LCH.CLEARNET

Capital Markets Unit
Corporations and Capital Markets Division
The Treasury
Langton Crescent
PARKES ACT 2600
Australia

April 16 2014

Dear sirs,

IMPLEMENTATION OF AUSTRALIA'S G-20 OVER-THE-COUNTER DERIVATIVES COMMITMENTS

This letter provides the submission of LCH.Clearnet Ltd ("LCH.Clearnet") to the Government's February 2014 Proposals Paper on the G4-IRD central clearing mandate.

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 30 countries.

LCH.Clearnet is the only non-Australian CCP to have been granted an Australian Clearing and Settlement Facility Licence and is currently providing clearing services for over-the-counter interest rate swaps to a number of major Authorised Deposit-taking Institutions through its SwapClear service. LCH.Clearnet is also licenced in Australia to clear for the FEX commodities and energy exchange. LCH.Clearnet is supervised directly by both ASIC and the RBA.

In addition to its Australian licence, LCH.Clearnet is regulated in the UK, US, Singapore, Quebec and Ontario. LCH.Clearnet SA is regulated in France, the Netherlands, Belgium, Portugal, the UK and the US. LCH.Clearnet LLC is registered in the US. LCH.Clearnet and LCH.Clearnet SA have applied for authorisation under EMIR to provide services throughout the EU, and LCH.Clearnet LLC has applied for recognition in the EU.

Access to international CCPs such as LCH.Clearnet is important and integral to the implementation of Australia's G20 commitments, and LCH.Clearnet is delighted to be given

the opportunity to provide its submissions to assist the Government make its determinations.

We address each of the paper's questions below.

1. Do you have comments on the benefits and costs of complying with a mandatory central clearing obligation, from the point of view of your business and/or that of your customers?

We request that, in commenting, you quantify compliance costs as far as possible, including whether costs are likely to change over time, are transitional or projected ongoing costs. For example, costs may include:

- *legal costs;*
- *staff cost — for example number of staff hours and training costs;*
- *IT costs; and/or*
- *increased costs of managing risks or funding projects.*

Please separate additional costs that would come about as a result of this proposal, as well as other regulatory costs that could be mitigated if you are able to comply with Australian regulation rather than many different countries' regulations.

To assist this analysis it would be useful to know whether your trades, and/or those of your clients, are becoming subject to central clearing obligation from other countries and whether your counterparties prefer central clearing of trades.

We have no comment on this question.

2. Do you have comments on the proposal to mandate central clearing in respect to G4 IRD? Please also consider the costs and benefits of a wider or narrower scope. Could you comment on the incremental costs and benefits of a broader or narrower scope of coverage? For example, including only USD IRDs or alternately including all IRDs.

We support the proposal to mandate central clearing in G4 IRD. We would also support a proposal to harmonise the identification of specific IRD with the mandate already in place in the US. LCH.Clearnet's SwapClear service clears all of these currencies today, and all of the firms listed in Table 1 are members of the SwapClear service or are currently using the service indirectly. While complete harmonisation across all aspects of clearing obligations across G20 jurisdictions may not be possible or in some cases desirable, we believe that in this case, covering the most widely-traded currencies and a significant majority of relevant institutions, it would be justified in the cause of regulatory consistency. The G4 currencies account for 92% of the cleared volume by notional outstanding and 82% by trade count in SwapClear clear today.

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3. Do you agree with the proposal to restrict ASIC rulemaking to entities that are considered to be G4 Dealers, and to exempt intra group trades? Could you comment on the incremental costs and benefits of including or exempting other types of entities or transactions? For example including all AFSL holders and ADIs or alternately setting a high threshold of activity.

We have no comment on this question other than to urge a common approach as far as possible with other jurisdictions on detailed rules, particularly in this initial phase, to ease the burden on institutional groups who will be subject to multiple mandates. As the regime is extended this should of course reflect specific Australian market characteristics.

We note however that restricting the rulemaking as proposed could result in dealers bifurcating their books, with the inter-dealer side in clearing and the client side bilateral; this would reduce margin efficiencies, and could increase both the costs of execution and regulated entities' capital requirements. Also there is the potential for an unfavourable execution pricing differential for uncleared swaps relative to cleared swaps due to capital rules on uncleared business which could lead to dealers pricing in higher capital charges for uncleared business – this should be considered as a consequence of separating the books.

4. Do you have comments on the calculation methodology used for determining the proposed threshold of activity and the appropriate level of the threshold? Do you have views on whether notional OTC derivatives or notional OTC IRDs is the more appropriate basis for calculating the threshold? Or would you prefer a different methodology and if so, why?

In this case we also believe that a common approach with other jurisdictions would be most beneficial.

5. Do you have comments on the proposed timetable for implementing the central clearing obligation? Could you comment on the incremental costs and benefits of an earlier or later start date than what is proposed?

We do not have any comments on this question.

6. Do you have comments on the proposal that some CCPs may be prescribed in order to ensure Australian market participants have appropriate access to CCPs? Or is there another option you prefer? If so, why?

We have no comments on this proposal other than to support international harmonisation in order to open the clearing market and to maximise users' choice.

7. From the point of view of your business and/or that of your customers, what is your preliminary view on the costs and benefits of mandatory central clearing of:

a) AUD IRD?
b) North American and European referenced CDS?

c) Any other derivatives?

a) The incremental cost of mandating and implementing AUD clearing is, we believe, unlikely to present a barrier given that AUD is an eligible clearing currency. Additionally, clearing members can achieve greater benefits and margin efficiencies by clearing all eligible clearing currencies and products at the same CCP. Partly for this reason, a significant part of the AUD-IRD market – we believe over 35% – is already cleared, the remainder being either still held bilateral or in products which are not currently eligible for clearing.

b) We note the comments on CDS in the CFR's April 2014 Report on the Australian OTC Derivatives Market, and have no further comments

c) As regards other derivatives – for example foreign exchange NDFs and commodities – once again we believe that harmonisation with the US and the EU will be important. Nevertheless some early consideration to the specificities of these sections of the Australian OTC Derivatives Market may usefully be undertaken.

8. Do you have views on the appropriate timing of the introduction of such mandatory requirements? Are there any preconditions that should be met before such mandatory requirements are introduced?

We do not have comments on this question.

9. What do you view as the characteristics that make a trading platform suitable for mandatory trading of derivatives?

We do not comment on the specifics of an individual platform but believe that the best market structure is for CCPs to be agnostic in relation to where trades are executed, treating all trading platforms and mechanisms on an open and non-discriminatory basis. However CCPs must undertake appropriate due diligence, and trading venues must meet relevant standards and procedures of the CCP to be approved and pass onboarding and testing processes.

10. Do you have comments on the proposals relating to:

a) Making the exemption of end users from trade reporting permanent, subject to ensuring that appropriate information on systemically important OTC derivatives trading is available to regulators?

b) A more tightly targeted AFSL reference in the regulations?

Or is there another option you prefer? If so, why?

We have no comment on this question.

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We hope that the Treasury finds this submission useful and we look forward to engaging further as policies are developed. Please do not hesitate to contact me at rory.cunningham@lchclearnet.com or 0 432 625 160 regarding any questions raised by this letter or to discuss these comments in greater detail.

Yours faithfully

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