



VIA E-MAIL TO: comments@osc.gov.on.ca and consultation-en-cours@lautorite.qc.ca

Alberta Securities Commission
Autorité de marchés financières
British Columbia Securities Commission
Manitoba Securities Commission
New Brunswick Securities Commission
Nova Scotia Securities Commission
Ontario Securities Commission

John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West
Suite 1900, Box 55
Toronto, Ontario
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Anne-Marie Beaudoin, Corporate Secretary
Autorité de marchés financières
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19 March 2014

Dear Sir and Madam:

This letter provides the response of LCH.Clearnet Group Limited ("LCH.Clearnet") to the Canadian Securities Administrators ("CSA") Derivatives Committee's ("Committee") Consultation Paper 91-303, Proposed Model Provincial Rule on Mandatory Central Counterparty Clearing of Derivatives ("Model Rule") and Proposed Model Explanatory Guidance to Proposed Model Rule on Mandatory Central Counterparty Clearing of Derivatives ("Explanatory Guidance").

The LCH.Clearnet Group is the leading multi-asset class and multi-national clearinghouse, serving major international exchanges and platforms as well as a range of OTC markets. It clears a broad range of asset classes including securities, exchange-traded derivatives, commodities, energy, freight, foreign exchange derivatives, interest rate swaps, credit default swaps, and euro and sterling denominated bonds and repos. LCH.Clearnet works closely with market participants and exchanges to continually identify and develop innovative clearing services for new asset classes.¹

¹ The Group consists of three operating subsidiaries: LCH.Clearnet Limited, LCH.Clearnet LLC, and LCH.Clearnet SA.

On September 10, 2013, the Ontario Securities Commission ("OSC") issued an order recognizing LCH.Clearnet Limited as a Clearing Agency to offer SwapClear, RepoClear, EnClear and Nodal clearing services to Ontario-resident clearing members. The ForexClear clearing service is also available to Ontario-resident clearing members. The Bank of Canada has designated the SwapClear service as systemically

LCH.Clearnet Group Ltd is majority owned by the London Stock Exchange Group (“LSEG”), a diversified international exchange group that sits at the heart of the world’s financial community.²

LCH.Clearnet appreciates the opportunity to respond to the proposed Model Rule and Explanatory Guidance. LCH.Clearnet commends the Committee for the sensible approach that it takes in the proposed Model Rule to implement the G-20 commitments to clear all standardized derivatives through central counterparties. The approach of the Model Rule recognizes the global nature of OTC derivatives and, for the most part, appropriately takes into account the approach of the Dodd-Frank Act in the United States and the European Market Infrastructure Regulation (“EMIR”) on mandatory clearing of OTC derivatives. With a few exceptions, LCH.Clearnet believes that the Model Rule and Explanatory Guidance meet the Committee’s goal of striking an appropriate balance between proposing regulation that does not unduly burden derivatives market participants and addressing the need to introduce effective regulatory oversight of derivatives and derivatives market activities. LCH.Clearnet is especially pleased that the Model Rule includes an option for a Canadian counterparty to discharge its mandatory clearing requirement under provincial law by clearing the transaction pursuant to the laws of another province or of specified foreign jurisdictions. LCH.Clearnet is eager to work with the members of the Committee as well as with both the Canadian buy and sell-side as requirements for mandatory clearing of OTC derivatives develop including determinations on the foreign jurisdictions in which local counterparties may discharge their provincial mandatory clearing requirements.

important. LCH.Clearnet Ltd is currently operating under an exemption in Quebec and has submitted an application for recognition as a clearing house for the SwapClear and RepoClear services to the Autorité de marchés financières. LCH.Clearnet Limited is supervised as a Recognised Clearing House by the Bank of England and is registered with the Commodity Futures Trading Commission (“CFTC”) as a Designated Clearing Organisation (“DCO”).

LCH.Clearnet LLC has submitted an application for recognition as a clearing agency to the OSC. LCH.Clearnet LLC is registered with the CFTC as a DCO.

LCH.Clearnet SA is registered with the CFTC as DCO, is regulated as a credit institution by a regulatory college of the market regulators and central banks of France, the Netherlands, Belgium and Portugal, and is supervised as a Recognised Overseas Clearing House by the Bank of England. LCH.Clearnet Limited and LCH.Clearnet SA are subject to the European Markets Infrastructure Regulation (“EMIR”) and have submitted applications for reauthorization. Final action on these applications is expected in the first half of 2014.

² LSEG is headquartered in London, United Kingdom with significant operations in Europe, North America and Asia, and operates a broad range of international equity, fixed income and derivatives markets, including: London Stock Exchange; Borsa Italiana; MTS, and Turquoise; post trade and risk management, including CC&G, the Rome headquartered CCP and Monte Titoli, the European settlement business; and is majority owner of the leading multi-asset global CCP, LCH.Clearnet Group. LSEG operates the EMIR authorised trade repository, UnaVista, and offers an extensive range of real-time and reference data products, including Sedol, Proquote and RNS, as well as access to over 200,000 international equity, bond and alternative asset class indices, through the world leading index provider, FTSE International. LSEG is also a leading developer of high performance trading platforms and capital markets software. In addition to the Group’s own markets, over 30 other organisations and exchanges around the world use the Group’s MillenniumIT trading, surveillance and post trade technology.

Specific Comments

Section 4. Duty to submit for clearing

Section 4(1) of the proposed Model Rule provides local counterparties with flexibility on the timing of submission to clearing of transactions that are executed after the business hours of the clearing agency on which the local counterparty chooses to clear. LCH.Clearnet commends the Committee for including this flexibility in the proposed rule to prevent confusion about the duty of a local counterparty to submit a transaction that is subject to mandatory clearing to a clearing agency when the transaction is executed after business hours of the clearing agency. LCH.Clearnet recommends that the Committee modify Section 4 of the Explanatory Guidance to reflect this flexibility.

LCH.Clearnet is pleased that Section 4(2) of the proposed Model Rule allows local counterparties to discharge their mandatory clearing obligations pursuant to the laws of approved foreign jurisdictions. LCH.Clearnet urges the Committee to include both the United States and European Union on the list of approved foreign jurisdictions on which Canadian counterparties can discharge provincial mandatory obligations.

Section 5. Notification

Section 5 of the proposed Model Rule requires a clearing agency to immediately notify a local counterparty submitting a transaction if the clearing agency rejects the transaction. The Explanatory Guidance specifies that the clearing agency must provide “written notice” of rejection. The Explanatory Guidance also states that a transaction that is rejected by a clearing agency is void *ab initio*. On its face, Section 5 applies to all transactions submitted to a clearing agency not just to transactions subject to mandatory clearing.

LCH.Clearnet agrees that counterparties should be notified immediately if a transaction is rejected by a clearing agency. However, LCH.Clearnet requests that the Committee modify the language of the Explanatory Guidance to clarify that “written notice” can take the form of messaging via an API or a similar method, and that the notification can also be sent to a trade source or middleware provider acting on behalf of a client in order to facilitate clearing and any subsequent notifications.

LCH.Clearnet does not agree that all rejected transactions should be treated as void *ab initio*. Transactions can be rejected by a clearing agency for a variety of reasons. In LCH.Clearnet’s experience, the majority of rejections occur for operational reasons, such as errors in the data that is submitted or in its format. Operational errors should not render any transaction, even one that is subject to mandatory clearing, void *ab initio*. Additionally, it should not matter whether the transaction is executed bilaterally or on a trading platform. Operational errors can usually be quickly corrected with the result that the transaction clears once it is resubmitted. LCH.Clearnet recommends that the Committee amend the Explanatory Guidance to make clear that any transaction rejected for operational reasons can be resubmitted once the error is corrected. Such correction and resubmission should occur promptly.

Further, LCH.Clearnet does not think that transactions that are executed bilaterally and rejected for insufficient credit should be void *ab initio* even if they are subject to mandatory clearing. Such a transaction should not be voided so long as the credit issue is addressed and the transaction is resubmitted within the timeframe prescribed in Section 4(1) of the proposed Model Rule.

Section 6. List of derivatives publicly disclosed

Section 6 of the proposed Model Rule requires a clearing agency to post a list on its website of all derivatives that it accepts for clearing and to identify which of these derivatives are required to be cleared. This requirement is consistent with the CFTC’s public disclosure requirement under its mandatory clearing rules. LCH.Clearnet’s website, www.lchclearnet.com, provides a list of the derivatives covered by LCH.Clearnet Limited’s recognized clearing agency license in Ontario and exemption in Quebec. The product lists can be found at the webpages for the applicable business lines. In addition, the page for the



SwapClear service includes a mandatory clearing checker to aid market participants in determining if a particular interest rate swap is subject to mandatory clearing in the United States. This tool, http://www.lchclearnet.com/swaps/swapclear_for_clearing_members/cftc_mandatory_clearing_tool.asp, will be updated to reflect mandatory clearing determinations in other jurisdictions as they come into force.

Section 12. Submission of information on clearing services of derivatives by the clearing agency

Section 12 of the proposed Model Rule requires a clearing agency to submit information on all derivatives or classes of derivatives that it clears to the applicable provincial securities regulator for a mandatory clearing determination. The information that the clearing agency must submit is detailed in Form F2 of the proposed Model Rule. This information is consistent with the information that a central counterparty is required to submit to the CFTC and ESMA to assist them in making mandatory clearing determinations in the United States and European Union, respectively. The Explanatory Guidance lists the factors that the applicable provincial securities regulator will consider in making a mandatory clearing determination. Again, these factors are consistent with those considered by the CFTC and ESMA in making mandatory clearing determinations. LCH.Clearnet commends the Committee for following this approach, which promotes international consistency in mandatory clearing determinations.

Section 13. Notice regarding determination

Section 13 of the proposed Model Rule provides that a local securities regulator may seek comments before it determines whether a derivative or class of derivatives is subject to mandatory clearing. LCH.Clearnet urges the Committee to amend the Model Rule to require a local securities regulator to seek public comment on a proposed mandatory clearing determination. An opportunity for public comment will provide market participants with notice about which derivatives may be subject to mandatory clearing, and time to plan for mandatory clearing.

Section 16. Transition

The proposed Model Rule requires mandatory clearing for transactions entered into after the date of the Rule coming into force. The Model Rule also applies to transactions entered into before that date where there is a material amendment to the transaction after the date of the Rule coming into force or a derivative is assigned, sold, or otherwise acquired or disposed of on or after that date. The approach of the proposed Model Rule is consistent with the approach of the CFTC rules implementing the Dodd-Frank Act and by the Technical Standards implementing EMIR. LCH.Clearnet commends the Committee for the language in the Explanatory Guidance inviting counterparties to clear transactions entered into before the date of the Rule coming into force. In LCH.Clearnet's experience, many market participants choose to backload pre-existing transactions.

LCH.Clearnet appreciates the opportunity to comment on the proposed Model Rule and Explanatory Guidance and would be pleased to enter into a further dialogue regarding these issues.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Lisa Rosen", followed by a long horizontal flourish.

Lisa Rosen
Group Head of Compliance and Public Affairs