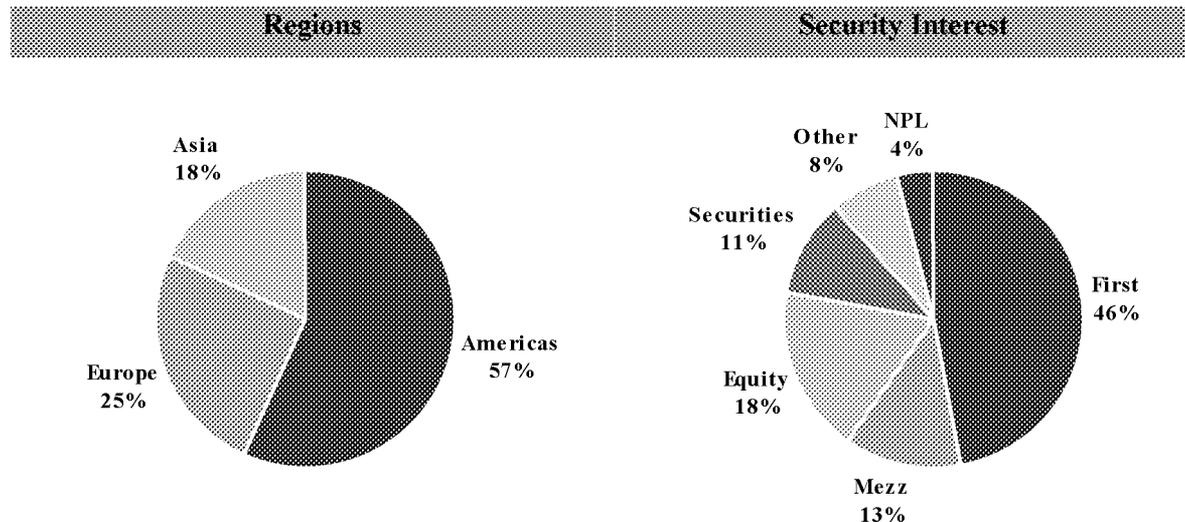


## SEC Talking Points:

### I. SPINCO OVERVIEW

#### *Asset Overview*

- SpinCo is currently being organized – the assets to be contributed to SpinCo are currently owned across a large number of domestic and foreign Lehman subsidiaries



- Overview of indicative portfolio concentration
  - 2,603 positions
  - Average position size of \$15.3 mm
  - Largest position is approximately 15% of total portfolio (Archstone, gross balance sheet exposure as of 5/31/08)

#### *Capitalization Overview*

- Approximately \$[35] bn in assets
- Approximately \$[10] bn in equity
- Approximately \$[25] bn in debt

#### *Governance Overview*

- SpinCo will be either internally or externally managed and have its own Board of Directors and executive officers
  - Lehman or any of its affiliates will not be the manager
- SpinCo will be managed to maximize the return to shareholders
  - It is unlikely, at least in the near term, that new real estate investments will be made

**II. TRANSACTION OVERVIEW**

- Substantially all of Lehman’s commercial real estate assets will become assets of SpinCo
- SpinCo equity securities will be distributed to Lehman shareholders, creating a standalone commercial real estate entity
- Lehman will initially provide necessary debt financing to SpinCo; it is expected that SpinCo will obtain external debt financing from other sources at a later point
- **It is expected that Lehman will not consolidate SpinCo**

**III. REQUESTS TO SEC**

**A. Expected Presentation of Financial Information**

- **We request that SpinCo not be required to present historical financial information**
- We believe this information would not be relevant to investors and we have concluded that the appropriate financial presentation would include (1) a current, audited opening balance sheet, (2) prospective financial statements (subject to “agreed upon procedures” from our auditors) [**can we attach the form of report that E&Y would issue**] and (3) detailed tabular information regarding the assets
- Let us explain the rationale for this conclusion:
  - Historically, virtually all of our real estate assets were managed on a discrete and transitory basis
  - The assets were acquired and are held by various domestic and foreign subsidiaries of Lehman and have not been, and it previously was not expected that they would be, administered as a whole or in significant groups
  - In contrast, spin-offs customarily involve separating a discrete business segment or business operation that has a meaningful operating history – this is vastly different – there is no operating history and the assets being brought together we acquired and managed separately
  - In addition, because these assets were acquired and managed on a disparate basis, financial statements do not exist for the assets as a whole or any [**significant**] subset of the assets
- To provide additional context for why we believe the financial presentation we expect to provide is appropriate and why we believe the relief we are requesting should be granted, let us (1) provide some background on how market realities have significantly affected our

approach to managing our real estate assets and (2) share with you some statistics that demonstrate that this is a “new” business where history is not irrelevant, it simply does not exist:

- Until recently, in the ordinary course of their businesses, various Lehman subsidiaries acquired an array of real estate assets that, in the majority of instances, were resold or transferred in the short term in whole or in part in connection with a wide array of transactions, including **[list examples – to come from REB / GREG]**
  - As mentioned earlier, the expected asset pool is both vast and diverse
    - Approximately \$[35] bn portfolio
    - Approximately 2,603 positions with an average size of \$15.3 mm
    - 57% U.S., 25% European, 18% Asian
  - **[In the current environment, many of these transaction types are not available and we do not expect them to be available in the near term]**
  - As a result, we believe the return to shareholders on our real estate assets we currently hold will be maximized by pooling the assets and managing that pool over a longer term. In essence, taking assets acquired at various times and for various purposes and starting a new business
  - With respect to our current real estate assets – the ones we expect to be held by SpinCo – these were originated and/or purchased at various points in time with approximately **[●]% acquired in the past year and [●]% acquired in past two years**
- In light of these factors – the diversity of the characteristics of the assets and the change in how we expect them to be managed – we have concluded, and our outside accountants and legal advisors agree, that historical financial statements would not be relevant or meaningful to investors
  - We also note that, even if we were to go down the road of attempting to prepare historical financial statements, because of the diversity of the characteristics of the assets and how they have been managed, there is no accounting predecessor to use as a starting point in preparing financial statements
- In reaching our conclusion we focused on what information is relevant to investors - to protect them and allow a transparent market to develop in the securities of SpinCo

- It is critical to us that the market has the information it needs to efficiently trade these securities and to allow investors to make an informed, investment decision
- As it relates to historical financial information, this situation is more akin to asset-backed securities offerings, which do not include historical financial statements
  
- As we outlined at the outset, we are asking for relief from the historical financial requirement (3 years of audited financial statements and 5 years of selected financial information) for SpinCo and focusing instead on the information that is relevant and material to investors:
  - Current audited, opening balance sheet
  - Prospective financial statements (subject to “agreed upon procedures” from our auditors) **[can we attach the form of report that E&Y would issue]**
  - Detailed tabular information on the assets
  - We’ve included some initial thoughts on the presentation of this information in the PowerPoint slides we will leave with you
  
- The only relevant precedent that we have found was Kearny Street Real Estate Company in 1993
  - Bank of America established Kearny Street to purchase loans and real estate assets from Bank of America with proceeds of an equity investment and the issuance of notes registered with the SEC
  - The SEC gave Kearny Street relief similar to what we are seeking
  - Given the unique facts of our situation and the fact that the only similar precedent we are aware of occurred fifteen years ago, granting a waiver should not set a difficult precedent
  
- **[Additionally, quarterly filings for fiscal year 2009 will have unaudited interim financials for the applicable current 2009 quarter, but may not have unaudited interim financials for corresponding 2008 quarter]**
  - **[The first Form 10-K with audited financials will be for fiscal year 2009]**
  
- There are other practical considerations that are motivating our request for relief
- In the event that we are required to provide 3 years of audited historical financials, even if we were able to form a basis for constructing these statements, we expect it would push timing back to at least Summer 2009

- We believe it is in the best interests of shareholders to announce this transaction as soon as practicable
- It also is important to shareholders that the expected timing from announcement to execution is not lengthy
  - We cannot announce on our September earnings call without comfort that we can complete the transaction within a short time frame

**B. Expedited Process**

- **Specifically to the previous point on timing, we would like to make an announcement about our commercial real estate assets in conjunction with our earnings release in September**
- **We are kindly requesting a response to our requests as soon as practicable**
  - **This would provide us with an appropriate amount of time to evaluate our alternatives in the context of your response, present the alternatives to our Board of Directors and work on the filing**
- We want to reiterate that we believe the timing of announcement is extremely important
- A very near-term announcement will provide the following benefits:
  - Preserves franchise value and marketplace standing for Lehman
  - For counterparties, allows Lehman to be viewed as a strong and stable counterparty on a going forward basis
  - Helps alleviate some of the perceived risk to the financial system in general
- Current internal goal is to complete the spin-off by our fiscal year end (November 30)
- Therefore, we would also request the ability for SpinCo to file its initial Form 10 without financials on which E&Y will have completed its agreed-upon procedures to streamline the process
  - Auditors can perform those agreed upon procedures while the SEC reviews the body of the Form 10
  - Subsequent filing of the Form 10 would include the agreed-upon financial information and the E&Y report