

Regulatory framework and QCCP Status of LCH

LCH The Markets'
Partner



Introduction

This document aims to provide guidance as to how LCH Limited and LCH SA (“the LCH CCPs”) meet the criteria to be qualified as Qualifying Central Counterparties (“QCCPs”) under the regulatory regimes of the jurisdictions where they are licensed to provide clearing services¹.

Users incorporated in jurisdictions where LCH CCPs are not licensed may or may not be able to consider LCH CCPs as QCCPs, depending on the local regulatory regime.

What is the purpose of being a QCCP?

Basel III and CPMI-IOSCO PFMI

In April 2014, the Basel Committee on Banking Supervision published the Capital Requirements for Bank Exposures to CCPs², part of Basel III. These standards impose a capital charge on banks’ exposures to CCPs arising from certain transactions, including derivatives and securities financing transactions, but provide for lower capital charges for banks’ exposures to a QCCP, as opposed to a non-QCCP.

Basel III defines a QCCP as an entity that is licensed to operate as a CCP by the relevant regulator and that is based and prudentially supervised in a jurisdiction where the relevant regulator has implemented domestic rules for financial market infrastructures that are consistent with the Principles for Financial Market Infrastructures (“PFMIs”) by CPMI-IOSCO³. Both the PFMIs and the Basel III standards have to be transposed into an individual jurisdiction’s legal framework in order to take effect.

Regularly CPMI-IOSCO publishes assessment reports on the progress by jurisdictions to implement the PFMIs into the respective national laws⁴.

¹ The company structure and the regulatory status of LCH in given jurisdictions is available on the website at: <https://www.lch.com/about-us/structure-and-governance/company-structure>

² BCBS 282 (April 2014) https://www.bis.org/basel_framework/chapter/CRE/54.htm?inforce=20191215

³ PFMIs (April 2012) are minimum international standards for financial market infrastructures, including CCPs <http://www.bis.org/cpmi/publ/d101a.pdf>

⁴ CPMI-IOSCO Monitoring implementation of PFMIs: https://www.bis.org/cpmi/level1_status_report.htm

How do LCH LTD and LCH SA meet the criteria of QCCPs in given jurisdictions?

The below table provides an overview of the definition of a QCCP under specific regulatory regimes and how the relevant CCP meets the definition, as a guidance to clearing members and clients.

Jurisdiction	Definition of a QCCP	LCH Ltd	LCH SA
Australia	<p><i>For Australian authorised deposit-taking institutions⁵:</i></p> <p>Under the prudential standards of the Australian Prudential Regulation Authority (APRA)⁶ a QCCP is defined in line with Basel III</p>	<p>Compliant with:</p> <ul style="list-style-type: none"> PFMIs Reserve Bank of Australia's Financial Stability Standards for Central Counterparties⁷ UK EMIR and Technical Standards⁸ which are consistent with, and exceed in some areas, the PFMIs 	<p>LCH SA is currently not licensed in this jurisdiction but has been allowed by ASIC to onboard one Australian member.</p> <p>Compliant with:</p> <ul style="list-style-type: none"> PFMIs EMIR and Technical Standards are consistent with, and exceed in some areas, the PFMIs.

⁵ As defined under Australian law

⁶ APRA's Prudential Standard APS 112 Capital Adequacy: Standardised Approach to Credit Risk:

<https://www.apra.gov.au/sites/default/files/Final-Prudential-Standard-APS-112.pdf>

⁷ <http://www.rba.gov.au/payments-and-infrastructure/financial-market-infrastructure/clearing-and-settlement-facilities/standards/financial-stability-standards.html>

⁸ "UK EMIR" means Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC Derivatives, Central Counterparties, and Trade Repositories as it has become retained EU law and effective in the United Kingdom under the European Union (Withdrawal) Act 2018.

<https://www.bankofengland.co.uk/eu-withdrawal/information-on-the-effect-of-the-uks-withdrawal-from-the-eu-on-fmi-supervision>

UK EMIR technical standards:

- EU Exit Instrument: The Technical Standards (European Market Infrastructure) (Amendment ETC.) (EU Exit) (No 1) Instrument 2019 <https://www.bankofengland.co.uk/-/media/boe/files/paper/2019/ps519-section-b-app9-emir1-april-2019.pdf>;
- Technical Standards (European Market Infrastructure Regulation) (EU Exit) (No 2) Instrument 2019 https://www.handbook.fca.org.uk/instrument/2019/FCA_2019_62.pdf;
- Technical Standards (European Market Infrastructure Regulation) (EU Exit) (No 4) Instrument 2019 https://www.handbook.fca.org.uk/instrument/2019/FCA_2019_66.pdf

Canada	<p><i>For Canadian financial institutions⁹:</i></p> <p>Under the Canadian Banking Guidelines¹⁰ a QCCP is defined in line with Basel III</p>	<p>Compliant with:</p> <ul style="list-style-type: none"> • PFMI • Clearing Agency requirements by the Canadian Securities Administrators (CSA)¹¹ • UK EMIR which is consistent with, and exceeds in some areas, the PFMI 	<p>Compliant with:</p> <ul style="list-style-type: none"> • PFMI • Clearing Agency requirements by the Canadian Securities Administrators (CSA), where applicable. • EU EMIR which is consistent with, and exceeds in some areas, the PFMI
EU	<p><i>For EU financial institutions:</i></p> <p>Under the CRD IV package of the European Parliament and Council¹², a QCCP is defined as a CCP authorised or recognised under EMIR</p>	<p>Compliant with:</p> <ul style="list-style-type: none"> • PFMI • Recognised under EU EMIR¹³ as third country CCP¹⁴ 	<p>Compliant with:</p> <ul style="list-style-type: none"> • PFMI • Authorised under EU EMIR¹⁵
Hong Kong	<p><i>For Hong Kong banks:</i></p> <p>Under the Banking Capital Rules of the Hong Kong Monetary Authority (HKMA)¹⁶ a QCCP is defined in line with Basel III</p>	<p>Compliant with:</p> <ul style="list-style-type: none"> • PFMI • UK EMIR which is consistent with, and exceeds in some areas, the PFMI 	LCH SA is currently not licensed in this jurisdiction
Japan	<p><i>For Japanese banks:</i></p> <p>Under the banking legislation by the Japanese Financial Services Agency (JFSA) a QCCP</p>	<p>Compliant with:</p> <ul style="list-style-type: none"> • PFMI • UK EMIR which is consistent with, and exceeds in some areas, the PFMI 	LCH SA is currently not licensed in this jurisdiction but Japanese institutions may

⁹ Please note that LCH Ltd is currently recognised to serve clearing members based in Québec and Ontario, among the Canadian provinces. LCH SA has been granted an exemption from the requirement to be recognised as a clearing agency to serve clearing members based in Québec and Ontario.

¹⁰ Section 4.1.1. 'Definitions and general terminology': http://www.osfi-bsif.gc.ca/Eng/fi-if/rg-ro/gdn-ort/gld/Pages/CAR18_chpt4.aspx#411

¹¹ https://www.osc.gov.on.ca/en/SecuritiesLaw_ni_20151203_24-102_rfc-proposed-clearing-agency.htm

¹² The CRDIV package consists of the Capital Requirements Directive IV and Regulation (2013)

https://finance.ec.europa.eu/banking-and-banking-union/banking-regulation/prudential-requirements_en

¹³ EU EMIR: Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC Derivatives, Central Counterparties, and Trade Repositories https://ec.europa.eu/info/law/derivatives-emir-regulation-eu-no-648-2012_en

¹⁴ ESMA list of third-country Central Counterparties recognised to offer services and activities in the Union https://www.esma.europa.eu/sites/default/files/library/third-country_ccps_recognised_under_emir.pdf

¹⁵ ESMA list of Central Counterparties authorised to offer services and activities in the Union https://www.esma.europa.eu/sites/default/files/library/ccps_authorized_under_emir.pdf

¹⁶ HKMA Banking Capital Rules (2012), section 226V. <https://www.elegislation.gov.hk/hk/cap155L>

	is defined in line with Basel III ¹⁷		use some of its services under an exemption regime ¹⁸ .
Norway	<p><i>For Norwegian banks:</i></p> <p>Basel III has been implemented via the EU CRDIV package, following its incorporation in the EEA Agreement. Therefore, the QCCP definition is aligned to that in the EU¹⁹</p>	<p>Compliant with:</p> <ul style="list-style-type: none"> • PFMIs • Recognised under EU EMIR 	LCH SA is currently not licensed in this jurisdiction
Singapore	<p><i>For Singaporean banks:</i></p> <p>Under the Banking Act of the Monetary Authority of Singapore (MAS) a QCCP is defined in line with Basel III²⁰</p>	<p>Compliant with:</p> <ul style="list-style-type: none"> • PFMIs • Securities and Futures Act and Securities and Futures (Clearing Facilities) Regulations²¹ • UK EMIR which is consistent with, and exceeds in some areas, the PFMIs 	LCH SA is currently not licensed in this jurisdiction
Switzerland	<p><i>For Swiss financial institutions:</i></p> <p>Under the Capital Adequacy Ordinance (CAO) of the Swiss Federal Banking Commission a QCCP is defined in line with Basel III</p>	<p>Compliant with:</p> <ul style="list-style-type: none"> • PFMIs • UK EMIR which is consistent with, and exceeds in some areas, the PFMIs 	<p>Compliant with:</p> <ul style="list-style-type: none"> • PFMIs • EMIR which is consistent with, and exceeds in some areas, the PFMIs

¹⁷ Article 1, Item 7-3 of the Financial Services Agency Public Notice No. 19 of 2006 defines a QCCP (*tekikaku chou seisan kikan*) in line with Basel III.

¹⁸ Article 3 of the Financial Services Agency Public Notice No. 105 of 2010 provides that clearing services of the securities lending transactions conducted by a CCP properly regulated in the US, UK, or France are exempted from the “Financial Instruments Assumption Business (regulated CCP business in Japan) under Japanese Law. In the LCH SA case, such exemptions apply to the RepoClear service.

¹⁹ Regjeringen Notification of changes in Capital Requirements (2020) [Notification of changes in banks’ capital requirements from year-end 2020 - regjeringen.no](https://www.regjeringen.no/en/dep/olofthorvald/press/2020/04/20200420-notifisering-om-nye-krav-til-kapitalforutsetningene-for-ccp-og-ccp-tilgjengelighe.html)

²⁰ MAS Notice 637, Annex 7AJ <https://www.mas.gov.sg/-/media/MAS/Regulations-and-Financial-Stability/Regulations-Guidance-and-Licensing/Commercial-Banks/Regulations-Guidance-and-Licensing/Notices/MAS-Notice-637-effective-1-January-2022.pdf>

²¹ Securities and Futures Act

<http://statutes.agc.gov.sg/aol/search/display/view.w3p?page=0;query=DocId%3A25de2ec3-ac8e-44bf-9c88-927bf7eca056%20Depth%3A0%20Status%3Ainforce;rec=0;whole=yes> and MAS SFR (2013) <http://www.mas.gov.sg/regulations-and-financial-stability/regulations-guidance-and-licensing/securities-futures-and-funds-management/regulations/2013/securities-and-futures-clearing-facilities-regulations-2013.aspx>

UK	<p><i>For UK financial institutions:</i></p> <ul style="list-style-type: none"> • Under the CRD IV package of the European Parliament and Council²² as transposed into UK legislation, a QCCP is defined as a CCP authorised or recognised under UK EMIR 	<p>Compliant with:</p> <ul style="list-style-type: none"> • PFMI • Authorised under UK EMIR²³ 	<p>Compliant with:</p> <ul style="list-style-type: none"> • PFMI • Recognised as a third country CCP²⁴ under UK EMIR
US	<p><i>For US financial institutions:</i></p> <ul style="list-style-type: none"> • Under the Regulatory Capital Rules²⁵ a QCCP is defined as a designated financial market utility, which is systemically important, under Title VIII of the Dodd-Frank Act or, if not located in the US, one that meets or exceeds the risk management requirements of its home country that are consistent with the PFMI • Systemically important DCOs must also comply with the Subpart C Rules. Other DCOs may opt to comply with the Subpart C Rules to be treated as QCCPs • LCH SA is recognised as a clearing agency with the SEC 	<p>Compliant with:</p> <ul style="list-style-type: none"> • PFMI • DCO Requirements²⁶ • UK EMIR which is consistent with, and exceeds in some areas, the PFMI 	<p>Compliant with:</p> <ul style="list-style-type: none"> • PFMI • DCO Requirements • The Security exchange act and the CCAS • EU EMIR which is consistent with, and exceeds in some areas, the PFMI

²² The CRDIV package consists of the Capital Requirements Directive IV and Regulation (2013) https://ec.europa.eu/info/business-economy-euro/banking-and-finance/financial-supervision-and-risk-management/managing-risks-banks-and-financial-institutions/prudential-requirements_en

²³ LCH Ltd UK EMIR Authorisation [Table 1: Classes of financial instruments covered by LCH Limited's authorisation \(bankofengland.co.uk\)](https://www.bankofengland.co.uk/media/boe/files/financial-stability/financial-market-infrastructure-supervision/list-of-third-country-ccps.pdf?la=en&hash=8C96A829A5F570A235A4944912AFA278A8728399)

²⁴ Bank of England list of third country CCPs eligible to offer services in the UK under the Temporary Recognition Regime: <https://www.bankofengland.co.uk/-/media/boe/files/financial-stability/financial-market-infrastructure-supervision/list-of-third-country-ccps.pdf?la=en&hash=8C96A829A5F570A235A4944912AFA278A8728399>

²⁵ Regulatory Capital Rules of the Governors of the Federal Reserve Board and the Office of the Comptroller of the Currency (2013) <https://www.gpo.gov/fdsys/pkg/FR-2013-10-11/pdf/2013-21653.pdf>

²⁶ CFTC's DCO Requirements <https://www.ecfr.gov/cgi-bin/text-idx?SID=53f73687f65f454e1c75a056e0049279&mc=true&node=pt17.1.39&rgn=div5>

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