

## **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%
- 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 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.

Parent will contribute, or cause to be contributed, \$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 Parent 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 Parent, these obligations are also guaranteed by Parent.

Parent 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, Parent 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.

Parent will collateralize its obligations to Bank under its guarantee of LCPI by pledging \$2 billion of corporate loans, commercial real estate and land loans, and securities to Bank as collateral for the guarantee. Parent will haircut the value of the

collateral by 15% from its market value at the time it is pledged. The guarantee will remain collateralized for four years following the granting of the requested exemption, although Parent would remove pledged collateral from the pool at the end of each year in proportion to any reduction in value of the transferred assets as a result of repayment or sale (not write-off). Regardless, collateral pledge will expire at the end of four years. (For example, if one year from the date of the exemption the value of the transferred assets has declined to \$14 billion (20%) as a result of repayments or sales of the assets, then Parent would remove \$400 million in pledged assets from the collateral pool. This process would be repeated at the end of the second and third years.)

#### 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
- 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 Parent's estimate of their current market value, minus a 5% haircut. The value of \$17.5 billion will be the value after application of the haircut.

#### Lending Limit

The Bank will remain in compliance with applicable lending limits requirements.

#### Timing of Asset Transfer

Parent 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 contributed 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, Parent will provide for an ex ante review by Federal Reserve, FDIC, or State of Utah examiners of the assets transferred to Bank pursuant to the exemption.

FDIC

A request will be submitted to the FDIC requesting approval to proceed with this transaction under the terms of the Bank's *de novo* business plan.