30 a.m. the next morning.

245. As a result of JPMorgan's conduct, LBHI involuntarily acceded to JPMorgan's demand to enter into the September Agreements.

Lack of Authority or Apparent Authority

246. As set forth above, the individual who executed the September Guaranty on behalf of LBHI had no authority to do so. JPMorgan was or should have been aware of that fact. The failure of the September Guaranty results in the invalidity and unenforceability of the remaining September Agreements, because those agreements all depend upon the September Guaranty.

Lack of Consideration

247. As set forth above, the September Agreements lacked consideration. The September Agreements provided no new rights for LBHI; instead, they purportedly required

LBHI to give up critical rights and assume expanded obligations. Conversely, JPMorgan did not incur any new obligations or otherwise provide any new consideration in connection with those agreements; instead, all of the terms of the September Agreements gave unprecedented and extraordinary rights to JPMorgan at the expense of LBHI.

* * *

248. There is an actual and justiciable controversy between LBHI and JPMorgan as to the validity and enforceability of the September Agreements.

249. For all the reasons set forth above, LBHI is entitled to a declaratory judgment pursuant to 28 U.S.C. § 2201 that the September Agreements never took effect, and are otherwise invalid and unenforceable.

COUNT XXX
(Unjust Enrichment: All Collateral)

250. The allegations in paragraphs 1 through 249 are incorporated by reference as though fully set forth herein.

251. In the weeks leading up to LBHI's bankruptcy, JPMorgan demanded and received billions of dollars in LBHI securities pursuant to the August Agreements, and approximately $8.6 billion in cash and money market funds pursuant to the September Agreements. JPMorgan has therefore benefited in the amount of billions of dollars, at the expense of LBHI.

252. For the reasons set forth above, the August Guaranty and August Security Agreement are invalid and unenforceable. There were no other contracts between the parties that governed the LBHI securities held as purported collateral under the August Guaranty and August Security Agreement.

253. For the reasons set forth above, the September Agreements are also invalid and unenforceable. There were no other contracts between the parties that governed the approximately $8.6 billion held as purported collateral under the September Agreements.

254. As a result of the foregoing, JPMorgan has been unjustly enriched, and LBHI has been damaged, in an amount to be determined at trial. Equity and good conscience demand the return of these LBHI assets to LBHI, or an award of damages equivalent to the value of such assets. LBHI is also entitled to any and all damages that resulted from JPMorgan's unauthorized and unlawful withholding of these assets.

COUNT XXXI
(Conversion: All Collateral)

255. The allegations in paragraphs 1 through 254 are incorporated by reference as though fully set forth herein.

256. As of close-of-trading on September 12, 2008, JPMorgan locked down billions of dollars in LBHI assets. For all the reasons set forth herein, both the August Guaranty and August Security Agreement, as well as the September Agreements, are invalid and unenforceable. Moreover, even if valid, those agreements did not give JPMorgan any right to be overcollateralized. Accordingly, JPMorgan has no right to keep the billions of dollars of LBHI assets.

257. On Friday, September 12, 2008, and throughout the weekend until LBHI's bankruptcy filing on Monday, September 15, 2008, LBHI made repeated demands that JPMorgan return LBHI's assets. Although JPMorgan had no right to withhold these assets, it wrongfully refused each such demand.

258. As a result of the foregoing, JPMorgan wrongfully converted billions of dollars in LBHI assets, and LBHI has been damaged thereby. LBHI is entitled to the return of its assets, or

an award of damages equivalent to the value of the LBHI assets that JPMorgan wrongfully converted. LBHI is also entitled to any and all damages that resulted from JPMorgan's unauthorized and unlawful conversion of these assets.

COUNT XXXII
(Unjust Enrichment: $8.6 Billion in Cash and Money Market Funds)

259. The allegations in paragraphs 1 through 258 are incorporated by reference as though fully set forth herein.

260. As described above, JPMorgan demanded and received $8.6 billion in cash and money market funds as purported collateral from LBHI prior to LBHI's bankruptcy. At least as of September 12, 2008, JPMorgan had swept the $8.6 billion out of the cash account on which JPMorgan purportedly had a lien pursuant to the August Security Agreement. Thus, even if the August Guaranty and August Security Agreement were valid, because the September Security Agreement is invalid and unenforceable, the $8.6 billion was not in any account over which JPMorgan had any lien or any other purported rights as against LBHI.

261. Accordingly, the $8.6 billion in cash and money market funds is not the subject of any security agreement or other contract between LBHI and JPMorgan. JPMorgan has no right to the benefit it receives from holding these assets.

262. As a result of the foregoing, JPMorgan has been unjustly enriched, and LBHI has been damaged, in an amount not less than $8.6 billion. Equity and good conscience demand the return of these LBHI assets to LBHI, or an award of damages equivalent to the value of such assets. LBHI is also entitled to any and all damages that resulted from JPMorgan's unauthorized and unlawful withholding of these assets.

COUNT XXXIII
(Conversion: $8.6 Billion in Cash and Money Market Funds)

263. The allegations in paragraphs 1 through 262 are incorporated by reference as though fully set forth herein.

264. As described above, JPMorgan demanded and received $8.6 billion in cash and money market funds as purported collateral from LBHI prior to LBHI's bankruptcy. At least as of September 12, 2008, JPMorgan had swept the $8.6 billion out of the cash account on which JPMorgan purportedly had a lien pursuant to the August Security Agreement. Thus, even if the August Guaranty and August Security Agreement were valid, because the September Security Agreement is invalid and unenforceable, the $8.6 billion was not in any account over which JPMorgan had any lien or any other purported rights as against LBHI.

265. On Friday, September 12, 2008, and throughout the weekend until LBHI's bankruptcy filing on Monday, September 15, 2008, LBHI made repeated demands that JPMorgan return at least the $8.6 billion in cash and money market funds. Although JPMorgan had no right to withhold these assets, it wrongfully refused each such demand.

266. As a result of the foregoing, JPMorgan wrongfully converted at least $8.6 billion in LBHI assets, and LBHI has been damaged thereby. LBHI is entitled to the return of its assets, or an award of damages equivalent to the value of the LBHI assets that JPMorgan wrongfully converted. LBHI is also entitled to any and all damages that resulted from JPMorgan's unauthorized and unlawful conversion of these assets.

<u>COUNT XXXIV</u>
(In the Alternative, Breach of the 2000 Clearance Agreement: Improper Collateral Demands)

267. The allegations in paragraphs 1 through 266 are incorporated by reference as though fully set forth herein.

268. For the reasons set forth above, the September Agreements are invalid and unenforceable.

269. Pursuant to the 2000 Clearance Agreement, JPMorgan did not have the right to be more than fully collateralized, or to demand collateral for anything beyond what was needed to secure obligations arising under that agreement.

270. Nevertheless, in the week immediately prior to LBHI's bankruptcy, JPMorgan demanded and received from LBHI at least $8.6 billion of cash and money market funds, despite the fact that it was already fully collateralized for current and anticipated obligations. Moreover, as of the end of trading on September 12, 2008, JPMorgan could have remained fully collateralized for all outstanding LBHI obligations arising under the 2000 Clearance Agreement without retaining the $8.6 billion transferred that week. Notwithstanding this overcollateralization, JPMorgan locked down the $8.6 billion and prevented LBHI from obtaining access to it.

271. As a result of the foregoing, JPMorgan breached the 2000 Clearance Agreement, and has thereby caused damage to LBHI. LBHI is therefore entitled to an award of billions of dollars in damages, in an amount to be determined at trial.

<u>COUNT XXXV</u>
(In the Alternative, Breach of the August Agreements: Improper Collateral Demands)

272. The allegations in paragraphs 1 through 271 are incorporated by reference as though fully set forth herein.

273. For the reasons set forth above, the September Agreements are invalid and unenforceable.

274. As set forth above, in response to JPMorgan's repeated and excessive demands in the weeks leading up to the LBHI bankruptcy, LBHI was forced to post billions of dollars in LBHI assets with JPMorgan as purported security for LBHI obligations.

275. However, at the time JPMorgan made these repeated and excessive demands for collateral, JPMorgan knew that such additional collateral was not reasonably required to secure JPMorgan with respect to intra-day clearance-related obligations arising under the August Guaranty. Instead, JPMorgan demanded such collateral as security for potential non-clearance obligations of LBHI and/or its subsidiaries.

276. JPMorgan had no right under the August Agreements to demand and withhold LBHI assets as collateral for obligations other than intra-day clearance obligations. Accordingly, to the extent any of the collateral demanded and received by JPMorgan for non-clearing obligations is purportedly governed by the August Agreements, JPMorgan is in breach of those agreements.

277. Even if JPMorgan intended to use the billions of dollars of pledged LBHI assets as security for intra-day clearance obligations, the amount of collateral demanded and received nonetheless exceeded what was reasonably required to secure JPMorgan for such obligations. As such, JPMorgan's demands for and withholding of these LBHI assets as security under the guise of the August Agreements constitutes a breach of those agreements.

278. As a result of the foregoing, JPMorgan breached the August Agreements, and has thereby caused damage to LBHI. LBHI is therefore entitled to an award of billions of dollars in damages, in an amount to be determined at trial.

COUNT XXXVI
**(In the Alternative, Breach of the August Agreements:
Improper Withholding of Collateral)**

279. The allegations in paragraphs 1 through 278 are incorporated by reference as though fully set forth herein.

280. For the reasons set forth above, the September Agreements are invalid and unenforceable.

281. Pursuant to the August Agreements, at the end of any given trading day, JPMorgan was required to give LBHI access to any LBHI collateral held by JPMorgan, to the extent such collateral exceeded the obligations of LBHI to JPMorgan under those agreements.

282. As of the end of trading on September 12, 2008, Lehman had no clearance-related obligations or debts to JPMorgan whatsoever. At that time, JPMorgan held and locked down billions of dollars in LBHI assets as purported collateral. To the extent those assets were governed by the August Agreements, JPMorgan was obligated to allow LBHI to access those assets that evening.

283. As a result of JPMorgan's misconduct, JPMorgan breached the August Agreements, and has thereby caused damage to LBHI. LBHI is therefore entitled to an award of billions of dollars in damages, in an amount to be determined at trial.

COUNT XXXVII
**(In the Alternative, Breach of the Implied Covenant of Good Faith
and Fair Dealing: August Agreements)**

284. The allegations in paragraphs 1 through 283 are incorporated by reference as though fully set forth herein.

285. For the reasons set forth above, the September Agreements are invalid and unenforceable.

286. New York law recognizes an implied covenant of good faith and fair dealing in all contracts. Pursuant to this principle, JPMorgan owed LBHI a duty of good faith and fair dealing under the August Agreements.

287. As described above, in the weeks leading up to LBHI's bankruptcy, JPMorgan used its dominant bargaining position and improper threats to force LBHI to post billions of dollars of collateral in excess of what was needed to secure JPMorgan's clearance exposure. This improper conduct of JPMorgan deprived LBHI of any right under the August Agreements to refuse unreasonable and excessive collateral demands by JPMorgan. Moreover, JPMorgan made its demands knowing they would drain LBHI of much-needed liquidity and would severely impair LBHI's ability to continue to operate.

288. Then, JPMorgan refused to give LBHI access to its collateral on Friday, September 12, 2008, and throughout that weekend. JPMorgan made this refusal notwithstanding its knowledge that the collateral was not required to secure any legitimate exposure of JPMorgan, and its knowledge that LBHI's access to that collateral was critical to LBHI's efforts to save its business.

289. The foregoing conduct of JPMorgan was performed in bad faith, for the improper purpose of ensuring that JPMorgan would stand ahead of LBHI's other creditors in the event of LBHI's bankruptcy. For example, JPMorgan's primary purpose in making its collateral demands was to circumvent derivatives contracts between JPMorgan entities and LBHI subsidiaries that did not allow for such demands, in an attempt to ensure JPMorgan could pay itself 100 cents on the dollar for previously unsecured obligations it anticipated could arise under those contracts if LBHI filed for bankruptcy. Moreover, JPMorgan's collateral demands far exceeded what even its own risk models suggested was required to secure those anticipated obligations.

290. Pursuant to this wrongful conduct, JPMorgan has improperly withheld billions of dollars in LBHI assets, at the expense of LBHI and its creditors.

291. As a result of the foregoing, JPMorgan breached its implied covenant of good faith and fair dealing with LBHI, embodied in the August Agreements, and LBHI has suffered damages as a result. LBHI is therefore entitled to an award of billions of dollars in damages, in an amount to be determined at trial.

COUNT XXXVIII
(Coercion and/or Duress With Respect to the September Agreements)

292. The allegations in paragraphs 1 through 291 are incorporated by reference as though fully set forth herein.

293. As set forth above, pursuant to the 2000 Clearance Agreement (as amended), JPMorgan was obligated to provide clearing services to Lehman. JPMorgan had no right to immediately cease clearing for Lehman. The 2000 Clearance Agreement further provided that JPMorgan had an obligation to continue to provide intra-day credit to Lehman in connection with these clearing services, until such time as JPMorgan gave commercially reasonable notice of its intent to cease extending such credit. JPMorgan was further required by the covenant of good faith and fair dealing to refrain from immediately ceasing to clear and/or provide credit to Lehman, especially when fully collateralized at the time, because of the parties' years of prior practice and the devastating effect such action would have on Lehman's business.

294. On the evening of September 9, 2008, JPMorgan threatened that, if LBHI did not execute the proposed agreements before LBHI's earnings call, scheduled for 7:30 a.m. the next day, JPMorgan would immediately stop extending intra-day credit to, and clearing trades for, Lehman.

295. Notwithstanding the fact that this threatened action, if taken, would have constituted a violation of the 2000 Clearance Agreement and/or the covenant of good faith and fair dealing, LBHI could not refuse JPMorgan's demand that it enter into the September Agreements. If JPMorgan ceased providing clearing services and/or intra-day credit to Lehman, Lehman's business would have immediately collapsed.

296. Nor was there an alternative to entering the September Agreements available to LBHI. As described above, JPMorgan was one of only two banks that could provide the required clearing services to Lehman (the other being the Bank of New York) – and it would have been impossible to transfer Lehman's business to the Bank of New York in the eleven overnight hours between JPMorgan's demand on the night of September 9, 2008, and the deadline given by JPMorgan of 7:30 a.m. the next morning.

297. As a result of the above, the September Agreements never took effect, and are otherwise invalid and unenforceable, because they are the product of coercion and/or duress.

298. Under cover of the September Agreements, JPMorgan has improperly withheld billions of dollars in LBHI assets, notwithstanding LBHI's demand for the return of same.

299. As a result of the foregoing, LBHI is entitled to rescission of the September Agreements, as well as damages, in an amount to be determined at trial.

COUNT XXXIX
(In the Alternative, Breach of the Implied Covenant of Good Faith and Fair Dealing: September Agreements)

300. The allegations in paragraphs 1 through 299 are incorporated by reference as though fully set forth herein.

301. New York law recognizes an implied covenant of good faith and fair dealing in all contracts. Pursuant to this principle, JPMorgan owed LBHI a duty of good faith and fair dealing under the September Agreements.

302. As described above, in the weeks leading up to LBHI's bankruptcy, JPMorgan used its dominant bargaining position and improper threats to force LBHI to post billions of dollars of collateral in excess of what was needed to secure JPMorgan's exposure. This improper conduct of JPMorgan deprived LBHI of any right under the September Agreements to refuse unreasonable and excessive collateral demands by JPMorgan. Moreover, JPMorgan made its demands knowing they would drain LBHI of much-needed liquidity and would severely impair Lehman's ability to continue to operate.

303. Then, JPMorgan refused to give LBHI access to its collateral on Friday, September 12, 2008, and throughout that weekend. JPMorgan made this refusal notwithstanding its knowledge that the collateral was not required to secure any legitimate exposure of JPMorgan, and its knowledge that LBHI's access to that collateral was critical to LBHI's efforts to save its business.

304. The foregoing conduct of JPMorgan was performed in bad faith, for the improper purpose of ensuring that JPMorgan would stand ahead of LBHI's other creditors in the event of LBHI's bankruptcy. For example, JPMorgan's primary purpose in making its collateral demands was to circumvent derivatives contracts between JPMorgan entities and LBHI subsidiaries that did not allow for such demands, in an attempt to ensure JPMorgan could pay itself 100 cents on the dollar for previously unsecured obligations it anticipated could arise under those contracts if LBHI filed for bankruptcy. Moreover, JPMorgan's collateral demands far exceeded what even its own risk models suggested was required to secure those anticipated obligations.

305. Pursuant to this wrongful conduct, JPMorgan has improperly withheld billions of dollars in LBHI assets, at the expense of LBHI and its creditors.

306. As a result of the foregoing, JPMorgan breached its implied covenant of good faith and fair dealing with LBHI, embodied in the September Agreements, and LBHI has suffered damages as a result. LBHI is therefore entitled to an award of billions of dollars in damages, in an amount to be determined at trial.

COUNT XL
(Coercion and/or Duress With Respect to Demands for $8.6 Billion in Cash and Cash Equivalents)

307. The allegations in paragraphs 1 through 306 are incorporated by reference as though fully set forth herein.

308. As described above, on September 9, 2008, JPMorgan demanded as additional collateral, and LBHI posted, $1 billion in cash and $1.67 billion in money market funds. On September 10, 2008, again at the insistence of JPMorgan, LBHI delivered to JPMorgan approximately $300 million of cash. Similarly, on September 11, 2008, LBHI posted additional cash in the amount of $600 million as collateral for JPMorgan. These demands were backed by the improper threat that, if LBHI did not comply, JPMorgan would immediately stop extending intra-day credit to, and clearing trades for, Lehman, in violation of its obligations under the 2000 Clearance Agreement.

309. Then, late in the evening of September 11, 2008, JPMorgan sent to LBHI a written "Notice" requiring confirmation that LBHI would wire to JPMorgan an additional $5 billion in cash prior to opening of business on Friday, September 12, 2008. In the Notice, JPMorgan threatened that, if LBHI did not comply with JPMorgan's demand, "we intend to exercise our right to decline to extend credit to you under the [Clearance] Agreement." JPMorgan's threat was improper and wrongful. JPMorgan had no right to refuse to extend credit to Lehman on the morning of Friday, September 12, 2008, or to cease providing clearing services for Lehman with such little notice. As described above, such action, if taken, would have

constituted a breach of the 2000 Clearance Agreement and/or JPMorgan's duty of good faith and fair dealing.

310. Notwithstanding, LBHI was in no position to insist on its contract rights with respect to any of these demands. Both JPMorgan and LBHI knew that, if JPMorgan carried through with its threats, Lehman's business would immediately collapse. LBHI had no alternative but to accede to JPMorgan's demands.

311. LBHI therefore involuntarily delivered $8.6 billion in cash and money market funds to JPMorgan.

312. As a result of the foregoing, LBHI was wrongfully coerced into agreeing to deliver $8.6 billion in cash and money market funds. LBHI is therefore entitled to rescission of its agreements to deliver the $8.6 billion in cash and money market funds to JPMorgan and a return of the $8.6 billion, or entitled to an award of damages in the amount of $8.6 billion, as well as all other damages resulting from JPMorgan's misconduct, in an amount to be determined at trial.

COUNT XLI
(Fraud With Respect to the September 12, 2008 Demand for $5 Billion Cash)

313. The allegations in paragraphs 1 through 312 are incorporated by reference as though fully set forth herein.

314. As described above, on September 11, 2008, JPMorgan demanded that LBHI post $5 billion in cash as purported collateral by the next day, September 12, 2008.

315. LBHI was not obligated under the September Agreements, or any other agreement between the parties, to post the $5 billion as demanded by JPMorgan. However, to induce LBHI to post the $5 billion as additional collateral, JPMorgan represented that it would return the $5 billion to LBHI at the end of the trading day on September 12, 2008.

316. It was critical to the survival of LBHI's business that it have access to its $5 billion in cash on the evening of September 12, 2008 and throughout the following weekend. However, in reliance on JPMorgan's representation, LBHI transferred $5 billion in cash as purported collateral to JPMorgan.

317. At the time JPMorgan made its representation and induced LBHI to post the $5 billion as collateral, JPMorgan had no intention of returning the $5 billion to LBHI. In fact, JPMorgan had already determined that it would lock down all LBHI assets, including the $5 billion, as soon as those assets were transferred to JPMorgan.

318. LBHI is entitled to an award of direct damages in the amount of $5 billion, as well as all other damages resulting from JPMorgan's misconduct, in an amount to be determined at trial.

PRAYER FOR RELIEF

WHEREFORE, LBHI demands judgment against JPMorgan, as follows:

a. Declaring that the August Guaranty and August Security Agreement never took effect, and are otherwise invalid and unenforceable;

b. Declaring that the September Agreements never took effect, and are otherwise invalid and unenforceable;

c. Ordering JPMorgan to return to LBHI all LBHI assets held by JPMorgan prior to LBHI's bankruptcy filing;

d. In the alternative to paragraph (c) above, awarding LBHI damages in an amount commensurate with the value of all LBHI assets held by JPMorgan as of September 12, 2008, in addition to statutory interest;

e. Awarding LBHI all other damages suffered as a result of JPMorgan's misconduct, in an amount to be determined at trial, in addition to statutory interest;

f. Equitably subordinating and/or disallowing JPMorgan's claims and interests in respect of LBHI's estate;

g. Disallowing the claims and avoiding the liens of JPMorgan against LBHI unless and until JPMorgan has turned over to LBHI the value of such transferred property for which JPMorgan is liable under Sections 542, 550 and 553 of the Bankruptcy Code;

h. Preserving all transfers and liens avoided for the benefit of LBHI's estate under Section 551 of the Bankruptcy Code;

i. Declaring that JPMorgan willfully violated the automatic stay and ordering them to pay LBHI an amount to be determined at trial for such violation of the automatic stay;

j. Awarding LBHI costs and disbursements of this action and attorneys' fees; and

[*Remainder of Page Intentionally Left Blank*]

k. Awarding such other and further relief as this Court deems just and proper.

Dated: May 26, 2010
New York, New York

CURTIS, MALLET-PREVOST,
COLT & MOSLE LLP

By: /s/ Joseph D. Pizzurro

Joseph D. Pizzurro
L. P. Harrison 3rd
Michael J. Moscato
Nancy E. Delaney
Peter J. Behmke
Cindi M. Eilbott
101 Park Avenue
New York, New York 10178-0061
(212) 696-6000
Counsel for Plaintiff, Debtor Lehman Brothers Holdings Inc.

QUINN EMANUEL
URQUHART & SULLIVAN, LLP

By: /s/ John B. Quinn

John B. Quinn
Erica Taggart
865 South Figueroa Street, 10th Floor
Los Angeles, California 90017-2543
(213) 443-3000

Susheel Kirpalani
Andrew J. Rossman
James Tecce
Christopher D. Kercher
51 Madison Avenue, 22nd Floor,
New York, New York 10010-1601
(212) 849-7000
Counsel for Proposed Plaintiff/Intervenor, the Official Committee of Unsecured Creditors of Lehman Brothers Holdings Inc.

TAB 16

From: Steven Lim/JPMCHASE <steve.lim@jpmorgan.com>
Sent: Monday, September 1, 2008 12:26 AM
To: Steven D. Black/JPMCHASE <Steven.D.Black@jpmorgan.com>
Cc: Gaby A Abdelnour/JPMCHASE <gaby.abdelnour@jpmorgan.com>; Jamie Dimon/IL/ONE <jamie.di <murlidhar.maiya@jpmorgan.com>; Olivier X de Grivel/JPMCHASE <olivier.degrivel@jpmorgan.cc Main/JPMCHASE <tim.main@jpmorgan.com>
Subject: Re: Lehman / KDB
Attach: InlineImage9.gif;InlineImage8.gif;InlineImage7.gif;InlineImage6.gif;InlineImage5.gif;InlineImage4.g

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Steve,

After our call Sunday night, called ES Min, CEO of KDB and walked him through the following key points on "Why JPM as financial advisor":
1. JPM knows Lehman best as the largest liquidity provider and #1 financing bank for Lehman
2. We can do the most thorough job on necessary due diligence on Lehman's balance sheet, especially RE related asset quality. We can finish the whole DD process within a couple of weeks.
3. You and Jamie Dimon know Dick Fuld CEO of Lehman very well, are also close to Hank Paulson of US Treasury to discuss any potential support to the deal/KDB.

ES thanked for our timely follow-up on the issue. He said he needs to sort out several key issues first with local regulatory bodies on i) how much comfort KDB should have on Lehman's asset quality, ii) which local private equity firms/financial institutions can work with KDB as co-investors, ii) draw a firm consensus among the Blue House, FSC, MOFE and National Assembly on KDB's controlling acquisition of Lehman.

ES said he will get back to us as soon as appropriate either to meet us or to have a conf call.

ps) just FYI, ES Mon can be reached at his cell phone 82-10-3759-0600 if necessary.

Best Regards.

S Lim

Steve Suk Jung Lim
JP Morgan
Senior Country Officer & MD, Investment Banking - Korea
Address: 5FL, JP Morgan Plaza, 34-35 Jeong-Dong, Jung-Ku, Seoul 100-120, Korea
Direct: 822-758-5101 GDP: 859-5101
Fax: 822-758-5214
Email: steve.lim@jpmorgan.com

Olivier X de Grivel/JPMCHASE
2008-09-01 ◂ ?@◂ @| 02:12

To

Steven D. Black/JPMCHASE, Tim Main/JPMCHASE
cc
Murlidhar Maiya/JPMCHASE, Steven Lim/JPMCHASE
Subject
Re: Lehman / kdb

Even better, tks
can you use this dial in : +852 3009 3000
PIN 655 7878
From: Steven D. Black
To: Olivier X de Grivel; Tim Main
Cc: Murlidhar Maiya; Steven Lim
Sent: Mon Sep 01 00:58:00 2008
Subject: Re: Lehman / kdb
I could do it at 10pm - out to dinner before that.

Sent from my BlackBerry Handheld.

----- Original Message -----
From: Olivier X de Grivel
Sent: 09/01/2008 12:21 AM ZE8
To: Steven Black; Tim Main
Cc: Murlidhar Maiya; Steven Lim
Subject: Re: Lehman / kdb

Steve, tim
Could we have a call with you tonight ny time (our monday morning). can do after 7pm ny time.
kdb seems still interested, wants to know what jpm can offer vs the boutique advising them now.
From: Steven D. Black
To: Olivier X de Grivel
Cc: Murlidhar Maiya; Peter B Koo; Steven Lim; Tim Main
Sent: Fri Aug 29 19:35:37 2008
Subject: Re: Lehman / kdb
Olivier - I somehow missed this - apologies. I am in the office now if you guys want to chat - or am available anytime over the weekend. Regards, Steve
Olivier X de Grivel/JPMCHASE

Olivier X de Grivel/JPMCHASE
08/28/2008 01:12 PM

To

Steven D. Black/JPMCHASE, Tim Main/JPMCHASE

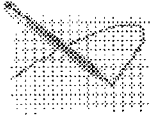
cc

Steven Lim/JPMCHASE, Murlidhar Maiya/JPMCHASE, Peter B Koo/JPMCHASE

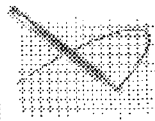
Subject

Lehman / kdb

Steve, Tim, can you be available for a conference call later tonight thursday
ny time (from 7pm onwards)
We'd like to update you on recent discussion with kdb reg lehman and discuss
what type of mandate (scope + pricing) we could offer kdb.
Tks
please indicate alternative if



TAB 17



Steven D. Black@JPMCHASE

09/01/2008 06:48 AM

To: "Jamie Dimon NEW YORK" <jamie.dimon@jpmchase.com>, "Bill Winters LONDON" <bill.t.winters@jpmorgan.com>, "Tim Main" <tim.main@jpmorgan.com>
cc:
Subject: Fw: Lehman / KDB

I did a call last night with Steve and Olivier - moving along but slowly.

Sent from my BlackBerry Handheld.

Steven Lim

----- Original Message -----

From: Steven Lim
Sent: 09/01/2008 01:26 PM ZE9
To: Steven Black
Cc: Olivier X de Grivel/JPMCHASE@JPMCHASE1; Murlidhar Maiya; Tim Main/JPMCHASE@JPMCHASE1; Tae Jin Park; Jamie Dimon; Gaby Abdelnour
Subject: Re: Lehman / KDB

Steve,

After our call Sunday night, called ES Min, CEO of KDB and walked him through the following key points on "Why JPM as financial advisor":
1. JPM knows Lehman best as the largest liquidity provider and #1 financing bank for Lehman
2. We can do the most thorough job on necessary due diligence on Lehman's balance sheet, especially RE related asset quality. We can finish the whole DD process within a couple of weeks.
3. You and Jamie Dimon know Dick Fuld CEO of Lehman very well, are also close to Hank Paulson of US Treasury to discuss any potential support to the deal/KDB.

ES thanked for our timely follow-up on the issue. He said he needs to sort out several key issues first with local regulatory bodies on i) how much comfort KDB should have on Lehman's asset quality, ii) which local private equity firms/financial institutions can work with KDB as co-investors, ii) draw a firm consensus among the Blue House, FSC, MOFE and National Assembly on KDB's controlling acquisition of Lehman.

ES said he will get back to us as soon as appropriate either to meet us or to have a conf call.

ps) just FYI, ES Mon can be reached at his cell phone 82-10-3759-0600 if necessary.

Best Regards.

S Lim

Steve Suk Jung Lim
JP Morgan
Senior Country Officer & MD, Investment Banking - Korea
Address: 5FL, JP Morgan Plaza, 34-35 Jeong-Dong, Jung-Ku, Seoul 100-120, Korea
Direct: 822-758-5101 GDP: 859-5101
Fax: 822-758-5214
Email: steve.lim@jpmorgan.com
Olivier X de Grivel/JPMCHASE

Olivier X de Grivel/JPMCHASE
2008-09-01 오전 02:12

To: Steven D. Black/JPMCHASE, Tim Main/JPMCHASE
cc: Murlidhar Maiya/JPMCHASE, Steven Lim/JPMCHASE
Subject: Re: Lehman / kdb

Even better, tks
can you use this dial in : +852 3009 3000
PIN 655 7878

From: Steven D. Black
To: Olivier X de Grivel; Tim Main
Cc: Murlidhar Maiya; Steven Lim
Sent: Mon Sep 01 00:58:00 2008
Subject: Re: Lehman / kdb

I could do it at 10pm - out to dinner before that.

Sent from my BlackBerry Handheld.

----- Original Message -----
From: Olivier X de Grivel
Sent: 09/01/2008 12:21 AM ZE8
To: Steven Black; Tim Main
Cc: Murlidhar Maiya; Steven Lim
Subject: Re: Lehman / kdb

Steve, tim
Could we have a call with you tonight ny time (our monday morning). can do after 7pm ny time.
kdb seems still interested, wants to know what jpm can offer vs the boutique advising them now.

From: Steven D. Black
To: Olivier X de Grivel

Cc: Murlidhar Maiya; Peter B Koo; Steven Lim; Tim Main
Sent: Fri Aug 29 19:35:37 2008
Subject: Re: Lehman / kdb

Olivier - I somehow missed this - apologies. I am in the office now if you guys want to chat - or am available anytime over the weekend. Regards, Steve

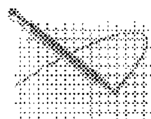
Olivier X de Grivel/JPMCHASE

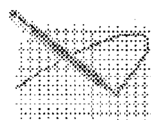
Olivier X de Grivel/JPMCHASE
08/28/2008 01:12 PM

To Steven D. Black/JPMCHASE, Tim Main/JPMCHASE
cc Steven Lim/JPMCHASE, Murlidhar Maiya/JPMCHASE, Peter B Koo/JPMCHASE
Subject Lehman / kdb

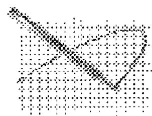
Steve, Tim, can you be available for a conference call later tonight thursday ny time (from 7pm onwards)

We'd like to update you on recent discussion with kdb reg lehman and discuss what type of mandate (scope + pricing) we could offer kdb.
Tks
please indicate alternative if





TAB 18



Mark G Doctoroff

09/03/2008
12:24 PM

To: Barry L Zubrow/JPMCHASE, Susan F Stevens/JPMCHASE, Jane Buyers-Russo/JPMCHASE, Piers Murray/JPMCHASE
cc: Ruth J Peterson/JPMCHASE, Michele P. Armstrong/JPMCHASE, Carol D Swaby/JPMCHASE, Marie J. Cirello/JPMCHASE
Subject: LEH Briefing Memo - Lowitt/O'Meara/Tonucci Lunch (Thursday, September 4th)

Enclosed is a memo that provides a brief summary of the agenda/discussion topics for tomorrow's lunch with Lehman Brothers (Ian Lowitt, CFO; Chris O'Meara, Chief Risk Officer; Paolo Tonucci, Treasurer).

We should meet at 270 Park Avenue at 12:10pm to walk over to Lehman's offices for the lunch meeting at 12:30pm.

Let me know if you require any other information before the meeting. Best, Mark

Mark G. Doctoroff

Executive Director

Financial Institutions

JPMorgan Chase Bank, N.A.

277 Park Avenue, 14th Floor

TEL# (212) 622-1878

FAX#(917) 464-6265

Mobile# (917) 885-9268

BM_LEH_09042008.doc.zip

Lehman Brothers Holdings Inc.
Briefing Memorandum
Thursday, September 4, 2008

Time / Venue:	12:30pm 745 7th Avenue, 32nd Floor Dining Room, 32G (Meet at 270 Park Avenue lobby @12;10pm)
Lehman Attendees:	Ian Lowitt, Chief Financial Officer Chris O'Meara, Chief Risk Officer (previously CFO) Paolo Tonucci, MD & Treasurer
JPM Attendees:	Barry Zubrow, EVP & Chief Risk Officer Susan Stevens, MD & Head of ACB Jane Buyers-Russo, MD & Head Broker/Dealer Division Piers Murray, MD, Credit Risk Management Mark Doctoroff, ACB-Client Executive

Meeting Purpose:
Lehman ("LEH") would like to update us on their upcoming 3Q results which they will announce September 17th. We expect they will have further significant asset write-downs primarily originating from their commercial and residential real estate related assets. Their 3Q results will likely also come with announcements regarding the actions they will be taking to shore-up their balance sheet, bolster capital (beyond the $12Bn in equity/hybrid equity they have raised so far this year), and to operate successfully in the coming quarters in the new market environment. Major themes in the press – (i) potential capital injection by Korea Development Bank (KDB) or other sovereign wealth fund; (ii) sale of all or part of their Investment Management Division (Neuberger Berman included) valued at between $7-10Bn; (iii) sale of real estate assets or formation of a bad bank/good bank with a private equity sponsor/s may be touched on during this discussion.

There is a strong desire at LEH to have open and frank dialogue with JPM at all levels of our organizations. I. Lowitt and C. O'Meara, would like to have more frequent contact with B. Zubrow and other members of our senior management. This meeting is partially meant to foster this dialogue. As LEH's primary operating services provider, LEH management want to ensure that we are fully briefed on their strategy and challenges as they need our support to operate their business.

It is important for B. Zubrow to thank the LEH team for their partnership and transparency with us throughout the discussions we have engaged in during the last few months regarding margin for the TPR, collateralization of intraday operating exposure where possible, and overall credit risk management.

In addition to getting a 3Q update, we want to review the following items:

(1) Tri-party repo ("TPR")
Accomplishments

-At 100% investor margin; have $8Bn in additional margin to cover price/liquidity risk ($5Bn CLOs [primarily corporate loan CLOs] and $3Bn conduit CP);
Next Steps (JPM's responsibility)
-Introduce intra-day margining calculation (mid-September)
-Tag and stop unwind of term repos (timing TBD)
Issues
-Lehman believes we are over collateralized against the intraday risks – wants to go to intraday margining as they believe this will allow them to take back some margin

(2) Pricing & collateral choice for coverage of liquidity/price risk in TPR
Next Steps (JPM's responsibility)
-Hire 3rd party pricing service to price the CLOs placed as margin
-Review the pricing with Lehman
Issues
-Likely do not agree on value and may need to substitute collateral (intrinsic vs. liquidation value);
-Indicative pricing from 3rd party source are @40-50% below the price that Lehman has put on the $5Bn of CLOs that they provided – still covering the 1-day price/liquidity risk (@$2.5Bn), but far short of the value that they have assigned;
-Will 3rd party pricing necessitate the need for Lehman to further mark the assets we hold as margin;
-These assets are part of LEH's liquidity pool (classified as ABS, corporates, CMOs), despite their less than cash liquidity profile – if we are not comfortable with these securities as margin, we need to develop a plan to replace them quickly

(3) Securing of $2Bn intraday for UK collateral management business
Accomplishments
-Explained the rationale and need to secure the intraday risk associated with the collateral management business we provide Lehman in the UK
Next Steps (JPM's responsibility)
-Determine whether margin held in the US for TPR is eligible to also be used for securing the UK collateral management business
-Discuss operational and legal points that will allow this business to be secured
Issues
-Lehman would very much like to use a portion or all of their margin held in the US for collateral for their UK collateral management business

Key Ongoing Risk Management Agenda Items

- Determine pricing and collateral composition for TPR margin (end September);
- Share intraday margin for TPR transparently through the dealers' clearance system (mid to late September)
- Secure UK collateral management intraday exposure - determine whether US TPR margin can be used in whole or in part, whether additional collateral is required (mid-November);
- Determine whether JPM can face one LEH entity going forward for FX/Derivatives and whether historical trades can be reorganized under the same entity (before

December);

- Complete LBHI guarantee review (end October)

Summary Financial Information
(Dollars in millions, except share data)

	2Q08	1Q08	4Q07	3Q07	2Q07
Net Income	(2,774)	489	886	887	1,273
Holdco Liquidity	45Bn	35Bn			
Total Assets	639,000	786,035	691,063	659,216	605,861
Net Assets	326,899	396,673	372,959	357,102	337,667
Common Stockholders Equity	19,283	21,839	21,395	20,638	20,034
Total Stockholders Equity	26,276	24,832	22,490	21,733	21,129
Total Stockholders Equity + Jr. Subordinated Debt	31,280	29,808	27,230	26,647	25,650
Tangible Equity Capital	27,179	25,696	23,103	22,164	21,881
Total Long-Term Capital	154,458	153,117	145,640	142,064	121,948
Book Value per Common Share	34.21	39.45	39.44	38.29	37.15
Leverage Ratio	24.3x	31.7x	30.7x	30.3x	28.7x
Net Leverage Ratio	12.0x	15.4x	16.1x	16.1x	15.4x

Liquidity Pool Details as of 8/30/2008:

Global Treasury
Liquidity Footnote - August 31, 2008
Amounts in millions
PRELIMINARY ESTIMATE

Investment Type		Pledge Value*			
		LBHI Pledge Value	LBI Pledge Value	LBIE Pledge Value	Total Pledge Value
		New York Inv	New York Inv	Europe Inv	Global Inv
1. Cash					
Cash at Banks		3,378	-	-	3,378
Other Cash Inv		553	-	-	553
Money Funds		104	-	-	104
Total Cash	A	4,035	-	-	4,035
2. Boxed Inventory					
Private Label CMO's		454	-	10	464
Corporates		3,020	-	785	3,806
Governments / Treasuries		16,963	1,187	9,470	27,620
Asset Backed		674	-	88	762
Equities		8	-	1,557	1,565
Agencies		3,811	-	17	3,828
Canadian		-	-	15	15
Total Boxed Inventory	B	24,930	1,187	11,943	38,060
C&C Equivs Available to Holding Company (A+B)		28,965	1,187	11,943	42,095

Biographies

Ian T. Lowitt

Chief Financial Officer and Co-Chief Administrative Officer

Ian T. Lowitt is chief financial officer (CFO) and co-chief administrative officer (co-CAO) of Lehman Brothers Holdings Inc. Mr. Lowitt was named CFO in June 2008 and has been co-CAO since October 2006. In his role as CFO, Mr. Lowitt oversees the Firm's finance organization, including Financial Control, Investor Relations, Planning and Analysis, Product Control, Tax, and Treasury. In his role as co-CAO, he is responsible for the global oversight of Corporate Real Estate, Expense and Sourcing Services, Operations, Productivity and Process Improvement, Risk Management, and Technology. He is also an executive vice president of Lehman Brothers Holdings Inc. and a member of Lehman Brothers' Executive Committee.

Prior to his current role, Mr. Lowitt was the chief administrative officer of Lehman Brothers Europe. He has also served as global treasurer and global head of Tax, and chairman of Lehman Brothers Bank FSB, the Firm's Delaware-based savings bank. Before becoming global treasurer, he was the Firm's head of Strategy and Corporate Development.

Mr. Lowitt joined Lehman Brothers in 1994 from McKinsey and Company, where he served as an engagement manager advising clients in a number of industries, including financial services, electronics and information technology.

Mr. Lowitt has a B.Sc. in electrical engineering and an M.Sc. in digital electronics from the University of the Witwatersrand in Johannesburg, South Africa. He also has a B.A. in philosophy, politics and economics and an M.Sc. in economics from the University of Oxford. At Oxford, Mr. Lowitt was a Rhodes Scholar.

Paolo Tonucci

Managing Director
Global Treasurer

Paolo Tonucci is the Global Treasurer of Lehman Brother Holding Inc. Mr. Tonucci was named Global Treasurer in April 2007.

As Global Treasurer, Mr. Tonucci chairs the Firm's Finance Committee, is a member of the Firm's Commitment Committee, and oversees all international and domestic treasury functions, including all financing and capital raising.

Mr. Tonucci joined Lehman Brothers in 1996 and since this time has served in various roles across Finance including: Global Co-Treasurer, International Treasurer, Global Head of Asset and Liability Management, and as a manager within Fixed Income Product Control Department.

Prior to joining Lehman Brothers, Mr. Tonucci was a manager of Derivatives Product Control for Bank of America in London and prior to that, worked in the Capital Markets Audit and Consultancy area within Ernst & Young.

Mr. Tonucci graduated from Cambridge University with a Masters in Economics.

Mr. Tonucci is a member of the Institute of Chartered Accountants of England and Wales and is also a member of the Association of Corporate Treasurers.

TAB 19

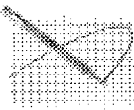
JP MORGAN AGENDA

	Date	Time	Venue
Meeting	September 4, 2008	12:30 -2:00 pm	Luncheon
Bank Participants	Barry Zubrow, Chief Risk Officer and EVP, Member of the Operating Committee (Bio attached) Piers Murray, MD, Global Credit Risk Management (Bio attached) Jane Buyers Russo, MD - Division Executive of the Broker Dealer and Hedge Funds Division Mark Doctoroff, Executive Director, Senior RM		
Lehman Participants	Ian Lowitt, , CFO Chris O'Meara, Chief Risk Officer Paolo Tonucci, Global Treasurer		

Agenda	• Introduce Barry Zubrow, CRO to Lehman Senior Management • Review of Lehman business strategy and third quarter results • Review operational risk and credit initiatives
Lehman Priorities	• **Collateral:** Lehman is pushing JP Morgan to increase pricing sources for less liquid collateral, achieve better transparency in net free equity, and improve real time automation.
JPM Priorities	• **Collateral:** Lehman has deposited collateral of $8B+ to support intraday triparty exposures in the US. Discussions for an additional collateral pool of $2B to support European triparty exposures are in process in London. JP Morgan has conveyed its appreciation on how effectively Lehman has worked with them to mitigate intraday exposures.(See attached analysis). • **Valuations**: JP Morgan has expressed concern about the valuation of some of the collateral posted, specifically CLO's. JP Morgan is not concerned that the collateral is relatively illiquid, but that there is no 3rd party pricing available. JP Morgan has agreed to engage Gifford Fong to undertake valuation of the collateral. • **Clearance Documentation**: JP Morgan has renegotiated and executed amendments to the clearance agreement, a new security agreement and guaranty from LBHI on August 28, 2008. • **Derivative Counterparties**: JP Morgan is reviewing the number of Lehman derivative counterparties and has requested we work with them to consolidate the credit exposures to fewer legal entities (combined Bear, Stearns and Lehman exposures). To date, JP Morgan is not requiring that the trades be consolidated with a regulated entity and is comfortable with LBSF. Until completed, JP Morgan has stopped negotiating CSA's with new legal entities, e.g. Bankhaus Seoul Branch. • **Guarantees**: JP Morgan has requested that new individual guarantees from LBHI be negotiated, including Aurora and all legal entities guaranteed by Board Resolution. Mark Doctoroff working internally with Legal to draft a proposed format. • **Liquidity:** Lehman has provided detail on our liquidity position as of quarter end. (See attached schedule). JP Morgan is holding an internal credit meeting on September 5 to review the quality of the liquidity composition of all broker dealers. **PLEASE NOTE, JP MORGAN'S INTERNAL BRIEFING MEMO FOR THIS MEETING IS ATTACHED.**

FOIA CONFIDENTIAL TREATMENT REQUESTED BY
LEHMAN BROTHERS HOLDINGS INC.

TAB 20



Susan F Stevens

To: Mark G Doctoroff/JPMCHASE, Jane Buyers-Russo/JPMCHASE
cc:
Subject: Re: Rating agency presentation

09/05/2008
10:37 AM

Good. How does it look? Susan

----- Original Message -----
From: Mark G Doctoroff
To: Susan F Stevens; Jane Buyers-Russo
Sent: Fri Sep 05 10:22:45 2008
Subject: RE: Rating agency presentation

I have comments from Barry, Brian, and my own that the three of us agreed on early this AM that I am passing on to Paolo at 10:30 -- will send a summary to you both after the call

-----Original Message-----
From: Susan F Stevens
Sent: Friday, September 05, 2008 10:21 AM
To: Mark G Doctoroff; Jane Buyers-Russo
Subject: Fw: Rating agency presentation

Fyi. Susan

----- Original Message -----
From: Piers Murray
To: Donna Dellosso; Susan F Stevens; Barry L Zubrow
Sent: Thu Sep 04 21:06:07 2008
Subject: Fw: Rating agency presentation

Someone else getting an insight.

Sent from my BlackBerry Handheld.

----- Original Message -----
From: Mark G Doctoroff
Sent: 09/04/2008 08:57 PM AST
To: Piers Murray; Jane Buyers-Russo
Subject: RE: Rating agency presentation

Piers, Saw it also:

Lehman May Shift $32 Billion of Mortgage Assets to `Bad Bank'

By Yalman Onaran

Sept. 4 (Bloomberg) -- Lehman Brothers Holdings Inc. may shift about $32 billion of commercial mortgages and real estate to a new company that will be spun off in a move similar to the good-bank-bad-bank model used in the 1980s banking crisis, two people briefed on the discussions said.

The bad bank, nicknamed Spinco for now, would have about $8 billion of equity coming from Lehman, the people said, speaking on condition of anonymity because the plan is one of several under consideration. Spinco would borrow the remaining $24 billion from Lehman or outside investors. The New York-based bank would replace capital put into Spinco, whose

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shares would be owned by current Lehman shareholders.

Lehman Chief Executive Officer Richard Fuld, 62, is under pressure to strip the firm's balance sheet of hard-to-sell assets. To raise cash needed to cope with losses from a wholesale disposal, Lehman has been talking with Korea Development Bank about a capital infusion and with private equity firms interested in buying its asset-management unit.

``The model helps banks get on with their real business, focus on their strengths, after they put the bad assets aside,'' said Michael Bleier, an attorney at Reed Smith LLP who was the senior counsel to Bank Mellon during its spinoff of bad assets in 1988. ``We'll see it being used again during this crisis.''

Mark Lane, a spokesman for Lehman, declined to comment.

Korea Talks

The Spinco proposal would enable Lehman to dispose of 80 percent of its commercial mortgages, the people said. Under another plan, the firm would establish a company capitalized and managed by outside investors to buy some of its mortgage assets. The Spinco plan would enable Lehman's shareholders to benefit from a turnaround in the mortgage market.

Korea Development Bank has been in discussions to buy a 25 percent stake in Lehman for $6 billion, according to the people familiar with the talks. That would replace most of the capital Lehman would put into the bad bank.

The deal must be structured to guarantee enough cash flow from the mortgages being put into the spun-off entity to repay outside lenders, Reed Smith's Bleier said. That would force Lehman or another bank using the model to disclose much more detail about the mortgages and the securities, he said.

Balancing Act

Lehman's $65 billion mortgage-related portfolio has spooked shareholders, driving the stock price down 77 percent this year on concern that the $2.8 billion loss in the second quarter wouldn't end the bleeding. The bigger portion of the portfolio, or $40 billion, is tied to commercial real estate.

Even though defaults of commercial mortgages are still below 1 percent, speculation that delinquencies will jump in that market has pushed down the prices of the bonds backed by commercial real estate loans. By spinning off the mortgages to its own shareholders, Lehman can allow them to benefit from a possible recovery in asset prices when investors realize commercial mortgages aren't going the way of subprime.

``Management's challenge is not that of discarding a troubled portfolio,'' said David Trone, an analyst at Fox-Pitt Kelton Cochran Caronia Waller. ``Instead, management must find a way to relieve pressure on the stock without destroying shareholder value by succumbing to an unwarranted fire sale of commercial mortgages.''

KKR, Carlyle

Lehman, the largest underwriter of mortgage bonds last year, has been trying to reduce assets linked to that market as demand dried up and prices plummeted, generating more than $8 billion in writedowns and credit losses. BlackRock Inc., the largest publicly traded U.S. money manager, was considering a purchase of some of Lehman's commercial mortgages, people familiar with those discussions said last month.

If talks with the Korean bank fail, Lehman will turn to the other option for raising capital, the people familiar with the firm's plans said. Private-equity firms including Kohlberg Kravis Roberts & Co. and Carlyle Group have been negotiating to buy a stake in Lehman's asset-management business, which includes Neuberger Berman Inc.

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Fuld removed his associate of 30 years, President Joseph Gregory, 56, in June and replaced him with Herbert ``Bart'' McDade, 49, who had run fixed income and equities. Fuld, McDade and other members of the management team are racing to conclude a deal with potential investors before the firm reports earnings this month, people familiar with the situation have said. The company typically announces earnings in mid-September, although last quarter it released preliminary figures a week before schedule.

The mortgage-bond crisis that spread to Lehman escalated in June 2007, when Bear Stearns Cos. began liquidating holdings from one of its hedge funds after losing bets on securities tied to subprime mortgages. Bear Stearns, then the fifth-largest U.S. securities firm, sold itself to JPMorgan Chase & Co. for $10 a share.

-----Original Message-----
From: Piers Murray
Sent: Thursday, September 04, 2008 8:53 PM
To: Mark G Doctoroff; Jane Buyers-Russo
Subject: Re: Rating agency presentation

Mark/Jane - BBerg has good bank bad bank article when 0i got back to my desk at 5

Sent from my BlackBerry Handheld.

----- Original Message -----
From: Mark G Doctoroff
Sent: 09/04/2008 08:39 PM AST
To: Barry Zubrow; Piers Murray; Susan Stevens
Subject: FW: Rating agency presentation

Barry / Piers / Susan,   Enclosed is the presentation we spoke about at lunch today.
Best, Mark

-----Original Message-----
From: Tonucci, Paolo [mailto:paolo.tonucci@lehman.com]
Sent: Thursday, September 04, 2008 8:35 PM
To: Mark G Doctoroff; Jane Buyers-Russo
Subject: Rating agency presentation

This is the presentation we took Fitch through today. I would be grateful if you could pass on to Barry.

There is a lot of confidential info so please keep to the minimum people.

Thanks,
Paolo
<<JP_Morgan rating presentation.ppt>>
- -

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TAB 21

To: "Lowitt, Ian T" <ilowitt@lehman.com>
cc:
Subject: Re: Follow up to conversation.

Barry L Zubrow

09/05/2008
01:41 PM

Totally appreciate the sensitivity....

Actually at the Open now. Have to go to Switzerland tonite, back Sunday am.

Hopefully you will get some time off this weekend.

----- Original Message -----
From: "Lowitt, Ian T" [ilowitt@lehman.com]
Sent: 09/05/2008 12:52 PM AST
To: Barry Zubrow
Subject: Follow up to conversation.

Will get back to you Monday with ideas where JPM might be helpful -
maybe something will resonate. Appreciate the offer very much.
The materials we sent you are obviously very sensitive, and trust they
will be kept to the limited group we met with and your rating advisory
team.
Enjoy the weekend. Will you be at the tennis?
Ian

- -

This message is intended only for the personal and confidential use of the designated recipient(s) named above. If you are not the intended recipient of this message you are hereby notified that any review, dissemination, distribution or copying of this message is strictly prohibited. This communication is for information purposes only and should not be regarded as an offer to sell or as a solicitation of an offer to buy any financial product, an official confirmation of any transaction, or as an official statement of Lehman Brothers. Email transmission cannot be guaranteed to be secure or error-free. Therefore, we do not represent that this information is complete or accurate and it should not be relied upon as such. All information is subject to change without notice.

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TAB 22

Barry L Zubrow

To: "Lowitt, Ian T" <ilowitt@lehman.com>
cc: Mark G Doctoroff/JPMCHASE@JPMCHASE1, piers.murray@jpmorgan.com
Subject: RE: Follow up to conversation.

09/08/2008
07:36 AM

Glad meetings are going well; We have kept the rating agency document limited to the team, with the addition of Brian Keegan (whom we had referenced who heads up our rating agency practice). Not sure if Mark has shared with you Brian's views over the weekend. I think you will find them helpful, albeit consistent with our comments to you last week.

Barry

"Lowitt, Ian T" <ilowitt@lehman.com>

"Lowitt, Ian T" <ilowitt@lehman.com>

09/07/2008 03:56 PM

To<barry.l.zubrow@jpmchase.com>
cc
SubjectRE: Follow up to conversation.

Meetings with Agencies all went well - happy to provide colour if you'd like. Will be getting them the timeline and more detailed plan on capital next week which is obviously critical.
Re materials, please confirm that it is just you and your team that has reviewed them and has copies (you understand our sensitivity!)
Hope trip to Switzerland not too tiring. I got most of Saturday off.
Ian

-----Original Message-----
From: barry.l.zubrow@jpmchase.com [mailto:barry.l.zubrow@jpmchase.com]
Sent: Friday, September 05, 2008 1:41 PM
To: Lowitt, Ian T
Subject: Re: Follow up to conversation.

Totally appreciate the sensitivity....

Actually at the Open now. Have to go to Switzerland tonite, back Sunday am.

Hopefully you will get some time off this weekend.

----- Original Message -----
From: "Lowitt, Ian T" [ilowitt@lehman.com]
Sent: 09/05/2008 12:52 PM AST
To: Barry Zubrow
Subject: Follow up to conversation.

Will get back to you Monday with ideas where JPM might be helpful - maybe something will resonate. Appreciate the offer very much.
The materials we sent you are obviously very sensitive, and trust they will be kept to the limited group we met with and your rating advisory team.
Enjoy the weekend. Will you be at the tennis?
Ian

CONFIDENTIAL

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TAB 23

Jane Buyers-Russo

09/09/2008
07:32 PM

To: Tim Main/JPMCHASE
cc:
Subject: Leh

Left you a vm. Give me a call 917-679-2680 to get an update. There's a call with Jamie and Steve at 9 tonight to debrief. Braunstein, Hogan, Dellosso, Wilsey, Zajkowski, Zames, Molluso are meeting with Citi and Leh now regarding capital raise options. I'll forward the call in details.

Jane Buyers Russo, MD
JPMorgan Investment Bank
ACB/FIG Broker Dealer
383 Madison Ave, 35th Fl
NY NY 10179
212-622-8628
917-679-2680

TAB 24

From:	Steven D. Black/JPMCHASE <Steven.D.Black@jpmorgan.com>
Sent:	Tuesday, September 9, 2008 8:24 PM
To:	John J. Hogan/JPMCHASE <John.J.Hogan@chase.com>
Cc:	Bill T Winters/JPMCHASE <bill.t.winters@jpmorgan.com>; Jamie Dimon/IL/ONE <jamie.dimon@jpmchase.com>
Subject:	Re:

Let's give them an order for the same drugs they have apparently been taking to think that we would do something like that.

Sent from my BlackBerry Handheld.

----- Original Message -----

From: John J. Hogan
Sent: 09/09/2008 07:07 PM CDT
To: Steven Black

They sent the Junior Varsity-they have no proposal and are looking to us for ideas/credit line to bridge them to the first quarter when they have intend to spilt into good bank/bad bank. We'll call into the dial-in at 9.

TAB 25

From: Fleming, Dan (TSY) <dfleming@lehman.com>
Sent: Friday, September 12, 2008 12:35 AM (GMT)
To: Mark G Doctoroff <mark.g.doctoroff@jpmorgan.com>
Subject: Collateral

Mark,
While I was tied up with something else, someone in Clearance on our side was told we had to lock up 1bn of Inv Grade Corp's (same as last night). As discussed I left an extra 600mm of cash in the LBHI account this evening (1.9bn total), expecting to lock up only 400mm of collateral. JPM now has a total of 4.6bn, 600mm more then agreed.
Dan

FOIA CONFIDENTIAL TREATMENT REQUESTED BY
LEHMAN BROTHERS HOLDINGS INC.

TAB 26

Jane Buyers-Russo	To: Susan Stevens, mark doctoroff
	cc:
	Subject: Fw: LEH

09/09/2008
02:36 PM

Susan--Mark and I are dealing with this, working with Paolo and Dan Fleming to iron out the details. Black spoke with Fuld who agreed to the $3B. Sorry to miss the offsite!

Jane Buyers Russo, MD
ACB/FIG Broker Dealer
277 Park Avenue, 14th Floor
NY, NY 10172
212-622-8628
917-679-2680

----- Forwarded by Jane Buyers-Russo/JPMCHASE on 09/09/2008 02:35 PM -----

John J. Hogan/JPMCHASE	To Steven D. Black/JPMCHASE@JPMCHASE, Barry L Zubrow/JPMCHASE@JPMCHASE
	cc Diane M. Genova/JPMCHASE@JPMCHASE, piers.murray@jpmorgan.com, donna.dellosso@jpmorgan.com, Jane Buyers-Russo/JPMCHASE@JPMCHASE
09/09/2008 02:32 PM	Subject LEH

1) Donna, Piers and Diane are in the process of papering the agreement to get the $3 bio in money mkt account as collateral pledged to us.
2) I spoke to Chris O'Meara and told him that we needed to clean up the margin dispute today--
3) O'Meara said S&P put them on neg watch solely because of stock price action today--not anything from their discussions with LEH around the business
4) O'Meara said they are discussing pre-releasing earnings tonite or tomorrow morning (they are working on language they can use around the potential capital raise)--the earnings number has not changed and it the same as they gave Barry and team last week.

TAB 27

raise capital
@ whatever price
is necessary

9/9

Lehman
Black
Hogan
Sankey
Donna
Piers
Andrew Cox
Daniel / Vern
Bill
Barry, Steve, Heidi
Jes
Daniel
Susan
Zanes

PB Redacted
Redacted

Credit
• controlled process
• low novation
• BAU

$19B not PDCF

1. JBR
2. exp profile
3. game plan → ask for $3B in (money mkt fund)
↳ ($5B)

~~PB moving away~~
PB moving
Novate trade

[send email to Steve]

- don't want to push over edge or signal to market ←

Henry, Pieto, Donna

(reduce $2B NPE)

- concerned @ mkt reaction to announcement
- concerned @ rating agency action
- don't want to do visible/tipping point

- intraday lien (US day)
- fund our coll calls
  (no credit risk)
- European / Asian exposures
  - LCH
  - intl coll mgmt
  - reduce + collateralize

$1B

Black called Dick
asked for $3B - said ok

Hogan called O'Meara
re: coll dispute

S&P may cut by more
than 1 notch
Near term liquidity satisfactory

Debbie Faust RE: Aurora
1B peak

Redacted - Privileged

earnings call, capital raise
→ lose some CP e

Lehman GCF repo
DR activity

$3B ABCP → Fenway Park Ltd Partnership

$/15B includes 6B add'l pledge

9/9

John @ SEC
- office of Risk Assessment
- net causes + corrections of Redacted
- Spoke w/ Doug George
- Jeff Mooney

- changes in behavior week of 3/17

- alleviate

Jim Goeke ? OCIE

[Bob Rinaldi] FRB

Redacted

liquidity etc all ok

mtg w/ CFO can be before 9/24
risk mts on 9/24

(BAC w/ Lehman)

TAB 28

"Aronson, Jeffrey - Communication of Counsel \(Exchange\)" <Jeffrey.Aronson@jpmorgan.com>

09/09/2008 08:50 PM

To: "Yeung, Andrew" <andrew.yeung@lehman.com>
cc: "Inaba, Gail " <inaba_gail@jpmorgan.com>, "Appel, Nikki G" <Nikki.G.Appel@chase.com>
Subject: Security Agreement and Guaranty

Andrew: As discussed, I've attached markups to show the proposed Guaranty and Security Agreement as a comparison to the recently executed Guaranty and Security Agreement.

Thanks,
Jeff

DVComparison_LEGAL3CMP-#377227-v3-Guaranty-Lehman Guaranty 09-09-08 MARKED.wdf.zip

DVComparison_LEGAL3CMP-#377241-v4-Security_Agreement-Lehman Security Agreement 09-09-08 MARKED.wdf.zip

GUARANTY GUARANTY

GUARANTY dated as of August 26,September 9, 2008 made by the undersigned (the "Guarantor") in favor of JPMORGAN CHASE BANK, N.A and any of its affiliates, subsidiaries, successors or assigns (hereinafter, the "Bank")and assigns (hereinafter, collectively and individually as the context may require, the "Bank"). This Guaranty shall be in addition to and does not replace that certain Guaranty dated August 26, 2008, made by the undersigned in favor of JPMorgan Chase Bank, N.A.

PRELIMINARY STATEMENT: Lehman Brothers Inc., Lehman Brothers International (Europe), Lehman Brothers OTC Derivatives Inc., Lehman Brothers Commercial Paper Inc. and Lehman Brothers Japan Inc.Each of the direct or indirect subsidiaries of the Guarantor (collectively, with their respective successors, the "Borrowers"), each a wholly-owned direct or indirect subsidiary of the Guarantor, desiredesires to transact business and/or trade with and/or enter into derivative transactions with and/or to obtain credit, clearing advances, clearing loans or other financial accommodation from the Bank orand to continue such business, trading, derivative activity and/or such extensions of credit, clearing advances, clearing loans or other financial accommodation or such business in each case under or in connection with the Clearance Agreement (as defined below) or transactions pursuant thereto, and the Bank has requested that it receivesreceive the following guaranty of the undersigned before it will consider extending such credit. The Guarantor derives, and expects to continue to derive, substantial direct and indirect benefits from the business of the Borrowers and the credit, trading, derivative transactions, clearing advances, clearing loans and other financial accommodations provided by the Bank to the Borrowers.

THEREFORE, for good and valuable consideration and in order to induce the Bank from time to time, in its discretion, to extend or continue to extend credit, clearing advances, clearing loans or other financial accommodations to the Borrowers under the Clearance Agreement (as hereinafter defined)and/or to transact business, trade or enter into derivative transactions with the Borrowers (all of the foregoing extensions of credit, advances, loans or, accommodations under the Clearance Agreement, business, derivative transactions and trading being the "Facilities" and any writing evidencing, supporting or securing a Facility, consisting of (i) the Clearance Agreement,any agreement between a Borrower and the Bank, including without limitation any ISDA Master Agreement, (ii) this Guaranty, and (iii) the Security Agreement as of even date hereof (the "Security Agreement") and entered into by Guarantor for the benefit of the Bank, as each such writing may be amended, modified or supplemented from time to time being a "Facility Document"), the Guarantor agrees as follows:

Section 1. **Guaranty of Payment**. The Guarantor unconditionally and irrevocably guarantees to the Bank the punctual payment and performance of all obligations and liabilities (including without limitation the "Obligations" as defined in the Clearance Agreement) of the Borrowers to the Bank of whatever nature, whether now existing or hereafter incurred, whether created directly or acquired by the Bank by assignment or otherwise, whether matured or unmatured and whether absolute or contingent, when the same are due and/or due and payable, whether on demand, at stated maturity, by acceleration or otherwise, and whether for principal, interest, fees, expenses, indemnification or otherwise (all of the foregoing sums being the

#377227v3

"Liabilities"~~), pursuant to the Clearance Agreement, dated as of June 15, 2000, to which one or more of the Borrowers and the Bank are parties, as it may be further amended from time to time (the "Clearance Agreement"~~) and subject to the last sentence of this Section 1. The Liabilities include, without limitation, (a) interest accruing after the commencement of a case or proceeding under bankruptcy, insolvency or similar laws of any jurisdiction at the rate or rates provided in the Facility Documents, regardless of whether such interest is allowed or allowable as a claim in such case or proceeding ~~and (b) the obligations of the Borrowers under section 16 of the Clearance Agreement~~. This Guaranty is a guaranty of payment and not of collection only. The Bank shall not be required to exhaust any right or remedy or take any action against the Borrowers or any other person or entity or any collateral. All moneys available to the Bank for application in payment or reduction of the Liabilities may be applied by the Bank to the payment or reduction of such of the Liabilities as the Bank may elect in its sole discretion and in such manner and in such amounts and at such time or times as it may see fit. The Guarantor agrees that, as between the Guarantor and the Bank, the Liabilities may be declared to be due and payable for the purposes of this Guaranty notwithstanding any stay, injunction or other prohibition which may prevent, delay or vitiate any declaration as regards the Borrowers and that in the event of a declaration or attempted declaration, the Liabilities shall immediately become due and payable by the Guarantor for the purposes of this Guaranty. The Guarantor's maximum liability under this Guaranty shall ~~adjust each day and for each such day shall be equal to the dollar amount of cash and securities (based on the market value of such securities as determined by the Bank in its reasonable discretion) (i) held on such day in the accounts of the Guarantor subject to the Clearance Agreement and the Security Agreement and (ii)~~be THREE BILLION DOLLARS ($3,000,000,000) or such greater amount that the Bank has notified the Guarantor ~~to be delivered~~it must deliver to the Bank ~~on such day~~ in support of this Guaranty. Notwithstanding the foregoing, the Guarantor may upon three days notice to the Bank withdraw such cash and securities, provided that the Guarantor shall not withdraw any cash and securities if the Bank has exercised any of its rights under this Guaranty or the Security Agreement prior to the end of the three day notice period.

Section 2. **Guaranty Absolute**. The Guarantor guarantees that the Liabilities shall be paid strictly in accordance with the terms of the Facilities and any Facility Documents The liability of the Guarantor under this Guaranty is absolute and unconditional irrespective of. (a) any change in the time, manner or place of payment of, or in any other term of, all or any of the Facilities, the Facility Documents or Liabilities, or any other amendment or waiver of or any consent to departure from any of the terms of any Facility, Facility Document or Liability including, without limitation, any increase or decrease in the rate of interest thereon; (b) any release or amendment or waiver of, or consent to departure from, any other guaranty or support document, or any exchange, release or non-perfection of any collateral, for all or any of the Facilities, Facility Documents or Liabilities; (c) any present or future law, regulation or order of any jurisdiction (whether of right or in fact) or of any agency thereof purporting to reduce, amend, restructure or otherwise affect any term of any Facility, Facility Document or Liability; (d) without being limited by the foregoing, any lack of validity or enforceability of any Facility, Facility Document or Liability, and (e) any other setoff, defense, or counterclaim whatsoever (in any case, whether based on contract, tort or any other theory) or circumstance whatsoever with respect to the Liabilities, the Facilities or the Facility Documents contemplated thereby which might constitute a legal or equitable defense available to, or discharge of, the Borrowers or a

guarantor; and the Guarantor irrevocably waives the right to assert such defenses, set-offs or counterclaims in any litigation or other proceeding relating to the Liabilities, the Facilities or the Facility Documents contemplated thereby.

Section 3. **Guaranty Irrevocable**. This Guaranty is a continuing guaranty of the payment of all Liabilities (absolute or contingent) now or hereafter existing and shall remain in full force and effect until the ~~later~~latest of (hereinafter the "Termination Date") (i) payment in full of all Liabilities and other amounts payable under this Guaranty (ii) the ~~expiration or~~ termination of ~~the Clearance Agreement and~~ all of the Borrowers' accounts at the Bank ~~in connection with the Clearance Agreement~~; and (iii) the fulfillment of all obligations and commitments of the Borrowers under the Facilities and any Facility Documents.

Section 4. **Reinstatement**. This Guaranty shall continue to be effective or be reinstated, as the case may be, if at any time any payment of any of the Liabilities arising or incurred prior to the Termination Date is rescinded or must otherwise be returned by the Bank on the insolvency, bankruptcy or reorganization of the Borrowers or otherwise (including, without limitation, on the grounds of preference or fraudulent transfer), all as though the payment had not been made.

Section 5. **Subrogation**. The Guarantor shall not exercise any rights which it may acquire by way of subrogation, by any payment made under this Guaranty or otherwise, until the Termination Date. If any amount is paid to the Guarantor on account of subrogation rights under this Guaranty at any time prior to the Termination Date, the amount shall be held in trust for the benefit of the Bank and shall be promptly paid to the Bank to be credited and applied to the Liabilities, whether matured or unmatured or absolute or contingent, in accordance with the terms of the Facilities. If the Guarantor makes payment to the Bank of all or any part of the Liabilities and the Termination Date shall have occurred, the Bank shall, at the Guarantor's request, execute and deliver to the Guarantor appropriate documents, without recourse and without representation or warranty, necessary to evidence the transfer by subrogation to the Guarantor of an interest in the Liabilities resulting from the payment.

Section 6. **Subordination**. Without limiting the Bank's rights under any other agreement, any liabilities owed by the Borrowers to the Guarantor in connection with any extension of credit or financial accommodation by the Guarantor to or for the account of the Borrowers, including but not limited to interest accruing at the agreed contract rate after the commencement of a bankruptcy or similar case or proceeding (regardless of whether such interest is allowed or allowable as a claim in such case or proceeding), are hereby subordinated to the Liabilities, and such liabilities of the Borrowers to the Guarantor, if the Bank so requests, shall be collected, enforced and received by the Guarantor as trustee for the Bank and shall be paid over to the Bank on account of the Liabilities but without reducing or affecting in any manner the liability of the Guarantor under the other provisions of this Guaranty.

Section 7. **Payments Generally**. All payments by the Guarantor shall be made in the manner, at the place and in the currency (the "Payment Currency") required by the Facility Documents, provided, however, that if the Payment Currency is other than U.S. dollars

the Guarantor may, at its option (or, if for any reason whatsoever the Guarantor is unable to effect payments in the manner required by the Facility Documents, the Guarantor shall be obligated to) pay to the Bank at its office located at 277 Park Avenue, New York, New York 10017 the equivalent amount in U.S. dollars computed at the selling rate of the Bank, most recently in effect on or prior to the date the Liability becomes due or if such rate is unavailable, at a selling rate chosen by the Bank, for cable transfers of the Payment Currency to the place where the Liability is payable. In any case in which the Guarantor makes or is obligated to make payment in U.S. dollars, the Guarantor shall hold the Bank harmless from any loss incurred by the Bank arising from any change in the value of U.S. dollars in relation to the Payment Currency between the date the Liability becomes due and the date the Bank is actually able, following the conversion of the U.S. dollars paid by the Guarantor into the Payment Currency and remittance of such Payment Currency to the place where such Liability is payable, to apply such Payment Currency to such Liability.

Section 8. [Intentionally Omitted.]

Section 9. **Representations and Warranties**. The Guarantor represents and warrants that: (a) the execution, delivery and performance by the Guarantor under this Guaranty: (i) has been duly authorized by all necessary corporate action; (ii) does not, conflict with or violate any material agreement or instrument or any constitutive document, law, regulation or order applicable to the Guarantor; (iii) does not require the consent or approval of any person or entity, including but not limited to any governmental authority, or any filing or registration of any kind; and (iv) is the legal, valid and binding obligation of the Guarantor enforceable against the Guarantor in accordance with its terms except to the extent that enforcement may be limited by applicable bankruptcy, insolvency and other similar laws affecting creditor's rights generally; and (b) in executing and delivering this Guaranty, the Guarantor has (i) without reliance on the Bank or any information received from the Bank and based upon such documents and information it deems appropriate, made an independent investigation of the transactions contemplated hereby and the Borrowers, the Borrowers' business, assets, operations, prospects and condition, financial or otherwise, and any circumstances which may bear upon such transactions, the Borrowers or the obligations and risks undertaken herein with respect to the Liabilities; (ii) adequate means to obtain from the Borrowers on a continuing basis information concerning the Borrowers; (iii) has full and complete access to the Facility Documents and any other documents executed in connection with the Facility Documents; and (iv) not relied and will not rely upon any representations or warranties of the Bank not embodied herein or any acts heretofore or hereafter taken by the Bank (including but not limited to any review by the Bank of the affairs of the Borrowers). The Guarantor hereby further represents and warrants that the Guarantor owns (directly or indirectly) a substantial amount of the stock or other ownership interests of the Borrowers and is financially interested in its affairs.

Section 10. **Remedies Generally**. The remedies provided in this Guaranty are cumulative and not exclusive of any remedies provided by law.

Section 11. **Setoff**. The Guarantor agrees that, in addition to (and without limitation of) any right of setoff, banker's lien or counterclaim the Bank may otherwise have, the Bank shall be entitled, at its option, to offset balances (general or special, time or demand,

provisional or final) held by it for the account of the Guarantor at any of the offices of the Bank, J.P Morgan Securities Inc., or any other affiliate, in U.S. dollars or in any other currency, against any amount payable by the Guarantor under this Guaranty which is not paid when due (regardless of whether such balances are then due to the Guarantor), in which case it shall promptly notify the Guarantor thereof; provided that the Bank's failure to give such notice shall not affect the validity thereof.

Section 12. **Formalities**. The Guarantor waives presentment, notice of dishonor, protest, notice of acceptance of this Guaranty, notice of creation, renewal, extension or accrual of any Liability and notice of any other kind and any other formality with respect to any of the Liabilities or this Guaranty. The Guarantor also waives the right to require the Bank to proceed first against the Borrowers upon the Liabilities before proceeding against the Guarantor hereunder.

Section 13. **Amendments and Waivers**. No amendment or waiver of any provision of this Guaranty, nor consent to any departure by the Guarantor therefrom, shall be effective unless it is in writing and signed by the Bank, and then the waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. No failure on the part of the Bank to exercise, and no delay in exercising, any right or remedy under this Guaranty shall operate as a waiver or preclude any other or further exercise thereof or the exercise of any other right or remedy.

Section 14. **Expenses**. The Guarantor shall reimburse the Bank on demand for all costs, expenses and charges (including without limitation the reasonable and documented fees and charges of external legal counsel for the Bank) incurred by the Bank in connection with the preparation, performance or enforcement of this Guaranty. The obligations of the Guarantor under this Section shall survive the termination of this Guaranty.

Section 15. **Assignment**. This Guaranty shall be binding on, and shall inure to the benefit of the Guarantor, the Bank and their respective successors and assigns; provided that the Guarantor may not assign or transfer its rights or obligations under this Guaranty.

Section 16. **Captions**. The headings and captions in this Guaranty are for convenience only and shall not affect the interpretation or construction of this Guaranty.

Section 17. **Governing Law, Etc.** **THIS GUARANTY SHALL BE GOVERNED BY THE LAW OF THE STATE OF NEW YORK. THE GUARANTOR CONSENTS TO THE NONEXCLUSIVE JURISDICTION AND VENUE OF THE STATE OR FEDERAL COURTS LOCATED IN THE CITY OF NEW YORK. SERVICE OF PROCESS BY THE BANK IN CONNECTION WITH ANY SUCH DISPUTE SHALL BE BINDING ON THE GUARANTOR IF SENT TO THE GUARANTOR BY REGISTERED MAIL AT THE ADDRESS SPECIFIED BELOW OR AS OTHERWISE SPECIFIED BY THE GUARANTOR FROM TIME TO TIME. THE GUARANTOR WAIVES ANY RIGHT THE GUARANTOR MAY HAVE TO JURY TRIAL IN ANY ACTION RELATED TO THIS GUARANTY OR THE TRANSACTIONS CONTEMPLATED HEREBY AND FURTHER WAIVES ANY RIGHT TO INTERPOSE ANY**

COUNTERCLAIM RELATED TO THIS GUARANTY OR THE TRANSACTIONS CONTEMPLATED HEREBY IN ANY SUCH ACTION. TO THE EXTENT THAT THE GUARANTOR HAS OR HEREAFTER MAY ACQUIRE ANY IMMUNITY FROM JURISDICTION OF ANY COURT OR FROM ANY LEGAL PROCESS (WHETHER FROM SERVICE OR NOTICE, ATTACHMENT PRIOR TO JUDGMENT, ATTACHMENT IN AID OF EXECUTION OF A JUDGMENT, EXECUTION OR OTHERWISE), THE GUARANTOR HEREBY IRREVOCABLY WAIVES SUCH IMMUNITY IN RESPECT OF ITS OBLIGATIONS UNDER THIS GUARANTY.

Section 18. **Integration; Effectiveness**. This Guaranty and the Facility Documents sets forth the entire understanding of the Guarantor and the Bank relating to the guarantee of the Liabilities and constitutes the entire contract between the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof., provided, however, that notwithstanding anything to the contrary, this Guaranty shall not effect or impair any other Guaranty made by the Guarantor in support of any of the obligations or liabilities of the Borrowers with respect to or in connection with extensions of credit or facilities other than those related hereto This Guaranty shall become effective when it shall have been executed and delivered by the Guarantor to the Bank. Delivery of an executed signature page of this Guaranty by telecopy shall be effective as delivery of a manually executed signature page of this Guaranty.

IN WITNESS WHEREOF, the Guarantor has caused this Guaranty to be duly executed and delivered by its authorized officer as of the date first above written.

LEHMAN BROTHERS HOLDINGS INC.

By: ____________________

By:

Name:

Title:

Address:

#377227v36

Document comparison done by DeltaView on Tuesday, September 09, 2008 8:27:18 PM

Input:	
Document 1	file://C:/Documents and Settings/lavvenir/Desktop/LEGAL3CMP-#377227-v3-Guaranty.DOC
Document 2	file://C:/Documents and Settings/lavvenir/Desktop/Lehman Guaranty 09-09-08.DOC
Rendering set	Standard

Legend:	
Insertion	
Deletion	
Moved from	
Moved to	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	25
Deletions	30
Moved from	1
Moved to	1
Style change	0
Format changed	0
Total changes	57

SECURITY AGREEMENT

In consideration of one or more loans, letters of credit or other financial accommodation made, issued or extended by JPMORGAN CHASE BANK, N.A. andor any of its affiliates, subsidiaries, successors or assigns party to the Clearance Agreement referred to below (hereinafter, the "Bank")collectively or individually as the context may require, the "Bank") extending credit to and/or transacting business, trading or engaging in derivative transactions with the undersigned and/or its subsidiaries and/or affiliates, the undersigned hereby agree(s) that the Bank shall have the rights, remedies and benefits hereinafter set forth.

The "Accounts" means (i) the securities account of the Guarantor at the Bank known as LCE or any subaccount or replacement accounts thereto (the "Securities Account"), (ii) DDA# 066-141-605 (the "Cash Account") and (iii) any other account at the Bank to which Guarantor transfers (A) cash from the Cash Account, (B) any interest, dividends, cash, instruments and other property from time to time received, receivable (including without limitation sales proceeds) or otherwise distributed in respect of or in exchange for any or all of the cash or securities in the Securities Account or the Cash Account or (C) any cash or securities from the Securities Account or the Cash Account during such time as the Guarantor or an Other Obligor has an outstanding obligation or liability to the Bank under the Guaranty or the Clearance Agreement.

The "Accounts" means all accounts of the Guarantor at the Bank or any shares in any money market mutual fund issued or managed by any affiliate of the Bank.

The "Guaranty" means the Guaranty of even date herewith made by the undersigned in favor of the Bank

The "Other Obligors" mean Lehman Brothers Inc., Lehman Brothers International (Europe), Lehman Brothers OTC Derivatives Inc., Lehman Brothers Commercial Paper Inc. and Lehman Brothers Japan Inc.means each of the direct or indirect subsidiaries of the Guarantor and their respective successors.

The "Clearance Agreement" means the Clearance Agreement dated as of June 15, 2000 to which one or more of the Other Obligors and the Bank are parties (as amended by (i) the Amendment to Clearance Agreement dated as of May, 30, 2008 and (ii) the Amendment to Clearance Agreement dated as of even date herewith and as it may be further amended from time to time).

The term "Liabilities" shall mean (a) all "Liabilities" as defined in the Guaranty, (b) all obligations of the undersigned under this Security Agreement and (c) without duplication of the foregoing, all costs, expenses and charges (including without limitation fees and charges of external legal counsel for the Bank and costs allocated by its internal legal department) incurred by the Bank in connection with the preparation, performance or enforcement of the Guaranty and this Security Agreement.

The term "Security" means (i) the Accounts, together with any security entitlements relating thereto and any and all financial assets, investment property, funds and/or other assets from time to time held in or credited to the Accounts or otherwise carried in the Accounts (or to be received for credit or in the process of delivery to the Account), (ii) any interest, dividends, cash, instruments and other property from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all

of the then existing Security and (iii) all proceeds of any and all of the foregoing Security.

As security for the payment of all the Liabilities, the undersigned hereby grant(s) to the Bank a security interest in, and a general lien upon and/or right of set-off of, the Security. Further, for the avoidance of doubt and not in limitation of the rights of the Bank under Sections 9-104(a)(1), 9-106(a) and 8-106(e) of the Uniform Commercial Code as adopted by the State of New York (the "Code"), the undersigned and the Bank (acting as a bank with respect to any Accounts consisting of deposit accounts and as a securities intermediary with respect to any Accounts consisting of securities accounts), acknowledge and agree with respect thereto, that the Bank, as the secured party hereunder, may issue instructions to direct disposition of any and all of the funds in the deposit accounts (and acting as the bank will comply with such instructions) and may issue entitlement orders with respect to any and all securities accounts (and acting as the securities intermediary will comply with such entitlement orders), in either case, without the consent of the undersigned. Terms used herein and defined in Articles 1, 8 and/or 9 of the Code shall have the meanings set forth therein. The undersigned and the Bank agree that the jurisdiction of the Bank (including, without limitation, in its capacities as a bank, a securities intermediary and a commodity intermediary) for purposes of the Code is the State of New York.

The undersigned hereby represents and warrants to the Bank as follows: (a) it is duly organized and validly existing under the laws of the jurisdiction of its incorporation or organization and has all requisite power and authority to execute and deliver this agreement; (b) the execution, delivery and performance of this agreement has been duly authorized by all necessary corporate action of the undersigned and this agreement constitutes the legal, valid and binding obligation of the undersigned, except as may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or limiting creditors' rights generally or by equitable principles relating to enforceability (whether enforcement is sought in equity or at law), (c) the execution, delivery and performance of this agreement ~~does~~do not and will not conflict with the provisions of its governing instruments and will not violate any provisions of applicable law or regulation or any order of any court or regulatory body and will not result in the breach of, or constitute a default, or require any consent, under any material agreement, instrument or document to which the undersigned is a party or by which it or any of its property may be bound or affected; (d) it is the sole owner of the Security; (e) the Security is and will be free and clear of any lien, charge, security interest, claim, encumbrance or other adverse interest whatsoever, except for that created by this agreement, or the Guaranty ~~or~~ the Clearance Agreement and other liens in favor of the Bank arising under applicable laws, and (f) it has not agreed to resell any of the Security pursuant to a repurchase agreement or similar arrangement.

The right is expressly granted to the Bank, in each case upon the occurrence and during the continuation of a Default (as defined below) or to preserve the Security or its value, to transfer to or register in the name of ~~itself~~the Bank or its nominee any of the Security; to exchange any of the Security for any other property upon any reorganization, recapitalization or other readjustment and in connection therewith to deposit any of the Security with any committee or depositary upon such terms as it may determine; to notify any account debtor or obligor on an instrument to make payment to the Bank; and to exercise or cause its nominee to exercise all or any powers with respect to the Security with the same force and effect as an absolute owner thereof and to file one or more financing statements under the Uniform Commercial Code naming the undersigned as debtor and the Bank as secured party and indicating therein the types or describing the items of Security herein specified; all without notice (except such notice as may be required by applicable law and cannot be waived) and without liability except to account for property actually received by it. Without limiting the generality of the foregoing, payments, distributions and/or dividends, in securities, property or cash, including

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without limitation dividends representing stock or liquidating dividends or a distribution or return of capital upon or in respect of the Security or any part thereof or resulting from any split-up, revision or reclassification of the Security or any part thereof or received in exchange for the Security or any part thereof as a result of a merger, consolidation or otherwise, shall be paid directly to and retained by the Bank and held by it until applied as herein provided, as additional collateral security pledged under and subject to the terms hereof. Without the prior written consent of the Bank the undersigned will not file or authorize or permit to be filed in any jurisdiction any such financing or like statement covering the Security in which the Bank is not named as the sole secured party.

The Bank upon the occurrence and during the continuation of a Default or to preserve the Security or its value may, whether any of the Liabilities may be due, in its name or in the name of the undersigned or otherwise, demand, sue for, collect or receive any money or property at any time payable or receivable on account of or in exchange for, or make any compromise or settlement deemed desirable with respect to, any of the Security, but shall be under no obligation so to do, or the Bank may upon the occurrence and during the continuation of a Default or to preserve the Security or its value extend the time of payment, arrange for payment in installments, or otherwise modify the terms of, or release, any of the Security, without thereby incurring responsibility to, or discharging or otherwise affecting any liability of, the undersigned. Notwithstanding anything contained herein to the contrary, the Bank shall not be required to take any steps necessary to preserve any rights against prior parties to any of the Security. The Bank may upon the occurrence and during the continuation of a Default or to preserve the Security or its value use or operate any of the Security for the purpose of preserving the Security or its value in the manner and to the extent the Bank deems appropriate, but the Bank shall be under no obligation to do so.

Except as otherwise provided herein, at the end of a business day, if the undersigned has determined that no Obligations (as defined in the Clearance Agreement) remain outstanding, the undersigned may transfer to an account (the "Overnight Account") any and all Security held in or credited to or otherwise carried in the Accounts. Any determination of the undersigned or the Other Obligors that no Obligations remain outstanding shall not be binding upon the Bank.

The Bank shall have in addition to all other rights and remedies available to it under law or otherwise, the rights and remedies with respect to the Security of a secured party under the Uniform Commercial Code (whether or not the Code is in effect in the jurisdiction where the rights and remedies are asserted). In addition, with respect to any security or interest issued by an open-end management or investment company registered as such under the Investment Company Act of 1940 in which the Bank has a security interest hereunder, the Bank shall have upon the occurrence and during the continuation of a Default the right to redeem such securities or interests. Further, with respect to the Security, or any part thereof, upon the occurrence and during the continuation of a Default, the Bank may sell or cause to be sold in the Borough of Manhattan, New York City, or elsewhere, in one or more sales or parcels, at such price as the Bank may deem best, and for cash or on credit or for future delivery, without assumption of any credit risk, all or any of the Security, at any broker's board or at public or private sale, in any reasonable manner permissible under the Uniform Commercial Code (except that, to the extent permissible thereunder, the undersigned hereby waives the requirements of said Code), and the Bank or anyone else may be the purchaser of any or all of the Security so sold and thereafter hold the same absolutely, free from any claim or right of whatsoever kind, including any equity of redemption, of the undersigned, any such demand, notice or right and equity being hereby expressly waived and released. In this regard, the undersigned recognizes that due to certain prohibitions contained in the Securities Act of 1933, as amended, or applicable state securities

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laws, the Bank may consider it advisable to resort to one or more private sales to a restricted group of purchasers who will agree to acquire such of the Security consisting of securities for their own account for investment and not to engage in a distribution or resale thereof, and that private sales so made may be at prices and on other terms less favorable to the seller than if such Security were sold at public sale. The undersigned agrees that private sales made under the foregoing circumstances shall be deemed to have been made in a commercially reasonable manner. The undersigned acknowledges that the Security is of a kind that is customarily sold on a recognized market and is the subject of widely distributed standard price quotations. The undersigned will pay to the Bank all expenses (including reasonable and documented attorneys' fees and legal expenses incurred by the Bank) of, or incidental to, the enforcement of any of the provisions hereof or of any of the Liabilities, or any actual or attempted sale, or any exchange, enforcement, collection, compromise or settlement of any of the Security or receipt of the proceeds thereof, and for the care of the Security and defending or asserting the rights and claims of the Bank in respect thereof, by litigation or otherwise, including expense of insurance; and all such expenses shall be Liabilities within the terms of this agreement. The Bank, at any time, at its option, may apply the net cash receipts from the Security to the payment of principal and/or interest on any of the Liabilities, whether or not then due, making proper rebate of interest or discount. Notwithstanding that the Bank, whether in its own behalf and/or in behalf of another or others, may continue to hold Security and regardless of the value thereof, the undersigned shall be and remain liable for the payment in full of any balance of the Liabilities and expenses at any time unpaid. THE RIGHTS OF THE BANK SET FORTH HEREIN ARE WITHOUT LIMITATION OF, AND IN ADDITION TO, ANY OTHER RIGHT OF THE BANK UNDER ANY OTHER DOCUMENT EVIDENCING OR EXECUTED IN CONNECTION WITH THE LIABILITIES.

If at any time any sum payable upon any of the Liabilities shall not be paid when due (which, for sums payable by the Guarantor in respect of the Liabilities as defined under the Guaranty, are due on demand); or if the undersigned or any of the Other Obligors shall default in the payment or performance of the Guaranty~~, the Clearance Agreement~~, any of its agreements herein or in any instrument or document delivered pursuant hereto, or in connection herewith; or if a decree or order shall be entered for relief by a court having jurisdiction of the undersigned or any of the Other Obligors in an involuntary bankruptcy case under the federal bankruptcy laws, as now or hereafter constituted, or under any other applicable federal or state bankruptcy, insolvency, or other similar law, or appointing a receiver, liquidator, assignee, custodian, trustee or sequestrator of the undersigned or any of the Other Obligors or for any substantial part of its property, or ordering the reorganization, dissolution, winding-up of or liquidation of its affairs, and the continuation of any such decree or order shall be unstayed and in effect, or any case or other proceeding seeking any such decree or order shall continue undismissed, for a period of 60 consecutive days; or if the undersigned or any of the Other Obligors shall, or (if a corporation) shall take any corporate action to, commence a voluntary case under the federal bankruptcy laws, or now or hereafter constituted, or seek to take advantage of any other applicable federal or state bankruptcy, insolvency, or similar law, or apply for or consent to the appointment of or taking of possession by a receiver, liquidator, assignee, trustee, custodian or sequestrator of the undersigned or any of the Other Obligors or for any substantial part of its property, or the making by the undersigned or any of the Other Obligors of any assignment for the benefit of creditors; or the undersigned or any of the Other Obligors shall admit in writing its inability, or be generally unable, to pay its debts as they become due; or if the undersigned or shall suspend the transaction of his, its or their usual business, or if any governmental authority (including, without limitation, the Securities Investor Protection Corporation or any successor) or any court at the instance thereof shall, or shall appoint a receiver or trustee to, take possession of any substantial part of the property of, or assume control over the affairs or operations of, or a receiver or trustee shall be appointed for,

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or with respect to any substantial part of the property of, or a writ or order of attachment or garnishment shall be issued or made against any substantial part of the property of, the undersigned or any of the Other Obligors; or if the undersigned or any of the Other Obligors shall (x) default in the payment of any indebtedness (other than indebtedness incurred under the Clearance Agreement or the Guaranty) having an aggregate principal amount of $100,000,000 (or its equivalent in any other currency or currencies) or more beyond the period of grace (not to exceed 30 days), if any, provided in the instrument or agreement under which such indebtedness was created, or (y) default in the observance or performance of any agreement or condition relating to any indebtedness (other than indebtedness incurred under the Clearance Agreement or the Guaranty) or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event shall occur or condition shall exist, the effect of which default or other event or condition is to cause any such indebtedness to become due prior to its stated maturity in the aggregate principal amount of $100,000,000 (or its equivalent in any other currency or currencies) or more; or any indebtedness of the undersigned or any of the Other Obligors in the aggregate amount of $100,000,000 (or its equivalent in any other currency or currencies) or more shall be declared due and payable prior to the stated maturity thereof; or if the undersigned or any of the Other Obligors shall be dissolved; thereupon, unless and to the extent that the Bank shall otherwise elect, it shall be a DEFAULT under this agreement.

The undersigned acknowledges and agrees that the Bank may from time to time request further security or payments on account of any of the Liabilities.

Upon the occurrence and continuation of a Default, the Bank may assign, transfer and/or deliver to any transferee of any of the Liabilities and/or any or all of the Security; and thereafter shall be fully discharged from all responsibility with respect to the Security so assigned, transferred and/or delivered. Such transferee shall be vested with all the powers and rights of the Bank hereunder with respect to such Security, but the Bank shall retain all rights and powers hereby given with respect to any of the Security not so assigned, transferred or delivered. No delay on the part of the Bank in exercising any power or right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any power or right hereunder preclude other or further exercise thereof or the exercise of any other power or right. The rights, remedies and benefits herein expressly specified are cumulative and not exclusive of any rights, remedies or benefits which the Bank may otherwise have. The undersigned hereby waive(s) presentment, notice of dishonor and protest of all instruments included in or evidencing the Liabilities or the Security and any and all other notices and demands whatsoever, whether or not relating to such instruments.

No provision hereof shall be modified or limited except by a written instrument expressly referred hereto and to the provision so modified or limited. This agreement shall be binding upon the assigns or successors of the undersigned, shall constitute a continuing agreement, applying to all future as well as existing transactions applying to all future as well as existing transactions, whether or not of the character contemplated at the date of this agreement, and if all transactions between the Bank and the undersigned shall be at any time closed, shall be equally applicable to any new transactions thereafter; and shall be governed by and construed according to the internal laws of the State of New York without reference to principles of conflicts of laws. By the execution hereof the undersigned hereby submits to the jurisdiction of the Federal and State courts located in New York. The undersigned hereby consents to the service of process in any action or proceeding brought against it by the Bank by means of registered mail to the last known address to the undersigned. Nothing herein, however, shall prevent service of process by any other means recognized as valid by law within or without the State of New York. Unless the context otherwise requires, all terms used herein which are

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defined in the Uniform Commercial Code shall have the meanings therein stated. All references to agreements, guaranties, documents and other writings herein refer to such writings as the same may be hereafter amended, modified, supplemented and/or restated.

THE UNDERSIGNED HEREBY WAIVES AND AGREES TO WAIVE THE RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM INSTITUTED WITH RESPECT TO ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED TO THIS AGREEMENT.

New York, New York

LEHMAN BROTHERS HOLDINGS INC.

Dated: As of August 26,September 9, 2008

By: ____________________________

Name:
Title:

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Document comparison done by DeltaView on Tuesday, September 09, 2008 8:28:15 PM

Input:	
Document 1	file://C:/Documents and Settings/lavvenir/Desktop/LEGAL3CMP-#377241-v4-Security_Agreement.DOC
Document 2	file://C:/Documents and Settings/lavvenir/Desktop/Lehman Security Agreement 09-09-08.DOC
Rendering set	Standard

Legend:	
Insertion	
Deletion	
Moved from	
Moved to	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	19
Deletions	26
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	45

TAB 29

From:	Aronson, Jeffrey - Communication of Counsel (Exchange) <Jeffrey.Aronson@jpmorgan.com>
Sent:	Tuesday, September 9, 2008 11:38 PM
To:	Yeung, Andrew <andrew.yeung@lehman.com>
Cc:	Inaba, Gail <inaba_gail@jpmorgan.com>; Appel, Nikki G <Nikki.G.Appel@chase.com>; Wasserman, Peter J <Peter.J.Wasserman@chase.com>
Bcc:	Inaba, Gail <inaba_gail@jpmorgan.com>; Appel, Nikki G <Nikki.G.Appel@chase.com>; Wasserman, Peter J <Peter J Wasserman@chase.com>
Subject:	Other Agreements for Execution
Attach:	LEGAL270-#515257-v2-Lehman_Aurora_Guaranty.doc;LEGAL270-#323008-v2-JPMorgan_Funds_Control_Agreement.doc;LEGAL3CMP-#377375-v1-Amendment_to_Clearance_Agreement.doc

Andrew:
As discussed, attached is the control agreement (money market fund shares), the Aurora guaranty and the amendment to the clearance agreement. These are also for execution this evening.
Thanks,
Jeff

GUARANTY

GUARANTY dated as of September 9, 2008 made by the undersigned (the "Guarantor") in favor of JPMORGAN CHASE BANK, N.A. and/or any of its successors or assigns (hereinafter, the "Bank"). This Guaranty is in addition to and not as a replacement for any other guaranty made by the undersigned in support of Aurora [ ]

PRELIMINARY STATEMENT: Aurora Loan Services LLC (collectively, with its successors, the "Borrower"), a wholly-owned direct or indirect subsidiary of the Guarantor, desire to transact business with and/or to obtain cash management services or arrangements and/or extensions of credit or other financial accommodation from the Bank or to continue receiving such services, extensions of credit and/or financial accommodations, and the Bank is unwilling to extend or enter into or continue such services, arranges, extensions of credit, financial accommodation or business unless it receives the following guaranty of the undersigned. The Guarantor derives, and expects to continue to derive, substantial direct and indirect benefits from the business of the Borrower and the services, extensions of credit and/or other financial accommodations provided by the Bank to the Borrower.

THEREFORE, for good and valuable consideration and in order to induce the Bank from time to time, in its discretion, to provide or extend the aforesaid services, arrangements, extensions of credit and/or financial accommodations to the Borrower (the "Facilities"; and any writing evidencing, supporting or securing a Facility, including but not limited to this Guaranty, as such writing may be amended, modified or supplemented from time to time being a "Facility Document"), the Guarantor agrees as follows:

Section 1. **Guaranty of Payment**. The Guarantor unconditionally and irrevocably guarantees to the Bank the punctual payment of all obligations and liabilities of the Borrower to the Bank of whatever nature (including without limitation under, arising in connection with or resulting from (i) the Facilities; (ii) any overdrafts, (iii) any automated clearing house funds transfer services, (iv) returned checks or other instruments and/or (v) withdrawals or transfers from accounts against uncollected or insufficient funds), whether now existing or hereafter incurred, whether created directly or acquired by the Bank by assignment or otherwise, whether matured or unmatured and whether absolute or contingent, when the same are due and/or due and payable, whether on demand, at stated maturity, by acceleration or otherwise, and whether for principal, interest, fees, expenses, indemnification or otherwise (all of the foregoing sums being the "Liabilities"). The Liabilities include, without limitation, interest accruing after the commencement of a case or proceeding under bankruptcy, insolvency or similar laws of any jurisdiction at the rate or rates provided in the Facility Documents, regardless of whether such interest is allowed or allowable as a claim in such case or proceeding. This Guaranty is a guaranty of payment and not of collection only. The Bank shall not be required to exhaust any right or remedy or take any action against the Borrower or any other person or entity or any collateral. All moneys available to the Bank for application in payment or reduction of the Liabilities may be applied by the Bank to the payment or reduction of such of the Liabilities as the Bank may elect in its sole discretion and in such manner and in such amounts and at such time or times as it may see fit. The Guarantor agrees that, as between the Guarantor and the Bank, the Liabilities may be

declared to be due and payable for the purposes of this Guaranty notwithstanding any stay, injunction or other prohibition which may prevent, delay or vitiate any declaration as regards the Borrower and that in the event of a declaration or attempted declaration, the Liabilities shall immediately become due and payable by the Guarantor for the purposes of this Guaranty.

Section 2. **Guaranty Absolute** The Guarantor guarantees that the Liabilities shall be paid strictly in accordance with the terms of the Facilities and any Facility Documents. The liability of the Guarantor under this Guaranty is absolute and unconditional irrespective of: (a) any change in the time, manner or place of payment of, or in any other term of, all or any of the Facilities, the Facility Documents or Liabilities, or any other amendment or waiver of or any consent to departure from any of the terms of any Facility, Facility Document or Liability including, without limitation, any increase or decrease in the rate of interest thereon; (b) any release or amendment or waiver of, or consent to departure from, any other guaranty or support document, or any exchange, release or non-perfection of any collateral, for all or any of the Facilities, Facility Documents or Liabilities; (c) any present or future law, regulation or order of any jurisdiction (whether of right or in fact) or of any agency thereof purporting to reduce, amend, restructure or otherwise affect any term of any Facility, Facility Document or Liability; (d) without being limited by the foregoing, any lack of validity or enforceability of any Facility, Facility Document or Liability; and (e) any other setoff, defense, or counterclaim whatsoever (in any case, whether based on contract, tort or any other theory) or circumstance whatsoever with respect to the Liabilities, the Facilities or the Facility Documents contemplated thereby which might constitute a legal or equitable defense available to, or discharge of, the Borrower or a guarantor; and the Guarantor irrevocably waives the right to assert such defenses, set-offs or counterclaims in any litigation or other proceeding relating to the Liabilities, the Facilities or the Facility Documents contemplated thereby

Section 3. **Guaranty Irrevocable**. This Guaranty is a continuing guaranty of the payment of all Liabilities (absolute or contingent) now or hereafter existing and shall remain in full force and effect until the later of (i) payment and/or performance in full of all Liabilities and other amounts payable under this Guaranty, (ii) the expiration or termination of all obligations and commitments of the Bank under the Facilities and any Facility Documents and (iii) twenty (20) business days after the Bank has received by hand or certified mail to Henry Steuart, 270 Park Avenue, 270 Park Avenue 22nd fl, New York, NY, 10017, with a copy sent at the same time in the same manner to Bank's General Partner at 270 Park Avenue, New York, New York 10017 ("Effective Date"), written notice from the Guarantor that this Guaranty is being terminated; provided that any notice given under this Section shall not release the Guarantor from the obligations hereunder in respect of any Liability (absolute or contingent) existing prior to the Effective Date or arising out of any Facility or Facility Document entered into or arising prior to the Effective Date.

Section 4. **Reinstatement**. This Guaranty shall continue to be effective or be reinstated, as the case may be, if at any time any payment of any of the Liabilities is rescinded or must otherwise be returned by the Bank on the insolvency, bankruptcy or reorganization of the Borrower or otherwise (including, without limitation, on the grounds of preference or fraudulent transfer), all as though the payment had not been made.

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Section 5. **Subrogation**. The Guarantor shall not exercise any rights which it may acquire by way of subrogation, by any payment made under this Guaranty or otherwise, until the Effective Date. If any amount is paid to the Guarantor on account of subrogation rights under this Guaranty at any time prior to the Effective Date, the amount shall be held in trust for the benefit of the Bank and shall be promptly paid to the Bank to be credited and applied to the Liabilities, whether matured or unmatured or absolute or contingent, in accordance with the terms of the Facilities. If the Guarantor makes payment to the Bank of all or any part of the Liabilities and the Effective Date shall have occurred, the Bank shall, at the Guarantor's request, execute and deliver to the Guarantor appropriate documents, without recourse and without representation or warranty, necessary to evidence the transfer by subrogation to the Guarantor of an interest in the Liabilities resulting from the payment.

Section 6. **Subordination**. Without limiting the Bank's rights under any other agreement, any liabilities owed by the Borrower to the Guarantor in connection with any extension of credit or financial accommodation by the Guarantor to or for the account of the Borrower, including but not limited to interest accruing at the agreed contract rate after the commencement of a bankruptcy or similar case or proceeding (regardless of whether such interest is allowed or allowable as a claim in such case or proceeding), are hereby subordinated to the Liabilities, and such liabilities of the Borrower to the Guarantor, if the Bank so requests, shall be collected, enforced and received by the Guarantor as trustee for the Bank and shall be paid over to the Bank on account of the Liabilities but without reducing or affecting in any manner the liability of the Guarantor under the other provisions of this Guaranty.

Section 7. **Payments Generally**. All payments by the Guarantor shall be made in the manner, at the place and in the currency (the "Payment Currency") required by the Facility Documents; provided, however, that if the Payment Currency is other than U.S dollars the Guarantor may, at its option (or, if for any reason whatsoever the Guarantor is unable to effect payments in the manner required by the Facility Documents, the Guarantor shall be obligated to) pay to the Bank at its office located at 270 Park Avenue, New York, New York 10017 the equivalent amount in U.S. dollars computed at the selling rate of the Bank, most recently in effect on or prior to the date the Liability becomes due or if such rate is unavailable, at a selling rate chosen by the Bank, for cable transfers of the Payment Currency to the place where the Liability is payable. In any case in which the Guarantor makes or is obligated to make payment in U.S. dollars, the Guarantor shall hold the Bank harmless from any loss incurred by the Bank arising from any change in the value of U.S. dollars in relation to the Payment Currency between the date the Liability becomes due and the date the Bank is actually able, following the conversion of the U S dollars paid by the Guarantor into the Payment Currency and remittance of such Payment Currency to the place where such Liability is payable, to apply such Payment Currency to such Liability.

Section 8. **Certain Taxes**. The Guarantor further agrees that all payments to be made hereunder shall be made without setoff or counterclaim and free and clear of, and without deduction for, any taxes, levies, imposts, duties, charges, fees, deductions, withholdings or restrictions or conditions of any nature whatsoever now or hereafter imposed, levied, collected,

withheld or assessed by any country or by any political subdivision or taxing authority thereof or therein ("Taxes") If any Taxes are required to be withheld from any amounts payable to the Bank hereunder, the amounts so payable to the Bank shall be increased to the extent necessary to yield to the Bank (after payment of all Taxes) the amounts payable hereunder in the full amounts so to be paid. Whenever any Tax is paid by the Guarantor, as promptly as possible thereafter, the Guarantor shall send the Bank an official receipt showing payment thereof, together with such additional documentary evidence as may be required from time to time by the Bank.

Section 9. **Representations and Warranties**. The Guarantor represents and warrants that: (a) the execution, delivery and performance by the Guarantor under this Guaranty: (i) has been duly authorized by all necessary corporate action; (ii) does not conflict with or violate any material agreement or instrument or any constitutive document, law, regulation or order applicable to the Guarantor; (iii) does not require the consent or approval of any person or entity, including but not limited to any governmental authority, or any filing or registration of any kind; and (iv) is the legal, valid and binding obligation of the Guarantor enforceable against the Guarantor in accordance with its terms except to the extent that enforcement may be limited by applicable bankruptcy, insolvency and other similar laws affecting creditor's rights generally; and (b) in executing and delivering this Guaranty, the Guarantor has (i) without reliance on the Bank or any information received from the Bank and based upon such documents and information it deems appropriate, made an independent investigation of the transactions contemplated hereby and the Borrower, the Borrower' business, assets, operations, prospects and condition, financial or otherwise, and any circumstances which may bear upon such transactions, the Borrower or the obligations and risks undertaken herein with respect to the Liabilities; (ii) adequate means to obtain from the Borrower on a continuing basis information concerning the Borrower; (iii) has full and complete access to the Facility Documents and any other documents executed in connection with the Facility Documents; and (iv) not relied and will not rely upon any representations or warranties of the Bank not embodied herein or any acts heretofore or hereafter taken by the Bank (including but not limited to any review by the Bank of the affairs of the Borrower) The Guarantor hereby further represents and warrants that the Guarantor owns (directly or indirectly) a substantial amount of the stock or other ownership interests of the Borrower and is financially interested in its affairs.

Section 10. **Remedies Generally**. The remedies provided in this Guaranty are cumulative and not exclusive of any remedies provided by law.

Section 11. **Setoff**. The Guarantor agrees that, in addition to (and without limitation of) any right of setoff, banker's lien or counterclaim the Bank may otherwise have, the Bank shall be entitled, at its option, to offset balances (general or special, time or demand, provisional or final) held by it for the account of the Guarantor at any of the offices of the Bank, J.P. Morgan Securities Inc., or any other affiliate, in U.S. dollars or in any other currency, against any amount payable by the Guarantor under this Guaranty which is not paid when due (regardless of whether such balances are then due to the Guarantor), in which case it shall promptly notify the Guarantor thereof; provided that the Bank's failure to give such notice shall not affect the validity thereof

Section 12. **Formalities**. The Guarantor waives presentment, notice of dishonor, protest, notice of acceptance of this Guaranty, notice of creation, renewal, extension or accrual of any Liability and notice of any other kind and any other formality with respect to any of the Liabilities or this Guaranty. The Guarantor also waives the right to require the Bank to proceed first against the Borrower upon the Liabilities before proceeding against the Guarantor hereunder.

Section 13. **Amendments and Waivers**. No amendment or waiver of any provision of this Guaranty, nor consent to any departure by the Guarantor therefrom, shall be effective unless it is in writing and signed by the Bank, and then the waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. No failure on the part of the Bank to exercise, and no delay in exercising, any right or remedy under this Guaranty shall operate as a waiver or preclude any other or further exercise thereof or the exercise of any other right or remedy.

Section 14. **Expenses** The Guarantor shall reimburse the Bank on demand for all costs, expenses and charges (including without limitation the reasonable and documented fees and charges of external legal counsel for the Bank) incurred by the Bank in connection with the preparation, performance or enforcement of this Guaranty. The obligations of the Guarantor under this Section shall survive the termination of this Guaranty.

Section 15 **Assignment**. This Guaranty shall be binding on, and shall inure to the benefit of the Guarantor, the Bank and their respective successors and assigns; provided that the Guarantor may not assign or transfer its rights or obligations under this Guaranty..

Section 16. **Captions**. The headings and captions in this Guaranty are for convenience only and shall not affect the interpretation or construction of this Guaranty.

Section 17. **Governing Law, Etc.** **THIS GUARANTY SHALL BE GOVERNED BY THE LAW OF THE STATE OF NEW YORK. THE GUARANTOR CONSENTS TO THE NONEXCLUSIVE JURISDICTION AND VENUE OF THE STATE OR FEDERAL COURTS LOCATED IN THE CITY OF NEW YORK. SERVICE OF PROCESS BY THE BANK IN CONNECTION WITH ANY SUCH DISPUTE SHALL BE BINDING ON THE GUARANTOR IF SENT TO THE GUARANTOR BY REGISTERED MAIL AT THE ADDRESS SPECIFIED BELOW OR AS OTHERWISE SPECIFIED BY THE GUARANTOR FROM TIME TO TIME. THE GUARANTOR WAIVES ANY RIGHT THE GUARANTOR MAY HAVE TO JURY TRIAL IN ANY ACTION RELATED TO THIS GUARANTY OR THE TRANSACTIONS CONTEMPLATED HEREBY AND FURTHER WAIVES ANY RIGHT TO INTERPOSE ANY COUNTERCLAIM RELATED TO THIS GUARANTY OR THE TRANSACTIONS CONTEMPLATED HEREBY IN ANY SUCH ACTION. TO THE EXTENT THAT THE GUARANTOR HAS OR HEREAFTER MAY ACQUIRE ANY IMMUNITY FROM JURISDICTION OF ANY COURT OR FROM ANY LEGAL PROCESS (WHETHER FROM SERVICE OR NOTICE, ATTACHMENT PRIOR TO JUDGMENT, ATTACHMENT IN AID OF EXECUTION OF A JUDGMENT, EXECUTION OR**

CONFIDENTIAL INFORMATION JPM-2004 0005044

OTHERWISE), THE GUARANTOR HEREBY IRREVOCABLY WAIVES SUCH IMMUNITY IN RESPECT OF ITS OBLIGATIONS UNDER THIS GUARANTY.

Section 18. **Integration; Effectiveness**. This Guaranty and the Facility Documents set forth the entire understanding of the Guarantor and the Bank relating to the guarantee of the Liabilities and constitutes the entire contract between the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof.; provided, however, that notwithstanding anything to the contrary, this Guaranty shall not effect or impair any other Guaranty made by the Guarantor in support of any of the obligations or liabilities of the Borrower with respect to or in connection with extensions of credit or facilities other than those related hereto. This Guaranty shall become effective when it shall have been executed and delivered by the Guarantor to the Bank. Delivery of an executed signature page of this Guaranty by telecopy shall be effective as delivery of a manually executed signature page of this Guaranty

IN WITNESS WHEREOF, the Guarantor has caused this Guaranty to be duly executed and delivered by its authorized officer as of the date first above written.

LEHMAN BROTHERS HOLDINGS INC.

By:
Name:
Title:

Address:

CONFIDENTIAL INFORMATION

STATE OF

ss.:

COUNTY OF

On the ________ day of ______________________, 200____, before me came _, to me known, who, being by me duly sworn, did depose and say that he/she resides at ____; that he/she is of ____, the corporation described in and which executed the foregoing instrument; and that he/she signed his/her name thereto by like order.

Notary Public

I, ________________________________, as [Secretary][Assistant Secretary] of ________________________________, a corporation duly organized and existing under the laws of ________________________________, hereby certify that a meeting of the Board of Directors of said Corporation was duly called and held on the _____ day of ___________, 200__, and that at said meeting at which a quorum was present and voting throughout, the following preambles and resolution, upon motion duly made and seconded, were duly and unanimously adopted:

"**WHEREAS**,
(hereinafter referred to as the "Borrower"), a corporation organized and existing under the laws of ____________________________, has obtained or desires or may desire at some time and/or from time to time to obtain loans or other financial accommodation from, or conduct transactions with, JPMorgan Chase Bank, N.A. and/or any of its subsidiaries and/or affiliates (hereinafter referred to as the "Bank"); and

WHEREAS, this Corporation owns directly or indirectly a substantial amount of the stock of the Borrower and/or is financially interested in its affairs and expects to derive advantage from each and every such loan, accommodation and/or transaction,

NOW, THEREFORE, BE IT

RESOLVED, that this Corporation guarantee the liabilities and obligations of the Borrower to the Bank in the manner set forth in the agreement of guaranty presented to this meeting, which said agreement of guaranty and all of the terms and provisions thereof are in all respects approved and adopted, and that the officers of this Corporation be and hereby are, and each of them hereby is, authorized and directed to execute in the name and on behalf of this Corporation and to deliver to the Bank an agreement of guaranty in said form with such changes, if any, as the officer or officers of this Corporation executing the same may approve, and to do such other acts and things as may be necessary or advisable in order to carry out and perform on the part of this Corporation the covenants, conditions and agreements on its part to be carried out and performed as provided in said agreement of guaranty and in order to carry out and effect the full intent and purposes of this resolution."

As said [Secretary][Assistant Secretary], I further certify that the foregoing preambles and resolution have not been repealed, annulled, altered or amended in any respect but remain in full force and effect and that the annexed instrument is the form of the agreement of guaranty presented to said meeting and referred to in and approved by the aforesaid resolution.

IN WITNESS WHEREOF, I have hereunto set may hand this _____ day of ________________, 200__.

____
As [Secretary][Assistant Secretary]
of Said Corporation

ACCOUNT CONTROL AGREEMENT

September 9, 2008

The undersigned funds set forth below (each a "Fund", collectively, the "Funds"), JPMorgan Chase Bank, N.A., ("Bank") for and on behalf of itself and each of its subsidiaries and affiliates ("Secured Party") and Lehman Brothers Holdings Inc. ("Borrower") hereby agree as follows:

PREAMBLE:

1. Each of the Funds have issued, and may in the future issue additional, uncertificated shares registered in the name of Borrower (the "Shares") and have established accounts on their respective books and records to reflect record ownership of the Shares in the name of Borrower or its nominee, including without limitation the account designated Waterferry 5015137 (such accounts as may from time to time be established, collectively, the "Accounts").

2. Borrower has granted Secured Party a security interest in the Shares and the Accounts pursuant to a separate agreement.

3. Secured Party, Borrower and the Funds are entering into this Agreement to provide for the control of the Shares and the Accounts and to perfect the security interest of Secured Party in the Shares and the Accounts.

TERMS:

Section 1. The Shares and the Accounts. Each of the Funds hereby represents and warrants to Secured Party and Borrower that: (a) Fund is duly authorized to enter into this Agreement; (b) the Shares are registered in the name of Borrower or its nominee; (c) the Accounts are maintained in the name of Borrower or its nominee;; (d) Fund is a series of an investment company registered under the Investment Company Act of 1940, as amended; (e) Fund is organized under the laws of Delaware; and (f) except for the claims and interest of Secured Party and Borrower in the Accounts and the Shares (and subject to any rights of the Fund under applicable law), Fund does not have any actual knowledge of any claim to or interest in the Accounts or the Shares.

Section 2. Priority of Lien. Each of the Funds hereby acknowledges that by separate agreement, Borrower has granted Secured Party a security interest in the Accounts and the Shares and all proceeds, substitutions and replacements thereof. Each of the Funds will not agree with any third party that it will comply with instructions concerning the Accounts or the Shares originated by such third party without the prior written consent of Secured Party and Borrower, unless otherwise required by law, rule or regulation or pursuant to governmental or court order, process or subpoena.

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323008.v2

Section 3. Control. Until written notice to the contrary from the Secured Party is received by the Funds, each of the Funds will comply with instructions originated solely by Secured Party concerning the Accounts and the Shares, without further consent by Borrower and will not comply with any instructions concerning the Accounts and the Shares originated by Borrower or its representatives. Any and all cash payments of interest, dividends and capital gains received on any Shares shall be re-invested in Shares. Borrower may not exercise voting and/or consent rights with respect to the Accounts and the Shares except with the written consent of the Secured Party.

Section 4. Statements, Confirmations and Notices of Adverse Claims. Each of the Funds will send copies of all statements, confirmations and other correspondence concerning the Accounts simultaneously to each of Borrower and Secured Party at the address set forth in Section 14 of this Agreement. If any person asserts any lien, encumbrance or adverse claim against any of the Accounts or in any financial asset carried therein, the applicable Fund will promptly notify Secured Party and Borrower thereof.

Section 5. Responsibility of the Funds. (a) None of the Funds shall have any responsibility or liability to Borrower for complying with instructions concerning the Accounts and/or Shares originated by Secured Party. None of the Funds shall have any duty to investigate or make any determination as to whether a default exists under any agreement between Borrower and Secured Party.

(b) Notwithstanding anything to the contrary in this Agreement: (i) none of the Funds shall have only the duties and responsibilities with respect to the matters set forth herein as is expressly set forth in writing herein and shall not be deemed to be an agent, bailee or fiduciary for any party hereto; (ii) None of the Funds shall be liable to any party hereto or any other person for any action or failure to act under or in connection with this Agreement except to the extent such conduct constitutes its own willful misconduct or gross negligence (and to the maximum extent permitted by law, shall under no circumstances be liable for any incidental, indirect, special, consequential or punitive damages); and (iii) none of the Funds shall not be liable for losses or delays caused by force majeure, interruption or malfunction of computer, transmission or communications facilities, labor difficulties, court order or decree, the commencement of bankruptcy or other similar proceedings or other matters beyond the Fund's reasonable control.

(c) Borrower and Secured Party, jointly and severally, hereby agree to indemnify, defend and hold harmless each of the Funds (each an "Indemnified Party") against any loss, liability or expense (including reasonable attorneys and disbursements) incurred in connection with this Agreement (except to the extent due to such Indemnified Party's willful misconduct or gross negligence as finally determined by a court of competent jurisdiction) or in connection with any interpleader proceeding relating thereto or incurred at Secured Party's direction or instruction.

Section 6. Tax Reporting. All items of income, gain, expense and loss recognized in the Accounts shall be reported to the Internal Revenue Service and all state and local taxing authorities under the name and taxpayer identification number of Borrower.

Section 7. Customer Agreement. This Agreement supplements, rather than replaces, the application to purchase shares in the Funds and any account conditions, terms and conditions and other standard documentation in effect from time to time with respect to the Shares and the Accounts (the "Account Documentation"), which Account Documentation will continue to apply to the Accounts and the Shares and the services to be provided by a Fund in respect thereto, and the respective rights, powers, duties, obligations, liabilities and responsibilities of the parties thereto and hereto, to the extent not

expressly conflicting with the provisions of this Agreement (however, in the event of any such conflict, the provisions of this Agreement shall control).

Section 8. Termination. The rights and powers granted herein to Secured Party have been granted in order to perfect its security interest in the Accounts and the Shares, are powers coupled with an interest and will neither be affected by the death or bankruptcy of Borrower nor by the lapse of time. The Funds may terminate this Agreement (a) in their discretion upon the sending of at least thirty (30) days' advance written notice to the other parties hereto or (b) because of a material breach by Borrower or Secured Party of any of the terms of this Agreement or the Account Documentation, upon the sending of at least five (5) days advance written notice to the other parties hereto. Any other termination or any amendment or waiver of this Agreement shall be effected solely by an instrument in writing executed by all the parties hereto. The provisions of Section 5 above shall survive any such termination.

Section 9. This Agreement. This Agreement and exhibits hereto and the agreements and instruments required to be executed and delivered hereunder set forth the entire agreement of the parties with respect to the subject matter hereof and supersede and discharge all prior agreements (written or oral) and negotiations and all contemporaneous oral agreement concerning such subject matter and negotiations. There are no oral conditions precedent to the effectiveness of this Agreement.

Section 10. Amendments. No amendment, modification or termination of this Agreement or waiver of any right hereunder shall be binding on any party hereto unless it is in writing and is signed by the party to be charged.

Section 11. Severability. If any term or provision set forth in this Agreement shall be invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provisions to persons or circumstances, other than those to which it is held invalid or unenforceable, shall be construed in all respects as if such invalid or unenforceable term or provision were omitted.

Section 12. Successors. The terms of this Agreement shall be binding upon, and shall inure to the benefit of, the parties and their respective corporate successors or heirs and personal representatives ; provided, further, that a successor to or assignee of Secured Party's rights under any extension of credit may be assigned the benefits of this Agreement by Secured Party.

Section 13. Rules of Construction. In this Agreement, words in the singular number include the plural, and in the plural include the singular; words of the masculine gender include the feminine and the neuter, and when the sense so indicates words of the neuter gender may refer to any gender and the word "or" is disjunctive but not exclusive. The captions and section numbers appearing in this Agreement are inserted only as a matter of convenience. They do not define, limit or describe the scope or intent of the provisions of this Agreement.

Section 14. Counterparts. This Agreement may be executed in any number of counterparts, all of which shall constitute one and the same instrument, and any party hereto may execute this Agreement by signing and delivering one or more counterparts.

Section 15. Choice of Law; Waiver of Jury Trial. Notwithstanding any other agreement to the contrary, the parties hereto agree that this Agreement and the Accounts shall be governed and construed in accordance with those laws of the State of New York which are applicable to agreements which are negotiated, executed, delivered and performed solely in the State of New York. **THE UNDERSIGNED**

HEREBY WAIVES AND AGREES TO WAIVE THE RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM INSTITUTED WITH RESPECT TO ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED TO THIS AGREEMENT.

[SIGNATURE PAGE FOLLOWS TO CONTROL AGREEMENT DATED SEPTEMBER 9, 2008 AMONG LEHMAN BROTHERS HOLDINGS INC., JPMORGAN CHASE BANK, N.A. (for and on behalf of itself and each of its subsidiaries and affiliates) AND EACH OF THE FUNDS SET FORTH IN THE PREAMBLE ABOVE]

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LEHMAN BROTHERS HOLDINGS INC.

By: __________________

Name:

Title:

JPMORGAN CHASE BANK, N.A (for and on behalf of itself and each of its subsidiaries and affiliates)

By: ________________________

Name:

Title:

ACKNOWLEDGED and AGREED TO:
as a Fund and issuer of Shares

JP Morgan Liquid Assets Money Market Fund-Capital Shares

By: ___________________________
Its ___________________________
Date: _________________________

ACKNOWLEDGED and AGREED TO:
as a Fund and issuer of Shares

JP Morgan Tax Free Money Market Fund-Institutional Shares

By: ___________________________
Its: ___________________________
Date: _________________________

ACKNOWLEDGED and AGREED TO.
as a Fund and issuer of Shares

JP Morgan Municipal Money Market Fund-Institutional Shares

By: ___________________________
Its: ___________________________
Date: _________________________

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323008·v2

323008:v01
323008:v2

AMENDMENT TO CLEARANCE AGREEMENT

WHEREAS, Lehman Brothers Inc., Lehman Commercial Paper Inc., Lehman Brothers Holdings Inc., Lehman Brothers International (Europe), Lehman Brothers OTC Derivatives Inc., and Lehman Brothers Japan Inc. (the "Customer" or "Customers")) and JPMorgan Chase Bank, N.A. (formerly The Chase Manhattan Bank, the "Bank") have entered into that certain Clearance Agreement dated as of June 15, 2000, as amended by the Amendment to Clearance Agreement dated as of May 30, 2008 and as subsequently amended by the Amendment to Clearance Agreement dated as of August 26, 2008 (the "Agreement"); and

WHEREAS, the Customer and the Bank desire to amend the Agreement as set forth herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed as follows:

1. The first three lines of Section 11 of the Clearance Agreement shall be deleted in their entirety and replaced with the following:

"In consideration of any credit, advances, loans or other financial accommodations we may extend to you and in order to induce us from time to time, in our discretion, to extend or continue to extend credit, clearing advances, clearing loans or other financial accommodations to any of the Customers or any of their affiliates and/or to transact business, trade or enter into derivative transactions with any of the Customers or any of their affiliates and as security for the payment of all of your existing or future indebtedness, obligations and liabilities of any kind to us including, without limitation, arising in connection with trades, derivative transaction, settlement of securities hereunder or any other business with the Customers or any of their affiliates (hereinafter the "Obligations"), you hereby."

2. All other terms and conditions of the Agreement are hereby ratified, and the Agreement shall, except as expressly modified herein, continue in full force and effect.

3. This Amendment shall be governed by and construed in accordance with the laws of the State of New York without giving effect to the conflict of laws principles thereof.

IN WITNESS WHEREOF, the parties have caused their duly authorized representatives to execute this Amendment as of the 9th day of September, 2008.

LEHMAN BROTHERS INC.

By:______________________________
Name
Title:

#377228v3-clean

LEHMAN COMMERCIAL PAPER INC.

By:______________________________
Name:
Title:

#377228v3-clean

LEHMAN BROTHERS HOLDINGS INC

By:______________________________
Name:
Title:

LEHMAN BROTHERS INTERNATIONAL (EUROPE)

By:______________________________
Name
Title:

LEHMAN BROTHERS OTC DERIVATIVES INC.

By:______________________________
Name:
Title:

LEHMAN BROTHERS JAPAN INC.

By:______________________________
Name
Title:

JPMORGAN CHASE BANK, N.A.

By.______________________________
Name:
Title:

#377228v3-clean

TAB 30

From: Van Schaick, George V <gvanscha@lehman.com>
Sent: Thursday, July 10, 2008 6:34 PM (GMT)
To: Feraca, John <joferaca@lehman.com>
Subject: FW: Federated SubCustodial Agreement - JPMC's comments

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From: Cornejo, Emil
Sent: Thursday, July 10, 2008 12:41 PM
To: Guglielmo, Robert; Roberts, Garrett; Shanley, Gail
Cc: Van Schaick, George V; Luglio, Thomas; Webb, Michael A; Fleming, Dan (TSY); Tonucci, Paolo; Miller, Marjorie A; Coghlan, John F. (Prime Services); Witek, Charles; Boron, Lisa-Lynn; Lista, William; McMurray, Locke R
Subject: RE: Federated SubCustodial Agreement - JPMC's comments

Spoke to Mark. Expect feedback shortly. Thanks

Emil F. Cornejo

LEHMAN BROTHERS

Emil F. Cornejo
Senior Vice President
Treasury
1301 Avenue of the Americas
New York, NY 10019

Phone: 212-320-4495
Fax: 212-520-0838
Email: emil.cornejo@lehman.com

From: Guglielmo, Robert
Sent: Thursday, July 10, 2008 12:20 PM
To: Roberts, Garrett; Shanley, Gail
Cc: Van Schaick, George V; Luglio, Thomas; Webb, Michael A; Fleming, Dan (TSY); Tonucci, Paolo; Miller, Marjorie A; Coghlan, John F. (Prime Services); Witek, Charles; Boron, Lisa-Lynn; Lista, William; Cornejo, Emil; McMurray, Locke R

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LEHMAN BROTHERS HOLDINGS INC.

Subject: RE: Federated SubCustodial Agreement - JPMC's comments

Garrett,
We discussed with Emil Cornejo in Credit & Bank Relations who is responsible for the JPM Chase relationship. He is following up with Michael Doctoroff at JP Morgan Chase.
Regards,
Rob

From: Roberts, Garrett
Sent: Thursday, July 10, 2008 12:01 PM
To: Guglielmo, Robert; Shanley, Gail
Subject: FW: Federated SubCustodial Agreement - JPMC's comments

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From: Van Schaick, George V
Sent: Thursday, July 10, 2008 11:44 AM
To: Van Schaick, George V; Feraca, John
Cc: Roberts, Garrett; Lista, William; Luglio, Thomas; Webb, Michael A; Fleming, Dan (TSY); Tonucci, Paolo; Miller, Marjorie A; Coghlan, John F. (Prime Services)
Subject: RE: Federated SubCustodial Agreement - JPMC's comments

From: Mocharko, Karl [mailto:KMocharko@federatedinv.com]
Sent: Thursday, July 10, 2008 11:14 AM
To: Shanley, Gail; Roberts, Garrett; julia.a.fox@jpmorgan.com
Cc: RS: Beneigh, Sara; RS: Zerega, Todd; RS: Dugan, Erin; RS: Whetzel, James
Subject: RE: Federated SubCustodial Agreement - JPMC's comments

Because JP Chase the triparty clearing bank is unwilling to negotiate in good faith with Federated, we will no longer pursue additional business with Lehman. We will also do as much current REPO as possible with dealers that utilize BONY as their custodian and only back with JPChase as necessary.

Karl Mocharko

Assistant Vice President / Senior Trader

FOIA CONFIDENTIAL TREATMENT REQUESTED BY
LEHMAN BROTHERS HOLDINGS INC.

Federated Investors

Business: 412-288-1975

Personal: 412-288-1447

kmocharko@federatedinv.com

From: Van Schaick, George V
Sent: Thursday, July 10, 2008 11:31 AM
To: Feraca, John
Cc: Roberts, Garrett; Lista, William; Luglio, Thomas; Webb, Michael A; Fleming, Dan (TSY); Tonucci, Paolo; Miller, Marjorie A; Coghlan, John F. (Prime Services)
Subject: FW: Federated SubCustodial Agreement - JPMC's comments

John,

We have been trying to negotiate triparty docs on new Federated funds with Chase for over 6months now. These new funds would have cash for "Non-Traditional collateral" (IG and NON-IG ABS, PL, Corps, etc.). Charles Witek previously outlined the issues below, and we sent to Mike Scarpa at JPM, after our April meeting with them. The issues are all changes from JPM's previous triparty docs.

Today Federated has notified us that JPM would now like to re-negotiate all its existing docs with Federated.

Federated has stated they are considering pulling all funding from Dealers that use JPM as a triparty agent and moving exclusively to BONY. They are more comfortable with them Legally, Operationally, and from a Client Service perspective.

They currently fund 900mm NON-IG PL/ABS, and would have at least another 500mm in these new funds.

I think we need to raise the issue again with JPM, but ultimately this might just be a good candidate to use in the BONY migration.

Thanks.
George

From: Witek, Charles
Sent: Wednesday, April 23, 2008 3:41 PM
To: Van Schaick, George V
Cc: Shanley, Gail
Subject: RE: Federated SubCustodial Agreement - JPMC's comments

OK.

To avoid confusion, we'll deal with Federated first, as it is a large issue, then I'll address the others in a third E-mail.

The markup of the Federated agreement, as JPMorgan would change it, is attached. I'll only discuss the major issues, but the fact that JPMorgan is choosing to make numerous changes to an agreement it accepted as recently as November is a problem in itself.

Significant issues include (listed by section):

1(j) JPMorgan added the language "The Margin Value of Securities shall equal or exceed the Sale Price at the times calculated by Bank pursuant to this Agreement." In effect, JPMorgan negated the agreement of the parties to margin on the Repurchase Price and substituted, for its own operational convenience, its own requirement that collateral be margined on the Sale (i.e. Purchase) Price. While that would normally be better for Lehman, as a registered investment company governed by the Investment Company Act of 1940, Federated feels that it is legally obligated to margin on the Repurchase Price, and will not enter into an agreement if margining on the Repurchase Price does not take place. JPMorgan's position that it will not margin on the Repurchase Price, for operational reasons, is new, having only arisen in the past month or so. Lisa-Lynn Boron conducted a substantial investigation into the issue in relation to one of her accounts, and discovered that there is no operational impediment at Lehman or at JPMorgan that prevents margining on the Repurchase Price.

1(n) Related to 1(j), above, JPMorgan deleted the definition of "Repurchase Price" and substituted its own simplified definition, which is not amenable to margining a term repo based on the Repurchase Price.

3(b) Again, as in point 1(j) JPMorgan changed the actual terms of the Transaction agreed to by Lehman and Federated, altering "Margin Value equal to the Repurchase Price" to "Margin Value equal to the Sale Price." Quite bluntly, whether we choose to margin on the Sale (Purchase) Price or the Repurchase Price is a business decision arising out of a negotiation between Lehman and Federated; it is none of JPMorgan's business and they should not be interfering in the economic terms of the transaction, particularly when Federated (and most investment companies) view this as a regulatory issue. Similar changes also occur in Section 3(c), 3(e).

3(d) JPMorgan inserted language that, in the event that Federated is undercollateralized or Lehman has insufficient cash to repurchase the Purchased Securities on the Repurchase Date, JPMorgan can, without notice to Lehman, advance cash on Lehman's behalf and charge Lehman interest for such advance. That is contrary to the clearance arrangement between Lehman and JPMorgan, and JPMorgan Legal has been reminded of that fact on multiple occasions, yet they persist in demanding the change.

11 Indemnification provides the most egregious examples of JPMorgan

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LEHMAN BROTHERS HOLDINGS INC.

high-handedness. ISSUE 1) The original Lehman/Federated agreement provided for Lehman giving JPMorgan a full indemnification for any losses not attributable to the Bank's negligence or willful misconduct, while Federated only indemnified for its own negligence, breach, insolvency or instructions, again with the carve-out for JPMorgan's negligence or willful misconduct. Such a "split indemnification" was commonly used in custodial undertakings involving a large or sophisticated counterparty, and has been accepted practice at both JPMorgan and The Bank of New York for years (and doesn't really harm Lehman, as JPMorgan could, in the event of an insolvent counterparty, always argue that Lehman already had an obligation to fully indemnify pursuant to the terms of the clearance agreement). However, a few months ago (I believe it was the late fall of 2007), JPMorgan, without any prior notice to or discussion with Lehman, arbitrarily decided that "split" indemnification would no longer be acceptable. In the case of Federated, they insisted that both parties provide a full indemnification to JPMorgan, a provision wholly unacceptable to Federated and contrary to prior agreements between JPMorgan and either Lehman or Federated.
ISSUE 2: To make matters worse, JPMorgan is insisting upon a new provision, which would have both Lehman and Federated "absolutely" indemnify JPMorgan (i.e., no carve out, even for JPMorgan's gross negligence or willful misconduct) for any losses "incurred as a result of complying with the instructions of" Lehman or Federated, even if following such instruction "constitutes or is alleged to constitute a violation of the rights of any party or a violation of an injunction, stay, order or law"! Pursuant to such agreement, if JPMorgan followed an instruction, no matter how obviously wrong or even illegal, JPMorgan would be entitled to full indemnification for any damages or claims that it suffered as a result. Needless to say, Lehman has never agreed to such a provision, does not have it in its boilerplate agreement, and is unwilling to accept it in the Federated document. Federated is equally opposed.

There are a number of other, lesser changes (although it should be noted that what seems "lesser" to me may be of greater importance to Federated.) However, the above points, in which JPMorgan 1) takes it upon itself to change the terms of the agreement between Lehman and Federated re margin, 2) is, through its Legal Department, insisting on changing the terms of the business relationship between Lehman and JPMorgan re advances and 3) is insisting on burdensome and unnegotiated changes in the customary indemnification provisions, should be viewed as the most offensive positions.

_____

From: Van Schaick, George V
Sent: Wednesday, April 23, 2008 2:37 PM
To: Witek, Charles
Cc: Shanley, Gail
Subject: RE: Federated SubCustodial Agreement - JPMC's comments

please include all issues (not just Federated). we met with Chase this afternoon and hopefully that will result in some progress.

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LEHMAN BROTHERS HOLDINGS INC.

From: Witek, Charles
Sent: Wednesday, April 23, 2008 2:34 PM
To: Van Schaick, George V
Cc: Shanley, Gail
Subject: FW: Federated SubCustodial Agreement - JPMC's comments

George--

Before I send an E-mail outlining the precise legal issues (which I'll begin preparing immediately upon sending this one), I wanted to forward the below to you, because it gives a good overview of the issue.

Federated has a proprietary agreement that it negotiated with various dealers, including Lehman, and JPMorgan many years ago. The agreement was modified not long before I came to Lehman in order to modernize the document. As recently as last November, Federated, Lehman and JPMorgan entered into such document with no problems. However, JPMorgan reversed course with regard to the current Federated agreement, and refuse to agree to it without the substantial changes discussed in Todd Zerega's E-mail.

Although I recognize that Federated is a priority issue, I would point out that this is not a unique instance. In the past year or so, JPMorgan has become increasingly uncooperative, reneging on previous agreements regarding acceptable language, dictating the form of agreements that they will review (e.g., they will no longer review a .pdf version of an agreement marked up by the client, but instead insist that Lehman or the client take the time to convert such .pdf into a blacklined Word document, in order to save JPMorgan the trouble of working with an inconvenient file) and taking positions contrary to either the clear language of an agreement (e.g., refusing to accept cash as repo collateral, despite a statement in the document that says "Securities shall always include cash") or refusing to take language acceptable in the Lehman-boilerplate form if inserted in a different form provided by the counterparty--something very similar to what is happening here.

From: marcus.c.johnson@jpmchase.com
[mailto:marcus.c.johnson@jpmchase.com]
Sent: Friday, April 18, 2008 2:06 PM
To: Zerega, Todd P.
Cc: Shanley, Gail
Subject: Re: Federated SubCustodial Agreement - JPMC's comments

Todd:

We cannot use this form without the changes that we have made. Feel free to call me if you wish to discuss specific comments.

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LEHMAN BROTHERS HOLDINGS INC.

----- Original Message -----
From: "Zerega, Todd P." [TZerega@ReedSmith.com]
Sent: 04/18/2008 01:28 PM AST
To: Marcus Johnson
Cc: <gail.shanley@lehman.com>
Subject: FW: Federated SubCustodial Agreement - JPMC's comments

Marcus,

I wanted to get back to you regarding your extensive comments on Federated's Subcustodial Undertaking. A master form of this Subcustodial Undertaking specifically for Federated Investors, which I have attached for reference, was negotiated with your predecessor Charles Witek. This form of agreement has also been approved by all of Federated's repo counterparties. The agreement is currently is use for all Federated repo counterparties. However, due to a change in custodian on certain Funds Federated needs to put in place the same agreement as in place currently for its other Funds. Federated does not wish to renegotiate an agreement that was painstakingly finalized to the satisfaction of all parties. For example, the indemnification language, definition provisions, and representations were also discussed at length among all parties until an acceptable form was drafted. To revisit this issue would cause Federated to incur unnecessary legal expenses and costs as well as delay the execution of agreements that they wish to utilize. With that being said, it is our understanding that the language added regarding fund transfers (Section 12) is something that Federated has agreed to in the form of a side letter and therefore Federated is willing to agree to add it to the master agreement.

Please let me know if you would like to discuss further but based on my conversations with Sara Lehman only had one minor comment on the subcustodial which Federated accepted and we would like to move forward with execution.

Best Regards,

Todd

From: Shanley, Gail [mailto:gail.shanley@lehman.com]
Sent: Thursday, April 03, 2008 1:53 PM
To: Beneigh, Sara M.
Cc: Roberts, Garrett
Subject: FW: Federated SubCustodial Agreement - JPMC's comments

Sara,

FOIA CONFIDENTIAL TREATMENT REQUESTED BY
LEHMAN BROTHERS HOLDINGS INC.

I received the attached from Marcus at JPMC. After you have had a chance to review let's chat.
Thanks

Gail

_____

From: Euisun.Lisa.Lee@chase.com [mailto:Euisun.Lisa.Lee@chase.com]
Sent: Thursday, April 03, 2008 12:14 PM
To: Shanley, Gail
Cc: Janowski, John Patrick; marcus.c.johnson@jpmchase.com
Subject: Fw: Federated SubCustodial Agreement

Hi Gail: attached please find clean and marked versions of the acceptable Federated agreement. Thanks!

Redline:

Clean:

Euisun Lisa Lee
Assistant Vice President
JPMorgan Chase Bank, NA
1 Chase Manhattan Plaza, 25th Floor
New York, NY 10005
NY1-A424
Tel: (212) 552-1618
Fax: (212) 383-0250
euisun.lisa.lee@chase.com

- -
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* * *

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state and local provisions or (2) promoting, marketing or recommending
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pdc1

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legal entities.

TAB 31

From: Yeung, Andrew <andrew.yeung@lehman.com>
Sent: Wednesday, September 10, 2008 6 30 AM
To: Inaba, Gail <inaba_gail@jpmorgan com>; Appel, Nikki G <Nikki.G Appel@chase com>
Cc: Aronson, Jeffrey - Communication of Counsel (Exchange) <JAronson@bear.com>; Wasserman, Peter J <Peter.J.Wasserman@chase.com>; Miller, Jessica W <JMiller@goodwinprocter.com>, Hespel, Paul W <PHespel@goodwinprocter.com>
Subject: RE: Execution Documents

Hi Gail,

We have no further comments to the agreements and I have sent them on to our executive officers for their final approval and signature I will forward the signature pages to you upon receipt.

Best,

Andrew

Andrew M W Yeung
Lehman Brothers
1271 Avenue of the Americas
New York, NY 10020
Tel: (212) 526-4584
Fax (646) 834-0721
email andrew yeung@lehman com

-----Original Message-----
From: inaba_gail@jpmorgan com [mailto inaba_gail@jpmorgan com]
Sent Wednesday, September 10, 2008 5 56 AM
To: Yeung, Andrew
Cc JAronson@bear.com, Peter.J.Wasserman@chase.com; inaba_gail@jpmorgan com; Miller, Jessica W; Hespel, Paul W; Robert.T Colleran@chase com; genova_diane@jpmorgan.com; mark g doctoroff@jpmorgan com, John Vollkommer@chase com
Subject: Execution Documents

Andrew, Attached are clean, execution versions of the Guaranty, the Aurora Guaranty, the Security Agreement, the Amendment to the Clearance Agreement
and the Account Control Agreement. Apologies, we are experiencing systems
issues and can only send a clean version of the new Guaranty and Amendment to the Clearance Agreement at this time. We will try to send marked
versions if we can recover the documents. Please let me know if we have
any outstanding issues. I appreciate your assistance in completing this matter Best, Gail

(See attached file: Guaranty Aurora Clean DOC)(See attached file Guaranty Aurora Marked 9-09-08 DOC)(See attached file Security Agreement Clean 9-09-08 DOC)(See attached file Security Agreement Marked 9-09-08 DOC)(See attached file Amendment to Clearance Clean 9-09-08.DOC)(See attached file.
Control Agreement Clean 9-09-08 DOC)(See attached file Control Agreement Marked 9-09-08.DOC) (See attached file. Guaranty 2 Clean 9-09-08 DOC)

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TAB 32

From: Fleming, Dan (TSY) <dfleming@lehman.com>
Sent: Wednesday, September 10, 2008 11:22 AM (GMT)
To: mark.g.doctoroff@jpmorgan.com
Subject: RE: Andrew is on his way to 745 to pick up signed docs from Paolo/Ian

---

Andrew has signed doc's in hand, on their way to JPM

> ____
> From: Fleming, Dan (TSY)
> Sent: Wednesday, September 10, 2008 7:05 AM
> To: mark.g.doctoroff@jpmorgan.com
> Subject: Andrew is on his way to 745 to pick up signed docs from
> Paolo/Ian
>
>

FOIA CONFIDENTIAL TREATMENT REQUESTED BY
LEHMAN BROTHERS HOLDINGS INC.

TAB 33

"Yeung, Andrew"
<andrew.yeung@lehman.com>

09/10/2008 07:32 AM

To: <inaba_gail@jpmorgan.com>
cc: <JAronson@bear.com>, "Miller, Jessica W" <JMiller@goodwinprocter.com>, <Nikki.G.Appel@chase.com>, <Peter.J.Wasserman@chase.com>, "Hespel, Paul W" <PHespel@goodwinprocter.com>, <mark.g.doctoroff@jpmorgan.com>, "Fleming, Dan (TSY)" <dfleming@lehman.com>
Subject: RE: Execution Documents

Gail,

Attached are our signature pages to the agreements.

Best,

Andrew

Andrew M.W. Yeung
Lehman Brothers
1271 Avenue of the Americas
New York, NY 10020
Tel: (212) 526-4584
Fax: (646) 834-0721
email: andrew.yeung@lehman.com

-----Original Message-----
From: inaba_gail@jpmorgan.com [mailto:inaba_gail@jpmorgan.com]
Sent: Wednesday, September 10, 2008 6:46 AM
To: Yeung, Andrew
Cc: JAronson@bear.com; Miller, Jessica W; Nikki.G.Appel@chase.com; Peter.J.Wasserman@chase.com; Hespel, Paul W; mark.g.doctoroff@jpmorgan.com
Subject: RE: Execution Documents

Many thanks for all your efforts on this. We will await signed copies.
Best regards, Gail

"Yeung, Andrew"

<andrew.yeung@leh
man.com>

To

<inaba_gail@jpmorgan.com>

09/10/2008 06:30 AM

<Nikki.G.Appel@chase.com>

cc

<JAronson@bear.com>,

<Peter.J.Wasserman@chase.

"Miller, Jessica W"

<JMiller@goodwinprocter.c

"Hespel, Paul W"

<PHespel@goodwinprocter.c

Subject
RE: Execution Documents

Hi Gail,

We have no further comments to the agreements and I have sent them on to our executive officers for their final approval and signature. I will forward the signature pages to you upon receipt.

Best,

Andrew

Andrew M.W. Yeung
Lehman Brothers
1271 Avenue of the Americas
New York, NY 10020
Tel: (212) 526-4584
Fax: (646) 834-0721
email: andrew.yeung@lehman.com

-----Original Message-----
From: inaba_gail@jpmorgan.com [mailto:inaba_gail@jpmorgan.com]
Sent: Wednesday, September 10, 2008 5:56 AM
To: Yeung, Andrew
Cc: JAronson@bear.com; Peter.J.Wasserman@chase.com; inaba_gail@jpmorgan.com; Miller, Jessica W; Hespel, Paul W; Robert.T.Colleran@chase.com; genova_diane@jpmorgan.com; mark.g.doctoroff@jpmorgan.com; John.Vollkommer@chase.com
Subject: Execution Documents

Andrew, Attached are clean, execution versions of the Guaranty, the

Aurora Guaranty, the Security Agreement, the Amendment to the Clearance Agreement
and the Account Control Agreement. Apologies, we are experiencing systems
issues and can only send a clean version of the new Guaranty and
Amendment to the Clearance Agreement at this time. We will try to send marked
versions if we can recover the documents. Please let me know if we have
any outstanding issues. I appreciate your assistance in completing this
matter. Best, Gail

(See attached file: Guaranty Aurora Clean.DOC)(See attached file:
Guaranty Aurora Marked 9-09-08.DOC)(See attached file: Security
Agreement Clean 9-09-08.DOC)(See attached file: Security Agreement
Marked 9-09-08.DOC)(See attached file: Amendment to Clearance Clean
9-09-08.DOC)(See attached file:
Control Agreement Clean 9-09-08.DOC)(See attached file: Control
Agreement Marked 9-09-08.DOC) (See attached file: Guaranty 2 Clean
9-09-08.DOC)

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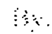
Document.pdf.zip

IN WITNESS WHEREOF, the Guarantor has caused this Guaranty to be duly executed and delivered by its authorized officer as of the date first above written.

LEHMAN BROTHERS HOLDINGS INC.



By:
Name: [illegible]
Title: [illegible]

Address

LEHMAN BROTHERS HOLDINGS INC.

By: [illegible signature]

Name: [illegible]

Title: [illegible]

JPMORGAN CHASE BANK, N.A. (for itself and on behalf of each of its subsidiaries and affiliates)

By: ______________________

Name:

Title:

ACKNOWLEDGED and AGREED TO:
as a Fund and Issuer of Shares

JP Morgan Liquid Assets Money Market Fund-Capital Shares

By: ______________________
Its: ______________________
Date: ______________________

ACKNOWLEDGED and AGREED TO:
as a Fund and Issuer of Shares

JP Morgan Tax Free Money Market Fund-Institutional Shares

By: ______________________
Its: ______________________
Date: ______________________

ACKNOWLEDGED and AGREED TO:
as a Fund and Issuer of Shares

JP Morgan Municipal Money Market Fund-Institutional Shares

By: ______________________
Its: ______________________
Date: ______________________

[illegible]
323098v2

AMENDMENT TO CLEARANCE AGREEMENT

WHEREAS, Lehman Brothers Inc., Lehman Commercial Paper Inc., Lehman Brothers Holdings Inc., Lehman Brothers International (Europe), Lehman Brothers OTC Derivatives Inc., and Lehman Brothers Japan Inc. (the "Customer" or "Customers") and JPMorgan Chase Bank, N.A. (formerly The Chase Manhattan Bank, the "Bank") have entered into that certain Clearance Agreement dated as of June 15, 2000, as amended by the Amendment to Clearance Agreement dated as of May 30, 2008 and as subsequently amended by the Amendment to Clearance Agreement dated as of August [illegible], 2008 (the "Agreement"); and

WHEREAS, the Customer and the Bank desire to amend the Agreement as set forth herein;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed as follows:

1. The first three lines of Section 11 of the Clearance Agreement shall be deleted in their entirety and replaced with the following:

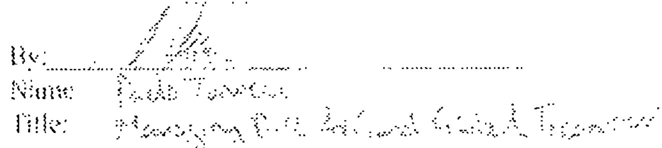
"In consideration of any credit, advances, loans or other financial accommodations we may extend to you and in order to induce us from time to time, in our discretion, to extend or continue to extend credit, clearing advances, clearing loans or other financial accommodations to any of the Customers and/or to transact business, trade or enter into derivative transactions with any of the Customers and as security for the payment of all of your existing or future indebtedness, obligations and liabilities of any kind to us including, without limitation, arising in connection with trades, derivative transactions, settlement of securities hereunder or any other business (hereinafter the "Obligations"), you hereby"

2. All other terms and conditions of the Agreement are hereby ratified, and the Agreement shall, except as expressly modified herein, continue in full force and effect.

3. This Amendment shall be governed by and construed in accordance with the laws of the State of New York without giving effect to the conflict of laws principles thereof.

IN WITNESS WHEREOF, the parties have caused their duly authorized representatives to execute this Amendment as of the 9th day of September, 2008.

LEHMAN BROTHERS INC.

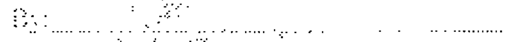


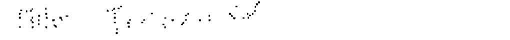
By: ______________________

Name:

Title:

[illegible]





LEHMAN BROTHERS HOLDINGS INC

By: ______________________________

Name:

Title:

LEHMAN BROTHERS INTERNATIONAL (EUROPE)

By: ______________________________

Name:

Title:

LEHMAN BROTHERS OTC DERIVATIVES INC

By: ______________________________

Name:

Title:

LEHMAN BROTHERS JAPAN INC

By: ______________________________

Name:

Title:

JPMORGAN CHASE BANK, N.A.

By: ______________________________

Name:

Title:

Title:

LEHMAN BROTHERS HOLDINGS INC

By:
Name:
Title:

LEHMAN BROTHERS INTERNATIONAL (EUROPE)

By:
Name
Title:

LEHMAN BROTHERS OTC DERIVATIVES INC.

By:
Name:
Title:

LEHMAN BROTHERS JAPAN INC.

By: [signature]
Name: GREGORY ITO
Title: AUTHORIZED SIGNATORY

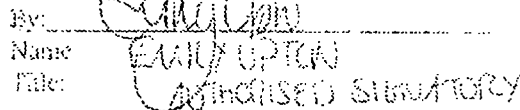
JPMORGAN CHASE BANK, N.A.

By:
Name:
Title:

LEHMAN BROTHERS HOLDINGS INC

By:__________________________
Name:
Title:

LEHMAN BROTHERS INTERNATIONAL (EUROPE)



By:__________________________
Name EMILY UPTON
Title: AUTHORISED SIGNATORY

LEHMAN BROTHERS OTC DERIVATIVES INC.

By:__________________________
Name:
Title:

LEHMAN BROTHERS JAPAN INC.

By:__________________________
Name:
Title:

JPMORGAN CHASE BANK, N.A.

By:__________________________
Name:
Title:

and all other notices and demands whatsoever, whether or not relating to such instruments.

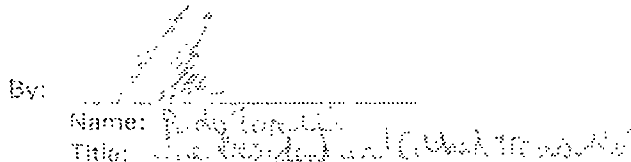
No provision hereof shall be modified or limited except by a written instrument expressly referring hereto and to the provision so modified or limited. This agreement shall be binding upon the assigns or successors of the undersigned, shall constitute a continuing agreement, applying to all future as well as existing transactions applying to all future as well as existing transactions, whether or not of the character contemplated at the date of this agreement, and if all transactions between the Bank and the undersigned shall be at any time closed, shall be equally applicable to any new transactions thereafter and shall be governed by and construed according to the internal laws of the State of New York without reference to principles of conflicts of laws. By the execution hereof the undersigned hereby submits to the jurisdiction of the Federal and State courts located in New York. The undersigned hereby consents to the service of process in any action or proceeding brought against it by the Bank by means of registered mail to the last known address of the undersigned. Nothing herein, however, shall prevent service of process by any other means recognized as valid by law within or without the State of New York. Unless the context otherwise requires, all terms used herein which are defined in the Uniform Commercial Code shall have the meanings therein stated. All references to agreements, guaranties, documents and other writings herein refer to such writings as the same may be hereafter amended, modified, supplemented and/or restated. At the request of the Bank, the undersigned agrees to do all other things which the Bank may deem necessary or advisable in order to perfect and preserve the security interest and to give effect to the rights granted to the Bank under this Agreement, including, without limitation, entering into or causing its affiliated banks to enter into, a "control agreement", or enable the Bank to comply with any applicable laws or regulations.

THE UNDERSIGNED HEREBY WAIVES AND AGREES TO WAIVE THE RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM INSTITUTED WITH RESPECT TO ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED TO THIS AGREEMENT.

New York, New York

LEHMAN BROTHERS HOLDINGS INC.

Dated: As of September 9, 2008



By: ______________________

Name: [illegible]

Title: [illegible]

the contrary, this Guaranty shall not affect or impair any other Guaranty made by the Guarantor in support of any of the obligations or liabilities of the Borrowers with respect to or in connection with extensions of credit or facilities other than those related hereto. This Guaranty shall become effective when it shall have been executed and delivered by the Guarantor to the Bank. Delivery of an executed signature page of this Guaranty by telecopy shall be effective as delivery of a manually executed signature page of this Guaranty.

IN WITNESS WHEREOF, the Guarantor has caused this Guaranty to be duly executed and delivered by its authorized officer as of the date first above written.

LEHMAN BROTHERS HOLDINGS INC.

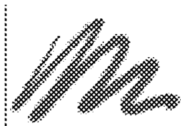
By: [illegible]

Name: [illegible]

Title:

Address:

TAB 34



Jane Buyers-Russo

09/12/2008
06:53 AM

To: Bryn Thomas/JPMCHASE@JPMCHASE1, Mark G Doctoroff/JPMCHASE@JPMCHASE1, Kelly A. Mathieson/JPMCHASE@JPMCHASE
cc: Russell Pudney/JPMCHASE@JPMCHASE, Audrey K Kong/JPMCHASE@JPMCHASE, Jakob Stott/JPMCHASE@JPMCHASE, Bill T Winters/JPMCHASE@JPMCHASE, Tushar R Morzaria/JPMCHASE@JPMCHASE
Subject: Re: Lehman Brothers TriParty Collateral

Jamie Dimon and Steve Black spoke with Fuld and Ian Lowitt last night.

Bill--we will be discussing at the 7am call.

Jane Buyers Russo, MD
JPMorgan Investment Bank
ACB/FIG Broker Dealer
383 Madison Ave, 35th Fl
NY NY 10179
212-622-8628
917-679-2680

----- Original Message -----
From: Bryn Thomas
Sent: 09/12/2008 11:46 AM CET
To: Mark Doctoroff; Jane Buyers-Russo; Kelly Mathieson
Cc: Russell Pudney; Audrey Kong; Jakob Stott; Bill Winters; Tushar Morzaria
Subject: Lehman Brothers TriParty Collateral

Please see email received from Lehman this morning.

The intraday line supporting the collateral management business was reduced last night from $2bn to $1.53bn following a credit and risk conference call late yesterday in NY. The actual amount of the reduction was not widely communicated internally and was not communicated to the client, as far as I was aware. Intraday lines are not normally communicated but as we know, with this particular business the client can see exactly what the limit is.

Russ and I informed Lehman in London of the reduction as soon as we were aware of the amount. This came as a surprise to the London team. They advised us yesterday that they had around $3bn of securities expected to be moving out of triparty and would be looking to use the $2bn intraday line supplemented by government securities and cash that they were going to move into the collateral programme to help facilitate the movements.

Without the full $2bn limit they claim that they are blocked on making deliveries into various international securities markets, all with varying settlement times. This will limit their ability to trade and move other securities as well as highten market unease as Lehman deliveries are delayed. They asked if there was any flexibility on the limit. We spoke with Kelly, Henry Steuart and Chris Carlin to see what can be done. It was mentioned that there is a 7am NY time credit conference call where this will be discussed. We informed Lehman what was happening and that decisions had been made at a very senior level in respect of the line. Nothing will change until after the 7am conference call. Whilst I was delivering this message, the attached email was sent from the Treasury Bank Relations Team at Lehman in London.

I have been speaking with Stirling Fielding, Director Cash and Securities Management, London Treasury and Huw Rees, Head of European Creditor Relations.

I have offered my apologies for the events but also reconfirmed that this is a fluid situation that is being monitored at the highest level within the bank.

I would appreciate your guidance on how we should respond to Lehman.

Thanks and regards, Bryn

Bryn Thomas
Executive Director
Broker Dealer Group
Telephone: 0207 325 6717

-----Original Message-----
From: Rees, Huw [mailto:hrees@lehman.com]
Sent: 12 September 2008 10:59
To: Audrey K Kong
Cc: Bryn Thomas
Subject: FW: JP Morgan as triparty agent

> Audrey
> We would appreciate your assistance in elevating our concern in the
> unadvised restriction in our Triparty settlement limits in Europe.
> Your colleague Bryn (copied) is seeking clarification from NY
> colleagues, but we need to speak with a senior representative in the
> EMEA region to underline the gravity of the situation.
> I would like a call to be set up with Andrew Wight - European CFO for
> Lehman Brothers with an appropriate contact with JP Morgan,. Andrew's
> normal contact is Mark (Garvin) who I understand is travelling
>
>
>
> Regards
>
> Huw G. Rees
> Head of European Creditor Relations
> Lehman Brothers
> 25 Bank Street, London E14 5LE.
> Tel: + 44 (0) 20 7102 2107
> Mobile: + 44 (0) 7917 084 034
>
>
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TAB 35

Jane Buyers-Russo

To "Paolo Tonucci" <ptonucci@lehman.com>
cc:
Subject: Fw. Letter to Lehman

09/11/2008
11:40 PM

Paolo, as discussed between senior management, attached please find notice from JPM to Lehman. Please feel free to call me on my cell in the morning to discuss. Thanks, JBR

Jane Buyers Russo, MD
JPMorgan Investment Bank
ACB/FIG Broker Dealer
383 Madison Ave, 35th Fl
NY NY 10179
212-622-8628
917-679-2680

Gail Inaba

----- Original Message -----

From: Gail Inaba
Sent: 09/11/2008 11:32 PM EDT
To: Jane Buyers-Russo
Subject: Letter to Lehman

Attached is the letter.

Revised notice re credit extension 9-11-08 Final.DOC.zip

Notice

Lehman Brothers Holdings Inc.
1271 Ave of the Americas
New York, NY 10020
Attn: Paolo Tonucci, Managing Director and Global Treasurer

This will confirm that Lehman Brothers Holdings Inc. will wire in immediately available funds, (i) US$5 billion plus (ii) an additional amount equal to or greater than the sum of all overdrafts incurred by Lehman Brothers Holdings Inc. or any of its affiliates in any accounts held at JPMorgan Chase Bank or any of its subsidiaries or affiliates to JPMorgan prior to opening of business in New York, New York on Friday, September 12, 2008. Such monies will be held by JPMorgan as collateral under the Security Agreement, dated September 9, 2008 between Lehman Brothers Holdings Inc and JPMorgan.

If JPMorgan does not receive such monies by opening of business tomorrow in New York, New York, pursuant to Section 5, Loans and Advances, of the Clearance Agreement (the "Agreement"), among Lehman Brothers Holdings Inc., Lehman Brothers Inc., Lehman Commercial Paper Inc., Lehman Brothers International (Europe), Lehman Brothers OTC Derivatives Inc., Lehman Brothers Japan Inc. (collectively, "Lehman"), and JPMorgan, executed as of June 7, 2000 by Lehman, as amended, and any applicable custodial undertaking, we intend to exercise our right to decline to extend credit to you under the Agreement.

This arrangement in no way affects or impairs any other rights JPMorgan or any affiliate or subsidiary ("JPMorgan Entities") may have and the JPMorgan Entities retain all of their rights and remedies, including but not limited to their rights to make margin calls, terminate transactions, amend credit terms, whether committed, advised, or unadvised, and declare an Event of Default should such event occur at any time.

If you have any questions, please feel free to contact Jane Buyers-Russo, Managing Director at (212) 622 8628.

By ____________________
Name: Jane Buyers-Russo

TAB 36

From: Tonucci, Paolo [paolo.tonucci@lehman.com]
Sent: Friday, September 12, 2008 10:03 AM (GMT)
To: Lowitt, Ian T [ilowitt@lehman.com]
Subject: Re: Deposit to jpm. Do we have ability to call it back at end of the day or could they hold it over weekend? Ian

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We should be be able to call back.

----- Original Message -----
From: Lowitt, Ian T
To: Tonucci, Paolo
Sent: Fri Sep 12 05:54:54 2008
Subject: Deposit to jpm. Do we have ability to call it back at end of the day or could they hold it over weekend? Ian

FOIA CONFIDENTIAL TREATMENT REQUESTED BY
LEHMAN BROTHERS HOLDINGS INC.