

Memorandum of Understanding (MoU)

on Co-ordination and Co-operation for the

Supervision and Oversight of LCH.Clearnet Limited, London (UK)

Preamble

- A. LCH.Clearnet Limited, London (UK), hereafter LCH, is a company incorporated in the United Kingdom and is a recognized clearing house pursuant to section 290(1) of the United Kingdom Financial Services and Markets Act 2000 (FSMA).
- B. Since May 2003 LCH provided central counterparty clearing (CCP) services to SWX Europe (former virt-x Exchange Limited), a recognized investment exchange pursuant to section 290(1) of FSMA. The trading of Swiss securities on SWX Europe was relocated to Zurich in May 2009 and integrated into SIX Swiss Exchange. SWX Europe ceased to offer trading services. LCH provides clearing services for both on-order book and off-order book trades across all clearing-eligible securities traded on SIX Swiss Exchange. LCH's activities on SIX Swiss Exchange are subject to recognition being granted by the Swiss Financial Market Supervisory Authority (FINMA).
- C. The Swiss National Bank (SNB) is responsible for the oversight of systems for the clearing and settlement of payments (payments systems) and of transactions involving financial instruments, specifically securities (securities settlement systems), pursuant to articles 19 to 21 of the Swiss National Bank Act. The Implementing Ordinance on the Federal Act on the Swiss National Bank (the Implementing Ordinance) governs, among other things, the oversight of payments systems and securities settlement systems.
- D. Article 19 of the Implementing Ordinance provides that the SNB shall determine whether a system is important for the stability of the Swiss financial system under the terms of article 20 paragraph 2 of the National Bank Act. The SNB has determined in August 2006 that the CCP services which LCH provided to former SWX Europe and now provides to SIX Swiss Exchange, are systemically important for the stability of the Swiss financial system.

- E. Article 21 of the Implementing Ordinance provides that operators of a payment or securities settlement system that is domiciled abroad, are discharged in whole or in part from compliance with the minimum requirements if:
- a.) the system is subject to equivalent oversight by a foreign authority; and
 - b.) this authority is willing to collaborate with the SNB under the terms of article 21 of the National Bank Act.
- F. The FINMA is responsible for licensing payments systems and securities settlement systems and for supervising these, under the terms of the Swiss Federal Act of 24 March 1995 on Stock Exchange and Securities Trading (SESTA) and the Implementing Ordinance on Stock Exchanges and Securities Trading (SESTO) of 2 December 1996.
- G. Article 10^{bis} SESTA empowers FINMA to recognize and to regulate the operator of a system pursuant to art. 19 National Bank Act (system in this regard means payments systems and securities settlement systems) similar to the FINMA regulation of securities dealer. FINMA may issue and design a tailor made license and regulation for operators of such a system, especially if the operator of such a payment or securities settlement system was qualified by SNB as important for the stability of the Swiss financial system.
- H. For the recognition of foreign operator such as LCH, FINMA applies the requirements of art. 53 SESTO. By applying this provision, FINMA relies on the ongoing supervision of the home regulator of the operator. FINMA applies art. 10^{bis} SESTA and art. 53 SESTO to a foreign Central Counterparty that the SNB deems of importance only if the Central Counterparty offers its services on a securities market based in Switzerland. The home regulator has to confirm to FINMA, that:
- a. the foreign Central Counterparty is subject to appropriate supervision;
 - b. the foreign supervisory authority does not object to the activities of the foreign Central Counterparty in Switzerland; and
 - c. the foreign supervisory authority is in a position to offer administrative assistance to FINMA.
- I. FINMA recognized LCH as a foreign Central Counterparty pursuant to art. 10^{bis} SESTA and in compliance with art. 53 SESTO. Accordingly LCH is permitted to provide its clearing services on the securities market based in Switzerland.

- J. The United Kingdom Financial Services Authority has responsibility for the oversight of the clearing activities of LCH as a recognized clearing house.
- K. The Bank of England has responsibility for the oversight of the embedded payment system of LCH. The inter-bank payment system operated as part of LCH has been recognised by HM treasury for oversight by the Bank of England under Part 5 of the Banking Act 2009
- L. The Authorities wish to enter into a memorandum of Understanding (MoU) to facilitate co-ordination and co-operation in relation to the regulation and supervision of the clearing activities of LCH.

Interpretation

- 1. In this MoU, unless the context requires otherwise:
 - “Authorities” means FINMA, SNB, FSA and Bank of England (BoE);
 - “Swiss Authorities” means FINMA and SNB;
 - “UK Authorities” means FSA and BoE.

Purpose of MoU

- 2. The purpose of this MoU is to facilitate co-operation and co-ordination between the Swiss Authorities and the UK Authorities in order to promote effective supervision and oversight of LCH.

Effect of MoU

- 3. This MoU does not modify or supersede any laws or regulatory requirements in force in, or applying to, Switzerland or the United Kingdom. It is a statement of intent of the Authorities and is not intended to create any binding legal obligations, or to fetter the discretion of the Authorities in any way in the discharge of their functions. It is also not intended to prejudice the individual responsibilities or autonomy of each

respective Authority. This MoU does not affect any other arrangements between the Authorities or any arrangements between the Authorities and third parties.

Principles for supervision and oversight of LCH

4. The Authorities are or will be, in relation to LCH, responsible for performing the respective supervisory and oversight functions set out in the preamble to this MoU.
5. The division of responsibility for the supervision and oversight of LCH shall be based on the respective supervisory and oversight responsibilities of each of the Authorities.

Principles for co-operation between Authorities

6. The UK Authorities and the Swiss Authorities will co-operate closely and, in particular, exchange information to assist each other to perform their respective functions.
7. The UK Authorities will (either on their own initiative or at the request of a Swiss Authority) provide to the Swiss Authorities relevant information about any material matter that is likely to assist the Swiss Authorities to perform their respective functions relating to the supervision of LCH and to the oversight of the clearing system operated by LCH.
8. The Swiss Authorities will (either on their own initiative or at the request of the FSA) provide to the UK Authorities relevant information about any material matter that is likely to assist the UK Authorities to perform their respective functions relating to the supervision and oversight of LCH.
9. Without limiting the scope of clauses 7 and 8, information to be provided under those clauses should include information relevant to:
 - a. Systemic risk issues;

- b. The ability of LCH to meet its financial requirements;
 - c. The fitness or propriety of LCH, or a person employed or associated with LCH, to perform its regulated functions;
 - d. The adequacy of the systems and controls, the management policy, the organization and the internal control systems of LCH.
10. An Authority will endeavour to notify other Authorities if it proposes to take any regulatory action in relation to LCH or its participants which might have a material effect on the performance by the other Authorities of their functions. If it is not possible to notify the other Authorities before taking such action, notification shall be done as soon as practicable thereafter.

Meetings of Authorities

11. Representatives of the Authorities will meet periodically, as necessary, to discuss issues of common interest relating to the supervision and oversight of LCH and to improve co-ordination and co-operation between the Authorities, without prejudice to each Authority's domestic competences and responsibilities. The issues to be discussed at these meetings may include, but will not be limited to:
- a. Assessment of risks affecting LCH's clearing services subject to the Authorities' supervision/oversight;
 - b. Compliance with EU, Swiss and international standards for clearing systems; and
 - c. Improving co-operation and co-ordination between the Authorities.

Representatives of LCH may be invited for meetings with the Authorities.

On-Site Visits

12. The Swiss Authorities may wish to conduct a regulatory visit (an On-Site Visit) to, or inspection of the Books and Records, and premises of, LCH

The Authorities intend to comply with the following procedures before conducting an On-Site Visit:

- a. The Swiss Authorities will notify the UK Authorities of their intent to conduct an On-Site Visit and the intended time frame for, and the scope of, the On-Site Visit. The Swiss Authorities will make best endeavours at all times to notify the UK Authorities prior to notifying LCH.
- b. The Authorities intend to assist each other regarding On-Site Visits, including obtaining information from directors and senior management of LCH.
- c. The UK Authorities may, in their discretion, accompany the Swiss Authorities during the On-Site Visit and assist in the On-Site Visit.

Additional arrangements

13. The Authorities may agree upon the practical arrangements regarding the modalities of co-operation between the Authorities as are deemed necessary from time to time.

Confidentiality

14. Any information shared by the Authorities under this MoU shall be subject to obligations of professional secrecy, shall be used only for the purpose of enabling the Authorities to perform their functions and shall not modify or supersede any similar obligations arising from legal or regulatory requirements that are in force. The Authorities shall not make any other disclosure of such information, including transmission to other authorities not signatories to this MoU, without the prior consent of the Authority providing the information and subject to any other legal and regulatory constraints.

Entry into effect

15. This MoU replaces the former MoU on co-ordination and co-operation for the supervision and oversight of LCH.Clearnet Ltd between the Authorities dated 15 May 2007. This MoU shall come into force on the date of signature set out below and will continue to have effect until terminated by any of the Authorities giving 30 days advance written notice to each of the other Authorities.

Review of MoU

16. The Authorities will keep the operation of this MoU under review and will consult when necessary with a view to improving its operation and resolving any matters.

Language

17. This MoU has been drafted in English.

Amendment of MoU

18. This MoU may be amended with the consent of all the Authorities.

Additional parties

19. The Authorities may, by common consent, agree that other authorities may become signatories of this MoU.

Executed by the Authorities

29 March 2010

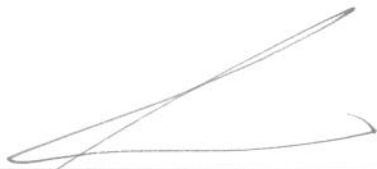
Executed on



For the Swiss Financial Supervisory Authority
Franz Stirnimann, Member of the Executive Board



For the Swiss Financial Supervisory Authority
Dr. Marcel Livio Aellen, Head Supervision of Exchanges



For the Swiss National Bank
Dr. Thomas Wiedmer, Alternate Member of the Governing Board



For the Swiss National Bank
Andy Sturm, Director, Head of Oversight



For the FSA
Alexander Justham, Director of Markets



For the Bank of England
Andrew Haldane, Executive Director, Financial Stability



For the Bank of England
Paul Chilcott, Head of Division, Payments and Infrastructure Division