



MANNHEIMER SWARTLING

LCH Limited (“LCH”)

Stockholm, 1 January 2021

Dear Sirs and Madams,

PROJECT EVOLUTION – SWEDISH LAW LEGAL OPINION

We have been asked to provide a legal opinion as to Swedish law in response to certain questions about a Relevant Clearing Member’s (as defined below) membership of LCH, client clearing and settlement finality, raised by LCH and provided to us on 24 July 2018 (the “**Questionnaire**”). This legal opinion is provided to LCH in connection with LCH being recognised as a third-country central counterparty under Chapter 4 of Title III (Article 25) of EMIR (as defined below) in accordance with a decision of the Board of Supervisors of ESMA dated 4 April 2019 (the “**ESMA Decision**”).

1. Definitions and interpretation

Save as expressly defined herein and provided that the context does not require otherwise, capitalised terms in this opinion have the meanings ascribed to them in the LCH Rulebook (as defined below):

“**BRRD**” means Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms.

“**CIWUD**” means Directive 2001/24/EC on the reorganisation and winding up of credit institutions.

“**Clearing Service**” means any of the clearing services made available by LCH.

“**Collateral**” means cash and Financial Instruments.

“**Company**” means any Credit Institution, Investment Firm or any other unregulated limited liability company.

“**Credit Institution**” means a credit institution as defined in Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms.

“**EMIR**” means Regulation (EU) No 648/2012 on OTC derivatives, central counterparties and trade repositories.

“**Equalised Settlement System**” means a third country settlement system which has been afforded the same legal protection as a System in accordance with the Amended Legislation (as defined and further described in clause 4.3.1).

“**Financial Collateral Directive**” means Directive 2002/47/EC on financial collateral agreements.

“**Financial Instrument**” means a financial instrument as defined in MiFID II.

“**Insolvency Proceedings**” means bankruptcy proceedings in accordance with the Swedish Bankruptcy Act (*Konkurslagen (1987:672)*).

“**Insolvency Proceedings Regulation**” means Regulation (EU) 2015/848 on insolvency proceedings.

“**Investment Firm**” means an investment firm as defined in Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms.

“**LCH Rulebook**” means (i) the General Regulations, (ii) the Default Rules, (iii) the Settlement Finality Regulations, and (iv) the Procedures (each as defined in Section 2).

“**LCH Rules**” means the LCH Rulebook, the Clearing Membership Agreement and the Deed of Charge (each as defined in Section 2).

“**MiFID II**” means Directive 2014/65/EU on markets in financial instruments.

“**Relevant Clearing Member**” means a Company being a clearing member of LCH and incorporated in Sweden.

“**Relevant Jurisdiction**” means Sweden.

“**Reorganisation Measures**” means pre-insolvency reorganisation, restructuring and/or resolution measures.

“**Security Deed**” means the security deed, version sent to us on 24 July 2018.

“**Settlement Finality Directive**” means Directive 98/26/EC on the settlement finality in payment and securities settlement systems.

“**System**” means a notified settlement system which a country within the EEA has notified to ESMA (or EFTA’s supervisory authority) and which is afforded the legal protection set out in the Settlement Finality Directive.

2. We have examined:

- 2.1 The general regulations of LCH, version dated 6 July 2020 (the “**General Regulations**”);
- 2.2 The LCH default rules, version dated 15 May 2020 (the “**Default Rules**”);
- 2.3 The LCH clearing house settlement finality regulations, version dated 10 December 2019 (the “**Settlement Finality Regulations**”);
- 2.4 The sponsored clearing regulations of LCH, version dated 20 March 2020 (the “**Procedures**”);
- 2.5 The clearing membership agreement, version sent to us on 24 July 2018 (the “**Clearing Membership Agreement**”);
- 2.6 The deed of charge, version sent to us on 24 July 2018 (the “**Deed of Charge**”);
and
- 2.7 The ESMA Decision.

Our examination has been limited to a review of the above documents and only for the purposes of, and to the extent required to, answering the questions set out in the Questionnaire, and we have made no review of any other documents or certificates.

3. We have assumed that:

- 3.1 The LCH Rules remain in full force and effect between the relevant parties and have not been amended or affected by any subsequent action;
- 3.2 LCH and the Relevant Clearing Member are duly incorporated and validly existing under the laws of their relevant jurisdiction;
- 3.3 The entry into and performance of the LCH Rules by LCH and the Relevant Clearing Member do not violate any law to which LCH or the Relevant Clearing Member is subject, or the articles of association of LCH or the Relevant Clearing Member;
- 3.4 The LCH Rules are duly authorised and executed by, and are within the capacity and powers of, the parties thereto;
- 3.5 The LCH Rules have been duly adopted by LCH;
- 3.6 The Relevant Clearing Member, and any of its representatives, (i) have all the requisite capacity, corporate and other powers, authorities and regulatory and other approvals to (a) enter into transactions with LCH; and (b) execute, deliver and perform their respective obligations under the LCH Rules to the extent they are a party to or are bound by such LCH Rules and (ii) have or will have taken all necessary steps to execute, deliver and perform their respective obligations under the LCH Rules;

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- 3.7 There are no provisions or other aspects of any agreement or other document (other than the LCH Rules) relating to the LCH Rules, which would have any implications on the opinion we express;
- 3.8 There are no provisions of the laws, including, but not limited to, public policy or mandatory rules, of any jurisdiction other than Sweden, which would have any implications on the opinion we express;
- 3.9 There are no facts or matters and no provisions or other aspects of any agreement or other document, other than documents listed under Section 2 above, which would have any implications on the opinion we express;
- 3.10 All factual representations contained in the documents produced to us, or otherwise made to us, are true, accurate and complete, including that the ESMA Decision applies in accordance with article 2 of the ESMA Decision, and therefore we have made no independent investigations thereof.
- 3.11 The LCH Rules are governed by English law and it constitutes legal, valid, binding and enforceable obligations of the parties thereto under English law;
- 3.12 That the products relevant for LCH are products which constitute or relate to Financial Instruments and/or cash;
- 3.13 All Financial Instruments used as Collateral pursuant to the LCH Rules constitute securities listed on a regulated market;
- 3.14 All relevant perfection requirements relating to, and the effectiveness of, the collateral arrangements under the Deed of Charge under the law of any relevant jurisdiction(s) (other than Swedish law) are fulfilled;
- 3.15 The LCH Rules have been entered into by each party thereto for *bona fide* commercial reasons for the benefit of each such party and on arms' length commercial terms;
- 3.16 The United Kingdom incorporates a regime which is equivalent to the regime under EMIR;
- 3.17 LCH has been approved as an Equalised Settlement System;
- 3.18 The United Kingdom incorporates a regime which is exactly equivalent to the current regime which implements the Financial Collateral Directive and the Settlement Finality Directive; and
- 3.19 The Deed of Charge and the Security Deed constitute financial collateral arrangements under English law;
- together, the “**Assumptions**”.

4. Based on the LCH Rules and the Assumptions and subject to the Qualifications set forth herein, we are of the following opinion:

4.1 MEMBERSHIP

4.1.1 *Validity and enforceability of transactions entered into and submitted for clearing*

There are no formal requirements under Swedish law for the execution of or entrance into the agreements or transactions under the LCH Rules. Accordingly, the provisions governing the entrance into transactions between LCH and a Relevant Clearing Member are valid, binding and enforceable under Swedish law.

General

4.1.2 *Would LCH be deemed to be domiciled, resident or carrying on business in the Relevant Jurisdiction by virtue of providing clearing services to a Relevant Clearing Member? If so, would LCH be required to obtain any additional licences or additional registrations before providing clearing services to a Relevant Clearing Member or are there any special local arrangements for the recognition of overseas clearing houses in these circumstances?*

4.1.2.1 No, LCH would not be deemed to be domiciled, resident or carrying on business in Sweden by virtue of providing Clearing Services to a Relevant Clearing Member, and would thus not be required to obtain any additional licenses or additional registrations in Sweden.

4.1.2.2 In accordance with the instructions in the Questionnaire, we express no opinion as regards any tax implications which the providing of Clearing Services by LCH to a Relevant Clearing Member may have.

Insolvency, Security, Set-off and Netting

4.1.3 *Please identify the different types of Insolvency Proceedings and Reorganisation Measures. Would any of these not be covered by those events entitling LCH to liquidate, transfer or otherwise deal with Contracts as provided for in Rule 3 or Rule 5 of the Default Rules? Are any other events or procedures not envisaged in Rule 3 or Rule 5 of the Default Rules relevant?*

4.1.3.1 The following are the types of Insolvency Proceedings and Reorganisation Measures available under Swedish law that may apply to a Relevant Clearing Member depending on the entity type of the Relevant Clearing Member.

4.1.3.2 A Company (other than a Credit Institution and an Investment Firm) that is unable to pay its debts as they fall due, or if such inability is likely to occur shortly, may enter into company reorganisation proceedings in order to resolve its financial difficulties without being declared bankrupt, in accordance with the Swedish Company Reorganisation Act (*Lag (1996:764) om företagsrekonstruktion*). Company reorganisation proceedings may be initiated by the company or a creditor of the company by filing a petition with the court.

4.1.3.3 Further, if a Company is insolvent, the court may declare the company bankrupt after application by the company itself or any of its creditors in accordance with

the Swedish Bankruptcy Act. Failing Credit Institutions and Investment Firms can, instead of being declared bankrupt, be subject to resolution in accordance with the provisions of the Swedish Resolution Act (*Lag (2015:1016) om resolution*), which implements the provisions of the BRRD.

- 4.1.3.4 In addition to the above, a Company may also be subject to involuntary liquidation (*tvångslikvidation*) in accordance with the provisions of the Swedish Companies Act (*Aktiebolagslag (2005:551)*), and, for Credit Institutions some additional provisions in the Swedish Banking and Finance Business Act (*Bank- och finansieringsrörelselag (2004:297)*) may apply.
- 4.1.3.5 In our opinion, the Insolvency Proceedings and Reorganisation Measures identified above would be covered by the events entitling LCH to liquidate, transfer or otherwise deal with Contracts as provided for in Rule 3 or Rule 5 of the Default Rules.
- 4.1.4 *Would the Deed of Charge be effective in the context of Insolvency Proceedings or Reorganisation Measures in respect of a Relevant Clearing Member? Is there anything that would prevent LCH from enforcing its rights under the Deed of Charge? Would LCH be required to take any particular steps or abide by any particular procedures for the purposes of enforcing against collateral provided to it by a Relevant Clearing Member under the Deed of Charge? Would the Deed of Charge constitute a financial collateral arrangement (or equivalent) in your jurisdiction?*
- 4.1.4.1 Whether or not the Deed of Charge would be effective in the context of Insolvency Proceedings or Reorganisation Measures in respect of a Relevant Clearing Member is to be determined by the law that governs the security interest under the Deed of Charge.
- 4.1.4.2 Subject to some statutory provisions, for example Section 3 of Chapter 5 of the Swedish Financial Instruments Trading Act (*Lag (1991:980) om handel med finansiella instrument*) (as further described in clause 4.1.4.4 below), Swedish private international law generally incorporates the *lex rei sitae* rule to determine what law governs the relationship between a security provider and third parties (including the security provider's creditors) in relation to the security interest and, in particular, what law is applicable to determine whether the security interest has been perfected (*rights in rem*). The *lex rei sitae* rule provides that the law of the jurisdiction where the relevant assets are (deemed) located shall be applied.
- 4.1.4.3 Under Swedish law, *cash* in a bank account is characterised as a non-negotiable claim against the bank holding the cash, i.e. a claim by the account holder to receive the balance of the account. Thus, the law where the bank is domiciled will apply in relation to third party rights to the bank account. We have assumed, for the purpose of this opinion, that the relevant bank accounts, including the Cash Account, are held by a bank domiciled outside of Sweden. For example, if the relevant bank accounts are held with a bank domiciled in England, and in case of Insolvency Proceedings or Reorganisation Measures in respect of a Relevant Clearing Member, whether the security interest over cash under the Deed of Charge has been perfected would, in accordance with Swedish private international law, be determined by English law.

- 4.1.4.4 Issues relating to the validity, perfection and enforceability of *dematerialised or immobilised Financial Instruments* and priority against or among third parties shall in accordance with Section 3 of Chapter 5 of the Financial Instruments Trading Act be determined by the laws of the jurisdiction where the register recording the holder's/beneficiary's interest in such securities is located.¹ However, this statutory provision which stipulates such governing law, is applicable only where the owner's interest in the securities has been *registered according to law*. In the absence of clarifying case law, it is not entirely clear how a Swedish court would interpret the phrase "registered according to law" and whether the scope of the provision is limited to registrations of interests in securities that are recorded pursuant to an explicit statutory provision, which in Sweden would mean a registration in accordance with the Swedish Financial Instruments Accounts Act (*Lag (1998:1479) om värdepapperscentraler och kontoföring av finansiella instrument*), or if a registration made merely for the purpose of evidencing the notice of pledge will qualify.
- 4.1.4.5 In the relevant Swedish preparatory works regarding Section 3 of Chapter 5 of the Financial Instruments Trading Act it has been assumed that the expression "registered according to law" also refers to a registration which only has an effect of publicity (*bevisverkan*). E.g. if the perfection of the pledge is fulfilled through a notification to the account holder and any subsequent registration would be for internal use only (rather than a legal requirement). In the Swedish legal literature, the conclusions have in general been somewhat more cautious, although, supported by the preparatory works, pointing in the same direction. We do not believe that a Swedish court would make such a narrow interpretation and come to the conclusion that the scope of the provision is limited to registrations of interests of securities that are recorded pursuant to an explicit statutory provision.
- 4.1.4.6 In order to determine if Section 3 of Chapter 5 of the Financial Instruments Trading Act would apply in a specific case, we would need to consider and analyse the specific circumstances on a case by case basis. If, in a specific case, such provision would not apply, a Swedish court would apply the *lex rei sitae* rule (as described in clause 4.1.4.2).
- 4.1.4.7 It could be noted that if a Swedish court would find that Swedish law shall govern the security interest over dematerialised Financial Instruments under the Deed of Charge, such security interest would be perfected, if the Financial Instruments are (i) held in an account in the name of a nominee, by notification to the nominee, or (ii) registered on a VP-account, through registration of the pledge (albeit the step undertaken to ensure perfection, is notification to the account operator).
- 4.1.4.8 Irrespective of what law should govern the security interest under the Deed of Charge, Swedish insolvency and bankruptcy law will apply to the administrative and procedural proceedings in case of Insolvency Proceedings and Reorganisation Measures in respect of a Relevant Clearing Member. In accordance with, for example, the Bankruptcy Act, it is generally the bankruptcy receiver that controls the enforcement process in case of bankruptcy. However, in accordance with Sub-section 2 of Section 10 of Chapter 8 of the Bankruptcy Act, which implements

¹ This is an implementation of corresponding provisions in the Settlement Finality Directive and the Financial Collateral Directive.

Article 4 of the Financial Collateral Directive, a creditor with a priority right in Financial Instruments and currency (*valuta*) may, regardless of the bankruptcy procedure, enforce its security by way of sale or appropriation if this is made in a commercially reasonable manner (with respect to other assets, the creditor must e.g. first offer the bankruptcy receiver to redeem the assets). The creditor or pledgee shall to the receiver account for the sale or appropriation. Other than some additional formal requirements, Swedish insolvency and bankruptcy law do not contain any provisions that would prevent LCH from enforcing any valid and perfected security rights under the Deed of Charge in case of Insolvency Proceedings or Reorganisation Measures in respect of a Relevant Clearing Member.

- 4.1.4.9 When the Financial Collateral Directive was implemented into Swedish law, it was clarified in the preparatory works that a “financial collateral arrangement” include pledge agreements (*pantavtal*) and title transfers (*säkerhetsöverlåtelse*) under Swedish law. There are no formal requirements for financial collateral arrangements as such under Swedish law. It should, however, be noted that if Swedish law shall govern the security interest in accordance with Swedish private international law, there are some perfection requirements that must be fulfilled, depending on the asset and whether it is a pledge agreement or a title transfer. With that being said, the Deed of Charge, in our opinion, would be deemed to constitute a financial collateral arrangement in Sweden.
- 4.1.5 *Would LCH have the right to take the actions provided for under the Default Rules (including exercising rights to deal with Contracts under Rule 6 and rights of set-off under Rule 8 but not at this stage considering those actions specifically provided for in the Client Clearing Annex to the Default Rules) in the event that a Relevant Clearing Member was subject to Insolvency Proceedings or Reorganisation Measures? Is it necessary or recommended that LCH should specify that certain Insolvency Proceedings and/or Reorganisation Measures will constitute an Automatic Early Termination Event in accordance with Rule 3 of the Default Rules? If the answer is affirmative, please identify those specific Insolvency Proceedings and/or Reorganisation Measures to which the answer applies and briefly explain your reasoning.*
- 4.1.5.1 Whether LCH would have the right to take the actions provided for under the Default Rules in the event that a Relevant Clearing Member is subject to Insolvency Proceedings or Reorganisation Measures is to be determined by the applicable law.
- 4.1.5.2 A Swedish court would generally uphold the contractual choice of law between parties (upon proof of the relevant provisions of such law) in accordance with the provisions of Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I). This applies irrespective of whether the contractual choice of law is the law of a jurisdiction within or outside the EEA. Such recognition would, however, not include laws which, for example, are procedural in nature or involve the exercise of sovereign powers or powers of public or administrative law, such as insolvency and bankruptcy law, or *rights in rem* of creditors or third parties. A Swedish court would also not apply foreign laws if and to the extent that they are contrary to Swedish public policy.

- 4.1.5.3 Based on the above, LCH's possibility to exercise its rights to deal with *Contracts* under Rule 6 of the Default Rules in case of an Insolvency Proceeding would generally be determined by English law as the contractual choice of law between the parties.
- 4.1.5.4 The rights of *set-off* in case of Insolvency Proceedings and Reorganisation Measures do, however, fall under general insolvency and bankruptcy law, and a Swedish court would in case of Swedish insolvency proceedings apply Swedish law when determining LCH's possibility to exercise its rights to deal with set-off under Rule 8 of the Default Rules. It can be noted that the protection set out in Article 23 of CIWUD (and thus the Swedish act implementing such article) and Article 9 of the Insolvency Proceedings Regulation, i.e. that a creditor's demand for set-off shall not be negatively affected if such set-off is permitted by the law applicable to the insolvent debtor's claim, only apply to the laws of a country within the EEA and is thus not available to LCH.
- 4.1.5.5 Article 3 of the Settlement Finality Directive that relates to netting has been implemented in Section 1 of Chapter 5 of the Financial Instruments Trading Act (see further clause 4.2.1 below). The statutory protection for bilateral netting applies in respect of a close out netting agreement between two parties in respect of trading in Financial Instruments, in other similar rights or obligations, or in currencies as well as to settlement of obligations between a central counterparty and a clearing member or a client of such clearing member which are covered by EMIR, whereas the statutory protection for multilateral netting applies to settlement of obligations between participants of a System only. Thus, when LCH is acting as a central counterparty, i.e. when it interposes itself between the counterparties to the contracts traded on one or more financial markets, becoming the buyer to every seller and the seller to every buyer, it will enjoy the statutory protection for bilateral netting. However, if LCH was not to be afforded the legal protection of an Equalised Settlement System, LCH would not, if and to the extent applicable, enjoy the statutory protection for multilateral netting.
- 4.1.5.6 If Section 1 of Chapter 5 of the Financial Instruments Trading Act is not applicable, the general Swedish insolvency and bankruptcy laws and principles will apply in the event of insolvency, and thus stipulate the conditions for the right of set-off (some of which are set out in Chapter 5 of the Bankruptcy Act). When compared to other legal systems, the Swedish rules on set-off are usually seen as relatively beneficial to creditors. The general view under Swedish law is, however, that the claims must be mutual in order to allow a set-off in bankruptcy, which requirement would not be satisfied in the event of multilateral netting. In addition, certain transactions (which could be summarised as somehow being unjustifiable transactions) that have taken place within a specified period prior to the insolvency may be subject to claw-back and thus set aside (*återvinning*) (see further clause 4.1.6 below).
- 4.1.5.7 In our opinion, Section 1 of Chapter 5 of the Financial Instruments Trading Act, and the general Swedish insolvency and bankruptcy laws and principles, allow for LCH to exercise its rights of set-off under Rule 8 in the event of Insolvency Proceedings and Reorganisation Measures.
- 4.1.5.8 In light of the above, we do not assess that it is necessary or recommended that LCH should specify that certain Insolvency Proceedings and/or Reorganisation

Measures will constitute an Automatic Early Termination Event in accordance with Rule 3 of the Default Rules.

4.1.6 *Is there a “suspect period” prior to Insolvency Proceedings and/or Reorganisation Measures where Contracts with a Relevant Clearing Member could be avoided or challenged and, if so, what are the grounds? What are the risks for LCH in entering into Contracts and in taking collateral in respect of those Contracts during such a period? Are any special protections or exemptions for the relevant arrangements, from avoidance or challenge, available under the law of the Relevant Jurisdiction in respect of contracts in financial markets?*

4.1.6.1 Yes, there is a claw-back period under Swedish law where Contracts may be set aside in case of Insolvency Proceedings and/or company reorganisation.

Transactions that may be set aside include the following:

- (a) **Unjustifiable Transactions:** actions which improperly (i) favoured a creditor, (ii) put property of the company beyond the reach of creditors or (iii) increased the company’s debts, in each case where the company was or, as a result of the action, became insolvent and the other party knew or ought to have known of the company’s insolvency and the circumstances making the action improper. Such transactions may be set aside if they took place up to five years before the date of bankruptcy². If the legal act took place more than five years before that date, it may only be set aside where the other party is an affiliate or close relative of the company.
- (b) **Payments within three months of the date of bankruptcy:** the payment of a debt (including by way of set-off where set-off would not be permitted in bankruptcy) made less than three months prior (two years, if made for the benefit of an affiliate or a close relative) to the date of bankruptcy³ if that payment (i) was made by non-customary means, (ii) was made before the due date for payment, or (iii) has resulted in a substantial deterioration of the company’s financial position, except where the payment, considering the circumstances, could be considered as ordinary.
- (c) **Security for past debts:** security granted by the company less than three months (two years, if granted to an affiliate or a close relative) before the date of bankruptcy⁴ if the security was not required to be granted as at the date when the debt arose or the security was not granted promptly after the debt arose (although required at such date). However, the transaction shall not be set aside if the provision of the security can be seen as ordinary considering the circumstances. In the preparatory works for this provision it

² However noting that if the bankruptcy was preceded by company reorganisation or resolution and the application for bankruptcy was made within three weeks from the date when the court or the resolution authority decided that the company reorganisation or the resolution (as applicable) should cease, transactions may be set aside if they took place five years before *the date of company reorganisation or resolution*, respectively.

³ Or prior to the date of company reorganisation or resolution (we refer to the footnote in clause 4.1.6.1(a)).

⁴ Or prior to the date of company reorganisation or resolution (we refer to the footnote in clause 4.1.6.1(a)).

is particularly mentioned that providing additional margin (*tilläggsäkerhet*) in connection with clearing activities shall typically be considered to be ordinary.

- (d) **Rights of priority and seizure:** a right of priority or payment which a creditor has gained by seizure if the right of priority or payment occurred up to three months (two years, if made for the benefit of an affiliate or a close relative) before the date of bankruptcy⁵.

- 4.1.6.2 It can be noted that the protection against claw-back set out in Articles 10 and 30 of CIWUD⁶ (and thus the Swedish act implementing such articles) or Articles 7 and 16 of the Insolvency Proceedings Regulation is not available to LCH since such provisions (including the relevant Swedish implementation) only apply to the laws of a country within the EEA.
- 4.1.6.3 In our opinion, and subject to the following paragraph, claw-back of a Contract and Collateral taken in respect of such Contract should only be available if such Contract and Collateral, respectively, have been valued incorrectly. If valued correctly the transactions will be regarded as ordinary and hence will not be set aside. If the valuation is made on market terms applying commercially reasonable procedures, we cannot see any reason why a Swedish court would object to transactions made under a Contract.
- 4.1.6.4 Further to the above, and although noting that additional margin provided in connection with clearing activities shall typically be considered to be ordinary, there might be a risk that any additional margin delivered within three months prior to the date of bankruptcy would not be considered ordinary and would be set aside by a Swedish court. However, we do not believe that such additional margin would be set aside provided that (i) the requirement for additional margin was made on the basis of a mark to market valuation of the Contracts, (ii) the increased margin requirement was not triggered by the Relevant Clearing Member's financial performance, and (iii) the obligation to provide additional margin was agreed at the time when the liability was created, i.e. when the relevant transaction and the Contracts were entered into. If additional margin is delivered within three months prior to the date of bankruptcy, and not all of these circumstances are satisfied (e.g. if the requirement was triggered because of the Relevant Clearing Member's financial performance or credit standing), an assessment whether such margin would be deemed ordinary (and thus not set aside in the bankruptcy proceeding) would need to be made on a case by case basis.

⁵ Or prior to the date of company reorganisation or resolution (we refer to the footnote in clause 4.1.6.1(a)).

⁶ Article 10 stipulates the main rule, i.e. that the law of the home member state shall determine the rules relating to the voidness, voidability or unenforceability of legal acts detrimental to all the creditors (which, in the event of Swedish insolvency proceedings against a Relevant Clearing Member, would be Swedish law). However, Article 30 stipulates that such rules shall nevertheless not apply if such act is subject to the law of another member state and such other law does not allow for it to be challenged (e.g. if an act could not be challenged under English law (and such provision would otherwise apply), the Swedish rules on claw-back would be disregarded).

4.1.6.5 In addition to the above, it could be noted that the provisions of the second paragraph of Article 3.1 of the Settlement Finality Directive and Article 8.2 of the Financial Collateral Directive have been implemented into the Bankruptcy Act. A transaction made by the debtor after the judicial authority handed down its decision may thus be subject to challenge and set aside, unless the transaction occurred at the latest the day after the bankruptcy decision was made public in the manner set out in the Bankruptcy Act and the other party was in good faith about the bankruptcy decision. A transaction which occurred after the bankruptcy decision (and which is not otherwise valid) becomes void automatically (although in practice, however, the invalidity must be noted and then acted on by the bankruptcy receiver) while a transaction subject to claw-back must be challenged by the bankruptcy receiver (or in certain circumstances, a creditor).

4.1.7 *Is there relevant netting legislation in the Relevant Jurisdiction that, in the context of Insolvency Proceedings or Reorganisation Measures in respect of a Relevant Clearing Member, might apply as an alternative to the relevant arrangements set out in the Default Rules?*

We refer to our answer provided in relation to clause 4.1.5 above. In accordance with the Close Out Provision (we refer to clause 4.2.1 below), an agreed netting arrangement between a Relevant Clearing Member and LCH will generally be valid against the bankruptcy estate and the creditors in the bankruptcy. If this provision is not applicable, the general Swedish insolvency and bankruptcy laws and principles will apply which, in our opinion, do not provide an alternative to the netting provisions under the Default Rules.

4.1.8 *Can a claim for a close-out amount be proved for in Insolvency Proceedings without conversion into the local currency?*

4.1.8.1 Subject to the reservations with respect to netting described in clause 4.1.5 above, a claim for a close-out amount can be proved for in Insolvency Proceedings without conversion into the local currency. In accordance with the Bankruptcy Act, such claim will, however, be converted into Swedish Kronor to the exchange rate applicable at the date of the dividend proposal, or, if an advance payment is made, the date of such payment.

4.1.8.2 Set-off between claims in different currencies is permitted pursuant to Section 1 of Chapter 5 of the Financial Instruments Trading Act. In a situation where this provision is not applicable, the general perception is that set-off between claims in different currencies is acceptable also under the general Swedish insolvency and bankruptcy laws and principles.

4.2 CLIENT CLEARING

Exempting Client Clearing Rule

- 4.2.1 *Please opine on the availability and effectiveness of any law, regulation or statutory provision (having the force of law) in the Relevant Jurisdiction which (if so designated by LCH) would be expected to qualify as an Exempting Client Clearing Rule. Please clarify whether the relevant Exempting Client Clearing Rule would be expected to apply to Relevant Clearing Members of all entity types or to only certain entity types.*
- 4.2.1.1 We are of the opinion that Section 1 of Chapter 5 of the Financial Instruments Trading Act (the “**Close Out Provision**”) and Section 2 of Chapter 5 of the said act (the “**Transfer Provision**”) would qualify as Exempting Client Clearing Rules in respect of any Relevant Clearing Member.
- 4.2.1.2 Pursuant to the Close Out Provision, a close out netting agreement between two parties in respect of trading in Financial Instruments, in other similar rights or obligations, or in currencies, is valid vis-à-vis the bankruptcy estate and the creditors of the insolvent entity. The aforesaid shall also apply to a settlement of obligations between (i) two or more participants of a System or an interoperable system, provided that the settlement has taken place in accordance with the rules of such system and (ii) a central counterparty and a clearing member or a client of such clearing member which are covered by EMIR, provided that the settlement has taken place in accordance with the central counterparty’s clearing rules. A central counterparty may thus also receive the statutory protection afforded to a System, but the important difference between (i) and (ii) above is that a settlement under (ii) also covers *clients* of a clearing member. The purpose of the provision under (ii) is thus to clarify that the Close Out Provision applies to all parties covered by EMIR, including a client of a clearing member. It should also be noted that the Close Out Provision contains a statutory protection for multilateral netting to participants of a System (which protection is only afforded under (i)).
- 4.2.1.3 In the Transfer Provision it is clarified that if a clearing member has accepted by agreement that any assets and positions held in respect of its clients, in the event of the clearing member’s bankruptcy, shall be transferred to a new clearing member in accordance with EMIR Article 48, such agreement shall be valid and enforceable against the defaulting clearing member’s bankruptcy estate and creditors. It is, however, a requirement that such agreement on porting of assets and positions is entered into prior to the instigation of the insolvency proceedings. The Transfer Provision further provides that only to the extent it would not be possible, notwithstanding reasonable efforts, to establish to which client certain assets and positions relate, such assets and positions will be regarded as assets of the defaulting clearing member and shall be included in the bankruptcy estate of such clearing member (which will thus be handled in accordance with general default procedures (simplified, that the contracts are closed-out and the collateral liquidated) and any excess value will be accounted for to the bankruptcy estate of the defaulting clearing member).

Default Outside Insolvency Proceedings or Reorganisation Measures

- 4.2.2 *If LCH were to: (i) declare a Relevant Clearing Member to be in Default in circumstances other than the commencement of Insolvency Proceedings or Reorganisation Measures in respect of that clearing member; and (ii) seek to port the Client Contracts and Account Balance of a Clearing Client to a Backup Clearing Member as a result, could the Relevant Clearing Member or any other person successfully challenge the actions of LCH and claim for the amount of the Account Balance?*
- 4.2.2.1 In the event of a Relevant Clearing Member's default pursuant to the LCH Rules (other than due to the commencement of Insolvency Proceedings or Reorganisation Measures), the procedures prescribed in the LCH Rules would be enforceable as being a valid contract between the parties as long as the procedures are enforceable under English law, which is the law governing the LCH Rules, and subject, however, to claw-back or similar pursuant to Swedish law (we refer to our answers provided in relation to clauses 4.1.5 and 4.1.6 above).
- 4.2.2.2 However, in this context it could be mentioned that under Section 37 to the Swedish Contracts Act (*Lag (1915:218) om avtal och andra rättshandlingar på förmögenhetsrättens område*), a provision which entitles the pledgee to keep the pledged asset or sell it without accounting for its value to the pledgor, in the event that the pledgor breaches its obligations, is invalid (*lex commissoria*). In such situation, the pledgee must enforce the pledge in accordance with general principles, meaning that any excess should be accounted for to the pledgor. It cannot be ruled out that the defaulting Relevant Clearing Member could claim that Section 37 is applicable in a situation where the porting is effected by a transfer of Client Contracts and Account Balance from the defaulting Relevant Clearing Member to the Backup Clearing Member and the collateral provided by a defaulting Relevant Clearing Member in relation to positions in a client account with LCH exceeds the actual exposure on that account against LCH. In such case, it is possible that the defaulting Relevant Clearing Member could successfully challenge the contractual provision with the effect that the excess collateral should be transferred back to the defaulting Relevant Clearing Member. In the majority of the default situations, Section 37 of the Contracts Act will, however, not be applicable as the defaulting Relevant Clearing Member will have to account for any excess collateral to its clients. However, in cases where there is a mismatch between the collateral provided by, on the one hand, the Clearing Client to the Relevant Clearing Member, and, on the other hand, the Relevant Clearing Member to LCH, or where a Clearing Client has provided collateral to the Relevant Clearing Member with respect to obligations not relating to Client Contracts, it cannot be ruled out that a Swedish court would sustain a claim for excess collateral under Section 37. It should however be noted that it will not be possible to determine the amount of any excess collateral until the underlying liabilities have been finally established.

4.2.3 *If LCH were to: (i) declare a Relevant Clearing Member to be in Default in circumstances other than the commencement of Insolvency Proceedings or Reorganisation Measures in respect of that clearing member; and (ii) seek to return the Client Clearing Entitlement to the relevant Clearing Client or to the Defaulter for the account of such client, could the Relevant Clearing Member or any other person successfully challenge the actions of LCH and claim for the amount of the Client Clearing Entitlement?*

We refer to our answer provided in relation to clause 4.2.2 above.

Insolvency-related Default

4.2.4 *If: (i) following the commencement of Insolvency Proceedings, a Relevant Clearing Member was designated a Defaulter (whether due to the delivery of a Default Notice or (if applicable) the occurrence of an Automatic Early Termination Event); and (ii) LCH were to seek to port the Client Contracts and Account Balance of a Clearing Client to a Backup Clearing Member as a result, could an insolvency officer appointed to the Defaulter or any other person successfully challenge the actions of LCH and claim for the amount of the Account Balance?*

4.2.4.1 No, with reference to the Close Out Provision and the Transfer Provision, we are of the opinion that a bankruptcy receiver or any other person could not successfully challenge the actions of LCH (we refer to our answer provided in relation to clause 4.2.1 above).

4.2.4.2 Where the Relevant Clearing Member is designated a Defaulter and is made subject to Insolvency Proceedings, the transfer of the Client Contracts and Account Balance of a Clearing Client to a Backup Clearing Member will be valid and enforceable against the bankruptcy estate and the creditors of the defaulting Relevant Clearing Member under the Transfer Provision, provided that it is possible to establish to which Clearing Client the contracts and collateral relate and that the Relevant Clearing Member prior to the instigation of the insolvency proceedings has accepted by agreement that such contracts and collateral shall be transferred to a Backup Clearing Member in accordance with EMIR Article 48 (and subject to the requirements described in the next paragraph). It has been clarified in the preparatory works to the Financial Instruments Trading Act that it is e.g. sufficient for the “agreement” requirement to be satisfied if these provisions follow from the clearing rules of the central counterparty and the clearing member has accepted to be bound by such rules. It is thus not necessary that the central counterparty and the clearing member have entered into the same agreement regarding these provisions. Given that the Relevant Clearing Member has accepted to be bound by the LCH Rules under its respective Clearing Member Agreement, it is our view that a transfer of Client Contracts and Account Balance meets the requirements of the Transfer Provision, and therefore will be upheld in the defaulting Relevant Clearing Member’s insolvency.

4.2.4.3 The above is, however, subject to claw-back or similar pursuant to Swedish law and Section 37 of the Contracts Act (we refer to our answer provided in relation to clause 4.2.1 above). The *lex commissoria* set out in Section 37 of the Contracts Act may also be invoked by the bankruptcy receiver in case of bankruptcy.

4.2.5 *If: (i) following the commencement of Insolvency Proceedings, a Relevant Clearing Member was designated a Defaulter (whether due to the delivery of a Default Notice or (if applicable) the occurrence of an Automatic Early Termination Event); and (ii) LCH were to seek to return the Client Clearing Entitlement to the relevant Clearing Client or to the Defaulter for the account of such client, could an insolvency officer appointed to the Defaulter or any other person successfully challenge the actions of LCH and claim for the amount of the Client Clearing Entitlement?*

4.2.5.1 No, it is our opinion that a bankruptcy receiver or any other person could not successfully challenge the actions of LCH and claim for the amount of the Client Clearing Entitlement.

4.2.5.2 It is stated in the preparatory works to the Financial Instruments Trading Act that EMIR Article 48(7) should be interpreted to the effect that any excess collateral will belong to the clearing clients after the completion of an insolvency procedure in accordance with EMIR and that the bankruptcy receiver will be deemed as having received the excess collateral with an obligation to account for such assets pursuant to the Swedish Funds Accounting Act (*Lag (1944:181) om redovisningsmedel*), i.e. the bankruptcy receiver will only hold the assets on behalf of the clients and the clients shall be entitled to the assets (provided that certain conditions set out in the Funds Accounting Act are fulfilled). This will be the case also if the defaulting Relevant Clearing Member formally was the owner of the collateral before a transfer in accordance with the Transfer Provision was initiated. As previously stated, the Transfer Provision further provides that Client Contracts and Account Balance will not be considered to be a part of the bankruptcy estate of a Relevant Clearing Member that has been designated a Defaulter (unless it is not possible, notwithstanding reasonable efforts, to establish to which Clearing Client certain contracts and collateral relate). In our view, the Transfer Provision also provides that any Client Clearing Entitlement should be considered as belonging to the relevant Clearing Client(s). This view is supported by the preparatory works where it was concluded that Swedish law is compliant with EMIR Article 48(7) by the adoption of the Transfer Provision. We are therefore of the opinion that a bankruptcy receiver or any other person could not successfully challenge the actions of LCH and claim for the amount of the Client Clearing Entitlement.

Reorganisation Measures

4.2.6 *If: (i) following the implementation of Reorganisation Measures, a Relevant Clearing Member was designated a Defaulter (whether due to the delivery of a Default Notice or (if applicable) the occurrence of an Automatic Early Termination Event); and (ii) LCH were to seek to port the Client Contracts and Account Balance of a Clearing Client to a Backup Clearing Member as a result, could the representative appointed to reorganise/manage the Defaulter or any other person successfully challenge the actions of LCH and claim for the amount of the Account Balance?*

We refer to our answer provided in relation to clause 4.2.4 above.

- 4.2.7 *If: (i) following the commencement of Reorganisation Measures, a Relevant Clearing Member was designated a Defaulter (whether due to the delivery of a Default Notice or (if applicable) the occurrence of an Automatic Early Termination Event); and (ii) LCH were to seek to return the Client Clearing Entitlement to the relevant Clearing Client or to the Defaulter for the account of such client, could the representative appointed to reorganise/manage the Defaulter or any other person successfully challenge the actions of LCH and claim for the amount of the Client Clearing Entitlement?*

We refer to our answer provided in relation to clause 4.2.5 above.

Security Deed

We refer to our answer provided in relation to clause 4.2.1 above and the instructions that the questions relating to the Security Deed in the Questionnaire should be ignored.

General

- 4.2.8 *Please provide brief details of any other significant legal or regulatory issues which might be expected to arise in connection with the provision by a Relevant Clearing Member of Client Clearing Services and which are not covered by the questions above.*
- 4.2.8.1 In our opinion, there are no other significant legal or regulatory issues which might be expected to arise in connection with the provision by a Relevant Clearing Member of Client Clearing Services and which are not already covered by this legal opinion. However, we note that we have been instructed not to provide tax advice as part of this opinion, and that questions on governing law and jurisdiction have been intentionally removed from the Questionnaire, and that we have therefore not considered any such issues when answering the questions set out in the Questionnaire.
- 4.2.8.2 In the Questionnaire we are asked to consider what protections LCH would enjoy under the BRRD if it would not have been afforded the protection of an Equalised Settlement System. The protection afforded to Systems under the BRRD has been implemented in Chapter 13 and 23 of the Resolution Act. If LCH would not be afforded the protection of an Equalised Settlement System, LCH would not enjoy the protection afforded to Systems set out in the Swedish implementation of the BRRD (we refer to our answer provided in clause 4.3.1).
- 4.2.8.3 However, please note that LCH, as a central counterparty (but not an Equalised Settlement System), would enjoy similar protection set out in the Swedish implementation of the BRRD as afforded to Systems. LCH is in its capacity as a central counterparty protected against the resolution authority's power to suspend any payment or delivery obligations pursuant to any contract and its power to restrict the enforcement of security interests. Any agreement entered into between LCH and an institution under resolution is also protected from the resolution authority's power to suspend the other party from exercising e.g. termination or amendment rights under such agreement. However, the protection afforded to Systems in connection with partial transfers and terminations and amendments of contracts (i.e. that such a transfer, termination or amendment may only take place

if it would not affect the operation of such a system or its rules) does not apply to central counterparties.

4.3 SETTLEMENT FINALITY

4.3.1 *The Amended Legislation*

4.3.1.1 In response to the United Kingdom's decision to withdraw from the European union, the Swedish legislator has made some amendments to the Swedish legislation in accordance with Recital 7 of the Settlement Finality Directive (which provides that the protection set out in the directive may also be afforded to third country settlement systems) (the "**Amended Legislation**"). The Amended Legislation entered into force on 1 January 2019.

4.3.1.2 The Amended Legislation states that a third country settlement system should be able to enjoy similar legal protection as a System, after application and approval by the Swedish Financial Supervisory Authority (*Finansinspektionen*) (the "**SFSA**"). In accordance with the Amended Legislation, an administrator of a third country settlement system may apply for such settlement system to become an Equalised Settlement System. After having given the Swedish central bank (*Riksbanken*) an opportunity to comment, the SFSA may approve such application and resolve that a third country settlement system becomes an Equalised Settlement System if: (i) the settlement system provides a satisfactory level of security and is structured in a way which enables the financial position of the respective participant to be observed, (ii) the administrator of the settlement system is subject to satisfactory supervision, and (iii) there are reasons to believe that the SFSA will obtain information about the business on a regular basis. The SFSA shall revoke the authorisation if such conditions are no longer satisfied.

4.3.1.3 The Amended Legislation results in that an Equalised Settlement System will be afforded the same protection as a System under the Settlement Systems Act (*Lag (1999:1309) om system för avveckling av förpliktelser på finansmarknaden*) and under the Swedish act implementing the BRRD. In addition, an Equalised Settlement System, will, as a result of the Amended Legislation, continue to afford the protection for multilateral netting pursuant to the Financial Instruments Trading Act (we refer to our answer provided in relation to clause 4.1.5). In this context, it can, however, be noted that (i) the obligation of the authority in Article 6(2) of the Settlement Finality Directive to inform about the opening of insolvency proceedings do not apply in respect of participants of an Equalised Settlement System (i.e. such information obligation shall not apply in respect of an Equalised Settlement System), and (ii) the Amended Legislation includes an undertaking of the administrator of the Equalised Settlement System to provide the SFSA with information about the business, which is to be further detailed in regulations and guidelines, as well as such other information as the SFSA may request. The SFSA approved LCH's application to become an Equalised Settlement System on 10 March 2020.

4.3.2 *On the basis that LCH will no longer receive protections pursuant to the Settlement Finality Directive, would the commencement of Insolvency Proceedings in respect of a Relevant Clearing Member affect finality of settlement of transfers of funds or securities (or both) from the Relevant Clearing Member to LCH? If so, please clarify from which point in time and in which circumstances finality protections in respect of such transfers would be lost. Can settlement of transfers of funds or securities (or both) be subject to challenge in your jurisdiction? What would constitute the grounds for such challenge? For example, will only post-petition transactions or transactions at an undervalue be likely to be vulnerable to challenge? In relation to such challenges, would the underlying transactions be deemed to be voided automatically or would the underlying transaction be voidable and require challenge by the insolvency officer?*

4.3.2.1 If LCH was not afforded the protection of an Equalised Settlement System, the protection under Article 3 of the Settlement Finality Directive regarding transfer orders would no longer apply to LCH. However, the general perception in Sweden, which we agree with, is that the same protection as provided for under the Settlement Finality Directive will apply to third country settlement systems under general Swedish insolvency and bankruptcy laws and principles (i.e. that a bankruptcy receiver may not revoke, withdraw or otherwise rewind a transfer order made before the court handed down its decision). Having said that, it should be noted that at the time of the implementation of the Settlement Systems Act, there were lengthy discussions in the preparatory works which were followed by an active decision by the legislator to nevertheless include statutory support to this effect (i.e. Section 13 of the Settlement Systems Act) in order to avoid any uncertainties. The same legal uncertainty is also one of the reasons for the Amended Legislation (i.e. for the benefit of third country settlement systems). As previously stated, we are of the opinion that the same protection applies under general Swedish insolvency and bankruptcy laws and principles, but there is nevertheless a risk that a Swedish court would come to a different conclusion.

4.3.2.2 With respect to questions relating to the challenge of transfer orders, we refer to our answer provided in relation to clause 4.1.6. Noting that the described rules on claw-back may, however, apply regardless of whether the relevant settlement system, the administrator or participant enjoys the protection in respect of transfer orders pursuant to the Settlement Finality Directive and thus, LCH's position in this respect will remain unchanged following the United Kingdom's withdrawal from the EU as compared to the situation prior thereto, irrespective of LCH being protected as an Equalised Settlement System or not.

4.3.3 *On the basis that LCH will no longer receive the protections pursuant to the Settlement Finality Directive, are there any circumstances (such as the commencement of Reorganisation Measures) which might give rise to a loss of finality protections before the commencement of Insolvency Proceedings? If so, please clarify from which point in time and in which circumstances finality protections would be lost.*

We refer to our answer provided in relation to clause 4.3.2 above. In our opinion, there are no other protections pursuant to the Settlement Finality Directive that LCH would no longer receive after the United Kingdom's withdrawal from the EU, irrespective of LCH being protected as an Equalised Settlement System or not,

and which might give rise to a loss of finality protections before the commencement of Insolvency Proceedings.

5. The foregoing opinion is subject to the following limitations, reservations and qualifications:

- 5.1 Pursuant to the Contracts Act, the terms of an agreement may be modified or set aside by a court to the extent that such terms are deemed to create unreasonable results, even if the circumstances giving rise to such results occurred after the agreement was entered into. In particular, where a party is afforded a discretion or is permitted to determine a matter in its opinion, it may be required that such discretion is exercised reasonably or that such opinion is based on reasonable grounds. However, in a transaction between parties of a similar standing and documented by agreements negotiated between the parties, it is our opinion that it would be unlikely for a Swedish court to modify or set aside any terms unless there is a change in circumstances after the agreements were entered into and, due to such change in circumstances, an application of the terms would lead to an unreasonable result, which would not reflect the intention of the parties at the time of entering into the agreements.
- 5.2 The term “enforceable” when used herein means that the obligations assumed by the parties are of the type which Swedish courts enforce. However, enforcement before the Swedish courts will depend upon the remedies and defences available before the relevant court in each individual case and, as such, specific obligations will not always be enforced in accordance with their terms. The availability of equitable remedies, including but not limited to injunctive relief and specific performance, is restricted and such remedies may not always be granted by the court.
- 5.3 Whereas judgments may be awarded by the Swedish courts in currencies other than Swedish Kronor, judgments will always be enforced in Swedish Kronor, generally at the rate of exchange prevailing at the date of enforcement rather than at the date of judgment.
- 5.4 The enforcement of the rights of a party under an agreement may be limited by general statutory time limits or the doctrine of laches.
- 5.5 We express no opinion as regards any tax implications which the LCH Rules or the transactions contemplated by them may have on a Relevant Clearing Member and/or its business.
- 5.6 This opinion is strictly limited to matters stated herein and is not to be read as extending by implications to any other matters in connection with the LCH Rules.
- 5.7 The Bankruptcy Act provides for various situations where transactions made by a debtor prior to the bankruptcy can be set aside. These have been described in Section 4.1 and should for the purpose of this opinion be deemed to be part of these qualifications.
- 5.8 The insolvency-related analysis in this opinion is restricted to the position where the relevant Insolvency Proceedings are governed by Swedish law.

- 5.9 This opinion is given by reference to the facts as at today's date and the LCH Rules in the versions referred to in Section 2. This opinion is limited to matters of Swedish law as presently in force and as enacted by Swedish legislative authorities, and no opinion is expressed as to the laws of any other jurisdiction. In particular, we do not hold ourselves out as being familiar with the laws of England or the laws of any jurisdiction other than Sweden and we express no opinion in respect of matters governed by or construed in accordance with any such laws. This opinion is further limited to an analysis in respect of clearing members of LCH being Relevant Clearing Members (i.e. Companies incorporated in Sweden).
- 5.10 This opinion is given on the basis that it will be governed by, and construed in accordance with, Swedish law.
- 5.11 In this opinion Swedish legal concepts are described in English terms and not by their original Swedish terms. The concepts concerned may not correspond to the concepts described by the same English terms as they exist under the laws of other jurisdictions. This opinion may, therefore, only be relied upon on the express condition that any issues of interpretation or liability arising hereunder will be governed by Swedish law.
- 5.12 Whereas we have provided our opinion on what law that will govern the relationship between a security provider and third parties (including the security provider's creditors) in relation to the security interest, we express no opinion on if the Swedish perfection requirements are satisfied.
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This legal opinion has been prepared at the request of LCH and is not intended to, and does not, create a mandate or advisory relationship with any other persons or entities. This legal opinion is not intended to, and does not, give rise to any liability (and we assume no liability) to any other party than LCH and it may not be used for any purpose other than in connection with the LCH Rules without our express prior written consent. It may, however, be disclosed to the regulator, any professional advisor or affiliate of LCH for the purposes of information only and on the strict understanding that we assume no duty or liability whatsoever to any such recipient as a result or otherwise.

LCH may also make the opinion publically available on its website to its customers, provided that the legal opinion (i) may not be relied upon by those customers, and (ii) is made available to them solely for either information purposes or for the purpose of presenting it to the respective relevant financial supervisory authority of such customers.

We assume no obligation to advise you of any changes in the foregoing subsequent to the date set forth in the beginning of this opinion and this opinion speaks only as of that date.

Yours sincerely,

MANNHEIMER SWARTLING ADVOKATBYRÅ



Thomas D. Petterson



Johannes Loftén