

William
Schlich/NewYork/AUDIT/EYL
LP/US

08/11/2008 07:16 AM

To "Langer, Michael J" <michael.langer@lehman.com>
cc Martin.kelly@lehman.com
bcc William Schlich/NewYork/AUDIT/EYLLP/US@EY-NAmerica
Subject Re: Latest Draft of SEC Talking Points

Comments on the SEC talking points

First I am happy to provide an example of an agreed upon procedures report. I do not think it will add anything and the SEC knows what to expect from an AUP letter from the accounting firm on proforma or prospective information. Secondly, the second to last bullet under *Capitalization Overview* the reference to Fin 46 should be deleted and it should say "the accounting conclusion is that Lehman will not consolidate SpinCo". Depending on the final capital structure this very well may not be a Fin 46 analysis/conclusion. I do think under the REQUEST TO SEC you should make the point that you view this as an accumulation and transfer of assets and not a purchase of a business. These assets will be managed differently than when they were owned by Lehman and Lehman has not exited a business. As it relates to the mortgage reit that I mentioned on the phone on Friday, while the SEC agreed that the transaction in question was the purchase of assets rather than a business and therefore the historical financial statements were not required, the transaction was never finalized. Therefore we cannot make reference to the client or the transaction. Finally, the last bullet under Expedited Process I think you mean to discuss the audit of the opening balance sheet rather than the agreed upon procedures on the prospective information.

Please feel free to call me at [Redacted] if you need any clarification on these comments. Also if you need me on any calls please send me the dial in information

thanks

Bill



Ernst & Young ®

Ernst & Young LLP

William J. Schlich | Partner- Americas Banking & Capital Markets Leader | Financial Services



Thank you for considering the environmental impact of printing emails.

"Langer, Michael J" <michael.langer@lehman.com>



"Langer, Michael J"
<michael.langer@lehman.com>

08/10/2008 12:05 PM

To "Clayton III, W. Jay" <ClaytonW@sullcrom.com>, "Downes, Robert W." <DownesR@sullcrom.com>, <william.schlich@ey.com>, "Berkenfeld, Steven" <sberkenf@lehman.com>, "Wieseneck, Larry" <lwiesene@lehman.com>, "Beeson, Lisa E"

EY-LE-LBHI-KEYPERS 0850862
CONFIDENTIAL



<lisa.beeson@lehman.com>, "Whitman, Brad"
<bwhitman@lehman.com>, "Kelly, Martin"
<martin.kelly@lehman.com>, "Genirs, Kevin"
<Kevin.Genirs@lehman.com>
cc "Kerstein, Daniel" <daniel.kerstein@lehman.com>,
"Wiegenfeld, Yoav" <yoav.wiegenfeld@lehman.com>
Subject Latest Draft of SEC Talking Points

Attached please find the latest draft of the SEC talking points for Tuesday's meeting. This draft reflects the comments from Friday afternoon's conference call. There are two items to note as you go through this draft. First, we have been intentionally vague on operating company vs. liquidating trust to keep our alternatives open. Please let us know if you think we should take a different approach and go into more detail on this topic or highlight the benefits of one over the other. Second, any sections that are bracketed and highlighted in bold are points that need to be discussed, so please let us know your thoughts on these points specifically (wording, content, etc.) in addition to any comments on the rest of the document.

Please send any comments this afternoon or this evening. I can also send around a dial-in for a discussion at some point today or tonight if that would be easier. We would like to send out the next draft to the broader team for first thing tomorrow morning. Thanks a lot.

Regards,
Mike

<<SEC Talking Points 8-10-08_v2.doc>>
Michael Langer
Lehman Brothers
Global Finance Solutions
(212) 526-4505
milanger@lehman.com

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.

IRS Circular 230 Disclosure:
Please be advised that any discussion of U.S. tax matters contained within this communication (including any attachments) is not intended or written to be used and cannot be used for the purpose of (i) avoiding U.S. tax related

penalties or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.



SEC Talking Points 8-10-08_v2.doc