

B.2.2 LMAX Pte. Ltd. – s. 147

Headnote

Section 147 of the Securities Act (Ontario), section 15.1 of NI 21-101, section 12.1 of NI 23-101 and section 10 of NI 23-103 – Application for an order that a recognised market operator authorized by the Monetary Authority of Singapore is exempt from the requirement to be recognized as an exchange in Ontario and from the requirements of NI 21-101, NI 23-101 and NI 23-103 in their entirety – requested order granted.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 21, 147.

National Instrument 21-101 Marketplace Operation, s. 15.1.

National Instrument 23-101 Trading Rules, s. 12.1.

National Instrument 23-103 Electronic Trading and Direct Electronic Access to Marketplaces, s. 10.

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

AND

**IN THE MATTER OF
LMAX PTE. LTD.**

**ORDER
(Section 147 of the Act)**

WHEREAS LMAX Pte. Ltd. (**Applicant**) has filed an application dated April 18, 2024 (Application) with the Ontario Securities Commission (**Commission**) requesting an order for the following relief (collectively, the **Requested Relief**):

- (a) exempting the Applicant from the requirement to be recognized as an exchange under subsection 21(1) of the Act pursuant to section 147 of the Act; and
- (b) exempting the Applicant from the requirements in National Instrument 21-101 Marketplace Operation (NI 21-101) pursuant to section 15.1 of NI 21-101, the requirements of National Instrument 23-101 Trading Rules (NI 23-101) pursuant to section 12.1 of NI 23-101 and the requirements of National Instrument 23-103 Electronic Trading and Direct Electronic Access to Marketplaces (NI 23-103) pursuant to section 10 of NI 23-103;

AND WHEREAS the Applicant has represented to the Commission that:

1. The Applicant is a private limited company incorporated under the laws of the Republic of Singapore and a wholly owned direct subsidiary of LMAX Exchange Group Limited, a private limited company incorporated under the laws of the Bailiwick of Jersey;
2. The Applicant has obtained recognition as a recognised market operator (**RMO**) from the Monetary Authority of Singapore (**MAS**);
3. The Applicant's current recognition as an RMO from the MAS, dated November 17, 2023, permits the Applicant to: (a) operate an organised market (**OM**) in respect of over-the-counter derivatives contracts (e.g., credit default swaps, interest rate swaps, foreign exchange derivatives, and commodity derivatives); and (b) in respect of participants in Singapore, make available its OM to Professional Investors, Accredited Investors and Expert Investors, as such terms are defined within the Applicant's RMO Recognition Letter and the *Singapore Securities and Futures Act 2001* (**SFA**);
4. The Applicant is the operator of an OM, operated under the trading name **LMAX Exchange**, that is regulated and authorised by the MAS to allow trading of foreign exchange non-deliverable forward contracts (**FX NDFs** or the **Ontario Market Instruments**);
5. The subject of this order is the trading system operated by LMAX Exchange that facilitates the placing and matching of transactions in Ontario Market Instruments;
6. The Applicant is subject to regulatory supervision by the MAS and is required to comply with applicable Singapore laws, subsidiary legislation, notices and guidelines issued by the MAS (collectively, the **Applicable Rules**), which include, among other things, rules on (i) the conduct of business (including rules regarding client categorization, communication

with clients and other investor protections and client agreements), (ii) market conduct (including rules applicable to firms operating an OM), and (iii) systems and controls (including rules on outsourcing, governance, record-keeping and conflicts of interest). The MAS requires the Applicant to comply at all times with a set of threshold conditions for authorization and ongoing requirements, including requirements that the Applicant has sound business and controlled business operations and that it has appropriate resources for the activities it carries on. The Applicant is required to maintain a permanent and effective compliance function, which is headed by the Applicant's Compliance Officer. The Applicant's Compliance Department is responsible for implementing and maintaining adequate policies and procedures designed to ensure that the Applicant, its officers and all its employees comply with their obligations under the Applicable Rules;

7. An OM is obliged under MAS rules to have requirements governing the conduct of participants, to monitor compliance with those requirements and report to the MAS (i) significant breaches of the rules in the LMAX Exchange RMO Rulebook (**RMO Rulebook**), (ii) disorderly trading conditions, and (iii) conduct that may involve market abuse. As required by the Applicable Rules, the Applicant has implemented a trade surveillance program. As part of the program and as required by the MAS, the Applicant's Compliance and Market Operations teams conduct market monitoring of trading activity on LMAX Exchange to identify disorderly trading and market abuse or anomalies. The trade surveillance program is designed to maintain a fair and orderly market for LMAX Exchange's participants;
8. The Applicant is not involved in, nor is it responsible for, settlement or clearing of FX NDFs and the counterparties to such trades make their own bilateral arrangements;
9. The Applicant requires that each of its participants incorporated or established in Singapore be an "institutional investor," "professional investor," "accredited investor" or "expert investor" as defined in the SFA. Each prospective participant must be of sufficient good repute; have sufficient levels of trading ability, competence and experience; and have adequate governance and organisational arrangements to oversee their trading;
10. All participants located in Ontario, including participants with their headquarters or legal address in Ontario (e.g., as indicated by a participant's Legal Entity Identifier (**LEI**)) and all traders conducting transactions on its behalf, regardless of the traders' physical location (inclusive of non-Ontario branches of Ontario legal entities), as well as any trader physically located in Ontario who conducts transactions on behalf of any other entity (**Ontario Participants**) are required to be registered under Ontario securities laws, exempt from registration or not subject to registration requirements. An Ontario Participant is required to immediately notify the Applicant if it ceases to meet any of the above criteria represented by it on an ongoing basis. An Ontario Participant may be a bank member of LMAX Exchange or a direct market access client of a bank member;
11. The Applicant does not offer access to retail clients;
12. Because LMAX Exchange sets requirements for the conduct of its participants and surveils certain trading activity of its participants, it is considered by the Commission to be an exchange;
13. Because the Applicant seeks to provide Ontario Participants with direct access to trading the Ontario Market Instruments on LMAX Exchange in accordance with the Requested Relief, it is considered by the Commission to be carrying on business as an exchange in Ontario and is required to be recognized as such or exempted from recognition pursuant to section 21 of the Act;
14. The Applicant has no physical presence in Ontario and does not otherwise carry on business in Ontario except as described herein; and
15. The Applicant satisfies the exemption criteria as described in Appendix "I" to Schedule "A";

AND WHEREAS the products traded on LMAX Exchange are not commodity futures contracts as defined in the *Commodity Futures Act* (Ontario) and the Applicant is not considered to be carrying on business as a commodity futures exchange in Ontario;

AND WHEREAS the Commission will monitor developments in international and domestic capital markets and the Applicant's activities on an ongoing basis to determine whether it is appropriate for the Requested Relief to continue to be granted subject to the terms and conditions set out in Schedule "A" to this order;

AND WHEREAS the Applicant has acknowledged to the Commission that the scope of the Requested Relief and the terms and conditions imposed by the Commission set out in Schedule "A" to this order may change as a result of the Commission's monitoring of developments in international and domestic capital markets or the Applicant's activities, or as a result of any changes to the laws in Ontario affecting trading in derivatives or securities;

AND WHEREAS based on the Application, together with the representations made by and acknowledgments of the Applicant to the Commission, the Commission has determined that the Applicant satisfies the criteria set out in Appendix "I" to Schedule "A" and that the granting of the Requested Relief would not be prejudicial to the public interest;

IT IS HEREBY ORDERED by the Commission that (i) pursuant to section 147 of the Act, the Applicant is exempt from recognition as an exchange under subsection 21(1) of the Act, and (ii) pursuant to sections 15.1 of NI 21-101, 12.1 of NI 23-101 and 10 of NI 23-103, the Applicant is exempt from the requirements in NI 21-101, NI 23-101 and NI 23-103,

PROVIDED THAT the Applicant complies with the terms and conditions contained in Schedule "A".

DATED May 28, 2024

"Michelle Alexander"
Manager, Trading and Markets
Ontario Securities Commission

SCHEDULE “A”
TERMS AND CONDITIONS

Meeting Criteria for Exemption

1. The Applicant will continue to meet the criteria for exemption included in Appendix “I” to this Schedule.

Regulation and Oversight of the Applicant

2. The Applicant will maintain its recognition as a Recognised Market Operator (**RMO**) with the Monetary Authority of Singapore (**MAS**) to operate an organised market (**OM**) and will continue to be subject to the regulatory oversight of the MAS.
3. The Applicant will continue to comply with the ongoing requirements applicable to it as an RMO recognised by the MAS.
4. The Applicant will promptly notify the Commission if its recognition as an RMO has been revoked, suspended, or amended by the MAS, or the basis on which its recognition as an RMO has been granted has significantly changed.
5. The Applicant must do everything within its control, which includes cooperating with the Commission as needed, to carry out its activities as an exchange exempted from recognition under subsection 21(1) of the Act in compliance with Ontario securities law.

Access

6. The Applicant will not provide direct access to a participant in Ontario including a participant with its headquarters or legal address in Ontario (e.g., as indicated by a participant’s Legal Entity Identifier (**LEI**)) and all traders conducting transactions on its behalf, regardless of the traders’ physical location (inclusive of non-Ontario branches of Ontario legal entities), as well as any trader physically located in Ontario who conducts transactions on behalf of any other entity (**Ontario Participant**) unless the Ontario Participant is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements.
7. For each Ontario Participant provided direct access to the Applicant’s OM (whether as a bank member or as a direct market access client), the Applicant will require, as part of its application documentation or continued access to the OM, the Ontario Participant to represent that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements.
8. The Applicant may reasonably rely on a written representation from the Ontario Participant that specifies either that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements, provided the Applicant notifies such Ontario Participant that this representation is deemed to be repeated each time it enters an order, request for quote or response to a request for quote or otherwise uses the Applicant’s OM.
9. The Applicant will require Ontario Participants to notify the Applicant if their registration as applicable under Ontario securities laws has been revoked, suspended, or amended by the Commission or if they are no longer exempt from or become subject to those requirements and, following notice from the Ontario Participant and subject to applicable laws, the Applicant will promptly restrict the Ontario Participant’s access to the Applicant’s OM if the Ontario Participant is no longer appropriately registered or exempt from those requirements.

Trading by Ontario Participants

10. The Applicant will not provide access to an Ontario Participant to trading in products other than the Ontario Market Instruments set out in Representation 4, without prior Commission approval.
11. If the Applicant provides Ontario Participants access to cleared instruments, the Applicant must submit, or cause to be submitted, all trades that are required to be cleared to a clearing agency or clearing house that is regulated as a clearing agency or clearing house by the applicable regulator.

Submission to Jurisdiction and Agent for Service

12. 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 the activities of the Applicant in Ontario, the Applicant will submit to the non-exclusive jurisdiction of (i) the courts and administrative tribunals of Ontario and (ii) an administrative proceeding in Ontario.
13. The Applicant will maintain 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, related to, concerning or in any other manner connected with the Commission's regulation and oversight of the Applicant's activities in Ontario.

Prompt Reporting

14. The Applicant will notify staff of the Commission promptly of:
- (a) any authorization to carry on business granted by the MAS is revoked or suspended or made subject to terms or conditions on the Applicant's operations;
 - (b) the Applicant institutes a petition for a judgment of bankruptcy or insolvency or similar relief, or to wind up or liquidate the Applicant or has a proceeding for any such petition instituted against it;
 - (c) a receiver is appointed for the Applicant or the Applicant makes any voluntary arrangement with creditors;
 - (d) the Applicant marketplace is not in compliance with this Order or with any applicable requirements, laws or regulations of the MAS where it is required to report such non-compliance to the MAS;
 - (e) any known investigations of, or disciplinary action against, the Applicant by the MAS or any other regulatory authority to which it is subject; and
 - (f) the Applicant makes any material change to the eligibility criteria for Ontario Participants.

Semi-Annual Reporting

15. The Applicant will maintain the following updated information and submit such information in a manner and form acceptable to the Commission on a semi-annual basis (by July 31 for the first half of the calendar year and by January 31 of the following year for the second half), and at any time promptly upon the request of staff of the Commission:
- (a) a current list of all Ontario Participants and whether the Ontario Participant is registered under Ontario securities laws or is exempt from or not subject to registration, and, to the extent known by the Applicant, other persons or companies located in Ontario trading on the Applicant's OM as customers of participants (**Other Ontario Participants**);
 - (b) the legal entity identifier assigned to each Ontario Participant, and, to the extent known by the Applicant, to Other Ontario Participants in accordance with the standards set by the Global Legal Entity Identifier System;
 - (c) a list of all Ontario Participants whom the Applicant has referred to the MAS, or, to the best of the Applicant's knowledge, whom have been disciplined by the MAS with respect to such Ontario Participants' activities on the Applicant's OM and the aggregate number of all participants referred to the MAS since the previous report by the Applicant;
 - (d) a list of all active investigations since the last report by the Applicant relating to Ontario Participants and the aggregate number of active investigations since the last report relating to all participants undertaken by the Applicant;
 - (e) a list of all Ontario applicants for status as a participant who were denied such status or access to the Applicant since the last report, together with the reasons for each such denial;
 - (f) for each product,
 - (i) the total trading volume and value originating from Ontario Participants, and, to the extent known by the Applicant, from Other Ontario Participants, presented on a per Ontario Participant or per Other Ontario Participant basis; and
 - (ii) the proportion of worldwide trading volume and value on the Applicant's OM conducted by Ontario Participants, and, to the extent known by the Applicant, by Other Ontario Participants, presented in the aggregate for such Ontario Participants and Other Ontario Participants;
- provided in the required format.

Information Sharing

16. The Applicant will provide such information as may be requested from time to time by, and otherwise cooperate with, the Commission or its staff, subject to any applicable privacy or other laws (including solicitor-client privilege) governing the sharing of information and the protection of personal information.

APPENDIX “I”

**CRITERIA FOR EXEMPTION OF
A FOREIGN EXCHANGE TRADING OTC DERIVATIVES
FROM RECOGNITION AS AN EXCHANGE**

PART 1 REGULATION OF THE EXCHANGE

1.1 Regulation of the Exchange

The exchange is regulated in an appropriate manner in another jurisdiction by a foreign regulator (**Foreign Regulator**).

1.2 Authority of the Foreign Regulator

The Foreign Regulator has the appropriate authority and procedures for oversight of the exchange. This includes regular, periodic oversight reviews of the exchange by the Foreign Regulator.

PART 2 GOVERNANCE

2.1 Governance

The governance structure and governance arrangements of the exchange ensure:

- (a) effective oversight of the exchange,
- (b) that business and regulatory decisions are in keeping with its public interest mandate,
- (c) fair, meaningful and diverse representation on the board of directors (Board) and any committees of the Board, including:
 - (i) appropriate representation of independent directors, and
 - (ii) a proper balance among the interests of the different persons or companies using the services and facilities of the exchange,
- (d) the exchange has policies and procedures to appropriately identify and manage conflicts of interest for all officers, directors and employees, and
- (e) there are appropriate qualifications, remuneration, limitation of liability and indemnity provisions for directors, officers and employees of the exchange.

2.2 Fitness

The exchange has policies and procedures under which it will take reasonable steps, and has taken such reasonable steps, to ensure that each director and officer is a fit and proper person and past conduct of each officer or director affords reasonable grounds for belief that the officer or director will perform his or her duties with integrity.

PART 3 REGULATION OF PRODUCTS

3.1 Review and Approval of Products

The products traded on the exchange and any changes thereto are submitted to the Foreign Regulator, and are either approved by the Foreign Regulator or are subject to requirements established by the Foreign Regulator that must be met before implementation of a product or changes to a product.

3.2 Product Specifications

The terms and conditions of trading the products are in conformity with the usual commercial customs and practices for the trading of such products.

3.3 Risks Associated with Trading Products

The exchange maintains adequate provisions to measure, manage and mitigate the risks associated with trading products on the exchange that may include, but are not limited to, daily trading limits, price limits, position limits, and internal controls.

PART 4 ACCESS

4.1 Fair Access

- (a) The exchange has established appropriate written standards for access to its services including requirements to ensure
 - (i) participants are appropriately registered as applicable under Ontario securities laws, or exempted from these requirements,
 - (ii) the competence, integrity and authority of systems users, and
 - (iii) systems users are adequately supervised.
- (b) The access standards and the process for obtaining, limiting and denying access are fair, transparent and applied reasonably.
- (c) The exchange does not unreasonably prohibit, condition or limit access by a person or company to services offered by it.
- (d) The exchange does not
 - (i) permit unreasonable discrimination among participants, or
 - (ii) impose any burden on competition that is not reasonably necessary and appropriate.
- (e) The exchange keeps records of each grant and each denial or limitation of access, including reasons for granting, denying or limiting access.

PART 5 REGULATION OF PARTICIPANTS ON THE EXCHANGE

5.1 Regulation

The exchange has the authority, resources, capabilities, systems and processes to allow it to perform its regulation functions, whether directly or indirectly through a regulation services provider, including setting requirements governing the conduct of its participants, monitoring their conduct, and appropriately disciplining them for violations of exchange requirements.

PART 6 RULEMAKING

6.1 Purpose of Rules

- (a) The exchange has rules, policies and other similar instruments (Rules) that are designed to appropriately govern the operations and activities of participants and do not permit unreasonable discrimination among participants or impose any burden on competition that is not reasonably necessary or appropriate.
- (b) The Rules are not contrary to the public interest and are designed to
 - (i) ensure compliance with applicable legislation,
 - (ii) prevent fraudulent and manipulative acts and practices,
 - (iii) promote just and equitable principles of trade,
 - (iv) foster co-operation and co-ordination with persons or companies engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in the products traded on the exchange,
 - (v) provide a framework for disciplinary and enforcement actions, and
 - (vi) ensure a fair and orderly market.

PART 7 DUE PROCESS

7.1 Due Process

For any decision made by the exchange that affects a participant, or an applicant to be a participant, including a decision in relation to access, exemptions, or discipline, the exchange ensures that:

- (a) parties are given an opportunity to be heard or make representations, and
- (b) it keeps a record of, gives reasons for, and provides for appeals or reviews of its decisions.

PART 8 CLEARING AND SETTLEMENT

8.1 Clearing Arrangements

The exchange has or requires its participants to have appropriate arrangements for the clearing and settlement of transactions for which clearing is mandatory through a clearing house.

8.2 Risk Management of Clearing House

The exchange has assured itself that the clearing house has established appropriate risk management policies and procedures, contingency plans, default procedures and internal controls.

PART 9 SYSTEMS AND TECHNOLOGY

9.1 Systems and Technology

Each of the exchange's critical systems has appropriate internal controls to ensure completeness, accuracy, integrity and security of information, and, in addition, has sufficient capacity and business continuity plans to enable the exchange to properly carry on its business. Critical systems are those that support the following functions:

- (a) order entry,
- (b) order routing,
- (c) execution,
- (d) trade reporting,
- (e) trade comparison,
- (f) data feeds,
- (g) market surveillance,
- (h) trade clearing, and
- (i) financial reporting.

9.2 System Capability/Scalability

Without limiting the generality of section 9.1, for each of its systems supporting order entry, order routing, execution, data feeds, trade reporting and trade comparison, the exchange:

- (a) makes reasonable current and future capacity estimates;
- (b) conducts capacity stress tests to determine the ability of those systems to process transactions in an accurate, timely and efficient manner;
- (c) reviews the vulnerability of those systems and data centre computer operations to internal and external threats, including physical hazards and natural disasters;
- (d) ensures that safeguards that protect a system against unauthorized access, internal failures, human errors, attacks and natural catastrophes that might cause improper disclosures, modification, destruction or denial of service are subject to an independent and ongoing audit which should include the physical environment, system capacity, operating system testing, documentation, internal controls and contingency plans;
- (e) ensures that the configuration of the system has been reviewed to identify potential points of failure, lack of back-up and redundant capabilities;
- (f) maintains reasonable procedures to review and keep current the development and testing methodology of those systems; and

- (g) maintains reasonable back-up, contingency and business continuity plans, disaster recovery plans and internal controls.

9.3 Information Technology Risk Management Procedures

The exchange has appropriate risk management procedures in place including those that handle trading errors, trading halts and respond to market disruptions and disorderly trading.

PART 10 FINANCIAL VIABILITY

10.1 Financial Viability

The exchange has sufficient financial resources for the proper performance of its functions and to meet its responsibilities.

PART 11 TRADING PRACTICES

11.1 Trading Practices

Trading practices are fair, properly supervised and not contrary to the public interest.

11.2 Orders

Rules pertaining to order size and limits are fair and equitable to all market participants and the system for accepting and distinguishing between and executing different types of orders is fair, equitable and transparent.

11.3 Transparency

The exchange has adequate arrangements to record and publish accurate and timely information as required by applicable law or the Foreign Regulator. This information is also provided to all participants on an equitable basis.

PART 12 COMPLIANCE, SURVEILLANCE AND ENFORCEMENT

12.1 Jurisdiction

The exchange or the Foreign Regulator has the jurisdiction to perform member and market regulation, including the ability to set rules, conduct compliance reviews and perform surveillance and enforcement.

12.2 Member and Market Regulation

The exchange or the Foreign Regulator maintains appropriate systems, resources and procedures for evaluating compliance with exchange and legislative requirements and for disciplining participants.

12.3 Availability of Information to Regulators

The exchange has mechanisms in place to ensure that the information necessary to conduct adequate surveillance of the system for supervisory or enforcement purposes is available to the relevant regulatory authorities, including the Commission, on a timely basis.

PART 13 RECORD KEEPING

13.1 Record Keeping

The exchange has and maintains adequate systems in place for the keeping of books and records, including, but not limited to, those concerning the operations of the exchange, audit trail information on all trades, and compliance with, and/or violations of exchange requirements.

PART 14 OUTSOURCING

14.1 Outsourcing

Where the exchange has outsourced any of its key services or systems to a service provider, 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.

PART 15 FEES

15.1 Fees

- (a) All fees imposed by the exchange are reasonable and equitably allocated and do not have the effect of creating an unreasonable condition or limit on access by participants to the services offered by the exchange.
- (b) The process for setting fees is fair and appropriate, and the fee model is transparent.

PART 16 INFORMATION SHARING AND OVERSIGHT ARRANGEMENTS

16.1 Information Sharing and Regulatory Cooperation

The exchange has mechanisms in place to enable it to share information and otherwise co-operate with the Commission, self-regulatory organizations, other exchanges, clearing agencies, investor protection funds, and other appropriate regulatory bodies.

16.2 Oversight Arrangements

Satisfactory information sharing and oversight agreements exist between the Commission and the Foreign Regulator.

PART 17 IOSCO PRINCIPLES

17.1 IOSCO Principles

To the extent it is consistent with the laws of the foreign jurisdiction, the exchange adheres to the standards of the International Organization of Securities Commissions (IOSCO) including those set out in the “Principles for the Regulation and Supervision of Commodity Derivatives Markets” (2022).