



DIVISION OF
TRADING AND MARKETS

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

July 29, 2009

Arthur W. Hahn
Katten Muchin Rosenman LLP
525 W. Monroe Street
Chicago, IL 60661-3693

Re: Additional No-Action Request of LIFFE Administration and Management
relating to revised clearing arrangements

Dear Mr. Hahn:

This letter is in response to your request for no-action relief dated July 29, 2009. A copy of your letter is attached with this response. By doing this, we avoid having to repeat or summarize the facts you presented. Each capitalized term in this letter has the same meaning as in your letter.

By letters dated May 1, 1992, and March 6, 1996, the staff of the Division of Trading and Markets ("Division") provided advice that, based on the facts, conditions, and representations described therein (the "Original No-Action Letters") the Division would not recommend enforcement action to the Commission against (1) LIFFE A&M or LIFFE under Section 5 of the Securities Exchange Act of 1934 (the "Exchange Act"), by reason of LIFFE A&M or LIFFE not registering under Section 6 of the Exchange Act as a national securities exchange, (2) LIFFE A&M, LIFFE, or LIFFE members under Section 15 of the Exchange Act by reason of LIFFE A&M, LIFFE, or LIFFE members not registering under the Exchange Act as broker-dealers, or (3) LCH under Section 17A of the Exchange Act by reason of LCH not registering under the Exchange Act as a clearing agency, if LIFFE A&M, on behalf of LIFFE and LIFFE members, acted as described in the Original No-Action Letters to familiarize certain registered broker-dealers and large financial institutions in the United States with the LIFFE market.¹

LIFFE A&M is now proposing to change its clearing arrangements such that LIFFE A&M, rather than LCH.Clearnet, will become the central counterparty to all LIFFE contracts. You are requesting, on behalf of LIFFE A&M and LCH.Clearnet, advice that the Division, subject to all of the terms and conditions of your letter, will not recommend enforcement action to the Commission against LIFFE A&M, any affiliated company (including LIFFE A&M's ultimate parent, NYSE Euronext), LCH.Clearnet,

¹ See Letter from Robert L.D. Colby, Deputy Director, Division, Commission, to Nancy Jacklin, Clifford Chance, dated March 6, 1996; and Letter from William H. Heyman, Director, Division, Commission, to Gary Lynch, Davis Polk & Wardwell, dated May 1, 1992.

Arthur W. Hahn

July 29, 2009

Page 2

any affiliated company (including LCH.Clearnet's parent, LCH.Clearnet Group) or any of their respective officers, directors, or members under Section 17A of the Exchange Act by reason of LIFFE A&M not registering under the Exchange Act as a clearing agency if LIFFE A&M acts as the central counterparty with respect to Equity Options and Index Options, rather than LCH.Clearnet.

Based on the facts and representations in your letter dated July 29, 2009, and subject to all of the terms and conditions of the Original No-Action Letters, the Division will not recommend enforcement action to the Commission against LIFFE A&M, any affiliated company (including LIFFE A&M's ultimate parent, NYSE Euronext), LCH.Clearnet, any affiliated company (including LCH.Clearnet's parent, LCH.Clearnet Group) or any of their respective officers, directors, or members under Section 17A of the Exchange Act if LIFFE A&M operates solely in the manner described in your letter without registering with the Commission as a clearing agency.

This position of the Division concerns enforcement action only and does not purport to express any conclusions on the applicability of statutory or regulatory provisions of the federal securities laws. The Division has taken these positions based, in part, on the fact that the Commission has entered into a Memorandum of Understanding with the Department of Trade and Industry of the United Kingdom,² as well as the fact that the United Kingdom Financial Services Authority is a party to the Multilateral Memorandum of Understanding,³ both of which address the sharing of investigative information. This position also is based on the representations that you have made; any different facts or conditions might require a different response, and these positions are subject to modification or revocation if the facts and representations set forth are altered. The Division expresses no view with respect to other questions that this transaction may raise, including the applicability of any other federal or state laws.

Sincerely,



Elizabeth K. King
Associate Director

² Memorandum of Understanding on Mutual Assistance and the Exchange of Information Between the United States Securities and Exchange Commission and the Commodities Futures Trading Commission and the Department of Trade and Industry of the United Kingdom and the Securities and Investment Board (September 25, 1991).

³ Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information of the International Organization of Securities Commission (May 2002).

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July 29, 2009

Ms. Elizabeth King
Associate Director
Division of Trading and Markets
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re: Additional No-Action Request of LIFFE Administration and Management relating to revised clearing arrangements

Dear Ms. King:

As you are aware, Euronext N.V. ("Euronext") is a Dutch holding company that was formed in 2000 when the exchanges of Amsterdam, Brussels and Paris merged. In 2002, Euronext acquired LIFFE Administration and Management ("LIFFE A&M" or the "Exchange") and merged with the Portuguese exchange BVLP (Bolsa de Valores de Lisboa e Porto). Since April 2007, Euronext has been a subsidiary of NYSE Euronext.

LIFFE A&M is an entity organized under the laws of England and Wales. It is a Recognised Investment Exchange ("RIE") under the Financial Services and Markets Act 2000, under which recognition has been granted to LIFFE A&M by the UK Financial Services Authority (the "FSA"), the designated agency under the Financial Services and Markets Act 2000. The futures and options market administered by LIFFE A&M is known as the London International Financial Futures and Options Exchange (the "LIFFE market").

The Exchange lists, *inter alia*, options contracts on individual stocks that are listed on the London Stock Exchange ("Equity Options") and options contracts on various indices compiled by FTSE International Limited, notably the FTSE 100, the FTSE Eurofirst 80 and the FTSE Eurofirst 100 ("Index Options").¹ The registration and clearance of Equity and Index Options are currently performed by LCH.Clearnet Limited ("LCH.Clearnet"), a wholly-owned subsidiary of LCH.Clearnet Group.

The Exchange also offers to its members certain OTC processing services, including a mechanism for submitting options contracts, which have been negotiated over-the-counter

¹ LIFFE has developed and lists a range of futures and options on futures related to money market and fixed interest rate instruments, commodities and individual stock and stock index futures and Credit Default Swaps, which fall outside the scope of this request.

Ms. Elizabeth King
July 29, 2009
Page 2

("OTC"); to LIFFE to have these contracts replaced with equivalent on-exchange options contracts. This service is called Bclear.²

A. Relief Previously Granted

By letters dated May 1, 1992 and March 6, 1996 (the "Original No-Action Letters"),³ the staff of the Division of Trading and Markets (the "Division") advised LIFFE A&M and LCH.Clearnet that the Division would not recommend enforcement action to the Securities and Exchange Commission (the "Commission") against (1) LIFFE A&M or any of its officers, directors or members under Section 5 of the Securities Exchange Act of 1934, as amended (the "1934 Act"), by reason of LIFFE A&M not registering under Section 6 of the 1934 Act as a national securities exchange, (2) LIFFE A&M or any of its officers, directors or members under Section 15 of the 1934 Act by reason of LIFFE A&M or its members not registering under the 1934 Act as broker-dealers, or (3) LIFFE A&M, LCH.Clearnet or any of their respective officers, directors or members under Section 17A of the 1934 Act by reason of LCH.Clearnet not registering under the 1934 Act as a clearing agency, if LIFFE A&M and its members acted as described in the Original No-Action Letters to familiarize certain registered broker-dealers and large financial institutions in the United States with the LIFFE market.⁴

B. Request for Additional Relief

LIFFE A&M is proposing to change its clearing arrangements such that LIFFE A&M, rather than LCH.Clearnet, will become the central counterparty to all LIFFE contracts, as described in more detail below. Although LIFFE A&M will outsource certain clearing functions to LCH.Clearnet, LIFFE A&M will act as the central counterparty to these transactions. Accordingly, we request your advice that the Division would not recommend enforcement action to the Commission against LIFFE A&M, any affiliated company (including LIFFE A&M's ultimate parent, NYSE Euronext), LCH.Clearnet, any affiliated company (including LCH.Clearnet's parent, LCH.Clearnet Group) or any of their respective officers, directors or members under Section 17A of the 1934 Act by reason of LIFFE A&M not registering under the 1934 Act as a clearing agency, if, consistent with the activities described in the Original No-Action Letters and in the options disclosure document previously filed with the Commission,

² The Bclear service provides a means by which agreed OTC options contracts may be submitted to LIFFE A&M for processing; it may not be used to submit orders for execution on LIFFE CONNECT®.

³ SEC No-Action Letter to LIFFE, dated May 1, 1992 and SEC No-Action Letter to LIFFE, dated March 6, 1996.

⁴ In accordance with the relief granted under the Original No-Action Letters, LIFFE A&M also familiarizes such registered broker-dealers and large financial institutions with Bclear and makes Bclear available to such broker-dealers and large financial institutions.

Ms. Elizabeth King
July 29, 2009
Page 3

which describes, among other things, the Bclear service for processing OTC options contracts, LIFFE A&M acts as the central counterparty with respect to Equity Options and Index Options, rather than LCH.Clearnet.

C. Revised Clearing Arrangements

LIFFE A&M intends to terminate its current arrangements with LCH.Clearnet pursuant to which LCH.Clearnet acts as central counterparty to all LIFFE contracts, and become central counterparty itself, in place of LCH.Clearnet. LIFFE A&M will outsource certain clearing functions (including banking and clearing member default management) to LCH.Clearnet for an annual fee. To facilitate these changes, LIFFE A&M will adopt revised rules regarding the registration, clearance and settlement of trades and default management. LIFFE A&M is also introducing automatic real-time registration of trades.⁵ LIFFE A&M will operate its post-trade systems and functions on its own behalf and cease operating certain of these systems and functions on LCH.Clearnet's behalf, as it does currently.⁶

LIFFE A&M is in the process of obtaining FSA consent to become a self-clearing RIE, which will permit it to become the central counterparty to LIFFE contracts. In doing so, LIFFE A&M must provide detailed information explaining how it, in view of its new central counterparty role, will meet the Recognition Requirements set out pursuant to the Financial Services and Markets Act 2000. In addition, formal FSA approval is required with respect to the new version of the LIFFE Default Rules, which reflect the new role of LIFFE A&M as central counterparty and the role of LCH.Clearnet as the manager of any clearing member defaulters. These rules will become effective when the new arrangements commence.

D. Process for the Registration and Clearance of Exchange Contracts

LIFFE rules provide for members to trade for their own account and/or for their customers, but all transactions must be in the name of the member effecting the trade and that member will be counterparty to those transactions. Thus, a LIFFE member will be considered to be "acting as principal" for purposes of the LIFFE Rules, even though the member may be acting as agent for other purposes. This means that any LIFFE transaction automatically generates a sequence of matching contracts: between customer and member, between member and clearing

⁵ Under current processes, LIFFE trades are registered with LCH.Clearnet at the end of the day, rather than real time. Real-time registration will simplify the contractual structure underlying the clearing of trades and remove any intra-day uncertainty about whether or not trades will be registered and/or about the extent of risk to an undisclosed counterparty.

⁶ In particular, LIFFE A&M currently licenses its Trade Registration System and Clearing Processing System ("TRS/CPS") to LCH.Clearnet to enable LCH.Clearnet to undertake post-trade registration and processing. Under the new arrangement, these functions will be undertaken directly by LIFFE A&M.

Ms. Elizabeth King
July 29, 2009
Page 4

member and between clearing member and central counterparty. The purpose of these rules is to ensure that a party to a transaction need only to look to its immediate counterparty for performance and need not concern itself with parties at other points along the contractual chain.

Under the new arrangement, contract formation will generally follow the same process as under current rules, except for the elimination of one step as a result of real-time registration.⁷ With real time registration, at the moment an Equity Option or Index Option is executed on the LIFFE market, it will be discharged and replaced by two registered exchange contracts, one between the buying clearing member and LIFFE A&M as central counterparty and the other between the selling clearing member and LIFFE A&M as central counterparty. In addition, in respect of business done by non-clearing members and clients, there will be a chain of back-to-back contracts with each party in the contractual chain acting in the capacity of principal, as is the case today. Where a client has dealt through a non-clearing member, the process by which such contracts are created is as follows:

- (i) between client and non-clearing member;
- (ii) between non-clearing member and clearing member; and
- (iii) between clearing member and LIFFE A&M as central counterparty.

Thus, under the new arrangement, LIFFE A&M is the counterparty to clearing members each acting as principal, in respect of, *inter alia*, Equity Options and Index Options registered by such clearing members with LIFFE A&M. This applies both to transactions executed through the central order book and to transactions submitted to LIFFE A&M via Bclear.

In the event of a LIFFE clearing member default, the positions of the defaulting member automatically novate to LCH.Clearnet as counterparty under the LIFFE default rules, and LCH.Clearnet becomes the counterparty to LIFFE A&M in respect of the relevant positions to enable continuing performance by LIFFE A&M to the market (LIFFE A&M remaining the central counterparty throughout). To facilitate this novation, LCH.Clearnet will become a special member of the LIFFE market and LIFFE A&M will become a special member of LCH.Clearnet.

⁷

Under the current process, after a trade is executed by non-clearing members but prior to registration with LCH.Clearnet, a "related contract" is created between the clearing members on each side of the transaction. This related contract is then registered with LCH.Clearnet and replaced, through novation, with contracts in the same terms between LCH.Clearnet and each of the parties to the related contract. As a result of real-time trade registration, the related contract is no longer necessary and this step will be eliminated.

Ms. Elizabeth King
July 29, 2009
Page 5

E. Clearance and Settlement Functions

1. Risk Management

As noted above, LIFFE A&M will outsource certain clearing functions to LCH.Clearnet as hereinafter described. Determination of margin parameters will be outsourced to LCH.Clearnet, which will continue to perform the function in a way broadly similar to how it performs it currently. LIFFE A&M will govern this activity and receive analysis reports of parameter maintenance from LCH.Clearnet and then determine initial margin rates. The rates imposed by LIFFE A&M may be higher (but never lower) than those proposed by LCH.Clearnet.

LIFFE A&M, as central counterparty, will be responsible for financial risk management, but will outsource the monitoring of positions to LCH.Clearnet and thereby receive standard and exception reports from LCH.Clearnet for all LIFFE A&M clearing members with respect to counterparty risk. LIFFE A&M, as the market operator, will continue to directly monitor for market abuse.

The method of collection of margin payments will be largely unchanged. LIFFE A&M will act as owner and operator of TRS/CPS, calculate the initial margin, variation margin and net liquidation values, and post the amounts to LCH.Clearnet for collection and payment. LCH.Clearnet will collect and pay margin together with all margins netted with any other non-LIFFE positions, as principal using existing arrangements and accounts. LCH.Clearnet will continue to collect initial and intra-day margin in its own name in order to provide it with protection against loss in the event that a clearing member is declared a defaulter.

In respect of clearing member credit monitoring and stress testing LCH.Clearnet will continue to carry out the functions, but on behalf of LIFFE A&M, rather than solely on its own behalf. LCH.Clearnet will perform member credit monitoring (e.g. changes by rating agencies, balance sheets, compliance with membership criteria etc.), and carry out stress testing on members in respect of LIFFE positions. The activity will be reported to LIFFE A&M, which will be responsible for risk management. Outside the LIFFE arrangements, LCH.Clearnet will continue to carry out wider stress testing across all the markets for which it provides clearing services.

2. Deliveries and Settlement

LCH.Clearnet will undertake and manage as principal the delivery and settlement of all LIFFE contracts

Ms. Elizabeth King
July 29, 2009
Page 6

3. Management of the Default Fund

Management of the default fund remains a primary LCH.Clearnet function. Although in the future LCH.Clearnet will consult with LIFFE A&M regarding structural changes to the default fund, the default fund will continue to be governed by LCH.Clearnet rules and arrangements, including its Risk Committee and member involvement. The contribution of LIFFE clearing members/LCH.Clearnet members to the default fund related to LIFFE A&M positions is set forth in the current default fund rules of LCH.Clearnet. In the new arrangements, LIFFE A&M will be informed by LCH.Clearnet of changes in LIFFE members' contributions and the overall size of the default fund.

4. Default Management

Pre-default. Under the new arrangements, and as at present, LIFFE A&M and LCH.Clearnet will coordinate their activities and decisions regarding the management of a member that is deemed to be in distress but not yet declared a defaulter.

Default. In the event that LIFFE A&M calls a default of a LIFFE A&M clearing member, the positions will novate to LCH.Clearnet under LIFFE A&M's new default rules. LIFFE A&M will have the authority either to declare a non-clearing member or a LIFFE clearing member in default. LIFFE A&M will automatically declare a default if LCH.Clearnet declares a LIFFE member a defaulter in such LIFFE A&M member's capacity as an LCH.Clearnet member.

On declaration of a default of a LIFFE clearing member by LIFFE A&M, LCH.Clearnet is not automatically obliged to declare that member in default as well. LCH.Clearnet may decide not to call a default (e.g. on the basis of its oversight of other (non-LIFFE A&M) business of the member), or LCH.Clearnet may call a default and act in accordance with normal LCH.Clearnet default management procedures. In either case, automatic novation to LCH.Clearnet of all LIFFE positions, will take place as provided for in the new LIFFE A&M default rules.⁸

Novation and default management. Following a default novation, and when LCH.Clearnet acts on behalf of the defaulter under its default rules or for its own account, balancing contracts shall be created between LIFFE A&M and LCH.Clearnet in accordance with the following default novation process:

- On declaration of a clearing member default by LIFFE A&M, LCH.Clearnet becomes intermediate counterparty to the clearing member and LIFFE A&M.

⁸ This process will also be addressed in the new tri-party clearing membership agreement that all clearing members will be required to enter into with LIFFE A&M and LCH.Clearnet.

Ms. Elizabeth King
July 29, 2009
Page 7

- The price at which novation takes place will leave no loss (or profit) for LIFFE A&M.
- LCH.Clearnet default rules will be applied to contracts between LCH.Clearnet and the clearing member where the clearing member has been declared a defaulter by LCH.Clearnet.
- Loss from contracts between LCH.Clearnet and the clearing member is nettable, for the same legal entity, in LCH.Clearnet books against profits on non-LIFFE business that is cleared by LCH.Clearnet.
- LIFFE A&M default rules will apply to back-to-back non-clearing member or client contracts (as at present).

Counterparty risk management. LCH.Clearnet bears any loss arising from the default of a clearing member, beyond the margin deposits held as security in respect of the defaulting member's liabilities. The sequence of protections to be applied in the event of a default is as follows:

1. Defaulter's Initial Margin (including excess collateral posted)
2. Defaulter's Default Fund contribution
3. Up to £20 million of LCH.Clearnet's capital and reserves
4. Remainder of Default Fund
5. Remainder of LCH.Clearnet's capital and reserves

F. Conditions to Relief

If the requested relief is granted, LIFFE A&M will continue to adhere to all of the conditions set forth in the Original No-Action Letters. In addition, the LIFFE option disclosure document, which provides an overview of that part of LIFFE which consists of an equity and index options market, will be amended to reflect the changes described above.

Ms. Elizabeth King
July 29, 2009
Page 8

If you have any questions or require additional information concerning this request, please contact the undersigned at 312-902-5241.

Very truly yours,


Arthur W. Hahn

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