



**VIA EMAIL TO: SUBMISSIONS@CFTC.GOV**

October 15, 2013

Ms. Melissa Jurgens  
Commodity Futures Trading Commission  
1155 21<sup>st</sup> Street NW  
Three Lafayette Centre  
Washington DC 20581

Dear Ms. Jurgens,

Pursuant to CFTC regulation §40.6(a), LCH.Clearnet Limited ("LCH.Clearnet"), a derivatives clearing organization registered with the Commodity Futures Trading Commission (the "CFTC"), is submitting for self-certification the revised Clearing House Rulebook resulting from changes to the General Default Fund and other changes fully described below. The Rulebook changes will be effective and implemented on November 6, 2013.

The submission cover sheet, a Rulebook Matrix, and the black-lined Clearing House Procedures and Regulations (together the Clearing House Rulebook) are attached hereto as appendices.

## **Part I: Explanation and Analysis**

### **1.1 Introduction**

The following changes to the General Default Fund ("General Fund") have been proposed and endorsed by LCH.Clearnet and by Clearing Members ("CM's") via a Ballot and are due to take effect on Nov 6, 2013:

- Separation of the General Business Default Fund into three Default Funds:
  - Cash Equities and Equity Derivatives Fund ("Equities");
  - Commodities Derivatives Fund ("Commodities"); and
  - Listed Interest Rates Fund ("Rates").
- The introduction of loss allocation rules in the event of a Clearing Member Default;
- The determination of the structure and adequacy of the three Default Funds;
- The method for calculating contributions to the three Default Funds;
- The mechanics to "top-up" the three Default Funds; and
- The Service Continuity and Service Closure processes for the Commodities, Equities and Rates Funds.

The Commodities Fund will support clearing services that operate under LCH.Clearnet's DCO licence and come under the CFTC's jurisdiction.

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## **1.2 Rationale for the Rule Amendments**

LCH.Clearnet is amending its rules covering the General Business Default Fund to provide greater coverage of latent market risks, in excess of margin specific to the Commodities, Cash Equities and Equity Derivatives and Listed Interest Rates services. In addition, the changes are designed to ensure compliance with a number of regulatory requirements, including those set under the European Market Infrastructure Regulation ("EMIR").

The size of the Equities, Commodities and Rates Funds (and other relevant margin holdings for each service) will be sufficient to cover the largest two Clearing Member Stress Losses over Initial Margin ("STLOIM"), which includes Initial Margin and Additional Margin (with the exception of those called for liquidity, concentration and wrong way risk).

Each respective Default Fund will be subject to a minimum ('Floor') and maximum ('Soft' and 'Hard' cap).

There will be a minimum member contribution to the respective Default Fund. The new member contribution calculation methodology is based on 50% End of Day IM and 50% Intra-day IM (Average of PEAK ITD IM) over a 3-month look-back period. The size of the Default Fund and CM contributions will be re-calculated on a monthly basis.

Contributions to the Default Funds will be in Sterling (GBP) for Rates and Equities funds and Dollar (USD) for the Commodities fund.

## **Part II: Description of rule changes**

A detailed list of all changes made to the LCH.Clearnet rulebook, together with explanation and commentary, is attached at Appendix II (Rulebook Matrix). A black-lined version of the relevant sections of the Rulebook is attached at Appendix III

## **Part III: Core Principle Compliance**

The rule amendments and other changes described above relate primarily to LCH.Clearnet's compliance with Core Principles B (Financial Resources), D (Risk Management), G (Default Rules) and L (Public Information). LCH.Clearnet has concluded that its compliance with the Core Principles would not be adversely affected by these changes and that the changes reflected herein will ensure continued compliance with the Core Principles.

## **Part IV: Public Information**

LCH.Clearnet has posted a notice of pending certification with the CFTC and a copy of the submission on LCH.Clearnet's website at:

[http://www.lchclearnet.com/rules\\_and\\_regulations/ltd/proposed\\_rules.asp](http://www.lchclearnet.com/rules_and_regulations/ltd/proposed_rules.asp)

## **Part V: Opposing Views**

There were no opposing views expressed to LCH.Clearnet by governing board or committee members, members of LCH.Clearnet or market participants that were not incorporated into the rule.

## **Certification**



LCH.Clearnet Limited hereby certifies to the Commodity Futures Trading Commission, pursuant to the procedures set forth in the Commission regulation § 40.6, that attached rule submission complies with the Commodity Exchange Act, as amended, and the regulations promulgated there under.

Should you have any questions please contact me at [jay.iyer@lchclearnet.com](mailto:jay.iyer@lchclearnet.com) or Vikesh Patel at [vikesh.patel@lchclearnet.com](mailto:vikesh.patel@lchclearnet.com).

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Jay Iyer', written over a light blue horizontal line.

Jay Iyer  
Chief Compliance Officer  
LCH.Clearnet Ltd



**Appendix I**  
**Submission Cover Sheet**

# SUBMISSION COVER SHEET

Registered Entity Identifier Code (optional) LCH

Date: October 15, 2013

**IMPORTANT: CHECK BOX IF CONFIDENTIAL TREATMENT IS REQUESTED.**

## ORGANIZATION

LCH.Clearnet Limited

## FILING AS A:

DCM

SEF

DCO

SDR

ECM/SPDC

## TYPE OF FILING

### • Rules and Rule Amendments

- Certification under § 40.6 (a) or § 41.24 (a)
- “Non-Material Agricultural Rule Change” under § 40.4 (b)(5)
- Notification under § 40.6 (d)
- Request for Approval under § 40.4 (a) or § 40.5 (a)
- Advance Notice of SIDCO Rule Change under § 40.10 (a)

### • Products

- Certification under § 39.5(b), § 40.2 (a), or § 41.23 (a)
- Swap Class Certification under § 40.2 (d)
- Request for Approval under § 40.3 (a)
- Novel Derivative Product Notification under § 40.12 (a)

## RULE NUMBERS

General Regulations 39(b)  
Procedures Section 3, 3.7  
Default Rules 14, 15, 15B, 16, 17-22, 23, 24-26, 31,32, 32(a), 36, 37  
FCM procedures 3, 3.11  
Commodities Default Fund Supplement

## DESCRIPTION

Amendments to LCH.Clearnet Limited’s Rules and Regulations concerning the creation of separate Cash Equities and Equity Derivatives, Commodities Derivative and Listed Interest Rate Funds; the introduction of loss allocation rules in the event of a Clearing Member Default; and Default Fund methodology changes in order to meet regulatory requirements set out in the European Market Infrastructure Regulation (“EMIR”).



**Appendix II**  
**Rulebook Matrix**

In this document:

- the retired EquityClear Fund Amount and Exchange Fund Amount together are referred to as the “General Default Fund”; and
- the Commodities default fund, Equities default fund and Listed Interest Rates default fund are collectively referred to as the “New Default Funds”.  
The Equities default fund and the Listed Interest Rate default fund relate to non-DCO business.

Rulebook reference	Subject Matter:	Additional Commentary:
<b>General Regulations</b>		
Regulation 39B	Distribution of Assets	Regulation 39B defines the order of distribution of assets and default fund contributions, as between clearing members, following the calculation of a Termination Amount under Regulation 39A. It has been expanded to include the three New Default Funds.
<b>Procedures</b>		
Section 3, 3.7	Default Fund Contributions	<p>Old Paragraph 3.7.2, which related to the previous General Default Fund, has been deleted.</p> <p>New paragraphs 3.7.2 and 3.7.3 have been inserted with respect to the New Default Funds to describe the timing of calls for default fund contributions, the accrual of interest and the payment of Loss Distribution Charges.</p> <p>New paragraph 3.7.4 refers readers to the relevant Procedures for SwapClear, RepoClear and ForexClear.</p>
<b>Default Fund Rules</b>		
Rule 14	Scope	Rule 14 has been amended to include a narrative explaining the layout of the Default Fund Rules and reflecting the creation of the New Default Funds.

Rule 15	Definitions	<p>Modifications to the definitions can be grouped into three broad categories:</p> <ul style="list-style-type: none"> <li>(a) definitions supporting the retired General Default Fund have been deleted;</li> <li>(b) new definitions for the New Default Funds have been inserted; and</li> <li>(c) some new, cross-default fund definitions have been inserted for ease of reference (for example, the new definition of “Contribution”), with some supporting default fund specific definitions.</li> </ul>
Rule 15B	Quarter Day	An interpretative provision has been included to explain the Clearing Membership Agreement’s legacy reference to “Quarter Day”.
Rule 16	Reduction of Losses on Default	Amendments to Rule 16 reflect the retirement of the General Default Fund and the creation of the New Default Funds. Two substantive changes are the removal of invoicing back from the waterfall (old Rule 16(i)) and to remove access to LCH.Clearnet’s capital at the last stage of the waterfall (old Rule 16(j)) for the businesses previously covered by the General Default Fund.
Deleted Rules 17 to 22	Contributions to Fund; Payment of Contributions	Former Rules 17 to 22 supported the General Default Fund and have therefore been deleted. Equivalent rules are set out in the new “Supplements” supporting the New Default Funds.
Rules 23 and 24; 26 to 28; and 31 and 32	Terms on which Contribution is held; Interest; Application of Fund and Indemnity	The creation of the New Default Funds has enabled these Rules to be simplified by stripping out references to specific default funds and using new, generic definitions instead.
Deleted Rules 32 and 32A	Reinstatement of the Fund	These two rules supported the old General Default Fund and thus are no longer relevant. The relevant Supplements for the New Default Funds contain provisions for reinstatement of the funds.



Amend Rule 36	Recoveries from Defaulters	Rule 36 has been amended to reflect the introduction of the New Default Funds.
Delete Rule 37	Contracts on terms prescribed by new Exchanges	Rule 37 supported the old General Default Fund and is no longer relevant.
Default Fund Rules – Supplements		
Commodities Default Fund Supplement		<p>The Commodities Default Fund Supplement (the “Supplement”) is structured in the following way:</p> <p>Rule C1 – sets out definitions unique to the Supplement.</p> <p>Rule C2 – establishes the Commodities Fund Amount, provides for its method of calculation and sets a hard cap, a soft cap and the “Fund Floor”.</p> <p>Rule C3 – explains the calculation of “Contributions” of participating clearing members to the Commodities Fund Amount, including the level of minimum Contributions.</p> <p>Rule C4 – provides for interest accruals on Contributions.</p> <p>Rule C5 – explains how Contributions are paid, and excess Contributions are returned, following a recalculation of the Commodities Fund Amount.</p> <p>Rule C6 – sets the conditions under which LCH.Clearnet can call unfunded contributions from non-defaulting members.</p> <p>Rule C7 – provides for a “cooling off period” following the end of default management, in which the Commodities Fund Amount is frozen for thirty days, save for a top-up to the Fund Floor after two days.</p>

		<p>Rule C8 – provides for a loss allocation mechanism by way of a “Loss Distribution Charge”, which is levied on each clearing member on a day-by-day basis.</p> <p>Rule C9 – if LCH.Clearnet makes a recovery from the defaulter, Rule C9 explains how that recovery will be applied and potentially reimbursed to clearing members.</p> <p>Rule C10 – in the event that LCH.Clearnet makes an “Insufficient Resources Determination”, this rule sets out the mechanism by which LCH.Clearnet will close the Commodities services by closing out all contracts, and calculate each clearing member’s entitlement or liability to pay.</p> <p>Rule C11 – provides that certain aspects of the Commodities Default Fund Supplement cannot be amended without a ballot of clearing members.</p>
FCM Procedures		
Section 3, 3.11	Default Fund Contributions: EnClear Service and Nodal Service	The text at this rule, which related to the General Default Fund, has been deleted and replaced with text to reflect the creation of the Commodities Default Fund, in particular to describe the timing of calls for default fund contributions, the accrual of interest and the payment of Loss Distribution Charges.



**Appendix III**  
**Black-line Rulebook changes.**

**SECTION 3**

Style Definition: Heading 3

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### 3.7. **PARTICIPATION MONIES**

#### 3.7.1. **Share Subscriptions**

Clearing Member share subscriptions will be called via PPS on a date advised by the Clearing House. They will be called from Clearing Members' house PPS account and subscriptions will be debited from the house cover account.

#### 3.7.2. **Default Fund Contributions: Commodities, Equities and Listed Interest Rates**

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This Section 3.7.2 applies to Commodities Contributions, Equities Contributions and Listed Interest Rate Contributions ("Relevant Contributions").

Relevant Contributions will be called via PPS on the fourth working day of each month or more frequently pursuant to a determination of the Relevant Contribution under the applicable Supplement (each a "Reset Day"). Relevant Contribution requirements will be notified to Clearing Members at least two working days prior to each Reset Day on the report available on the Member website named "Member Default Fund" (REP000032).

Clearing Members will be repaid via PPS any excess Relevant Contribution amounts on the Reset Day immediately following the determination of the Relevant Contribution.

The Clearing House will, from time to time, notify Clearing Members of the rate of interest that will apply to a Relevant Contribution. Interest on Relevant Contributions will be paid to Clearing Members' PPS accounts on the first working day after the Reset Day following the end of the relevant "interest accrual period". Interest is calculated in respect of each "interest accrual period", which commences on (and includes) a Reset Day and ends on (and includes) the calendar day immediately before the next Reset Day. Notwithstanding the preceding paragraphs, if the rate of interest payable on Relevant Contributions is negative, interest shall be payable by Clearing Members to the Clearing House.

#### 3.7.3. **Loss Distribution Charges: Commodities, Equities and Listed Interest Rates**

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This Section 3.7.3 applies to Loss Distribution Charges called by the Clearing House under the Commodities Default Fund Supplement, the Equities Default Fund Supplement and/or the Listed Interest Rate Default Fund Supplement (each a "Relevant Supplement").

Loss Distribution Charges called under Rule 8 of the Relevant Supplement shall be called via PPS in the same currency as a Clearing Member's Relevant Contribution.

#### 3.7.4. **Default Fund Contributions: RepoClear, SwapClear and ForexClear**

Provisions relating to RepoClear Contributions, SwapClear Contributions and ForexClear Contributions are set out in Section 2B (RepoClear), Section 2C (SwapClear) and Section 2I (ForexClear) of the Procedures, respectively.

For all market with the exception of ForexClear DF contributions will be called via PPS normally on the fourth working day ("Reset Day") of the quarter (i.e. early

~~February, May, August and November). Contribution requirements will be notified to Clearing Members at least two working days prior to each Reset Day on Member Reporting Website. For ForexClear contributions are reset monthly and paid in USD,~~

~~Excess DF amounts due to Clearing Members following the adjustment to DF accounts and the crediting or debiting of interest will be repaid to Clearing Members' PPS accounts on the Reset Days.~~

## **Regulation 39B Distribution of Assets**

~~(a)~~ Where (after the netting and set-off provided for in General Regulation 39A and General Regulation 5(i)) the Clearing House has insufficient assets available to it to pay all Termination Amounts in full (determined in accordance with FCM Regulation 24A and General Regulation 39A), the claims of the Clearing Members (which shall include FCM Clearing Members for the purposes of this Regulation 39B) ~~of each Service~~ shall be met from assets available for distribution to all first to those Clearing Members in respect of all claims they may have first ~~who are SCMs and/or FXCCMs and/or RepoClear Clearing Members ("RCMs")~~ in an amount equal to the aggregate of their outstanding ~~SwapClear~~ Contributions and, thereafter, pro rata to the balance of each Clearing Member's respective claim.

~~of such SCMs and/or ForexClear Contributions of such FXCCMs and/or RepoClear Contributions of such RCMs (as applicable) and, thereafter, pro rata to each Clearing Member's respective claim (and in respect of SCMs who have received an amount relating to their outstanding SwapClear Contributions, their respective claims shall be reduced by such amounts so received; and in respect of FXCCMs who have received an amount relating to their outstanding ForexClear Contributions, their respective claims shall be reduced by such amounts so received; and in respect of RCMs who have received an amount relating to their outstanding RepoClear Contributions, their respective claims shall be reduced by such amounts so received). To the extent the Clearing House does not have sufficient assets available to it to pay each Clearing Member SCM and/or FXCCM and/or RCM the amount equal to the aggregatesum of its outstanding Contributions, SwapClear Contribution and/or its outstanding ForexClear Contribution and/or its RepoClear Contribution (as applicable), the Clearing House shall distribute the assets available for distribution to all Clearing Members in respect of all claims they may have shall be allocated among the Clearing Members participating in each Service in ~~to it to each SCM and/or FXCCM and/or RCM (as applicable) in an amount equal to the proportion~~ as that the part outstanding SwapClear Contribution of the Fund Amount corresponding to such Service which was not used under Default Fund Rule 16 bears to ~~relevant SCM and/or~~ the aggregate of the unused parts of all Fund Amounts. The assets so allocated to each Service shall be applied to meet the claims of each Clearing Member in proportion as the outstanding ~~outstanding ForexClear~~ Contribution of such Clearing Member in relation to such Service ~~the relevant FXCCM and/or the outstanding RepoClear Contribution of the relevant RCM~~ bears to the aggregate of all outstanding Contributions in relation to such Service. ~~∴ (a) the sum of the outstanding SwapClear Contributions of all SCMs; (b) the sum of the outstanding ForexClear Contributions of all FXCCMs; and (c) the sum of the outstanding RepoClear Contributions of all RCMs.~~~~

~~(b) For the purposes of this Regulation 39B, the terms "SCMs", "FXCCMs" and "RCMs" shall include "FCM Clearing Members".~~

Post-retirement of General/Exchange FundsPost-introduction of Listed Interest Rate, Equities and Commodities Fund Supplements

## LCH.CLEARNET LIMITED

(The Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges and Clearing Houses) Regulations 2001, Part IV)

## DEFAULT FUND RULES

14. These Default Fund Rules ~~(including the ForexClear Default Fund Supplement, the SwapClear Default Fund Supplement and the RepoClear Default Fund Supplement)~~ form part of the Default Rules and the Clearing House Rulebook ~~but do not~~.

The Default Fund Rules comprise:

- these general Default Fund Rules (Rules 14 to 37 inclusive); and
- Supplements specific to the following Services: Commodities, Equities, ForexClear, Listed Interest Rate Derivatives, RepoClear and SwapClear.

Each Supplement establishes a separate default fund specific to the Service to which the Supplement relates. The Supplements establish the size of each default fund, the basis for calculating Contributions to each default fund, and include supplementary provisions addressing cases where the relevant default fund has been utilised. The general default fund rules establish the mechanisms, which apply severally to each default fund, for utilisation of the default funds, and for other matters common to all default funds.

The allocation by the Risk Committee of the Clearing House of a Contract to a particular Service to which a Supplement applies shall be done in relation to a Participating Exchange accordance with the definitions set out in the Supplements, and each decision of the Risk Committee in this respect is conclusive.

**Interpretation**

15. Words and expressions assigned meanings in the Clearing House Rulebook shall have the same meanings in these Default Fund Rules.

For the purposes of Rules 15 to 37 (inclusive), the ~~ForexClear Default Fund Supplement, the SwapClear Default Fund Supplement and the RepoClear Default Fund Supplement,~~ the following terms have the following meanings:-:

**"Aggregate Excess Loss"** means ~~the total value, in relation to a Default, the aggregate amount of a General all Excess Loss, a ForexClear Excess Loss, a SwapClear Excess Loss~~ Losses attributable to all types of Relevant Business in which the defaulter was engaged;

**"Business"** means any transactions, liabilities or obligations arising out of any contract and/or a RepoClear Excess Loss (singularly or in combination), as includes, in relation to the context requires relevant Services, Commodities Business, Equities Business, ForexClear Business, Listed Interest Rate Business, RepoClear Business and SwapClear Business;



"**Capped Amount**" has the meaning assigned to it in Rule 16(c);

~~"**Cleared Exchange Contract**" means, for the purposes of these Default Fund Rules, a Contract on the terms of a contract entered into under or in accordance with the rules of a Specified Exchange;~~

~~"**Contribution**" has the meaning assigned to it in Rule 17;~~

~~"**Deductible**" means, at the time of preparation of a Rule 26 Certificate, the Capped Amount;~~

"**Contribution**" means the contribution of a Clearing Member to a default fund of the Clearing House and includes, in relation to the relevant Services, a Commodities Contribution, an Equities Contribution, a ForexClear Contribution, a Listed Interest Rate Contribution, a RepoClear Contribution and a SwapClear Contribution;

"**Default**" means the issue, in respect of a Clearing Member, of a Default Notice as provided for by Rule ~~303~~ or the occurrence, in respect of a Clearing Member, of an Automatic Early Termination Event;

"**Default Loss**" has the meaning assigned to it in Rule 23(b);

"**Determination Date**" means the date for calculation of a Contribution, as provided for in a Supplement, and includes a Commodities Determination Date, an Equities Determination Date, a ForexClear Determination Date, a Listed Interest Rate Determination Date, a RepoClear Determination Date and a SwapClear Determination Date;

"**EquityClear Fund Amount**" definition no longer in force;

"**Excess Loss**" means, in relation to any Relevant Business and any Default, the net sum or aggregate of net sums certified to be payable by the defaulter by a Rule 26 Certificate in respect of the Relevant Business, less (a) the proportion of the Capped Amount applicable to the Relevant Business under Rule 16(c) and (b) any sums then immediately payable in respect of Default Losses for that Relevant Business by any insurer or provider of analogous services under any policy of insurance or analogous instrument written in favour of the Clearing House, and includes, in relation to the relevant Services, a Commodities Excess Loss, an Equities Excess Loss, a ForexClear Excess Loss, a Listed Interest Rate Excess Loss, a RepoClear Excess Loss and a SwapClear Excess Loss;

"**Exchange Fund Amount**" definition no longer in force;

"**Insufficient Resources Determination**" has the meaning assigned to it in Rule C10 of the Commodities Default Fund Supplement, Rule E10 of the Equities Default Fund Supplement, Rule F11 of the ForexClear Default Fund Supplement, Rule L10 of the Listed Interest Rate Default Fund Supplement, Rule R11 of the RepoClear Default Fund Supplement or Rule S11 of the SwapClear Default Fund Supplement, as applicable;

"**Net Recovery**" means any sum received by the Clearing House from or for the account of a defaulter after the issue by the Clearing House of a Rule 26 Certificate in respect of losses arising upon the defaulter's Default less any amount payable to any insurer or provider of analogous services in respect of any amount due from but not previously paid by the defaulter;

"**New Member**" means, on the day as at which any Contribution is to be calculated, any Clearing Member which either has become a Clearing Member, or has commenced clearing in respect of the relevant Service, since the immediately preceding day prescribed for calculating similar Contributions;

"**Relevant Business**" means Commodities Business, Equities Business, ForexClear Business, Listed Interest Rate Business, RepoClear Business or SwapClear Business;

"**Relevant Service**" has the meaning given to such term in Rule 33;

"**Resigning Member**" has the meaning given to such term in Rule 33;

"**Retiring Member**" means at any time any Clearing Member or, as the context may require, any former Clearing Member who has given notice to terminate its Clearing Member status to the Clearing House or in respect of whom the Clearing House has terminated or given notice to terminate its Clearing Member status;

"**Rule 26 Certificate**" has the meaning assigned to it in Rule 26;

"**Service Closure Payment**" has the meaning given to such term at Rule R11(c) of the RepoClear Default Fund Supplement;

"**Supplement**" means a supplement specific to a particular Service and includes the Commodities Default Fund Supplement, the Equities Default Fund Supplement, the ForexClear Default Fund Supplement, the Listed Interest Rate Default Fund Supplement, the RepoClear Default Fund Supplement and the SwapClear Default Fund Supplement; and

"**Unfunded Contribution**" means the unfunded contribution of a Clearing Member referable to a specific Service provided by the Clearing House.

15A. The following terms which are principally used in the Supplements have the following meanings:

"**Commodities Business**" means any transaction, obligation or liability arising out of any Commodities Contract;

"**Commodities Clearing Member**" means, for the purposes of these Default Fund Rules and the Commodities Default Fund Supplement, a Clearing Member which engages in Commodities Business;

"**Commodities Contracts**" includes, for the purposes of these Default Fund Rules, all commodities contracts cleared by the Clearing House;

"**Commodities Contribution**" means the amount of a Commodities Clearing Member's Contribution determined in accordance with the Commodities Default Fund Supplement and shall include any relevant Unfunded Contributions deposited and made by the Commodities Clearing Member with the Clearing House;

"**Commodities Default Fund Supplement**" means the supplement to these Default Fund Rules relating to Commodities Business;

"**Commodities Determination Date**" has the meaning assigned to "Determination Date" in Rule C2(c);

**"Commodities Excess Loss"** means the net sum or aggregate of net sums certified to be payable by a defaulter by a Rule 26 Certificate in respect of Commodities Business, less (a) the proportion of the Capped Amount applicable to Commodities Business under Rule 16(c) and (b) any sums then immediately payable in respect of Commodities Business Default Losses owed by such defaulter by any insurer or provider of analogous services under any policy of insurance or analogous instrument written in favour of the Clearing House;

**"Commodities Fund Amount"** means the amount of the commodities default fund established from time to time pursuant to the Commodities Default Fund Supplement;

**"Commodities Service"** means the clearing service of the Clearing House relating to Commodities Business;

**"Defaulting FXCCM"** means an FXCCM who is a defaulter under Rule 4;

**"Defaulting RCM"** means an RCM who is a defaulter under Rule 4;

**"Defaulting SCM"** means an SCM who is a defaulter under Rule 4;

**"EONIA"** means, in relation to a RepoClear Contribution, the overnight rate as calculated by the European Central Bank and appearing on the Reuters Screen EONIA Page or, if such rate is not available, such EONIA-linked rate as may be determined in light of market conditions at such time by the Clearing House and notified by the Clearing House to Clearing Members;

**"EquityClears Business"** means any transaction, obligation or liability arising out of any EquityClears Contract;

**"EquityClears Clearing Member"** includes, for the purposes of these Default Fund Rules, a Clearing Member ~~participating~~ which engages ~~in~~ EquityClears Business and includes an EquityClear Clearing Member;

**"EquityClears Contracts"** includes, for the purposes of these Default Fund Rules, all cash equity contracts ~~and~~ CFDs and equity derivative contracts cleared by the Clearing House;

**"EquityClears Contribution"** means the ~~part~~ amount of ~~an Equities~~ Clearing Member's Contribution ~~attributable to EquityClear Business as calculated~~ determined in accordance with Rules 18A, 19A, 19B and 32A;

~~"EquityClear Fund Amount"~~ means, subject to Rule 32, £100,000,000;

~~"EquityClear Transition Date"~~ means ~~the first Quarter Day as at which the aggregate of EquityClear~~ Equities Default Fund Supplement and shall include any relevant Unfunded Contributions calculated under the formula stated in Rule 19A is equal to or greater than the EquityClear Fund Amount;

~~"Excess Loss"~~ means a General Excess Loss;

~~"Exchange Clearing Member"~~ includes, for the purposes of these Default Fund Rules, any ~~deposited and made by the Equities~~ Clearing Member ~~participating in business conducted on Specified Exchanges and under the LCH EnClear OTC Regulations or part IV of the FCM Regulations (Regulations Applicable to FCM EnClear Contracts);~~ with the Clearing House;

~~"Exchange Contribution"~~ "Equities Default Fund Supplement" means the supplement to these Default Fund Rules relating to Equities Business;

"Equities Determination Date" has the meaning assigned to ~~it in~~ "Determination Date" in Rule E2(c);

"Equities Excess Loss" means the net sum or aggregate of net sums certified to be payable by a defaulter by a Rule 26 Certificate in respect of Equities Business, less (a) the proportion of the Capped Amount applicable to Equities Business under Rule ~~49~~16(c) and (b) any sums then immediately payable in respect of Equities Business Default Losses owed by such defaulter by any insurer or provider of analogous services under any policy of insurance or analogous instrument written in favour of the Clearing House;

~~"Exchange~~Equities Fund Amount" means, ~~subject to Rule 32, £310,000,000;~~

~~"Excluded Transaction"~~ means, ~~subject to Rule 37, any Contract designated by the Procedures as excluded for the purposes~~amount of the ~~Default Fund Rules~~equities default fund established from time to time pursuant to the Equities Default Fund Supplement;

"Equities Service" means the clearing service of the Clearing House relating to Equities Business;

"Fed Funds Rate" means the Federal Funds Rate as published by the Federal Reserve Bank of New York or, if such rate is not available, such Fed Funds-linked rate as may be determined in light of market conditions at such time by the Clearing House and notified by the Clearing House to Clearing Members;

"ForexClear Amendment" has the meaning assigned to it in Rule F12 of the ForexClear Default Fund Supplement;

~~"Fixed Income Contract"~~ has the meaning assigned to it in ~~Rule 6(d).~~

"ForexClear Business" means any transaction, obligation or liability arising out of any ForexClear Contract;

"ForexClear Clearing Member" or "FXCCM" means, for the purposes of these Default Fund Rules and the ForexClear Default Fund Supplement, a Clearing Member which engages in ForexClear Business;

"ForexClear Contribution" ~~has~~means the ~~meaning assigned~~amount of an FXCCM's Contribution determined in accordance with the ForexClear Default Fund Supplement and shall include any ForexClear Unfunded Contributions deposited and made by the FXCCM with the Clearing House;

"ForexClear Default Fund Supplement" means the supplement to ~~it in~~ ~~Rule 47~~these Default Fund Rules relating to ForexClear Business;

"ForexClear Default Management Process" has the meaning assigned to it in the ForexClear DMP Annex;

"ForexClear Default Management Process Completion Date" has the meaning assigned to it in the ForexClear DMP Annex;

"**ForexClear Default Period**" has the meaning ascribed to it in Rule F2 of the ForexClear Default Fund Supplement;

"**ForexClear Determination Date**" has the meaning assigned to it in Rule F2 of the ForexClear Default Fund Supplement;

"**ForexClear DMG**" has the meaning assigned to it in the ForexClear DMP Annex;

"**ForexClear Excess Loss**" means the net sum or aggregate of net sums certified to be payable by a defaulter in respect of ForexClear Business by a Rule 26 Certificate less (a) the proportion of the ~~Deductible~~Capped Amount applicable to ForexClear Business under Rule 16(c) and (b) any sums then immediately payable in respect of ForexClear Business Default Losses owed by such defaulter by any insurer or provider of analogous services under any policy of insurance or analogous instrument written in favour of the Clearing House-;

"**ForexClear Fund Amount**" means the amount as determined in accordance with Rule F2(c) of the ForexClear Default Fund Supplement;

"**ForexClear Loss Distribution Process**" has the meaning assigned to it in Rule F9 of the ForexClear Default Fund Supplement;

"**ForexClear Unfunded Contribution**" has the meaning assigned to it in Rule F8 of the ForexClear Default Fund Supplement;

"**ForexClear Unfunded Contribution Notice**" has the meaning assigned to it in F8 of the ForexClear Default Fund Supplement;

"**ForexClear Voluntary Payment**" has the meaning assigned to it in Rule F10 of the ForexClear Default Fund Supplement;

"**ForexClear Voluntary Payment Notice**" has the meaning assigned to it in Rule F10 of the ForexClear Default Fund Supplement;

"**General**Listed Interest Rate Business" means any transaction, obligation or liability arising out of ~~any~~ Listed Interest Rate Contract ~~constituting Equity Clear Business or Exchange business~~;

"**General**Listed Interest Rate Clearing Member" means ~~for the purposes of these Default Fund Rules and the Listed Interest Rate Default Fund Supplement, a~~ Clearing Member ~~who~~which engages in ~~General~~Listed Interest Rate Business;

"**General**Listed Interest Rate Contract" ~~includes, for the purposes of these Default Fund Rules, all listed interest rate derivative contracts cleared by the Clearing House;~~

"**Listed Interest Rate Contribution**" means the amount of a Listed Interest Rate Clearing Member's Contribution determined in accordance with the Listed Interest Rate Default Fund Supplement and shall include any relevant Unfunded Contributions deposited and made by the Listed Interest Rate Clearing Member with the Clearing House;

"**Listed Interest Rate Default Fund Supplement**" means the supplement to these Default Fund Rules relating to the Listed Interest Rate Business;

**"Listed Interest Rate Determination Date"** has the meaning assigned to it ~~it~~ **"Determination Date"** in Rule ~~17~~; L2(c);

**"~~General~~ Listed Interest Rate Excess Loss"** means the net sum or aggregate of net sums certified to be payable by a defaulter by a Rule 26 Certificate in respect of ~~General~~ Listed Interest Rate Business, less (a) the proportion of the ~~Deductible~~ Capped Amount applicable to ~~General~~ Listed Interest Rate Business under Rule 16(c) and (b) any sums then immediately payable in respect of ~~General~~ Listed Interest Rate Business Default Losses owed by such defaulter by any insurer or provider of analogous services under any policy of insurance or analogous instrument written in favour of the Clearing House;

**"~~General Fund Amount~~"** ~~means the sum of the EquityClear~~ **"Listed Interest Rate Fund Amount"** ~~means~~ and the ~~Exchange Fund Amount~~;

**"~~Insufficient Resources Determination~~"** has the meaning assigned to it in ~~Rule S11 of the SwapClear Default Fund Supplement, Rule F11 of the ForexClear Default Fund Supplement, or Rule R11~~ amount of the ~~RepoClear Default Fund Supplement, as applicable~~;

**"~~LIBOR~~"** means, in relation to a Contribution, ~~the rate per annum (rounded upwards, if not already such a multiple, listed interest rate default fund established from time to the next whole multiple of one-sixteenth of one per cent) known as the British Bankers' Association Interest Settlement Rate for three-month deposits in sterling being offered~~ time pursuant to prime banking names in London at or about the time specified by the Procedures for fixing the rate of interest for the period for which interest is payable or, where no such rate is available, such rate as in the opinion of the Clearing House approximates thereto Listed Interest Rate Default Fund Supplement;

**"~~Margin Weight~~"** has the meaning assigned to it in Rule 19;

**"~~Minimum Contribution~~ Listed Interest Rate Service"** means, ~~subject to Rule 32,~~ £1,000,000;

**"~~Minimum EquityClear Contribution Member~~"** means a ~~the clearing service of the~~ Clearing Member in respect of which the Preliminary ~~EquityClear~~ Contribution calculated under Rule 19B is equal to or less than the ~~Minimum EquityClear~~ Contribution for the time being;

**"~~Minimum Exchange Contribution~~"** means, subject to Rule 32, £100,000;

**"~~Minimum Exchange Contribution Member~~"** means a Clearing Member in respect of which the Preliminary ~~Exchange~~ Contribution calculated under Rule 19 is equal to or less than the ~~Minimum Exchange~~ Contribution for the time being House relating to Listed Interest Rate Business;

**"~~Minimum ForexClear Contribution~~"** means, subject to Rule F2 of the ForexClear Default Fund Supplement, USD 5,000,000;

**"~~Minimum Non-Tolerance SwapClear Contribution~~"** means ~~£10,000,000 (which, for the avoidance of doubt, excludes the £3,000,000 minimum amount payable by an SCM in respect of the SwapClear Tolerance Contribution Amount)~~;

**"~~Minimum RepoClear Contribution~~"** means, subject to Rule R2 of the RepoClear Default Fund Supplement, EUR 2,500,000;

"**Minimum RepoClear Contribution Member**" means an RCM in respect of which the Preliminary RepoClear Contribution calculated under Rule R2 of the RepoClear Default Fund Supplement, is equal to or less than the Minimum RepoClear Contribution for the time being;

"Minimum SwapClear Contribution" means, subject to Rule S2 of the SwapClear Default Fund Supplement, £10,000,000;

"**Minimum SwapClear Contribution Member**" means an SCM in respect of which the Preliminary SwapClear ~~Non-Tolerance~~ Contribution ~~Amount~~ calculated under ~~paragraph (h) of~~ Rule S2 of the SwapClear Default Fund Supplement is equal to or less than the Minimum ~~Non-Tolerance~~ SwapClear Contribution for the time being;

~~"Net Recovery" means any sum received by the Clearing House from or for the account of a defaulter after the issue by the Clearing House of a Rule 26 Certificate in respect of losses arising upon the defaulter's Default less any amount payable to any insurer or provider of analogous services in respect of any amount due from but not previously paid by the defaulter;~~

~~"New Member" means:~~

- ~~(a) — at the time of assessment of the amount of any General Contribution, any Clearing Member whose status as a General Clearing Member commenced or will commence after the Quarter Day immediately before such time and includes any General Clearing Member whose Clearing Membership Agreement commenced before the Quarter Day immediately before such time but who commenced or will commence clearing Cleared Exchange Contracts or EquityClear Contracts after the Quarter Day immediately before such time;~~
- ~~(b) — at the time of assessment of the amount of any ForexClear Contribution, any FXCCM whose Clearing Member status commenced or will commence after the ForexClear Determination Date immediately before such time and includes any FXCCM whose Clearing Membership Agreement commenced before the ForexClear Determination Date immediately before such time but who commenced or will commence clearing ForexClear Contracts after the ForexClear Determination Date immediately before such time;~~
- ~~(c) — at the time of assessment of the amount of any SwapClear Contribution, any SCM whose Clearing Member status commenced or will commence after the SwapClear Determination Date immediately before such time and includes any SCM whose Clearing Membership Agreement commenced before the SwapClear Determination Date immediately before such time but who commenced or will commence clearing SwapClear Contracts after the SwapClear Determination Date immediately before such time; or~~
- ~~(d) — at the time of assessment of the amount of any RepoClear Contribution, any RCM whose Clearing Member status commenced or will commence after the RepoClear Determination Date immediately before such time and includes any RCM whose Clearing Membership Agreement commenced before the RepoClear Determination Date immediately before such time but who commenced or will commence clearing Fixed Income Contracts after the RepoClear Determination Date immediately before such time;~~

"**Non-Defaulting FXCCM**" means an FXCCM which is not a defaulter under Rule 4;

"**Non-Defaulting RCM**" means an RCM which is not a defaulter under Rule 4;

"**Non-Defaulting SCM**" means an SCM which is not a defaulter under Rule 4;

~~"Quarter Day" means each of 31 January, 30 April, 31 July and 31 October in any year or, if any such day is not a business day, the next succeeding business day, or, in exceptional circumstances, any such other business day as may be determined by the Clearing House;~~

~~"Relevant Business" means General Business, ForexClear Business SwapClear Business or RepoClear Business;~~

"**Relevant Default**" has the meaning ascribed to it in Rule S2 of the SwapClear Default Fund Supplement, Rule F2 of the ForexClear Default Fund Supplement or Rule ~~R-2~~R2 of the RepoClear Default Fund Supplement, as applicable;

"**RepoClear Additional Payments Cap**" means, in respect of ~~a~~an RCM on any date, an amount equal to the total amount of initial margin and additional margin posted by that RCM as at that date of the Default causing losses leading to an Insufficient Resources Determination (or, where such an Insufficient Resources Determination is made following concurrent Defaults, the date of the earliest Default)~~);~~);

"**RepoClear Amendment**" has the meaning assigned to it in Rule R12 of the RepoClear Default Fund Supplement;

"**RepoClear Business**" means any transaction, obligation or liability arising out of any Fixed Income Contract; (as defined in Rule 6(d));

"**RepoClear Clearing Member**" or "**RCM**" means, for the purposes of these Default Fund Rules and the RepoClear Default Fund Supplement, a Clearing Member participating in any part of the RepoClear Service;

"**RepoClear Contribution**" ~~has means~~ has means the ~~meaning assigned to it~~amount of an RCM's Contribution determined in ~~Rule 17~~;

~~"accordance with the RepoClear Default" means Fund Supplement and shall include any Default in respect of an RCM. RepoClear Unfunded Contributions deposited and made by the RCM with the Clearing House;~~

"RepoClear Default Fund Supplement" means the supplement to these Default Fund Rules relating to the RepoClear Business;

"**RepoClear Default Management Process**" has the meaning assigned to it in the RepoClear DMP Annex;

"**RepoClear Default Management Process Completion Date**" has the meaning assigned to it in the RepoClear DMP Annex;

~~"RepoClear Default Period" has the meaning ascribed to it in Rule R2 of the RepoClear Default Fund Supplement;~~

"**RepoClear Determination Date**" has the meaning assigned to it in Rule R2 of the RepoClear Default Fund Supplement;

"**RepoClear Excess Loss**" means the net sum or aggregate of net sums certified to be payable by a defaulter by a Rule 26 Certificate in respect of RepoClear Business less (a) the proportion of the ~~Deductible~~Capped Amount applicable to RepoClear Business under Rule 16(c) and (b) any sums then immediately payable in respect of



RepoClear Business Default Losses owed by such defaulter by any insurer or provider of analogous services under any policy of insurance or analogous instrument written in favour of the Clearing House;

"**RepoClear Loss Distribution Process**" has the meaning assigned to it in Rule ~~R.9~~R9 of the RepoClear Default Fund Supplement;

"**RepoClear Segregated Fund Amount**" means the amount as determined in accordance with Rule R2 and R3 of the RepoClear Default Fund Supplement;

"**RepoClear Unfunded Contribution**" has the meaning assigned to it in Rule R8 of the RepoClear Default Fund Supplement;

"**RepoClear Unfunded Contribution Notice**" has the meaning assigned to it in Rule R8 of the RepoClear Default Fund Supplement;

~~"Retiring Member"~~SONIA means ~~at any time any Clearing Member or, as the context may require, any former Clearing Member, who has given notice to terminate its Clearing Member status to the Clearing House or in respect of whom the Clearing House has terminated or given notice to terminate its Clearing Member status;~~

~~"Rule 26 Certificate"~~ has the meaning assigned to it in Rule 26;

~~"SONIA"~~, means ~~in relation to a SwapClear Contribution or a RepoClear Contribution,~~ the overnight rate as calculated by the Wholesale Market Broker's Association and appearing on the Reuters Screen SONIA Page;

~~"Specified Exchange"~~ means ~~Turquoise Global Holdings Limited, LIFFE Administration and Management Limited, The London Metal Exchange Limited, Nodal Exchange LLC, Hong Kong Mercantile Exchange Limited or any Exchange succeeding to any (or, if such person; a rate is not available, such SONIA-linked rate as may be determined in light of market conditions at such time by the Clearing House and notified by the Clearing House to Clearing Members);~~

"**SwapClear Amendment**" has meaning assigned to it in Rule S12 of the SwapClear Default Fund Supplement;

"**SwapClear Business**" means any transaction, obligation or liability arising out of any SwapClear Contract;

"**SwapClear Clearing Member**" or "**SCM**" means, for the purposes of these Default Fund Rules and the SwapClear Default Fund Supplement, a Clearing Member participating in any part of the SwapClear Service;

"**SwapClear Contribution**" ~~has~~means the ~~meaning assigned~~amount of an SCM's Contribution determined in accordance with the SwapClear Default Fund Supplement and shall include any SwapClear Unfunded Contributions deposited and made by the SCM with the Clearing House;

~~"SwapClear Default Fund Supplement"~~ means the supplement to ~~it in Rule 17~~these Default Fund Rules relating to the SwapClear Business;

"**SwapClear Default Management Process**" has the meaning assigned to it in the SwapClear DMP Annex;

"**SwapClear Default Management Process Completion Date**" has the meaning assigned to it in the SwapClear DMP Annex;

"**SwapClear Default Period**" has the meaning ascribed to it in Rule S2 of the SwapClear Default Fund Supplement;

"**SwapClear Determination Date**" has the meaning assigned to it in Rule S2 of the SwapClear Default Fund Supplement;

"**SwapClear DMG**" has the meaning assigned to it in the SwapClear DMP Annex;

"**SwapClear Excess Loss**" means the net sum or aggregate of net sums certified to be payable by a defaulter by a Rule 26 Certificate in respect of SwapClear Business less (a) the proportion of the ~~Deductible~~Capped Amount applicable to SwapClear Business under Rule 16(c) and (b) any sums then immediately payable in respect of SwapClear Business Default Losses owed by such defaulter by any insurer or provider of analogous services under any policy of insurance or analogous instrument written in favour of the Clearing House;

"**SwapClear Loss Distribution Process**" has the meaning assigned to it in Rule ~~S8~~S9 of the SwapClear Default Fund Supplement;

"**SwapClear Segregated Fund Amount**" means the amount as determined in accordance with Rule S2(b) of the SwapClear Default Fund Supplement;

~~"**SwapClear Tolerance Utilisation**" means, in respect of each SCM, the value of the SwapClear Tolerance utilised by that SCM at any particular time, as determined by the Clearing House in its sole discretion; and~~

"**SwapClear Unfunded Contribution**" has the meaning assigned to it in Rule S8 of the SwapClear Default Fund Supplement;

"**SwapClear Unfunded Contribution Notice**" has the meaning assigned to it in Rule S8 of the SwapClear Default Fund Supplement;

"**SwapClear Voluntary Payment**" has the meaning assigned to it in Rule S10 of the SwapClear Default Fund Supplement; and

"**SwapClear Voluntary Payment Notice**" has the meaning assigned to it in Rule S10 of the SwapClear Default Fund Supplement; ;

~~"**Volume Weight**" has 15B. For the meaning assigned to it in Rule 19.~~

~~Words and expressions assigned meanings in purposes of a ballot under clause 9.4(c) of the Clearing House Rulebook Membership Agreement. "**Quarter Day**" shall ~~have the same meanings in these Default Fund Rules.~~ be construed as referring to a Determination Date.~~

## Reduction of Losses on Default

16. Subject to any contrary provision of the Rulebook, where a defaulter fails to pay any sum payable to the Clearing House, the Clearing House shall reduce or bear its loss in the manner provided by this Rule:-

- (a) first, to the extent the Clearing House determines appropriate, in applying any cover for margin and any other sum owed to the defaulter other than any Contribution (together, "**Margin Cover**"), provided that Margin Cover related to ~~the General Business is to be applied first to any loss attributable to the General Business until such loss is absorbed, Margin Cover related to the ForexClear Business is to be applied first to any loss attributable to the ForexClear Business until such loss is absorbed, Margin Cover related to the SwapClear Business is to be applied first to any loss attributable to the SwapClear Business until such loss is absorbed and Margin Cover related to the RepoClear Business is to be applied first to any loss attributable to the RepoClear~~ each type of Business of the defaulter is to be applied first to any loss attributable to that type of Business until such loss is absorbed;
- (b) second, by (i) recourse to the defaulter's relevant Contribution (~~i.e. ForexClear Contribution in respect of ForexClear Business, SwapClear Contribution in respect of SwapClear Business, RepoClear Contribution in respect of RepoClear Business and General Contribution in respect of General Business~~); to which the loss relates, followed by (ii) recourse to any other Contribution made by the defaulter to the extent not utilised under (i) above.— The Clearing House will exercise its rights of recourse under this Rule 16(b) by set-off against the Clearing House's obligation to repay the relevant Contributions to the defaulter;
- (c) third, by payment from the Clearing House's own account of an amount up to a maximum of £20,000,000 (or such greater amount (if any) as may be determined from time to time by the Board of the Clearing House) (the "**Capped Amount**"). For the avoidance of doubt, amounts will only be paid under this stage (c) if and to the extent that to do so would not result in the Clearing House being unable to meet all its other liabilities (taking into account for these purposes the obligation of the Clearing House to return initial margin provided in the form of cash and to repay the Contributions of all Clearing Members).
- Where there are amounts due from the defaulter at this stage in respect of more than one ~~of General Business, ForexClear Business, SwapClear Business and RepoClear~~ type of Business, the Capped Amount shall be applied to those amounts *pro rata*;
- (d) fourth, to the extent that any insurance or analogous arrangement is not available to the Clearing House, by recourse to the indemnities given under Rule 28 by Clearing Members other than the defaulter (which shall be satisfied by set-off against the Clearing House's obligation to repay the relevant Contributions of such Clearing Members); If the criteria specified in a relevant Supplement for calling any Unfunded Contributions have been satisfied, then References to the Contributions of Clearing Members other than the defaulter in this Rule 16(d) shall include such Unfunded Contributions;
- (e) fifth, by recourse to any insurance cover or analogous arrangement;
- (f) sixth, by recourse to the indemnities given under Rule 28 by Clearing Members other than the defaulter (which shall be satisfied by set-off against the Clearing House's obligation to repay the relevant Contributions of such Clearing Members); If the criteria specified in a relevant Supplement for calling any Unfunded Contributions have been satisfied, then References to

the Contributions of Clearing Members other than the defaulter in this Rule 16(f) shall include such Unfunded Contributions:

- (g) seventh, by recourse to any other indemnities, guarantees, undertakings or monies provided by Clearing Members; ~~and~~
- (h) eighth, in respect of RepoClear Business only, by recourse to the Service Closure Payments set out in Rule R11; ~~or~~ and
- ~~(i) eighth, in respect of General Business only, by invoicing back any open contracts of the defaulter pursuant to Default Rule 6(d) and Regulation 28; and~~
- ~~(j)(i) ninth, and in respect of General Excess Loss and~~ a RepoClear Excess Loss only, as a loss borne by the Clearing House for its own account. For the avoidance of doubt, amounts will only be paid under this stage (j) if and to the extent that to do so would not result in the Clearing House being unable to meet all its other liabilities (taking into account for these purposes the obligation of the Clearing House to return initial margin provided in the form of cash and to repay the Contributions of all Clearing Members).

This Rule has effect without prejudice to any rights of the Clearing House or any other person against the defaulter. ~~For the avoidance of doubt, (i) the effect of Rule F11 is that only Any Excess Loss remaining in respect of particular Business after application of the available resources under stages (a) to (g) under this Rule 16 will apply in respect of any ForexClear Excess Loss, and any outstanding contracts retained by the Clearing House will~~ shall ~~be closed out in accordance with the procedure set out in Rule F11 addressed as provided under the relevant Supplement, and~~ without any recourse to Service Closure Payments ~~referred to in paragraph (h) (except with regard to RepoClear only) or other loss-allocation provisions under any other Supplement or (except as provided in stage (i) with regard to RepoClear only) to~~ the capital of the Clearing House ~~under Rule 16(j); and (ii) the effect of Rule S11 is that only stages (a) to (g) under this Rule 16 will apply in respect of any SwapClear Excess Loss, and any outstanding contracts retained by the Clearing House will be closed out in accordance with the procedure set out in Rule S11 without any recourse Service Closure Payments referred to in paragraph (h) or to the capital of the Clearing House under Rule 16(j).~~

Where a defaulter is engaged in more than one ~~of General Business, ForexClear Business, SwapClear Business and RepoClear Business (each a "type of Relevant Business" in respect of each the defaulter),~~ the completion of the default management processes in respect of such Relevant Businesses may occur at different times. The Clearing House may be required to make a determination in respect of one Relevant Business (including certification of a Default Loss under Rule 23(b), certification of a net sum payable under Rule 26(a) or the value of ~~a General Excess Loss, ForexClear Excess Loss, SwapClear Excess Loss and/or RepoClear~~ an Excess Loss) in order to manage the default at a time when (a) the determination is contingent on an outcome of the default management process in respect of some other Relevant Business, and (b) that outcome has not yet been reached. In the interests of efficient resolution, the Clearing House may at such point make assumptions about that outcome, and proceed with the relevant process on that basis. Where any such assumptions have been made, the Clearing House shall, on the completion of the default management processes in respect of all Relevant Businesses, make such credits to the default funds relating to the Relevant Businesses and such distributions to former Clearing

Members as may be necessary to put the default funds and those firms which had contributed to such default funds at the time of the relevant default in the position that they would have been in if the correct outcomes had been used and the relevant assumptions had not been made.

### Contributions to Fund

- ~~17. Each Clearing Member shall deposit and maintain with the Clearing House one or more sums of cash (each a "**Contribution**") in an amount calculated by the Clearing House in accordance with these Rules. A Clearing Member's "**General Contribution**" shall be equal to the sum of its EquityClear Contribution (if any), and its Exchange Contribution (if any), denominated in sterling as cover. An FXCCM's "**ForexClear Contribution**" shall be the amount determined in accordance with the ForexClear Default Fund Supplement and shall include any ForexClear Unfunded Contributions deposited and made by the FXCCM with the Clearing House. An SCM's "**SwapClear Contribution**" shall be the amount determined in accordance with the SwapClear Default Fund Supplement and shall include any SwapClear Unfunded Contributions deposited and made by the SCM with the Clearing House. An RCM's "**RepoClear Contribution**" shall be the amount determined in accordance with the RepoClear Default Fund Supplement and shall include any RepoClear Unfunded Contributions deposited and made by the RCM with the Clearing House.~~
- ~~18. Subject to Rule 18A, the amount of each General Clearing Member's General Contribution shall be determined by the Clearing House as soon as practicable after each Quarter Day on the basis of information available as at close of business on such Quarter Day and notified to such General Clearing Member as soon as practicable after such determination in accordance with the Procedures.~~
- ~~18A Until the EquityClear Transition Date, and subject to Rule 32A, the Clearing House may require an EquityClear Clearing Member to deposit and maintain with the Clearing House an additional sum of cash (a "**Supplementary EquityClear Contribution**") denominated in sterling as cover, to form part of that Clearing Member's General Contribution. The Clearing House may exercise its rights under this Rule in respect of any date before the EquityClear Transition Date on which, in the reasonable opinion of the Clearing House, 10% of the Clearing Member's requirement for initial margin (as calculated under the Procedures or other arrangements applicable) in respect of all EquityClear Contracts significantly exceeds the Clearing Member's EquityClear Contribution actually held by the Clearing House on that date. A Supplementary EquityClear Contribution required to be deposited under this Rule shall be payable in such amount and at such time as the Clearing House shall appoint.~~
- ~~19. Subject to Rules 20, 21, 32, 33 and 34, an Exchange Clearing Member's Contribution (its "**Exchange Contribution**") to the Exchange Fund Amount shall be determined with reference to business conducted by it on the Specified Exchanges and under the LCH Enclear OTC Regulations or part IV of the FCM Regulations (Regulations Applicable to FCM Enclear Contracts), as at close of business on each Quarter Day, as follows:-~~
- ~~(a) the Exchange Clearing Member's "**Margin Weight**" shall be calculated by dividing the average daily requirement for initial margin (as calculated under the Procedures or other arrangements applicable) which has applied to the Exchange Clearing Member during the Reference Period in respect: (1) of all Contracts (other than EquityClear, SwapClear, ForexClear and Fixed Income Contracts) and (2) all LCH Enclear OTC Contracts and FCM Enclear~~

- ~~Contracts by the total of such average daily requirements applied to all Exchange Clearing Members other than defaulters;~~
- ~~(b) the Exchange Clearing Member's "**Volume Weight**" shall be calculated by dividing the average daily number of Cleared Exchange Contracts LCH Enclear OTC Contracts and FCM Enclear Contracts registered for the first time with the Clearing House in the name of the Exchange Clearing Member during the Reference Period by the total of such average numbers for all Exchange Clearing Members other than defaulters;~~
  - ~~(c) the Exchange Clearing Member's "**Weight Factor**" shall be calculated by adding one-half of its Margin Weight as defined in (a) above to one-half of its Volume Weight as defined in (b) above;~~
  - ~~(d) the Exchange Clearing Member's "**Preliminary Exchange Contribution**" shall be calculated by multiplying the Exchange Fund Amount by its Weight Factor;~~
  - ~~(e) if the Exchange Clearing Member's Preliminary Exchange Contribution is below the Minimum Exchange Contribution for the time being, the Exchange Clearing Member's Exchange Contribution shall be the Minimum Exchange Contribution;~~
  - ~~(f) for each Minimum Exchange Contribution Member, the arithmetical difference shall be calculated between (i) the Minimum Exchange Contribution and (ii) the Exchange Clearing Member's Preliminary Exchange Contribution, and the "**Exchange Surplus**" shall be calculated by adding together all such differences;~~
  - ~~(g) for each Exchange Clearing Member other than a Minimum Exchange Contribution Member, the Exchange Clearing Member's "**Exchange Discount**" shall be such Exchange Clearing Member's *pro rata* share of the Surplus calculated as the proportion of such Exchange Clearing Member's Preliminary Exchange Contribution relative to the aggregate Preliminary Exchange Contributions of all Exchange Clearing Members other than Minimum Exchange Contribution Members;~~
  - ~~(h) for each Exchange Clearing Member other than a Minimum Exchange Contribution Member, the Exchange Clearing Member's Exchange Contribution shall be the Preliminary Exchange Contribution less the Exchange Clearing Member's Exchange Discount; provided that if the outcome of such calculation would result in an Exchange Contribution less than the Minimum Exchange Contribution, such Exchange Clearing Member shall pay the Minimum Exchange Contribution notwithstanding that the arithmetical sum of Exchange Contributions paid by all Exchange Clearing Members may thereby exceed the Exchange Fund Amount.~~
- ~~19A Subject to Rules 18A, 20, 21, 32A, 33 and 34, each EquityClear Clearing Member's Contribution attributable to EquityClear Business conducted by it shall be determined as at close of business on each Quarter Day before the EquityClear Transition Date and shall be the higher of the Minimum EquityClear Contribution and 10% of the Clearing Member's average daily requirement for initial margin (as calculated under the Procedures or other arrangements applicable) which has applied to the Clearing Member during the Reference Period in respect of all EquityClear Contracts.~~

~~19B Subject to Rules 20, 21, 33 and 34, each EquityClear Clearing Member's Contribution attributable to EquityClear Business conducted by it shall be determined as at close of business on the EquityClear Transition Date and each Quarter Day thereafter as follows:-~~

- ~~(a) the EquityClear Clearing Member's "**EquityClear Margin Weight**" shall be calculated by dividing the average daily requirement for initial margin (as calculated under the Procedures or other arrangements applicable) which has applied to the EquityClear Clearing Member during the Reference Period in respect of all EquityClear Contracts by the total of such average daily requirements applied to all EquityClear Clearing Members other than defaulters;~~
- ~~(b) the EquityClear Clearing Member's "**Preliminary EquityClear Contribution**" shall be calculated by multiplying the EquityClear Fund Amount by the EquityClear Clearing Member's EquityClear Margin Weight;~~
- ~~(c) if the EquityClear Clearing Member's Preliminary EquityClear Contribution is below the Minimum EquityClear Contribution for the time being, the EquityClear Clearing Member's EquityClear Contribution shall be the Minimum EquityClear Contribution;~~
- ~~(d) for each Minimum EquityClear Contribution Member, the arithmetical difference shall be calculated between (i) the Minimum EquityClear Contribution and (ii) the EquityClear Clearing Member's Preliminary EquityClear Contribution, and the "**EquityClear Surplus**" shall be calculated by adding together all such differences;~~
- ~~(e) for each EquityClear Clearing Member other than a Minimum EquityClear Contribution Member, the EquityClear Clearing Member's "**EquityClear Discount**" shall be such EquityClear Clearing Member's pro rata share of the EquityClear Surplus calculated as the proportion of such EquityClear Clearing Member's Preliminary EquityClear Contribution relative to the aggregate Preliminary EquityClear Contributions of all EquityClear Clearing Members other than Minimum EquityClear Contribution Members;~~
- ~~(f) for each EquityClear Clearing Member other than a Minimum EquityClear Contribution Member, the EquityClear Clearing Member's EquityClear Contribution shall be the Preliminary EquityClear Contribution less the EquityClear Clearing Member's EquityClear Discount; provided that if the outcome of such calculation would result in a EquityClear Contribution less than the Minimum EquityClear Contribution, such EquityClear Clearing Member shall pay the Minimum EquityClear Contribution notwithstanding that the arithmetical sum of EquityClear Contributions paid by all EquityClear Clearing Members may thereby exceed the EquityClear Fund Amount.~~

~~20. For the purposes of the calculations under Rules 18A, 19, 19A and 19B:-~~

- ~~(a) "**Reference Period**" means the period starting on the day immediately after the Quarter Day immediately before the Quarter Day as at which the determination is made and ending on the Quarter Day as at which the determination is made (including both the day at the start of the period and the day at the end of the period);~~

- ~~(b) — no account shall be taken, in calculating Margin Weight or EquityClear Margin Weight, of any margin required in relation to an Excluded Transaction, nor in calculating Volume Weight, of any Contract which is registered in the course of an Excluded Transaction;~~
- ~~(c) — references to "Clearing Members" do not include references to defaulters (apart from any defaulter in respect of which the Clearing House permits the application of Rules 19, 19A, 19B and this Rule) or persons which were formerly Clearing Members but are not Clearing Members on the date at which the determination is made;~~
- ~~(d) — Contributions shall be rounded upwards, if not already such a multiple, to the next integral multiple of one thousand pounds; and~~
- ~~(e) — no account shall be taken, in calculating initial margin under Rules 18A, 19A or 19B or Margin Weight under Rule 19 or EquityClear Margin Weight under Rule 19B, of any offsets in the initial margin required for Cleared Exchange Contracts from a Clearing Member, which may otherwise be permissible under the Procedures or other arrangements applicable.~~

~~Provided that the Clearing Member is not a defaulter, the amount of its Contribution shall be paid in accordance with and subject to Rule 22. The provisions of Rule 19, 19A, 19B and this Rule do not apply to a Clearing Member which is a defaulter, unless the Clearing House so permits in any particular case.~~

- ~~21. — Without prejudice to any other requirements which the Clearing House may impose, the amount of the General Contribution of a New Member shall be the sum of (a) where the New Member has applied to become an EquityClear Clearing Member, the Minimum EquityClear Contribution, (b) where the New Member has applied to become an Exchange Clearing Member, the Minimum Exchange Contribution, and (c) any supplementary sum determined by the Clearing House in its discretion and notified to the New Member. The Clearing House shall determine the amount of such supplementary sum by reference to the actual or expected level of clearing activity of the New Member.~~

### **Payment of Contributions**

- ~~22. — Upon determination of the amount of a General Contribution as at any Quarter Day:~~
  - ~~(a) — if the amount of the General Contribution of a General Clearing Member immediately before close of business on that Quarter Day exceeds the amount of the General Clearing Member's General Contribution as determined under these Rules as at close of business on that Quarter Day, the excess shall be paid by the Clearing House to such General Clearing Member in accordance with the Procedures;~~
  - ~~(b) — if the amount of the General Contribution of a Clearing Member immediately before close of business on that Quarter Day is the same as the amount of the General Clearing Member's General Contribution as so determined, no sum shall then be payable by or to such General Clearing Member in respect of its General Contribution; and~~
  - ~~(c) — if the amount of the General Contribution of a General Clearing Member immediately before close of business on that Quarter Day is less than the amount of the General Clearing Member's General Contribution as so~~



~~determined, the shortfall shall be paid by such General Clearing Member to the Clearing House in accordance with the Procedures.~~

~~The provisions of this Rule do not apply to a General Clearing Member which is a defaulter, unless the Clearing House so permits in any particular case.~~

## 17-22: Rules no longer in force

### Terms on which Contribution is held

23. (a) Subject to Rules (b) and (c), the outstanding balance of a Clearing Member's Contribution (or, as appropriate, part thereof) shall be repayable to the Clearing Member on the earliest to occur of the following events:

(i) if the Clearing Member is not a defaulter, the effective date of termination of the Clearing Member's status as a Clearing Member (including a Termination Date under General Regulation 39A or under FCM Regulation 24A);

(ii) if the Clearing Member has become a defaulter, the date or event appointed by the Clearing House for repayment of sums due to the Clearing Member under Rule 9;

(iii) the amount of the Contribution being reduced by virtue of the recalculation of its amount in accordance with ~~Rule 19, Rule 19A, Rule 19B, Rule F2 of the ForexClear Default Fund provisions of a Supplement in respect of a ForexClear Contribution, Rule S2 of the SwapClear Default Fund Supplement in respect of a SwapClear Contribution or Rule R2 of the RepoClear Default Fund Supplement in respect of a RepoClear Contribution~~ (in which case the Contribution shall be repayable only to the extent of such reduction);

(iv) the Clearing House making an Insufficient Resources Determination ~~pursuant to Rule F11 in accordance with the provisions of the ForexClear Default Fund Supplement, Rule S11 of the SwapClear Default Fund Supplement or Rule R11 to which the Contribution relates~~; and

(v) the expiry of a period of 50 years from the date on which the Contribution was paid to the Clearing House.

(b) If a Clearing Member becomes a defaulter, the Clearing House shall as soon as practicable after any Margin Cover has been applied pursuant to Rule 16, certify one or more net sums then payable by the defaulter to the Clearing House in respect of ~~General~~ each type of Business ("~~General Business Default Loss~~", ~~ForexClear Business ("ForexClear Business Default Loss")~~ ~~SwapClear Business ("SwapClear Business Default Loss")~~ and/or ~~RepoClear Business ("RepoClear Business Default Loss")~~) (as applicable) (each a "~~Default Loss~~"), disregarding for this purpose any of the defaulting Clearing Member's Contributions. ~~If the Clearing House certifies any Default Loss, all the defaulter's Contribution in respect of the defaulting Clearing Member's Contributions relevant Business shall immediately become due and repayable, but only in an amount not exceeding that Default Loss. Insofar as the Default Loss exceeds the defaulter's Contribution in respect of the relevant Business, the defaulter's Contributions (if any) made in respect of~~

other types of Business shall become due and repayable, in an amount in aggregate not exceeding the total Default Loss. ~~In this regard, remaining after deducting the defaulter's Contribution in respect of the Business to which the Default Loss relates.~~

- ~~(i) where there is a General Business Default Loss only and the defaulter's General Contribution exceeds the General Business Default Loss, the defaulter's ForexClear Contribution, SwapClear Contribution and RepoClear Contribution shall not become due and repayable;~~
- ~~(ii) where there is a ForexClear Business Default Loss only and the defaulter's ForexClear Contribution exceeds the ForexClear Business Default Loss, the defaulter's General Contribution, SwapClear Contribution and RepoClear Contribution shall not become due and repayable;~~
- ~~(iii) where there is a SwapClear Business Default Loss only and the defaulter's SwapClear Contribution exceeds the SwapClear Business Default Loss, the defaulter's General Contribution, ForexClear Contribution and RepoClear Contribution shall not become due and repayable; and~~
- ~~(iv) where there is a RepoClear Business Default Loss only and the defaulter's RepoClear Contribution exceeds the RepoClear Business Default Loss, the defaulter's General Contribution, ForexClear Contribution and SwapClear Contribution shall not become due and repayable.~~

(c) If an amount becomes payable by the Clearing Member under Rule 28, the Clearing Member's relevant Contribution shall immediately become due and repayable, but only to the extent of such amount.

24. ~~On any day, interest~~Interest shall accrue on the amount of ~~each General~~a Contribution ~~then held by the Clearing House, to the extent that it has not been applied under Rule 26 or Rule 28, at such rate and in such manner as provided by the Procedures, provided that the rate of interest shall not be less than LIBOR plus one per cent. Interest shall be payable in arrear and shall be paid on the date or dates specified by the Procedures. In these Default Fund Rules any interest which has accrued under this Rule~~in the relevant Supplement. Interest shall not be regarded as part of ~~the~~a Contribution.

25. A Clearing Member's entitlement to repayment of any of its Contributions or any part of them shall not be capable of assignment by the Clearing Member, nor shall Contributions be capable of being charged or subject to any other form of security whether purporting to rank in priority over, *pari passu* with or subsequent to the rights of the Clearing House. Any purported charge or assignment by a Clearing Member (whether by way of security or otherwise) of its Contributions shall be void. A Clearing Member shall not otherwise encumber (or seek to encumber) its Contributions.#

#### **Application of defaulter's Contribution, and Certification of Aggregate Excess Losses**

26. Without prejudice to any other right of set-off or application of funds to which the Clearing House may be entitled, in the event of a Default and the certification by the

Clearing House of a Default Loss under Rule 23(b) in respect thereof the Clearing House shall without notice set off in or towards satisfaction of any sums payable to the Clearing House from the defaulter any amount of any Contribution of the defaulter which has become due and repayable in accordance with Rule 23(b). -If the Clearing House is to have recourse, in accordance with Rule 16, to the indemnities, guarantees, undertakings or monies provided by Clearing Members other than the defaulter, as soon as practicable the Clearing House shall certify (by a "**Rule 26 Certificate**"):-

- (a) the amount of the defaulter's Contribution applied under this Rule and the net sum (if any), or each net sum (if more than one), then immediately payable by the defaulter to the Clearing House in respect of ~~(i) General Business, (ii) ForexClear Business (iii) SwapClear Business and (iv) RepoClear Business~~ undertaken by the defaulter, taking into account for this purpose the defaulter's Contribution ~~but excluding for this purpose any sum due to the Clearing House in respect of any Excluded Transaction~~; and
- (b) the extent to which any sums so payable by the defaulter to the Clearing House but unpaid may be claimed by the Clearing House under a policy of insurance or analogous instrument relating to losses arising upon a Default.

The Clearing House may issue more than one Rule 26 Certificate in relation to losses arising upon any Default.

Where a Rule 26 Certificate is to be issued ~~in respect of the Default of an FXCCM~~, the Clearing House may assume that no ~~further~~ recoveries will be made in respect of obligations of the ~~Defaulting FXCCM defaulter~~ (beyond the value of its ~~ForexClear Contribution~~ Contributions).

~~Where a Rule 26 Certificate is to be issued in respect of the Default of an SCM, the Clearing House may assume that no further recoveries will be made in respect of obligations of the Defaulting SCM beyond the value of its SwapClear Contribution.~~

~~Where a Rule 26 Certificate is to be issued in respect of the Default of an RCM, the Clearing House may assume that no further recoveries will be made in respect of obligations of the Defaulting RCM beyond the value of its RepoClear Contribution.~~

27. The Clearing House may in the exercise of the right conferred by Rule 26 set off the amount due (in accordance with Rule 23(b)) to a defaulter in respect of the defaulter's Contribution or any part thereof against sums owing on any account whether or not it is a client account, and the Clearing House shall have unfettered discretion in this regard. ~~A defaulter's Contribution shall not be treated as standing to the credit of any client account of the defaulter except to the extent that any Default Loss certified under Rule 23(b) arises in relation to a client account and the Clearing House so requires.~~

### Application of Fund and Indemnity

28. By virtue of ~~the Clearing Membership Agreement and~~ this Rule and its agreement with the Clearing House, and subject to Rule 29:

- (a) each Clearing Member ~~engaged in General~~ (for these purposes, a "**Non-Defaulting Clearing Member**") grants a separate limited-recourse indemnity

~~to the Clearing House in respect of each type of Relevant Business indemnifies the Clearing House in respect of General which it participates. In relation to each type of Relevant Business, the indemnity is granted in respect of each Excess Loss arising in respect of the Relevant Business upon the Default of another Clearing Member in. The amount of an indemnity is limited to an aggregate amount not exceeding the amount due from it as its General of the Non-Defaulting Clearing Member's Contribution at the date of the issue of the Rule 26 Certificate which relates to such General Excess Loss;~~

- ~~(b)28. each FXCCM indemnifies the Clearing House in respect of the aggregate of the ForexClear Excess Losses Relevant Business as calculated in respect of the Defaults of FXCCMs occurring in a ForexClear Default Period in an aggregate amount not exceeding the amount due from it as its ForexClear Contribution as calculated under the ForexClear Default Fund Supplement on the ForexClear at the Determination Date immediately prior to the commencement of before the relevant ForexClear Default Period, together with any ForexClear amount of Unfunded Contribution and any Loss Distribution Charge in respect of the Relevant Business that the Clearing House has called or would be entitled to call from such FXCCM during such ForexClear Default Period; the Non-Defaulting Clearing Member in relation to that Default.~~
- ~~(c) — each SCM indemnifies the Clearing House in respect of the aggregate of the SwapClear Excess Losses calculated in respect of the Defaults of SCMs occurring in a SwapClear Default Period in an aggregate amount not exceeding the amount due from it as its SwapClear Contribution as calculated under the SwapClear Default Fund Supplement on the SwapClear Determination Date immediately prior to the commencement of the relevant SwapClear Default Period together with any SwapClear Unfunded Contribution that the Clearing House has called or would be entitled to call from such SCM during such SwapClear Default Period; and~~
- ~~(d) — each RCM indemnifies the Clearing House in respect of the aggregate of the RepoClear Excess Losses calculated in respect of the Defaults of RCMs occurring in a RepoClear Default Period in an aggregate amount not exceeding the amount due from it as its RepoClear Contribution as calculated under the RepoClear Default Fund Supplement on the RepoClear Determination Date immediately prior to the commencement of the relevant RepoClear Default Period together with any RepoClear Unfunded Contribution that the Clearing House has called or would be entitled to call from such RCM during such RepoClear Default Period.~~

The amount due by a Non-Defaulting Clearing Member in respect of ~~each General an~~ Excess Loss shall ~~be the Clearing Member's, save as otherwise provided under the ForexClear DMP Annex, the SwapClear DMP Annex or the RepoClear DMP Annex, be the Non-Defaulting Clearing Member's~~ *pro rata* share of such loss arising upon the relevant Default calculated as the proportion of such Member's relevant Contribution relative to the aggregate relevant Contributions of all Clearing Members engaged in the relevant Business other than the relevant defaulter at the time of the relevant Default. ~~The amount due by a Clearing Member in respect of each ForexClear Excess Loss shall be determined in accordance with the provisions of the ForexClear DMP Annex. The amount due by a Clearing Member in respect of each SwapClear Excess Loss shall be determined in accordance with the provisions of the SwapClear DMP Annex. The amount due by a Clearing Member in respect of each RepoClear Excess Loss shall be determined in accordance with the provisions of the RepoClear Default Fund~~

~~Supplement.~~ The amount so due shall become immediately payable automatically (without any obligation on the part of the Clearing House to make demand on the Clearing Member) upon the issue by the Clearing House of the applicable Rule 26 Certificate. ~~Without prejudice to any other right of set-off or application of funds to which the Clearing House may be entitled, the Clearing House shall forthwith without notice set off any amount due in accordance with Rule 23(c) to a Clearing Member in respect of the relevant Contribution of such Clearing Member in or towards satisfaction of the amount payable by such Clearing Member under this Rule 28.~~

29. This Rule applies to a defaulter (the "**First defaulter**") where the Contribution of the First defaulter has not been repaid to the First defaulter or applied by the Clearing House under Rule 26, and Aggregate Excess Losses arise upon the Defaults of other Clearing Members. ~~Where this Rule applies, Rule 28 shall have effect with the following modifications:-~~

(a) the balances (if any) of the First defaulter's relevant Contributions may be applied under Rule 28 in respect of such relevant Aggregate Excess Losses up to and including the date three months after the date of issue of the Default Notice in respect of the First defaulter's Default; and

(b) after the date three months after the date of issue of such Default Notice, the balances (if any) of the First defaulter's relevant Contributions may not be applied under Rule 28 in respect of such relevant Aggregate Excess Losses, but they may be retained on account of losses arising upon the First defaulter's own Default and, for the purposes of Rule 28, they shall be disregarded.

30. The Clearing House shall give notice to each Clearing Member as soon as practicable after an amount has become due in accordance with Rule 28 and of the manner in which it has been satisfied.

31. If, in relation to a Default, the Clearing House has ~~been unable to certify~~ not yet certified in any Rule 26 Certificates issued on or before the ~~Quarter Day~~ Determination Date occurring immediately after the Default all sums which may be or become due to the Clearing House from the ~~D~~ defaulter (because such sums will not or may not become liquidated or for any other reason payable until a later date), the Clearing House shall maintain a Contribution from each Clearing Member (other than the ~~D~~ defaulter) as cover for the performance by such Clearing Member of its obligation to indemnify the Clearing House in relation to any Aggregate Excess Loss not yet certified. ~~In fulfilment of this requirement the Clearing House may take any step which appears to the Clearing House to be appropriate, and the steps so taken may include any (including a combination) of the following:-~~

(a) postponement of the date for adjustment of Clearing Members' Contributions under ~~Rule 22~~ Rules C5(a), E5(a), F5, L5(a), S5 or R5, as applicable in the case;

(b) reduction of the amounts payable to some or all Clearing Members under ~~Rule 22~~ Rules C5(a);(i), E5(a)(i), F5(a), L5(a)(i), S5(a) or R5(a), as applicable in the case; and

(c) estimation of the amount of Aggregate Excess Losses which may become certified after the relevant ~~Quarter Day~~ Determination Date as appropriate, and application of Rule 28 as if such estimated amount were already realised as an Aggregate Excess Loss.

The Clearing House shall notify Clearing Members of any steps taken under this Rule.

### Reinstatement of the Fund

~~32. Where, after a Default, the Clearing House has applied part or all of a General Contribution under Rule 26 or Rule 28, the General Fund Amount shall be reduced forthwith by the aggregate amount of the Contributions or parts of Contributions so applied, and the EquityClear Fund Amount and the Exchange Fund Amount shall be reduced *pro rata*. Unless and until the Clearing House has repaid a defaulter's Contribution, the General Fund Amount shall be treated as having been reduced by the amount of the defaulter's Contribution (if any) regardless of whether the Clearing House has applied part or all of that Contribution under Rule 26. Following a reduction of the General Fund Amount in accordance with this Rule, the Clearing House may by a single increase or by a series of increases raise the General Fund Amount to such level not exceeding £410,000,000 and after such interval or intervals as it considers appropriate, provided that:~~

~~(a) upon each such increase the EquityClear Fund Amount and the Exchange Fund Amount shall increase *pro rata*; and~~

~~(b) no such increase shall bind any Clearing Member which does not agree to it.~~

~~Where by virtue of this Rule the General Fund Amount is less than £410,000,000, the size of the Minimum EquityClear Contribution and the Minimum Exchange Contribution shall also be adjusted in proportion to the size of the General Fund Amount as adjusted for the time being.~~

~~32A If on any Quarter Day before the EquityClear Transition Date the General Fund Amount is by virtue of Rule 32 less than it was before the Default, the formula in Rule 19A shall be modified so that the alternative basis of calculation is reduced from 10% of the Clearing Member's average daily requirement for initial margin (as provided by Rule 19A) to 10% of such average daily requirement multiplied by the Relevant Proportion. On any date in respect of which the Clearing House exercises its rights under Rule 18A and as at which the General Fund Amount is by virtue of Rule 32 less than it was before the Default, the sum with which the Clearing Member's EquityClear Contribution is to be compared shall be reduced from 10% of the Clearing Member's requirement for initial margin (as provided by Rule 18A) to 10% of such requirement multiplied by the Relevant Proportion. For the purposes of this Rule, the "**Relevant Proportion**" means, in relation to a date, the proportion which the General Fund Amount at such date bears to the amount before the Default.~~

### 32-32A: Rules no longer in force

#### Effect of cessation of Clearing Member status

33. Subject to Rule 34, if a Quarter Day, date for calculation of a ForexClear Determination Date ~~a SwapClear Determination Date or a RepoClear Determination Date, as appropriate,~~ Clearing Member's Contribution occurs after the giving of notice: (i) by or in respect of any Retiring Member; (ii) by a Clearing Member to the Clearing House for the purposes of resigning from a particular Service; or (iii) by the Clearing House to a Clearing Member for the purposes of requiring such Clearing Member to resign from a particular Service (the "**Relevant Service**") (a Clearing Member for the purposes of (ii) and (iii) of this paragraph, a "**Resigning Member**"),

and before the termination of such Retiring Member's Clearing Member status or the Resigning Member's resignation from the Relevant Service (as the case may be):-

(a) if the Retiring Member or Resigning Member is not a defaulter, the amount of such Retiring Member's Contribution or such Resigning Member's Contribution in respect of the Relevant Service shall be determined by the Clearing House on the basis set out in ~~Rules 19, 19A and 19B, the ForexClear Default Fund Supplement and the RepoClear Default Fund Supplement (as applicable)~~ without regard to the impending termination of such Retiring Member's Clearing Member status or Resigning Member's resignation (as the case may be), and the provisions of ~~Rule 22, Rule F5 of the ForexClear Default Fund Supplement, Rule S5 of the SwapClear Default Fund Supplement and Rule R.5 of the RepoClear Default Fund Supplement (as applicable)~~ Contributions shall apply in respect of such Contribution accordingly;

(b) if the Retiring Member or Resigning Member is a defaulter, the balance of such Retiring Member's Contribution or such Resigning Member's Contribution in respect of the Relevant Service (as the case may be) after any part of it has been applied under Rule 26 or Rule 28 shall not be subject to adjustment under ~~Rules 19, 19A and 19B, the ForexClear Default Fund Supplement, the SwapClear Default Fund Supplement and the RepoClear Default Fund Supplement (as applicable), and the provisions of Rule 22, Rule F5 of the ForexClear Default Fund Supplement, Rule S5 of the SwapClear Default Fund Supplement and Rule R5 of the RepoClear Default Fund Supplement (as applicable)~~ the relevant Supplement, and the provisions of the relevant Supplement as to payment following adjustment of amounts of Contributions shall not apply to such Retiring Member or Resigning Member in respect of the Relevant Service.#

Notwithstanding the foregoing, in such circumstances, when the amounts of the respective Contributions of all Clearing Members other than any Retiring Member or any Resigning Member in respect of the Relevant Service ~~shall be determined by the Clearing House on the basis set out in Rules 18A, 19, 19A and 19B, the ForexClear Default Fund Supplement the SwapClear Default Fund Supplement and the RepoClear Default Fund Supplement (as applicable), but disregarding for all purposes~~ are determined in accordance with the relevant Supplement, the Clearing House shall disregard any Clearing Member which is a Retiring Member or, in relation to a Relevant Service, any Resigning Member in respect of that Relevant Service, in particular disregarding such Clearing Member's daily requirement for margin and such Clearing Member's daily number of Contracts and treating any such Retiring Member as no longer being a Clearing Member, ~~but without prejudice to any reduction of the General Fund Amount under Rule 32 or any such Resigning Member as no longer being a Clearing Member in respect of the Relevant Service.~~

34. This Rule applies at any ~~Quarter Day, ForexClear Determination Date, SwapClear Determination Date or RepoClear Determination Date, as appropriate,~~ date for calculation of a Clearing Member's Contribution falling after a Retiring Member has given notice of the termination of its Clearing Member status, where another Clearing Member (the "**Continuing Member**") has arranged to undertake clearing on behalf of the Retiring Member.- If, in the opinion of the Clearing House, the Contribution of the Continuing Member determined under ~~Rules 18A, 19, 19A and 19B, the ForexClear Default Fund Supplement, the SwapClear Default Fund Supplement and/or the~~

~~RepoClear Default Fund~~relevant Supplement does not fairly reflect the Continuing Member's share of clearing activity, the Clearing House may determine the Contribution of the Continuing Member as if the ~~EquityClear Margin Weight, Margin Weight, Volume Weight, RepoClear Margin Weight, SwapClear Non-Tolerance Weight and/or ForexClear Margin Weight (as applicable) of~~relevant Business carried on by the Retiring Member were part of the ~~EquityClear Margin Weight, Margin Weight, Volume Weight, RepoClear Margin Weight, SwapClear Non-Tolerance Weight and/or ForexClear Margin Weight, respectively and as applicable of~~relevant Business carried on by the Continuing Member.- If the Clearing House determines the amount of a Continuing Member's Contribution under this Rule, the Clearing House shall give notice to the Continuing Member, and the provisions of Rule 33 shall not apply.

35. A Retiring Member and a Resigning Member in respect of a Relevant Service shall, until the completion of the process set out in Rule 8 in relation to any Default, continue to be liable under its Rule 28 indemnity in respect of Aggregate Excess Losses arising upon such Default, notwithstanding that the Clearing Member status of the Retiring Member has terminated or that the Resigning Member has resigned in respect of the Relevant Service before that time. -While a Retiring Member or Resigning Member continues to be so liable, it shall provide such cover as the Clearing House shall require in respect of its liability in relation to any Aggregate Excess Losses not yet certified, subject to such cover not exceeding the Retiring Member's Contribution at the time of the termination of its clearing membership, or the Resigning Member's Contribution to the Relevant Service at the time of its resignation.- In fulfilment of this requirement, the Clearing House may take any step which appears to the Clearing House to be appropriate, including postponement of the date for repayment of part or all of the Retiring Member's Contribution or Resigning Member's Contribution in respect of the Relevant Service (as the case may be).- The Clearing House shall notify the Retiring Member or Resigning Member of any steps taken under this Rule.

#### Recoveries from defaulters

36. If all or part of the Contributions of any Clearing Member shall have been applied in accordance with Rule 28, the Clearing House shall (except as otherwise provided in a Supplement) account to each such Clearing Member (whether or not it remains at the relevant time a Clearing Member of the Clearing House) in respect of any Net Recovery, pro rata to the respective amounts applied in accordance with Rule 28 in relation to the relevant Default and in an amount not exceeding, in relation to each such Clearing Member, the amount of its Contributions so applied.

#### ~~Contracts on terms prescribed by new Exchanges~~

~~37. Notwithstanding anything in the Procedures, and subject as follows, any Contract on terms prescribed by any Exchange other than a Specified Exchange shall be an Excluded Transaction. The Clearing House may direct that any such Contract as is referred to in this Rule shall not be an Excluded Transaction, provided that no such direction shall bind any Clearing Member which does not agree to it.~~

37: Rule no longer in force



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Excess ForexClear Contribution amounts due to ForexClear Clearing Members following the adjustment to the ForexClear Contribution will be repaid to ForexClear Clearing Members' PPS accounts on the ForexClear Reset Day immediately following the adjustment to the ForexClear Contribution.

Interest on ForexClear Contributions will be paid to ForexClear Clearing Members' PPS accounts on the first working day after the ForexClear Reset Day following the end of the relevant "interest accrual period". Interest is calculated in respect of each "interest accrual period", which commences on (and includes) a ForexClear Reset Day and ends on (and includes) the calendar day immediately before the next ForexClear Reset Day.

### 3.10 **Quantifying ForexClear Contributions**

For the purposes of calculating the ForexClear Margin Weight under Rule F2(d) of the ForexClear Default Fund Supplement, the average daily requirement for Initial Margin applied to an FX FCM shall be determined by reference to the ForexClear Contracts comprising the ForexClear House and Client Business of that FX FCM only.

### 3.11 **Default Fund Contributions and Loss Distribution Charges: EnClear Service and Nodal Service**

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~~For the EnClear Service and Nodal Service, Contributions will be called via PPS on the fourth working day of each month or more frequently pursuant to a determination of the Contribution under the Commodities Default Fund Supplement (each a "Reset Day"). Contribution requirements will be notified to FCM Clearing Members at least two working days prior to each Reset Day on the report available on the Member website named "Member Default Fund" (REP000032). For the EnClear Service and FCM Nodal Clearing Service, Default Fund Contributions will be called via PPS normally on the fourth working day ("Reset Day") of the quarter (i.e., early February, May, August and November). Contribution requirements will be notified to FCM Clearing Members at least two working days prior to each Reset Day on Member Reporting Website.~~

~~Excess Default Fund amounts due to FCM Clearing Members following the adjustment to Default Fund accounts and the crediting of interest will be repaid to FCM Clearing Members' PPS accounts on the Reset Days.~~

~~FCM Clearing Members will be repaid via PPS any excess Contribution amounts on the Reset Day immediately following the determination of the Contribution.~~

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~~The Clearing House will, from time to time, notify FCM Clearing Members of the rate of interest that will apply to a Contribution. Interest on Contributions will be paid to FCM Clearing Members' PPS accounts on the first working day after the Reset Day following the end of the relevant "interest accrual period". Interest is calculated in respect of each "interest accrual period", which commences on (and includes) a Reset Day and ends on (and includes) the calendar day immediately before the next Reset Day. Notwithstanding the preceding paragraphs, if the rate of interest payable on Contributions is negative, interest shall be payable by FCM Clearing Members to the Clearing House.~~

Loss Distribution Charges called under Rule C8 of the Commodities Default Fund Supplement shall be called via PPS in the same currency as a FCM Clearing Member's Contribution.

**APPENDIX 3A**

**BANK PARTICIPANTS IN THE LONDON PROTECTED PAYMENTS SYSTEM**

Bank of America, N.A.

Barclays Bank Plc

JP Morgan Chase Bank

Citibank NA

Deutsche Bank AG

HSBC Bank Plc

Lloyds TSB Bank Plc

National Westminster Bank Plc

The Royal Bank of Scotland plc

Skandinaviska Enskilda Banken AB

For more information on PPS Banks please contact the Clearing House's Treasury Operations.

## Commodities Default Fund Supplement

C1. In this Supplement, subject to any contrary indication or where the context otherwise requires, references to:

the "**Business**" means the Commodities Business of a Member

a "**Contract**" means a Commodities Contract, a contract cleared pursuant to a Service and such other commodities or commodity-related contract as the Clearing House may from time to time specify by notice to the Members

a "**Contribution**" means a Commodities Contribution

the "**Default Fund**" means the fund established by this Commodities Default Fund Supplement

a "**Determination Date**" means a Commodities Determination Date

the "**Excess Loss**" means the Commodities Excess Loss

the "**Fund Amount**" means the Commodities Fund Amount

a "**Member**" means a Commodities Clearing Member and a Clearing Member approved to clear a Specified Market

a "**Minimum Contribution**" means USD 750,000

a "**Non-Defaulting Clearing Member**" means a Member that is not a defaulter under Rule 4 of the Default Rules

"**Service**" means the commodities and commodity-related services provided by the Clearing House pursuant to its rules governing the clearing of the Specified Markets and includes the Commodities Service

"**Specified Markets**" means Nodal, HKMEx, LME and any other markets from time to time specified by the Clearing House, and includes the market in Contracts registered with the Clearing House pursuant to the LCH EnClear OTC service

and calculations of "**Combined Loss Value**", "**End of Day Margin Weight**", "**Peak Intra-Day Margin Weight**", "**STLIEOM**" and "**Weight Factor**" are carried out in accordance with this Supplement only.

Capitalised terms not otherwise defined in this Supplement shall have the meanings assigned to them in the General Regulations, Rule 15 of the Default Fund Rules or Rule 15A of the Default Fund Rules, as applicable.

C2. **Fund Amount**

(a) The Default Fund is denominated in USD, and all amounts referable to it shall be denominated, calculated, called and payable in USD.

- (b) On each business day, the Clearing House will determine the "**Combined Loss Value**" in respect of each of the three preceding calendar months. The Combined Loss Value in respect of a particular day will be the sum of the STLIEOMs for the Members which have the largest and the second largest STLIEOM on that day. For this purpose, the "**STLIEOM**" means, in respect of each Member and in respect of any day, the stress-tested loss in excess of initial margin (determined for a given scenario determined by the Clearing House) which could be incurred by the Clearing House in respect of that Member's Business if that Member became a defaulter on that day.
- (c) The Fund Amount shall be determined by the Clearing House on the first business day of each calendar month (the "**Determination Date**") in accordance with this Rule.
  - (i) The Fund Amount is, for a given Determination Date, the largest of the Combined Loss Values as determined during the three calendar month period under Rule C2(b), plus 10%, subject to the following provisions of this Rule.
  - (ii) On any Determination Date, if the Fund Amount as determined under Rule C2(c)(i) would be lower than three times the Minimum Contribution, the Fund Amount will be deemed to be three times the Minimum Contribution (the "**Fund Floor**").
  - (iii) On any Determination Date: (a) if the Fund Amount as determined would exceed USD 1,500,000,000, the Fund Amount will be deemed to be USD 1,500,000,000 unless the Risk Committee of the Clearing House has resolved that an increase in the Fund Amount is warranted, in which case the Fund Amount shall be as determined by the Risk Committee; (b) if the Fund Amount as determined would exceed USD 2,500,000,000, the Fund Amount will be deemed to be USD 2,500,000,000, notwithstanding any determination by the Risk Committee, unless an increase has been approved by ballot in accordance with Rule C11.
  - (iv) In the case of a Default in relation to which the Clearing House does not apply Contributions under Rule 26 or Rule 28, determinations of the Fund Amount under the methodology of this Rule are suspended from the date of the occurrence of a Default until the completion of the management of such Default. Where other such Defaults have commenced during the period of suspension, the suspension will end at the completion of the management of the last of such Defaults.

In the case of any Default in relation to which the Clearing House applies Contributions under Rule 26 or Rule 28, determinations of the Fund Amount under the methodology of this Rule are suspended from the date of the occurrence of a Default until the expiry of the Cooling Off Period under Rule C7. Where other such Defaults have commenced during the period of suspension, the suspension will end at the expiry of the Cooling Off Period following the Default Management Completion Notice in respect of the last of those Defaults.



C3. Contributions to Fund

- (a) The amount of each Member's Contribution shall be determined by the Clearing House on each Determination Date on the basis of information available as at close of business on the immediately preceding business day and notified to such Member as soon as practicable after such determination in accordance with the Procedures. However, determinations of Contributions under the methodology of this Rule are suspended after the occurrence of a Default in accordance with Rule C2(c)(iv).
- (b) A Member's Contribution shall be determined with reference to business conducted by it on the Specified Markets in Contracts as follows:
  - (i) the Member's "**End of Day Margin Weight**" shall be calculated by dividing the average daily requirement for initial margin at the end of each day (as calculated under the Procedures or other arrangements applicable) which has applied to the Member during the Reference Period in respect of all Contracts by the total of such average daily requirements applied to all Members other than defaulters;
  - (ii) the Member's "**Peak Intra-Day Margin Weight**" shall be calculated by dividing the average maximum intra-day requirement for initial margin arising at any point during each day during the Reference Period (as calculated under the Procedures or other arrangements applicable) which has applied to the Member in respect of all Contracts by the total of such average maximum intra-day requirements applied to all Members other than defaulters;
  - (iii) the Member's "**Weight Factor**" shall be calculated by adding one-half of its End of Day Margin Weight to one-half of its Peak Intra-Day Margin Weight,

and the Member's Contribution shall be the amount arrived at by multiplying the Fund Amount by the Member's Weight Factor, provided that (x) if the amount calculated for a particular Member pursuant to the foregoing would, when aggregated with the Contributions of all other Members, produce a Fund Amount that is in excess of that permitted under Rule C2(c)(iii), then such excess amount, as calculated by the Clearing House, shall be iteratively notionally allocated to such Member pro rata to its Contribution as originally calculated and such proportionate excess shall be deducted from the amount originally calculated and the Member's Contribution shall be adjusted accordingly; and provided further that (y) in no case shall a Member's Contribution be less than the Minimum Contribution (notwithstanding that the Fund Amount may, taking into account all Contributions as adjusted in accordance with the provisos to this paragraph, exceed the level specified in Rule C2(c)(iii)).

For the purposes of these calculations:

- (iv) "**Reference Period**" means the period of three calendar months immediately before the Determination Date;

- (v) references to "**Members**" do not include references to defaulters (apart from any defaulter in respect of which the Clearing House permits the application of this Rule) or persons which were formerly Members but are not Members on the date on which the relevant calculation is made;
  - (vi) Contributions shall be rounded upwards, if not already such a multiple, to the next integral multiple of one thousand dollars; and
  - (vii) no account shall be taken, in calculating initial margin or Margin Weight under this Rule C3(b) of any offsets in the initial margin required for Contracts from a Member which may otherwise be permissible under the Procedures or other arrangements applicable.
- (c) Without prejudice to any other requirements which the Clearing House may impose, the amount of the Contribution of a New Member shall be the sum of:
- (i) the Minimum Contribution; and
  - (ii) any supplementary sum determined by the Clearing House in its discretion and notified to the New Member. The Clearing House shall determine the amount of such supplementary sum by reference to the actual or expected level of clearing activity of the New Member.
- (d) Except to the extent that one or other of the caps specified in Rule C2(c)(iii) would be exceeded, the Clearing House may recalculate the Contributions due from certain Members on any business day other than one falling between the application of a Contribution and the end of the Cooling Off Period, as set out at Rule C7, in the following circumstances:
- (i) if the Combined Loss Value determined under Rule C2(b) on that day deviates by more than 25% upwards or downwards from the Combined Loss Value on which the previous Contribution determination was based, on such business day, the Clearing House shall be entitled to make an adjustment upwards or downwards to the Fund Amount commensurate with the deviation;
  - (ii) where the Risk Committee considers (for any reason) that a recalculation is warranted between Determination Dates.

#### **C4. Interest on Contributions**

On each day interest shall accrue on the amount of each Contribution then held by the Clearing House, to the extent that it has not been applied under Rule 26 or Rule 28, at such rate and in such manner as provided by the Procedures, provided that the rate of interest for any particular day shall be based on a market-recognised benchmark rate plus or minus a spread. Such rate and such spread shall be determined, in light of market conditions at such time, by the Clearing House from time to time and notified by the Clearing House to Members. Interest on Contributions shall be payable in arrear and shall be paid on the date or dates specified by the Procedures. Any interest which has accrued under this Rule shall not be regarded as part of a Contribution.

#### **C5. Payment of Contributions**

- (a) Upon determination of the amount of a Contribution on a Determination Date:
  - (i) if the amount of the Contribution of a Member at close of business on the business day immediately before the Determination Date exceeds the amount of the Member's Contribution as determined on the Determination Date, the excess shall be paid by the Clearing House to the Member in accordance with the Procedures;
  - (ii) if the amount of the Contribution of a Member at close of business on the business day immediately before the Determination Date is the same as the amount of the Member's Contribution as determined on the Determination Date, no sum shall then be payable by or to the Member in respect of its Contribution; and
  - (iii) if the amount of the Contribution of a Member at close of business on the business day immediately before the Determination Date is less than the amount of the Member's Contribution as determined on the Determination Date, the shortfall shall be paid by the Member to the Clearing House in accordance with the Procedures.
- (b) The provisions of this Rule do not apply to a Member which is a defaulter, unless the Clearing House so requires in any particular case.

**C6. Unfunded Contributions**

- (a) On any business day after the occurrence of a Default, if the Clearing House determines that by reason of reduction in accordance with Rule C7, (i) the Fund Amount (minus any Contribution of the defaulter) has been reduced by at least 25%, or (ii) by the time of issue of a Default Management Completion Notice in relation to that Default the Fund Amount will have been so reduced, the Clearing House may, by notice in writing (each an "**Unfunded Contribution Notice**"), require each Non-Defaulting Clearing Member to deposit and maintain an amount (each an "**Unfunded Contribution**") in accordance with this Rule.
- (b) Unfunded Contributions will only be payable in circumstances where the relevant Unfunded Contribution Notice is delivered by the Clearing House to Members before a Default Management Completion Notice in relation to the relevant Default.
- (c) The amount of an Unfunded Contribution payable by a Member in respect of a Default shall be payable pro rata by reference to the proportion which that Member's Contribution bears to the aggregate of Contributions of all Non-Defaulting Clearing Members, and shall not exceed the value of the Contribution of that Member as calculated on the last Determination Date prior to the date when the relevant Default occurred.
- (d) Following the payment of an Unfunded Contribution in accordance with Rule C6(a), (b) and (c), the Clearing House may, by the delivery of one or more further Unfunded Contribution Notices, require each Non-Defaulting Clearing Member to pay one or more further Unfunded Contributions in respect of the

same Default, provided that the total value of the Unfunded Contributions payable by any Member in respect of a particular Default may not exceed the value of the Contribution of such Member as calculated on the last Determination Date prior to the date when the relevant Default occurred.

- (e) Following a Default in respect of which Unfunded Contributions were paid (the "**First Default**"), the Clearing House may require the payment of further Unfunded Contributions in respect of subsequent Defaults, (which, for the avoidance of doubt, can never be a First Default), provided that Unfunded Contributions will not be payable in respect of any more than three Defaults in any six month period (commencing on the date of delivery of the first Unfunded Contribution Notice in respect of the First Default).
- (f) Members shall deposit the full amount of each Unfunded Contribution (without exercising any rights of set-off or counterclaim) with the Clearing House on the business day following receipt of an Unfunded Contribution Notice.

For the avoidance of doubt, references to "Members" for the purposes of this Rule include any Member (other than a defaulter) who is: (i) a Retiring Member but whose status as a Member has not yet been terminated; and (ii) a Resigning Member whose resignation from the Service is not yet effective.

#### **C7. Cooling Off and Replenishment of Fund**

- (a) This Rule applies where, after a Default, the Clearing House has applied part or all of a Contribution under Rule 26 or Rule 28. Upon such application the Fund Amount shall be reduced forthwith by the aggregate amount of the Contributions or parts of Contributions so applied, and (subject to the following provisions of this Rule) the amount of the Contribution that each Member must maintain with the Clearing House shall be reduced by the amount of its Contribution which has been applied pursuant to Rule 28, in each case until the next Determination Date. Unless and until the Clearing House has repaid a defaulter's Contribution, the Fund Amount shall be treated as having been reduced by the amount of the defaulter's Contribution (if any) regardless of whether the Clearing House has applied part or all of that Contribution under Rule 26.
- (b) If following the issuance of a notice to the effect that it has completed the management of a Default (a "**Default Management Completion Notice**") the aggregate amount of Fund Amount determined in accordance with paragraph (a) of this Rule E7 is less than the Fund Floor, the Clearing House may notify each Non Defaulting Clearing Member that it is required to make a supplementary Contribution until the next Determination Date, based on the proportion that the value of its Contribution as at the last Determination Date prior to the date when the relevant Default occurred bears to the value of the aggregate Contributions of all Non-Defaulting Clearing Members as at such date, so as to maintain the Fund Amount at no less than the Fund Floor. Supplementary Contributions required hereunder shall be paid within two business days after notification and in accordance with the Procedures.

- (c) For a further period (a "***Cooling Off Period***") of 30 calendar days from (and including) any day on which the Clearing House has issued a Default Management Completion Notice after an application pursuant to Rule 26 or Rule 28, calculation of the Fund Amount and the Contributions of Members in accordance with Rule C3 shall be suspended.
- (d) Each Member's Contribution during a Cooling Off Period shall be no less than the Minimum Contribution.
- (e) Notwithstanding Rule 33, if a Member which is not a defaulter notifies the Clearing House within two business days after the issue of a Default Management Completion Notice that it wishes to resign from the Service: assuming all other requirements for termination of its membership have been satisfied by the end of the Cooling Off Period, such Member shall cease to be treated as a Member for the purpose of Rule C3 on the next Determination Date, and its Contribution shall (unless utilised in the interim in accordance with Rule 28) be repaid by the Clearing House following that Determination Date in accordance with the Procedures. A Member which has notified its wish to resign remains liable under Rule C8 until the effective date of its resignation.
- (f) The first business day after a Cooling Off Period shall exceptionally be a Determination Date; and the Fund Amount determined on such exceptional Determination Date shall remain in effect until the first business day of the next calendar month.
- (g) There may not be more than three exceptional Determination Dates of the type described in (f) above in any period of six months.

**C8. Loss Allocation**

- (a) At any time after a Default, the Clearing House may determine that the Excess Loss resulting from the Default will exceed the resources available to be applied to it under Rule 16(a) to (g). If the Clearing House makes such a determination then the Clearing House may implement the process (the "***Loss Distribution Process***") described in this Rule C8 in order to mitigate the LCH Uncovered Loss. For these purposes, the difference between the Excess Loss as determined by the Clearing House on that day and such resources remaining available on that day shall be the "***LCH Uncovered Loss***".
- (b) *Definitions*

In this Rule C8, the following definitions apply:

"***Loss Distribution Day***" means any business day in a Loss Distribution Period on which the Clearing House, prior to calling for cover in respect of margin in accordance with the provisions of the Procedures on such business day, determines that the LCH Uncovered Loss for that business day is greater than zero.

**"Loss Distribution Period"** means the period from, but excluding, the day on which a Default occurs with respect to a Member to the business day on which all Loss Distribution Charges in respect of such Default have been paid in full.

(c) *Loss Distribution Charges*

- (i) On each Loss Distribution Day, each Non-Defaulting Clearing Member shall pay to the Clearing House a **"Loss Distribution Charge"** which is equal to the product of (x) the LCH Uncovered Loss in respect of that Loss Distribution Day and (y) the proportion which that Member's Contribution bears to the aggregate of the Contributions of all Non-Defaulting Clearing Members, provided that the cumulative total of all such Loss Distribution Charges that a Non-Defaulting Clearing Member is required to pay in respect of all Loss Distribution Days relating to that Default shall not be greater than the Loss Distribution Cap Amount in respect of that Non-Defaulting Clearing Member. For this purpose, **"Loss Distribution Cap Amount"** means an amount equal to the Contribution of such Member as calculated at the last Determination Date (disregarding any Determination Date arising after the Default occurred).
- (ii) Any Loss Distribution Charge shall be paid by the Member to the Clearing House in accordance with the Procedures.

(d) *Application of Loss Distribution Charges*

The Clearing House shall apply all payments it receives in respect of Loss Distribution Charges solely for the purposes of meeting any loss incurred by the Clearing House in relation to the defaulter's Contracts.

(e) *No Rebate*

Subject to Rule C9 and Rule C10(c) the payment to the Clearing House by any Member of any Loss Distribution Charge shall be final and shall not give rise to any obligation of the Clearing House to repay any such amount or to pay any interest thereon.

(f) *Ballot*

If on a Loss Distribution Day, the LCH Uncovered Loss exceeds the aggregate amount of Loss Distribution Charges which the Clearing House may be entitled to receive under paragraph (c), the Clearing House may seek approval of Non-Defaulting Clearing Members for a proposal to increase the Loss Distribution Cap Amount for the purposes of the relevant Default to an amount beyond that specified in paragraph (c). Approval shall only be treated as given if, in a ballot: (i) at least 95% by number (rounding fractions upwards to the next 5%) of Members eligible to vote have voted, and no Member which has voted has voted against the proposal; or (ii) in the event that there are more than two but fewer than 20 Members, no more than one Member eligible to vote has voted against the proposal.

C9. **Application of Recoveries**

- (a) The Clearing House will apply any recovery, first to the reimbursement of payers of Loss Distribution Charges, and then to reimburse any Members or other persons to whom recourse has been made under Rule 16(d) to (g), but in reverse order to that in which they appear in Rule 16. In relation to payers of Loss Distribution Charges, any partial recovery will be distributed pro rata to the aggregate payments made by those payers. For the purposes of this Rule, a recovery comprises:
- (i) any amounts received from the defaulter as a result of the Clearing House being a creditor of the defaulter in respect of the Business of such defaulter in the context of the occurrence of any of the events under Rule 5(i) to (p) in respect of the defaulter or otherwise, other than in respect of sums due to the Clearing House for its own account; or
  - (ii) any other amounts howsoever obtained or recovered in the course of the management of the Default or which are otherwise referable to the Default or the defaulter,

in each case net of any related expenses incurred by the Clearing House or other sums owing to the Clearing House by the defaulter in connection with the Service.

- (b) Nothing in this Rule C9 shall oblige the Clearing House to pursue any litigation or take other action in order to recover the amounts contemplated hereby.
- (c) If a Contribution made by a defaulter to another default fund of the Clearing House has been applied to losses in respect of Contracts registered on an account of the defaulter, any amounts recovered shall be applied *pari passu* as between the relevant default funds.

C10. **Service Closure**

- (a) Where, after the Default of one or more Members, the Clearing House determines that, notwithstanding the availability of any resources remaining under Rule 16(a) to (g) and the availability of the Loss Distribution Process under Rule C8, the Clearing House does not have sufficient resources to meet its obligations and liabilities arising in respect of Contracts to which it is party with Non-Defaulting Clearing Members, the Clearing House shall make a further determination (an "***Insufficient Resources Determination***") that the Clearing House does not have sufficient available resources under Rule 16(a) to (g) and via the Loss Distribution Process under Rule C8 to meet its obligations and liabilities arising in respect of those Contracts to which it is party with Non-Defaulting Clearing Members, and the provisions of this Rule shall have effect.
- (b) All outstanding Contracts shall be closed out as of the business day following the date of the Insufficient Resources Determination and any further

obligations to make any payments under or in respect of such Contracts shall cease. The closing prices used shall be prices calculated by the Clearing House in accordance with the methodology used by it to carry out end of day margin runs in respect of the outstanding Contracts. Where such data is not available to the Clearing House, the closing price shall be the last price used by the Clearing House to calculate the variation margin requirement for the position to be closed out.

- (c) On the basis of the close out values established for each outstanding Contract, an account shall be taken (as at the time of close out) of what is due, in respect of each Member, from that Member to the Clearing House and from the Clearing House to that Member, as well as all other amounts owing under or in respect of such Contracts and any other amounts that may be due in respect of the Service (including for these purposes, a proportionate share of any amounts owed generally to or from the Clearing House), and the sums due from the Member shall be set off against the sums due from the Clearing House and only the balance of the account shall be payable. Amounts due in respect of such Contracts shall include, but not be limited to, returns of variation margin associated therewith and returns of Loss Distribution Charges, but shall exclude the repayment of any cash initial margin or any Contributions.

To the extent that the aggregate of all of the amounts owed to the Clearing House by Members plus all of those other resources applicable to the Service under Rule 16(a) to (g) that have not been applied towards an Excess Loss is less than the aggregate of the amounts owed to Members by the Clearing House, each amount owed to Members by the Clearing House shall be reduced pro rata the shortfall.

- (d) The Clearing House shall determine any amounts due to each Member in respect of the repayment of any cash initial margin and outstanding Contributions to be repaid. The claim of each such Member in respect of the foregoing shall be limited to a pro rata share of the assets available to the Clearing House to satisfy those amounts.
- (e) For each Member, the amount due to it or due from it as determined pursuant to (c) above shall be aggregated with its claim determined pursuant to (d) above and only the net sum shall be payable. Where the result of such calculations is that a Member owes an amount to the Clearing House, that Member shall pay that amount to the Clearing House immediately. Where the result of such calculations is that a Member is owed an amount by the Clearing House, the Clearing House shall pay that amount to the Member immediately, subject to (g) below.
- (f) The payment of such amount to a Member pursuant to (e) above, subject to any re-calculations performed pursuant to (g) below, shall constitute the full and final payment in respect of the Service and such Member shall not be permitted to make any further claims on the Clearing House in respect of amounts relating to the Service nor shall it be permitted to notify the Clearing House of a Termination Date pursuant to Regulation 39A for a failure to pay any amounts in relation to the Service.



- (g) The Clearing House may make the payments due under (e) above in one or more instalments to the Members in proportion to the value of their claims on the Clearing House under (c) above if some but not all of the amounts due under (e) above or Rule 16(a) to 16(g) have not yet been received. The Clearing House shall take reasonable steps to recover such amounts and may deduct therefrom reasonable administration costs for such recovery. To the extent that the Clearing House determines that any such amounts will not in fact be recoverable, it shall re-determine the amounts due to Members in accordance with this Rule.
- (h) This Rule shall not be applied in the event that a Termination Date has been specified in relation to the Clearing House in accordance with Regulation 39A.
- (i) Nothing in the foregoing shall override the obligation of the Clearing House to return initial margin provided by way of security to a Member pursuant to its Regulations and Procedures.

**C11. Ballot Arrangements**

- (a) No proposal for any of the amendments set out in paragraphs (i), (ii), (iii), or (iv) below (each a "*Commodities Default Fund Amendment*") shall be capable of coming into effect unless first approved in a ballot of Members:
  - (i) any amendment providing for a change in the nature of the liabilities for which a Member's indemnity is given in respect of Commodities Business by virtue of Rule 28;
  - (ii) any amendment which, in the opinion of the Board of Directors of the Clearing House would represent a significant change in the commitments of the Commodities Clearing Members but not in the commitments of any other Members;
  - (iii) any increase in the maximum size of the Fund Amount for the purposes of Rule C2 beyond USD 2,500,000,000 (or such other level as has been approved in a ballot); and
  - (iv) any amendment to the amount of the Minimum Contribution or the definition of the Fund Floor.
- (b) For the purposes of a ballot conducted pursuant to this Rule, the provisions of clauses 9.4, 9.6 and 9.7 of the Clearing Membership Agreement shall apply with the following amendments:
  - (i) the words "major amendment to the Default Fund Rules" in the first line of clause 9.4 of the Clearing Membership Agreement shall be read as "Commodities Default Fund Amendment";
  - (ii) all references to "Clearing Members" shall be read as references to "Commodities Clearing Members";
  - (iii) in paragraph (c) of clause 9.4 of the Clearing Membership Agreement, the reference to "Quarter Day" shall be replaced with a reference to

Determination Date, as such term is used in the Commodities Default Fund Supplement to the Default Fund Rules;

- (iv) references to "Contributions" and "Fund Amount" shall be read in accordance with the Commodities Default Fund Supplement to the Default Fund Rules; and
- (v) the reference to "clause 9.4" in clause 9.6 of the Clearing Membership Agreement shall be construed accordingly.