

General comments:

LCH.Clearnet Group Limited (“LCH” or “The Group”) is pleased to respond to the Monetary Authority of Singapore (“MAS”) consultation paper on proposed legislative amendments to enhance the resolution regime for financial institutions in Singapore

LCH overview

LCH¹ is a leading multi-asset class and international clearing house, 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, sterling and US dollar denominated bonds and repos. LCH works closely with market participants and exchanges to continually identify and develop innovative clearing services for new asset classes. LCH is majority owned by the London Stock Exchange Group, a diversified international exchange group that sits at the heart of the world’s financial community.

LCH.Clearnet Limited (“LCH Ltd”) is recognised as a Recognised Clearing House in Singapore pursuant to the Securities and Futures Act, in respect of the SwapClear, ForexClear and EnClear (Freight Division) services.

LCH position

As a multi-asset class and international clearing house, LCH has a direct interest in the recovery and resolution frameworks that exist or are under development in each of the jurisdictions in which it does, or may, operate. The Group strongly supports MAS’s goal of strengthening resiliency in the derivatives market by enhancing the resolution regime for financial institutions in Singapore.

LCH continues to be fully supportive of the G20 commitment to promote financial stability and reduce systemic risk in the OTC derivatives markets through the increased use of central counterparties. We recognise that implementing an effective resolution regime for clearing houses and other financial institutions is vital in preserving confidence in the financial markets and clearing, and in the ability of clearing houses to effectively manage market risks. Given the importance of the G20 objectives, we believe it is imperative that international regulatory and capital rules do not, whether directly or indirectly, damage the effectiveness of a CCP’s default management processes and increase the risk of contagion to other market participants following a clearing member default.

¹ LCH.Clearnet Group Limited consists of three operating entities: LCH.Clearnet Limited, the UK entity, LCH.Clearnet SA, the Continental European entity, and LCH.Clearnet LLC, the US entity. Link to Legal and Regulatory Structure of the Group: http://www.lchclearnet.com/about_us/corporate_governance/legal_and_regulatory_structure.asp

Question 1: MAS seeks comments on the draft amendments to Part IVA of the MAS Act in relation to recovery and resolution planning.

We recommend that the final rules include an explicit exemption for those recognised clearing houses which already comply with the obligation to have a recovery plan in place under their home jurisdiction. For example, LCH Ltd already maintains a recovery plan under UK statutory requirements and reviews it regularly as required by the Bank of England to ensure it remains relevant to LCH's operations. The requirement for foreign recognised clearing houses to comply with both home and host recovery plans would seem disproportionate and unnecessarily complex.

Question 2: MAS seeks comments on the draft Notice and Guidelines for recovery and resolution planning.

We have no comments on this question.

Question 3: MAS seeks comments on the draft amendments to Part IVB of the MAS Act in relation to temporary stays on termination rights.

In order to promote the effectiveness of CCPs' default rules and to recognise their importance in the reduction of systemic risk and risk contagion in the financial markets, it is important to ensure that a CCP is an "excluded party" under the proposed section 30AAZAJ(b) of the MAS Act. We therefore strongly encourage the MAS to make a regulation under section 30AAZN(f) of the MAS Act to exempt CCPs from the temporary stay on termination rights in the proposed section 30AAZAI of the MAS Act. Please also refer to our explanation under Question 4 below on the importance of the continued application of a CCP's default rules in respect of a clearing member in resolution.

Question 4: MAS seeks comments on the draft amendments to Part IVB of the MAS Act in relation to the statutory bail-in regime.

In order to promote the effectiveness of CCPs in the reduction of systemic risk and risk contagion in the financial markets, it is important to ensure that all liabilities arising from cleared derivatives are excluded from resolution authorities' bail-in powers.

Including cleared derivatives in the bail-in tool would have serious (and highly undesirable) consequences on to the effectiveness of a CCP's default management procedures. If a clearing member defaults, and its contracts with the CCP are subject to bail in, the CCP would be prevented from defaulting the member and/or liquidating the defaulter's positions. In such circumstances, the CCP would not be able to re-establish a matched book, which would increase risk contagion to other market participants.

We note that MAS intends to exempt secured liabilities from the bail in tool, as set out in paragraph 3.10 of the consultation paper. In our view, this exemption would cover liabilities owed by a clearing member to the CCP because such liabilities are secured by margin and default fund contributions. For certainty, however, we would encourage the MAS to clarify in secondary legislation to be adopted under section 30AAZN of the MAS Act that liabilities owed to CCPs are exempt from the bail in regime in the proposed section 30AAZAB of the MAS Act.

Question 5: MAS seeks comments on the draft amendments to Part IVB of the MAS Act in relation to cross-border recognition of resolution actions.

We support the proposal to establish a recognition process under which effect can be given to foreign resolution actions. We agree it is important for host authorities to cooperate with foreign resolution authorities in the context of resolution of cross-border CCPs.

Another important initiative for cross-border CCPs is the establishment of Crisis Management Groups (CMGs), which are considered in the FSB Key Attributes. CMGs will facilitate dialogue and discussion between the relevant supervisors, central banks and other public authorities. However, we believe that the decision making in respect of a particular entity or group should ultimately reside with a single resolution authority, which in our view should be the resolution authority of the jurisdiction in which the institution is established. This is on the basis that the home resolution authority will be most familiar with the CCP's operations and will be able to act decisively.

We agree that it is important for key domestic and cross-border counterparts to have information sharing arrangements agreed in advance, and ideally to have tested these as part of a crisis management exercise (if possible, with the participation of the relevant FMI).

Question 6: MAS seeks comments on the draft amendments to Part IVB of the MAS Act in relation to the creditor compensation framework.

We have no comments on this question.

Question 7: MAS seeks comments on the draft amendments to Part IVB of the MAS Act in relation to resolution funding arrangements.

We have no comments on this question.

Question 8: MAS seeks comments on the draft amendments to the Monetary Authority of Singapore (Control and Resolution of Financial Institutions) Regulations 2013.

We strongly support the amendments to the Monetary Authority of Singapore (Control and Resolution of Financial Institutions) Regulations 2013 that provide for broad protections to ensure that set-off and netting arrangements will not be affected by the exercise of resolution powers under the MAS Act, including in respect of transactions cleared on an approved clearing house.