

Phøbe Chan  
Senior Analyst  
Prudential Supervision Department  
Reserve Bank of New Zealand  
PO Box 2498 Wellington 6140

July 3 2015

Dear Phøbe,

**CONSULTATION DOCUMENT: OVERSIGHT OF DESIGNATED FINANCIAL MARKET INFRASTRUCTURES**

This letter provides the submission of LCH.Clearnet Ltd ("LCH.Clearnet") to the RBNZ's April 2015 Consultation Paper on Oversight of Designated Financial Market Infrastructures.

LCH.Clearnet is a subsidiary of the LCH.Clearnet Group, the world's leading clearing house group, which services major international exchanges and platforms, as well as a range of OTC markets. It clears a broad range of asset classes including cash equities, exchange traded derivatives, commodities, energy, freight, interest rate swaps, credit default swaps, bonds, repos, and foreign exchange derivatives. The Group's central clearing counterparties ("CCPs") have over 190 clearing members and over 600 clients across 22 countries.

LCH.Clearnet's primary regulator is the Bank of England, which has authorised it to operate throughout the EU. LCH.Clearnet is also regulated in the Australia, US, Singapore, Quebec and Ontario. We fully share the RBNZ's view that FMIs that give rise to systemic risks should be operated in a sound and efficient manner.

We address certain of the paper's questions below.

Question 1: Do you agree with the Reserve Bank's proposed scope for the new oversight regime focusing on systemically important FMIs only? If not, please provide more details.

*We do not comment on this question.*

Question 2: Do you have any views on the Reserve Bank's proposal to strengthen the FMI oversight framework via modifying the existing Designation Regime? If so, please provide more details.

*We support the proposal, for the reasons of simplicity and alignment with the regimes of other jurisdictions that the RBNZ cites.*

Question 3: Do you agree with the proposed objectives of the revised regime? If not, please provide more details.

*We agree with the proposed objectives.*

Question 4: Do you agree with the proposed definition of financial market infrastructures (FMIs)? If not, please provide more details.

*We agree with the proposed definition.*

Question 5: Are there any additional factors that the Reserve Bank and FMA should take into account when making an assessment of systemic importance of an FMI? If so, what are those factors?

*We have not identified any additional relevant factors.*

Question 6: Do you have any comments about the proposed process for Designation and revoking Designation? If so, please provide more details.

*We do not have comments other than that the process for Designation and revoking Designation of an offshore FMI must take into account the views and responsibilities of the FMI's home regulator (see also our comments on Question 11).*

Question 7: Do you have any views on the proposed process for setting standards, and the proposed matters that standards may relate to? If so, please provide more details.

*The proposed process is, we believe, appropriate.*

Question 8: Do you agree with the proposal to oversee core technical infrastructure providers via their contractual arrangements with designated FMIs? If not, please elaborate further.

*We agree that the appropriate way to oversee technical infrastructure providers via their contractual arrangements with designated FMIs, rather than to designate such providers separately. As the RBNZ notes, this would accord with international best practice.*

Question 9: Do you have any comments about the proposed process for requiring that an existing rule be changed or a new rule be adopted? If so, please provide more details.

*The proposed mechanism may be appropriate for domestic designated FMIs but issues could arise in the case of a foreign designated FMI. In theory such an FMI could find itself, for example, being directed to amend its rules in a certain way by a home (host) regulator while at the same time being directed not to so amend its rules by a host (home) regulator. We suggest that such powers are either limited so as to apply only to a domestic FMI or that, in the case of a foreign FMI, they must be subject to agreement with all other prudential regulators of the FMI.*

Question 10: Do you agree with the proposed crisis management powers? If not, please provide more details.

*The proposed powers may be appropriate for a domestic FMI but not in relation to a foreign FMI, which typically will be subject primarily, or exclusively, to the crisis management framework established in its home jurisdiction. In the event of a failure of a participant with a significant connection to New Zealand, or of the FMI itself, there should be agreed ex ante crisis management arrangements in place between the RBNZ and the FMI's domestic regulator and/or resolution authority – and potentially other foreign authorities – in order to take due account of the potential impact in New Zealand.*

Question 11: Do you agree that offshore FMIs should be included in the proposed revised Designation Regime? If not, please provide more details.

*LCH.Clearnet would in principle be content with any proposal to designate offshore FMIs but, as the RBNZ notes and with reference to the (simple) examples cited in our answers to qq. 9 and 10, the establishment of co-operative arrangements with home regulators would be a pre-requisite. We would encourage the RBNZ to establish a mechanism similar in effect to that which is in place for supervision of the CLS system whereby the home regulator undertakes supervisory functions on behalf of other regulators to which the system is systemically important.*

*We suggest that, in order to provide as much clarity as possible, it would be helpful for the RBNZ to give guidance on how the Designation Regime policy could be enforced in relation to an offshore FMI. It could happen that an offshore FMI wishes to offer services that are, or are potentially, systemically important to New Zealand, but does not seek Designation.*

Question 12: Do you have any views on how the additional costs for the proposed revised Designation Regime could be funded? If so, please elaborate.

*We do not comment on this question.*

Question 13: Could you provide some details on the likely costs that a designated FMI would incur?

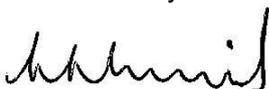
*In the case of LCH.Clearnet, the costs arising from initial designation and ongoing reporting cannot be quantified with ease without more detail on each element (and knowledge of any relevant regulatory fees). However, should the RBNZ make the fullest use of existing and potential co-operation arrangements with other supervisors who have oversight of LCH.Clearnet we would not anticipate any material additional costs to arise in this respect.*

*As the RBNZ is aware, it was a condition of LCH.Clearnet's being licensed to provide its SwapClear service in Australia that it open an account with the RBA, and join the RITS and Austraclear systems. LCH.Clearnet is fully supportive of the principle that, to quote from the CPMI-OSCO Principles for Financial Market Infrastructures (PFMIs), "[a]n FMI should conduct its money settlements in central bank money where practical and available". However the establishment and operation of such arrangements comes at a cost, and in our view "practicality" includes a consideration of commercial practicality. Subject to an assessment of the cost, we would propose that, to continue the quotation from the PFMIs, in the case of NZD LCH.Clearnet would continue to minimise and strictly control the credit and liquidity risk arising from the use of commercial bank money".*

---oooOOOooo---

We hope that the RBNZ finds this submission useful and we look forward to engaging further as the proposals are implemented. Please do not hesitate to contact me at [rory.cunningham@lchclearnet.com](mailto:rory.cunningham@lchclearnet.com) or +61 2 8259 4111 regarding any questions raised by this letter or to discuss these comments in greater detail.

Yours faithfully



**Rory Cunningham**  
**Director, Asia-Pacific Compliance & Regulatory Affairs**