

Public Employees' Retirement Board

January 20, 2015

Topic: Lehman Brothers Settlement

See the attached PIMCO email dated January 9, 2015 for detailed information on the settlement information.

Staff Recommendation:

Accept PIMCO's recommendation to settle the Lehman Brothers claim.

Board Motion:

Uphold Staff Recommendation to agree to the settlement claim.

Other.

Moved by

Seconded by

Vote

Davis, Patty (MPERA)

From: Fulford, Rick <rick.fulford@pimco.com>
Sent: Friday, January 09, 2015 11:40 AM
To: Davis, Patty (MPERA)
Cc: Gorman, Brett; Talcott, Sasha
Subject: Montana Public Retirement Administration - LBI Claim Settlement - Client Action Requested
Attachments: LBI Power of Attorney.doc; Form W 9.pdf; LBI OFAC Form.pdf; Lehman Brothers Inc Offer Report 1420.pdf

Hi Patty,

Good morning. This email provides **important** and **time sensitive** information related to your claim against Lehman Brothers Inc. ("**LBI**"), the US broker-dealer, in connection with LBI's insolvency proceeding. PIMCO has negotiated a settlement ("**Settlement**") of your claim that will result in your receiving a recovery that is higher than the current general creditor market value of your claim. PIMCO recommends that you accept the Settlement. To accept the Settlement, please sign the enclosed Letter of Authority and Power of Attorney authorizing PIMCO to execute the Settlement on your behalf, and return them to PIMCO by **January 23, 2015**.

The Settlement only pertains to your LBI claims relating to your PIMCO account exposures.

The Settlement

At the time of LBI's insolvency, your PIMCO account had open transactions with LBI and you had posted collateral to LBI, resulting in a net amount that was payable by the LBI estate to you. In 2009, we provided information to you to file a claim for the amount that LBI owed to you. As a protective measure, PIMCO advised you and other clients to file the claims as "customer claims," which are expected to have a higher recovery than general creditor claims.

The LBI bankruptcy trustee ("**Trustee**") disputes both the amount of your claim and that your claim should be treated as a customer claim rather than a general creditor claim. Nevertheless, after diligent reconciliation and extensive negotiation with the Trustee, PIMCO negotiated the Settlement with the Trustee on economic terms better than a general creditor claim. Under the Settlement, your Proof of Claim will be treated as a general unsecured claim in the same amount that PIMCO calculated and provided to you previously (the "**Agreed Claim**") and the LBI estate will pay you an additional cash payment (the "**Additional Payment**") to settle the dispute regarding treatment of your claim. Both the Agreed Claim and Additional Payment are set out in the attached Offer Report. It currently is estimated, based on the distribution information publicly available, that the Settlement will result in an aggregate recovery of approximately 56% of the Agreed Claim as opposed to a recovery of approximately 42% for general unsecured claims against LBI. **PIMCO believes that the Settlement is favorable to you and will facilitate prompt payments by LBI and, therefore, PIMCO recommends that you accept the Settlement.** The Settlement is subject to approval by the Bankruptcy Court that oversees the LBI proceeding.

If the Settlement is not accepted by a sufficient number of PIMCO clients (subject to the Trustee's discretion), the Settlement offer will be void and the Trustee will seek to contest in court your claim and those of other PIMCO accounts eligible to participate in the Settlement. In that case, clients will not receive the Additional Payment and clients will not receive any distributions for their LBI claims unless they negotiate a separate settlement with the LBI Trustee or resolve their claims in court.

PIMCO believes that all or substantially all of its eligible clients will accept the Settlement.

If the Settlement is accepted by a sufficient number of PIMCO clients, PIMCO will execute a settlement agreement (the "**Agreement**") with the Trustee on behalf of such clients. The Agreement contains a release of the respective obligations of LBI and your PIMCO account to each other.

The Settlement will fully and finally resolve the claim that you filed against LBI in its entirety. If you filed a claim that includes any other amounts or exposures other than claims relating to your PIMCO account exposures, please contact us as soon as possible.

Payment and Distributions

Payment of the Additional Payment and for your Agreed Claim will be made separately by check; however, it is not yet known when payments will occur. Distributions on the Agreed Claim are expected to be paid in at least two installments. The first installment will be in the amount of approximately 17% of the Agreed Claim. All checks will be sent to the address you included in your LBI claim form filed in 2009. If you wish to have checks sent to a different address, please let us know by **January 23, 2015**.

Rejecting the Settlement

PIMCO recommends that you accept the Settlement because you will receive greater than current market value for a general creditor claim. If you do not accept the Settlement you will not receive the Additional Payment as provided in the Settlement and your claim will not be eligible at this time to receive distributions. **PIMCO cannot give any assurance as to how your claim will be resolved if you do not accept the Settlement. PIMCO believes that LBI would take action in court to resolve your claim on terms less favorable than those in the current Settlement. If you do not accept the Settlement you will need to negotiate separately with LBI or resolve your claim in court.**

Necessary Documents

If you accept the Settlement, PIMCO will execute the Agreement on your behalf.

Attached are a Letter of Authority and Power of Attorney authorizing PIMCO to execute the Agreement on your behalf. In addition, the Trustee will only make payments if it has received the applicable tax form (e.g., a form W-8 or W-9) ("**Tax Form**") and certification regarding the Office of Foreign Assets Control of the U.S. Department of the Treasury ("**OFAC Certification**").

Please return the Letter of Authority and Power of Attorney, the Tax Form and the OFAC Certification to PIMCO no later than January 23, 2015.

Please send these documents to:

Wesley A. Sasser

Vice President, Legal & Compliance
PIMCO
650 Newport Center Drive
Newport Beach, CA 92660
+1 949.720.4716
wesley.sasser@pimco.com

Legal Counsel

The bankruptcy proceedings of LBI involve complex legal issues and claims against the LBI estate depend on each client's individual facts and circumstances. You may wish to consult your legal counsel. Your decision to accept the Settlement depends on your individual facts and circumstances.

As always, please let us know if you have any questions or would like to discuss this in more detail.

Sincerely,

Rick and Sasha

January __, 2014

By signing this letter, _____ (the "Client") authorizes Pacific Investment Management Company LLC ("PIMCO") to act on its behalf to do any of those acts identified and set forth in paragraphs 1-4 on the attached Power of Attorney itself or by any attorney or advisor instructed by PIMCO (collectively, the "Claim Activities") and agrees to the provisions set forth in paragraphs 1-7 below.

1. Power of Attorney. The Client agrees to execute and send back to PIMCO the attached Power of Attorney.
2. Cooperation. The Client agrees to cooperate with any reasonable requests by PIMCO to provide PIMCO any instructions, information or documents it may need. The Client will inform PIMCO if it becomes aware that any of the information provided is inaccurate or incomplete.
3. Advisers. PIMCO may retain one or more law firms and other professionals and experts (each, an "Adviser") in connection with the Claim Activities. The Advisers will be instructed solely by PIMCO. The Client authorizes PIMCO to waive potential or actual conflicts of interest of Advisers regarding the Claim Activities. PIMCO will bear the reasonable costs incurred by the Advisers regarding the Claim Activities, but may approach the Client if there are any additional costs.
4. Acknowledgements and Release. Client understands that PIMCO will perform the Claim Activities only for Client's PIMCO claim against LBI arising from transactions managed by PIMCO (the "Claim"), not for any other claims Client may have arising from trading or other activities conducted by Client or Client's agents with LBI or any of its affiliates (the "Lehman Entities"). Client understands that it may lose benefits of making and pursuing claims itself (e.g., timing, amounts of distributions, offset of amounts that it owes). Client understands that the Claim Activities involve fully and finally resolving the proof of claim filed by the Client against LBI (the "Proof of Claim") whether or not such Proof of Claim includes amounts arising from trading or other activities conducted by Client or other agents. Client acknowledges that PIMCO will enter into similar arrangements with its other clients and consequently may take common positions that, in its judgment, would benefit all its clients. Such positions could have a negative impact on Client's particular Claim. Client waives and releases PIMCO and its Advisers, and their respective shareholders, affiliates, advisers, directors, officers and employees from any and all demands, claims, suits and damages of any type whatsoever that Client has or that relate in any way to the Claim Activities or any act or omission by PIMCO in connection with the Claim Activities, unless caused by the gross negligence or willful misconduct of PIMCO or its Advisers.
5. PIMCO's Role. PIMCO agrees that it will perform the Claim Activities after Client has signed and returned this letter and the Power of Attorney.
6. Termination. Client may terminate this agreement at any time and PIMCO may terminate this agreement on giving Client at least 30 days' notice. Upon termination, Client will become responsible for its own expenses in settling its Claim. Client acknowledges that the Advisers may

POWER OF ATTORNEY

_____ of
_____ ("**Grantor**")

hereby constitutes and appoints Pacific Investment Management Company LLC ("**PIMCO**"), a Delaware limited liability company having its principal place of business at 650 Newport Center Drive, Newport Beach, CA 92660 as Grantor's true and lawful attorney-in-fact with full authority to act on Grantor's behalf to do any of the following itself or by any attorney or advisor instructed by PIMCO:

1. accept the negotiated settlement (the "**Settlement**") with the Trustee (the "**Trustee**") for Lehman Brothers Inc. ("**LBI**") to:
 - (a) fix the value of Grantor's claim arising from transactions managed by PIMCO ("**Claim**") on Grantor's behalf with Lehman Brothers Inc. ("**LBI**");
 - (b) accept that certain payment (the "**Payment**") in settlement of various legal and commercial issues in connection with the Claim; and
 - (c) fully and finally resolve the proof of claim filed by the Grantor against LBI (the "**Proof of Claim**") and authorize the withdrawal of any objections to the Trustee's prior determination(s) regarding the Proof of Claim.
2. negotiate and execute an agreement (the "**Settlement Agreement**") memorializing the Settlement;
3. to deal with (a) LBI or any of its affiliates (together, the "**Lehman Entities**") or any trustee, administrator, or government entity or other person having authority to act with respect to a Lehman Entity or in the applicable insolvency proceedings (any such person, a "**Lehman Representative**"); and (b) the United States Bankruptcy Court for the Southern District of New York (the "**Court**"), to obtain approval of the Settlement and the Settlement Agreement by the Court; and
4. to deal with LBI, any Lehman Entities, any Lehman Representative, or the Court to resolve inquiries and documentation requests related to Grantor's Claim, the Settlement and the Settlement Agreement.

Grantor hereby ratifies, confirms and approves and adopts as acts of Grantor any and all actions taken by PIMCO hereunder and undertakes to ratify and confirm all actions to be taken by PIMCO within the scope of the authority given above.

IN WITNESS WHEREOF, this Power of Attorney has been executed this ____ day of _____, 201_.

CERTIFICATION REGARDING STATUS
[OFAC Certification]

Creditor Name:

Claim Number(s):

I, the undersigned, am the above-referenced creditor, or an authorized signatory for the above-referenced creditor (the "Creditor"), and hereby certify that neither the Creditor nor, to the best of the Creditor's knowledge, any person or entity for whom the Creditor may be acting or who may be the beneficial owner of the applicable claim(s), security/(ies), or interest(s) is a person or entity with whom it is illegal for a U.S. person to transact under the OFAC sanctions regulations and the list of Specially Designated Nationals and Blocked Persons.

Dated: _____

Signature

Print Name

Title (if applicable)

Offer Report

PIMCO Account Number: 1420 Account Name: State of Montana Public Employee Deferred Comp Plan Account Base Currency: USD

LehmanBrothers, Inc

Lehman Brothers, Inc Agreed Claim Amount ⁸ 1,522,878
 Indicative Distribution Amount Based on 42% Recovery ⁹ 639,609
 Lehman Brothers, Inc Additional Cash Payment Amount ¹⁰ 221,985
 Estimated Total Settlement Recovery Amount (in USD) ^{9,10} 861,593

Counterparty Exposure

Master Forward Transactions (agreement dated October 15, 1999)

Type ¹	Transaction Description [Rec(Pay) Methodology] ²	Security Identifier	Sec Type ⁴	Security Description	Trans Code ⁵	Trade Date	Settle Date	Trans Curr	Quantity	Price	Proceeds in Trans Curr	Rec(Pay) in Trans Curr	Rec(Pay) in USD ⁶	Rec(Pay) in Base Curr
OP	Original Trade (Pairoff)	912827710	TSY	U S TREASURY NOTE	SF	8/28/2008	9/26/2008	USD	17,500,000	106.72238	18,676,417			
OP	Original Trade (Pairoff)	912827710	TSY	U S TREASURY NOTE	B	9/19/2008	9/26/2008	USD	17,500,000	106.72238	-18,676,417			
OP	Net							USD				0	0	0
OP	Original Trade	01F0506A9	MPT	FNMA TBA 5.00% OCT	B	9/8/2008	10/14/2008	USD	1,000,000	98.54688	-985,463			
OP	Termination (Broker Quote)	01F0506A9	MPT	FNMA TBA 5.00% OCT				USD	1,000,000	98.09375	980,938			
OP	Net	01F0506A9	MPT	FNMA TBA 5.00% OCT				USD				-4,531	-4,531	-4,531
OP	Original Trade	01N050693	MPT	GNMA I TBA 5% SEPT	S	8/13/2008	9/22/2008	USD	1,000,000	95.70313	957,031			
OP	Termination (Broker Quote)	01N050693	MPT	GNMA I TBA 5% SEPT				USD	1,000,000	98.67183	-986,719			
OP	Net	01N050693	MPT	GNMA I TBA 5% SEPT				USD				-29,688	-29,688	-29,688
OP	Original Trade	912828A9	TSY	U S TREASURY NOTE	SF	9/2/2008	10/3/2008	USD	5,400,000	105.80091	5,713,249			
OP	Termination (Broker Quote)	912828A9	TSY	U S TREASURY NOTE				USD	5,400,000	105.48600	-5,696,244			
OP	Net	912828A9	TSY	U S TREASURY NOTE				USD				17,005	17,005	17,005
OP	Original Trade	912828BA7	TSY	U S TREASURY NOTE	SF	9/4/2008	10/7/2008	USD	1,800,000	103.30974	1,859,575			
OP	Termination (Broker Quote)	912828BA7	TSY	U S TREASURY NOTE				USD	1,800,000	102.02344	-1,836,422			
OP	Net	912828BA7	TSY	U S TREASURY NOTE				USD				23,153	23,153	23,153
OP	Original Trade	912828HZ6	TSY	U S TREASURY NOTE	SF	8/19/2008	9/29/2008	USD	16,900,000	100.19009	16,932,125			
OP	Termination (Broker Quote)	912828HZ6	TSY	U S TREASURY NOTE				USD	16,900,000	99.50000	-16,815,500			
OP	Net	912828HZ6	TSY	U S TREASURY NOTE				USD				116,625	116,625	116,625

Notes:

- FT - Failed trade scheduled to settle prior to bankruptcy but failed; OP - Open position at bankruptcy; CO - Collateral; UC - Unsettled Collateral; SC - Seized Collateral; RC - Repo Collateral; RP - Open repurchase agreement; OD - Overdraft; AI - Accrued interest.
- Rec(Pay) methodology refers to one of the following methods used to calculate rec(pay): Broker Quote, Replacement Trade, and Pairoff (characterized as a combination of related buy and sell transactions, unsettled as of the Lehman bankruptcy).
- Source data obtained from paper confirms (Lehman Effort ID) and DTCC files (Contra Reference ID).
- ABS - Asset Backed Security; BKL - Bank Loan; CAB - Interest Rate Cap; CDSW - Credit Default Swap; CORP - Corporate Bond; COSW - Commodity Index Swap; CURR - Currency; IRSW - Interest Rate Swap; MPT - Mortgage Pass Through; OPTN - Option; REPO - Repurchase Agreement; RRP - Reverse Repurchase Agreement; SWOP - Swapion; SWTR - Total Return Swap; TSY - Sovereign Bond (Domestic or Foreign); VARS - Variance Swap.
- B - Buy; S - Sell; BC - Buy currency; SC - Sell currency; B2O - Buy to open; S2O - Sell to open; BCI - Broker collateral in; COO - Client collateral out; B2C - Buy to close; S2C - Sell to close; SF - Sell forward; IP - Interest payment; NIP - Negative interest payment.
- A negative number represents an amount payable to the respective Lehman entity, while a positive number represents an amount receivable from the respective Lehman entity. However, irrespective of their values, trades that are not documented under a master agreement do not result in a payable for purposes of calculating any exposure amounts.
- Where available, sufficient collateral was seized to satisfy the receivable. If the collateral was in the form of U.S. Treasury Bills, those securities were liquidated to ascertain a collateral valuation.
- To the extent applicable, the claim was adjusted to take into account the set off of amounts (if any) between PIMCO accounts.
- 42% recovery based on approximate secondary market value of LBI general creditor claims as at December 23, 2014.
- Represents your share of the additional payment based on your collateral claim.

Offer Report

PIMCO Account Number: 1420 Account Name: State of Montana Public Employee Deferred Comp Plan Account Base Currency: USD

Counterparty Exposure

Master Forward Transactions (agreement dated October 15, 1999)														
Type ¹	Transaction Description [Rec(Pay) Methodology] ²	Security Identifier	Sec Type ⁴	Security Description	Trans Code ⁵	Trade Date	Settle Date	Trans Curr	Quantity	Price	Proceeds in Trans Curr	Rec(Pay) in Trans Curr	Rec(Pay) in USD ⁶	Rec(Pay) in Base Curr
OP	Original Trade	912828ICS	TSY	U S TREASURY NOTE	SF	9/4/2008	10/7/2008	USD	200,000	101.18011	202,360			
OP	Termination (Broker Quote)	912828ICS	TSY	U S TREASURY NOTE				USD	200,000	101.02344	-202,047			
OP	Net	912828ICS	TSY	U S TREASURY NOTE				USD				313	313	313
Total Before Collateral Rec(Pay)												122,878	122,878	122,878
CO	CCO - Client Collateral Pledged	CSLHDIUS		CASH COLLATERAL DOM MSF SLH USD				USD	1,400,000	100.00000	1,400,000		1,400,000	1,400,000
CO	Net							USD					1,400,000	1,400,000
Total Collateral Rec(Pay)												1,400,000	1,400,000	1,400,000
Total Master Forward Rec(Pay)												1,522,878	1,522,878	1,522,878

Lehman Brothers, Inc Final Exposure Amount

1,522,878

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- 6 A negative number represents an amount payable to the respective Lehman entity, while a positive number represents an amount receivable from the respective Lehman entity. However, irrespective of their values, trades that are not documented under a master agreement do not result in a payable for purposes of calculating any exposure amounts.
- 7 Where available, sufficient collateral was seized to satisfy the receivable. If the collateral was in the form of U.S. Treasury Bills, those securities were liquidated to ascertain a collateral valuation.
- 8 To the extent applicable, the claim was adjusted to take into account the set off of amounts (if any) between PIMCO accounts.
- 9 42% recovery based on approximate secondary market value of LBI general creditor claims as at December 23, 2014.
- 10 Represents your share of the additional payment based on your collateral claim.