

## **Term Sheet for 23A Exemption for Lehman Brothers Commercial Bank (“Bank”)**

### Capital Ratios

Bank will maintain the following capital ratios: total capital of 12%, tier 1 risk-based of 10%, and tier 1 leverage of 9%. Bank will maintain these ratios for a period of four years after the granting of the exemption.

### Capital Contribution

Bank currently has approximately \$1 billion in capital. Lehman Brothers Holdings, Inc. (“Parent”) to contribute an additional \$4 billion, in the following form:

1. \$2 billion of cash or approved cash equivalents
2. \$2 billion of high-grade corporate loans

None of the assets contributed being contributed as capital will be low-quality assets as defined for purposes of the FRB’s Regulation W (“LQAs”). Note that part of the cash portion of the capital contribution will come from excess capital currently held by Lehman Brothers Bank, FSB, and extraction of this excess capital will require OTS approval, which we anticipate will be received.

Lehman Brothers will contribute \$1 billion of this capital immediately following approval of the exemption.

### Parent Indemnification or Repurchase Commitment

The Master Forward Agreement currently in place between Bank and Lehman Commercial Paper Inc. (“LCPI”), will apply to all assets transferred to Bank under the proposed 23A exemption. Elements of this agreement include:

1. Quarterly payments (or more frequently if required) by LCPI to Bank to make it whole for any diminution in the market value of all assets transferred to Bank from any Lehman Brothers affiliate.
2. If an asset becomes impaired, LCPI or any one of its affiliates will buy it back from Bank and make Bank whole for any diminution in market value.
3. Because LCPI is guaranteed by its parent, these obligations are also guaranteed by the parent.

Lehman Brothers will commit to the Federal Reserve that Bank and LCPI will continue to adhere to this Master Forward agreement for a period of four years following the granting of the requested exemption. In addition, Lehman Brothers will commit that the aggregate amount of any payments Bank makes to LCPI under the agreement as a result of any increases in the market value of a transferred asset will not exceed the aggregate amounts previously received by Bank from LCPI as a result of a decrease in the market value of the transferred asset.

### Assets Transferred

Lehman will transfer \$17.5 billion of assets to Bank pursuant to the exemption. None of the assets will be LQAs. The assets will be:

- Corporate Loans
- Commercial Real Estate Loans
  - US, Asian and European 1st Lien, B Notes, and Mezzanine

- US Real Estate Development and Land loans including 1st Liens, B notes and Mezzanine
- Real estate-secured corporate loans
- Reverse Mortgage Whole Loans
- Investment Grade Variable Rate Funding Notes
- Money Market Preferred
- Municipal SAVRS
- Derivatives receivables (investment grade counterparties)

Additional detail on these assets is included in the attached asset list.

#### Haircuts

All assets transferred to Bank pursuant to the exemption would be transferred at Lehman Brothers' estimate of their current market value as disclosed in its audited financial statements, minus a 5% haircut.

#### Lending Limit

The transfers will not cause the Bank to fall out of compliance with applicable lending limits.

#### Timing of Asset Transfer

Lehman Brothers would like to be able to conduct the asset transfers to Bank in phases over the course of one year. The capital to be contributed to Bank will also be conducted in phases, but at no time will the ratio of the value of assets transferred pursuant to the exemption to Bank's capital be higher than 3.5:1, and the amount of capital contributed on a periodic basis will comply with the percentages outlined above under "Capital Contribution."

#### Ex Ante Review

As per the Federal Reserve's comment, Lehman will provide for an ex ante review by Federal Reserve examiners of the assets transferred to Bank pursuant to the exemption.

#### FDIC

Relief by the FDIC from relevant restrictions of the Bank's *de novo* business plan.