



Ms. Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

14 February 2011

Dear Ms. Murphy:

Re: File Number S7-44-10 “Process for Review of Security-Based Swaps for Mandatory Clearing”

The LCH.Clearnet Group (“LCH.Clearnet”) is pleased to add further comment to the letters it has already submitted to the Securities and Exchange Commission (“Commission”). We continue to appreciate the careful thought and consideration that the Commission has given to the rulemaking process and the open manner in which it has consulted with market participants and other interested parties.

One of the primary goals of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”) was to lower risk by requiring over-the-counter (“OTC”) derivatives to be centrally cleared. LCH.Clearnet strongly supports both the Dodd-Frank Act, and the policy goals underpinned by the Commission’s Proposing Release and the statutory provisions contained in Section 763(a) of the Dodd-Frank Act, codified at Section 3C of the Securities Exchange Act of 1934.

Section 763(a) of the Dodd-Frank Act requires the Commission to adopt rules for the review of a swap, or group, category, type, or class of Security-Based Swaps (collectively, “Security-Based Swaps”) to make a determination as to whether the Security-Based Swaps should be required to be cleared. Section 763(a) directs the Commission to prescribe criteria, conditions, or rules under which the Commission will determine the initial eligibility or the continuing qualification of a clearing agency to clear Security-Based Swaps.

The Group believes it is critically important that the Commission establishes a process for the review and designation of Security-Based Swaps for mandatory clearing and, equally, that it subjects market infrastructures to strict requirements to ensure their safety and robustness.

LCH.Clearnet believes that the process set out in the Proposing Release is consistent with the Congressional requirement that a clearing agency be eligible to clear Security-Based Swaps, and that before a Security-Based Swap becomes subject to mandatory clearing,

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the public get to provide input on the contract or class of contracts. The Group is therefore fully supportive of the proposals set forth by the Commission and believes that these proposed rules will help establish a comprehensive regulatory framework to reduce risk, increase transparency and promote market integrity within the financial system.

The Group commends the Commission for its careful consideration of the issues raised by the provisions outlined overleaf, but has a number of comments on this important rule and welcomes this opportunity to share these with the Commission.

LCH.Clearnet sets forth its more detailed comments on the Commission's proposals below.

A Eligibility of a Clearing Agency to Clear Security-Based Swaps

The proposed rules set out under Proposed Regulation § 240.19b-4 require the Commission to determine the initial eligibility and continuing qualification of a clearing agency to clear a Security-Based Swap that the clearing agency plans to accept for clearing. A clearing agency that plans to accept a Security-Based Swap, or any group, category, type or class of Security-Based Swaps for clearing must submit to the Commission the required information on Form 19b-4.

As more Security-Based Swaps are submitted for clearing and some Security-Based Swaps become subject to a mandatory clearing requirement, it is essential that the clearing agencies that clear these instruments should be subject to rigorous financial, organizational and prudential requirements.

The Group is fully supportive of the Commission's Proposed Rules and believes they will help establish a comprehensive regulatory framework to reduce risk, increase transparency and promote market integrity within the financial system.

B Submission of Security-Based Swaps to the Commission for Review

Commission Review

The Dodd Frank Act requires a clearing agency that plans to accept a Security-Based Swap for clearing to submit the Security-Based Swap to the Commission for review. Under Proposed Regulation § 240.19b-4, the Commission sets out the process for a clearing agency to follow, outlining the information that a clearing agency must include in its submission to assist the Commission in its review.

In its Proposing Release, the Commission has identified the considerations that should form the basis both for its determination that a clearing agency may clear a Security-Based Swap, and its determination that a Security-Based Swap should be subject to a mandatory clearing obligation. LCH.Clearnet believes that the Commission has correctly identified the matters that need to be considered as laid out under Proposed Regulation § 240.19b-4, however it would strongly urge the Commission to de-couple the determination that a clearing agency may clear a

Security-Based Swap from the determination that a Security-Based Swap should be subject to a mandatory clearing obligation.

Whilst strongly supportive of the introduction of mandatory clearing obligations for certain classes of Security-Based Swaps, the Group does not believe that it is appropriate to tie the process by which a clearing agency is determined to be eligible to clear a given Security-Based Swap, to the process by which the Commission will make a determination that a Security-Based Swap mandatory clearing obligation should apply.

The Group's supporting explanation for this separation are set out below:

1. Just because a Security-Based Swap is eligible to be cleared and a clearing agency is eligible to clear it, it will not necessarily follow that the Security-Based Swap should be cleared on a mandatory basis.
2. By tying the Security-Based Swap approval and mandatory clearing decision-making processes together, the Commission may inadvertently discourage a clearing agency from seeking approval to clear a Security-Based Swap that is suitable for clearing, but unsuitable for a mandatory clearing obligation.
3. Tying the Security-Based Swap approval and mandatory clearing decision-making processes together may have a perverse effect on innovation in clearing, since it will encourage clearing agencies to develop clearing facilities only for those Security-Based Swaps that are most likely to qualify for a mandatory clearing obligation, and discourage clearing agencies from developing clearing services for Security-Based Swaps less likely to qualify for a mandatory clearing obligation.

Information Requirements

The Group would also encourage the Commission to amend the supporting information requirements under Proposed Regulation § 240.19b-4, such that a clearing agency is required to include in its submission only that information which is necessary for determining the *suitability* of a Security-Based Swap for clearing and the *eligibility* of a clearing agency to clear that Security-Based Swap (but not the information required to support the determination of whether a Security-Based Swap should be subject to a mandatory clearing obligation).

The Group does not believe that a clearing agency should be required to include the information required to support the determination of whether a Security-Based Swap should be subject to a mandatory clearing obligation for three reasons. Firstly, because we believe that the determination that a clearing agency may clear a Security-Based Swap should be separate from and independent of any determination that a Security-Based Swap should be subject to a mandatory clearing obligation.

Secondly, it is the Group's view that a clearing agency will not always have access to the information required to support the determination of a mandatory obligation for a Security-Based Swap, particularly the information requirements set out under subparagraphs § 240.19b-4(o)(3)(ii)(A), (ii)(C), and (ii)(D).

Finally, we believe that requiring that a clearing agency provide the information set out under subparagraphs § 240.19b-4(o)(3)(ii)(A), (ii)(C), and (ii)(D) may have a detrimental effect on competition, since to the extent that this information is available, larger clearing agencies may be better equipped to source it than smaller clearing agencies.

The information requirements that a clearing agency would be required to submit would remain substantially the same as those laid out by the Commission in its Proposing Release under § 240.19b-4(o)(3) with the exception of subparagraphs (ii)(A), (ii)(C), (ii)(D), which the Group would recommend revising as marked below:

§ 240.19b-4(o)(3)

- (ii) Information that will assist the Commission in the quantitative and qualitative assessment of the factors specified in Section 3C of the Act (15 U.S.C. 78c-3), including but not limited to:
 - (A) The existence of ~~significant outstanding notional exposures, trading liquidity, and~~ adequate pricing data;
* * *
 - (C) The effect on the mitigation of systemic risk, taking into account ~~the size of the market for such contrast and~~ the resources of the clearing agency available to clear the contract;
 - (D) The ~~effect on competition, including~~ appropriate fees and charges applied to clearing;
* * *

LCH.Clearnet looks forward to extending its clearing services further into the U.S. marketplace, thereby offering the safeguards of its proven structures to a wider audience. It believes that, subject to the above amendments, the Proposing Release will help establish a comprehensive regulatory framework to reduce risk, increase transparency and promote market integrity within the financial system.

The Group would, however, urge the Commission to ensure — to the greatest extent possible — that where clearing agencies are subject to supervision elsewhere, the required consultation, notification and approval periods in the different jurisdictions do not lead to

undue delays, limiting the ability of such organizations to extend their clearing safeguards deeper into the U.S. Security-Based Swaps marketplace.

LCH.Clearnet recognizes the hard work undertaken by the Commission in order to develop these proposed rules and values its open and thoughtful approach in this task. The Group appreciates the opportunity to comment on these important issues, and would be pleased to enter into a further dialogue with the Commission and its staff on the matters raised in this letter. Please do not hesitate to contact Simon Wheatley at +44 (0)20 7426 7622 regarding any questions raised by this letter, or to discuss these comments in greater detail.

Yours sincerely,



Roger Liddell
Chief Executive