

# MACFARLANES

## HEDGE FUNDS: WEEKLY BRIEFING

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30 MARCH 2015

◆ **Lehman**

In the context of what appears may be an eventual surplus after payment of proved debts, the High Court is due to decide various ancillary questions posed by the joint administrators of Lehman Brothers International (Europe). These include: (i) quantification of statutory interest and its interrelation with the time taken to discharge claims; (ii) whether currency conversion claims exist in certain circumstances and the quantification of those claims; and (iii) how to proceed where a single figure compromise has been reached on a series of claims by the same creditor, containing different interest rates and currencies.

◆ **ICAV**

The first Irish Collective Asset Management Vehicle incorporated in Ireland is on the cusp of being launched on behalf of the Permal Group, which intends to migrate part of its current BVI managed account platform to Ireland. This new structure has been designed to be a best of breed vehicle for the investment funds industry, with corporate personality, statutory ringfencing between sub-funds, ability to check the box for US tax and a bespoke constitutional regime. The Irish fund industry is expecting it to become the vehicle of choice for new launches. We are pleased to be helping Permal put in place the trading and financing documents on behalf of their ICAV to ensure that following the migration, the appropriate trading and financing lines are in place for each manager.

◆ **Revised start dates for non-cleared derivatives margin rules**

The Basel Committee on Banking Supervision and the International Organization of Securities Commissions have revised their framework for changes to the collecting and posting of initial and variation margin on non-centrally cleared derivatives trades. Implementation of the phase-in period for collecting and posting initial margin has been delayed by nine months to 1 September 2016. The revisions also institute a six-month phase-in of the requirement to exchange variation margin, beginning 1 September 2016.

◆ **European clearing**

We are seeing an increased focus on European clearing documentation for OTC derivatives, as firms across our client base are now looking more closely at negotiating the requisite trading documentation in preparation for when the clearing mandate will come into force for European funds or funds with European AIFMs (the current assumption being March 2016 at the earliest). Clearing members are being increasingly active in signing funds up to their offerings, although there are a number of issues buy-side firms are focused on in the proposed industry standard documentation. Negotiation and on-boarding has yet to become routine with most clearing members, as it is still early days for the product, but we are assisting an increasing number of funds navigate the various available options.

**CONTACT DETAILS**

If you would like further information or specific advice please contact:

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This note is intended to provide general information about some recent and anticipated developments which may be of interest. It is not intended to be comprehensive nor to provide any specific legal advice and should not be acted or relied upon as doing so. Professional advice appropriate to the specific situation should always be obtained.

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