

ROBB EVANS & ASSOCIATES, LLC
Receiver of
FOREX LIQUIDITY, LLC
羅義文有限責任公司
美通銀行¹接管人

REPORT OF TEMPORARY RECEIVER'S ACTIVITIES
DECEMBER 17, 2007 THROUGH JANUARY 31, 2008
暫時接管人處理報告
二〇〇七年十二月十七日~二〇〇八年一月三十一日

This report covers the activities of the Receiver² since the inception of the receivership. This is the first Report to the Court on the progress of the receivership. It does not constitute an audit of financial condition and is intended only to provide information for use by the Court in assessing progress of the receivership.

本報告涵蓋本接管人³自接受接管人任命後所採取之處理行為，為呈送法庭的第一份接管進度報告，本報告目的不在於權充會計師之稽核財務狀況報告，而旨在提供法庭接管之過程，以利法庭了解與使用相關資訊。

Premises & Control

辦公區與掌控

On December 17, 2007, the Receiver took control of the business premises located at 6 Hutton Centre, Suite 1400, Santa Ana, CA. The receivership defendant, Forex Liquidity, LLC (FXLQ) rents the penthouse suite of a class A commercial building in an upscale business complex. The suite is accessible by an elevator that services only the FXLQ business premises. The elevator is only operational with use of a keypad code. The Receiver changed the code, securing entrance to the suite.

二〇〇七年十二月十七日，本接管人接管位於加州 Santa Ana 區 Hutton Centre 6 號 1400 室的業務相關辦公區。本接管案之被告美通銀行（FXLQ）於某高級商業中心，租賃了一棟 A 級商業大樓之閣樓套房。該套房有電梯可達，惟電梯僅供 FXLQ 辦公區使用，而且只有在輸入按鍵密碼後才可啟動。本接管人已更改電梯密碼，並對出入該套房進行保全管制。

The Receiver suspended all operations and secured the computer software program utilized for customer service.

本接管人已中止該公司所有營業行為，並對作為客戶服務的電腦軟體程式進行保全管制。

¹ 譯註: Forex Liquidity 在中國使用之名稱為 MultiBank (美通銀行) FX。

² Reference to the Receiver in this report means the Receiver, the Receiver's deputies, its staff, and its counsel.

³ 本報告中所提到之接管人，泛指接管人、其代理人、其雇用之員工以及律師。

Summary of the Receivership Defendant's Business Operations, Practices, and the Receiver's Initial Conclusions

本接管案被告之營運活動、業務與接管人初步結論之概述

From its initial review of the records and practices of FXLQ, the Receiver has initially determined that the company was able to attract customers, and operate profitably. However, the Receiver has also determined that FXLQ used incorrect and often untruthful accounting records and supporting documents to inflate its assets, under-report its liabilities, and present a fraudulently calculated capital position to its regulators and to its customers. 根據對 FXLQ 紀錄與業務的初步調查判斷，本接管人初步認定該公司有能吸引客戶以及獲利。然而本接管人同時也認定 FXLQ 利用不正確，甚至經常是不實的帳務紀錄與其他輔助文件，膨脹資產、低報債務，並向其主管機構與客戶提供具有詐欺性質的計算資本部位。

Consequently, when the Receiver removed or reversed the incorrect and untruthful accounting entries, and in spite of FXLQ holding \$25.8 million in cash, the Receiver has concluded that FXLQ did not meet the minimum capital level of \$1.0 million required by its primary and secondary regulators.

因此，當本接管人移除或撤銷了不正確與不實的帳務資料後，儘管 FXLQ 仍握有兩千五百八十萬美元的現金，本接管人仍判定 FXLQ 未依其主要與次要主管機構所要求，達到最低資本額一百萬美元的規定。

Before considering the minimum capital requirement, FXLQ had a capital deficit of about \$4.3 million, which resulted an undercapitalization for regulatory purposes of about \$5.3 million at December 14, 2007.

在考慮最低資本額的規定前，FXLQ 已出現四百三十萬美元的資本缺絀，因此該公司二〇〇七年十二月十四日不合規定的投資不足額約為五百三十萬美元。

Business Operations

營運狀況

Documentation obtained at the receivership defendant's office shows that FXLQ, a California Limited Liability Company, is owned by Robert Gray (95%) and his sister, Iris Sharnik (5%). The entity was formed September 26, 2005. FXLQ commenced its foreign exchange operation on February 2, 2006 when it became a Futures Commission Merchant registered with the Commodity Futures Trading Commission (CFTC) and a Forex Dealer Member of the National Futures Association (NFA). FXLQ was primarily engaged in soliciting and accepting customers' funds for the purpose of acting as counterparty under Client Agreements, or offering to act as the counterparty to foreign currency transactions.

從本接管案被告辦公室內所取得的文件顯示，FXLQ 這家加州的有限責任公司屬 Robert Gray（持 95% 之股權）和他姊妹 Iris Sharnik（持 5% 之股權）所有。該公司成立於二〇〇五年九月二十六日，二〇〇六年二月二日成爲美國商品期貨管理委員會（the Commodity Futures Trading Commission；簡稱 CFTC）註冊登記的期貨經紀商以及美國全國期貨公會（the National

Futures Association；簡稱 NFA）註冊登記的外匯交易商會員後，開始進行外匯交易業務。FXLQ 主要是延攬與接受客戶之資金，從事依據簽訂的客戶合約，擔任買賣相對人，或提供客戶買賣相對人之服務，進行外匯交易。

FXLQ operated with or through at least four domestic affiliates or subsidiaries, a joint venture owned by companies in the British Virgin Islands which marketed foreign exchange services to Chinese consumers, and at least three other corporations formed and operating in China. The Receiver understands that it is typical for in excess of 90% of retail consumers participating in the foreign exchange market to lose money. From its position as the counterparty, and usually supported by certain hedging practices, companies such as FXLQ usually record gains when the consumers experience losses.

FXLQ 的營運，是利用或透過至少四家國內之關係企業或分支、一家對中國客戶進行外匯交易行銷業務，而所有人為在英屬維京群島註冊的數家公司所合資的公司，以及至少三家在中國境內成立、營運的公司。本接管人了解參與外匯交易市場買賣的散戶，九成以上都蒙受損失，然而對通常採取某些避險行為當作輔助工具的買賣相對人來說，諸如 FXLQ 這類的公司，常常在客戶經歷投資損失的同時，出現獲利的紀錄。

FXLQ's records showed that as of December 19, 2007, it had approximately 3,057 closed retail customer accounts (accounts with zero or negative balances) and 3,876 retail customer accounts with outstanding account balances totaling approximately \$14.4 million.

根據 FXLQ 截至二〇〇七年十二月十九日的紀錄顯示，該公司約有 3,057 位已結清的個人客戶帳戶（結餘為零或負數）、3,876 位仍有效的個人客戶帳戶，這些有效帳戶的結餘總數約為一千四百四十萬美元。

FXLQ was also the clearing dealer for three initiating dealers that introduced trades to FXLQ, which were completed for the customers of the initiating dealers. FXLQ carried three omnibus accounts on its books representing the activities of customers' accounts that were carried on the books of the three initiating dealers. According to certain records of FXLQ, the amount owed to the three initiating dealers was \$11.9 million. However, one of the dealers claimed the amount due was at least \$1.5 million more.

FXLQ 同時也是三家為其引介交易的仲介交易商之結算交易商，意即 FXLQ 為這些仲介交易商的客戶完成交易。依據 FXLQ 的帳冊內容，該公司擁有三個綜合帳戶，代表三家仲介交易商帳冊中客戶帳戶的異動資料。根據 FXLQ 的某些紀錄，該公司積欠三家仲介交易商的金額為一千一百九十萬美金，然而其中一家仲介交易商卻宣稱 FXLQ 所積欠的金額，至少比上述金額多出一百五十萬美元。

Financial Results and Financial Condition

財務結果與財務狀況

The complaint filed by the Commodity Futures Trading Commission (CFTC) in this matter described in detail the circumstances involving the National Future Association's (NFA) examination of FXLQ regarding an ABN AMRO Bank bond (the Alleged Bond) carried on

FXLQ's books as a current asset with a market value of \$35 million and other cash assets of FXLQ. As described in greater detail later, based on all of the information available to the Receiver, the Receiver believes this Alleged Bond was the foundation of a sham transaction intended to improperly and artificially inflate the assets of FXLQ.

美國商品期貨管理委員會（下稱 CFTC）針對此事所收到的控訴申請內容中，詳細描述了美國全國期貨公會（下稱 NFA）查核 FXLQ 的相關情況，根據陳述，FXLQ 帳面上包括一筆市價達三千五百萬美元的荷蘭銀行債券（下稱「據稱之債券」）的流動資產以及其他現金資產。隨後更詳盡的陳述指出，根據本接管人可取得的資訊，本接管人相信該據稱之債券為不實交易，目的在於以不當與作假之手法膨脹 FXLQ 之資產。

On February 27, 2007, Swiss Imperial Trust A.G., a company incorporated under the laws of Switzerland, supposedly transferred the Alleged Bond to Malory Investments, LLC (Malory), a U. S. Broker Dealer, which is apparently no longer operating. Malory ultimately was to credit the Alleged Bond to the account of FXLQ. Since the Alleged Bond apparently never existed, a legitimate financial instrument was never transferred to Malory to support the accounting entries it created, first on behalf of Robert Gray, and then on behalf of FXLQ.

二〇〇七年二月二十七日，依據瑞士律法成立之公司 Swiss Imperial Trust A.G，理應將據稱之債券移轉予一家顯然已經結束營業的美國經紀自營商 Malory Investments, LLC（下稱 Malory）。而 Malory 最終則應將據稱之債券轉入 FXLQ 之帳戶中。由於該據稱之債券從未存在，因此合法的金融投資工具從未先後以 Robert Gray 與 FXLQ 的名義移轉給 Malory，也因此無法證明 FXLQ 帳務上的記錄為真。

Malory (Malory) prepared monthly statements detailing activities of the accounts of FXLQ, including a reported, but actually fictitious, liquidation of the Alleged Bond by Swiss Imperial Trust A.G. for \$45.8 million. Consistent with the fictitious asset and its fictitious activity, neither the accounting records prepared and provided by Malory to the Receiver nor Malory's bank account records obtained by the Receiver showed \$45.8 million was received. Malory 所製作的 FXLQ 每月對帳單，詳細記錄 FXLQ 帳戶的異動狀況，其中包括一筆已提報但事實上卻是虛構的紀錄，該筆記錄登載由 Swiss Imperial Trust A.G 以四千五百八十萬美元代為出清據稱之債券。不論 Malory 所製作與提供給本接管人的帳務紀錄，或本接管人所取得的 Malory 之銀行帳戶記錄，均未顯示 Malory 曾收到四千五百八十萬美元，這與 FXLQ 所虛構資產及虛構異動的狀況吻合。

The 2006 audited financial statements of FXLQ showed net income of \$3,958,491. For the period from January 1, 2007 to December 14, 2007, FXLQ's accounting records showed net income of \$24,361,125.54. However, in spite of its profits and holding \$25.8 million in cash, the Receiver has concluded that FXLQ did not meet the minimum capital level of \$1.0 million required by its primary and secondary regulators. The undercapitalized amount was evident when the Receiver removed or reversed incorrect and untruthful accounting entries related to the Alleged Bond.

FXLQ 二〇〇六年經過會計師簽證的財務報告，顯示該公司淨營收 3,958,491 美元。二〇〇七年一月一日至同年十二月十四日期間，FXLQ 的帳務紀錄顯示淨營收 24,361,125.54 美元。然而，儘管該公司獲利並握有二千五百八十萬現金，本接管人仍判定 FXLQ 未依其主要與次要主管機

構所要求，達到最低資本額一百萬美元的規定。本接管人在移除該或撤銷了該公司與據稱之債券相關的不正確與不實的登錄資料後，公司資本額不足的狀況顯而易見。

In addition to removing and correcting the fictitious assets created by the Alleged Bond, the Receiver also determined there were substantial unrecorded liabilities. Beginning in April 2007 FXLQ began transferring funds to Malory for further distribution under a \$4.0 million settlement agreement and capitalized the payment as “Funds at Counterparty, Malory Investments.”

除了移除與更正因據稱之債券所引起的不實資產外，本接管人認定 FXLQ 帳務上另有未經登錄的具體負債。該公司自二〇〇七年四月開始，因根據一份四百萬美元的和解合約內容，需進行進一步的分配，於是將資金轉予 Malory，以「存於買賣相對人 Malory Investments」名義，將和解金資本化。

When the payment was completed, FXLQ did not reverse the capitalized payment and record a liability and a loss on its books. Consequently, during the period from April 25, 2007 to December 14, 2007, FXLQ’s books, Form 1-FR-FCM and the Weekly NFA Worksheets presented to the NFA overstated the balances of both the asset account “Funds at Counterparty, Malory Investments” and the capital account “Members Equity” by at least \$4.1 million, and understated the liabilities over the settlement-payment period.

然而在和解金付訖時，FXLQ 不但未沖銷該筆已資本化之和解金，也未在帳務上將該筆款項登錄為負債與損失。因此在二〇〇七年四月二十五日至二〇〇七年十二月十四日期間，FXLQ 之帳冊、1-FR-FCM 表格以及送交給 NFA 的 NFA 制式作業週表上，均誇大了「存於買賣相對人 Malory Investments」的資產帳目以及「會員權益」的資金帳戶至少四百一十萬美元，同時低報了在支付和解金期間的負債。

Additional Discussion, Schedules, and Documentation

其他討論、日程表與文件

The Receivership Defendant and Affiliates

本接管案之被告與關係企業

Documentation obtained at FXLQ’s office identifies the following domestic companies:

於 FXLQ 辦公室內所取得的文件確認了下列國內公司：

MultiBank FX, LLC, a California Limited Liability Company, was formed November 28, 2006 and owned 100% by Robert Gray.

MultiBank FX, LLC：一家加州有限責任公司，二〇〇六年十一月二十八日設立，股權百分之百為 Robert Gray 所有。

Multibank Corp, a Delaware Corporation, was formed September 13, 2006. Robert Gray owns 1,000 shares and is a Director and Chairman of the Board. The Receiver did not locate any documentation as to any other shareholders.

Multibank Corp：一家德拉威州公司，二〇〇六年九月十三日設立。Robert Gray 握有 1,000 股，為該公司董事會之董事與董事長。本接管人未取得任何資料確認其他股東身份。

Multi FX International, Inc., a Delaware Corporation, was formed October 12, 2006. Robert Gray owns 1,000 shares of common stock and is a Director and Chairman of the Board. The Receiver did not locate any documentation as to any other shareholders.

Multi FX International, Inc.：一家德拉威公司，二〇〇六年十月十二日設立。Robert Gray 握有 1,000 股普通股，為該公司董事會之董事與董事長。本接管人未取得任何資料確認其他股東身份。

Multi Forex Asia, Inc., a Delaware Corporation, was formed October 26, 2006. Robert Gray owns 1,000 shares of common stock and is a Director and Chairman of the Board. The Receiver did not locate any documentation as to any other shareholders.

Multi Forex Asia, Inc.：一家德拉威公司，二〇〇六年十月二十六日設立。Robert Gray 握有 1,000 股普通股，為該公司董事會之董事與董事長。本接管人未取得任何資料確認其他股東身份。

The Receiver did not locate corporate books or minutes on site and was told they are in the possession of attorney Jeffrey A. Slott, Esq. of the Law Offices of Jeffrey A. Slott located in Woodland Hills, CA. The Receiver requested copies from Mr. Slott.

本接管人於該辦公室內未取得任何公司帳冊或會議紀錄，依據相關人員告知，這些資料全由位於加州 Woodland Hills 之 Jeffrey A. Slott 律師事務所的律師 Jeffrey A. Slott 先生保管。本接管人已要求 Slott 先生提供這些資料之影本。

Business Operations

營運狀況

General

概述

FXLQ commenced its foreign exchange operation on February 2, 2006 when it became a Futures Commission Merchant registered with the CFTC and a Forex Dealer Member of the NFA.

FXLQ 於二〇〇六年二月二日成為 CFTC 之期貨經紀商以及 NFA 之外匯交易商會員後，開始進行外匯交易業務。

FXLQ was primarily engaged in soliciting and accepting customers' funds for the purpose of acting as a counterparty under Client Agreements, or offering to act as the counterparty to foreign currency transactions.

FXLQ 主要是延攬與接受客戶之資金，從事依據簽訂的客戶合約，擔任買賣相對人，或提供客戶買賣相對人之服務，進行外匯交易。

Joint Ventures with Forex Asia International Corp.

與 Forex Asia International Corp. 之合資關係

The Receiver has reviewed documents obtained at FXLQ's office showing that FXLQ was promoted in the People's Republic of China under the name of MultiBank FX 美通銀行。本接管人已檢閱過從 FXLQ 辦公室所取得的文件，這些文件顯示 FXLQ 在中華人民共和國以美通銀行 (MultiBank FX) 的名稱進行業務宣傳。

The Receiver has reviewed a Multibank (Asia) and FX International Markets China Joint Venture Development Agreement (the China Joint Venture Development Agreement) dated February 22, 2006. The agreement shows that Robert Gray and Forex Asia International Corp. (Forex Asia International), a British Virgin Islands (BVI) company, formed a joint venture named FX International Markets, which was registered in the BVI. FX International Markets is owned equally by the two entities. FXLQ and Forex Asia International also formed a joint venture named Multibank (Asia), also known as MultiBank FX Asia, which is owned equally by the two entities. Forex International Markets and MultiBank FX Asia ultimately joined together under the China Joint Venture Development Agreement in order to penetrate the China foreign exchange market.

本接管人已檢閱過一份 MultiBank (Asia) 與 FX International Markets 於二〇〇六年二月二十二日簽訂的中國合資發展合約 (下稱中國合資發展合約)。該合約顯示 Robert Gray 與一家在英屬維京群島 (下稱 BVI) 註冊之公司 Forex Asia International Corp. (下稱 Forex Asia International) 成立一家同樣也是在 BVI 註冊的合資公司 FX International Markets，雙方各佔一半股權。另 FXLQ 與 Forex Asia International 合資成立一家名為 Multibank (Asia) 的公司，又名 MultiBank FX Asia，雙方也是各佔一半股權。最後 Forex International Markets 與 MultiBank FX Asia 爲了深入中國外匯市場，依照中國合資發展合約結合。

The China Joint Venture Development Agreement was subsequently amended on October 11, 2006, pursuant to which MultiBank FX International, a Delaware company, was formed and owned equally by FXLQ and Forex Asia International to primarily promote FXLQ in Asia and the Middle East. The amended agreement required FXLQ to open an account at a bank in Hong Kong with Robert Gray as the signatory. The Receiver has requested details on this bank account from Mr. Gray's attorney.

中國合資發展合約隨後於二〇〇六年十月十一日進行修訂，根據修訂後的合約內容，MultiBank FX International 於德拉威州註冊成立，該公司的股權由 FXLQ 與 Forex Asia International 各佔一半，成立的目的主要在於拓展 FXLQ 在亞洲與中東的業務。修訂後合約內容要求 FXLQ 在香港開設一個銀行帳戶，以 Robert Gray 的簽名作爲授權簽字。本接管人已經向 Gray 先生的律師索取該銀行帳戶的相關資料。

In summary, Forex Asia International and its subsidiaries in China introduced customers through MultiBank FX International to deposit and trade funds with FXLQ. The president of Forex Asia International informed the Receiver that Forex Asia International and its subsidiaries had two offices in Beijing and one office in Shenzhen, Canton Province with a workforce of approximately 160 people who engaged primarily in soliciting and serving customers for FXLQ.

簡言之，Forex Asia International 與其位於中國之關係企業透過 MultiBank FX International

引介客戶，將存款或交易資金存放於 FXLQ。依據 Forex Asia International 總經理對本接管人所訴，Forex Asia International 與其關係企業在北京有兩個辦公據點、廣東省深圳市有一個辦公據點，總員工數約 160 人，主要均從事為 FXLQ 延攬客戶與服務 FXLQ 之客戶的工作。

FXLQ's books showed it paid \$2,857,000 to "Forex Asia" between April 13, 2006 and November 23, 2007. \$2,063,000 was recorded as business development expense, \$600,000 as a loan receivable, a current asset account, \$120,000 as rebate expense, \$42,000 as software licensing expense, and \$32,000 as marketing and promotion expense.

FXLQ 的帳冊顯示該公司在二 0 0 六年四月十三日至二 0 0 七年十一月二十三日之間收到了「Forex Asia」支付的美金 2,857,000 美元。其中 2,063,000 美元登錄為營運發展費用、600,000 美元為應收款，屬流動資產科目、120,000 美元為回扣費用、42,000 美元為合法軟體費、32,000 美元為行銷與促銷活動費用。

Forex Asia International has represented to the Receiver that these payments, except for the \$600,000 loan, reflect monies paid from the gross profit of MultiBank FX International primarily to cover the operating expenses of MultiBank FX International being managed by Forex Asia International in offices in China, which had an overhead of approximately \$250,000 per month.

Forex Asia International 向本接管人說明，除了 600,000 美元的應收帳款外，上述費用全反映出從 MultiBank FX International 的總獲利款所支付的金額，這些費用主要為 Forex Asia International 在中國的辦公室管理 MultiBank FX International 的營運費用，每個月的經常性費用約美金 250,000 元。

Forex Asia International has further represented that the \$600,000 payment was not a loan, rather it was a belated payment of a portion of the net operating profits under the Joint Venture. The Receiver has not located any separate accounting records for the Joint Venture. The Receiver requested accounting records for the Joint Venture from Forex Asia International but no accountings have been turned over.

Forex Asia International 進一步指出美金 600,000 元並非應收帳款，而是在合資關係下，營運淨獲利中某部份的一筆延滯付款。本接管人尚未取得合資公司任何其他分離的帳務紀錄，但已向 Forex Asia International 要求提供該合資公司的帳務紀錄，目前尚未收到任何文件。

FXLQ did not list the \$600,000 loan receivable amount on its Weekly NFA Worksheet as of December 14, 2007.

FXLQ 在其截至二 0 0 七年十二月十四日的 NFA 制式作業週表上，並未登載該筆美金 600,000 元的應收帳款。

Forex Asia International has claimed it is owed its 50% share of prior earned and unpaid profits, or \$1,516,950.30, resulting from China customers' trading losses at FXLQ. FXLQ carried a \$313,185.83 accrued commission expense payable to Forex Asia International on its books as of December 14, 2007 but did not list any accrued expenses on its Weekly NFA Worksheet as of December 14, 2007. The CFTC's instructions for completing Form 1-FR-FCM are as follows: "Line 27.A. - Accounts payable and accrued expenses, that "Report all accounts payable, accrued expenses, and other such liability items not classified elsewhere." Forex Asia International 宣稱，因為中國客戶透過 FXLQ 的外匯交易失利，所以 FXLQ 尚積欠

該公司 50% 股權所應得之美金 1,516,950.30 元，該款項為之前所賺得與尚未支付的利潤。FXLQ 的帳冊上另登錄有積欠 Forex Asia International 美金 313,185.83 元的應付佣金，但在截至二 0 0 七年十二月十四日的 NFA 制式作業週表上卻沒有登錄任何應付費用。CFTC 對於填寫 1-FR-FCM 的說明如下：「第 27.A. 行：應付帳款與應付費用，報告所有應付帳款、應付費用，以及其他未在他類科目中登錄的此類負債項目。」

The Receiver believes that a contingent liability in favor of Forex Asia International of \$1,516,950.30 should have been listed on the Weekly NFA Worksheet as of December 14, 2007. 本接管人相信有利於 Forex Asia International 的可能負債美金 1,516,950.30 元，應於 FXLQ 截至二 0 0 七年十二月十四日的 NFA 制式作業週表上列明。

Retail Customers

個人客戶

FXLQ's records showed that as of December 19, 2007, FXLQ had approximately 3,057 closed retail customer accounts (accounts with zero or negative balances) and 3,876 retail customer accounts with outstanding account balances totaling approximately \$14.4 million comprised primarily of margin deposits plus/minus transaction gains/losses, of which approximately \$4.8 million was owed to approximately 2,902 customers in China.

根據 FXLQ 截至二 0 0 七年十二月十九日的紀錄顯示，該公司約有 3,057 位已結清的個人客戶帳戶（結餘為零或負數）、3,876 位仍有效的個人客戶帳戶，這些有效帳戶的結餘總金額約為一千四百四十萬美元，主要由存款加（減）交易所得（損失）後的差額構成，其中約有四百八十萬美元屬於中國約 2,902 位客戶。

Of the 3,876 outstanding retail customer accounts, approximately 357 accounts had open positions, i.e. unsettled foreign currency buy and sell orders. If all open positions had been marked to market on December 19, 2007 for purposes of determining profit or loss on currency positions in retail customer trading accounts, adjustments totaling approximately \$763,000 would have been made to decrease customer funds owed to adjust those contracts to current values.

在 3,876 位有效的個人客戶帳戶中，約 357 個帳戶有未平倉部位，亦即仍有未結清之外匯交易訂單。若將所有未平倉狀態的帳戶以二 0 0 七年十二月十九日的市場標的當作標準，藉以判定個人客戶交易帳戶中的貨幣現狀為獲利或損失，那麼總調整金額約為美金 763,000 元，並應從客戶的資金中減除，作為上述未完成之交易約定的修正，以符合現值。

In summary, if all positions had been settled, FXLQ would have owed approximately \$13.6 million to approximately 3,876 retail customers as of December 19, 2007, of which approximately \$4.4 million was owed to approximately 2,902 customers in China.

概括而言，如果結清所有部位，那麼截至二 0 0 七年十二月十九日，FXLQ 積欠 3,876 位左右的

個人客戶約一千三百六十萬美元，其中約有四百四十萬美元的積欠對象，為 2,902 位左右的中國客戶。

The Receiver was authorized by this Court to liquidate any and all customer open trading positions. On January 11, 2008, the Receiver liquidated all customer open trading positions which resulted in a payable to 3,876 retail customers totaling \$13,466,652.34, of which \$4,368,795.21 is payable to 2,902 customers in China.

此法庭授權本接管人清算任何與所有客戶的未平倉部位。二〇〇八年一月十一日，本接管人清算了所有客戶的未平倉部位，結果應付 3,876 位客戶美金 13,466,652.34 元，其中美金 368,795.21 元應付給位於中國的 2,902 位客戶。

Institutional Customers

法人客戶

FXLQ was the clearing dealer for three initiating dealers and carried three omnibus (institutional) accounts on its books representing the activities of customers' accounts that were carried on the books of the three dealers introducing the trade. The funds owed to the three institutional customers according to FXLQ's Weekly NFA Worksheet as of December 14, 2007 are as follows:

FXLQ 為三家仲介交易商之結算交易商，根據帳冊，該公司擁有三個綜合（法人）帳戶，可顯示三家仲介交易商帳冊中客戶帳戶的異動資料。根據 FXLQ 截至二〇〇七年十二月十四日的 NFA 制式作業週報內容，該公司積欠三家法人客戶的金額如下：

法人客戶名稱	積欠金額
Interbank FX	\$ 9,167,499.80
Hamilton Williams LLC	2,209,752.44
Solid Gold Financial Services Inc.	<u>500,000.00</u>
	<u>\$11,877,252.24</u>

On December 21, 2007, Interbank FX informed the Receiver that the funds currently due from FXLQ to Interbank FX is \$10,752,204.39, which is \$1,584,704.59 higher than the \$9,167,499.80 amount shown on both the December 4, 2007 statement of Interbank FX's account prepared by FXLQ and the FXLQ's Weekly NFA Worksheet as of December 14, 2007. The \$10,752,204.39 amount is also \$2,467,533.05 higher than the \$8,284,671.34 total liabilities to Interbank FX carried on FXLQ's books as of December 14, 2007.

二〇〇七年十二月二十一日，Interbank FX 告知本接管人目前 FXLQ 積欠該公司的金額為美金 10,752,204.39 元，比二〇〇七年十二月四日 FXLQ 所製作的 Interbank FX 帳戶對帳單以及

FXLQ 截至二〇〇七年十二月十四日的 NFA 制式作業週報上的美金 9,167,499.80 元，高出美金 1,584,704.59 元。除此之外，Interbank FX 所提出的美金 10,752,204.39 元也比 FXLQ 帳冊上截至十二月十四日對 Interbank FX 的總負債金額 8,284,671.34 美元高出 2,467,533.05 美元。

A summary of activities and comparison of the above amounts follows:

簡列上述金額之名目以及比較如下：

	Per FXLQ's 根據 FXLQ 之帳冊資料		
	Per Records of IBFX 根據 IBFX 之紀錄	Books FXLQ 帳冊	Account Statements to IBFX 予 IBFX 之 帳戶對帳單
Beginning balance, January 1, 2007 二〇〇七年一月一日之開戶結餘	\$ 1,640,744	\$ 1,640,744	\$ 1,640,744
Payments by Interbank FX (IBFX) to FXLQ Interbank FX (IBFX) 支付 FXLQ	89,000,000	89,000,000	89,000,000
Foreign exchange losses of IBFX, recorded as income by FXLQ IBFX 外匯交易損失，FXLQ 登錄為營收	(88,193,892)	(88,193,892)	(88,193,892)
Swap credit recorded by both IBFX and FXLQ IBFX 與 FXLQ 均有登錄之信用交換	<u>4,437,832</u>	<u>4,437,832</u>	<u>4,437,832</u>
Net balance, recorded by FXLQ as payable to IBFX FXLQ 登錄為應付 IBFX 之淨結餘	<u>6,884,684</u>	<u>6,884,684</u>	<u>6,884,684</u>
Swap credit not on FXLQ's books but shown on the account statements sent by FXLQ to IBFX FXLQ 未登錄，然 FXLQ 送交 IBFX 之帳戶對帳單 有登錄之信用交換	<u>2,282,816</u>	<u>-</u>	<u>2,282,816</u>
Rebates of IBFX, recorded by FXLQ as accrued expense IBFX 之回扣，FXLQ 登錄為應付費用	<u>1,399,987</u>	<u>1,399,987</u>	<u>-</u>
Rebates of IBFX between December 1 and December 4, 2007			

unrecorded by FXLQ			
二〇〇七年十二月一日~四日 IBFX 之回扣，FXLQ 未登錄	<u>184,717</u>	-	-

Amount of withdrawal requested by IBFX on December 21, 2007

二〇〇七年十二月二十一日 IBFX 要求提領之金額	<u>\$10,752,204</u>
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Total payables due to IBFX as shown on the books of FXLQ as of December 14, 2007

FXLQ 截至二〇〇七年十二月十四日的帳冊上應付 IBFX 之總額	<u>\$ 8,284,671</u>
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Balance shown on the December 4, 2007 Omnibus and Multi Contributor Balance Statement sent by FXLQ to IBFX

二〇〇七年十二月四日 FXLQ 送交 IBFX 之綜合與多種貢獻結餘明細

(attached under Tab 1 / 請參考表一附件)	<u>\$ 9,167,500</u>
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In a letter dated January 23, 2008, Mr. Gray's attorney informed the Receiver that FXLQ did not dispute the \$1,584,704 rebates (sum of \$1,399,987 and \$184,717 listed above) claimed by Interbank FX but rejected Interbank FX's swap credit claims totaling \$6,720,648 (sum of \$4,437,832 and \$2,282,816 listed above); therefore, FXLQ believed that the actual amount it owed to Interbank FX was \$4,031,556 (the \$10,752,204 claim amount minus the \$6,720,648 rejected swap credits).

Gray 先生之律師在二〇〇八年一月二十三日的來信中告知本接管人，FXLQ 對 Interbank FX 所提出之 1,584,704 美元的回扣金（上列之美金 4,437,832 元與美金 2,282,816 元之合計）並無異議，但卻否認 Interbank FX 信用交換所稱之美金 6,720,648 元的總額（為上列美金 4,437,832 元與美金 2,282,816 元之合計）；因此 FXLQ 認定自己所積欠 Interbank FX 的實際總金額為美金 4,031,556 元（即 Interbank FX 宣稱之美金 10,752,204 元減去遭到否認的信用交換美金 6,720,648 元）。

Interest rate swap charge or credit represents the price a customer is charged or credited reflecting the difference in interest rates between the two currencies when the customer rolls over an open buy or sell order overnight.

利率交換之收費或補付款代表公司所扣除或補付單一客戶的價格，該價格反映出客戶在遞出一個公開買進或賣出訂單後，兩種貨幣之間因隔夜交易而延遲給付的利率差距。

The January 23, 2008 letter stated that Interbank FX was not an Introducing Broker of FXLQ, instead, Interbank FX and FXLQ each acted as an arm's-length, independent counterparty at all times; therefore, FXLQ had no direct relationships to Interbank FX's customers and consequently, it was the responsibility of Interbank FX, the entity that carried its own customer accounts and funds, not FXLQ, to make payments for those interest rate swap

charges in favor of Interbank FX's customers arose in 2007.

二〇〇八年一月二十三日的信件同時指出 Interbank FX 並非 FXLQ 之仲介交易商，兩家公司其實始終都是保持距離、彼此獨立的買賣相對人；因此 FXLQ 與 Interbank FX 的客戶並沒有直接關係，也因此償付二〇〇七年對 Interbank FX 客戶有利之利率交換收費的責任在於負責自己客戶帳戶與資金的 Interbank FX，而非 FXLQ。

The January 23, 2008 letter also stated that the issue of the monthly swap charges was not resolved between FXLQ and Interbank FX; and further stated "however, at no time did Gray or FXLQ acquiesce in IBFX's position on the swap interest charges, nor does it do so now."

二〇〇八年一月二十三日的信件另外指出，FXLQ 與 Interbank FX 之間有關每月利率交換之收費並無循環的情況；信中還聲明「然而，Gray 先生或 FXLQ 從未默認過 IBFX 在利率交換收費上的立場，現在也不會這麼做。」

In response to the Receiver's inquiry regarding swap interest charges, on February 1, 2008 Interbank FX emailed the Receiver and stated "They were agreed to by FXLQ by both Robert Gray and their operations manager."

二〇〇八年二月一日 Interbank FX 以電子郵件回覆本接管人有關利率交換收費的相關問題時，Interbank FX 指出「這些安排都經過了 FXLQ、Gray 先生以及其營運經理人同意。」

The Receiver received from Interbank FX an Interbank FX Rebate Schedule prepared by FXLQ and an FXLQ boilerplate Authorized Introducing Broker Agreement.

本接管人另收到 Interbank FX 提供的一份由 FXLQ 製作的 Interbank FX 回扣日程表以及一份 FXLQ 的仲介交易商授權合約特稿。

The agreement was signed by Interbank FX but not signed by FXLQ. Also, FXLQ's books show that in addition to the undisputed accrued rebate expense of \$1,399,987 at December 14, 2007 as shown in the table above, it made rebate payments to Interbank FX totaling approximately \$5.9 million and \$25.9 million in 2006 and 2007, respectively. These payments seem to contradict Mr. Gray's representation that Interbank FX was not an Introducing Broker of FXLQ.

該仲介交易商授權合約有 Interbank FX 的簽認，但 FXLQ 並未簽署。除此之外，根據 FXLQ 的帳冊資料，除了前表所列之二〇〇七年十二月十四日沒有爭議的應付費用美金 1,399,987 元外，FXLQ 還分別在二〇〇六年與二〇〇七年支付了 Interbank FX 美金五百九十萬元與兩千五百九十萬元。這些支付的款項似乎與 Gray 先生對於 Interbank FX 並非 FXLQ 之仲介交易商的說法有所矛盾。

As to the issue of swap interest, the Receiver noticed that, in addition to the above-mentioned swap credit amounts included in either FXLQ's books or statements of Interbank FX's account, interest rate swap was also charged or credited to retail customers against whom FXLQ acted as a counterparty. In addition, an attorney representing Hamilton Williams LLC, another institutional customer of FXLQ discussed below, informed the Receiver on January 30, 2008 that the net effect of swap interest/premiums and credits was taken into account in calculating the current funds owed Hamilton Williams LLC by FXLQ. Consequently, Mr.

Gray's representation that Interbank FX and FXLQ each acted as an independent counterparty at all times and therefore FXLQ was not responsible for the interest rate swap in favor of Interbank FX's customers, is subject to dispute.

有關利率交換一事，本接管人注意到，上述的信用交換金額既未登錄在 FXLQ 的帳冊上，也沒有出現在 Interbank FX 的帳戶對帳單中，不僅如此，FXLQ 所擔任買賣相對人的個人客戶，也未被扣除或補付利率交換的費用。除此之外，另一家下述內容會討論到的 FXLQ 之法人客戶 Hamilton Williams LLC，其代表律師於二〇〇八年一月三十日告知本接管人，利率交換／本金與信用的淨效應已計算進 FXLQ 積欠 Hamilton Williams LLC 的流動資金中。因此，Gray 先生對於 Interbank FX 和 FXLQ 始終各自為獨立買賣相對人，以及 FXLQ 因此對有利於 Interbank FX 客戶的利率交換沒有責任的陳述，仍有爭議。

The CFTC's instructions for completing Form 1-FR-FCM regarding accounts payable and accrued expenses also state that "Accruals should be made for contingent liabilities when occurrence of a loss is probable, and the amount can be reasonably estimated, including liabilities resulting from guarantees. In some circumstances GAAP require the fair value of a financial guarantee to be recognized even when the occurrence of a loss is not probable." 對於對於填入 1-FR-FCM 表格上有關應付帳款與應付費用的資料，CFTC 的說明指出：「此增加的金額是為可能出現虧損狀態，而該虧損金額又能做合理推測的可能負債狀況而設，包括因保證責任（保證人）所產生的債務。在某些情況下，一般公認會計原則需要認定單一財務保證責任的合理價值，即使虧損的情況可能不會發生。」

Based on the above, the Receiver believes that even though the issue of swap interest has not been settled between FXLQ and Interbank FX, total liabilities of \$10,752,204.39 to Interbank FX should have been reported on FXLQ's Weekly NFA Worksheet as of December 14, 2007, of which \$9,167,499.80 as funds owed to the omnibus account holder and \$1,584,704.59 as accrued rebate expense. Both parties have made some strong arguments to the Receiver about the issue of swap interest, however, this issue may need to be mediated before it will be finally settled between the parties. This does not change the Receiver's opinion that the \$6,720,648 contingent liability should have been reported on the Weekly NFA Worksheet. 根據以上陳述，本接管人相信 FXLQ 與 Interbank FX 之間的利率交換事件，即使尚未獲得圓滿解決，FXLQ 積欠 Interbank FX 的負債金額 10,752,204.39 美元，也應反映在 FXLQ 截至二〇〇七年十二月十四日的 NFA 制式週報表上，其中 9,167,499.80 美元為積欠綜合帳戶所有人的款項，而 1,584,704.59 美元是應付回扣費用。然而兩家公司都針對利率交換事件對接管者表達過一些強烈主張，該事件可能需要調解才能獲得最後的解決，只不過這點並沒有改變本接管人認為 NFA 制式週報表應反映出美金 6,720,648 元可能負債之意見。

Hamilton Williams LLC (Hamilton) has informed the Receiver that the \$2,209,752.44 amount represents the balance of the omnibus account at December 4, 2007, the balance at December 5, 2007 was reduced to \$1,974,255.68, and rebates totaling \$257,854.80 was due from FXLQ to Hamilton as of December 5, 2007. FXLQ's books show that it paid rebates/commissions of approximately \$582,000 and \$2,801,000 to Hamilton in 2006 and 2007, respectively. Hamilton Williams LLC (下稱 Hamilton) 曾告知本接管人，2,209,752.44 美元為二〇〇七年十二月四日綜合帳戶中的結餘，二〇〇七年十二月五日的結餘減少為 1,974,255.68 美元，而總計 257,854.80 美元的金額則是截至二〇〇七年十二月五日為止，FXLQ 積欠 Hamilton 的回扣

款。FXLQ 帳冊上顯示該公司分別於二 0 0 六年與二 0 0 七年支付給 Hamilton 回扣／佣金約 582,000 美元以及 2,801,000 元美元。

Therefore, the Receiver believes that total liabilities of \$2,232,110.48 to Hamilton should have been reported on FXLQ's Weekly NFA Worksheet as of December 14, 2007, of which \$1,974,255.68 as funds owed to the omnibus account holder and \$257,854.80 as accrued rebate expense.

因此，本接管人相信 FXLQ 對 Hamilton 總計美金 2,232,110.48 元的負債，應反映在 FXLQ 截至二 0 0 七年十二月十四日的 NFA 制式週報上，其中 1,974,255.68 美元為積欠綜合帳戶所有人的資金，而 257,854.80 美元是應付回扣費用。

Solid Gold Financial Services Inc. (Solid Gold) made a \$500,000 deposit with FXLQ on October 13, 2006 intended for hedging purposes, however, no trades were ever executed. Solid Gold Financial Services Inc. (下稱 Solid Gold) 基於避險目的，在二 0 0 六年十月十三日於 FXLQ 處存進美金 500,000 元，不過沒有進行過任何交易。

Accounts Maintained at Counterparties

於買賣相對人處所保留的帳戶

FXLQ maintained accounts at certain counterparties to hedge against or to speculate on foreign exchange price fluctuations. The funds due from such counterparties according to FXLQ's Weekly NFA Worksheet as of December 14, 2007 are as follows:

FXLQ 在某些買賣相對人處保留一些帳戶，以備外匯價格變動之避險投機買賣所需。根據 FXLQ 截至二 0 0 七年十二月十四日送交之 NFA 制式週報，這類買賣相對人積欠 FXLQ 的資金如下：

Malory Investments, LLC	\$ 7,127,469.12
Solid Gold	2,051,074.33
HotSpot FXR (下稱 HotSpot)	125,389.18
OANDA Corporation (下稱 OANDA)	111,988.22
ADM Derivatives Inc. (下稱 ADM)	98,509.52
FIMAT International Banque SA (下稱 UK)	<u>2,611.84</u>
	<u>\$ 9,517,042.21</u>

As discussed in detail below, the Receiver believes that the \$7,127,469.12 balance at Malory Investments, LLC did not exist.

依照上列詳述之情況，本接管人相信存置於 Malory Investments, LLC 的結餘 7,127,469.12 美元根本不存在。

OANDA confirmed a \$112,051.90 balance to the Receiver, which is \$63.68 higher than the \$111,988.22 balance recorded by FXLQ.

OANDA 已向本接管人確認美金 112,051.90 的結餘，這個金額較 FXLQ 所登錄的 111,988.22 美元多出 63.68 美元。

Solid Gold, HotSpot and ADM have confirmed the above-listed balances with the Receiver. Solid Gold、HotSpot 與 ADM 已向本接管人確認上列結餘金額。

FIMAT International Banque SA (UK branch) is located in London and the Receiver was unable to confirm the account balance; however, the account balance is immaterial and close to that shown on the account statement.

FIMAT International Banque SA (UK 分支) 位於倫敦，本接管人無法確認 FXLQ 之帳戶結餘金額；然而該帳戶結餘並非舉足輕重的金額，而且與出現在帳戶對帳單上的金額接近。

On December 19, 2007 Solid Gold offered to turn over the net funds of \$1,551,074 owed to FXLQ. On December 24, 2007 Solid Gold wire transferred \$500,000 to the Receiver. Solid Gold's attorney informed the Receiver that the balance of the funds owed to FXLQ was held by their counterparty in Macau.

二〇〇七年十二月十九日，Solid Gold 主動提出移轉積欠 FXLQ 的淨資金 1,551,074 美元。二〇〇七年十二月二十四日，Solid Gold 匯予本接管人美金 500,000 元。Solid Gold 的代表律師告知本接管人，積欠 FXLQ 之結餘金額目前存置於該公司澳門的買賣相對人處。

The Receiver had several communications with Solid Gold's attorney regarding the funds owed to FXLQ. To date, the balance of those funds has not been turned over to the Receiver. 本接管人與 Solid Gold 之代表律師，曾針對該公司積欠 FXLQ 之資金進行數次溝通。截至今日，Solid Gold 仍未將 FXLQ 存置之餘額移轉與本接管人。

Cash in Banks

存置於銀行之現金

FXLQ's Weekly NFA Worksheet as of December 14, 2007 shows total cash in banks of \$25,816,782.39. The Receiver confirmed all bank account balances, which totaled \$25,840,056.29.

FXLQ 二〇〇七年十二月十四日的 NFA 制式週報上，顯示存置於銀行的總現金為美金 25,816,782.39 元。本接管人確認過所有的銀行帳戶結餘，總計金額為美金 25,840,056.29 元。

Operating Results and Payments to Robert Gray

營運成效與支付 Robert Gray 的費用

The 2006 audited financial statements of FXLQ showed net income of \$3,958,491 and total earnings distributions of \$1,540,000 to the member. According to FXLQ's books, \$1,540,000 was paid to FX ARB in 2006, of which \$1,395,000 was originally recorded as commissions, \$141,000 was recorded as order-flow rebates, and \$4,000 was recorded as computer software. According to public records, FX ARB Corp. is a Nevada corporation with Robert Gray listed as President and Director. The Receiver has requested copies FX ARB bank statements from Mr. Gray's attorney.

FXLQ 二〇〇六年經過會計師查核的財務報表顯示，該公司的淨營收為 3,958,491 美元，支付給會員的總分配盈餘為美金 1,540,000 元。依據 FXLQ 的帳冊，該公司於二〇〇六年支付了 FX ARB 美金 1,540,000 元，其中 1,395,000 美元最早登錄為佣金、141,000 美元為開發訂單的回扣費、4,000 美元為電腦軟體費。根據公開資料，FX ARB Corp 為一家內華達州公司，Robert Gray 為該公司之總經理與董事。本接管人已請 Gray 先生之律師提供 FX ARB 的銀行對帳單影本。

FXLQ's books showed net income of \$24,361,125.54 for the period from January 1, 2007 to December 14, 2007. The books also showed that during this period, \$342,000 was paid to FX ARB, of which \$207,000 was recorded as software expense and \$135,000 was recorded as loan to member; and \$1,580,000 was paid to Robert Gray, of which \$1,557,000 was recorded as loans to member, \$20,000 was recorded as business development expense, and \$3,000 was recorded as payroll expense.

FXLQ 的帳冊資料顯示該公司二〇〇七年一月一日至同年十二月十四日期間，淨營收為美金 24,361,125.54 元。帳冊資料另外還顯示在這段期間，該公司支付了 FX ARB 美金 342,000 元，其中 207,000 美元登錄為軟體費用、135,000 美元為會員借貸，另外還支付了 Robert Gray 美金 1,580,000 美元，其中 1,557,000 美元登錄為會員借貸、20,000 美元為業務發展費用、3,000 元為薪資費用。

In total, FXLQ paid \$3,462,000 to Robert Gray and his company, FX ARB, in 2006 and 2007. As discussed below, the Receiver believes that FXLQ has made additional payments to another one of Robert Gray's companies, Pro. Fi. S.A., through Malory.

在二〇〇六年與二〇〇七年，FXLQ 總共支付了 Robert Gray 與 Gray 先生的公司 FX ARB 美金

3,462,000 元。一如下述所論，本接管人相信 FXLQ 透過 Malory，支付了額外的款項給 Robert Gray 的另外一家名為 Pro. Fi. S.A. 的公司。

**Swiss Imperial Trust A.G., Malory Investments, LLC, Commonwealth Financial P.M.S.
Swiss Imperial Trust A.G.、Malory Investments, LLC 與 Commonwealth Financial P.M.S.
三家公司**

The CFTC complaint in this matter described in detail the circumstances involving the NFA's examination of FXLQ regarding a current asset of a bond carried on FXLQ's books for a market value of \$35,000,000 and other cash assets of FXLQ. As described in detail in the following paragraphs, based on all of the information available to the Receiver, the Receiver believes this Alleged Bond was a sham transaction intended to artificially inflate the assets of FXLQ.

CFTC 在本案中詳細控訴 NFA 針對 FXLQ 帳冊上流動資產中的一筆市價達三千五百萬美金的債券以及其他現金資產進行檢查的相關情況。如以下段落之詳述，本接管人根據所有取得的資訊判斷該據稱之債券是筆假交易，目的在於以作假之手法膨脹 FXLQ 之資產。

The \$50 Million Loan in the Form of a Bank Bond Granted by Swiss Imperial Trust A.G. and Recorded by FXLQ as an Asset
由 Swiss Imperial Trust A.G. 擔保的銀行債券單上載明之美金五千萬借貸，FXLQ 登錄為資產

Swiss Imperial Trust A.G. (SITAG) is a company incorporated under the laws of Switzerland. The Receiver has reviewed an Investment and Loan Agreement dated February 22, 2007 between SITAG and Robert Gray, pursuant to which the facility of \$50 million was to be granted by SITAG to Robert Gray in liquid assets in the form of negotiable Prime Bank Bonds with a facility period of four years from the date of issue of the \$50 million bond to be assigned to Mr. Gray. As a loan arrangement fee, Mr. Gray was required to transfer to SITAG 1.5% of his shares in MultiBank FX International.

Swiss Imperial Trust A.G. (下稱 SITAG) 為一家遵循瑞士律法所成立的公司。本接管人已查閱過二〇〇七年二月二十二日由 SITAG 與 Robert Gray 所簽訂的一份投資與借貸合約，根據該合約內容，SITAG 以擔保人身份，將五千萬美元以首次發行之可轉換銀行債券形式，指定讓渡給 Robert Gray 作為流動資產，合約期間從債券發行當日將債券指定予 Gray 先生起算，共四年。相對的，Gray 先生必須將 1.5% 的 MultiBank FX International 股權轉讓給 SITAG 作為約定費用。

FXLQ's in-house attorney informed the Receiver that "Robert Gray's entrepreneurial vision" was the collateral for the \$50 million loan.

FXLQ 之常駐律師告知本接管人，「Robert Gray 的企業眼光」為五千萬美金貸款的擔保品。

On February 19, 2007, three days before the February 22, 2007 loan agreement, a \$50 million ABN AMRO Bank Bond ISIN NL0000456382, was assigned to Robert Gray's personal account at Malory. On March 14, 2007, the Alleged Bond was transferred to FXLQ's Investment

Account maintained at Malory.

二〇〇七年二月十九日，即二〇〇七年二月二十二日簽訂借貸合約的三天前，一筆美金五千萬元的荷蘭銀行債券，債券號碼 ISIN NL0000456382，過戶至 Robert Gray 在 Malory 的私人帳戶中。二〇〇七年三月十四日，據稱之債券被轉至 FXLQ's Investment Account 在 Malory 所保有的帳戶中。

For the transferred Alleged Bond, FXLQ recorded \$35 million and \$15 million as member's equity and loan payable to member, respectively. The Receiver obtained all of FXLQ's account statements issued by Malory at FXLQ's premises.

對於這筆轉讓的據稱之債券，FXLQ 在會員權益上分別登錄為三千五百萬美元的會員權益以及一千五百萬美元對會員的應付帳款。本接管人在 FXLQ 的辦公區內，取得了 Malory 所發出的 FXLQ 所有帳戶對帳單。

Under Tab 2 is a Combined Summary of Activities of the Investment Account and the Prime Brokerage Account Maintained at Malory, which summarized the activities of FXLQ's Investment Account maintained at Malory. The summary shows that the Investment Account received proceeds of approximately \$46 million from sale of the Alleged Bond, earned interest income of approximately \$258,000, received transfers totaling approximately \$14 million from the Prime Brokerage Account, which is discussed below, transferred \$47.8 million to Commonwealth Financial P.M.S. and had a balance of \$12,440,172.89 at November 30, 2007.

表二為 FXLQ 維持在 Malory 處之投資帳戶與優惠型經紀帳戶聯合異動摘要，概述了 FXLQ 在 Malory 所保有的投資帳戶異動狀況。該概述表示，這個投資帳戶因出售據稱之債券而收到了約美金四千六百萬的收益，賺取了約美金 258,000 元的利息收入，從優惠型經紀帳戶所收到的轉帳金額總計約一千四百萬美元，詳情請見下述之討論，而該投資帳戶又轉出四千七百八十萬美元給 Commonwealth Financial P.M.S.，截至二〇〇七年十一月三十日為止，該投資帳戶的餘額為美金 12,440,172.89 元。

The Receiver subpoenaed the records of Malory's bank account. Malory's bank records show no deposits of proceeds from the sale of the Alleged Bond or any payments to Commonwealth Financial P.M.S. Consequently, the Receiver believes that the Investment Account statements provided by Malory to FXLQ were false.

本接管人已發出傳票索取 Malory 的銀行帳戶紀錄。Malory 的銀行紀錄上並沒有出售據稱之債券的收益存款，也沒有任何支付給 Commonwealth Financial P.M.S.的款項。因此本接管人相信 Malory 提供給 FXLQ 的投資帳戶對帳單不實。

Even if the Alleged Bond did exist, to capitalize an asset, GAAP requires, in substance, the transfer of the ownership to the recording entity. As described above, the facility period of the loan in the form of the Alleged Bond was four years, which means that the ownership and control of the Alleged Bond was never transferred to Mr. Gray.

即使據稱之債券真的存在，若在本質上要將某資產資本化，一般公認會計原則要求資產主權需移轉給登錄者。一如上述，以據稱之債券形式所簽訂的借貸合約期限為四年，換言之，也就是說據稱之債券的主權與控制權從未移轉給 Gray 先生。

Based upon the above, the Receiver concludes that the capitalization of the Alleged Bond by FXLQ was a sham and that the \$12,440,172.89 Investment Account balance and the \$47,800,000 Commonwealth Financial P.M.S. account balance carried on FXLQ's books were false.

根據以上所述，本接管人判定 FXLQ 將據稱之債券資本化一事實屬子虛烏有，而投資帳戶中結餘的金額 12,440,172.89 美元，以及在 FXLQ 帳冊中所登錄的 Commonwealth Financial P.M.S. 帳戶結餘金額 47,800,000 美元，均為不實的資料。

The SITAG loan agreement also stipulated that Mr. Gray shall pay SITAG half of all interest entitlements payable and arising out of the Alleged Bond for so long as the Alleged Bond is in the possession of Mr. Gray. On November 29, 2007, FXLQ wire transferred \$1,067,750 to William O'Bryan Client Trust Account and recorded the payment as a prepaid legal expense. Mr. Gray's attorney has indicated that the payment was made to cover accrued and unpaid interest on the Alleged Bond. However, the Receiver did not find any Bond interest payments received by FXLQ's Investment Account maintained at Malory or directly by FXLQ. The Receiver will conduct further investigation on the \$1,067,750 payment to William O'Bryan Client Trust Account.

SITAG 的借貸合約明訂，只要據稱之債券仍在 Gray 先生名下，Gray 先生就必須負擔因據稱之債券所衍生的所有利息的一半。二〇〇七年十一月二十九日，FXLQ 將美金 1,067,750 元匯入 William O'Bryan Client Trust 的帳戶，並登錄為預付之律師相關費用。Gray 先生的律師指出該款項為支付據稱之債券所累計未支付的利息。然而本接管人在 FXLQ 於 Malory 處所保有的投資帳戶中，並沒有發現該帳戶收到過任何債券利息款項，FXLQ 也沒有直接收到任何債券利息款項。本接管人會進一步調查支付至 William O'Bryan Client Trust 帳戶的 1,067,750 美元。

FXLQ's Prime Brokerage Account at Malory and Malory's Trading Account at Pro. Fi. S.A. FXLQ 在 Malory 處之優惠型經紀帳戶以及 Malory 在 Pro. Fi. S.A.處之交易帳戶

The Receiver has reviewed all statements of FXLQ's Prime Brokerage Account at Malory (the Prime Brokerage Account) from its inception, March 14, 2007, to November 30, 2007. During this period, FXLQ wire transferred \$29,440,000 to Malory and received \$6,937,482.60 back from Malory, which nets to \$22,502,517.40. The Receiver has verified all of these transactions. In addition, the statements also showed that during the period, the Prime Brokerage Account transferred \$36,636,343.55 to and received transfers totaling \$22,450,000 from the Investment Account, which nets to \$14,186,343.55. The Receiver made demand on Malory to turn over documents and accounting records related to the FXLQ account. The accounting records prepared and provided by Malory to the Receiver indicated that no such cash transfers had actually occurred.

本接管人已檢閱過 FXLQ 在二〇〇七年三月十四日成為會員後至同年十一月三十日期間，該公司在 Malory 處之優惠型經紀帳戶（下稱優惠型經紀帳戶）的所有對帳單。在這段期間，FXLQ 匯入 Malory 美金 29,440,000 元，從 Malory 收到美金 6,937,482.60 元，淨收益美金 22,502,517.40 元。本接管人已確認所有的這些轉帳。但除此之外，對帳單還顯示在這段期間，優惠型經紀帳戶匯出美金 22,450,000 元、從投資帳戶收到匯入款共美金 22,450,000 元，淨收益

美金 14,186,343.55 元。本接管人已要求 Malory 交出所有 FXLQ 帳戶相關的文件與帳務記錄。Malory 所準備與提供給本接管人的帳務紀錄說明這些現金轉帳實際上並不存在。

The activities of the Prime Brokerage Account are summarized on the Combined Summary of Activities of the Investment Account and the Prime Brokerage Account Maintained at Malory under Tab 2.

優惠型經紀帳戶的所有異動均在表二中呈現，該表為 FXLQ 維持在 Malory 處之投資帳戶與優惠型經紀帳戶的聯合異動摘要。

The Receiver has obtained documents from Malory, which show that Malory maintained a Trading Account (the Trading Account) at Pro. Fi. S.A. (Pro Fi). Pro Fi is a company formed in the Republic of San Marino in Europe. Under Tab 3 is a document, which shows that Robert Gray has a 95% ownership interest in Pro Fi.

本接管人從 Malory 處取得的資料中得知，Malory 在 Pro. Fi. S.A.（下稱 Pro Fi）處保有一個交易帳戶（下稱交易帳戶）。Pro Fi 是一家成立於歐洲聖馬利諾共和國的公司。表三為一文件，證明 Robert Gray 擁有 95% 的 Pro Fi 股權。

In early January, the Receiver learned of a computer server dedicated to Pro Fi that was located with FXLQ's servers at an offsite location. On January 11, 2008 the Receiver caused the administrative passwords to this server to be changed.

一月初，本接管人獲知一台專門處理 Pro Fi 資料的電腦伺服器，與 FXLQ 的電腦伺服器，一同擺放在 FXLQ 辦公區以外的某處。二〇〇八年一月十一日，本接管人更改了該伺服器的管理員密碼。

The Pro Fi server show total customer balances totaling about \$10.6 million, of which approximately \$9.7 million was Malory's balance. The Receiver did not liquidate any of the open positions carried on the Pro Fi server.

Pro Fi 伺服器顯示客戶的總結餘金額為一千零六十萬美元，其中約九百七十萬美金屬 Malory 之結餘。本接管人並沒有結清 Pro Fi 伺服器所載的任何未平倉部位。

The Receiver has also reviewed the statements of the Trading Account provided by Malory for the months of March 2007 through October 2007. Under Tab 4 is a Comparison of Month-End Account Balances between FXLQ's Prime Brokerage Account at Malory and Malory's Trading Account at Pro Fi, which reflected mirror images between the month-end balances of the Prime Brokerage Account and the Trading Account. In other words, funds were moved from FXLQ to Pro Fi using Malory as a conduit.

本接管人也檢閱過 Malory 所提供二〇〇七年三月至同年十月間的所有交易帳戶對帳單。表四為 FXLQ 在 Malory 處之優惠型經紀帳戶與 Malory 在 Pro Fi 處之交易帳戶的月底帳戶結餘比較，資料顯示該優惠型經紀帳戶與該交易帳戶的月底結餘完全相符。換言之，FXLQ 透過 Malory 這個管道將資金轉至 Pro Fi。

Under Tab 5 is a Combined Summary of Malory's Accounting of Cash Received from FXLQ and of Cash Activities with Pro Fi prepared by the Receiver based on the activities of the two general ledger accounts prepared and provided by Malory to the Receiver. This summary shows that Malory:

表五是 Malory 從 FXLQ 處所收到的現金科目以及 Malory 與 Pro Fi 之間的現金往來異動比較，由本接管人依照 Malory 所提供的兩本總帳資料所製作。這份比較資料顯示：

- received \$22,502,517.40 net from FXLQ
收到 FXLQ 22,502,517.40 美元淨額
- Malory received \$10,000 from “Pillsbury” on behalf of FXLQ
代收「Pillsbury」應支付給 FXLQ 的 10,000 美元淨額
- paid \$16,398,156 net to Pro Fi
支付 Pro Fi 16,398,156 美元淨額
- paid \$4,785,000 to “Slott” on behalf of FXLQ
代墊 FXLQ 應支付給「Slott」的 4,785,000 美元
- paid \$1,015,428.22 to itself in the name of expense reimbursements
以費用歸墊名義支付自己 1,015,428.22 美金
- paid \$100,000 on June 5, 2007 with the payee and purpose to be identified
二〇〇七年六月五日支付 100,000 美元，收款人與目的尚待釐清
- paid \$100,000 to TMA III on behalf of FXLQ
代墊 FXLQ 應支付給 TMA 的 100,000 美元
- paid \$80,000 in total to FXLQ on December 3 (\$30,000) and December 4 (\$50,000), 2007, which left a balance of \$33,933.18
二〇〇七年十二月三日與十二月四日支付 FXLQ 共 80,000 美元（分別為 30,000 美元與 50,000 美元），付款後之結餘為 33,933.18 美元

Total expenses of \$1,015,428.22 charged to FXLQ by Malory were not shown on the statements of either the Prime Brokerage Account or the Investment Account of FXLQ at Malory, which makes the relationship between FXLQ and Malory suspicious and perplexing. It is not a common practice for a broker/dealer to issue customer account statements with no transaction fees itemized.

Malory 向 FXLQ 收取的費用總額 1,015,428.22 美元，不論是 FXLQ 在 Malory 的優惠型經紀帳戶或投資帳戶中，均無紀錄，這種狀況令人對 FXLQ 與 Malory 之間的關係感到不解與質疑。經紀商/交易商提供沒有列明交易手續費的客戶帳戶對帳單，並非業界慣例。

FXLQ's books recorded a \$375,000 receipt from TMA III, LLC on November 10, 2006 as payable to customer, and \$55,000 and \$30,000 payments to TMA III, LLC as business development expense and administrative consulting expense, respectively. The Receiver will conduct further investigation on TMA III, LLC.

FXLQ 帳冊上有一筆 TAM III, LLC 於二〇〇六年十一月十日支付的美金 375,000 元，登錄為應付給客戶的款項，另有分別為美金 55,000 元與美金 30,000 元支付與 TAM III, LLC 的業務發展費與行政諮詢費用。本接管人將進一步調查 TMA III, LLC。

Malory's bank records show that the \$100,000 payment on June 5, 2007 was made to FXLQ. Since the statements of the Prime Brokerage Account did not show this \$100,000 payment of Malory, FXLQ recorded the receipt as a rebate income instead of as a reduction of the asset account, Funds at Counterparty, Malory Investments, which erroneously overstated the capital of FXLQ by \$100,000 effective June 5, 2007.

Malory 的銀行帳戶顯示二〇〇七年六月五日支付 FXLQ 美金 100,000 元。由於 Malory 優惠型經紀帳戶的對帳單上並未顯示 Malory 這筆美金 100,000 元的付款，FXLQ 將該筆收入登錄為回扣收入，而不是存於買賣相對人 Malory Investments 之資金的資產帳務減損，此舉造成 FXLQ 在二〇〇七年六月五日生效的資金，出現美金 100,000 元的錯誤膨脹。

The Receiver has reviewed certain bank account statements of Malory and determined that the name "Slott" under the \$4,785,000 payments made by Malory on behalf of FXLQ stands for the law firm of Jeffrey A. Slott to which FXLQ made payments totaling approximately \$2,100,000 between October 11, 2006 and November 13, 2007, of which \$935,000 was still carried on FXLQ's books at December 14, 2007 as prepaid legal expenses, a current asset account. According to Mr. Slott, he holds no funds for the benefit of FXLQ.

本接管人檢閱過 Malory 的某些銀行帳戶對帳單後，確定 Malory 代 FXLQ 墊付 4,785,000 美元的對象「Slott」，為 Jeffrey A. Slott 的律師事務所，FXLQ 在二〇〇六年十月十一日至二〇〇七年十一月十三日期間，共支付該律師事務所約美金 2,100,000 元，其中 935,000 美元在二〇〇七年十二月十四日的 FXLQ 帳冊上，仍登錄為預付之律師相關費用，屬流動資產科目。根據 Slott 先生的說法，他並沒有為 FXLQ 保管任何資金。

The Receiver learned the existence of a \$950,000 settlement agreement resulting from a legal dispute with FXLQ. Monthly payments of approximately \$66,000 were being made to the claimant through Mr. Slott's client trust account. Mr. Slott has confirmed payments of \$483,335.35 were made under the settlement agreement and that \$466,666.65 remains unpaid. 本接管人發現有份涉及美金 950,000 元的和解合約存在，該份和解合約源於一次與 FXLQ 之法律紛爭。每月約美金 66,000 的金額，透過 Slott 先生的客戶信託帳戶支付給索賠者。Slott 先生已經確認因該次和解合約案已支付了美金 483,335.35 元，尙未支付額為美金 466,666.65 元。

As to the \$4,785,000 in payments made by Malory on behalf of FXLQ, Mr. Slott represented to the Receiver that he was assuming that he did in fact receive those funds from Malory as indicated by the Receiver and that the funds were applied to the account of FXLQ with his firm. In addition, Mr. Slott provided to the Receiver a Mutual Release and Settlement Agreement effective April 25, 2007, pursuant to which FXLQ was to pay a software developer/distributor the sum of \$4 million in four installments between April 26, 2007 and July 25, 2007 to settle disputes among the parties in connection with a Software License Agreement. Mr. Slott also stated that the installments combined with an additional \$170,000 in connection with the settlement on an informal basis, were paid through his client trust account.

有關 Malory 代 FXLQ 墊付的 4,785,000 美元，Slott 先生向本接管人表示，他認為自己的確如本接管人所指稱從 Malory 處收到那些資金，而那些資金是要用在他公司的 FXLQ 帳戶。除此之外，Slott 先生還提供給本接管人一份二〇〇七年四月二十五日生效的共同解除與和解合約，根據該份合約內容，FXLQ 應於二〇〇七年四月二十六日至同年七月二十五日，分四次支付一

家軟體開發者／配銷商總數四百萬美元的金額，以解決與不同對象之間關於一份軟體許可合約的爭議。

Mr. Slott also represented to the Receiver that he is not currently involved in processing any payments in connection with any other settlements on behalf of FXLQ and does not presently hold any funds relating to any settlements on behalf of FXLQ.

Slott 先生向本接管人表示，他目前並未代表 FXLQ 處理任何因其他和解案而衍生的付款行為，目前也沒有代表 FXLQ 保管與任何和解案相關的任何資金。

Under generally accepted accounting principles, the entering of a legal settlement agreement results in incurring a liability with the concurrence of a loss. When the \$950,000 settlement agreement and the \$4 million settlement agreement were entered, the incurred liabilities and the concurring losses should have been recorded by FXLQ.

在一般公認會計原則下，當一件法律和解合約的簽訂造成負債時，同時也造成損失。當 950,000 美元的和解合約與四百萬美元的和解合約簽訂時，FXLQ 應將所產生的負債與同時出現的損失登錄於帳冊之上。

FXLQ did not record a liability and a loss on its books when the \$950,000 settlement agreement was first entered; instead, it recorded the payments to the client trust account set up at Mr. Slott's firm as either legal fee expenses or prepaid legal expenses, which resulted in a timing difference on reporting the incurred loss and understatements of liabilities over the settlement-payment period.

當 950,000 美元的和解合約首次簽訂時，FXLQ 並沒有在帳冊上登錄為負債與損失；反而將之以律師相關費用或預付之律師相關費用，登錄成支付給設立於 Slott 先生律師事務所的客戶信託帳戶中的帳款，此舉除了造成報告 FXLQ 所蒙受損失的時間差外，該公司於和解金支付期間對和解金這筆負債的陳述也過於含蓄。

When a payment was made to Malory, the money received by Malory was shown on the Prime Brokerage Account and FXLQ recorded it as an asset as "Funds at Counterparty, Malory Investments." When Malory made a legal settlement payment on behalf of FXLQ to Mr. Slott's firm from the funds it received from FXLQ, the payment was not shown on the Prime Brokerage Account and therefore, not recorded by FXLQ. In addition, FXLQ did not record a liability and a loss on its books when the \$4 million settlement agreement was first entered. Consequently, during the period from April 25, 2007 to December 14, 2007, FXLQ's books, Form 1-FR-FCM and the Weekly NFA Worksheets presented to the NFA overstated the balances of both the asset account "Funds at Counterparty, Malory Investments" and the capital account "Members Equity" by at least \$4,170,000, and understated the liabilities over the settlement-payment period.

當 FXLQ 支付 Malory 一筆款項時，Malory 所收到的金額會出現在優惠型經紀帳戶上，同時，FXLQ 將該筆付款登錄為資產項下的「存於相對買賣人 Malory Investments 之基金」。當 Malory 從 FXLQ 處所收到的基金中，代 FXLQ 墊付一筆法律和解金給 Mr. Slott 的律師事務所時，付款金額並未出現在優惠型經紀帳戶上，因此 FXLQ 也不會登錄。除此之外，當四百萬美元的和解合約簽訂時，FXLQ 亦沒有在自己的帳冊上登錄負債與損失。因此，二〇〇七年四月二十五日至同年十二月十四日期間，FXLQ 的帳冊、1-FR-FCM 表格以及送交給 NFA 的 NFA 制式作業週表上，均誇大了其資產科目下「存於相對買賣人 Malory Investments 之基金」的結

餘，以及「會員權益」的資金帳戶結餘，膨脹金額至少有 4,170,000 美元，另外，該公司於和解金支付期間對和解金這筆負債的陳述也過於含蓄。

In summary, Malory's books show a net deposit for FXLQ of \$33,933.18 while FXLQ's books show an account balance of \$4,774,497.06 at Malory.

簡言之，Malory 的帳冊顯示 FXLQ 的淨存款金額為 33,933.18 美元，而 FXLQ 的帳冊上則顯示存於 Malory 的帳戶結餘為 4,774,497.06 美元。

FXLQ's Weekly NFA Worksheet as of December 14, 2007 shows an asset of a \$7,127,469.12 deposit at "Malory Investments Prime Brokerage" which is discussed below.

FXLQ 截至於二〇〇七年十二月十四日的 NFA 制式作業週表上出現一筆資產，為存於「Malory Investments 優惠型經紀帳戶」的存款 7,127,469.12 美元，這個款項將於下文中討論。

Payments to FXLQ by Pro Fi

FXLQ 支付予 Pro Fi 的款項

As described above, Malory's books show that Malory paid \$16,398,156 net out of the funds it received from FXLQ to Pro Fi. The Receiver has reviewed certain bank account statements of Malory and verified all of these transactions. The Combined Summary of Activities of the Investment Account and the Prime Brokerage Account Maintained at Malory under Tab 2 shows that FXLQ received \$6,600,000 from Pro Fi between December 6, 2007 and December 11, 2007 and applied those receipts against the balance of the Prime Brokerage Account at Malory.

如上述，Malory 之帳冊顯示，該公司利用從 FXLQ 收到的基金，支付了 16,398,156 美元的淨額給 Pro Fi。本接管人在檢閱了 Malory 的某些銀行帳戶對帳單後，已確認所有這些轉帳的真實性。表二所呈現 FXLQ 維持在 Malory 處之投資帳戶與優惠型經紀帳戶的聯合異動摘要，概述了 FXLQ 在 Malory 所維持的投資帳戶異動狀況，顯示 FXLQ 在二〇〇七年十二月六日至同年十二月十一日期間，收到 Pro Fi 匯入 6,600,000 美元，並將這些收到的匯款當作彌補 Malory 處的優惠型經紀帳戶結餘不足之款項。

FXLQ received \$1,500,000 from Pro Fi on October 10, 2007 and recorded the receipt as a rebate income instead of as an offset against the Prime Brokerage Account as it did in December 2007. This has caused an overstatement of \$1,500,000 on the balances of both the asset account, Funds at Malory, and the capital account as shown on FXLQ's Form 1-FR-FCM dated October 31, 2007 and the Weekly NFA Worksheet dated November 30, 2007 presented to the NFA.

二〇〇七年十月十日，FXLQ 從 Pro Fi 收到一百五十萬美元後，在帳冊上將此筆款項登錄為回扣收入，而不是像二〇〇七年十二月般登錄為優惠型經紀帳戶的沖減金額。此舉造成了資產帳戶，即存於 Malory 的基金，以及出現在二〇〇七年十月三十一日的 1-FR-FCM 表格、二〇〇七年十一月三十日送交給 NFA 的 NFA 制式作業週表上的資金帳戶，均膨脹一百五十萬美金。

After the \$1,500,000 payment to FXLQ in October 2007 and the \$6,600,000 payments in December 2007, Pro Fi should still be holding \$8,298,156 of the FXLQ's funds that it received from FXLQ through Malory. Under Tab 6 is a December 7, 2007 letter issued by Pro Fi to FXLQ, which stated that "PRO.FI. was able to halt 7,127,469.12 of the total balance of \$11,127,469.12 held in a Prime Brokerage account entitled Malory Investments LLC from being transferred." The Receiver was unable to determine how the \$7,127,469.12 balance was generated; however, FXLQ's Weekly NFA Worksheet as of December 14, 2007 shows the funds at a counterparty, Malory Investments Prime Brokerage, an asset account, in the amount of \$7,127,469.12.

Pro Fi 於二〇〇七年十月與同年十二月相繼支付了美金 1,500,000 元與 6,600,000 元給 FXLQ 後，但 Pro Fi 應仍握有當初 FXLQ 透過 Malory 所匯入的基金共美金 8,298,156 元。表六是一封 Pro Fi 發送給 FLXQ 的信函，內容提到「Pro Fi 能夠停止從 Malory Investments LL 名下的優惠型經紀帳戶總結餘 11,127,469.12 美元中匯出 7,127,469.12 美元的轉帳作業。」本接管人無法判斷 7,127,469.12 的金額是如何而來；然而 FXLQ 截至二〇〇七年十二月十四日的 NFA 制式作業週報上，卻有一筆定義為資產科目的基金存於買賣相對人 Malory Investments 處的優惠型經紀帳戶，金額正是美金 7,127,469.12 元。

Remaining Cash to be Accounted for **尚待處置的剩餘現金**

Under Tab 7 is a Schedule of Cash to be Accounted for. In summary, total cash to be accounted for amounted to \$8,332,089.18, of which \$33,933.18 is being held by Malory and \$8,298,156 is being held by Pro Fi. The Receiver has requested Pro Fi's bank records and the location of the funds held by Pro Fi from Mr. Gray's attorney.

表七為尚待處置的現金時間表。簡言之，總計美金 8,332,089.18 元的現金尚待處置，其中 33,933.18 美元存於 Malroy，8,298,156 美元存於 Pro Fi。本接管人已向 Gray 先生的律師要求提供 Pro Fi 的銀行紀錄以及 Pro Fi 存放基金的地點。

Additional Liabilities to be Reported **有待報告的其他負債**

The Receiver located certain unrecorded invoices at FXLQ's office and has received additional invoices or claims, which were related to events that occurred on or before December 14, 2007.

本接管人於 FXLQ 的辦公區獲得某些未經登錄的發票，除此之外，還收到與二〇〇七年十二月十四日之前的事件相關的其他發票或索賠申請。

FXLQ's Weekly NFA Worksheet as of December 14, 2007 did not show any accounts payable or accrued expenses. Based upon the detail above, the Receiver believes that the following additional actual and contingent liabilities should have been included in FXLQ's Weekly NFA Worksheet as of December 14, 2007:

FXLQ 截至二〇〇七年十二月十四日的 NFA 制式作業週報上，並未顯示任何應付帳款或應付費

用。根據以上的詳述，本接管人相信下列額外的實際與可能產生的負債，均應反映在 FXLQ 截至二〇〇七年十二月十四日的 NFA 制式作業週報中：

Accrued rebate expense, Interbank FX 應付 Interbank FX 回扣費用	\$1,584,704.59
Unpaid profit distribution to Forex Asia International 尚未支付給 Forex Asia International 之利潤分配額	1,516,950.30
Accrued rebate expense, Forex Asia International 應付 Forex Asia International 回扣費用	554,826.24
Unpaid legal settlement 未付之法律和解金	466,666.65
Unpaid invoices 未付之發票金額	354,404.80
Accrued rebate expense, Hamilton 應付 Hamilton 回扣費用	257,854.80
Accrued commission expense, others 其他應付佣金	<u>243,672.63</u>
Total 總計	<u>\$4,979,080.01</u>

Regulatory Capital Requirements 法定資本額規範

The NFA's capital and other Financial Requirements, as approved by the CFTC, required that NFA Forex Dealer Members maintain a minimum net capital requirement of \$1 million effective July 31, 2006. Beginning on December 21, 2007, the \$1 million minimum net capital requirement was increased to \$5 million.

依照 CFTC 所批准於二〇〇六年七月三十一日生效的 NFA 資本額與其他財務規範要求，NFA 的外匯交易成員必須維持至少一百萬美元的淨資本額。自二〇〇七年十二月二十一日起，一百萬美元的最低淨資本額規定，已提高至五百萬美元。

Under Tab 8 is a Statement of Comparison of Computations of the Minimum Capital Requirement as of December 14, 2007 and January 31, 2008. The statement shows that FXLQ reported it had an excess of approximately \$6.5 million over the \$1 million minimum net capital requirement as of December 14, 2007, while the Receiver, based on all available information, believes that FXLQ was undercapitalized by approximately \$5.3 million as of December 14, 2007.

表八為截至二〇〇七年十二月十四日與截至二〇〇八年一月三十一日的最低資本額規定估算比

較說明。該報告顯示 FXLQ 呈報截至二〇〇七年十二月十四日為止，該公司資本額比規定的一百萬美元最低淨資本額超出約美金六百五十萬元，然而根據所有可取得的資訊判斷，本接管人相信 FXLQ 截至二〇〇七年十二月十四日為止的資本不足額約五百三十萬美金。

Also, as shown under Tab 8, the Receiver believes that under the current minimum net capital requirement of \$5 million effective December 21, 2007, FXLQ was undercapitalized by approximately \$6.9 million at January 31, 2008.

除此之外，一如表八所呈現，本接管人相信依照二〇〇七年十二月二十一日生效的目前最低淨資本額為五百萬美元的規定，FXLQ 在二〇〇八年一月三十一日的資本不足額約為六百九十萬美元。

Conclusion

結論

As set forth in this report, FXLQ had a practice of not recording its true liabilities and overstating its assets. For example, under Tab 9 is a Comparative Statement of the Computation of the Minimum Capital Requirements at April 30, 2007. This statement illustrates the impact of deceptive accounting in connection with the transactions with Malory, the recording of the Alleged Bond, and the failure to record and disclose liabilities on the regulatory capital adequacy computation. FXLQ's report to the CFTC showed an excess net capital of \$35,104,791 at April 30, 2007 when it really was undercapitalized by at least \$7,769,474.

如本報告所指出，FXLQ 未詳實記錄真正債務並膨脹資產。舉例而言，表九為二〇〇七年四月三十日最低資本額規定的計算比較說明。該表闡述了 FXLQ 與 Malory 之間轉帳行為的不實帳務、據稱之債券的登錄，以及在法定資本額適足度的計算下，未能依據規定登錄與公開負債之嚴重影響。FXLQ 送交 CFTC 的報告顯示二〇〇七年四月三十日所超出的淨資本額為美金 35,104,791 元，但實際上該公司的資本不足額卻至少有美金 7,769,474 元。

In addition to FXLQ's capital deficit position, the CFTC alleged in its complaint that under CFTC regulations FXLQ was required to maintain records that reflect its assets, liabilities, and capital and that it failed to do so. The summary of FXLQ's accounting practices detailed below support the CFTC's allegation:

除了 FXLQ 資本虧損短絀外，CFTC 在其控訴狀中宣稱，根據 CFTC 之規範，FXLQ 必須定期提供並更新反映其資產、負債與資本的紀錄，而 FXLQ 並沒有遵守規定。下列所詳述的 FXLQ 之帳務處理狀況，也確認了 CFTC 的主張：

The Alleged Bond:

據稱之債券

- Recorded the \$50 million Alleged Bond which presented an addition to capital of \$35 million not in conformity with GAAP

登錄五千萬美元的據稱之債券，超出實際之三千五百萬美元之資金，不符合一般公認會計原則

- Carried the following non-existing assets on the books that originated from the recording of the Alleged Bond:

在帳冊上登錄下列源於據稱之債券但事實上並不存在之資產：

Investment Account at Malory 於 Malory 處的投資帳戶	\$12,440,173
Account at Commonwealth Financial 於 Commonwealth Financial 處的帳戶	<u>47,800,000</u>
Total 總計	<u>\$60,240,173</u>

Pro Fi and Malory:

Pro Fi 與 Malory

- Made net payments of \$16,398,156 to a foreign company owned by Robert Gray, Pro Fi, without recording them on the books by using Malory as a conduit
利用 Malory 為管道，支付美金 16,398,156 元淨額給一家所有人為 Robert Gray 的外國公司 Pro Fi，但沒有在帳冊上登錄
- Recorded a \$1,500,000 receipt from Pro Fi as income instead of as an asset reduction which presented an overstatement of capital of \$1,500,000
從 Pro Fi 收到的美金 1,500,000 元，被當成營收而不是資產減項，造成資金 1,500,000 美元的資產膨脹
- Carried on the books a non-existing asset, the \$4,774,497 balance of the Prime Brokerage Account at Malory
帳冊上有一筆不存在的資產，即在 Malory 處的優惠型經紀帳戶中的美金 4,774,497 元
- Recorded a \$100,000 receipt from Malory as income instead of as an asset reduction which presented an overstatement of capital of \$100,000
從 Malory 收到的美金 100,000 元，被當成營收而不是資產減項，造成資金 100,000 美元的資產膨脹

Legal Settlement Agreements:

法律和解合約

- Did not record a liability and a loss on the books when the \$950,000 and the \$4,000,000 legal settlement agreements were first entered, which presented

overstatements of capital totaling \$4,785,000, the amount paid to the Client Trust Fund of Jeffrey A. Slott's firm through Malory, and understatements of liabilities over the settlement-payment periods

當 950,000 美元與 4,000,000 美元的法律和解合約首次簽訂時，未在帳冊上登錄負債與損失，結果透過 Malory 支付至設立於 Jeffrey A. Slott 律師事務所的客戶信託基金的美金 4,785,000 元，成了資產膨脹，同時該公司在償付和解金期間，也低報了其負債金額

- Carried on the books a non-existing asset, prepaid legal expenses to Jeffrey A. Slott's firm totaling \$935,000

帳冊上有一筆不存在的資產，即預付給 Jeffrey A. Slott 律師事務所的律師費，共計 935,000 美元

Retail Customers:

個人客戶

- Did not record a contingent liability of \$1,516,950.30 for the profit distribution due to Forex Asia International

未登錄一筆應付給 Forex Asia International 的利潤分配金而出現的可能負債 1,516,950.30 美元

- Carried on the books a non-existing loan receivable of \$600,000 due from Forex Asia International

帳冊上有一筆 Forex Asia International 所積欠的不存在應收款 600,000 美元

Institutional Customer:

法人客戶

- Did not record a \$2,282,816 swap credit due to Interbank FX, a contingent liability, while the amount was reflected on the Omnibus and Multi Contributor Balance Statement issued to Interbank FX

未登錄一筆因積欠 Interbank FX 的交換信用而可能發生的負債 2,282,816 美元，但這個金額卻出現在發送給 Interbank FX 的綜合與多種貢獻結餘明細對帳單上

Based on all of the information currently available to the Receiver, it appears the pressure of meeting the minimum regulatory capital requirement and of portraying abundant capital for marketing purposes in China that confronted FXLQ, caused its management to falsify FXLQ's financial statements to deceive the CFTC, NFA, and customers.

綜合本接管人目前所有可取得的資訊，FXLQ 似乎面臨了符合最低法定資本額的規定以及爲了中國市場的行銷目的而描繪出大量資金的壓力，致使管理階層偽造該公司的財務報表欺瞞 CFTC、NFA 以及其客戶。

Respectfully submitted,
特此呈送本報告

/S/

Robb Evans & Associates LLC 羅義文有限責任公司

Receiver 接管人