

13.3.2 LCH.Clearnet Limited. – Notice of Commission Order – Application for Recognition

LCH.CLEARNET LIMITED

APPLICATION FOR RECOGNITION

NOTICE OF COMMISSION ORDER

On September 10, 2013, the Commission issued an order under section 21.2 of the *Securities Act* (Ontario) (Act) recognising LCH.Clearnet Limited (LCH) as a clearing agency (Order), subject to terms and conditions as set out in the Order. A copy of the Order is published in Chapter 2 of this Bulletin.

The Commission published LCH's application and draft recognition order for comment on February 14, 2013 at (2013) 36 OSCB 1798. A comment letter was received from TMX Group Limited. A copy of the comment letter is posted at www.osc.gov.on.ca. We summarize below the main comments and Staff's responses to them.

In issuing the Order, the following substantive amendments were made to the draft recognition order published for comment:

Amendments to Terms and Conditions:

- a new term and condition was included wherein LCH will conduct its businesses and operations in a manner that is consistent with the public interest
- one term and condition was amended related to regulatory oversight to state that LCH shall maintain its status as a central counterparty authorised under the European Market Infrastructure Regulation (EMIR) and shall continue to be subject to the regulatory oversight under EMIR
- a new reporting requirement was included wherein LCH, based on the information available, will promptly notify the Commission of the identity of any new Ontario clearing member or any other Ontario resident that has entered into a direct or indirect arrangement with LCH for the provision of clearing services
- a reporting requirement was modified to make it clear that LCH will, on a quarterly basis based on the information available, provide for each clearing member offering client clearing to Ontario residents, the identity of the Ontario resident client receiving such services and the value and volume by asset class of their client clearing transactions

Attached as Appendix A to this notice is a blackline identifying amendments made to the Order since publication for comment.

Summary of Comments and Staff's Responses

Comment	Response
<p>The Commenter raised concerns about the potential for an unlevel playing field for domestic and foreign clearing agencies. Specifically, they stated that it is important to ensure that a foreign clearing agency does not have a competitive advantage over a domestic clearing agency because of differences in rules and requirements that they must meet in order to offer similar services.</p>	<p>As noted in OSC Staff Notice 24-702 <i>Regulatory Approach to Recognition and Exemption from Recognition of Clearing Agencies</i> (Staff Notice 24-702), our application process for recognition or exemption from recognition for clearing agencies is similar regardless whether the clearing agency is Ontario based or not. We would only recommend that a clearing agency based outside Ontario be exempted from recognition if it does not pose systemic risk to the Ontario capital markets. Once we determine that a clearing agency should be recognised, we tailor the recognition order to focus on key areas that pose the biggest risk to the Ontario market and to adopt, as much as we can, current regulatory processes to which the entity is already subject.</p>
<p>The commenter also raised concerns about our reliance on the United Kingdom (U.K.) regulatory authorities (the Financial Services Authority (FSA) and as of April 1, 2013 the Bank of England, LCH's new primary regulator), without conducting a transparent comparability analysis of the oversight regimes of Ontario and the U.K. The commenter also noted that a comparability analysis is very difficult to achieve at the present time due to regulatory uncertainty relating to the FSA transferring its oversight to the Bank of England and EMIR has not been finalised.</p>	<p>As noted in Staff Notice 24-702, in processing an application for recognition or exemption from a foreign based clearing agency staff consider whether the clearing agency is subject to an appropriate regulatory and oversight regime. Foreign based clearing agencies are specifically asked to include in its application a description of the regulatory regime that it is currently subject to. In addition to reviewing the information in the application, staff also interact with staff of the home regulator to gain an understanding of their oversight. All these inform our conclusion as to whether a foreign regime is appropriate and comparable to the regime in Ontario.</p>
<p>The Commenter noted that there is no MOU between the FSA and the Commission which they view as an important precursor to the recognition or exemption of a dually regulated financial market infrastructure.</p>	<p>The Commission, together with the Alberta and British Columbia Securities Commissions, entered into a MOU with the Bank of England concerning regulatory cooperation related to the supervision and oversight of regulated entities that operate in both the United Kingdom and Canada. The MOU provides a comprehensive framework for consultation, cooperation and information-sharing related to the day-to-day supervision and oversight of cross-border regulated entities such as LCH and enhances the Commission's ability to supervise these entities. The MOU was published in the OSC bulletin on July 11, 2013 ((2013) 36 OSCB 6918) and is posted at www.osc.gov.on.ca.</p>

Appendix "A" to the Notice

Draft Order

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, CHAPTER S.5, AS AMENDED
(THE ACT)

AND

IN THE MATTER OF
LCH.CLEARNET LIMITED

ORDER
(~~Subsection Section 21.2(0.1)~~ of the Act)

WHEREAS LCH.Clearnet Limited (LCH) has filed an application (Application) with the Ontario Securities Commission (Commission) requesting an order pursuant to ~~subsection 21.2(0.1)~~ of the Act recognizing LCH as a clearing agency;

AND WHEREAS the Commission issued an interim order dated March 1, 2011 (~~Initial~~ Interim Order) pursuant to section 147 of the Act exempting LCH from the requirement to be recognized as a clearing agency under subsection 21.2(0.1) of the Act;

AND WHEREAS the Commission issued an order dated May 17, 2011 varying and restating the ~~Initial~~ Interim Order to clarify that LCH may provide additional clearing services, including LCH Enclear OTC service to Ontario-resident clients (~~First Restated~~ Interim Order);

AND WHEREAS the Commission issued an order dated August 19, 2011 varying and restating the ~~First Restated~~ Interim Order and issued an order dated August 28, 2012 varying the August 19, 2011 order to extend LCH's interim exemption from the requirement to be recognized as a clearing agency under subsection 21.2(0.1) of the Act (Subsequent Order) to extend the expiry of the First Restated Interim Order (Second Restated Interim Order);

AND WHEREAS ~~the Commission issued an order dated August 28, 2012 varying the Second Restated Interim Order to extend the expiry of the Second Restated Interim Order;~~

AND WHEREAS the Commission issued an order dated February 12, 2013 varying and restating the Subsequent Order to extend the expiry of the Subsequent Order and include an additional filing requirement (Restated Subsequent Order);

AND WHEREAS the Commission issued an order dated May 24, 2013 varying the Restated Subsequent Order to further extend the expiry of the Restated Subsequent Order;

AND WHEREAS the Restated Subsequent Order will be replaced by this order and therefore will be automatically revoked upon issuance of this order;

AND WHEREAS LCH has represented to the Commission that:

1. LCH is a clearing house incorporated under the laws of England and Wales. LCH operates as a central counterparty (CCP) clearing house and receives most of its revenue from treasury income and thereafter clearing fees charged to its clearing members (Clearing Members);
2. ~~As of July 31, 2013~~ As of January 12, 2012, LCH.Clearnet Group Ltd. (LCH Group), the parent holding company of LCH, is ~~owned 57.8% owned by the London Stock Exchange Group ("LSEG"), with the remainder being owned by its users (i.e. clearing members) and other exchanges; 77.5 percent by users (i.e., Clearing Members) and 22.5 percent by exchanges. As at December 31, 2012, there are no shareholders of LCH Group who hold 10% or more of LCH Group's issued and outstanding shares. On December 14, 2012, the Office of Fair Trading in the United Kingdom (U.K.) announced that the proposed acquisition by the London Stock Exchange Group Plc of a majority stake in LCH was cleared unconditionally;~~
3. LCH Group, which is incorporated in the U.K., is regulated as a Compagnie financière by the Autorité de Contrôle Prudentiel (France);

4. LCH is a Recognised Clearing House (RCH) in the U.K. under the U.K.'s Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges and Clearing Houses) (FSMA) ~~and, as such, is approved by the U.K. Financial Services Authority (FSA).~~ LCH as a RCH must comply with the recognition requirements laid down in FSMA to clear a broad range of asset classes including securities, exchange traded derivatives, commodities, energy, freight, interest rate swaps, credit default swaps and euro and sterling denominated bonds and repurchase transactions, and works closely with market participants and exchanges to identify and develop clearing services for new asset classes. The exchange-traded futures and options on futures relate to underlyings in short-term interest rates (Euro, Sterling, Swiss Franc); government bonds (U.K. Gilts and Japanese Government Bonds); medium and long-term swap rates (Euro), equity indices (U.K.-related FTSE indices and FTSE and MSCI pan-European indices); and individual stocks (British, Dutch, French, German, Italian, Spanish and U.S. companies) and energy;
5. ~~LCH was until March 31, 2013 regulated by the Financial Services Authority (FSA). The Bank of England-FSA is now LCH's primary regulator. Proposed legislation -~~ Under a new framework established by the Financial Services Act 2012 which was introduced into the U.K. Parliament on January 27, 2012 and that will fundamentally reformed the structure of financial services regulation in the U.K. Under the new framework, which came into force April 1, 2013 will be implemented in 2013, and transferred the FSA's regulatory and oversight responsibilities for RCHs of systemically important financial market infrastructures will be transferred to the Bank of England; (the FSA and the Bank of England hereinafter referred to collectively or individually as the "U.K. Authorities");
6. The regulatory regime for CCPs in the European Union now comes under the European Market Infrastructure Regulation (EMIR). Under EMIR all CCPs providing services in the European Union and European Economic Area must apply for re-authorisation by September 15, 2013 and must demonstrate compliance with EMIR and related regulations before authorisation is granted. EMIR came into force on August 16, 2012; LCH is in the process of becoming authorised as a CCP under EMIR;
76. ~~As part of its regulatory oversight of LCH, the U.K. Authorities~~ Bank of England will reviews, assesses and enforces the on-going compliance by LCH with the requirements set out in FSMA including financial resources, the financial and operational requirements for Clearing Members, systems and controls, rule-making, and LCH's practices and procedures;
87. ~~LCH is required to provide to the U.K. Authorities~~ Bank of England on request, access to all records and to cooperate with other regulatory authorities, including making arrangements for information-sharing;
98. LCH is also a designated clearing organization (DCO) within the meaning of that term under the United States (U.S.) Commodity Exchange Act. As a DCO, LCH is subject to regulatory supervision by the U.S. Commodity Futures Trading Commission, a U.S. federal regulatory agency. In addition, the Bank of Canada designated LCH's SwapClear service under the Payment Clearing and Settlement Act (Canada) with effect from April 2, 2013 which brings LCH's SwapClear service under the formal oversight of the Bank of Canada;
109. LCH is currently offering the following four services to Ontario-resident Clearing Members: RepoClear, SwapClear, EnClear and LCH Nodal. LCH currently has five Clearing Members who qualify as "Canadian financial institutions" (within the meaning of that term in subsection 1.1(3) of National Instrument 14-101 *Definitions* and that have a head office or principal place of business in Ontario. LCH is currently offering client clearing services to Ontario residents through non-Ontario resident SwapClear Clearing Members and is in the process of permitting Ontario resident SwapClear Clearing Members to offer client clearing services to Ontario residents and non-Ontario residents; LCH. Currently does not offer client clearing services to its Ontario resident clients;
110. The RepoClear service clears cash bond and repurchase trades on the following securities: Austrian, Belgian, Dutch, German, Irish, Finnish, ~~Portugese~~ Portuguese and U.K. government bonds, German Jumbo Pfandbriefe and Supranationals, Agency and Sovereign. RepoClear accepts the following types of specific bond repurchase trades: classic fixed rate repurchases with first leg settlement on a same day and forward start basis with a term not greater than one year;
124. The SwapClear service clears over-the-counter (OTC) interest rate swaps (IRS) and LCH anticipates clearing an expanded list of swap products and OTC derivatives on exempt commodities (e.g., energy and metals);
132. Transactions cleared through SwapClear and RepoClear are traded by Clearing Members on a bilateral basis, either inter-office, or through brokers, or on automated trading systems recognized by LCH;
143. The EnClear service clears OTC forward freight agreements and OTC emission contracts that provide a risk management and delivery solution. Cleared OTC Spot European Union Allowances issued in accordance with the terms of Directive 1003/87/EC (EUA) and Certified Emissions Reductions issued pursuant to Article 12 of the Kyoto

Protocol (CER) contracts allow market practitioners to benefit from the security offered by a CCP and the flexibility provided by platform independence;

154. The LCH Nodal service clears cash-settled power and natural gas futures for participants of the Nodal Exchange, which is an independent electronic commodities exchange dedicated to offering locational forward trading products and services to participants in the organized North American power markets;
165. LCH maintains Clearing Member criteria that all applicants must satisfy before their applications are accepted, including fitness criteria, review of corporate constitutive documentation, financial standards, operational standards, appropriate registration qualifications with applicable statutory regulatory authorities, and LCH applies a due diligence process to ensure that all applicants meet the required criteria;
176. There are no material differences in terms of membership standards and financial requirements between Ontario-resident Clearing Members and other Clearing Members;
187. LCH utilizes processes to minimize systemic risk, which processes include operational and financial criteria for all Clearing Members, margining and financial protections, the maintenance of a clearing/guarantee fund, sound information systems, comprehensive internal controls, ongoing monitoring of Clearing Members, and appropriate oversight by the LCH Board of Directors;
198. LCH does not have any office or maintain other physical installations in Ontario or any other Canadian province or territory. LCH does not currently have any plans to open such an office or to establish any such physical installations in Ontario or elsewhere in Canada; and
2049. LCH permits Ontario- residents who meet the criteria set out in its rules to become registered as Clearing Members, and as a result, is considered by the Commission to be “carrying on business as a clearing agency” in Ontario. LCH cannot carry on business in Ontario as a clearing agency unless it is recognized by the Commission as a clearing agency under ~~subsection 21.2(0.4)~~ of the Act or exempted from such recognition under section 147 of the Act.

AND WHEREAS based on the Application and the representations LCH has made to the Commission, the Commission has determined that LCH satisfies the criteria set out in Schedule “A” to this order and that it is in the public interest to recognize LCH as clearing agency pursuant to ~~subsection 21.2(0.4)~~ of the Act, subject to terms and conditions that are set out in Schedule “B” of this order;

AND WHEREAS LCH has agreed to the respective terms and conditions that are set out in Schedule “B” to this order;

AND WHEREAS the Commission will monitor developments in international and domestic capital markets and LCH’s activities on an ongoing basis to determine whether it is appropriate that LCH continues to be recognized subject to the terms and conditions in this order;

IT IS ORDERED by the Commission that LCH is recognized as a clearing agency pursuant to ~~subsection 21.2(0.4)~~ of the Act;

PROVIDED THAT LCH complies with the terms and conditions attached as hereto as Schedule “B” to this order.

DATED _____, 2013

SCHEDULE A

Criteria for Recognition and Exemption from Recognition as a Clearing Agency

PART 1 GOVERNANCE

- 1.1 The governance structure and governance arrangements of the clearing agency ensures:
- (a) effective oversight of the clearing agency;
 - (b) the clearing agency's activities are in keeping with its public interest mandate;
 - (c) fair, meaningful and diverse representation on the governing body (Board) and any committees of the Board, including a reasonable proportion of independent directors;
 - (d) a proper balance among the interests of the owners and the different entities seeking access (participants) to the clearing services and facilities (clearing services) of the clearing agency;
 - (e) the clearing agency has policies and procedures to appropriately identify and manage conflicts of interest;
 - (f) each director or officer of the clearing agency, and each person or company that owns or controls, directly or indirectly, more than 10 percent of the clearing agency is a fit and proper person; and
 - (g) there are appropriate qualifications, limitation of liability and indemnity provisions for directors and officers of the clearing agency.

PART 2 FEES

- 2.1 All fees imposed by the clearing agency are equitably allocated. The fees do not have the effect of creating unreasonable barriers to access.
- 2.2 The process for setting fees is fair and appropriate, and the fee model is transparent.

PART 3 ACCESS

- 3.1 The clearing agency has appropriate written standards for access to its services.
- 3.2 The access standards and the process for obtaining, limiting and denying access are fair and transparent. A clearing agency keeps records of
- (a) each grant of access including, for each participant, the reasons for granting such access; and
 - (b) each denial or limitation of access, including the reasons for denying or limiting access to an applicant.

PART 4 RULES AND RULEMAKING

- 4.1 The clearing agency's rules are designed to govern all aspects of the clearing services offered by the clearing agency, and
- (a) are not inconsistent with securities legislation;
 - (b) do not permit unreasonable discrimination among participants; and
 - (c) do not impose any burden on competition that is not necessary or appropriate.
- 4.2 The clearing agency's rules and the process for adopting new rules or amending existing rules should be transparent to participants and the general public.
- 4.3 The clearing agency monitors participant activities to ensure compliance with the rules.
- 4.4 The rules set out appropriate sanctions in the event of non-compliance by participants.

PART 5 DUE PROCESS

5.1 For any decision made by the clearing agency that affects an applicant or a participant, including a decision in relation to access, the clearing agency ensures that:

- (a) an applicant or a participant is given an opportunity to be heard or make representations; and
- (b) the clearing agency keeps a record of, gives reasons for, and provides for appeals or reviews of, its decisions.

PART 6 RISK MANAGEMENT

6.1 The clearing agency's clearing services are designed to minimize systemic risk.

6.2 The clearing agency has appropriate risk management policies and procedures and internal controls in place.

6.3 Without limiting the generality of the foregoing, the clearing agency's clearing or functions are designed to achieve the following objectives:

- 1. Where the clearing agency acts as a central counterparty, it rigorously controls the risks it assumes.
- 2. The clearing agency minimizes principal risk by linking securities transfers to funds transfers in a way that achieves delivery versus payment.
- 3. Final settlement occurs no later than the end of the settlement day. Intraday or real-time finality is provided where necessary to reduce risks.
- 4. Where the clearing agency extends intraday credit to participants, including a clearing agency that operates net settlement systems, it institutes risk controls that, at a minimum, ensure timely settlement in the event that the participant with the largest payment obligation is unable to settle.
- 5. Assets used to settle the ultimate payment obligations arising from derivatives transactions carry little or no credit or liquidity risk. If central bank money is not used, steps are to be taken to protect participants in clearing services from potential losses and liquidity pressures arising from the failure of the cash settlement agent whose assets are used for that purpose.
- 6. If the clearing agency establishes links to settle cross-border trades, it designs and operates such links to reduce effectively the risks associated with cross-border settlements.

6.4 The clearing agency engaging in activities not related to clearing services carries on such activities in a manner that prevents the spillover of risk to the clearing agency that might affect its financial viability or negatively impact any of the participants in the clearing service.

PART 7 SYSTEMS AND TECHNOLOGY

7.1 For its clearing services systems, the clearing agency:

- (a) develops and maintains,
 - (i) reasonable business continuity and disaster recovery plans,
 - (ii) an adequate system of internal control,
 - (iii) adequate information technology general controls, including controls relating to information systems operations, information security, change management, problem management, network support, and system software support;
- (b) on a reasonably frequent basis, and in any event, at least annually, and in a manner that is consistent with prudent business practice,
 - (i) makes reasonable current and future capacity estimates,
 - (ii) conducts capacity stress tests to determine the ability of those systems to process transactions in an accurate, timely and efficient manner,

(iii) tests its business continuity and disaster recovery plans; and

(c) promptly notifies the regulator of any material systems failures.

7.2 The clearing agency annually engages a qualified party to conduct an independent systems review and prepare a report in accordance with established audit standards regarding its compliance with section 7.1(a).

PART 8 FINANCIAL VIABILITY AND REPORTING

8.1 The clearing agency has sufficient financial resources for the proper performance of its functions and to meet its responsibilities and allocates sufficient financial and staff resources to carry out its functions as a clearing agency in a manner that is consistent with any regulatory requirements.

PART 9 OPERATIONAL RELIABILITY

9.1 The clearing agency has procedures and processes to ensure the provision of accurate and reliable clearing services to participants.

PART 10 PROTECTION OF ASSETS

10.1 The clearing agency has established accounting practices, internal controls, and safekeeping and segregation procedures to protect the assets that are held by the clearing agency.

PART 11 OUTSOURCING

11.1 Where the clearing agency has outsourced any of its key functions, it has appropriate and formal arrangements and processes in place that permit it to meet its obligations and that are in accordance with industry best practices. The outsourcing arrangement provides regulatory authorities with access to all data, information, and systems maintained by the third party service provider required for the purposes of regulatory oversight of the agency.

PART 12 INFORMATION SHARING AND REGULATORY COOPERATION

12.1 For regulatory purposes, the clearing agency cooperates by sharing information or otherwise with the Commission and its staff, self-regulatory organizations, exchanges, quotation and trade reporting systems, alternative trading systems, other clearing agencies, investor protection funds, and other appropriate regulatory bodies.

SCHEDULE "B"

TERMS and CONDITIONS

DEFINITIONS

For the purposes of this Schedule:

"**Clearing Member**" means a clearing member as defined under LCH rules;

"**client clearing**" means a Clearing Member(s) clearing transactions on behalf of their clients who are not Clearing Members;

"**Crisis**" means (i) when one or more of LCH's major Clearing Members default on their obligations to LCH that might place LCH under financial distress that is handled with significant difficulties (ii) when LCH experiences operational problems which results in the delay of the processing of the clearance of trades for more than two hours following the disruptive event, such as an IT system or process failure, human error, management failure, fraud, or disruption from external events, such as natural disasters, physical attacks by terrorists, or cyber attacks; (iii) any material problem with the clearance of transactions that could materially affect the safety and soundness of LCH; (iv) when LCH's assets and those of its Clearing Members and/or their clients held by or on behalf of LCH suffer significant loss due to market risk or due to custody risk following the failure of the third party commercial custody bank holding such assets; (v) a default of an Ontario Clearing Member; (vi) a default of a Clearing Member where the Clearing Member is clearing on behalf of Ontario residents or (vii) any expectation of LCH that any of the foregoing is reasonably likely to occur;

"**criteria for recognition**" means the criteria for recognition set out in Schedule "A" to this order;

"**FMI**s" means financial market infrastructures as defined under the principles of the Bank for International Settlements and the International Organization of Securities Commissions;

"**Ontario Clearing Member**" means Ontario-residents who are Clearing Members of LCH;

"**Ontario securities law**" has the meaning ascribed to it in subsection 1(1) of the Act;

REGULATION OF LCH

1. LCH shall maintain its status as a RCH with the ~~U.K. Authorities~~ Bank of England and as a CCP authorised under EMIR and shall continue to be subject to the regulatory oversight of the ~~U.K. Authorities~~ Bank of England and under EMIR.
2. LCH shall continue to meet the criteria for recognition as set out in Schedule "A".

OWNERSHIP OF LCH

3. LCH shall provide to the Commission 90 days prior written notice and a detailed description and impact of any proposed change to its ownership.

PUBLIC INTEREST

4. LCH shall conduct its businesses and operations in a manner that is consistent with the public interest.

ACCESS

54. LCH shall request the Commission's prior written approval before offering (i) any new clearing service including client clearing to Ontario Clearing Members or (ii) any new link to FMIs (FMI Link) to be utilized by Ontario Clearing Members. Such a request shall be made at least 75 days prior to the offering of the new clearing service or FMI Link to Ontario Clearing Members and shall be accompanied by a written notice and detailed description and impact of the new clearing service or FMI Link to the safety and soundness of LCH and the existing clearing services offered to Ontario Clearing Members.

RULES AND RULEMAKING

65. LCH shall provide to the Commission a written notice and detailed description of any new substantive rules or substantive changes to current rules relating to LCH's access criteria, default management and risk management model that are specific to the clearing services utilized by Ontario Clearing Members 45 days prior to the effective date of the rule or change.

76. Notwithstanding paragraph 65, where LCH needs to implement a new substantive rule or a substantive rule change resulting in an effective date of less than 45 days, LCH shall provide to the Commission as soon as possible prior to the effective date a written notice and detailed description of the new material rule or material rule change and the reasons for the shorter implementation.

RISK CONTROLS

87. LCH shall have clearly defined and transparent procedures for the management of risk which specify the respective responsibilities of LCH and its Clearing Members.

CRISIS MANAGEMENT

98. In the event of a Crisis, LCH shall promptly share with and provide periodic updates to the Commission on the following information:
- (a) details of the Crisis;
 - (b) any actions likely to be taken by LCH including details of the use of LCH's default protections and default management processes that have occurred and which impact the resilience of the LCH clearing services and the total level of financial resources remaining at LCH for default management purposes with regard to cleared products;
 - (c) actions likely to be taken by the ~~U.K. Authorities~~ Bank of England if known to LCH; and
 - (d) any other information and documentation requested by the Commission related to the Crisis.

SYSTEMS AND TECHNOLOGY

109. LCH shall promptly notify Commission staff of any material system failures graded as Priority 1 or similarly graded by the ~~U.K. Authorities~~ Bank of England of a clearing service(s) utilized by an Ontario Clearing Member.

COMPLIANCE

110. LCH shall certify in writing to the Commission, in a certificate signed by its general counsel or head of compliance and regulation, within one year of the effective date of this oOrder and every year subsequent to that date, or at other times required by the Commission, that it is in compliance with the terms and conditions in this oOrder and the criteria for recognition set out in Schedule "A" attached to this oOrder and describe in detail:
- (a) the steps taken to require compliance;
 - (b) the controls in place to verify compliance; and
 - (c) the names and titles of employees who have oversight of compliance.
124. LCH shall immediately notify staff of the Commission of any event, circumstance, or situation concerning any of LCH's operations that could materially prevent LCH's ability to continue to comply with the terms and conditions of the oOrder or the criteria for recognition set out in Schedule "A" attached to the oOrder.

INFORMATION SHARING AND REGULATORY COOPERATION

132. LCH shall provide such information as may be requested from time to time, and otherwise cooperate with, the Commission or its staff with respect to matters subject to the Commission's jurisdiction.
143. Unless otherwise prohibited under applicable law, LCH shall share information and otherwise cooperate with other recognized or exempt clearing agencies, recognized or exempt self-regulatory organizations, investor protection funds, marketplaces, and other regulatory bodies as appropriate.
154. LCH shall comply with Appendix "A" to this Schedule setting out the filing and reporting obligations, as amended from time to time, regarding the reporting of information to the Commission.

SUBMISSION TO JURISDICTION AND AGENT FOR SERVICE

165. With respect to a proceeding brought by the Commission arising out of, related to, concerning or in any other manner connected with the Commission's regulation and oversight of LCH's activities in Ontario, LCH shall submit to the non-exclusive jurisdiction of (i) the courts and administrative tribunals of Ontario and (ii) an administrative proceeding in Ontario.
176. For greater certainty, LCH shall file with the Commission a valid and binding appointment of an agent for service in Ontario upon whom the Commission may serve a notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding arising out of or relating to or concerning the Commission's regulation and oversight of LCH's activities in Ontario.

Appendix "A"

Filing and Reporting Obligations

FILING REQUIREMENTS

Bank of England FSA Filings

1. LCH shall provide staff of the Commission, concurrently, the following information that it is required to file with the ~~U.K. Authorities~~ Bank of England:
 - (a) the audited and unaudited financial statements of LCH;
 - (b) the institution of any legal proceeding against it;
 - (c) the presentation of a petition for winding up, the appointment of a receiver or the making of any voluntary arrangement with creditors;
 - (d) any material changes and proposed material changes to its bylaws, constating documents, rules (other than the rules identified in paragraphs ~~65~~ and ~~76~~ of Schedule "B"), operations manual, participant agreements and other similar instruments or documents of LCH which contain any contractual terms setting out the respective rights and obligations between LCH and Clearing Members or among Clearing Members;
 - (e) any reports or other similar documents that provide risk management information; and
 - (f) any regulatory assessments or self-assessments against international standards or requirements.

Prior Notification

2. LCH shall provide prior notification to staff of the Commission of any of the following:
 - (a) a material change to its business operations or the information provided in the Application; and
 - (b) any material change to the clearing services provided to Ontario Clearing Members.

Prompt Notification

3. LCH shall promptly notify staff of the Commission of any of the following:
 - (a) an event of default by a Clearing Member that does not constitute a Crisis, including details of the use of LCH's default protections and default management processes that have occurred and the total level of financial resources remaining at LCH for a default management purposes with regard to cleared products in the clearing services offered to Ontario Clearing Members;
 - (b) any material change or proposed material change in status or the regulatory oversight by the ~~U.K. Authorities~~ Bank of England; ~~and~~
 - (c) the clearing of new products that are proposed to be offered to Ontario Clearing Members or products that will no longer be available to Ontario Clearing Members; and
 - (d) in relation to client clearing and based on the information available to LCH, the identity of any new Ontario Clearing Member or any other Ontario resident that has entered into a direct or indirect arrangement with LCH for the provision of clearing services.

Quarterly Reporting

4. LCH shall maintain the following updated information and submit such information to the Commission in a manner and form acceptable to the Commission on at least a quarterly basis within 30 days of the end of the quarter, and at any time promptly upon the request of staff of the Commission:
 - (a) a current list of all Ontario Clearing Members;

- (b) a list of all Ontario Clearing Members against whom disciplinary action has been taken in the last quarter by LCH or the ~~U.K. Authorities~~ Bank of England with respect to activities at LCH;
- (c) a list of all investigations by LCH relating to Ontario Clearing Members;
- (d) a list of all Ontario applicants who have been denied Clearing Member status by LCH;
- (e) for each LCH clearing service provided to Ontario Clearing Members, the aggregate nominal volumes during the period and the level of open interest as of the end of the period (by currency) in cleared products; the high and low daily nominal volumes and level of open interest during that period (with breakdowns by currency where relevant) in cleared products; the level and composition of margin and default fund collateral held with regard to cleared products (with breakdowns by currency where relevant) for each Ontario Clearing Member;
- (f) the proportion of the metrics identified in paragraph (e) above for Ontario Clearing Members related to the activity of all clearing members in each of the LCH clearing services provided to Ontario Clearing Members;
- (g) for each LCH clearing service provided to Ontario Clearing Members, a summary of risk management test results related to the adequacy of required margin and the adequacy of the level of the default fund, including but not limited to stress testing and back testing results, the level of payments effected over LCH's payments system(s) with regard to cleared products (or total payments processed, if not operationally viable to separate payments);
- (h) for each LCH clearing service provided to Ontario Clearing Members, the total level of default protection with regard to cleared products; average daily volumes of margin calls with regard to cleared products; anonymized aggregated average daily notional position of the five and ten largest clearing members in cleared product;
- (i) for each LCH clearing service provided to Ontario Clearing Members, a description of any material services outages (other than the material outages identified in paragraph 910 of Schedule "B") with regard to cleared products that have occurred since the last quarterly report;
- (j) ~~based on the information available to LCH, a list of all Clearing Members (grouped by country of incorporation of the ultimate parent) that LCH provides clearing services to who offer client clearing services in Ontario; and~~
- (k) ~~based on the information available to LCH, for each Clearing Member offering client clearing to Ontario residents, the identity of the Ontario resident client receiving such services and the value and volume by asset class of their client clearing transactions for each Clearing Member offering client clearing to Ontario residents, the value and volume of the client clearing transaction.~~