

Our Ref JMC/WGS/OGH/MGE/D00112AL/PF7

## **TO THE CREDITORS AND MEMBERS**

11 November 2011

Dear Sirs

**Grant Thornton UK LLP**  
30 Finsbury Square  
London EC2P 2YU

[www.grant-thornton.co.uk](http://www.grant-thornton.co.uk)

### **Defined Returns Limited - In Creditors' Voluntary Liquidation (the Company)**

#### **1 Introduction**

1.1 Following the appointment of Andrew Hosking and I as joint administrators of the Company on 14 October 2009 and subsequently as joint liquidators on 28 September 2010, in accordance with section 104A of the Insolvency Act 1986, I now report on the progress of the liquidation for the year ended 27 September 2011 and attach:

- Appendix A, an account of our receipts and payments for the year ended 27 September 2011
- Appendix B, a statement of the remuneration charged by the joint liquidators in the period 28 September 2010 to 27 September 2011 and a statement of expenses incurred in the period
- Appendix C, an analysis of time costs as required by Statement of Insolvency Practice 9

1.2 Please note that Andrew Hosking and I are both authorised by The Insolvency Practitioners Association to act as insolvency practitioners.

#### **2 Statutory information**

2.1 The Company's statutory details are as follows:

|                   |   |
|-------------------|---|
| Registered number | 04991156  |
| Registered office | c/o Grant Thornton UK LLP<br>30 Finsbury Square<br>London<br>EC2P 2YU |

#### **3 Progress report**

3.1 No statement of affairs has been prepared for the liquidation. The only asset is the balance transferred from the administration of £71,445.22.

3.2 There are no preferential creditors in this matter.

- 3.3 As you are aware, the Company's insolvency arose as a result of claims from investors that the Company's literature, in respect of structured products where Lehman Brothers entities acted as counter-party, did not adequately warn investors as to the risks of counter-party failure.
- 3.4 You will also be aware that, in dealing with investors' claims for compensation, the Financial Services Compensation Scheme (FSCS) has drawn a distinction between 'capital secure' and 'capital at risk' products. The legal advice I have received from Counsel has drawn no such distinction. Therefore, I consider that investors in both plans are unsecured creditors. This results in significant unsecured creditors arising as a result of the failure of Lehman Entities, amounting to a theoretical maximum of c.£23m.
- 3.5 A further c.8 creditors which are not related to the Lehman backed structured products also have claims estimated to total £39,929.
- 3.6 Unfortunately, it is unlikely that there will be sufficient funds available for a distribution to be made to creditors. With the exception of cash at bank at the time of my appointment, the Company had no other realisable assets. On this basis, any distribution to unsecured creditors will be of negligible value to investors.
- 3.7 As previously advised, I have submitted a claim in the insolvency of Lehman Brothers Inc, Lehman Brothers Security N.V. and Lehman Brothers Treasury Co B.V.. I am currently liaising with Brewin Dolphin (the legal, albeit not beneficial, owners of the notes), my legal advisors and the trustees of the bankrupt estates to ensure that all claims are properly lodged. However, I have not yet been furnished with any information from the Lehman Brothers' insolvencies as to when a distribution may be made.

#### **4 Joint liquidators' remuneration and expenses**

- 4.1 In accordance with Statement of Insolvency Practice (SIP 9), I attach as Appendix C a summary of my time costs to 27 September 2011 by grade of staff and type of work. This shows total time costs of £20,432.30, representing 72.84 hours at an average of £280.51 per hour.
- 4.2 As detailed in Appendix B, no remuneration has been drawn for the period ending 27 September 2011.

#### **5 Other expenses incurred by the joint liquidators**

- 5.1 I attach as Appendix B a statement of the remuneration charged by the joint liquidators and a statement of expenses incurred in the period 28 September 2010 to 27 September 2011.
- 5.2 All expenses incurred in the period have been paid. These include legal fees of £7,989 to Osborne Clarke and £2,074 of VAT, which is irrecoverable due to the Company's partially exempt VAT status.

## **6 Other matters**

- 6.1 Enclosed with this report you will also find notification of a creditors meeting. The meeting has been called for three reasons;
- a the appointment of another joint liquidator to replace Mr Hosking, and
  - b for the joint liquidators to draw remuneration on a time-cost basis.
- 6.2 There is no requirement to attend the meeting in person or via proxy. However, the relevant notices and proxy form are enclosed.

Yours faithfully  
for and on behalf of Defined Returns Limited



*ME* Martin Ellis  
Joint Liquidator

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Enc

**The Insolvency Act 1986**

**Liquidator's Statement of Receipts and Payments**

**S. 192**

**Pursuant to section 192 of the Insolvency Act 1986**

To the Registrar of Companies

For official use

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|  |  |  |
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**FOR USE ONLY FOR PERIODS ENDING BEFORE 6 APRIL 2010**

Company Number

04991156

Name of Company

(a) Insert full name of company

(a) Defined Returns Limited – In Creditors' Voluntary Liquidation

(b) Insert full name(s) and address(es)

I/We (b)  
Martin Gilbert Ellis & Andrew Lawrence Hosking of  
Grant Thornton UK LLP  
30 Finsbury Square  
London  
EC2P 2YU

The joint liquidator(s) of the company attach a copy of ~~my~~our statement of receipts and payments under section 192 of the Insolvency Act 1986

Signed

*Martin Gilbert Ellis*

Date

*11/11/2011*

Presenter's name, address and reference (if any)

Our Ref JMC/WGS/OGH/MGE/D00112AL/PF7

**For Official Use**

Liquidation Section

Post Room

**Defined Returns Limited - In Creditors' Voluntary Liquidation****Joint liquidators' Abstract Of Receipts And Payments  
for the period 28 September 2010 to 27 September 2011**

| <b>RECEIPTS</b>                 | <b>Total (£)</b> |
|---------------------------------|------------------|
| Admin/Receiver Surplus          | 71,445           |
| Cash at Bank                    | 55               |
|                                 | <hr/>            |
|                                 | 71,501           |
| <br><b>PAYMENTS</b>             |                  |
| Advertising                     | 70               |
| Postages                        | 3,792            |
| DTI Cheque Fees                 | 4                |
| ISA Account Fees                | 69               |
| Legal Fees - Osborne Clarke LLP | 7,989            |
| VAT paid                        | 2,074            |
|                                 | <hr/>            |
|                                 | 13,998           |
|                                 | <hr/>            |
| Balances in Hand                | 57,503           |

**Remuneration charged and expenses incurred by the joint liquidators in the period 28 September 2010 to 27 September 2011**

|                          | Paid in<br>period of<br>report | Accrued<br>in period<br>but not<br>yet paid | Total         |
|--------------------------|--------------------------------|---|---------------|
|                          | £                              | £   | £             |
| Trading expenses         | 3,935                          |   | 3,935         |
| VAT                      | 2,074                          |   | 2,074         |
| Joint liquidators' fees: |                                |   |               |
| Time costs               |                                | 20,432                                      | 20,432        |
| Legal fees:              |                                |   |               |
| Osborne Clarke LLP       | 7,989                          |   | 7,989         |
|                          | <u>13,998</u>                  | <u>20,432</u>                               | <u>34,430</u> |

Defined Returns Limited - In Creditors' Voluntary Liquidation  
SIP 9 Timecost Analysis for the period 28 September 2010 to 27 September 2011

|                             | Partner |   | Manager      |                  | Executive    |                 | Administrator |                 | Total        |                  |               |
|-----------------------------|---------|---|--------------|------------------|--------------|-----------------|---------------|-----------------|--------------|------------------|---------------|
|                             | Hrs     | £ | Hrs          | £                | Hrs          | £               | Hrs           | £               | Hrs          | £                |               |
| Administration and Planning | -       | - | 26.10        | 10,353.75        | 24.74        | 5,211.30        | 12.00         | 2,075.75        | 62.84        | 17,640.80        | 280.73        |
| Creditors                   | -       | - | 2.75         | 1,032.50         | 0.40         | 96.00           | 2.25          | 438.75          | 5.40         | 1,567.25         | 290.23        |
| Investigations              | -       | - | -            | -                | 1.00         | 240.00          | 0.65          | 126.75          | 1.65         | 366.75           | 222.27        |
| Realisation of Assets       | -       | - | 1.00         | 372.50           | 0.70         | 138.00          | 0.40          | 78.00           | 2.10         | 588.50           | 280.24        |
| Trading                     | -       | - | 0.75         | 255.00           | -            | -               | 0.10          | 14.00           | 0.85         | 269.00           | 316.47        |
| <b>Total</b>                | -       | - | <b>30.60</b> | <b>12,013.75</b> | <b>26.84</b> | <b>5,685.30</b> | <b>15.40</b>  | <b>2,733.25</b> | <b>72.84</b> | <b>20,432.30</b> | <b>280.51</b> |

Administration & Planning

Includes; case planning; statutory obligations (e.g statutory returns); maintenance of cash and estate records; general correspondence, investor correspondence and liaising with HM Revenue & Customs, the Financial Services Authority and the Financial Services Compensation Scheme.

Creditors

Includes; correspondence with preferential and unsecured creditors; dealing with ROT claims; pensions and employees.

Investigations and Reports on Directors

Includes; Statutory duty of investigation into company's affairs under Statement of Insolvency Practice (SIP2); investigating the directors conduct, and reconciliation of client accounts, in compliance with FSA regulations.

Realisation of Assets

Includes; dealing with the sale of the business and the assets of the Company; dealing with Solicitors.

Trading

Includes; working with OPAL on the daily trading of the plans, working on RBS products, and dealing with investor queries in relation to ongoing products.