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## PROCEDURES

These LCH.Clearnet LLC Procedures (the “**Procedures**”), together with the LCH.Clearnet Regulations (the “**Regulations**”), form the Rulebook of LCH.Clearnet LLC. Except where the context otherwise requires, defined terms used and not defined herein have the meaning ascribed to them in the Regulations.

Section 1 and Sections 3–8 of these Procedures are generally applicable to all Clearing Members and all products cleared by the Clearing House unless otherwise expressly stated. Section 2 of these Procedures contain certain requirements and procedures that are specific to individual products (currently only SwapClear Contracts) cleared by the Clearing House.

Any reference to time contained in these Procedures shall, unless otherwise stated, be to New York City time. Times are shown using the twenty four hour clock.

### **1. CLEARING MEMBER AND DEALER STATUS**

#### **1.1 Clearing Member and SwapClear Dealer Application Procedure**

- (a) **Application Procedure:** An application for Clearing Member status or for SwapClear Dealer status with the Clearing House, must be made on the appropriate form, which can be obtained from the Clearing House’s Membership Department. Additional information (including legal documents) must be supplied where required and submitted to the Clearing House with the completed form.

Applicants approved by the Clearing House for Clearing Member or SwapClear Dealer status (“**Approved Applicants**”) must, within three months of notification of their approval as an applicant, fulfill all conditions attached to their approval. If an Approved Applicant does not fulfill all such conditions within these three months, the Clearing House may, at its sole discretion, consider the grant of approval to have lapsed and notify the prospective Clearing Member or SwapClear Dealer accordingly that they will be required to provide further information, following which the application may be submitted for re-approval.

Approved Applicants for Clearing Member status will become Clearing Members with the right to clear Contracts. Approved Applicants for SwapClear Dealer status will be admitted to the Register of SwapClear Dealers. Please note that Clearing Member or SwapClear Dealer status does not provide membership in the company LCH.Clearnet LLC or any right to a shareholding therein, nor does it provide the right to any shareholding in LCH.Clearnet Group Limited or any entitlement or right to participate in any way in LCH.Clearnet Limited or LCH.Clearnet SA or the respective clearing services those entities offer. LCH.Clearnet Limited and LCH.Clearnet SA have their own respective arrangements and admission criteria for Clearing Member status – see the LCH.Clearnet Limited and LCH.Clearnet SA sections of the LCH.Clearnet website for further details.

- (b) **Clearing Member Status:** The terms and conditions binding on each Clearing Member are set out in the Rulebook (which includes these Procedures) and the

Clearing Membership Agreement, each as amended from time to time. Two copies of the Clearing Membership Agreement will be provided to the applicant who must sign both copies (but not date them) and return them to the Clearing House's Membership Department along with the application documentation.

Each applicant must pay the stipulated application fee to the Clearing House. This fee must accompany the application for Clearing Member status and is non-refundable.

If and when Clearing Member status is granted, new Clearing Members will receive a duly executed (and dated) copy of the Clearing Membership Agreement together with the notification of acceptance and details of any condition(s) attached to such Clearing Member status. Any such grant of Clearing Member status is subject to the applicant paying a Contribution to the Clearing House in respect of the Default Fund (DF), as determined by the Clearing House in accordance with the Rulebook.

- (c) SwapClear Dealer Status: The terms and conditions of admission to the Register of SwapClear Dealers are set out in the SwapClear Dealer Clearing Agreement. Admission to the Register of SwapClear Dealers requires that three copies of the SwapClear Dealer Clearing Agreement be signed by the applicant and its proposed Clearing Member.

The three copies of the SwapClear Dealer Clearing Agreement should be returned, undated, to the Clearing House's Membership Department along with the application documentation.

If and when admission to the Register of SwapClear Dealers is granted, new SwapClear Dealers will receive a duly executed and dated copy of the SwapClear Dealer Clearing Agreement, together with the notification of acceptance and details of any condition(s) attached to their admission. The Clearing House will send, under separate cover, a copy of the duly executed and dated SwapClear Dealer Clearing Agreement to the elected Clearing Member.

- (d) Conditions of Application: An applicant for Clearing Member or SwapClear Dealer status must accept that the Clearing House:

- (i) is entitled to make inquiries of any nature about the applicant and any person connected or associated with the applicant;
- (ii) is entitled to ask the applicant to supply additional information and take whatever steps are necessary to verify information;
- (iii) is entitled to provide and/or disclose information to an Approved Trade Source System, Regulatory Body or other authority, or to the Clearing House's insurers in connection with any form of insurance, or to any person pursuant to the provisions of the CEA, any rules promulgated thereunder, or in accordance with any other statutory or

- regulatory requirement, and in accordance with the terms of the Clearing Membership Agreement;
- (iv) may disclose to any other party the name, address, registered number and details of any exchange or clearing memberships held or applied for; and
  - (v) will attempt to process, consider and decide upon an application in a timely fashion, but owes no duty or obligation to the applicant to do so.
- (e) **FCM Clearing Member Status:** An applicant that wishes to apply for FCM Clearing Member status in order to clear Contracts on behalf of Clients must indicate so to the Clearing House, must fill out any additional application materials required by the Clearing House in connection with such application and must comply with the additional requirements applicable to FCM Clearing Members set forth in the Rulebook.
- (f) **Clearing Member Status Criteria – Generally:**
- An applicant must, in accordance with the Regulations, satisfy the criteria set out in the Regulations and these Procedures in order to be considered for Clearing Member status. These requirements are without prejudice to the provisions of the Clearing Membership Agreement, which must be executed by the applicant, and must equally be met by Clearing Members.
- The Clearing House may, in its sole discretion, refuse an application for membership where it considers it appropriate to do so in accordance with its internal risk management policies and procedures as amended from time to time.
- The applicant and those of its staff who exercise an executive or managerial role, must have a high standard of integrity and a level of knowledge, as determined by and acceptable to the Clearing House, of the nature, risks and obligations of trading in the market they wish to clear.
- The applicant must satisfy the minimum net capital requirements, as set out in the Regulations, or such greater amounts as may be required by the Clearing House.
- The applicant must open Protected Payments System (PPS) bank account(s) at one or more of the bank branches participating in the PPS system in the USA in US dollars and must execute all necessary PPS mandates for House and Client accounts.
- The applicant must maintain a back office:
- (vi) remote from the trading desk;
  - (vii) with adequate systems (including but not limited to computer and communications systems) and records;

- (viii) with an adequate number of administrative staff fully conversant with procedures for the management of business transacted in the contracts cleared by the Clearing House in which the applicant participates; and
- (ix) with such technology and connectivity as may be stipulated by the Clearing House.

Applicants for Clearing Member status and Clearing Members must at all times respond promptly to inquiries or requests for information made by the Clearing House. Such inquiries may require Clearing Members to demonstrate compliance with the applicable clearing membership criteria and/or applicable laws and regulations.

Pursuant to Regulation 102(b)(iv), each Clearing Member must be able to participate successfully, or have: (i) an affiliated Clearing Member (or, alternatively, a non-Clearing Member Affiliate that clears through it or an affiliated Clearing Member) that can participate; or (ii) an LCH Approved Outsourcing Party that can successfully participate in a “fire-drill” run by the Clearing House from time to time. Such “fire drill” may involve submitting a bid for a notional portfolio of trades within a specific currency in a specified timeframe. It is a condition of membership that an applicant demonstrate its ability to perform in “fire-drill”. The “fire-drill” run by the Clearing House during a Clearing Member’s application process is known as the “driving test”. Submission of a bid outside the timeframe specified by the Clearing House or submitting a bid that is unreasonable will constitute a failure of the “fire drill” and may result in: (i) an applicant’s application for Clearing Member status being refused; or (ii) the Clearing House taking certain action with respect to a Clearing Member, including a suspension or loss of such Clearing Member’s Clearing Member status with the Clearing House.

The Clearing House may determine in its sole discretion that a “driving test” is not required with respect to an affiliated Clearing Member (or non-Clearing Member Affiliate, as the case may be) where it considers that the relevant entity has already demonstrated to the Clearing House (or another entity within the LCH.Clearnet Group) that it is capable of passing the “driving test.” A determination by the Clearing House that a “driving test” is not required does not absolve a Clearing Member of its future obligations to comply with the Clearing House’s future requirements with respect to any other “fire drill”.

Each Clearing Member shall at all times continue to comply with the qualifications and requirements set forth in the Rulebook and shall promptly notify the Clearing House if it has breached or reasonably expects to breach any such qualifications or requirements.

Clearing Members are required to notify promptly or pre-notify the Clearing House of any changes which may result in non-compliance with the Clearing Member status criteria as stated in the Rulebook.

- (g) SwapClear Dealer Status Criteria – Generally: An applicant must satisfy the criteria set out below in order to be considered for admission to the Register of

SwapClear Dealers. These requirements are without prejudice to the provisions of the SwapClear Dealer Clearing Agreement, and must equally be met by SwapClear Dealers.

The Clearing House may, in its sole discretion, refuse an application for SwapClear Dealer status where it considers it appropriate to do so in accordance with its internal risk management policies and procedures as amended from time to time.

The applicant and any controller of the applicant, and those of its staff who exercise an executive or managerial role, must have a high standard of integrity and a level of knowledge, as determined by and acceptable to the Clearing House, of the nature, risks and obligations of trading swaps cleared by the Clearing House.

The applicant must be a member of an Approved Trade Source System (as approved by the Clearing House from time to time).

If the applicant is a bank it must, at all times, be appropriately authorized by the banking supervisors of its home country and additionally meet any applicable notification or authorization requirements set by banking supervisors in the United States.

The applicant must maintain a back office:

- (i) remote from both the exchange floor and/or trading desks;
- (ii) with adequate systems (including but not limited to computer and communications systems) and records;
- (iii) with an adequate number of administrative staff fully conversant with procedures for the management of business transacted in the markets and contracts cleared by the Clearing House in which the applicant participates; and
- (iv) with such technology and connectivity as may be stipulated by the Clearing House.

The applicant must have executed and must maintain a SwapClear Dealer Clearing Agreement in the current standard form.

The applicant may specify any number of branches, with agreement from its corresponding Clearing Member, from which it proposes to submit eligible SwapClear Transactions; provided, however, that only branches of the same legal entity as the SwapClear Dealer may be specified. A company which is a different legal entity and which wishes to submit eligible SwapClear Transactions for clearing must apply separately for admission to the Register of SwapClear Dealers. A SwapClear Dealer is entitled to remain on the Register of SwapClear Dealers for so long as a valid SwapClear Dealer Clearing Agreement remains in effect and such SwapClear Dealer remains in compliance with the applicable provisions of the Rulebook. In the event that the SwapClear Dealer Clearing Agreement for any SwapClear Dealer is

terminated, then that SwapClear Dealer shall be removed from the Register of SwapClear Dealers.

The applicant must at all times respond promptly to inquiries or requests for information made by the Clearing House. SwapClear Dealers are required to notify promptly or pre-notify the Clearing House of any changes which may result in non-compliance with the SwapClear Dealer status criteria as stated in the Rulebook.

- (h) **Termination of Clearing Member or SwapClear Dealer Status:** In the event that a Clearing Member or SwapClear Dealer wishes to terminate its Clearing Member status or SwapClear Dealer status, it may do so by giving notice of not less than three months ahead of its proposed termination date. By the close of business on the termination date, any resigning Clearing Member shall ensure that all registered Contracts in its name have been closed-out or transferred so as to ensure that there are no Contracts to which it is party to at the termination date. A resigning Clearing Member should note that any and all Executing Parties for which it clears Transactions will be required to find alternative clearing arrangements by this date or will be unable to enter into Transactions unless such Executing Party already has other clearing arrangements in place. For further information on the resignation process, Clearing Members should contact the Clearing House's Membership Department.

If a Clearing Member or SwapClear Dealer has not been active in clearing Contracts for a continuous period of three months, it may be asked to confirm that it intends to utilize its Clearing Member status or SwapClear Dealer status and, failing a satisfactory response, it may be required to resign their Clearing Member status or SwapClear Dealer status.

## 1.2 **Net Capital**

### 1.2.1 **Net Capital Requirements**

Clearing Members are required to maintain a minimum level of net capital as set out in the Regulations.

### 1.2.2 **Additional Net Capital Requirements**

Additional resources will be required when, in the Clearing House's assessment, a Clearing Member's net capital is not commensurate with its level of business.

The Clearing House shall, on a daily basis, compare the market risk associated with each Clearing Member's Contracts with its level of net capital as reported to the Clearing House in order to ascertain whether, in the Clearing House's opinion, such Clearing Member is sufficiently capitalized to support the level of risk associated with the Contracts to which it is counterparty. In determining whether a Clearing Member is sufficiently capitalized, the Clearing House may also consider:

1. the ratio of Contracts entered into on behalf of a Client compared to those entered for its own account or that of an Affiliate;

2. the Clearing Member's aggregate exposure to other clearing providers and other entities; and
3. the total amount of Margin and Collateral deposited with, transferred to or otherwise delivered to the Clearing House by the Clearing Member.

In the event that the Clearing House considers that the Clearing Member is not sufficiently capitalized to support the level of risk associated with its Contracts, the Clearing House may perform one or more of the following:

1. require that the relevant Clearing Member furnish the Clearing House with additional Margin;
2. prevent or limit the extent to which a Clearing Member may register additional Contracts; or
3. require that the Clearing Member provide the Clearing House with additional information relating to its exposure to other clearing providers or other entities.

### **1.3 Calculation of Net Capital**

#### **1.3.1 Calculation of Net Capital for FCM Clearing Members**

The net capital of FCM Clearing Members is calculated by the Clearing House in accordance with CFTC Regulation 1.17.

#### **1.3.2 Calculation of Net Capital for Non-FCM Clearing Members**

- (a) For Clearing Members who are not FCM Clearing Members, net capital is broadly defined as Permanent Capital plus Additional Capital less Intangible Fixed Assets (including goodwill, development costs, etc (“**Intangible Fixed Assets**”)).

Such Clearing Members must comply with the net capital minimum requirements at all times (see Section 1.2.1).

The Clearing House may vary the definitions below to include forms of capital or to exclude assets, other than those stated. An applicant wishing to determine the acceptability of specific forms of capital or the treatment of particular categories of assets should contact the Clearing House’s Membership Department.

- (i) **Definition of Permanent Capital.** The definition of Permanent Capital includes: issued and fully paid ordinary share capital; issued and fully paid preference share capital; and share premium account and reserves not available for distribution.

Accumulated profit and loss and reserves available for distribution will not be taken into account when calculating Permanent Capital. A deficit in reserves will, however, be deducted from Permanent Capital.

- (ii) **Definition of Additional Capital.** The definition of Additional Capital includes: other equity reserves (distributable or otherwise); profit and loss reserve; redeemable shares; and subordinated loans.

Where loans, subordinated or otherwise, are allowed in a Clearing Member's net capital calculation, the Clearing House may require Clearing Members to provide the Clearing House with details of the terms and conditions of the loan(s) (see Section 1.3.2(d)). The Clearing House may, at its discretion, recognize other long-term loans in the calculation of Additional Capital.

- (b) **Acceptability of Subordinated Loans.** The Clearing House will, in the net capital requirement, allow subordinated loans from a parent company as an acceptable form of capital. Where a Clearing Member relies upon such subordinated loans to meet its minimum requirement, the Clearing House will require assurances that the loan(s) will not be repaid without the prior consent of the Clearing House.

Clearing Members who wish to restructure their net capital such that subordinated loans become key to their meeting the minimum net capital requirement should contact the Clearing House's Membership Department. Clearing Members will be required to enter into an agreement with the Clearing House in the standard form prescribed by the Clearing House for these purposes.

- (c) **Recognition of Irrevocable Letters of Credit.** In cases where the net capital Requirement is significantly greater than a Clearing Member's regulatory capital requirement, the Clearing House may, at its discretion, recognize funds committed to the Clearing House under an Irrevocable Letter of Credit from a third-party bank in determining whether the minimum capital requirement is met, but in any case only up to a maximum of 50% of the minimum capital requirement.

Clearing Members falling into this category and interested in meeting the requirements in this way will be required to enter into a standard form agreement with the Clearing House. That agreement is available from the Clearing House's Membership Department.

## 1.4 **Reporting**

Clearing Members shall provide (without limitation of any other provisions in the Rulebook) the information detailed in this Section 1.4.

### 1.4.1 **Provision of Information**

- (a) All Clearing Members must, within six months from the date on which their annual accounts are made up, provide the Clearing House with an English-language copy of their income statement (or profit and loss statement) and balance sheet, together with a statement that their auditors have reviewed and approved them, in accordance with applicable law in the relevant jurisdiction and, in the case of Clearing Members that are FCMs, in accordance with

CFTC Regulation 1.16. In addition, the Clearing House may at its discretion require the provision of financial accounts for the ultimate or immediate parent of a Clearing Member.

- (b) Each Clearing Member must provide the Clearing House in a prompt and timely manner with:
- (i) copies of all financial returns/reports made to its regulators, and upon request from the Clearing House, any other notifications made to the CFTC as required under the CFTC Regulations (including CFTC Regulation 1.12 in the case of FCM Clearing Members);
  - (ii) those financial reports detailed in CFTC Regulation 1.10 (in the case of FCM Clearing Members);
  - (iii) any information concerning any financial or business development that the Clearing Member reasonably considers may materially affect the Clearing Member's ability to comply with the membership criteria or applicable laws or regulations;
  - (iv) copies of all reports that are required to be filed by it with the CFTC pursuant to parts 17 and 20 of the CFTC Regulations;
  - (v) information and documents regarding the Clearing Member's risk management policies and practices as requested by the Clearing House. Such information shall include, without limitation, information and documents relating to the liquidity of that Clearing Member's financial resources and its settlement procedures;
  - (vi) any other financial information that the Clearing House determines is necessary to assess whether membership criteria are being met on an ongoing basis; and
  - (vii) notice if the Clearing Member becomes the subject of a bankruptcy petition, receivership proceeding, or the equivalent, or any other event of which it is required to notify the Clearing House under the Clearing Membership Agreement or the Rulebook.

In addition, and upon request from the Clearing House or the CFTC, each Clearing Member shall promptly provide the information detailed in (v) above directly to the CFTC.

- (c) The Clearing House and each Clearing Member shall provide to each Clearing Member or the Clearing House, as relevant, (i) any forms or documents specified in a Contract between the Clearing House and the Clearing Member and (ii) any other form, document, statement or certification reasonably requested in writing by the Clearing Member or the Clearing House (provided the Clearing Member or the Clearing House is legally eligible to provide such form, document, statement or certification) in order to allow the Clearing Member or the Clearing House to make a payment under the Rulebook or any Contract without deduction or withholding for or on account of any Tax or

with such deduction or withholding at a reduced rate. In the case of the Clearing House, the forms required pursuant to clause (ii) above include an Internal Revenue Service Form W-9. Additionally, to the extent the Clearing House is entitled to an exemption from, or reduction of, any applicable Tax on account of which a Clearing Member would otherwise be required to make a payment to the Clearing House, the Clearing House will take such further actions as necessary to perfect the exemption from, or reduction of, such Tax.

#### **1.4.2 Regulated Clearing Members**

Regulated Clearing Members must provide the Clearing House with copies of all applicable returns made to their regulators. Clearing Members must provide the Clearing House with copies of all reports that they are required to be filed with the CFTC pursuant to parts 17 and 20 of the CFTC Regulations.

#### **1.4.3 Non-Regulated Clearing Members**

Non-regulated Clearing Members must provide the Clearing House with a quarterly balance sheet and income statement (or profit and loss statement) within 30 days of their quarter-end date. These quarterly statements must be signed by authorized signatories of the Clearing Member, as appropriate. Evidence of signing authority together with specimen signatures must also be provided.

#### **1.4.4 Reduction in Net Capital**

All Clearing Members must immediately notify the Clearing House of any significant reduction (usually 10% or more), from the figures shown in their last financial returns, in:

- (a) shareholders' funds;
- (b) net capital.

### **1.5 Additional Requirements**

#### **1.5.1 Notification of Changes of Ownership**

Clearing Members and SwapClear Dealers are required to notify promptly or pre-notify the Clearing House of any changes in control (defined as the exercise or control of twenty percent (20%) or more of the voting equity of the Clearing Member or SwapClear Dealer or of a parent entity controlling the Clearing Member or SwapClear Dealer). In cases of changes in ownership, and particularly where those potentially acquiring a controlling stake in a Clearing Member or SwapClear Dealer are not known to the Clearing House, Clearing Members and SwapClear Dealers are required to give advance notice to the Clearing House of their plans. The proposed change of ownership may be subject to an approval process involving the Risk Committee and Board of the Clearing House.

#### **1.5.2 Each Clearing Member shall maintain current written risk management policies and procedures which address the risks that the relevant Clearing Member may pose to the Clearing House, including any policies and procedures that the Clearing House may reasonably request be incorporated therein. Upon the request of the Clearing**

House, a Clearing Member shall promptly provide the Clearing House with a copy of its current policies and procedures for review by the Clearing House.

- 1.5.3 Pursuant to and in accordance with Regulation 106(n), where a Client enters into a SwapClear Transaction which results in a SwapClear Contract that is non-hedging in nature, the FCM Clearing Member shall collect from such Client additional Client Funds with a value that is 10% above the Clearing House's level of Required Margin in respect of the relevant SwapClear Contract (such total increased margin requirement being the "**Core Additional Requirement**"). In the event that, subsequently, the level of Required Margin in respect of a SwapClear Contract (without regard to the Core Additional Requirement) exceeds the Core Additional Requirement with respect to such SwapClear Contract (such subsequent margin requirement being the "**Revised Margin Requirement**"), the FCM Clearing Member shall collect Client Funds from its Client with a value that is 10% above the Revised Margin Requirement and going forward the Revised Margin Requirement shall henceforth constitute the Core Additional Requirement for purposes of this provision.

For the avoidance of doubt, this section and Regulation 106(m) do not require that FCM Clearing Members furnish the Clearing House with Excess Margin.

1.6 **Other Conditions**

The Clearing House may, at any time, impose additional conditions relating to continued Clearing Member status or SwapClear Dealer status, and at any time vary or withdraw any such conditions. These conditions may include, but are not limited to, a requirement to deposit additional security in cash or other collateral as determined by the Clearing House.

1.7 **12 U.S.C. § 5390(a)(6) and 12 U.S.C. § 5381(a)(11)**

Where a Clearing Member is a financial company as such term is defined in 12 U.S.C. § 5381(a)(11) it shall comply the requirements 12 U.S.C. § 5390(a)(6) with respect to the execution of the Clearing Membership Agreement and each Transaction that is cleared pursuant to the Clearing Membership Agreement and the Rulebook (and the grant of any related security interest to the Clearing House) and it shall be deemed to have confirmed that it complies with 12 U.S.C. § 5390(a)(6) each time that an transaction is submitted for clearing and it delivers Collateral to the Clearing House. For the avoidance of doubt, individual transactions need not be specifically approved by the Clearing Member's board of directors or any committee thereof so long as they are entered into pursuant to a Clearing Membership Agreement which was approved by the Clearing Member's board or the loan committee thereof

A Clearing Member that is a financial company as such term is defined in 12 U.S.C. § 5381(a)(11) is further required: (i) from the date of entry into the Clearing Membership Agreement (and the grant of any related security interest), to maintain the Clearing Membership Agreement continuously as an official record of that Clearing Member; and (B) from the date of submission of a transaction for clearing

(and the grant of any related security interest), maintain each agreement evidencing each such transaction continuously as an official record of that Clearing Member.

1.8    **Insured Depository Institutions**

Where a Clearing Member is a financial company as such term is defined in U.S. Federal Deposit Insurance Act it shall comply the requirements of 12 U.S.C. § 1823(e) and the policy statements adopted by the Board of Directors of the Federal Deposit Insurance Corporation thereunder with respect to the execution of the Clearing Membership Agreement and each transaction that is cleared pursuant to the Clearing Membership Agreement and the Rulebook (and the grant of any related security interest to the Clearing House) and it shall be deemed to have confirmed that it complies with the requirements of 12 U.S.C. § 1823(e) and the policy statements adopted by the Board of Directors of the Federal Deposit Insurance Corporation thereunder each time that a transaction is submitted for clearing and that Clearing Member delivers Collateral to the Clearing House.

A Clearing Member that is a financial company as such term is defined in 12 U.S. Federal Deposit Insurance Act it is further required: (i) from the date of entry into the Clearing Membership Agreement (and the grant of any related security interest), to maintain the Clearing Membership Agreement continuously as an official record of that Clearing Member; and (B) from the date of submission of a transaction for clearing (and the grant of any related security interest), maintain each agreement evidencing each such transaction continuously as an official record of that Clearing Member.

**2. PRODUCT-SPECIFIC PROCEDURES**

Section 2 of these Procedures contains certain requirements and procedures that are specific to individual products cleared by the Clearing House. Currently, the Clearing House clears the SwapClear Contract product which is discussed below in Section 2A of these Procedures.

## SWAPCLEAR

### **2A. SWAPCLEAR**

#### **2A.1 The Clearing Process**

The SwapClear US Service is an interface that processes and stores all SwapClear Transactions received from an Approved Trade Source System.

For the purposes of the Rulebook, a branch office of a Clearing Member is considered a part of the same legal person as the Clearing Member. Where a SwapClear Transaction is presented for registration by a branch of a Clearing Member, it is deemed to have been presented by, and in the name of, the Clearing Member of which the branch is part.

#### **2A.1.1 SwapClear US Service Functions**

The following functions are performed within the SwapClear US Service:

- (a) processing and settlement of coupon payments;
- (b) processing and settlement of consideration (fee) payments;
- (c) calculation of initial and variation margin requirements;
- (d) calculation of MER amount and SwapClear Tolerance Limits;
- (e) calculation of Price Alignment Interest;
- (f) adjustment of cash payments to conform with Opening Days and the SwapClear Calendars;
- (g) allocation and designation of trades to a position-keeping account; and
- (h) reporting of registered trades.

SwapClear Transactions presented via an Approved Trade Source System (*i.e.*, new trades presented for intra-day registration or existing trades presented for overnight registration – see Section 2A.3.5) will, subject to meeting all requirements prescribed by the Clearing House, be processed and stored within the system for the SwapClear US Service. Information regarding SwapClear Contracts and margin reporting will be disseminated via the clearing member reporting System (see Section 2A.1.3).

#### **2A.1.2 Clearing House System Requirements**

A Clearing Member must, in order to submit SwapClear Transactions to the Clearing House, be a user of an Approved Trade Source System.

### 2A.1.3 SwapClear Clearing Member Reporting System

The Clearing House has various arrangements for the notification to Clearing Members of SwapClear Contract registrations and other information. These make use of systems including the following:

- Report 001;
- Approved Trade Source Systems; and
- The SwapClear API.

An end-user report generation and analytical capability is provided by the Clearing House to Clearing Members. All SwapClear reports will be disseminated via the Clearing House's secure password access Clearing Member-only website. These reports are the definitive record as to registration by the Clearing House.

The Clearing House is not liable for any corruption or alteration of messages or loss of data which may take place in connection with communications with any Approved Trade Source System.

Clearing Members will be able to customize and produce reports either to print locally or to download in machine-readable data-file format. Queries about the Clearing Member-only website should be directed to the Clearing House Service Desk at +1 (212) 513-5660.

## 2A.2 Operating Times And Calendars

### 2A.2.1 Opening Days

The Clearing House will publish a circular detailing the days on which the SwapClear US Service will be open.

### 2A.2.2 Opening Hours

Unless notified otherwise, the SwapClear US Service will be operational during the following hours:

07:30 to 19:01 hours (a “**Business Day**”).

However, Clearing Members should note that Acceptances of a Notification submitted during a Business Day shall be accepted by the Clearing House until 00:01 on the following day. The Clearing House will notify Clearing Members in the event that the SwapClear clearing system is scheduled for closure for operational or other reasons (including compression runs).

### 2A.2.3 SwapClear Clearing System Calendars

The SwapClear clearing system uses the SwapsMonitor Financial Calendar for its processing. This will require all Clearing Members to be licensees of the SwapsMonitor Financial Calendar. The calendars, as applicable to the SwapClear

US Service, will be available online for inspection and for file download from the clearing member reporting system (see Section 2A.1.3).

### 2A.3 **Registration**

#### 2A.3.1 **Executing Parties and Presentation for Clearing**

A SwapClear Transaction may be entered into by and presented for clearing by, or on behalf of, any Executing Party, including Clearing Members (or a branch office of a Clearing Member), SwapClear Dealers, Affiliates and Clients.

The Clearing House receives details of a new eligible SwapClear Transaction using agreed format messages via an Approved Trade Source System. The Approved Trade Source System will send details of a SwapClear Transaction to the Clearing House once it has been bi-laterally agreed by two Executing Parties, or otherwise executed by or on behalf of two Executing Parties on a US Trading Venue or other similar venue or facility, and will confirm which Clearing Member(s) has been elected to register the SwapClear Transaction. For the avoidance of doubt, an Executing Party may appoint a third party to present details of a SwapClear Transaction to the Clearing House on its behalf.

#### 2A.3.2 **Clearing House Notification**

In the case of a Clearing Member which has been nominated to register a SwapClear Transaction on behalf of a third party Executing Party other than a SwapClear Dealer, the Clearing House will (only where such SwapClear Transaction is not a US Trading Venue Transaction) provide notification to such Clearing Member of the relevant SwapClear Transaction and the fact that it has been so nominated, via member reports, the SwapClear API or otherwise (the “**Notification**”). Where a SwapClear Clearing Member is nominated to clear both SwapClear Contracts arising from the registration of such a SwapClear Transaction, such SwapClear Clearing Member will receive two separate Notifications from the Clearing House in relation to such SwapClear Transaction.

In respect of a SwapClear Transaction that is not a US Trading Venue Transaction, following receipt of a Notification, a Clearing Member may choose to accept or refuse consent to register the SwapClear Transaction. It is a condition for registration of such a SwapClear Transaction that a Clearing Member grants a separate consent in respect of each Notification received by it in relation to the registration of such SwapClear Transaction. The Clearing House has an automated system which it operates on each business day (currently at or around 15:00 hours) for the purposes of rejecting SwapClear Transactions which have been presented for clearing but in respect of which any consent to a Notification (each a “**Necessary Consent**”) has not been notified to the Clearing House prior to the LCH Cut-off Time. The “**LCH Cut-off Time**” in respect of a SwapClear Transaction will be the time on the Business Day following the day when the relevant SwapClear Transaction was presented for clearing at which the reject system is operated by the Clearing House and the relevant SwapClear Transaction is itself rejected by such system. If a Clearing Member has not notified the Clearing House of a Necessary Consent by the LCH Cut-off Time, it will be deemed to have rejected the relevant SwapClear Transaction. Any Necessary Consent of a SwapClear Transaction

notified by a Clearing Member to the Clearing House prior to the LCH Cut-off Time is irrevocable. Any Necessary Consent notified by a Clearing Member to the Clearing House after the LCH Cut-off Time shall be invalid.

In circumstances where the registration of a SwapClear Transaction is conditional upon one or more Necessary Consent(s) being notified to the applicable Clearing Member(s), the relevant SwapClear Transaction shall be deemed to have been “submitted” to the Clearing House by each such Clearing Member at the time when it notifies the Clearing House of its Necessary Consent. In all other circumstances, a SwapClear Transaction shall be “submitted” to the Clearing House by the applicable Clearing Member upon being presented to the Clearing House for clearing by or on behalf of such Clearing Member (or its branch) or by or on behalf of a SwapClear Dealer (acting in such capacity with respect to the relevant SwapClear Transaction) approved to clear SwapClear Transactions through the relevant Clearing Member.

In accordance with Section 2A.3.4 of these Procedures, it is a condition for registration of a SwapClear Contract that the applicable Clearing Member has complied with all requirements to furnish sufficient Margin (taking into account SwapClear Tolerance, if any) to the Clearing House as of the time of “submission” or “deemed submission” of the SwapClear Transaction to which the SwapClear Contract relates, except that such Margin shall be required to be furnished prior to registration as a condition thereto only if such SwapClear Contract results from a SwapClear Transaction that is a Block IRS Trade. For the avoidance of doubt, in respect of the registration of a SwapClear Transaction that is a Block IRS Trade, both Clearing Members must have complied with all requirements to furnish sufficient Margin (taking into account SwapClear Tolerance, if any) at the time when both SwapClear Contracts relating to the relevant SwapClear Transaction have been submitted or deemed to be submitted (as applicable).

#### **2A.3.3 Trade Registration Facilitation: SwapClear Tolerance and Minimum Excess Requirement (“MER”)**

In order to facilitate the registration of new SwapClear Transactions by Clearing Members, the Clearing House may require the furnishing of additional Margin from those Clearing Members participating in the MER Arrangements (as defined below) at the relevant time and may offer SwapClear Tolerance on a daily basis, as further described below.

The Clearing House will set MER requirements (where applicable) and SwapClear Tolerance Limits (as defined below) based on a number of factors, including a Clearing Member’s credit rating and risk profile, an analysis of the incremental risk registered by a Clearing Member during an historic look-back period and, in the case of the overall value of the SwapClear Tolerance which may be made available to a Clearing Member, whether the Clearing Member is a participant in the MER Arrangements at the relevant time. However, the Clearing House sets MER requirements and SwapClear Tolerance Limits in its sole discretion, and may modify its methodologies at any time or may vary it across different Clearing Members.

#### ***SwapClear Tolerance:***

If a Clearing Member has not furnished sufficient Margin to enable the registration of a SwapClear Contract, then the Clearing House may provide such Clearing Member with temporary “tolerance” in the form of Initial Margin forbearance (“**SwapClear Tolerance**”) to enable such registration. A Clearing Member may utilize SwapClear Tolerance in between margin runs on a one-to-one basis to the value of the Initial Margin that would have been required to cover that Clearing Member’s Initial Margin requirements for newly registered SwapClear Contracts registered in between margin runs. For the avoidance of doubt, SwapClear Tolerance is provided in the form of temporary Initial Margin forbearance and a Clearing Member’s utilization of SwapClear Tolerance does not give rise to any payment or transfer of collateral by the Clearing House or result in any use of Default Fund resources (except following a Default). For the purposes of determining Tolerance Utilization in respect of each Clearing Member, the Clearing House shall apply such determination of SwapClear Tolerance as it deems appropriate in its discretion (which determination of SwapClear Tolerance may not be the same for purposes other than the calculation of Tolerance Utilization). In this regard, any report sent to a Clearing Member relating to SwapClear Tolerance shall not be determinative of the Clearing House’s determination thereof for the purposes of calculating the Tolerance Utilization in respect of such Clearing Member, and the Clearing House may amongst other things apply a buffer below which a Clearing Member will not be deemed to have a Tolerance Utilization regardless of the SwapClear Tolerance provided by the Clearing House.

The Clearing House will determine, in its sole discretion, the maximum value of the SwapClear Tolerance (which may be zero) (the "**SwapClear Tolerance Limit**") which it will make available to a Clearing Member at any particular time. SwapClear Tolerance is made available by the Clearing House to a Clearing Member at the Clearing House’s sole discretion. The Clearing House may adjust the value of a Clearing Member’s SwapClear Tolerance Limit, and/or require a Clearing Member to provide Initial Margin in respect of any utilized SwapClear Tolerance, at any time and without prior notice to the relevant Clearing Member. The Clearing House will provide each Clearing Member with information regarding its SwapClear Tolerance Limit and will, as promptly as reasonably practicable, notify it following any adjustment to the amount of its SwapClear Tolerance Limit. Subject to the above, a Clearing Member will typically be required to deliver Initial Margin in respect of any SwapClear Tolerance utilized by it in the margin run immediately following the time of the relevant registration of a SwapClear Contract where SwapClear Tolerance was utilized.

Any failure of a Clearing Member to satisfy an Initial Margin call relating to utilized SwapClear Tolerance may give rise to a Default by such Clearing Member — just as any failure by a Clearing Member to satisfy any other type of Initial Margin call may give rise to a Default.

#### ***Minimum Excess Requirement (“MER”):***

The Clearing House has put in place arrangements (the "**MER Arrangements**") (which will be optional for Clearing Members) under which it will be able to call from each relevant Clearing Member an amount of Margin (the "**MER Margin**”), in respect of that Clearing Member’s potential Margin requirements (with respect to the registration of SwapClear Contracts) for the following day.

The Clearing House will calculate MER for each participating Clearing Member using the same methodology and will publish such methodology to Clearing Members. The Clearing House will provide 30 days' notice before implementing any changes to the methodology used for calculating MER.

Clearing Members are not required to participate in the MER Arrangements unless and until they elect to do so. In the event that a Clearing Member wishes to change its participation status (the "**Participation Status**") from opting in to the MER Arrangements to opting out, or vice versa, it should contact the Clearing House to request applicable documentation (swapclear.clientservices@lchclearnet.com). Changes in Participation Status are processed at the end of each month. All relevant documentation must be completed and returned to the Clearing House no later than 5 Business Days prior to the end of the month preceding the month to which the change in Participation Status applies. A Clearing Member's Participation Status will remain unchanged until the Business Day following the day that the Clearing House confirms via email that the change in Participation Status has been processed. The Clearing House shall be entitled to treat the Participation Status of a Clearing Member as continuing unchanged from month to month until such time as appropriate notice is received from such Clearing Member and processed by the Clearing House in accordance with the provisions of this paragraph.

Each Clearing Member participating in the MER Arrangements will be called for MER Margin separately in respect of its Proprietary Account and/or its Omnibus Client Swaps Account with LCH. MER Margin required by the Clearing House is part of a Clearing Member's required Initial Margin. Hence, for the avoidance of doubt, failure to deliver MER when required by the Clearing House will constitute a breach of these Procedures and the Regulations. MER Margin furnished to an Omnibus Client Swaps Account with LCH is credited to its Buffer Sub-Account, and treated as Buffer. Any Buffer (but not including Encumbered Buffer) maintained in an Omnibus Client Swaps Account with LCH at End of Day is credited towards the satisfaction of any MER requirements applicable to such account during the End of Day margin run.

As SwapClear Contracts are registered to a Clearing Member's relevant accounts, the Clearing House will apply any available MER Margin (which is treated as Buffer when held in an Omnibus Client Swaps Account with LCH) as Initial Margin in respect of such newly registered SwapClear Contracts prior to utilizing any available SwapClear Tolerance (if any).

At each End of Day margin run, the Clearing House will recalculate and call, on an account by account basis, Required Margin in respect of the MER requirements applicable to each Clearing Member participating in the MER Arrangements on such day.

## 2A.3.4 Approved Trade Source Systems and US Trading Venues

### 2A.3.4.1 Approved Trade Source Systems

Currently the Approved Trade Source Systems designated by the Clearing House for SwapClear are MarkitWire, Bloomberg, Javelin, TeraExchange and Tradeweb.

Where the Clearing House approves additional Approved Trade Source Systems, it will notify Clearing Members via a member circular.

SwapClear Transactions presented through an Approved Trade Source System must be in an acceptable message format, as prescribed by the Clearing House.

NOTWITHSTANDING THE DESIGNATION BY THE CLEARING HOUSE OF ANY SYSTEM AS AN APPROVED TRADE SOURCE SYSTEM, THE CLEARING HOUSE MAKES NO WARRANTY (AND WILL ACCEPT NO LIABILITY) AS TO THE EFFECTIVENESS, EFFICIENCY, PERFORMANCE OR ANY OTHER ASPECT OF THE SERVICES PROVIDED BY ANY APPROVED TRADE SOURCE SYSTEM OR THE TIMELINESS OR OTHERWISE OF THE DELIVERY OF ANY SWAPCLEAR TRANSACTION DETAILS BY THAT APPROVED TRADE SOURCE SYSTEM TO THE CLEARING HOUSE. SUCH MATTERS FORM PART OF THE RELATIONSHIP BETWEEN THE CLEARING MEMBERS AND THAT APPROVED TRADE SOURCE SYSTEM.

The Clearing House will process any SwapClear Transaction reported to it by an Approved Trade Source System on an “as is” basis and, subject to the Regulations and these Procedures, will register any such SwapClear Transaction on the basis of the data provided to it by the Approved Trade Source System and approved by the relevant Clearing Member. The Clearing House has no obligation to verify that the details received properly reflect the trade entered into by the relevant Executing Parties.

THE CLEARING HOUSE ACCEPTS NO LIABILITY FOR ANY ERROR WITHIN OR CORRUPTION OF ANY DATA SENT BY AN APPROVED TRADE SOURCE SYSTEM TO THE CLEARING HOUSE OR TO A CLEARING MEMBER OR ANY DELAY IN OR FAILURE OF THE TRANSMISSION OF SUCH DATA TO THE CLEARING HOUSE. IN THE EVENT THAT THE CLEARING HOUSE REGISTERS ANY SWAPCLEAR CONTRACT ON THE BASIS OF INCORRECT OR CORRUPTED DATA SENT TO IT BY AN APPROVED TRADE SOURCE SYSTEM AND ACCEPTED (WHETHER AUTOMATICALLY OR MANUALLY, AS APPLICABLE) BY A CLEARING MEMBER, THE CLEARING MEMBER CONCERNED SHALL BE BOUND BY THE TERMS OF SUCH SWAPCLEAR CONTRACT. THE CLEARING HOUSE SHALL USE ITS REASONABLE BEST EFFORTS TO ASSIST THE RELEVANT CLEARING MEMBER(S) IN RE-REGISTERING THE TRADE ON THE CORRECT BASIS BUT THE CLEARING HOUSE SHALL NOT BE LIABLE TO A CLEARING MEMBER OR TO ANY OTHER PARTY WITH REGARD TO THE REGISTRATION (OR LACK OF REGISTRATION OR RE-REGISTRATION) OF ANY SUCH SWAPCLEAR CONTRACT.

Clearing Members shall ensure that Necessary Consents are provided by appropriately authorized personnel. Apart from in respect of Necessary Consents, the Clearing House is not able to, and will not, verify the authorization of the source of any details of any transaction reported to it for registration by any Approved Trade Source System. THE CLEARING HOUSE SHALL HAVE NO LIABILITY IN THE EVENT THAT ANY CLEARING MEMBER SUFFERS ANY LOSS

THROUGH THE UNAUTHORIZED GRANTING OF A NECESSARY CONSENT.

#### 2A.3.4.2 US Trading Venues

While the Clearing House receives details of a SwapClear Transaction via an Approved Trade Source System pursuant to Section 2A.3.1 of these Procedures, such Approved Trade Source System may in providing such details to the Clearing House rely upon similar details delivered to it by a US Trading Venue (where such SwapClear Transaction is executed on such US Trading Venue). Additionally, the Clearing House may rely on details relating to a SwapClear Transaction obtained from a US Trading Venue for verification purposes or in order to generate reports or to exercise its rights or discretion under Regulation 401. In this regard, the Clearing House may direct the US Trading Venues to use prescribed format messages or classifications.

NOTWITHSTANDING THE APPROVAL BY THE CLEARING HOUSE OF ANY US TRADING VENUE, THE CLEARING HOUSE MAKES NO WARRANTY (AND WILL ACCEPT NO LIABILITY) AS TO THE EFFECTIVENESS, EFFICIENCY, PERFORMANCE OR ANY OTHER ASPECT OF THE SERVICES PROVIDED BY ANY US TRADING VENUE OR THE TIMELINESS OR OTHERWISE OF THE DELIVERY OF ANY SWAPCLEAR TRANSACTION DETAILS BY THAT US TRADING VENUE TO THE CLEARING HOUSE. SUCH MATTERS FORM PART OF THE RELATIONSHIP BETWEEN THE CLEARING MEMBERS AND THAT US TRADING VENUE.

The Clearing House will process any SwapClear Transaction reported to it by a US Trading Venue on an “as is” basis and, subject to the Regulations and these Procedures, will register any such SwapClear Transaction on the basis of the data provided to it by the Approved Trade Source System and the relevant US Trading Venue. The Clearing House has no obligation to verify that the details received properly reflect the trade entered into by the relevant Executing Parties or that the US Trading Venue is correctly applying the format messages or classifications that the Clearing House has prescribed.

THE CLEARING HOUSE ACCEPTS NO LIABILITY FOR ANY ERROR WITHIN OR CORRUPTION OF ANY DATA SENT BY A USE TRADING VENUE TO THE CLEARING HOUSE OR TO A CLEARING MEMBER OR ANY DELAY IN OR FAILURE OF THE TRANSMISSION OF SUCH DATA TO THE CLEARING HOUSE. IN THE EVENT THAT THE CLEARING HOUSE REGISTERS ANY SWAPCLEAR CONTRACT ON THE BASIS OF INCORRECT OR CORRUPTED DATA SENT TO IT BY A US TRADING VENUE AND ACCEPTED (WHETHER AUTOMATICALLY OR MANUALLY, AS APPLICABLE) BY A CLEARING MEMBER, THE CLEARING MEMBER CONCERNED SHALL BE BOUND BY THE TERMS OF SUCH SWAPCLEAR CONTRACT. THE CLEARING HOUSE SHALL USE ITS REASONABLE BEST EFFORTS TO ASSIST THE RELEVANT CLEARING MEMBER(S) IN REGISTERING THE TRADE ON THE CORRECT BASIS BUT THE CLEARING HOUSE SHALL NOT BE LIABLE TO A CLEARING MEMBER OR TO ANY OTHER PARTY WITH REGARD TO THE REGISTRATION (OR LACK OF

REGISTRATION OR RE-REGISTRATION) OF ANY SUCH SWAPCLEAR CONTRACT.

### 2A.3.5 Registration of New Trades and Backloaded Trades

#### 2A.3.5.1 *New Trades:*

The following section does not apply to Backloaded Trades, which are dealt with in Section 2A.3.5.2 below.

As a precondition of registering a SwapClear Contract, the Clearing House may require the Clearing Member in whose name such SwapClear Contract is to be registered to provide no later than the time of “submission” or “deemed submission” of the SwapClear Transaction to which the SwapClear Contract relates (and thereafter maintain) sufficient Margin in respect of such SwapClear Contract. In determining whether sufficient Margin for registration is available, the Clearing House will take into account any available Buffer, MER and SwapClear Tolerance. Available Buffer or MER will always be applied prior to taking into account any available SwapClear Tolerance.

Upon a SwapClear Transaction being submitted to the Clearing House for registration and the conditions to registration specified in Regulation 401 having been satisfied in respect of the related SwapClear Contracts, the SwapClear clearing system will respond, after processing, with a message confirming the registration. The registration notification message will be sent using the clearing member reporting system (including by way of the originating Approved Trade Source System). The definitive report of a registered SwapClear Contract will be shown within the clearing member reporting system (see Section 2C.1.3) on the SwapClear clearing member reporting account.

#### 2A.3.5.2 *Backloaded Trades:*

A SwapClear Transaction that has a Trade Date of greater than ten calendar days prior to the date of submission is considered a Backloaded Trade by the Clearing House (a “**Backloaded Trade**”). Due to the nature of Backloaded Trades, Clearing Members should note that a relatively large amount of Margin is required in order to register such trades. The Clearing House provides the facility for Clearing Members to load such eligible existing SwapClear Transactions through an Approved Trade Source System. Where the Clearing House approves additional Approved Trade Source Systems for these purposes, it will notify Clearing Members via a member circular. Backloading requires bilateral agreement between the relevant Executing Parties and the granting of acceptance by the Clearing Member(s) of the full particulars required by the Clearing House for each such SwapClear Transaction.

At least once every Business Day, the Clearing House will carry out a process for the registration of Backloaded Trades (each a “**Backload Registration Cycle**”) which have been presented for clearing or with respect to which the Clearing House has received the one or more Necessary Consents, if any. Following each Backload Registration Cycle, the Clearing House will calculate the increase in incremental Margin required to register the Backloaded Trade(s) and will notify each relevant SwapClear Clearing Member (the “**Backload Margin Call**”). The Backload Margin Call will be for the entire amount of incremental Margin required in connection with

the Backloaded Trade(s), and the Backload Margin Call cannot be satisfied by and will not take into account SwapClear Tolerance (i.e., SwapClear Tolerance is not available for this purpose), or any available MER Cover or any form of excess Margin (other than that which has been expressly allocated for that purpose, as described in the paragraph below). In connection with a Backload Margin Call, following the time that a SwapClear Clearing Member is required to deliver to the Clearing House the Margin associated with such Backload Margin Call (the “**Backload Margin Call Deadline**”), the Clearing House will issue such SwapClear Clearing Member a subsequent margin call to deliver Margin in respect of any increase in SwapClear Tolerance utilisation as of the time of the Backload Margin Call Deadline (if any).

Where an individual SwapClear Clearing Member determines that the Backloaded Trade(s) that it is submitting for registration will lead to an aggregate change (be it either an increase or decrease) in the net present value of its portfolio of SwapClear Contracts in excess of a threshold amount (the “**Individual Backload Value Threshold**”) as published by the Clearing House from time to time, it shall notify the Clearing House before the end of the Business Day preceding the Backload Registration Cycle. In the event that the Clearing House does not receive such notification and the change in net present value of the SwapClear Clearing Member’s portfolio of SwapClear Contracts is in excess of the Individual Backload Value Threshold the Clearing House may, in its sole discretion, exclude that SwapClear Clearing Member from the entire Backload Registration Cycle or postpone or cancel the entire Backload Registration Cycle.

Where a SwapClear Clearing Member notifies the Clearing House of a change in net present value in excess of the Individual Backload Value Threshold, the Clearing House shall inform the SwapClear Clearing Member whether it will be required to pre-fund the Backload Margin Call and, if so, how it should be delivered such that it will be made available for a Backload Registration Cycle.

In the event that the aggregate Backload Margin Call required from all SwapClear Clearing Members participating in a Backload Registration Cycle is in excess of a pre-determined threshold amount (the “**Aggregate Backload Margin Threshold**”) as published by the Clearing House from time to time, the Clearing House may postpone or cancel the relevant Backload Registration Cycle.

Where the Clearing House postpones or cancels a Backload Registration Cycle it shall notify those SwapClear Clearing Members that were intending to participate in the Backload Registration Cycle.

Backloaded Trades received by the Clearing House in advance of a Backload Registration Cycle will be ‘parked’ until the next Backload Registration Cycle (whether that Backload Registration Cycle is on the same Business Day or the following Business Day).

In order for the registration of the Backloaded Trades included in a Backload Registration Cycle to complete, Margin from each SwapClear Clearing Member (and each FCM Clearing Member, if applicable) which is party to a Backloaded Trade within that Backload Registration Cycle must be provided as required to the Clearing House in advance.

A Backloaded Trade which has been presented for clearing (or with respect to which the Clearing House has received the one or more Necessary Consents, if any) shall be deemed to have been submitted by the SwapClear Clearing Member(s) or the SwapClear Clearing Member and the FCM Clearing Member (as the case may be) for registration by the Clearing House at such time that the Clearing House determines that sufficient Margin has been provided to register that Backloaded Trade.

For any SwapClear Transaction which is a Backloaded Trade, where one leg is to be registered as an FCM SwapClear Contract, the FCM Rulebook will apply with respect to such registration of an FCM SwapClear Contract.

The Clearing House shall publish the following via member circular:

- i. times of Backload Registration Cycles;
- ii. the Individual Backload Value Threshold; and
- iii. the Aggregate Backload Margin Threshold.

#### 2A.3.6 **Notification**

The Clearing House will send to the originating Approved Trade Source System notification of registration or rejection, as the case may be, and the Clearing Members will be notified by the Approved Trade Source System or the SwapClear API or otherwise of the registration or rejection of SwapClear Transactions, or contracts purported as such.

#### 2A.3.7 **Rejected Trades**

Trades submitted for registration that do not meet the product or other eligibility criteria prescribed from time to time by the Clearing House (including a trade submitted by or on behalf of a Clearing Member that was executed on a (i) US Trading Venue that was not at the time of execution of such trade an Eligible US Trading Venue in respect of such Clearing Member or (ii) trading venue or facility that had not at the time of the execution of such trade been approved by the Clearing House as a US Trading Venue) or which contain invalid or incomplete message data, or with respect to which the Clearing House has not received sufficient Margin (taking into account available SwapClear Tolerance, if any), will be rejected, except that such Margin shall be required to be furnished prior to registration as a condition to the registration of such trade only if such trade is a Block IRS Trade. If, at any time, the Clearing House does not register a trade presented for registration it will send to the originating Approved Trade Source System notification of the rejection.

### 2A.4 **Position Accounts**

#### 2A.4.1 **Accounts**

For identification purposes, each Clearing Member is assigned a unique three-character mnemonic with respect to its accounts relating to SwapClear Contracts. Only FCM Clearing Members will have segregated accounts for Client Business (Omnibus Client Swaps Accounts with LCH). A Clearing Member's position and

financial information are further identified by a single character code: C for Client Business (applicable only to FCM Clearing Members); and H for House Business.

#### 2A.4.2 **Position-Keeping Accounts**

##### Clearing Member Accounts

The account types are: H for House Business (Proprietary Account); and C for segregated Client Business (an Omnibus Client Swaps Account with LCH). A Clearing Member's SwapClear Contract positions are also recorded within the SwapClear clearing system in SwapClear Accounts.

All registered SwapClear Contracts will be identifiable to Clearing Members via SwapClear reporting (see Section 2A.1.3). Each SwapClear Contract will also be assigned a unique trade identifier. The Clearing Member reporting functionality also allows Clearing Members to identify all SwapClear Contracts registered in their name.

#### 2A.5 **Financial Accounts**

Clearing Member accounts have financial accounts associated with them. These accounts are, *inter alia*, used to record cash balances and securities/documentary credits. Information contained within position-keeping accounts is consolidated into financial accounts as follows:

##### 2A.5.1 **Relationship with Position-Keeping Accounts**

Trading Account	Financial Account		
H	House	H	Proprietary Account
C	Client	C	LCH Swaps Client Segregated Depository Account
L	Client	L	The Clearing House's internal record-keeping account used to record Variation Margin flows

The C account is a Cleared Swaps Customer Account.

##### 2A.5.2 **Other Financial Accounts**

At the Clearing House's discretion, further financial accounts, used only to record financial balances, may be opened as follows:

	Code
Buffer accounts (House), used for holding additional cash in relation to Proprietary business	B
Buffer accounts (Client), used for holding additional cash in	E

relation to Client Business

Code

The E account is a Cleared Swaps Customer Account.

## 2A.6 **SwapClear Contract Valuation**

### 2A.6.1 **Net Present Value (NPV)**

The Clearing House will calculate the NPV (as defined in the Regulations) of each eligible SwapClear Contract using the Clearing House's zero coupon yield curves.

It is a condition of registration that sufficient Margin, as determined by the Clearing House, be furnished to the Clearing House to satisfy the Clearing House's Margin requirements for each SwapClear Contract (taking into account, for these purposes, available SwapClear Tolerance, if any), except that such Margin shall be required to be furnished prior to registration as a condition thereto only if such SwapClear Contract results from a SwapClear Transaction that is a Block IRS Trade.

All SwapClear Contracts credited to a Clearing Member will, on submission to the Clearing House, be marked-to-market, in accordance with Regulation 402. The NPV so determined must, subject to intra-day Registration (see Section 2A.3.5), be paid by the Clearing Member in cash in the currency of the SwapClear Contract. Where a SwapClear Transaction is registered intra-day, and the NPV is covered with non-cash collateral, the Clearing House will, the following Business Day, require payment of the full cash amount.

### 2A.6.2 **Zero Coupon Yield Curve Construction**

The Clearing House will determine, at its sole discretion, appropriate instruments, points and market prices for the construction of zero coupon curves and portfolio valuation. Details of the construction method and Instruments used are available on request from the Clearing House Risk Management Department at +1 (212) 513-5654, but may be subject to change without prior notification.

### 2A.6.3 **Official Quotations**

Zero Coupon Yield curves will use prices and rates taken at:

(All times quoted are in London time except where otherwise indicated.)

AUD	12:00
CAD	15:00 (New York City time)
CHF LIBOR & OIS	16:30
CZK	16:30
DKK	16:30

EURO	
LIBOR	16:30
GBP	
LIBOR	16:30
HKD	12:00
HUF	16:30
JPY	12:00
NOK	16:30
NZD	12:00
PLN	16:30
SEK	16:30
SGD	12:00
USD LIBOR & OIS	15:00 (New York City time)
ZAR	16:30
EURO	
OIS	18:00
GBP	
OIS	18:00

Zero coupon yield curves used for daily marking to market will be published on the Clearing House's member reporting website after the end of each Business Day.

#### 2A.6.4 Variation Margin

On the date of registration, the NPV of a SwapClear Contract will be credited to or debited from the applicable Clearing Member's financial accounts in cash in denomination currency.

On all subsequent days, the change in the NPV from one Business Day to the next will be credited to or debited from such Clearing Member's financial accounts in cash in denomination currency.

The Clearing Members are required to make Variation Margin payments to the Clearing House within one hour of notification that payment is due.

#### 2A.6.5 Price Alignment Interest

In order to compensate for the payment of changes in NPV on a daily basis for SwapClear Transactions cleared through the Clearing House, the Clearing House

will for each Clearing Member either charge interest on cumulative Variation Margin received, or pay interest on cumulative Variation Margin paid (see Section 3.5.2). Price Alignment Interest is debited, credited and netted in accordance with the Clearing House's normal practices.

## 2A.7 **Coupon Payments**

### 2A.7.1 **Calendars and Coupons**

Payment dates for coupon payments will be set based on the SwapsMonitor Financial Calendar (see Section 2A.2.3). Changes to the calendar that affect SwapClear Contracts will be published and made available to Clearing Members by the Clearing House in a Clearing Member Report. The central control and publication of these calendars will assist the reconciliation of coupon payments between Clearing Members and the Clearing House. Coupon payments will be adjusted, in the event of a holiday amendment, in accordance with the SwapClear Contract Terms.

### 2A.7.2 **Calculation of Fixed Amount**

The Clearing House will calculate the Fixed Amount payable by a party on a Payment Date as either:

- (a) if an amount is specified for the SwapClear Contract as the Fixed Amount payable by that party for that Payment Date or for the related Calculation Period, such amount; or
- (b) if an amount is not specified for the SwapClear Contract as the Fixed Amount payable by that party for that Payment Date or for the related Calculation Period, an amount calculated on a formula basis for that Payment date or for the related Calculation Period as follows:

$$\begin{array}{lcl} \text{Fixed Amount} & = & \text{Calculation} \times \text{Fixed} \times \text{Fixed Rate Day} \\ & & \text{Amount} \qquad \qquad \text{Rate} \qquad \qquad \text{Count Fraction} \end{array}$$

### 2A.7.3 **Calculation of Floating Amount**

The Clearing House will calculate the Floating Amount payable by a party on a Payment Date as an amount calculated on a formula basis for that Payment Date or for the related Calculation Period as follows:

$$\begin{array}{lcl} \text{Floating Amount} & = & \text{Calculation} \times \text{Floating} \times \text{Floating Rate Day} \\ & & \text{Amount} \qquad \qquad \text{Rate} \qquad \qquad \text{Count Fraction} \\ & & \qquad \qquad \qquad (+/- \text{ Spread}) \end{array}$$

### 2A.7.4 **OIS Coupon Calculation**

Compounding Rate Calculations

The rate used for the OIS rate is calculated according to ISDA 2006 definitions. The formula for these calculations is given below.

#### USD-Federal Funds-H.15-OIS-COMPOUND

$$\left[ \prod_{i=1}^{d_0} \left( 1 + \frac{\text{FEDFUND}_i \times n_i}{360} \right) - 1 \right] \times \frac{360}{d}$$

Where:

“d0” for any Calculation Period is the number of New York Banking Days in the relevant Calculation Period;

“i” is a series of whole numbers from 1 to d0, each representing the relevant New York Banking Days in chronological order from, and including, the first New York Banking Day in the relevant Calculation Period;

“FEDFUND<sub>i</sub>”, for any day “i” in the relevant Calculation Period, is a reference rate equal to the rate set forth in H.15(519) in respect of the day under the caption “EFFECT”, as such rate is displayed on the Reuters Screen FEDFUNDS1 Page, in respect of any day “i”, the rate for that will be agreed between the parties, acting in good faith and in a commercially reasonable manner. If the parties cannot agree, the rate for that day will be the rate displayed on the Reuters FEDFUNDS1 Page, in respect of the first preceding New York Banking Day;

“n<sub>i</sub>” is the number of calendar days in the relevant Calculation Period on which the rate is FEDFUND<sub>i</sub>; and

“d” is the number of calendar days in the relevant Calculation Period.

#### CHF-TOIS-OIS-COMPOUND

$$\left[ \prod_{i=1}^{d_0} \left( 1 + \frac{\text{TOIS}_i \times n_i}{360} \right) - 1 \right] \times \frac{360}{d}$$

Where:

“d0” for any Calculation Period is the number of Zurich Banking Days in the relevant Calculation Period;

“i” is a series of whole numbers from 1 to d0, each representing the relevant Zurich Banking Days in chronological order from, and including, the first Zurich Banking Day in the relevant Calculation Period;

“TOIS<sub>i</sub>”, for any day “i” in the relevant Calculation Period, is a reference rate equal to the rate for tomorrow next deposits in Swiss Francs which appears on the Reuters Screen CHFTOIS= as of 11:00 a.m., Zurich time, on the day that is one Zurich Banking Day preceding that day;

“ni” is the number of calendar days in the relevant Calculation Period on which the rate is TOISi; and

“d” is the number of calendar days in the relevant Calculation Period.

#### GBP-WMBA-SONIA-COMPOUND

$$\left[ \prod_{i=1}^{d_0} \left( 1 + \frac{\text{SONIA}_i \times n_i}{365} \right) - 1 \right] \times \frac{365}{d}$$

Where:

“d0” for any Calculation Period is the number of London Banking Days in the relevant Calculation Period;

“i” is a series of whole numbers from 1 to d0, each representing the relevant London Banking Days in chronological order from, and including, the first London Banking Day in the relevant Calculation Period;

“SONIAi”, for any day “i” in the relevant Calculation Period, is a reference rate equal to the overnight rate as calculated by the Wholesale Market Brokers’ Association and appearing on the Reuters Screen SONIA Page in respect of that day;

“ni” is the number of calendar days in the relevant Calculation Period on which the rate is SONIAi; and

“d” is the number of calendar days in the relevant Calculation Period.

#### EUR-EONIA-OIS-COMPOUND

$$\left[ \prod_{i=1}^{d_0} \left( 1 + \frac{\text{EONIA}_i \times n_i}{360} \right) - 1 \right] \times \frac{360}{d}$$

Where:

“d0” for any Calculation Period is the number of TARGET Settlement Days in the relevant Calculation Period;

“i” is a series of whole numbers from 1 to d0, each representing the relevant TARGET Settlement Days in chronological order from, and including, the first TARGET Settlement Days in the relevant Calculation Period;

“EONIAi”, for any day “i” in the relevant Calculation Period, is a reference rate equal to the overnight rate as calculated by the European Central Bank and appearing on the Reuters Screen EONIA Page in respect of that day;

“ni” is the number of calendar days in the relevant Calculation Period on which the rate is EONIAi; and

“d” is the number of calendar days in the relevant Calculation Period.

#### CAD-CORRA-OIS-COMPOUND

$$\left[ \prod_{i=1}^{d_0} \left( 1 + \frac{CORRA_i \times n_i}{365} \right) - 1 \right] \frac{365}{d}$$

Where:

“d0” for any Calculation Period is the number of Toronto Banking Days in the relevant Calculation Period;

“i” is a series of whole numbers from one to d0, each representing the relevant Toronto Banking Day in chronological order from, and including, the first Toronto Banking Day in the relevant Calculation Period;

“CORRAi”, for any day “i” in the relevant Calculation Period, is a reference rate equal to the daily fixing for Canadian Dollar overnight repurchase rate as published at approximately 9:00 am, Toronto time, on the day that is one Toronto Banking Day following that day “i” on the Bank of Canada website page address <http://www.bankofcanada.ca/fmd/monmrt.htm>. If such rate does not appear on such Bank of Canada website page in respect of any day “i”, the rate for that day will be as agreed between the parties, acting in good faith and in a commercially reasonable manner. If the parties cannot agree, the rate for that day will be the rate displayed on the Bank of Canada website page <http://www.bankofcanada.ca/fmd/monmrt.htm> in respect of the first preceding Toronto Banking Day;

“ni” is the number of calendar days in the relevant Calculation Period on which the rate is CORRAi; and

“d” is the number of calendar days in the relevant Calculation Period.

#### 2A.7.5 Calculation of Compounded Amount

Depending on whether the SwapClear Contract is submitted under ISDA 2000 or ISDA 2006 Definitions, the Clearing House will calculate the compounded floating amount payable by a Clearing Member on a Payment Date as an amount calculated in accordance with Articles 6.1 to 6.3 inclusive of the relevant Definitions.

#### 2A.7.6 Calculation of FRA Discounting (Article 8.4 of the 2006 ISDA Definitions)

Where FRA Discounting is specified for CAD, CHF, CZK, DKK, EUR, HUF, JPY, NOK, PLN, SEK, USD, ZAR the FRA Amount will be calculated in accordance with the following formula:

$$\text{FRA Amount} = \frac{\text{Calculation Amount} \times \left[ (\text{Floating Rate} + \text{Spread}) - \text{Fixed Rate} \right] \times \text{Floating Rate Day Count Fraction}}{1 + \left[ \text{Discount Rate} \times \text{Discount Rate Day Count Fraction} \right]}$$

Where FRA Discounting is specified for AUD Forward Rate Transactions and NZD Forward Rate Transactions then FRA Yield Discounting will be applied and the FRA Amount calculated in accordance with the following formula:

$$\text{FRA Amount} = \text{Calculation Amount} \times 365 \times \left[ \frac{1}{365 + [R_1 \times ND]} - \frac{1}{365 + [R_2 \times ND]} \right]$$

Where:

R1 is the sum of the Floating Rate and the Spread on the payment date, expressed as a decimal;

R2 is the Fixed Rate, expressed as a decimal; and

ND is the actual number of days in the calculation period.

#### 2A.7.7 Business Day and Business Day Convention

In determining whether a day is a Business Day the Clearing House will only apply the Financial Centers specified in the matched SwapClear Transaction message. The Clearing House will in the event of non-business days apply the Business Day Conventions as specified in the matched SwapClear Transaction message.

#### 2A.7.8 Payment of Coupons

After adjusting coupons, in accordance with the appropriate Business Day and Business Day Conventions, the Clearing House will credit or debit Clearing Members' Accounts with the appropriate Fixed or Floating Amount with a value date matching the Coupon Payment Date. In the event of SwapClear being closed on a Coupon Payment Date it will pay the Fixed and Floating Amounts on the next Business Day following the Coupon Payment Date.

#### 2A.7.9 Calculation Periods

In respect of any Calculation Period that is not a whole calendar month (a stub period), the Reset Rate for the Reset Date in respect of that Calculation Period shall

be determined by the Clearing House with reference to the rate(s) specified in the matched format message.

#### 2A.7.10 Day Count Fractions: ISDA 2000

Day count fractions will be applied to deal legs independently as they are communicated via the matched format message.

Where the SwapClear Transaction is submitted under the ISDA 2000 Definitions, the Clearing House will calculate Day Count Fractions in accordance with the following principles:

- (a) if “Actual/365” or “Actual/Actual” is specified, the actual number of days in the Calculation Period in respect of which payment is being made divided by 365 (or, if any portion of that Calculation Period falls in a leap year, the sum of (A) the actual number of days in that portion of the Calculation Period falling in a leap year divided by 366 and (B) the actual number of days in that portion of the Calculation Period falling in a non-leap year divided by 365);
- (b) if “Actual/365 (Fixed)” is specified, the actual number of days in the Calculation Period in respect of which payment is being made divided by 365;
- (c) if “Actual/360” is specified, the actual number of days in the Calculation Period in respect of which payment is being made divided by 360;
- (d) if “30/360”, “360/360”, “Bond Basis”, “30E/360” or “Eurobond Basis” is specified the actual number of days in the Calculation Period in respect of which payment is being made will be determined in accordance with the following formula:

$$((Y2 - Y1) * 360) + ((M2 - M1) * 30) + (D2 - D1)$$

where D1, M1 and Y1 are the day, month and year respectively on which the period begins and D2, M2 and Y2 are the day, month and year respectively on which the period ends (coupon payment date).

In accordance with this formula the following will be applied:

- (i) if “30/360”, “360/360” or “Bond Basis” is specified the Clearing House will
  - if D1 is 31 amend it to 30,
  - if D2 is 31 amend it to 30 only if D1 is 30 or 31; or
- (ii) if “30E/360” or “Eurobond Basis” is specified the Clearing House will
  - if D1 is 31 then amend it to 30

if D2 is 31 then amend it to 30.

- (e) For Actual/Actual (ISMA): “The [Fixed/Floating] Amount will be calculated in accordance with Rule 251 of the statutes, by-laws, rules and recommendations of the International Securities Market Association, as published in April 1999, as applied to straight and convertible bonds issued after December 31, 1998, as though the [Fixed/Floating] Amount were the interest coupon on such a bond”.

#### 2A.7.11 Day Count Fractions: ISDA 2006

Day count fractions will be applied to deal legs independently as they are communicated via the matched format message.

Where the SwapClear Transaction is submitted under the ISDA 2006 Definitions, the Clearing House will calculate Day Count Fractions in accordance with the following principles:

- (a) if “Actual/Actual”, Actual/Actual (ISDA)”, “Act/Act”, or “Act/Act-(ISDA)” is specified, the actual number of days in the Calculation Period in respect of which payment is being made divided by 365 (or, if any portion of that Calculation Period falls in a leap year, the sum of (A) the actual number of days in that portion of the Calculation Period falling in a leap year divided by 366 and (B) the actual number of days in that portion of the Calculation Period falling in a non-leap year divided by 365);
- (b) if “Actual/365 (Fixed)” is specified, the actual number of days in the Calculation Period in respect of which payment is being made divided by 365;
- (c) if “Actual/360” is specified, the actual number of days in the Calculation Period in respect of which payment is being made divided by 360;
- (d) “30/360”, “360/360” or “Bond Basis” is specified the number of days in the Calculation Period or Compounding Period in respect of which payment is being made divided by 360, calculated on a formula basis as follows:

$$\text{Day Count Fraction} = \frac{((360 \times (Y2 - Y1)) + (30 \times (M2 - M1)) + (D2 - D1))}{360}$$

where:

“Y1” is the year, expressed as a number, in which the first day of the Calculation or Compounding Period falls;

“Y2” is the year, expressed as a number, in which the day immediately following the last day included in the Calculation or Compounding Period falls;

“M1” is the calendar month, expressed as a number, in which the first day of the Calculation Period or Compounding Period falls;

“M2” is the calendar month, expressed as a number, in which the day immediately following the last day included in the Calculation or Compounding Period falls;

“D1” is the first calendar day, expressed as a number, of the Calculation period or Compounding Period, unless such number would be 31, in which case D1 will be 30 and

“D2” is the Calendar day, expressed as a number, immediately following the last day included in the Calculation Period or Compounding Period, unless such number would be 31 and D1 is greater than 29, in which case D2 will be 30; and

- (e) if “30/E60” or “Eurobond basis is specified, the number of days in the Calculation or Compounding Period in respect of which payment is being made divided by 360, calculate on a formula basis as follows:

$$\text{Day Count Fraction} = \frac{((360 \times (Y2 - Y1)) + (30 \times (M2 - M1)) + (D2 - D1))}{360}$$

where: “Y1” is the year, expressed as a number, in which the first day of the Calculation or Compounding Period falls;

“Y2” is the year, expressed as a number, in which the day immediately following the last day included in the Calculation or Compounding Period falls;

“M1” is the calendar month, expressed as a number, in which the first day of the Calculation Period or Compounding Period falls;

“M2” is the calendar month, expressed as a number, in which the day immediately following the last day included in the Calculation or Compounding Period falls;

“D1” is the first calendar day, expressed as a number, of the Calculation period or Compounding Period, unless such number would be 31, in which case D1 will be 30 and

“D2” is the calendar day, expressed as a number, immediately following the last day included in the Calculation or Compounding Period, unless such number would be 31, in which case D2 will be 30.

- (f) if 30E/360(ISDA) is specified, the number of days in the Calculation or Compounding period in respect of which payment is being made divided by 360, calculated on a formula basis as follows:

$$\text{Day Count Fraction} = \frac{((360 \times (Y2 - Y1)) + (30 \times (M2 - M1)) + (D2 - D1))}{360}$$

where: “Y1” is the year, expressed as a number, in which the first day of the Calculation or Compounding Period falls;

“Y2” is the year, expressed as a number, in which the day immediately following the last day included in the Calculation or Compounding Period falls;

“M1” is the calendar month, expressed as a number, in which the first day of the Calculation Period or Compounding Period falls;

“M2” is the calendar month, expressed as a number, in which the day immediately following the last day included in the Calculation or Compounding Period falls;

“D1” is the first calendar day, expressed as a number, of the Calculation period or Compounding Period, unless (i) that day is the last day of February or (ii) such number would be 31, in which case D1 will be 30; and

“D2” is the calendar day, expressed as a number, immediately following the last day included in the Calculation or Compounding Period, unless (i) that day is the last day of February but NOT the termination date or (ii) such number would be 31, in which case D2 will be 30.

- (g) If “Actual/Actual” (ICMA) or “Act/Act” (ICMA) is specified, a fraction equal to “number of days accrued/number of days in year”, as such terms are used in Rule 251 of the statutes, by-laws, rules and recommendations of the International Capital Market Association (the “**ICMA Rule Book**”), calculated in accordance with Rule 251 of the ICMA Rule Book as applied to non-US Dollar denominated straight and convertible bonds issued after December 21, 1998, as though the interest coupon on a bond were being calculated for a coupon period corresponding to the Calculation Period or Compounding Period in respect of which payment is being made.

#### 2A.7.12 Reset Rates

Reset Rates will be published by the Clearing House via the Rate Reset reports.

The Clearing House will apply the following principles in calculating Reset Rates:

- (a) “GBP-LIBOR-BBA” means that the rate for a Reset Date will be the rate for deposits in Sterling for a period of the Designated Maturity which appears on the Reuters Screen LIBOR01 Page as of 11:00 hours, London time, on that Reset Date.
- (b) “USD--LIBOR-BBA” the rate for US Dollar deposits for a period of the Designated Maturity which appears on Reuters Screen LIBOR01 as of 11:00 hours London time, on the day that is two London Banking Days preceding that Reset Date.
- (c) “Euro-LIBOR-BBA” the rate for Euro deposits for a period of the Designated Maturity which appears on the Reuters Screen LIBOR01 as of 11:00 hours London time, on the day that is two TARGET Settlement Days preceding that Reset Date.

- (d) “Euro-EURIBOR-Telerate (ISDA2000)” / “Euro-EURIBOR-Reuters” the rate for Euro deposits for a period of the Designated Maturity which appears on the Reuters Screen EURIBOR01 as of 11:00 hours Brussels time, on the day that is two TARGET Settlement Days preceding that Reset Date.
- (e) “JPY-LIBOR-BBA” the rate for Japanese Yen deposits or a period of the Designated Maturity which appears on the Reuters Screen LIBOR01 as of 11:00 hours London time, on the day that is two London Banking Days preceding that Reset Date.
- (f) “CHF-LIBOR-BBA” means that the rate for a Rest Date will be the rate for deposits in Swiss Francs for a period of the Designated Maturity which appears on the Reuters Screen LIBOR02 as of 11:00 hours London time, on the day that is two London Banking Days preceding that Reset Date.
- (g) “AUD-BBR-BBSW” means that the rate for a Reset Date will be the average mid rate, for Australian Dollar bills of exchange having a tenor of the Designated Maturity, which appears on the Reuters screen BBSW Page at approximately 10:10 hours Sydney time, on that Reset Date.
- (h) “AUD-LIBOR-BBA” means that the rate for a Reset Date will be the rate for deposits in Australian Dollars for a period of the Designated Maturity which appears on the Reuters Screen LIBOR02 as of 11:00 hours London time, on the day that is two London Banking Days preceding that Reset Date.
- (i) “CAD-BA-CDOR” means that the rate for a Reset Date will be the average rate for Canadian Dollar bankers acceptances for a period of the Designated Maturity which appears on the Reuters Screen CDOR page as of 10:00 hours, Toronto time, on that Reset Date.
- (j) “CAD-LIBOR-BBA” means that the rate for a Reset Date will be the rate for deposits in Canadian Dollars for a period of the Designated Maturity which appears on the Reuters Screen LIBOR01 as of 11:00 hours London time, on the day that is two London Banking Days preceding that Reset Date.
- (k) “CZK-PRIBOR-PRBO” means that the rate for a Reset Date will be the rate for deposits in Czech Koruna for a period of the Designated Maturity which appears on the Reuters Screen PRBO page as of 10:00 hours, Prague time, on the day that is two Prague Banking days preceding that Reset Date.
- (l) “DKK-CIBOR-DKNA13” means that the rate for a Reset Date will be the rate for deposits in Danish Kroner for a period of the Designated Maturity which appears on the Reuters Screen DKNA13 Page as of 11:00 hours, Copenhagen time, on that Reset Date.
- (m) “DKK-CIBOR2-DKNA13” means that the rate for a Reset Date will be the rate for deposits in Danish Kroner for a period of the Designated Maturity which appears on the Reuters Screen DKNA13 Page as of 11:00 hours,

Copenhagen time, on the day that is two Copenhagen Banking Days preceding that Reset Date.

- (n) “HKD-HIBOR-HIBOR=“ means that the rate for a Reset Date will be the rate for deposits in Hong Kong Dollars for a period of the Designated Maturity which appears on the Reuters Screen HIBOR1=R Page (for Designated Maturities of one month to six months, inclusive) or the Reuters Screen HIBOR2=R Page (for Designated Maturities of seven months to one year, inclusive), in each case across from the caption “FIXING@11:00” as of 11:00 hours, Hong Kong time, on that Reset Date.
- (o) “HKD-HIBOR-HKAB” means that the rate for a Reset Date will be the rate for deposits in Hong Kong Dollars for a period of the Designated Maturity which appears on the Reuters Screen HKABHIBOR as of 11:00 hours, Hong Kong time, on that Reset Date.
- (p) “HKD-HIBOR-ISDC” (ISDA2000) means that the rate for a Reset Date will be the rate for deposits in Hong Kong Dollars for a period of the Designated Maturity which appears on the Reuters Screen ISDC Page as of 11:00 hours, Hong Kong time, on that Reset Date.
- (q) “HUF-BUBOR-Reuters” means that the rate for a Reset Date will be the rate for deposits in Hungarian Forint for a period of the Designated Maturity which appears on the Reuters Screen BUBOR= page as of 10:00 hours, Budapest time, on the day that is two Budapest Banking days preceding that Reset Date.
- (r) “NOK-NIBOR-NIBR” means that the rate for a Reset Date will be the rate for deposits in Norwegian Kroner for a period of the Designated Maturity which appears on the Reuters Screen NIBR Page as of 12:00 noon, Oslo time, on the day that is two Oslo Banking Days preceding that Reset Date.
- (s) “NZD-BBR-Telerate” (ISDA2000) means that the rate for a Reset Date will be the fixed midrate for New Zealand Dollar bills of exchange for a period of the Designated Maturity which appears on the Telerate Page 2484 as of 11:00 hours, Wellington time, on that Reset Date.
- (t) “NZD-BBR-FRA” means that the rate for a Reset Date will be the rate for the New Zealand Dollar bills of exchange for a period of designated maturity which appears on the Reuters Screen BKBM Page opposite the caption of “FRA” as of 11:00 hours, Wellington time, on that Reset Date.
- (u) “SEK-STIBOR-SIDE” means that the rate for a Reset Date will be the rate for deposits in Swedish Kronor for a period of the Designated Maturity which appears on the Reuters Screen SIDE page under the caption “FIXINGS” as of 11:00 hours, Stockholm time, on the day that is two Stockholm Banking days preceding that Reset Date.
- (v) “SGD-SOR-VWAP” means that the rate for a Reset Date will be the synthetic rate for deposits in Singapore Dollars for a period of the Designated Maturity which appears on the Reuters Screen ABSFIX01 Page

under the heading “SGD SOR rates” as of 11:00 a.m., London time, on the day that is two Singapore and London Banking Days preceding that Reset Date.

- (w) “SGD-SOR-Reuters” means that the rate for a Reset Date will be the rate for deposits in Singapore Dollars for a period of the Designated Maturity which appears on the Reuters Screen ABSIRFIX01 as of 11:00 hours, Singapore time, on the day that is two Singapore Banking days preceding that Reset Date.
- (x) “PLN-WIBOR-WIBO” means that the rate for a Reset Date will be the rate for deposits in Polish Zloty for a period of the Designated Maturity which appears on the Reuters Screen WIBO page under the caption “FIXINGS” as of 11:00 hours, Warsaw time, on the day that is two Warsaw Banking days preceding that Reset Date.
- (y) “ZAR-JIBAR-SAFEX” means that the rate for a Reset Date will be the mid-market rate for deposits in South African Rand for a period of the Designated Maturity which appears on the Reuters screen SAFETY page under the caption “YIELD” as of 11:00 hours, Johannesburg time, on that reset date. If such rate does not appear on the Reuters screen SAFETY page, the rate for that Reset Date will be determined as if the parties had specified “ZAR-JIBAR-Reference Banks” as the applicable Floating Rate Option.
- (z) “CHF-TOIS-OIS-COMPOUND” means that the rate for a Reset Date, calculated in accordance with the formula set forth in Section 2A.7.4, will be the rate of return of a daily compound interest investment (it being understood that the reference rate for the calculation of interest is the arithmetic mean of the daily rates of the day-to-day Swiss interbank money market).
- (aa) “GBP-WMBA-SONIA-COMPOUND” means that the rate for a Reset Date, calculated in accordance with the formula set forth in Section 2A.7.4, will be the rate of return of a daily compound interest investment (it being understood that the reference rate for the calculation of interest is the Sterling daily overnight reference rate).
- (bb) “USD-Federal Funds-H.15-OIS-Compound” means that the rate for a Reset Date, calculated in accordance with the formula set forth in Section 2A.7.4, will be the rate of return of a daily compound interest investment (it being understood that the reference rate for the calculation of interest is the daily effective federal funds rate determined by the Federal Reserve as the weighted average of the rates on brokered trades).
- (cc) “EUR-EONIA-OIS-COMPOUND” means that the rate for a Reset Date, calculated in accordance with the formula set forth in Section 2A.7.4, will be the rate of return of a daily compound interest investment (it being understood that the reference rate for the calculation of interest is the arithmetic mean of the daily rates of the day-to-day Euro-zone interbank euro money market).

In the event of no rate being available the Clearing House will, at its sole discretion, determine an applicable rate.

#### 2A.7.13 Applying Reset Rate

The Clearing House will identify the reset dates of floating legs that require the application of a Reset Rate. The Reset Rate will be applied to the appropriate floating legs and the coupon payments calculated.

The coupon payments will be adjusted to fall on actual Business Days according to the Calendar(s) and Business Day Convention specified.

#### 2A.7.14 Negative Interest Rate Method

Clearing Members should note the provisions of Section 3.2 of Part A of Schedule 4A to the Regulations regarding the applicability of the Negative Interest Rate Method to a SwapClear Contract. Clearing Members may, in the circumstances, wish to ensure that any trade submitted for registration follows that Negative Interest Rate Method.

### 2A.8 Initial Margin

The Clearing House will require Clearing Members to furnish it with Initial Margin. The amount of Initial Margin required will be determined by the prevailing market conditions and the expected time to close out the portfolio. The Portfolio Approach to Interest Rate Scenarios (“PAIRS”) will be used to calculate Initial Margin requirements for SwapClear Contracts.

Separate Initial Margin calculations are performed for a Clearing Member’s House “H” and Client “C” accounts.

The Clearing House reserves the right to require certain Clearing Members or all Clearing Members to furnish to the Clearing House additional amounts of Margin in accordance with Regulation 106.

The Clearing Members are required to furnish Initial Margin to the Clearing House within one hour of notification that payment is due.

#### 2A.8.1 Margin Parameters

The Clearing House Risk Management Department uses appropriate yield curve scenarios, both in terms of shape and magnitude of movement, to capture potential losses based on an observed history – the primary component of the Initial Margin calculation. These scenarios will be continually monitored and reviewed periodically or on an *ad hoc* basis according to market conditions. However, in accordance with the Regulations, the Clearing House retains the right, at its sole discretion, to vary the rates for the whole market or for a specific Clearing Members’ House and/or Client accounts.

Clearing Members will usually be notified by the Clearing House of alterations to margin parameters no later than the day before calls are made based on the new yield curve scenarios.

### 2A.8.2 Liquidity Multiplier

Risk Management applies a liquidity multiplier based on Worst Case Loss (“WCL”) exceeding certain thresholds on the Clearing Member’s whole portfolio and individual currencies. The threshold amounts and multipliers are reviewed on an ongoing basis. Client accounts are treated as independent accounts for purposes of liquidity and will be called only in the event that the individual account exceeds the relevant threshold.

### 2A.8.3 Intra-day Margin Calls

In accordance with the Regulations, the Clearing House is entitled to make additional margin calls for payment the same day (intra-day margin calls) where it is considered necessary. Intra-day margin calls can be called at any time throughout the Business Day. Intra-day margin calls will usually be made via the PPS (see Section 2A.9). The Clearing Members are required to make Margin payments to the Clearing House within one hour of notification that payment is due.

### 2A.8.4 Calculation of Initial Margin

#### (a) Portfolio Approach to Interest Rate Scenarios (PAIRS)

The PAIRS calculation is a VAR based approach based on filtered historical simulations. All positions in each currency are re-valued under a series of cross portfolio yield curve scenarios to estimate the highest forecast loss and therefore the Initial Margin requirement. Further details of this method are available upon request and are detailed in the PAIRS TIP document. The PAIRS document and further information relating to Initial Margin calculations can be obtained from the Risk Management team at +1 (212) 513-5654.

### 2A.8.5 Modification of Margin Requirements Pursuant to Regulation 106(d)

Any modifications to margin requirement calculations made by the Clearing House pursuant to Regulation 106(d) will be effected in accordance with the CEA and the CFTC Regulations.

### 2A.8.6 Tenor Basis Risk Margin Add-on

A margin add-on will be applied in respect of tenor basis risk.

### 2A.8.7 Initial Margin Management Events Service (“IMMES”)

IMMES aims to find risk and initial margin reducing SwapClear Contracts amongst participating Clearing Members. IMMES can be run on all SwapClear Contracts of participating Clearing Members that are cleared through the SwapClear Service, although the primary focus will be on those that contribute to the largest initial margin requirement. IMMES is available in respect of SwapClear Contracts registered to a Clearing Member’s Proprietary Account and/or Client account.

Clearing Members who wish to obtain further information about, or to participate in, IMMES should contact SwapClear Risk by emailing

[OTCIRDRisk@lchclearnet.com](mailto:OTCIRDRisk@lchclearnet.com). To be eligible to participate in IMMES, a Clearing Member must enter into an IMMES agreement with the Clearing House (the “**IMMES Agreement**”).

### Step-By-Step Details

- (a) The Clearing House usually conducts the IMMES monthly.
- (b) A reminder that there is an IMMES run taking place is sent out the week before to each Clearing Member which is a party to an IMMES Agreement with LCH and each such Clearing Member is asked to confirm its participation.
- (c) On the day of the scheduled IMMES run, the Clearing House analyses each participating Clearing Member’s portfolio profile to find SwapClear Contracts with equivalent and opposite delta values to compile a list of offsetting trades that are Block IRS Trades and that may be mutually beneficial in terms of initial margin reduction (the “**IMMES Trades**”).
- (d) The Clearing House then analyses each participating Clearing Member’s portfolio (assuming that the IMMES Trades have been entered into) and determines the change in, initial margin and zero yield sensitivity from the IMMES Trades.
- (e) The Clearing Members on either side of the trades (which may include an FCM Clearing Member (as defined in the FCM Rulebook)) are advised of the economic details of the IMMES Trades, and their respective identities and contact details.
- (f) The Clearing Members may but are not required to enter into the IMMES Trades. Any IMMES Trades entered into must be submitted to the Clearing House for registration.

## 2A.9 **Intra-Day Margin Call: Collateral Management**

### 2A.9.1 **General – Intra-day Margining**

Following an intra-day Margin call and unless notified otherwise by a Clearing Member at the time of an intra-day Margin call the Clearing House will deduct cash, in USD, directly from the relevant Clearing Member’s PPS account to cover the Margin needed to meet that intra-day Margin call.

It is the responsibility of each Clearing Member to ensure that it has sufficient cash funds in place with its PPS Bank(s) in order to avoid any intra-day liquidity issues.

### 2A.9.2 **PPS Debit Authorization – Deemed Representation of FCM Clearing Member**

When an FCM Clearing Member provides the Clearing House authorization (whether by phone or electronic means (including email)) to debit a PPS account in connection with an intra-day margin call, the FCM Clearing Member shall be deemed to have made the following representation to the Clearing House:

- Following the relevant intra-day margin call, the FCM Clearing Member has completed all necessary FCM compliance calculations as required by applicable Law and the funds should be debited from the FCM Clearing Member's nominated account in satisfaction of such margin call.

## 2A.10 Compression

A Clearing Member may compress existing SwapClear Contracts in accordance with Regulation 401(k). There are two options available to a Clearing Member that wishes to compress existing SwapClear Contracts:

- (a) A Clearing Member can request that all SwapClear Contracts entered into (i) on behalf of a designated Client, (ii) on behalf of a designated Affiliate or (iii) on such Clearing Member's own behalf be considered for compression by the Clearing House. Such a request shall be reconsidered by the Clearing House automatically each day (and the results notified to the Clearing Member by 19:00 hours on each applicable day) until the Clearing Member notifies the Clearing House to discontinue such compression of SwapClear Contracts. Clearing Members should contact the Clearing House's Membership Department to request such a compression of SwapClear Contracts.
- (b) A Clearing Member may notify the Clearing House directly through the SwapClear API specifying which SwapClear Contracts should be compressed. The Clearing Member will be notified by 19:00 hours on the applicable day whether compression has occurred and the Clearing House will not automatically reconsider such compression request on subsequent days regardless of whether compression has occurred.

In order to compress a SwapClear Contract, a Clearing Member must register with an Approved Trade Source System an offsetting SwapClear Contract and shall then follow the process for compression as set out above.

The Clearing House shall process the compression of all SwapClear Contracts as notified to it prior to 18:00 hours shortly after 18:00 hours and shall notify the applicable Clearing Member by 19:00 hours of the result of such compression procedure. A notification received after 18:00 hours shall be treated as if such notification was submitted on the following day prior to 18:00 hours, and as such shall be considered shortly after 18:00 hours on such following day and the results notified to the applicable Clearing Member by 19:00 hours on such following day.

Following the compression process described above and as further set out in Regulation 401(k), the applicable Clearing Member shall promptly notify the Clearing House if it believes that any errors have occurred in the compression process or if its books and records do not reconcile with those of the Clearing House in respect of the compressed SwapClear Contracts as notified to the Clearing Member by the Clearing House.

## 2A.11 Affiliate Clearing

Under Regulation 104, Clearing Members are permitted to clear for Affiliates through their Proprietary Accounts.

## 2A.12 **Transfers of Clients and Client Positions; Defaulting Clients and Affiliates**

In certain circumstance the Clearing House will permit the transfer of SwapClear Contracts from one Clearing Member to another Clearing Member, pursuant to and in accordance with Regulation 108 and these Procedures.

### 2A.12.1 **Partial Transfers of Clients**

Where, in accordance with Regulation 108, a Receiving FCM Clearing Member wishes, on behalf of a Client, to receive a transfer of a portion of such Client's portfolio of SwapClear Contracts held with a Carrying FCM Clearing Member, it shall provide the Clearing House with a Client Partial Transfer Form (see Appendix 2A.B), signed on behalf of the relevant Client. Such form shall list all of the Porting SwapClear Contracts that are to be transferred pursuant to this procedure. Following receipt of a Client Partial Transfer Form, the Clearing House shall notify the Carrying FCM Clearing Member that a request has been received to transfer the Porting SwapClear Contracts. All partial transfers shall take place in accordance with the timing and notice requirements set out in Section 2A.12.4. In the event that such timing and notice requirements are not complied with, and unless agreed otherwise between the Clearing House and the relevant FCM Clearing Members, the relevant partial transfer shall not take effect.

In the event that any of the conditions set forth in Regulation 108(a) are not satisfied, including where the Carrying FCM Clearing Member notifies the Clearing House that certain of the conditions have not been satisfied using the Carrying FCM Clearing Member Response Form, the Clearing House shall not proceed with the transfer of the Porting SwapClear Contracts and shall promptly notify the Receiving FCM Clearing Member of such outcome. If the Receiving FCM Clearing Member wishes to proceed with such transfer, it shall be required to submit a new request to transfer in accordance with these Procedures.

### 2A.12.2 **Full Transfers of Clients**

Where, in accordance with Regulation 108, a Receiving FCM Clearing Member wishes, on behalf of a Client, to receive a transfer of all of the SwapClear Contracts of such Client registered with a Carrying FCM Clearing Member, it shall provide the Clearing House with a Client Full Transfer Form (see Appendix 2A.C), signed on behalf of the relevant Client. Such form shall confirm that all SwapClear Contracts attributable to the applicable Client shall be transferred pursuant to this procedure. Where a Receiving FCM Clearing Member submits a Client Full Transfer Form, it must confirm whether or not the Client also wishes the transfer to include the transfer of Porting Collateral. Following receipt of a Client Full Transfer Form, the Clearing House shall notify the Carrying FCM Clearing Member that a request has been received to transfer SwapClear Contracts. All full transfers shall take place in accordance with the timing and notice requirements set out in Section 2A.12.4. In the event that such timing and notice requirements are not complied with, and unless agreed otherwise between the Clearing House and the relevant FCM Clearing Members, the relevant transfer shall not take effect.

In the event that any of the conditions set forth in Regulation 108(a) are not satisfied, and the Carrying FCM Clearing Member notifies the Clearing House that

certain conditions have not been satisfied using the Carrying Member Response Form, the Clearing House shall not proceed with the transfer of the Porting SwapClear Contracts or the Porting Collateral (when applicable), and shall promptly notify the Receiving FCM Clearing Member of such outcome. If the Receiving FCM Clearing Member wishes to proceed with such transfer or any other transfer of the Porting FCM SwapClear Contracts of such Client, it shall be required to submit a new request to transfer in accordance with these Procedures.

Following receipt by the Carrying FCM Clearing Member of the notice that a Full Transfer Form has been received, the Carrying FCM Clearing Member shall not be permitted to submit additional SwapClear Contracts on behalf of the Client whose SwapClear Contracts are subject to transfer during the period commencing at the end of the SwapClear US Service operating hours on the day on which the relevant FCM Clearing Member received such notice and ending at the time at which the relevant transfer (including the transfer of the Porting Collateral, if applicable) is actually effected, fails or is rejected in accordance with Regulation 108 and these Procedures.

#### 2A.12.3 Collateral Transfers

Where a Receiving FCM Clearing Member notifies the Clearing House that a Client wishes to transfer Porting Collateral from a Carrying FCM Clearing Member to a Receiving FCM Clearing Member, the Clearing House shall notify the Carrying FCM Clearing Member of such request in accordance with the timetable below.

Following such notification, the Carrying FCM Clearing Member shall confirm to the Clearing House (using the Carrying Member Response form at Appendix 2A.D) the appropriate Collateral to constitute the Porting Collateral and the appropriate SwapClear Contracts to constitute the Porting SwapClear Contracts. In the event that the Carrying FCM Clearing Member fails to do so in accordance with the timetable below, the Clearing House shall determine (in its sole discretion) the appropriate Collateral that should constitute the Porting Collateral. The Clearing House shall notify the Carrying FCM Clearing Member and the Receiving FCM Clearing Member of the Porting Collateral that will be transferred in accordance with the timetable below. Following receipt of such notification by the Clearing House, the Receiving FCM Clearing Member may elect to reject the transfer of some or all of the relevant Porting Collateral in accordance with Regulation 108(b).

In the event that any of the conditions set forth in Regulation 108(a) are not satisfied, and the Carrying FCM Clearing Member notifies the Clearing House that they have not been satisfied, including where the Carrying FCM Clearing Member notifies the Clearing House that certain conditions have not been satisfied using the Carrying Member Response Form, such that the Porting SwapClear Contracts will not be transferred, the Clearing House shall not proceed with the transfer of the relevant Porting Collateral.

In the event that the Clearing House transfers Porting Collateral pursuant to these Procedures and the Regulations, it will also transfer the aggregate Variation Margin and next day settlement coupons and fees associated with the transferring SwapClear Contracts.

#### 2A.12.4 Timetable for Client Transfer

<u>Time</u> (all references below are to New York City Time)	<u>Partial Transfer</u>	<u>Full Transfer (with Collateral)</u>	<u>Full Transfer (without Collateral)</u>
Day 0: 20:00	Deadline for receipt from Receiving FCM Clearing Member of Client Partial Transfer Form.	Deadline for receipt from Receiving FCM Clearing Member of FCM Full Transfer Form and confirmation that Collateral is to be transferred.	Deadline for receipt from Receiving FCM Clearing Member of FCM Full Transfer Form.
Day 1: 10:00	Deadline for notification by the Clearing House to the Carrying FCM Clearing Member and the Receiving FCM Clearing Member that it intends to transfer certain SwapClear Contracts pursuant to a request from the Receiving FCM Clearing Member.	Deadline for notification by the Clearing House to the Carrying FCM Clearing Member and the Receiving FCM Clearing Member that it intends to transfer SwapClear Contracts pursuant to a request from the Receiving FCM Clearing Member.	Deadline for notification by the Clearing House to the Carrying FCM Clearing Member and the Receiving FCM Clearing Member that it intends to transfer SwapClear Contracts pursuant to a request from the Receiving FCM Clearing Member.
Day 2: 14:00	Deadline for notification (if any) from Carrying FCM Clearing Member that: (i) the Client has become insolvent and/or (ii) the Client has unsatisfied outstanding obligations to the Carrying FCM Clearing Member (in accordance with Regulation 108(a)) and that the Carrying FCM Clearing Member is therefore objecting to the transfer.	Deadline for notification (if any) from Carrying FCM Clearing Member that: (i) the Client has become insolvent and/or (ii) the Client has unsatisfied outstanding obligations to the Carrying FCM Clearing Member (in accordance with Regulation 108(a)) and that the Carrying FCM Clearing Member is therefore objecting to the transfer.	Deadline for notification (if any) from Carrying FCM Clearing Member that: (i) the Client has become insolvent and/or (ii) the Client has unsatisfied outstanding obligations to the Carrying FCM Clearing Member (in accordance with Regulation 108(a)) and that the Carrying FCM Clearing Member is therefore objecting to the transfer.
		Deadline for confirmation from Carrying FCM Clearing Member of	

<u>Time</u> (all references below are to New York City Time)	<u>Partial Transfer</u>	<u>Full Transfer (with Collateral)</u>	<u>Full Transfer (without Collateral)</u>
		the collateral which is to be ported to the Receiving FCM Clearing Member.	
Day 2: 14:00 to 15:00		LCH notifies the Receiving FCM Clearing Member of the Porting Collateral that will be transferred or that Collateral will not be transferred.  Where Collateral will not be transferred, transfer is treated as a full transfer (without Collateral).	
Day 2: 19:30	Deadline for receipt by the Clearing House of consent of transfer from the Receiving FCM Clearing Member.	Deadline for receipt by the Clearing House of consent of transfer and associated Porting Collateral from the Receiving FCM Clearing Member.	Deadline for receipt by the Clearing House of consent of transfer from the Receiving FCM Clearing Member.
Day 3: 08:00	Target deadline for notification by Clearing House to the Carrying FCM Clearing Member or the Receiving FCM Clearing Member of whether any additional Collateral is required to enable the transfer.	Target deadline for notification by Clearing House to the Receiving FCM Clearing Member of whether any additional Collateral is required to enable the transfer.	Target deadline for notification by Clearing House to the Receiving FCM Clearing Member of whether any additional Collateral is required to enable the transfer.
Day 3: 09:00	Deadline for receipt by Clearing House of any additional Collateral from the Carrying FCM Clearing Member or the Receiving FCM Clearing Member required to enable the transfer.	Deadline for receipt by Clearing House of any additional Collateral from the Receiving FCM Clearing Member required to enable the transfer.	Deadline for receipt by Clearing House of any additional Collateral from the Receiving FCM Clearing Member required to enable the transfer.

<u>Time</u> (all references below are to New York City Time)	<u>Partial Transfer</u>	<u>Full Transfer (with Collateral)</u>	<u>Full Transfer (without Collateral)</u>
Day 3: 09:00	Clearing House transfers SwapClear Contracts.	Clearing House transfers SwapClear Contracts and associated Porting Collateral.	Clearing House transfers SwapClear Contracts.

The timings and processes listed in the table above may be amended from time to time by the Clearing House in its full discretion via Member Circular.

#### **2A.12.5 Transactions in Respect of Clients or Affiliates in Default to Clearing Member**

This Section describes certain transactions that, under certain conditions, can be carried out by a Clearing Member in respect of one of its Clients or one of its Affiliates that has defaulted in its obligations to the Clearing Member.

A request or instruction from a Clearing Member to the Clearing House to carry out a transaction described in Sections 2A.12.5.1 or 2A.12.5.2 below shall in every case be deemed a representation by the Clearing Member to the Clearing House that (i) the affected Client or Affiliate is in default of its obligations to the Clearing Member, (ii) the Clearing Member has provided and will provide (as applicable) any required notices to the Client or Affiliate of its default and the Clearing Member's transactions effected under Sections 2A.12.5.1 and/or 2A.12.5.2 below, and (iii) the Clearing Member is permitted by its agreements with the Client or Affiliate and applicable law, and has authority to effect the transactions specified in the Clearing Member's requests and/or instructions to the Clearing House in respect of such Client or Affiliate. Clearing Members are not permitted to effect or attempt to effect a transaction described in Sections 2A.12.5.1 or 2A.12.5.2 below where the preceding representations are not satisfied.

Notwithstanding anything to the contrary contained in this Section 2A.12.5, the transactions described in this section are subject to all applicable provisions of the CEA and the CFTC Regulations (including without limitation Part 22 thereof).

##### **2A.12.5.1 Transfers between Proprietary Accounts and Client Accounts of the Same FCM Clearing Member**

Pursuant to Regulation 108(d), an FCM Clearing Member may, in connection with a defaulted Client, transfer a SwapClear Contract from the applicable Client Segregated Sub-Account to its Proprietary Account, provided that the following conditions are met (in addition to any other generally applicable provisions of the Rulebook):

- (a) the representations described above in Section 2A.12.5 are not or would not be breached;

- (b) satisfactory evidence of the Client's default in its obligations to the FCM Clearing Member is presented to the Clearing House, which evidence may be, to the extent permitted by the Clearing House in its sole discretion, nothing other than the FCM Clearing Member's instruction to effect the transfer (provided that the Clearing House shall be entitled to request additional evidence in its discretion);
- (c) at all times the FCM Clearing Member maintains sufficient Margin in its Proprietary Account and the applicable Client Segregated Sub-Account, taking into account that collateral transfers may not be requested by the FCM Clearing Member in connection with a transfer of a SwapClear Contract from a Client Segregated Sub-Account to the Proprietary Account; and
- (d) on demand from the Clearing House, an indemnity from the FCM Clearing Member in a form suitable to the Clearing House is provided to the Clearing House.

The Clearing House will typically (but shall not be required to) transfer the relevant SwapClear Contract within 24 hours of receipt of the above.

A SwapClear Contract transferred in this manner shall be through novation.

#### 2A.12.5.2 SwapClear Contracts Entered into on Behalf of Defaulted Clients

An FCM Clearing Member may register, in the name of a defaulted Client but without the direction of such Client, SwapClear Contracts (including hedging and/or compression transactions) to such Client's Client Segregated Sub-Account under the following conditions (in addition to any other generally applicable provisions of the Rulebook):

- (a) the representations described above in Section 2A.12.5 are not or would not be breached;
- (b) at all times the FCM Clearing Member maintains sufficient Margin in the applicable Client Segregated Sub-Account; and
- (c) on demand from the Clearing House, an indemnity from the FCM Clearing Member in a form suitable to the Clearing House is provided to the Clearing House.

Such a SwapClear Contract to be registered in the name of a defaulted Client must reference the applicable Client and Client Segregated Sub-Account as would ordinarily occur; however, the transaction may be submitted using either the Client's MarkitWire identification number or an alternative MarkitWire identification number other than that of the Client (*e.g.*, the FCM Clearing Member's or one of its Affiliate's MarkitWire identification numbers), as applicable. Where the transaction is submitted using an alternative MarkitWire identification number other than that of the Client, the Clearing House may in its discretion request satisfactory evidence of the Client's default in its obligations to the FCM Clearing Member and an indemnity from the FCM Clearing Member in a form suitable to the Clearing House.

### 2A.12.5.3 SwapClear Contracts Entered into on Behalf of Defaulted Affiliates

A Clearing Member may register, in the name of a defaulted Affiliate but without the direction of such Affiliate, SwapClear Contracts (including hedging and/or compression transactions) to such Affiliate through the Proprietary Account under the following conditions (in addition to any other generally applicable provisions of the Rulebook):

- (a) the representations described above in Section 2A.12.5 are not or would not be breached;
- (b) at all times the Clearing Member maintains sufficient Margin in its Proprietary Account; and
- (c) on demand from the Clearing House, an indemnity from the Clearing Member in a form suitable to the Clearing House is provided to the Clearing House.

Such a SwapClear Contract to be registered in the name of a defaulted Affiliate must reference the applicable Affiliate as would ordinarily occur; however, the transaction may be submitted using either the Affiliate's MarkitWire identification number or an alternative MarkitWire identification number other than that of the Affiliate (*e.g.*, the Clearing Member's or one of its other Affiliate's MarkitWire identification numbers), as applicable. Where the transaction is submitted using an alternative MarkitWire identification number other than that of the Affiliate, the Clearing House may in its discretion request satisfactory evidence of the Affiliate's default in its obligations to the Clearing Member and an indemnity from the Clearing Member in a form suitable to the Clearing House.

### 2A.12.6 Transfers of SwapClear Contracts of Clients to the Proprietary Account of a Different Clearing Member

FCM Clearing Members are permitted under certain conditions to transfer Contracts registered on behalf of their Clients to the Proprietary Account of a different Clearing Member. FCM Clearing Members interested in providing these services to their Clients should contact the Clearing House's SwapClear Client Services department.

### 2A.13 Proprietary Account Position Transfers

The SwapClear clearing system provides functionality for the transfer of positions from a Clearing Member's Proprietary Account, either in respect of SwapClear Contracts held on a Clearing Member's own behalf or in respect of SwapClear Contracts held on behalf of an Affiliate, to another Clearing Member. In either case, any such transfer may only occur if the Clearing Member receiving such positions is an Affiliate of the Clearing Member transferring such positions.

A Clearing Member who wishes to effect a position transfer to another Clearing Member should contact the Clearing House Risk Management Department. Transfers will only be effected once adequate Margin has been furnished by both parties to the transfer. Transfers of Affiliate positions shall not be permitted to

another Clearing Member's Proprietary Account unless such Affiliate is an Affiliate of the Clearing Member receiving the transferring position.

See Section 2A.12.5 above regarding transfers between Proprietary Accounts and Client accounts.

#### 2A.13.1 Legal Documentation

The Clearing House will provide standard legal documentation for the transfer of positions. The transfer must be authorized by both parties and by individuals with appropriate signing authority.

#### 2A.13.2 Position Transfer Notice Period

The Clearing House will usually require five (5) Business Days' notice ahead of an intended transfer.

### 2A.14 Amendment of Trade References

Sometimes Clearing Members wish to change their own trade reference numbers/codes by which they identify trades registered in the SwapClear US Service. Subject to any such Clearing Member meeting all the Clearing House's requirements, including under these Procedures, the Clearing House will, as part of its service to Clearing Members, amend its records in order to reflect any such change. Such change has no effect whatsoever on the terms of any registered SwapClear Contract or any other obligations of the Clearing Member party to such contract.

#### 2A.14.1 Trade Reference Amendment Request Form

The Clearing House requires a completed Trade Amendment Request Form (in the form prescribed by the Clearing House) to be submitted by any Clearing Member wishing to amend a trade reference. The form must be signed by two authorized signatories of the Clearing Member and must set out the required full details of each registered trade in respect of which the Clearing Member wishes to change its trade reference. Evidence of such signing authority may be required by the Clearing House. All parts of the form must be properly and fully completed, including the requested date for trade reference amendment, and, in respect of each trade identified therein, details of the current trade reference and the new trade reference and the Clearing House trade reference number.

The requested date for trade reference amendment must be no earlier than two Business Days (the "**Trade Reference Amendment Notice Period**") after the date upon which the form is received by the Clearing House. While the Clearing House will do what it reasonably can to meet the requested date for the amendment it is under no obligation to do so. The date for the amendment in the Clearing House's records and SwapClear clearing system is a matter entirely within the discretion of the Clearing House and the Clearing Member will be advised in due course of the date set by the Clearing House.

#### 2A.14.2 Multi-trade Amendments

If a Clearing Member requests amendment to several trades it must (in addition to providing the hard copy Trade Reference Amendment Request Form) provide to the Clearing House an electronic text file containing all the relevant details required by the Trade Reference Amendment Request Form. Detail of the required formats of the file can be obtained from SwapClear Operations (Tel: +1 (212) 513-5642). If the file is not submitted in the correct format and containing all the required details, the request for deletion will be rejected by the Clearing House and the Clearing Member will be advised accordingly.

#### 2A.14.3 Processing

The Clearing House will usually agree to process any request for amendment of trade reference properly submitted; however the Clearing House will reject any such request if:

- it is not made in accordance with these Procedures;
- any trade reference notified to the Clearing House in the Trade Reference Amendment Request Form does not match the Clearing Member's trade reference which the Clearing House has recorded;
- the Clearing House trade reference number notified in the Trade Reference Amendment Request Form does not refer to a trade registered in the SwapClear clearing system;
- any trade referred to in the Trade Reference Amendment Request Form is not already registered in the SwapClear clearing system or is not recorded by the Clearing House against the BIC code of the Clearing Member requesting the amendment; or
- it would not be practical in all the circumstances or would subject the Clearing House to unacceptable cost if the Clearing House were to make the requested amendments or the Clearing House forms the view that to do so would adversely affect its risk.

Following notification of agreement to make the requested amendments, the Clearing House will use its commercially reasonable efforts to process the amendments on the anticipated date of amendments; if, for whatever reason, the Clearing House is unable to do so, it will notify the Clearing Member and process the amendment as soon as reasonably practicable thereafter.

After close of business on the day of processing, the Clearing House will produce a report setting out details of the time and date that it has amended its records in accordance with the request, details of the old and new Clearing Member trade references and the status of the amendment in respect of each trade set out in the Trade Reference Amendment Request – namely “amended” or “rejected”. All records of the Clearing House and data held in the SwapClear clearing system will then be updated overnight following the close of business on that day.

#### 2A.14.4 Legal Documentation

The Clearing House will provide the requesting Clearing Member with legal documentation in Clearing House standard form for that Clearing Member to sign. No trade reference will be amended unless such documentation is completed and signed. The documentation must be signed by a person within the Clearing Member with appropriate signing authority. Evidence of such authority may be required by the Clearing House. No amendment to such documentation will be accepted by the Clearing House.

#### 2A.14.5 Notification

Subject to the requesting Clearing Member meeting all of the Clearing House's requirements (including completion and submission of all documentation and such other additional requirements as may be set by the Clearing House in its discretion), the Clearing House will notify the Clearing Member of its agreement to the amendment of its records of the Clearing Member trade reference in respect of the trades identified in the Trade Reference Amendment Request Form, and advise of the anticipated date of amendment (the "**anticipated date of amendment**").

### 2A.15 Early Termination Events

Clearing Members and SwapClear Dealers using MarkitWire may, if they so wish, use the Early Termination Provision FpML block to include details of any terms relating to optional early termination agreed between the parties to that SwapClear Transaction.

The Clearing House, in order to assist Clearing Members and SwapClear Dealers, permits Clearing Members and SwapClear Dealers to use these fields for their own administrative convenience as a record of a term of the underlying SwapClear Transaction between them, but any data populating these fields will not under any circumstances constitute any part of or any term of the SwapClear Contracts which arise between the Clearing House and the Clearing Members in whose name such trades are registered. Clearing Members have no right to elect early termination of any SwapClear Contract. The full terms of any such SwapClear Contract are as set out in Schedule 4A to the Regulations.

The Clearing House does not store or record any data populating these fields or blocks or any other fields or blocks in the trade confirmation message which are ignored by the SwapClear System (see information documents provided by SwapClear entitled, "The FpML Validation Rules for SwapClear".)

### 2A.16 Termination of Clearing Member and SwapClear Dealer Status

#### 2A.16.1 Termination of Clearing Member Status

Clearing Members should contact the Clearing House Membership Department (+1 (212) 513-5645;membership@lchclearnet.com) for details of how to resign from the SwapClear US Service.

## 2A.16.2 Termination of SwapClear Dealer Status

The SwapClear Dealer Agreement sets out how SwapClear Dealer status may be terminated.

In particular, a SwapClear Dealer may terminate the SwapClear Dealer Agreement by giving no less than twenty one (21) days' written notice in the same terms to the Clearing Member and to the Clearing House. Before the expiry of such twenty one (21) day period (the "**Termination Date**"), the Clearing House will notify all Clearing Members and SwapClear Dealers that the relevant SwapClear Dealer is no longer able, from such Termination Date, to submit SwapClear Transactions for registration. Such SwapClear Dealer may only resume registration of SwapClear Transactions if it enters into another SwapClear Dealer Clearing Agreement and resumes its place in the Register of SwapClear Dealers. The Clearing House may give such notification by letter, email, fax, internet or telephone.

A Clearing Member may terminate the SwapClear Dealer Agreement, *inter alia*, at any time by giving written notice to the SwapClear Dealer and to the Clearing House in accordance with the provisions of the agreement. Following receipt of such notice, the Clearing House will confirm receipt to the Clearing Member and the SwapClear Dealer, and such termination will become effective three (3) hours after the Clearing Houses confirmation has been sent out. Confirmation may be given by the Clearing House by letter, email, fax, internet or telephone. Where notice is given to the Clearing House on a day which is not a Business Day for the SwapClear US Service, it will become effective three (3) hours after the commencement of the SwapClear US Service on the next following Business Day.

Following the receipt of a notice to terminate given by the Clearing House, the Clearing House will notify all Clearing Members and SwapClear Dealers that the relevant SwapClear Dealer is no longer able to submit SwapClear Transactions for registration until that SwapClear Dealer enters into another SwapClear Dealer Clearing Agreement and resumes its place in the Register of SwapClear Dealers.

## 2A.17 Default Management

### 2A.17.1 Portfolio Splitting

As part of the Default Management Process, the Clearing House may divide an Auction Portfolio into two or more individual Auction Portfolios. In circumstances where such portfolio splitting is adopted, the Clearing House will, in consultation with the DMG (as defined in the Default Regulations), seek to create:

- (a) one or more individual sub-portfolios which have comparatively greater levels of risk associated with them, thereby isolating such sub-portfolios from those which are more risk neutral; and
- (b) one or more individual sub-portfolios which are more risk neutral.

### 2A.17.2 Acceptance of Bids

In deciding whether to accept a bid, the Clearing House will generally accept the best bid in respect of any individual Auction. However, the Clearing House is

entitled to reject a bid in the event that it considers, in its reasonable discretion, that accepting the bid may:

- (a) cause the Clearing House to breach any legal or regulatory requirement applicable to it by virtue of its being a Derivatives Clearing Organization;
- (b) cause the Clearing House or its membership any reputational harm;
- (c) cause legal action or proceedings to be taken against the Clearing House; or
- (d) endanger the Clearing House, any of its Clearing Members or the financial markets in which the Clearing House operates.

Where the Clearing House receives more than one bid from the same Clearing Member in respect of the same Auction, the Clearing House is entitled to accept the last bid received by it in respect of that Auction. Where the Clearing House does not receive a bid that was made by a Clearing Member for operational, technological or other similar reasons, the Clearing House will be unable to accept the bid and shall not be liable for any failure to accept such bid.

#### 2A.17.3 Affiliate Bidding

A Clearing Member is entitled to bid for an Auction Portfolio on behalf of an affiliated Clearing Member. Where a Clearing Member makes a bid and such Clearing Member has an affiliated Clearing Member that does not make a bid, the Clearing House shall not (unless instructed otherwise in accordance with the paragraph below) assume that the bidding Clearing Member has made the relevant bid on behalf of a non-bidding, affiliated Clearing Member.

A Clearing Member may notify the Clearing House, in advance of an Auction, that it wishes to bid on behalf of an affiliated Clearing Member. Where it wishes to do so, the Clearing Member should contact the Clearing House's Membership Department at +1 (212) 513-5645; [membership@lchclearnet.com](mailto:membership@lchclearnet.com).

Upon the request of a Clearing Member that has successfully bid in an Auction (or in respect of which an LCH Approved Outsourcing Party, an affiliated Clearing Member or a non-Clearing Member Affiliate has made a successful bid on its behalf), the Clearing House shall transfer the rights and obligations arising out of the applicable Auction Portfolio to an affiliated Clearing Member of such Clearing Member or, through its House Account, to a non-Clearing Member Affiliate clearing through such Clearing Member, subject to such affiliate consenting to such transfer and meeting all the requirements imposed by the Clearing House from time to time in relation to accepting such rights and obligations (including executing any documents reasonably requested by the Clearing House), and subject to the Clearing House's determination in its reasonable discretion that the transfer would not be likely to result in a material and adverse impact on the Clearing House, the SwapClear US Service or another Clearing Member. Until such time as such transfer has been effected, the Clearing Member shall remain liable to perform its obligations (including in respect of the Auction Portfolio to be transferred) under the Rulebook.

## 2A.17.4 Outsourcing

Pursuant to Regulations 102(b)(iv) and 102(b)(v), a Clearing Member may appoint two or more third parties to fulfill one or both of the Clearing House's Membership requirements to: (i) participate in a SwapClear "fire drill" run by the Clearing House; and (ii) participate in the Default Management Process operated by the Clearing House (which involves the LCH Approved Outsourcing Party carrying out in a default situation, those actions that are required to be performed in a "fire drill"). Where a Clearing Member chooses to outsource one or both of these functions it must appoint and maintain at least two LCH Approved Outsourcing Parties.

The following types of entities are eligible for appointment as an LCH Approved Outsourcing Party:

- another Clearing Member or a clearing member of LCH.Clearnet Limited;
- a Client; or
- any other entity that the Clearing House deems appropriate in its sole discretion.

Regardless of the number of LCH Approved Outsourcing Parties appointed by a Clearing Member, at least one such LCH Approved Outsourcing Party must be a person other than another Clearing Member (but such person may be a clearing member of LCH.Clearnet Limited).

Where a Clearing Member wishes to appoint a third party to carry out any obligation on its behalf, it should contact the Clearing House's Membership Department with:

1. details of the third-party entity that the Clearing Member wishes to appoint as an LCH Approved Outsourcing Party (including details of the applicant's regulatory status);
2. evidence of the existence of a legally binding agreement between the Clearing Member and the third party; and
3. such other information that the Clearing House reasonably considers necessary for the purposes of determining whether an entity should be approved as an LCH Approved Outsourcing Party.

Following the receipt of all of the information above, the Clearing House shall determine, in its sole discretion, whether to approve the third party as an LCH Approved Outsourcing Party. In making its determination, the Clearing House shall consider the third party's ability to demonstrate that it has the necessary operational infrastructure and appropriate asset class expertise.

Where a Clearing Member successfully appoints an LCH Approved Outsourcing Party, that Clearing Member may be subject to increased Margin requirements to

cater for the additional time required to invoke an outsourcing process in the event of a Default.

Clearing Members should note that LCH Approved Outsourcing Parties may be subject to a more rigorous driving test and fire-drill than Clearing Members (*i.e.*, they may be required to demonstrate an ability to price and bid a greater number of trades at tighter pricing tolerances and within more onerous timeframes). In addition, the Clearing House may require a Clearing Member that has appointed an LCH Approved Outsourcing Party to participate in an ad-hoc fire-drill or driving test with such notice as the Clearing House deems appropriate in its sole discretion.

The Clearing House reserves the right to revoke an entity's status as an LCH Approved Outsourcing Party, where such LCH Approved Outsourcing Party fails a "fire drill" or the Clearing House reasonable believes it would fail a "fire drill", in its sole discretion and without notice. Within 14 days of such a revocation, the relevant Clearing Member shall be required to either (i) assume those responsibilities that were previously outsourced to such LCH Approved Outsourcing Party or (ii) appoint a replacement LCH Approved Outsourcing Party. Such revocation may occur where the Clearing House considers that there are an insufficient number of third-party entities that are providing outsourced default management services (usually a minimum of five providers at any one time).

In the event that the Clearing House determines that an LCH Approved Outsourcing Party has been appointed to provide operational support to a number of Clearing Members great enough so that it may not be able to provide such services efficiently to each and every one of those Clearing Members in the event of a Default, it may require a Clearing Member who has appointed such LCH Approved Outsourcing Party to replace the LCH Approved Outsourcing Party and make suitable alternative arrangements within 14 days of the Clearing House's determination.

**The appointment of an LCH Approved Outsourcing Party does not absolve a Clearing Member of its obligations under the Default Management Process (including its obligation to participate in an Auction), and an LCH Approved Outsourcing Party's participation in Default Management Process on behalf of a Clearing Member in the event of a Default shall not extend beyond the provision of operational and other ancillary support to that Clearing Member.**

#### 2A.17.5 The DMG

The necessary involvement of Clearing Members and the DMG in the Default Management Process entails the assessment and dissemination of information that could give rise to conflicts of interest. To ensure that such potential conflicts are demonstrably contained, Appendix 2A.E establishes binding obligations of confidentiality, anonymity and the extent of dissemination of information on Clearing Members (and their executives or directors who participate from time to time in the Default Management Process) and on the Clearing House.

Each Clearing Member who makes available a representative to serve on the DMG agrees, and shall procure that, to the extent applicable, its representatives agree to be bound by and to ensure that it and any of its executives or directors serving on the

DMG complies with, Appendix 2A.E covering confidentiality, non-disclosure and other terms.

#### 2A.17.6 Procedures for Liquidation of SwapClear Contracts of Clients

Upon the default of an FCM Clearing Member, the Clearing House has the power and authority, pursuant to the Rulebook, the CEA and the CFTC Regulations, to liquidate the SwapClear Contracts of Clients which, pursuant to the Rulebook, would be conducted in accordance with the Default Regulations. This section sets forth certain supplementary procedures (in addition to the Default Regulations and other applicable provisions of the Rulebook) that will apply under such circumstances.

In certain circumstances the Clearing House may deem, in its sole discretion, that one or more of the SwapClear Contracts attributable to a Client's Client Segregated Sub-Account should be liquidated. Such determination may result from factors including: (i) the Clearing House determining that the Client poses too great a risk to the Clearing House and should therefore be liquidated, (ii) the Clearing House becoming aware of the Client becoming insolvent or otherwise failing in its obligations to the defaulting FCM Clearing Member, (iii) the relevant Client requesting that it be liquidated, or (iv) a request or instruction from a Regulatory Body, whether orally or in writing. In the event of such liquidation the Clearing House shall transfer (either physically or by book-entry) such Client's SwapClear Contracts to be liquidated into an account at the Clearing House established for purposes of liquidating the SwapClear Contracts of Clients of the Defaulter (such account, a "**Hedged Account**"). The Clearing House shall establish a separate Hedged Account for each currency of SwapClear Contracts that will be subject to liquidation and will include in each such Hedged Account the SwapClear Contracts in the applicable currency that are to be liquidated, regardless of the Clients for which such SwapClear Contracts are held. The provisions of this section shall apply equally to any such Hedged Account. Additionally, no Contracts other than SwapClear Contracts will be transferred into a Hedged Account established for liquidating SwapClear Contracts.

A Client whose SwapClear Contracts are transferred into a Hedged Account is referred as a "**Non-Porting Client**". The Clearing House shall hold the relevant Collateral in respect of Non-Porting Clients (segregated as belonging to each such applicable Non-Porting Client in accordance with the CFTC Regulations and Part 22 thereof) in the relevant Omnibus Client Swaps Account with LCH of the Defaulter until the liquidation of the entire Hedged Account and all SwapClear Contracts and other positions therein, as described below. At the time that the SwapClear Contracts of a Non-Porting Client are transferred into a Hedged Account, any outstanding and accrued but unpaid Variation Margin in respect of such SwapClear Contracts shall be discharged as of the time such SwapClear Contracts are transferred into the Hedged Account, by (i) in the event that Variation Margin is accrued but unpaid in favor of the Clearing House, debiting the Client Segregated Sub-Account of such Client, or (ii) in the event that Variation Margin is accrued but unpaid in favor of the Client, crediting the Client Segregated Sub-Account of such Client.

Administration of a Hedged Account. The Clearing House may enter into hedge transactions and liquidate and/or auction the SwapClear Contracts and hedges for the account of the Hedged Account, and may take related actions with respect to a Hedged Account (and the positions held therein), in its sole discretion as permitted by the Rulebook, the CEA and the CFTC Regulations, or as directed by an applicable Regulatory Body.

Allocation of Gains and Losses in a Hedged Account to Non-Porting Clients. The Clearing House will allocate losses and gains (including further variation margin changes, hedging costs (including the gains and losses associated with hedging transactions) and liquidation/auction costs and losses) to Non-Porting Clients in a Hedged Account in accordance with the following provisions:

- (i) At the time a Client becomes a Non-Porting Client, such Non-Porting Client is assigned a risk factor (a “**Risk Factor**”) which is equal to such Non-Porting Client’s Required Margin with respect to its SwapClear Contracts that are transferred into the Hedged Account at the time such Client became a Non-Porting Client (*i.e.*, at the time of transfer into the Hedged Account).
- (ii) On the first day that Clients become Non-Porting Clients, gains and losses in the Hedged Account on such day shall be allocated on a *pro rata* basis among such Non-Porting Clients based on their individual Risk Factors. The allocation of gains and losses on subsequent days shall be made in the same manner until the occurrence of a day (if applicable) in which additional Non-Porting Clients are included in the Hedged Account. Additional Non-Porting Clients that are included in the Hedged Account on a subsequent day, until further additional Non-Porting Clients are included in the Hedged Account on a further subsequent day, are referred to as “**New Non-Porting Clients**”.
- (iii) On a day when one or more New Non-Porting Clients are included in the Hedged Account, the Clearing House shall calculate a combined risk factor (the “**Existing Non-Porting Clients Combined Risk Factor**”) in respect of the Non-Porting Clients that were previously included in the Hedged Account and are not New Non-Porting Clients (such existing Non-Porting Clients, “**Existing Non-Porting Clients**”). The Existing Non-Porting Clients Combined Risk Factor shall be based on the amount of Required Margin associated with the Hedged Account with respect to all positions (including all SwapClear Contracts, hedges or other positions) held in the Hedged Account, at the beginning of the day on which New Non-Porting Clients are included in the Hedged Account (*i.e.*, at a time prior to the transfer of the SwapClear Contracts of New Non-Porting Clients into the Hedged Account). For the avoidance of doubt, the Existing Non-Porting Clients Combined Risk Factor is calculated without respect to the Required Margin applicable to the transferred SwapClear Contracts of the New Non-Porting Clients.
- (iv) On any day on which New Non-Porting Clients are included in the Hedged Account, gains and losses in the Hedged Account that are incurred on that day will be allocated among the Existing Non-Porting Clients (as a group) and the New Non-Porting Clients (individually) on a *pro rata* basis based on the Existing Non-Porting Clients Combined Risk Factor (with respect to the Existing Non-Porting Clients as a group) and the individual Risk Factors of

each New Non-Porting Client (with respect to each such New Non-Porting Client individually). The gains and losses allocated in such manner to the Existing Non-Porting Clients as a group shall be further allocated to each individual Existing Non-Porting Client on a *pro rata* basis based on the Risk Factor of each such Existing Non-Porting Client. The allocation of gains and losses on subsequent days shall occur in the same manner as set forth in this paragraph (iv) until the occurrence of a day (if applicable) in which additional Non-Porting Clients are included in the Hedged Account and thus become the New Non-Porting Clients. In such a case, (A) the Existing Non-Porting Clients shall continue to be treated as Existing Non-Porting Clients, (B) the Non-Porting Clients previously constituting the New Non-Porting Clients shall then constitute Existing Non-Porting Clients (in accordance with the definition of New Non-Porting Clients in paragraph (ii) above), (C) the additional Non-Porting Clients included in the Hedged Account constitute the New Non-Porting Clients (in accordance with the definition of New Non-Porting Clients in paragraph (ii) above), and (D) the Clearing House shall recalculate the Existing Non-Porting Clients Combined Risk Factor and the allocation of gains and losses shall be in accordance with paragraph (iii) above and this paragraph (iv).

(v) Upon the liquidation of the Hedged Account and all SwapClear Contracts and other positions therein, by auction or otherwise, any gains or losses associated with such auction/liquidation shall be allocated among all Non-Porting Clients on a *pro rata* basis based on the Risk Factor of each Non-Porting Client, without regard to any Existing Non-Porting Clients Combined Risk Factor.

Settlement of Non-Porting Clients Following Liquidation of Hedged Account. Following the liquidation of a Hedged Account, the Clearing House shall allocate the appropriate gains and losses (as determined in accordance with the above provisions) to each Non-Porting Client's relevant Client Segregated Sub-Account.

## 2A.18 Taxes

Each Clearing Member shall pay any Tax or duty levied or imposed upon it or in respect of its execution or performance of the Clearing Membership Agreement and the Rulebook (including any registration of Contracts) by a jurisdiction in which it is incorporated, organized, managed and controlled, or considered to have its seat, or in which a branch or office through which it is acting is located or by any other jurisdiction.

If any Clearing Member fails to pay a Tax required to be paid pursuant to the previous paragraph and a liability resulting from such Tax is assessed directly against the Clearing House, then, except to the extent the Clearing Member has satisfied or then satisfies the liability resulting from such Tax, the Clearing Member will promptly pay to the Clearing House the amount of such liability (including any related liability for interest, penalties and cost) plus any Tax imposed on the Clearing House with respect to the indemnity payment under this paragraph.

**2A.19 Prescribed Terms**

Pursuant to Regulation 103 the Clearing House may prescribe certain provisions that an FCM Clearing Member must include in its agreement with a Client.

Where an FCM Clearing Member provides Clearing Services to a Client that is a registered investment company, as defined in the Investment Company Act 1940, it shall include provisions in its agreement with that Client to the following effect:

- (a) the FCM Clearing Member shall comply with applicable law relating to the segregation of Client Funds including without limitation Part 22 of the CFTC Regulations;
- (b) Client Funds delivered by the Client shall be held in accordance with the CEA and the CFTC Regulations and the FCM Clearing Member shall obtain an acknowledgement, to the extent required by Parts 1.20 and 22 of the CFTC Regulations, that those Client Funds are being held in accordance with the CEA and the CFTC Regulations;
- (c) the FCM Clearing Member will promptly furnish copies of or extracts from its records or such other information pertaining to the Client's assets as the Securities Exchange Commission, through its employees or agents, may request;
- (d) any gains on SwapClear Contracts held on behalf of a Client (other than de minimis amounts) may be maintained by the FCM Clearing Member only until the next Business Day following receipt; and
- (e) the Client has the ability to withdraw its assets from the FCM Clearing Member as soon as reasonably practicable if the FCM Clearing Member's custody of Client Funds no longer meets the requirements of Rule 17f-6 under the Investment Company Act 1940.

**APPENDIX 2A.A**  
**SWAPCLEAR PROCESSING SCHEDULE**

This table outlines the daily processes and timetable of the SwapClear operation and constitutes a “Business Day” for the purpose of the Rulebook. Clearing Members will be informed of changes to this timetable via member circular. All times shown are in New York City time.

SWAPCLEAR PROCESSING SCHEDULE	
Time	
07:30	SwapClear Opens
by 08:30	Registration of Backloaded trades and confirmation of deleted trades from T-1 (see Section 2A.3.5)
16:00	Deadline for PPS calls in New York
19:00	SwapClear Closes

**APPENDIX 2A.B**  
**CLIENT – PARTIAL TRANSFER FORM**



**CLIENT - PARTIAL TRANSFER FORM**

**V.1.0: August 2012**

*Terms used in this form are as defined in LCH.Clearnet LLC's Rulebook unless defined herein.*

**To:** LCH.Clearnet LLC

**From:** Receiving FCM Clearing Member

**Date:**

We, ..... [insert name of Receiving FCM Clearing Member] (the "Receiving FCM Clearing Member"), have received a request from ..... [insert name of transferring Client] (the "Client") to transfer part of its portfolio of SwapClear Contracts from its Carrying FCM Clearing Member to us. We hereby request the transfer of the SwapClear Contracts as identified below pursuant to Regulation 108 and these Procedures.

Please insert the LCH trade IDs of the transferring SwapClear Contracts, using the Schedule below:

*\*\*Please insert the LCH trade ID and Approved Trade Source (ATS) ID of the transferring SwapClear Contracts.*

*\*\*Please append a list of additional SwapClear Contracts to this form, if required.*

LCH Trade ID	ATS Trade ID

**Signatories for and on behalf of the Receiving FCM Clearing Member:**

We acknowledge and confirm the above and are authorized to sign for and on behalf of the Receiving FCM Clearing Member.

1.

(Authorized Signatory)	Name	Position	Date
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2.

(Authorized Signatory)	Name	Position	Date
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**Signatories for and on behalf of the transferring Client:**

**To:** Receiving FCM Clearing Member

We acknowledge and confirm:

- i. the request to transfer as detailed above;
- ii. that LCH.Clearnet LLC will contact our Carrying FCM Clearing Member in relation to this transfer and will disclose our identity to such Carrying FCM Clearing Member;
- iii. that, in accordance with the Rulebook, LCH.Clearnet LLC is entitled to rely conclusively on the instructions and information received from the Receiving FCM Clearing Member and the Carrying FCM Clearing Member and shall have no liability or responsibility therefor;
- iv. that the transfer detailed above may require that additional Margin be paid to LCH.Clearnet LLC (and/or by us to the Receiving FCM Clearing Member listed above and/or our Carrying FCM Clearing Member), and that LCH.Clearnet LLC is not required to effect the transfer if it has not received adequate Margin in respect of the transfer or if any of the other conditions set forth in the Rulebook applicable to the transfer are unsatisfied;
- v. that in order for the transfer detailed above to be effected, we will be required to satisfy any requirements as between ourselves and the Carrying FCM Clearing Member and/or its Affiliates at the time of, or arising as a result of, such transfer, to the extent the Rulebook states that such requirements must be satisfied in order for the transfer to be effected, including, without limitation, any outstanding obligations that are due and payable to the Carrying FCM Clearing Member and/or its Affiliates at the time of, or arising as a result of, such transfer, as provided for in the Rulebook; and
- vi. that we are authorized to make these acknowledgements and confirmations and do so on behalf of the Client listed above in accordance with the Regulations.

For and on behalf of the Client:

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Authorized signatory

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Authorized signatory

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Date

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Date

All forms should be returned to LCH.Clearnet LLC for the attention of Client Services.

Email: [swapclearclientservices@lchclearnet.com](mailto:swapclearclientservices@lchclearnet.com)

Telephone: +1 212 513 8265

SwapClear Client Services  
17 State Street, 28<sup>th</sup> Floor  
New York NY 10004

**APPENDIX 2A.C**  
**CLIENT – FULL TRANSFER FORM**



CLIENT - FULL TRANSFER FORM

V.1.0: August 2012

*Terms used in this form are as defined in LCH.Clearnet LLC's Rulebook unless defined herein*

**To:** LCH.Clearnet LLC

**From:** Receiving FCM Clearing Member

**Date:**

We, ..... [insert name of Receiving FCM Clearing Member] (the “Receiving FCM Clearing Member”) have received a request from ..... [insert name of transferring Client] (the “Client”) to transfer its entire portfolio of SwapClear Contracts from ..... [insert name of its Carrying FCM Clearing Member] (the “Carrying FCM Clearing Member”) to us. We hereby request the transfer of all the SwapClear Contracts of the Client pursuant to Regulation 108 and the Procedures.

Please insert Name of Carrying FCM Clearing Member:

.....  
Please tick the relevant box below to confirm whether the Client wishes to transfer Porting Collateral in accordance with Regulation 108.

- The Client wishes to transfer Collateral
- The Client does NOT wish to transfer Collateral

**Signatories for and on behalf of the Receiving FCM Clearing Member:**

We acknowledge and confirm the above and are authorized to sign for and on behalf of the Receiving FCM Clearing Member.

1.

(Authorized Signatory)	Name	Position	date
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2.

(Authorized Signatory)	Name	Position	date
------------------------	------	----------	------

**Signatories for and on behalf of the transferring Client:**

**To:** Receiving FCM Clearing Member

We acknowledge and confirm:

- i. the request to transfer as detailed herein;
- ii. that our Carrying FCM Clearing Member shall not be permitted to register additional SwapClear Contracts on our behalf during the period commencing at the end of the SwapClear service operating hours on the day on which it received notice that a Client Full Transfer Form has been received and ending at the time at which the relevant transfer (including the transfer of the relevant Porting Collateral, if applicable) is actually effected or is rejected;
- iii. that LCH.Clearnet LLC will contact our Carrying FCM Clearing Member in relation to this transfer and will disclose our identity to such Carrying FCM Clearing Member;
- iv. that, in accordance with the Rulebook, LCH.Clearnet LLC is entitled to rely conclusively on the instructions and information received from the Receiving FCM Clearing Member and the Carrying FCM Clearing Member and shall have no liability or responsibility therefor;
- v. that the transfer detailed above may require that additional Margin be paid to LCH.Clearnet LLC (and/or by us to the Receiving FCM Clearing Member listed above) even where Porting Collateral are transferred, and that LCH.Clearnet LLC is not required to affect the transfer if it has not received adequate Margin in respect of the transfer or if any of the other conditions set forth in the Rulebook applicable to the transfer are unsatisfied;
- vi. that, where we have requested the transfer of Porting Collateral, (x) we should contact our Carrying FCM Clearing Member to ensure that they contact LCH.Clearnet LLC to identify the correct Porting Collateral to be transferred, and (y) where our Carrying Clearing Member does not so identify the correct Porting Collateral available for transfer, LCH.Clearnet LLC is permitted to propose the Collateral that will constitute the Porting Collateral as it deems appropriate, subject to our consent to transfer such Porting Collateral in accordance with Regulation 108(b);
- vii. that in order for the transfer detailed above to be effected, we will be required to satisfy any requirements as between ourselves and the Carrying FCM Clearing Member and/or its Affiliates at the time of, or arising as a result of, such transfer, to the extent the Rulebook states that such requirements must be satisfied in order for the transfer to be effected, including, without limitation, any outstanding obligations that are due and payable to the Carrying FCM Clearing Member and/or its Affiliates at the time of, or arising as a result of, such transfer, as provided for in the Rulebook; and
- viii. that we are authorized to make these acknowledgements and confirmations and do so on behalf of the Client listed above in accordance with the Regulations.

For and on behalf of the Client:

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Authorized signatory

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Authorized signatory

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Date

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Date

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All forms should be returned to LCH.Clearnet LLC for the attention of Client Services.

Email: [swapclearclientservices@lchclearnet.com](mailto:swapclearclientservices@lchclearnet.com)

Telephone number: +1 212 513 8265

SwapClear Client Services  
17 State Street, 28<sup>th</sup> Floor  
New York NY 10004

## Schedule of transferring SwapClear Contracts:

\*\*Please insert the LCH trade ID and Approved Trade Source (ATS) ID of one or more transferring SwapClear Contracts in order that LCH.Clearnet LLC can determine the identity of the relevant Carrying FCM Clearing Member.

LCH Trade ID	ATS Trade ID

## APPENDIX 2A.D

## CLIENT TRANSFER – CARRY FCM CLEARING MEMBER REPOSSES FORM

CLIENT TRANSFER - CARRYING FCM  
CLEARING MEMBER RESPONSE FORM

V.1.0: August 2012

*Terms used in this form are as defined in LCH.Clearnet LLC's Rulebook unless defined herein***To:** LCH.Clearnet LLC**From:** Carrying FCM Clearing Member**Date:**

We, .....[insert name of Carrying FCM Clearing Member] (the “Carrying FCM Clearing Member”) have received a request from LCH.Clearnet LLC in relation to .....’s [insert name of transferring Client] (the “Client”) request to transfer [its entire/part of its\*] portfolio of SwapClear Contracts held by us. We are writing to inform you that:

\* Delete as appropriate

(Please tick if applicable)

The transferring Client has become insolvent and therefore no SwapClear Contracts should be transferred in accordance with Regulation 108(a).

(Please tick if applicable)

The transferring Client has, or would have as a consequence of the occurrence of the requested transfer, unsatisfied requirements which the Rulebook states must be satisfied in order for the transfer to be effected as between itself and us and/or our Affiliates at the time of, or arising as a result of, such transfer, and therefore no SwapClear Contracts should be transferred.

(Please tick if applicable)

The transferring Client has asked that the Porting Collateral be transferred and the relevant Porting Collateral are described in the schedule below.

**Schedule of Porting Collateral:**

- The Porting Collateral of the Client consist solely of cash in the following amount and currency:

CASH AMOUNT & CURRENCY
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- The Porting Collateral of the Client consist of the following cash and non-cash Collateral:

CASH AMOUNT & CURRENCY
------------------------

ISIN	Notional Value

All forms should be returned to LCH.Clearnet LLC for the attention of Client Services.

Email: [swapclearclientservices@lchclearnet.com](mailto:swapclearclientservices@lchclearnet.com)

Telephone: +1 212 513 8265

Fax: +1 212 513 8290

SwapClear Client Services  
17 State Street, 28<sup>th</sup> Floor  
New York NY 10004

**Signatories for and on behalf of the Carrying FCM Clearing Member:**

We acknowledge and confirm the above and that we are authorized to sign for and on behalf of the Carrying FCM Clearing Member:

1.

(Authorized Signatory) \_\_\_\_\_ Name \_\_\_\_\_ Position \_\_\_\_\_ Date \_\_\_\_\_

2.

(Authorized Signatory) \_\_\_\_\_ Name \_\_\_\_\_ Position \_\_\_\_\_ Date \_\_\_\_\_

**APPENDIX 2A.E****CONFIDENTIALITY, NON-DISCLOSURE AND PARTICIPATION IN  
THE DEFAULT MANAGEMENT GROUP****1. Definitions**

- 1.1 “**Confidential Material**” means data (including but not limited to portfolio data) and documents, which are not in the public domain and which are disclosed to the Clearing Member, its associated companies and advisers, or to which the Clearing Member, its associated companies and advisers obtains or otherwise has access as a result of participation in the Default Management Process, (which, for the avoidance of doubt, does not include any information, data or documents provided to the Clearing House by the Clearing Member).
- 1.2 “**DMG Member**” means an individual appointed by a Nominating Clearing Member.
- 1.3 “**Nominating Clearing Member**” means a Clearing Member who, through its obligations under the Default Management Process, makes available a representative to serve on the DMG.
- 1.4 “**Permitted Purpose**” means proper fulfillment by the Clearing Member of its duties under Regulation 204 and includes, after the completion of the Auction, the use by the Clearing Member, its associated companies and advisers (to be determined by it at its discretion) of any data or documents related to portfolios successfully won through the Auction, for the purposes of its own ongoing portfolio management and to enable it to comply with ongoing legal or regulatory requirements.
- 1.5 References denoting the masculine (including “his” and “he”) shall be construed as the feminine if the DMG Member is female.
- 1.6 All other terms have the meaning ascribed to them in the Default Regulations (including Regulation 204).

**Confidentiality and Non-Disclosure: General Obligations of the Clearing Member****2. Confidentiality**

- 2.1 The Clearing Member agrees that, in consideration of being given Confidential Material, it will keep all such Confidential Material in the strictest confidence, adhere to the provisions of this Appendix in respect thereof and, subject to Clause 2.3, will not disclose it to any person without the prior written permission of the Chief Risk Officer of the Clearing House or a Director of Risk Management of the Clearing House, providing always that the Clearing Member shall be relieved of such an obligation of confidentiality in respect of any Confidential Material if:

- 2.1.1 it comes into the public domain other than through a breach by the Clearing Member of this Appendix; or
  - 2.1.2 the Clearing Member is expressly obliged to do so by order of a court of competent jurisdiction upon the application of a third party, or as a result of any request to disclose such part or parts of the Confidential Material in connection with any inquiry or other request by a regulatory authority or self-regulatory authority asserting jurisdiction over the Clearing Member.
- 2.2 The Clearing Member further agrees that it will not use any Confidential Material for any purpose other than the Permitted Purpose. In this regard the Clearing Member expressly acknowledges and agrees that the Confidential Material may contain commercially sensitive information which if used inappropriately or otherwise than in accordance with this Appendix might result in the gaining of an unfair commercial advantage by the Clearing Member over other members of the SwapClear US Service.
  - 2.3 Subject to Section 2.5, the Clearing Member may disclose any Confidential Material to any of its employees, representatives, associated companies and advisers on a “strictly need to know” basis, in the event that any such person needs that Confidential Material for the Permitted Purpose (and to that extent only).
  - 2.4 The Clearing Member agrees to establish and adhere to adequate procedures (including, without limitation, the establishment of appropriate Chinese walls) to ensure that any employee or representative to whom any Confidential Material is disclosed shall not use any part or all of that Confidential Material for any proprietary purpose outside the scope of the Permitted Purpose.
  - 2.5 This paragraph and the duties hereunder shall survive the termination of this Agreement and, in relation to any Confidential Material, shall expire on the second anniversary of the date the Confidential Material was first provided to the Clearing Member.

### 3. Secrecy

- 3.1 Except in accordance with the terms of this Annex, the Clearing Member agrees that it shall treat as strictly confidential and shall not disclose or allow to be divulged to any person:
  - 3.1.1 Confidential Material;
  - 3.1.2 the fact that it has received any Confidential Material;
  - 3.1.3 the existence of any discussions or negotiations between the parties in this matter;
  - 3.1.4 details of the Permitted Purpose and any of the proposals, terms, conditions, facts or other matters relating to any of the forgoing. Subject only to the Clearing Member being relieved of such an obligation because of the circumstances covered in Sections 2.1.1 and 2.1.2.

- 3.2 The Clearing House undertakes to ensure that the Clearing Member is fully appraised of information on the Default Management Process that it makes public and which is accordingly of relevance to the Clearing Member's obligations.

#### **4. Property**

- 4.1 The parties acknowledge that the property in the Confidential Material (or any part of it) shall not pass to the Clearing Member or any Clearing Member, and the property in the media on which it is conveyed to the receiving party shall not pass to the Clearing Member or any Clearing Member unless expressly so agreed by the Clearing House in writing.

#### **5. Return of Confidential Material**

- 5.1 Upon request by the Clearing House, and in any event upon fulfillment of the Permitted Purpose, the Clearing Member shall promptly return to the Clearing House by a secure method of transportation all or any part of the Confidential Material and all copies thereof in its possession or control or that of its employees or representatives, including all other papers, programs and records incorporating any of that Confidential Material, or shall destroy such information and shall certify to the Clearing House in writing that it has done so provided that the Clearing Member is permitted to retain copies of any Confidential Material which it requires as part of its portfolio management or otherwise for legal or regulatory reasons.

#### **6. No Representations or Warranties; No Conflict of Interest**

- 6.1 Subject to Section 7, the Confidential Material is disclosed by the Clearing House without any representation or warranty whatsoever as to its accuracy or completeness or otherwise.
- 6.2 The Clearing House acknowledges and agrees that, subject to compliance with the terms of this Appendix by the Clearing Member and any of its employees or representatives to whom Confidential Material is provided in accordance with this Appendix, the Clearing Member's participation in the Default Management Process shall not prevent the Clearing Member from carrying out any transaction, or otherwise providing investment services in respect of, investments that the Clearing Member may subsequently learn are the subject of Confidential Material and, furthermore, the Clearing House agrees that it shall not be able to assert that the Clearing Member has a conflict of interest in doing so nor shall the Clearing House have a claim or action in respect of the foregoing against the Clearing Member or any of its directors, employees or other representatives.

#### **7. Liability**

- 7.1 Subject to Regulation 24 of the Agreement, the parties agree and acknowledge that neither the Clearing House nor any of its employees or representatives shall have any liability whatsoever to the Clearing Member or any of employees or representatives, for any loss or damage of whatsoever kind howsoever arising directly or indirectly out of or in connection with the disclosed Confidential Material or its use.

- 7.2 The Clearing House accepts liability for any personal injury or death caused by the negligence of the Clearing House and any fraud or willful default on the part of the Clearing House, for any actions that it may take on the basis of advice given to it by the DMG, and for the accuracy of the information (confidential material as defined in the Annex to this Agreement) that it distributes to the Clearing Member in connection with the Default Management Process.
- 7.3 Under no circumstances shall the Clearing House have any liability to the Clearing Member for (a) any consequential loss or other indirect loss of whatsoever kind or (b) loss of anticipated profit (whether direct or indirect).

## **8. Remedies**

- 8.1 Without affecting any other rights or remedies that the Clearing House may have, the Clearing Member acknowledges that the Clearing House may be irreparably harmed by any breach of the terms of this Appendix and that damages alone may not necessarily be an adequate remedy. Accordingly, the Clearing House will be entitled to the remedies of injunction, specific performance and other equitable relief, or any combination of these remedies, for any threatened or actual breach of its terms, and not proof of special damages will be necessary to enforce this Appendix.

## **Confidentiality and non-disclosure and general terms of participation in Default Management Group**

### **9. Conflict of interest**

- 9.1 The Clearing Member shall procure that, in the event that a DMG Member takes the view that a possible conflict of interest may arise with regard to any matter forming part of the business of the DMG, he shall promptly report his view to the Chairman of the DMG, who shall act accordingly, taking the advice of other DMG Members as appropriate.

### **10. Confidentiality**

- 10.1 Subject to Section 10.3 below, the Clearing Member shall procure that the DMG Member shall keep all Confidential Material strictly confidential to himself and will not disclose it to any person who is not a DMG Member (including, for the avoidance of doubt, the Clearing Member who recommended his appointment to the DMG (“the Nominating Clearing Member”) or his employer (if different) or any other employee, adviser, officer or fellow worker of that Clearing Member or his employer) without the prior written permission of the Managing Director, Risk of the Clearing House or his properly authorized delegate, providing always that the DMG Member shall be relieved of such an obligation of confidentiality in respect of any Confidential Material if it comes into the public domain in the circumstances covered in Sections 2.1.1 and 2.1.2.
- 10.2 Subject to Section 10.3 below, the Clearing Member shall procure that the DMG Member shall not use any Confidential Material for any purpose other than the proper fulfillment of his duties as a DMG Member.

- 10.3 The parties acknowledge that, in the event that a Default Notice is issued by the Clearing House in respect of any Clearing Member, the DMG Member may be required by the Nominating Clearing Member and/or his employer (if different) to provide certain services to the Clearing House in the management of the Default. In such event, and only in such event, the parties acknowledge that the DMG Member shall be entitled to disclose any part or parts of the Confidential Material as may be agreed by the Clearing House, in such manner and form and in accordance with such procedures as may be prescribed by the Clearing House and/or the DMG with regard to the management of that Default.
- 10.4 Upon request by the Clearing House, and in any event upon termination of the membership of the DMG Member of the DMG, the Clearing Member shall procure that the DMG Member shall promptly return to the Clearing House by a secure method of transportation all or any part of the Confidential Material and all copies thereof in his possession or control, including all abstracts, notes, drawings and other papers, programs and records incorporating any of that Confidential Material, or shall destroy such information and shall certify to the Clearing House in writing that it has done so, provided that the DMG Member is permitted to retain a copy thereof to comply with applicable legal or regulatory requirements.

## **11. Warranty and Representation**

- 11.1 The Clearing Member represents and warrants that it will procure that:
  - 11.1.1 the Nominating Clearing Member and the DMG Member's employer (if different) are aware of the obligations of confidentiality arising out of this Agreement; and
  - 11.1.2 nothing in this Appendix will cause the DMG Member to breach any duty or obligation (whether arising pursuant to contract or otherwise) which he owes to the Nominating Clearing Member or to his employer, if different, or any other contract counterparty of the DMG Member.

## **12. Confidentiality and Non-Disclosure: General Obligations of the Clearing House**

- 12.1 The Clearing House will treat all Confidential Material in the terms envisaged in this Annex to the Agreement, confining use to the Default Management Process, restricting its availability on a "strictly need to know basis", and exercising every duty of care required of it as a Recognized Clearing House and as a Derivatives Clearing Organization.

## **13. Third Party Rights**

- 13.1 This Annex is not intended to grant, and shall not be construed as granting, any rights, benefits or privileges to any person who is not a party to this Annex.

## FINANCIAL TRANSACTIONS

### 3. **FINANCIAL TRANSACTIONS**

#### 3.1 **Accounts**

##### 3.1.1 **Overview**

Clearing Members are provided with two sub-accounts per financial account:

- **Margin account; and**
- **Tender account (not applicable to Default Fund (DF) accounts).**

These accounts are used to record cash and securities movements between the Clearing House and the Clearing Member. Refer to Section 2A.5 for a full description of financial accounts relating to the clearing of SwapClear Contracts.

##### 3.1.2 **Margin Account Postings**

Transactions posted to the Margin account include but are not limited to:

- **PPS payments and receipts;**
- **Interest and accommodation charges;**
- **Currency purchases and sales;**
- **Clearing House fees, charges and rebates;**
- **Variation Margin, Price Alignment Interest and coupons;**
- **SwapClear coupon payments;**
- **SwapClear coupon adjustments;**
- **Net Present Value (NPV);**
- **Price alignment interest; and**
- **Consideration.**

##### 3.1.3 **Tender Account Postings**

Transactions posted to the Tender account include but are not limited to:

- **PPS payments; and**
- **Coupon Payments relating to member Collateral.**

### **3.1.4    Financial Transaction Reporting**

Banking reports are generated each day that provide Clearing Members with data relating to but not limited to: liabilities by market, cash balances, non-cash balances, cash posting and interest rates.

All reports are available via the Member Reporting Website (Member Live site) and can be downloaded via the user interface or directly to Clearing Member back-office systems via an SFTP connection.

A “Banking Reports Reference Pack” can be requested by the LCH.Clearnet Client Training Team. This contains definitions and examples of each of the available reports.

## **3.2    Protected Payments System (PPS)**

The Clearing House operates a direct debit system, known as the Protected Payments System (“**PPS**”), for the transfer of funds to and from Clearing Members.

Clearing Members should note that PPS is a system for facilitating payment to the Clearing House of monies due from Clearing Members to the Clearing House and vice versa. The giving of a commitment by a participating bank through PPS to make any payments, and the receipt of that commitment by the Clearing House, is not to be regarded as satisfaction of any payment due to the Clearing House.

Each Clearing Member remains fully responsible for the payment to the Clearing House of all monies due to the Clearing House as required, *inter alia*, by the Clearing Membership Agreement, clearing extension documentation and the applicable provisions of the Rulebook. Payment is only completed when the funds have been credited for value to the relevant Clearing House bank account, and any time permitted by the relevant payment settlement systems for the recall of any such payment has expired.

### **3.2.1    Introduction**

A Clearing Member must open and maintain PPS accounts in USD and such other currencies in which it incurs settlements on its Client or Proprietary Accounts (a list of the relevant participating PPS banks is available at [http://www.lchclearnet.com/risk\\_management/lcc/pps](http://www.lchclearnet.com/risk_management/lcc/pps); for more information on PPS banks, please contact the Clearing House’s Treasury Operations)).

Any bank charges connected with the holding of any PPS bank account or related to any activity on that account must be paid by the Clearing Member holding the relevant account.

The PPS account will, *inter alia*, be used to process payments related to Contributions in USD.

Where applicable, all PPS accounts that hold Client Funds must be segregated in accordance with the Regulations and the applicable provisions of the CEA and CFTC Regulations, including but not limited to Part 1, Part 22 and Part 190 of such regulations.

### **3.2.2 PPS Mandate**

Each Clearing Member is required to complete a standard form PPS Mandate (see Appendix 3A) for each bank branch at which they wish to operate an account before clearing can commence. The original of the mandate must be signed by a person with the appropriate authority within the Clearing Member institution and then forwarded to the relevant bank. A copy must also be forwarded at the same time to the Clearing House Membership Department.

### **3.2.3 Morning PPS Calls**

Clearing Members' liabilities are calculated overnight. Should the relevant liability not be covered by acceptable forms of Collateral held by the Clearing House (see Section 3.3), any shortfall is called through PPS with separate calls made for each currency. It is the responsibility of each Clearing Member to ensure that its PPS bank(s) meets all payment instructions received from the Clearing House. Confirmation of payments, as notified, must be received by the Clearing House from the relevant PPS bank(s) by 09:00 hours, or within one hour of a subsequent call on the day on which the PPS call is made. Payments will only be recognized for this purpose if the relevant PPS bank (i) has performed its concentration function (being the transfer of net funds from the PPS bank to a central account in the name of the Clearing House) (ii) has made such payments, and (iii) any time permitted by the relevant payment settlement system for the recall of any such payment has expired.

### **3.2.4 Payments Due to Clearing Members**

Where payments are due to a Clearing Member, Payments will be recognized as soon as payment instructions in respect of that payment have been given to a PPS bank. For this purpose, a payment instruction will only be recognized to the extent that the Clearing House has taken steps to transfer to the PPS bank any such sums as may be necessary to enable that payment instruction to be performed by the PPS bank.

### **3.2.5 Intraday PPS Calls**

The intraday margin call by the Clearing House is for intraday Margin payments. The Clearing House must receive confirmation of payment from the Clearing Member's nominated PPS bank(s) within one hour of receipt of the intraday margin call by the relevant bank branch.

Failure of a bank to confirm a PPS call within one hour may result in the Clearing Member being declared in Default. Late confirmation of PPS calls may be reported to the regulators of the Clearing House.

### **3.2.6 Auto repay**

Clearing Members may request that they are automatically repaid any excess cash balances that remain on their accounts at the end of each day. Clearing Members must contact Treasury Operations in order to have auto-repay applied to their accounts at [collateral.ops.us@lchclearnet.com](mailto:collateral.ops.us@lchclearnet.com) or +1 (212) 513-5642.

In certain circumstances and following notification to one or more Regulatory Bodies, the Clearing House may disable the auto-repay functionality for one or more Clearing Members. The Clearing House will notify affected Clearing Members in the event that the functionality is disabled.

This paragraph 3.2.6 only applies to Proprietary Accounts of FCM Clearing Members.

### **3.2.7    Value Date**

Although confirmation from the banks that PPS payments will be made must be received within the deadlines set out in Section 3.2.3 and 3.2.5, subject to Section 3.2.9, all currency transactions are processed by PPS with next business day value with the exception of the following currencies: CAD, EUR, GBP and USD which are processed with value for the same business day.

### **3.2.8    Foreign Bank Holidays**

The Clearing House has made arrangements with its PPS banks to operate the PPS on all US banking days, including foreign bank holidays.

Confirmation that PPS payments will be made must still be received within the deadlines set out in Sections 3.2.3, 3.2.5 and 3.2.6. However, the value date for any PPS transactions made on a day which is a bank or public holiday in the country of that currency will be for the next Business Day on which both the foreign currency center and the Clearing House are open for business.

Example: July 4 is a public holiday in the US but not in the UK. July 5 is a normal banking day in the US.

On July 4 the Clearing House will issue its normal USD instructions to PPS banks, and receive confirmation in response to the PPS Call, for value July 5.

Please refer to the Clearing Member Circulars for details of the Clearing House opening days and currency holidays at the following link:

[http://www.lchclearnet.com/risk\\_management/lcc/benefits\\_of\\_the\\_collateral\\_management\\_system.asp](http://www.lchclearnet.com/risk_management/lcc/benefits_of_the_collateral_management_system.asp)

### **3.2.9    US Bank Holidays**

The Clearing House will not register trades on US bank holidays but will provide settlement and payments in non-USD currencies to the extent that it is a good business day in the country of the particular non-USD currency; provided, that if it is not a good business day in any of the US, the UK or Europe, then the Clearing House will not provide settlement or payments in any currencies. PPS Calls in respect of all outstanding intra-day credit tolerances will be made on the Business Day prior to any US bank holiday. PPS Calls in respect of trades submitted for registration on US bank holidays will be made on the next following Business Day.

### 3.2.10 Payment Failure by PPS Bank

In the event that payment is not completed by the relevant PPS bank, due to insolvency and not a technical failure, and the affected Clearing Member(s) make alternative payments, the Clearing House, should it make a recovery from the estate of the PPS bank, will credit such recovery, net of costs, to the accounts of the affected Clearing Members in proportion to the amount of the original missed payment.

### 3.2.11 Contingency Payment Arrangements

Clearing Members must ensure that they have contingency arrangements to ensure continuity of the furnishing of Margin in the event of the failure of their nominated PPS bank. From time to time the Clearing House may require the Clearing Member to provide evidence of these arrangements.

## 3.3 Acceptable Forms of Collateral

The Clearing House accepts certain types of securities and cash in the Clearing House's prescribed form as Collateral against liabilities of the relevant Clearing Member.

The Clearing House may vary, at its discretion, the standard requirements and valuation procedures set out in this Section, either generally or in a particular case, without giving prior written notice to Clearing Members. Further, the Clearing House may vary the types of collateral acceptable to it as Collateral, including but not limited to cash, performance bonds or securities.

To view our acceptable collateral list, go to:

[http://www.lchclearnet.com/risk\\_management /llc/acceptable\\_collateral.asp](http://www.lchclearnet.com/risk_management /llc/acceptable_collateral.asp).

### 3.3.1 Cash

In order not to fall within the scope of deposit-taking regulations applying to banks and similar institutions, the Clearing House can accept cash from Clearing Members only in relation to current or anticipated obligations.

Clearing Members must give the Clearing House's Treasury Operations no less than two (2) Business Days notice of their intention to request withdrawal of cash Collateral and its replacement by the lodgment of non-cash Collateral. In the event that a Clearing Member seeks to withdraw such cash without giving such notice, the Clearing House may decline to release such cash until the end of the required notice period.

### 3.3.2 Securities

Please refer to the following section of the Clearing House's website for both prevailing haircuts and notes on types of collateral acceptable as Collateral:

[http://www.lchclearnet.com/risk\\_management/lcc/acceptable\\_collateral.asp](http://www.lchclearnet.com/risk_management/lcc/acceptable_collateral.asp)

### **3.3.3 Securities Value Notification**

Clearing Members may obtain details on the value of securities in their account by viewing the relevant reports available on the Member Reporting Website and Member Intranet Report 000036 on the Collateral Management system.

### **3.3.4 Collateral Application**

The Clearing House is entitled to realize and/or apply Collateral in whatever order it deems appropriate and may therefore, in its sole discretion, apply cash Collateral to a Clearing Member's liabilities before applying non-case Collateral.

## **3.4 Interest and Accommodation Charge Structure**

### **3.4.1 Interest on Cash Balances**

The Clearing House applies interest to Clearing Members' cleared cash balances.

The following rates are applied:

- (a) LDR – London Deposit Rate – the rate at which the Clearing House will pay interest on credit cash balances (excluding credit cash balances on SwapClear Client financial accounts); and
- (b) CDR – Client Deposit Rate – the rate at which the Clearing House will pay interest on credit cash balances on SwapClear Client financial accounts.

Rates are available from the Member Reporting Website.

The Clearing House reserves the right to alter the basis of calculating interest rates. Any alteration will be effective on the date notified.

### **3.4.2 Interest Payable in Respect of Contributions**

The "Default Fund Rate" is the rate at which the Clearing House pays interest to a Clearing Member in respect of the amount equal to the Clearing House's contingent obligation to repay an amount equal to a Clearing Member's Contribution, in accordance with Regulation 306.

Rates are available from the Member Reporting Website.

The Clearing House reserves the right to alter the basis of calculating interest rates. Any alteration will be effective on the date notified.

### **3.4.3 Price Alignment Interest (PAI) Rate**

To minimize the impact of daily cash Variation Margin payments on the pricing of interest rate swaps, the Clearing House will charge interest on cumulative Variation Margin received by the Clearing Member and pay interest on cumulative Variation

Margin paid in by the Clearing Member is respect of these instruments. This interest element is known as price alignment interest (“PAI”).

The calculation of PAI shall use the interest rates specified as below. The amount of PAI for each currency shall be calculated as:

The amount of NPV in such currency from the previous Business Day's close of business, multiplied by

The relevant interest rate in effect for that day, divided by

360, or in the case of AUD, CAD, GBP, HKD, JPY, NZD, PLN, SGD and ZAR,  
365.

In the case of the currencies marked below with an asterisk, the Clearing House specifies that it will not change the PAI rate without the consent of all Clearing Members holding Contracts in such currencies.

Currency	PAI Rate
USD *	The rate used shall be the Effective Federal Funds rate, the rate published by the Board of Governors of the Federal Reserve System as such rate appears on Reuters page “FEDFUNDS1” or Telerate 120 or on any successor page(s) thereto.
EUR *	The rate used shall be the EONIA rate, the rate published by the European Banking Federation and ACI – The Financial Market Association as such rate appears on Reuters page “EONIA” or Telerate 247 or on any successor page(s) thereto.
GBP *	The rate used shall be the SONIA rate, the rate published by the Wholesale Markets Broker Association as such rate appears on Reuters page “SONIA” or on any successor page(s) thereto.
JPY *	The rate used shall be the Mutan call rate, the rate published by the Bank of Japan as such rate appears on Reuters page “TONAR” or on any successor page(s) thereto.
CHF *	The rate used shall be the TOIS rate, the T/N interbank fixing as such rate appears on Reuters page “CHFTOIS” or Telerate 3450 or any successor page(s) thereto.
AUD	The rate used shall be the “AONIA” rate, the rate published by the Reserve Bank of Australia – as such rate appears on Reuters page “RBA30” or any successor page(s) thereto.
CAD	The rate used shall be the “CORRA” rate, the rate published by the Bank of Canada website – as such rate appears on Reuters page “CORRA” or any successor page(s) thereto.

Currency	PAI Rate
DKK	The rate used shall be the “DKKOIS” rate, the rate published by the Danish Central Bank – as such rate appears on Reuters page “DKNA14” or any successor page(s) thereto.
HKD	The rate used shall be the “HONIX” rate, the rate published by the Hong Kong Brokers Association – as such rate appears on Reuters page “HONIX” or any successor page(s) thereto.
NZD	The rate used shall be the “NZIONA” rate, the rate published by the Reserve bank of New Zealand – as such rate appears on Reuters page “RBNZ02” or any successor page(s) thereto.
PLN	The rate used shall be the “POLONIA” rate, the rate published by the National Bank of Poland – as such rate appears on Reuters page “NBPS” or any successor page(s) thereto.
SEK	The rate used shall be the “SIOR” rate, the rate published by the OMX Exchange – as such rate appears on Reuters page “SIOR” or any successor page(s) thereto.
ZAR	The rate used shall be the SFX ZAR OND rate, the rate published by SAFEX JIBAR – as such rate appears on Reuters page “SFXROD” or any successor page(s) thereto.
CZK	The rate used shall be the “CZEONIA” rate, the rate published by the Czech National Bank – as such rate appears on Reuters page “CZEONIA” or any successor page(s) thereto.
HUF	The rate used shall be the “HUFONIA” rate, the rate published by the National Bank of Hungary – as such rate appears on Reuters page “HUFONIA” or any successor page(s) thereto.
SGD	The rate used shall be the “SONAR” rate, the rate published by the Association of Banks in Singapore – as such rate appears on Reuters page “ABSIRFIX01” or any successor page(s) thereto.
NOK	The rate used shall be the NOK sight deposit rate, the rate published by Norges Bank – as such rate appears on Reuters page “NOINTR=ECI” or any successor page(s) thereto

For currency NOK, PAI is calculated using an appropriate overnight deposit rate for the currency.

### 3.4.4 Interest/Accommodation Structure

Application of Collateral	Type of Collateral					
	Credit Variation Margin	Performance Bonds	Securities	Cash	Foreign Cash	Forward Cash
Initial & Variation margin after offset	No charge or payment	Charge 0.10%	Charge 0.10%	Pay/Charge relevant rate	Pay/Charge relevant rate of Collateral currency	No charge or payment
Excess or Surplus	No charge or payment	No charge or payment	No charge or payment	Pay/Charge relevant rate	Pay/Charge relevant rate	No charge or payment

**Note:**

1. “Foreign Cash” means cash in a currency other than that of the liability.
2. “Forward Cash” means cash which has been credited to an account for later value, e.g. an amount called via PPS for next-day value.
3. This Section 3.4.4 only applies to Proprietary Accounts of FCM Clearing Members.

### 3.4.5 Payment of Interest and Charges

Interest and accommodation charges (other than PAI) are calculated on a daily basis and the resultant monthly total is posted to each Clearing Member's relevant Margin accounts at the beginning of the following calendar month.

The net invoice value for each currency is posted to the relevant Margin account for value on the second working day of the month succeeding the month in which the charges arose.

The invoice provides detail in respect of:

- (a) interest due to be credited or debited; and
- (b) accommodation charges.

### 3.5 Taxes

Payments of interest (including PAI) to a House or Client financial account or in accordance with Regulation 306 shall be made free and clear and without deduction or withholding for or on account of any Tax provided that the proper Internal Revenue Service forms were submitted pursuant to Section 1.4.1(c) and such deduction or withholding is not otherwise required by law. If deduction or withholding is required by law, interest payments shall be net of such deduction or withholding. The Clearing House shall remit such withheld amounts to the relevant taxing authority, and shall provide the Clearing Member an official receipt (or a certified copy), or other documentation reasonably acceptable to the Clearing Member, evidencing such payment to such authorities.

If (i) the Clearing House is required by any applicable law to make any deduction or withholding from payments of interest (including PAI) on account of any Tax; (ii) the Clearing House does not so deduct or withhold; and (iii) a liability resulting

from such Tax is assessed directly against the Clearing House, then, except to the extent the Clearing Member has satisfied or then satisfies the liability resulting from such Tax, the Clearing Member will promptly pay to the Clearing House the amount of such liability (including any related liability for interest, penalties and cost) and any Tax imposed on the Clearing House with respect to the indemnity payments under this paragraph such that the amount actually received by the Clearing House will equal the full amount the Clearing House would have received in the absence of any such Tax imposed on the indemnity payments made under this paragraph.

### 3.6 **Fees**

Details of fees and refunds pending are collated during the month.

An invoice or credit note is produced detailing the fees to be furnished with respect to a Proprietary Account to which Margin is attributed.

The invoice/credit note displays the type of fee, contract, currency, fee rate, volume, fee amount, sub totals for each fee class and the overall total Collateral in the relevant account.

Monthly postings are processed via the account to which Collateral is posted at the beginning of the following month, on the third Business Day. Other postings, such as various Market Maker Scheme rebates, are processed by the Clearing House following receipt of data from the relevant exchange.

### 3.7 **Default Fund; Contributions**

Contributions (as defined in the Regulations) will be called via PPS on the fourth Business Day of each month or more frequently pursuant to a determination of the required Contribution under the Default Fund Regulations (each a “**Reset Day**”), except to the extent specified elsewhere in this Rulebook (e.g., in the event of a Default). Contribution requirements will be notified to Clearing Members at least two Business Days prior to each SwapClear Reset Day on Member Intranet Report 000032.

Amounts due to Clearing Members following the adjustment to the required Contribution (in accordance with the Default Fund Regulations) will be paid to Clearing Members’ PPS accounts on the Reset Day immediately following the adjustment to the required Contribution.

Interest payable in accordance with Regulation 306 will be paid to the relevant Clearing Member’s PPS account(s) on the first Business 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 anything else herein, if the rate of interest payable in respect of Contributions under Regulation 306 is negative, interest shall be payable by Clearing Members to the Clearing House.

**APPENDIX 3A**  
**PPS MANDATE FOR LCH.CLEARNET LLC**

Name of Relationship Manager:	
Contact Details (telephone & email):	
Name of Bank:	
Address (Account holding branch):	
LCH.Clearnet LLC MNEMONIC(S):	

**LCH.CLEARNET LLC**

I / We authorize you, until further notice in writing, to debit my/our account(s) with unspecified amounts from time to time at the instance of LCH.Clearnet LLC without further reference to me / us. In acting on this Mandate, you may rely, without qualification, upon the information provided to you by LCH.Clearnet LLC in whatsoever form this information is submitted to you.

HOUSE ACCOUNT	
CURRENCY	ACCOUNT NUMBER
AUD	
CAD	
CHF	
CZK	
DKK	
EUR	
GBP	
HKD	
HUF	
JPY	
NOK	
NZD	
PLN	
SEK	
SGD	
USD	
ZAR	

CLIENT ACCOUNT	
CURRENCY	ACCOUNT NUMBER
AUD	
CAD	
CHF	
CZK	
DKK	
EUR	
GBP	
HKD	
HUF	
JPY	
NOK	
NZD	
PLN	
SEK	
SGD	
USD	
ZAR	

For and on behalf of:

Name of Clearing Member: \_\_\_\_\_

Signature of Authorized Person: \_\_\_\_\_

Print Name: \_\_\_\_\_ Date: \_\_\_\_\_

**When completed and signed, this original form should be sent to your Relationship Manager at the above-mentioned Bank and a copy issued to: US Collateral Services, LCH.Clearnet LLC, 17 State Street, 28<sup>th</sup> Floor, New York, NY 10004; Email: [collateral.ops.us@lchclearnet.com](mailto:collateral.ops.us@lchclearnet.com); Telephone: +1 (212) 513-5642**

## COLLATERAL

### 4. **COLLATERAL**

#### 4.1 **General Information**

##### 4.1.1 **Non-Cash Collateral**

Clearing Members wishing to lodge securities (of the type permitted by the Clearing House) with the Clearing House as Collateral may do so. Securities so lodged will be subject to a security interest and held in an account with the Clearing House by the Clearing Member (in respect of Collateral furnished on behalf of Clients, in an LCH Swaps Client Segregated Depository Account).

Collateral pledged in respect of an FCM Clearing Member's Omnibus Client Swaps Account with LCH will not be applied by the Clearing House to its liabilities in a Proprietary Account (see Regulation 106(j)).

**Clearing Members are warned that the taking of collateral is a complex legal matter. These Procedures, and any communications with the Clearing House, whether of an oral or written nature, are not to be taken as containing legal advice. A Clearing Member who contemplates taking an interest in securities belonging to a Client should seek independent professional advice on the matter.**

##### 4.1.2 **GENERAL INFORMATION**

LCH.Clearnet LLC Security Arrangements:

Clearing Members wishing to lodge securities with the Clearing House may do so under the security arrangements set out in the Clearing Membership Agreement and the Regulations.

Collateral pledged in respect of an FCM Clearing Member's Omnibus Client Swaps Account with LCH will not be applied by the Clearing House to its liabilities on a Proprietary Account (see Regulation 106(j)).

Unless stated otherwise in the Rulebook, Collateral pledged in respect of a Clearing Member's Proprietary Account may be applied by the Clearing House towards the payment of any sum whatsoever due by the Clearing Member to the Clearing House, provided that no Collateral furnished in respect of an FCM Clearing Member's Omnibus Client Swaps Account with LCH shall be applied on or towards payment or satisfaction of any of the FCM Clearing Member's liabilities to the Clearing House on any of the FCM Clearing Member's Proprietary Account.

As set out in Regulation 106, where an FCM Clearing Member wishes to furnish Collateral on behalf of a Client to the Clearing House, the FCM Clearing Member must, inter alia, ensure that at all times it remains expressly agreed with the Client that the FCM Clearing Member may pledge the Collateral to the Clearing House, on the Clearing House's terms and free of the Client's interest to secure the FCM Clearing Member's obligations to the Clearing House. The Clearing House gives

no undertaking that, on the Default of an FCM Clearing Member, it will not utilize Collateral furnished on behalf of a Client which has been passed to it by an FCM Clearing Member, before utilizing any other form of Collateral the Clearing House may hold.

#### 4.1.3 General Information

The Clearing House is, in its sole discretion, entitled to determine what will be acceptable to it as Collateral and to determine when a security will cease to be acceptable as Collateral.

If any instrument or security, lodged in accordance with any of the following procedures, is in any way found to be unacceptable, it will immediately be given a zero value in the Clearing Member's Margin account with the Clearing House. Replacement Collateral may be required immediately from the Clearing Member.

#### Instructions

The Clearing House accepts instructions to lodge, release and transfer cash and securities solely via the Collateral Management system. However, in the event of an outage of the Collateral Management system, Clearing Members will be able to lodge and release securities by emailed instructions to the Clearing House at the following address:

- Email to: [collateral.ops.us@lchclearnet.com](mailto:collateral.ops.us@lchclearnet.com)
- Treasury Operations can be contacted on +1 (212) 513-5642

Originals of emailed instructions need to be sent into the Clearing House within fourteen days for contingency purposes.

Clearing Members will be notified of a Collateral Management system outage via Member Circular that will notify Clearing Members of the switch to contingency arrangements. Each Clearing Member should then revert to the email forms for securities found in the appendices to this Section 4. Normal service hours and deadlines will apply to emailed instructions. Clearing Members will be notified via Member Circular when normal service resumes.

The Clearing House is entitled to act upon Collateral Management system instructions and emailed instructions or communications appearing to have been issued by, on behalf of, or have come from, a Clearing Member. These will be accepted by the Clearing House as genuine, even if, for example, they are later found:

- to be inaccurate, whether in whole or in part; or
- not to have been given by the Clearing Member or a client or with the authority of the Clearing Member or client.

The Clearing House will only accept delivery of securities in accordance with the process set forth in this Section 4 of the Procedures, and will not sell, exchange for cash or purchase securities for Clearing Members, except in so far as it is acting

under its Default Regulations and related Regulations or in relation to the rules of an Approved Trade Source System.

The Clearing House reserves the right to change the information required on instructions received via the Collateral Management system, whenever the Clearing House, in its sole discretion, considers that it would be appropriate.

### **Excess Margin Maintained in Proprietary Account**

In accordance with Regulation 106A(c), FCM Clearing Members are permitted to maintain Excess Margin in their Proprietary Accounts (regardless of whether any such FCM Clearing Member has elected to have one or more of its Omnibus Client Swaps Account with LCH subject to the With Excess Client Model), but subject to the right of the Clearing House, in its sole discretion, to return such Excess Margin to the FCM Clearing Member. Alternatively, the Clearing House may notify such Clearing Member of the intention to levy a charge in respect of Excess Margin with effect from such date as is notified to the Clearing Member. In the event that the Clearing Member does not remove Excess Margin before the date so notified, the Clearing House may, in its discretion, charge such Clearing Member at the rate of 1 basis point per day until Excess Margin is removed by the Clearing Member through use of a release instruction. Payment of this charge shall be collected on a monthly basis through that Clearing Member's PPS account. This charge applies only to Collateral lodged with respect to Contracts registered to the FCM Clearing Member's Proprietary Account.

For the purposes of this section, "excess collateral" means that Collateral identified by the Clearing House as being Collateral over and above that which is required by the Clearing House in order to cover the obligations to the Clearing House of that Clearing Member. The Clearing House shall have absolute discretion to decide whether and to what extent it is holding Excess Margin at any time.

The ability of FCM Clearing Members to maintain Excess Margin in its Client Sub-Accounts is governed by the provisions of the Rulebook, including Regulation 106A.

#### **4.1.4 Lodgment of Non-Cash Collateral as Replacement for Cash Collateral**

This Section 4.1.4 applies only to Proprietary Accounts of Clearing Members. Clearing Members should note that they must give Treasury Operations no less than two (2) Business Days notice of their intention to lodge non-cash Collateral with a value of \$75 million or more, and which is reasonably likely to have the effect that cash of a similar value is repayable by the Clearing House to that Clearing Member as a result of such lodgment. In the event that a Clearing Member seeks to withdraw such non-cash Collateral without giving such notice, the Clearing House may decline to release such cash Collateral until the end of the required notice period. Clearing Members should contact Treasury Operations for further information ([collateral.ops.us@lchclearnet.com](mailto:collateral.ops.us@lchclearnet.com)). The Clearing House may extend the noticed perios or vary the minimum Collateral value by written notice to Clearing Members.

#### 4.1.5 Force Majeure

The Clearing House will not be liable for any failure, hindrance or delay in the performance (in whole or in part) of any of its obligations to Clearing Members with regard to instruments or securities accepted as Collateral where such failure, hindrance or delay arises from causes beyond the control of the Clearing House, such as, but not limited to, the failure, whether partial or total, interruption or suspension of any depository or custodian or other service (“**depository**”) that the Clearing House is using, the termination or suspension of the Clearing House’s membership or use of the depository or any variation of the depository’s operational timetable, whether or not occasioned by action of the depository operator or other party, or any embargo, unavailability or restriction of bank transfer systems or wires, malfunction or overload of the depository or other emergency. This provision is without prejudice to the force majeure provisions of Clearing Members’ agreements with the Clearing House.

#### 4.1.6 Regulatory and Supervisory Information

In every case, the Clearing House will be entitled to supply a securities depository with all the information it requires for any purposes relating to a Clearing Member, or to securities received by the Clearing House from a Clearing Member which are or may at any time have been held by the depository. Securities will be lodged and held within such depository or other systems as the Clearing House may select or allow, subject to the conditions of such systems and to any applicable law and regulations as well as to the terms of the Rulebook.

#### 4.1.7 Interest Payments

The Clearing House will remit interest amounts, taking into account any withheld tax, to Clearing Members’ PPS banks on the appropriate value date. These are processed using “Tender” sub-accounts designated “I” for house or “L” for segregated client.

### 4.2 Securities

#### 4.2.1 General Information

Securities must be lodged with a relevant Clearing House custodian (a list of the relevant participating custodians is available at [http://www.lchclearnet.com/risk\\_management/lcc/benefits\\_of\\_the\\_collateral\\_management\\_system.asp](http://www.lchclearnet.com/risk_management/lcc/benefits_of_the_collateral_management_system.asp); for more information on custodians, please contact the Clearing House’s Treasury Operations).

#### 4.2.2 Settlement Procedures – Securities

All transactions to deposit or withdraw from the Clearing House will be executed free of payment.

#### 4.2.3 Instructions via the Collateral Management System

The Clearing House will action instructions input and authorized via the Collateral Management system. The details input on the Collateral Management system will form the basis of the matching instruction sent to the relevant CSD/custodian.

Clearing Members must ensure that the details are input correctly in order to avoid unmatched transactions.

It is the responsibility of each Clearing Member to input a cancellation request of any incorrectly input instruction and then subsequently input the correct details in a new instruction. Please note that it may not be possible to cancel an instruction, please see Section 6.8 below for further details.

The Clearing House will update the status of the instruction in the Collateral Management system in relation to the status of the instruction at the CSD/Custodian. On settlement of the transaction the Clearing House will reflect the balance of the securities on the relevant Clearing Member's account and provide value for the purposes of Margin.

The Clearing House will notify each Clearing Member of the relevant account details for matching. Each Clearing Member should contact the Clearing House's Treasury Operations to establish the correct place(s) of settlement for a particular security.

The Clearing House will not be liable for any losses of a Clearing Member or third party caused by non-settlement or a delay in settlement as a result of the actions or omissions of a CSD/custodian or such Clearing Member (save for any liability which by law may not be excluded).

#### **4.2.4 Instruction deadlines**

Clearing Members may input security instructions via the Collateral Management system at any time. Instructions will only be actioned by the Clearing House during operational hours.

The Treasury Operations operational hours are: Monday to Friday, 08:00 to 18:00 hours.

Instruction deadlines for same day settlement:

CSD/custodian	Deadline for instructions
Citibank N.A., JPMorgan Chase Bank N.A., and Bank of New York Mellon	14:30 Fed/DTC

The Clearing House will input matching instructions to the relevant CSD/custodian for same day settlement when the instructions are received prior to the deadlines above.

#### **4.2.5 Deliveries to and from local markets**

The Clearing House is bound by the settlement deadlines of the relevant CSD/custodian, Clearing Members should refer to the relevant CSD/custodian for these deadlines. Note that for transactions from local markets the settlement deadline may be earlier than the Clearing House hours of operation and should therefore be instructed the day before settlement date (i.e., on S-1). Instructions to

the Clearing House must be provided at least one hour before the market deadline for same day settlement.

#### **4.3    Lodging securities**

Lodge instructions must be input via the Collateral Management system prior to the deadlines above for same day settlement. Settled transactions will be added to Clearing Member's Margin balances following settlement.

Lodge instructions for future settlement dates will be instructed same day if received prior to the deadlines. Instructions received after the deadlines will be instructed the following day.

#### **4.4    Releasing securities**

##### **4.4.1    Release where sufficient Margin is available**

Release instructions input via the Collateral Management system prior to the deadlines above for same day settlement will be removed from the Clearing Member's Margin balance on instruction.

##### **4.5    Release where sufficient Margin is unavailable**

Release instructions must be input via the Collateral Management system. The Clearing Member will then be called for additional cash Collateral. Following confirmation of the cash call the settlement instruction will be sent to the CSD/custodian and removed from the Clearing Member's Margin balance.

#### **4.6    Substitutions**

Substitutions may be input via the Collateral Management system and will be actioned same day if input prior to the deadlines above.

Each Clearing Member must input the relevant lodge instruction(s) first and then link the associated release instruction(s) to the lodge instruction(s).

#### **4.7    Transfers**

Transfer instructions may be input via the Collateral Management system and will be actioned same day during operational hours.

**Note:** transfers are only permitted between mnemonics of the same Clearing Member and are subject to client segregation rules.

#### **4.8    Settlement Cancellations**

Clearing Members may request cancellation of an instruction via the Collateral Management system. The Clearing House will cancel any instruction that has not yet been processed. The Clearing House will use its reasonable best efforts to cancel any settlement instructions already sent to the CSD/custodian but cannot guarantee that the transaction will not settle.

**4.9    Instructions**

The status of an instruction can be monitored via the Collateral Management system. Statuses reflect the status of the instruction at the Clearing House and not at the CSD/custodian. Please refer to the Collateral Management system User Guide for status definitions.

**4.10    Withholding Taxes****4.10.1    Withholding Taxes – General**

U.S. income tax laws impose a withholding tax on payments of U.S. source interest, including original issue discount, to a foreign person unless an exemption or reduced rate applies. Interest is U.S. source income, if the debtor is a U.S. corporation.

The Clearing House shall transmit to the Custodians (or other paying agents) the tax forms completed pursuant to Section 1.4.1(c).

The Clearing House's acceptance of U.S. securities does not indicate any responsibility for the adequacy or otherwise of tax documentation. Any queries in relation to these tax forms should be referred to your accountant or professional advisers.

Custodians offer a recovery service for overseas taxes on Government Bonds. The Clearing House will assist in the recovery process and remit to Clearing Members any recovery in withholding tax credited to the Clearing House's account by the Custodian.

In certain cases the Custodian/the Clearing House will withhold tax on a coupon if the correct documentation is not lodged with either the custodian/the Clearing House at the time when a coupon is due.

**4.10.2    Withholding Tax — CSDs/Custodians**

CSDs/Custodians may offer a recovery service for overseas taxes on Government Bonds. The Clearing House will assist in the recovery process and remit to Clearing Members any recovery in withholding tax credited to the Clearing House's account by CSDs/custodians.

In certain cases the CSDs/custodian and Clearing House will withhold tax on a coupon if the correct documentation is not lodged with either CSD/Custodian and the Clearing House at the time when a coupon is due.

**4.11    References**

These Procedures should be read in conjunction with the relevant user guides and/or manuals of the relevant CSD/custodian. Please also refer to each CSD/custodian for the relevant settlement deadlines in particular those for deliveries from local markets to Clearing House accounts.

#### 4.12 Return of Unallocated Excess and Buffer

Upon the request of an FCM Clearing Member, the Clearing House shall return all or a portion of such FCM Clearing Member's available Unallocated Excess or Buffer (as requested) to such FCM Clearing Member; provided, that (i) FCM Clearing Members are not entitled to request the return of Encumbered Buffer, and (ii) the Clearing House shall not be required to return Buffer if the FCM Clearing Member is a Defaulter. The FCM Clearing Member's request must contain the specific details of the amount requested and whether such FCM Clearing Member is requesting the return of Buffer or Unallocated Excess, and any other information reasonably requested by the Clearing House. If the FCM Clearing Member's request does not identify whether the requested amount is Buffer or Unallocated Excess, the Clearing House shall treat such request as a request for the return of Unallocated Excess, provided that once the Unallocated Excess has been exhausted, any remaining amount will be met from Buffer. The end of day report delivered to the FCM Clearing Member by the Clearing House shall constitute conclusive evidence of the amount of any Buffer or Unallocated Excess returned to such FCM Clearing Member during that day, unless the Clearing House determines such report contained an error and subsequently delivers an amended report or other notice to the FCM Clearing Member in respect of such amounts.

Regulation 106A contains additional provisions relating to Buffer, Encumbered Buffer and Unallocated Excess.

#### 4.13 Collateral Value Reports

In accordance with Regulation 106A(d), an FCM Clearing Member that has elected to adopt the With Client Excess Model is required to provide the Clearing House with an eligible CVR (Collateral Value Report as defined in the Regulations) at least once per Business Day.

##### 4.13.1 **Contents of the Collateral Value Report**

The CVR should contain details of the following:

- (a) **Client Sub-Account Balance:** The value of Margin delivered for and on behalf of each Client and its respective Client Sub-Account.
- (b) **Buffer:** The value of Buffer lodged in the Buffer Sub-Account.

All values provided in a CVR must be the post haircut value in USD (or such other currency as agreed in writing by the Clearing House).

Where the CVR does not contain information for all of the Clients of an FCM Clearing Member, the Clearing House will assume that the Client Sub-Account Balance for those Clients that are not included have not changed from that which is reflected in its books and records (either through delivery of a previous CVR or as a result of an Assumed Allocation).

Unallocated Excess may be allocated to a Client Sub-Account or to a Buffer Sub-Account through the submission of a CVR. Any Margin that is furnished to the Clearing House but which is not allocated in a CVR will be treated as Unallocated Excess.

#### **4.13.2 Eligibility of the Collateral Value Report**

The CVR constitutes a notification to the Clearing House of the allocation of Margin that has been furnished by an FCM Clearing Member to one of its Omnibus Client Swaps Account with LCH. Therefore, a CVR will be considered ineligible where the CVR details the aggregate value of the Margin lodged in each applicable Client Sub-Account to exceed the total Margin currently available in respect of such Omnibus Swaps Client Account with LCH.

Following determination of the value of Margin allocated to each Client Sub-Account, the Clearing House will then assess whether the amount of Buffer detailed in the CVR is correct based on the residual amount of Margin that it has received. In the event that the amount of Buffer detailed in the CVR is greater than the amount of Margin (not including all Margin which has been allocated to the relevant Client Sub-Account Balances, as set out in the CVR) delivered to that FCM Clearing Member's Omnibus Swaps Client Account with LCH, the Clearing House will not reject the CVR but will reduce, in its books and records, the value of Buffer held for that FCM Clearing Member. In such a case, the Clearing House will thereafter notify the FCM Clearing Member that such a modification to the balance of the Buffer Sub-Account has been applied.

Any CVR that would generate, or is submitted in order to avoid, a margin call will be ineligible and will be rejected by the Clearing House. Where a CVR details a Client Sub-Account Balance which is lower than the amount of Required Margin applicable to such Client Sub-Account, the Clearing House will assume that the shortfall is covered by Buffer (provided that sufficient Buffer is available to be so applied) and will modify the applicable accounts appropriately. In such a case, the Clearing House will thereafter notify the FCM Clearing Member of the application of the relevant modifications.

CVRs will only be accepted by the Clearing House during the time when the Clearing Services are open. Any CVRs submitted when the Clearing Services are closed will be rejected and will have to be re-submitted in order to be accepted by the Clearing House.

Ineligible CVRs will be rejected by the Clearing House. In the event that a CVR is deemed ineligible by the Clearing House, the Clearing House will notify the relevant FCM Clearing Member so that a replacement CVR can be delivered.

#### **4.13.3 Election of With Client Excess Model or Without Client Excess Model**

As described in Regulation 106A, the Without Client Excess Model is the default model that applies to each Omnibus Swaps Client Account with LCH.

In the event that an FCM Clearing Member wishes to adopt the With Client Excess Model with respect to one or more of its Omnibus Swaps Client Accounts with LCH, it must notify the Clearing House's Client Services ([swapclear.clientservices@lchclearnet.com](mailto:swapclear.clientservices@lchclearnet.com)). Following receipt of such notification the Clearing House will notify the FCM Clearing Member that such election has been accepted and such acceptance shall become effective from the time that the FCM Clearing Member delivers an eligible CVR.

In the event that an FCM Clearing Member no longer wishes to operate under the With Client Excess Model it must provide the Clearing House with written notice of its intention to use the Without Client Excess Model. On the morning of the third Business Day following receipt of the FCM Clearing Member's notice, the Clearing House will transfer any Excess Margin in the FCM Clearing Member's Client Sub-Accounts to the Unallocated Excess Sub-Account. Buffer will remain in the Buffer Sub-Account. Once all Excess Margin has been transferred to the Unallocated Excess Sub-Account, the Without Client Excess Model will be put into effect with respect to the relevant FCM Omnibus Swaps Client Account with LCH, and the FCM Clearing Member will no longer be able to post or maintain Excess Margin in the FCM Client Sub-Accounts therein.

**APPENDIX 4A****Contingency Client Account Lodgment Form****CONTINGENCY FCM - CLIENT LODGMENT FORM**

Version 2: June 2013

To: LCH.Clearnet LLC (the "Clearing House")

LCH.Clearnet LLC Ref No:

From: Clearing Member (full name): \_\_\_\_\_

Client Account

Mnemonic: \_\_\_\_\_

Beneficial Owner Name (full name): \_\_\_\_\_

We hereby transfer the securities described below to the Clearing House under the terms of Regulations 9(m) and 9(n).

We acknowledge that these securities may be held by any custodian in any depository, securities clearing or settlement system (in the United States or elsewhere) which may for the time being be customarily used in connection with securities of similar kinds on a fungible basis and subject to the rules of the relative system and the terms and conditions of its operator, and the Clearing House has no responsibility for the performance of any such custodian, system or operator. We hereby confirm that the securities detailed below are customer funds subject to segregation pursuant to the U.S. Commodity Exchange Act and the regulations of the U.S. Commodity Futures Trading Commission promulgated thereunder.

Security Code Number	Settlement Date	Trade Date	Amount/Nominal Value	Description of Security

Delivery from:  
Depository/Agent \_\_\_\_\_

US Securities, Broker Code \_\_\_\_\_

Account Holder: \_\_\_\_\_

Account Number: \_\_\_\_\_

Delivery to: \_\_\_\_\_

Signatories for and on behalf of  
the Clearing Member:

1.

(Signature) \_\_\_\_\_

(Print Name) \_\_\_\_\_

(Position) \_\_\_\_\_

2.

(Signature) \_\_\_\_\_

(Print Name) \_\_\_\_\_

(Position) \_\_\_\_\_

Date: \_\_\_\_\_

## APPENDIX 4B

## Contingency House Account Lodgment Form



LCH.CLEARNET

## CONTINGENCY PROPRIETARY - COLLATERAL LODGMENT FORM

Version 2: June 2013

To: LCH.Clearnet LLC (the "Clearing House")

LCH.Clearnet LLC Ref No:

From: Clearing Member (full name): \_\_\_\_\_

In respect of Proprietary Business

Mnemonic: \_\_\_\_\_

We are entitled to the entire beneficial interest in these securities.

We acknowledge that these securities may be held by any custodian in any depository, securities clearing or settlement system (in the United States or elsewhere) which may for the time being be customarily used in connection with securities of similar kinds on a fungible basis and subject to the rules of the relative system and the terms and conditions of its operator, and the Clearing House has no responsibility for the performance of any such custodian, system or operator.

We hereby confirm that the securities detailed below are NOT customer funds subject to segregation requirements pursuant to the U.S. Commodity Exchange Act and the regulations of the U.S. Commodity Futures Trading Commission promulgated thereunder.

Security Code Number	Settlement Date	Trade Date	Amount/Nominal Value	Description of Security

Delivery from: Depository/Agent \_\_\_\_\_

US Securities, Broker Code \_\_\_\_\_

Account Holder: \_\_\_\_\_

Account Number: \_\_\_\_\_

Delivery to: \_\_\_\_\_

Signatories for and on behalf of  
the Clearing Member:

1.	_____ (Signature)	_____ (Print Name)	_____ (Position)
2.	_____ (Signature)	_____ (Print Name)	_____ (Position)

Date: \_\_\_\_\_

**APPENDIX 4C**  
**Contingency Collateral Release Form**



**CONTINGENCY COLLATERAL  
RELEASE FORM**

Version 1: August 2012

To: LCH.Clearnet LLC (the "Clearing House")

From: Clearing Member (full name): .....

House/Client Account\* ..... Mnemonic: .....

\* Please delete as appropriate

We hereby request you to release the securities described below.

Security Code Number (e.g. ISIN)	Delivery Date	Trade Date	Amount/Nominal Value (Issue - Coupon - Maturity)	Description of Security

The Clearing House Ref No: ..... (from lodgment form)

Delivery to: Depository/Agent .....

US Securities, Broker Code: .....

Account Holder: .....

Account Number: .....

Signatories for and on behalf of the Clearing Member:	1	.....	.....	.....
		(Signature)	(Print Name)	(Position)
	2	.....	.....	.....
		(Signature)	(Print Name)	(Position)
Date				

To: THE ABOVE-NAMED CLEARING  
MEMBER

The release of the above-mentioned securities is agreed.

For and on behalf of

LCH.Clearnet LLC: Date: ..... Time: .....

(Authorized Signatory):

Principal Offices: 17 State Street, 28<sup>th</sup> Floor, New York, New York 10004.

Registered as a Derivatives Clearing Organization under the U.S. Commodity Exchange Act. LCH.CLEARNET LLC COPY

## BUSINESS CONTINUITY

### 5. BUSINESS RECOVERY

#### 5.1 Recovery Situations

The Procedures set out in this Section are intended to provide Clearing Members with a guide to the changes in working practices which would follow the invocation of the Clearing House's Business Continuity Plans.

Due to the uncertain nature of the events which would lead to the need for Business Recovery, the Clearing House reserves the right to depart from these Procedures to meet the characteristics of specific business recovery situations.

These Procedures provide for the evacuation or decommissioning of the offices of the Clearing House. The procedures detail the alterations to the Clearing House's operations and also the action to be taken on invocation of the Business Continuity Plans.

#### 5.2 Evacuation

##### 5.2.1 **Communicating with Clearing Members**

Should the Clearing House be forced to evacuate its offices, it will need to inform its Clearing Members as soon as practicable. The following sections detail a number of different messages that the Clearing House may wish to communicate. However, in all cases the means by which information will be disseminated is the same. Information will be communicated to Clearing Members by the following methods:

- (a) facsimile transmissions to Clearing Members designated fax machines;
- (b) posting messages on [www.lchclearnet.com](http://www.lchclearnet.com); and/or
- (c) posting messages on the following number: +1 (212) 513-5265.

Some of the above communications methods can only be used to disseminate very short messages. However, the toll free number is capable of recording a message of up to ten minutes duration and handling unlimited concurrent connections. It is therefore likely to be the main method used for providing Clearing Members with progress reports following an initial broadcast message.

##### 5.2.2 **Evacuation of Clearing House Offices**

If it is necessary for the Clearing House to evacuate its offices, and if re-entry to the building is unlikely within thirty (30) minutes, Clearing Members will be informed by disseminating the following message using the methods described in Section 5.3.1 above.

“The Clearing House has been forced to evacuate its offices. Please refer to Clearing House Procedures - Business Continuity Arrangements for further information.”

At this time all of the activities normally carried out at the Clearing House’s offices will have ceased, if only temporarily. Clearing Members will be kept informed of developments as further details become available.

Please note that the reason for broadcasting the above message is to provide Clearing Members with early notification of an evacuation of the Clearing House’s offices. At this stage no decision will have been taken to invoke Business Continuity Plans. See Section 5.2.3 below for advice on how Clearing Members will be notified of an invocation of Business Continuity Plans.

#### **5.2.3 Invoking of Business Continuity Plans**

The Clearing House is contracted with a specialist provider for dedicated and syndicated work area recovery facilities. The agreement between the Clearing House and the provider stipulates that dedicated work area recovery positions will be available immediately. Syndicated recovery positions will be available within four hours of invocation.

Depending on the severity of an incident, a full or partial invocation of the service may be required.

#### **5.2.4 Limited Invocation**

If the Clearing House’s assessment of the incident suggests that reoccupation of the Clearing House’s offices will be possible within two hours, then it is likely that only the mission critical activities (MCA) will be recovered to the recovery site. All other activities will cease until the Clearing House’s Offices becomes available.

The following message will be posted:

“The Clearing House has invoked Business Continuity Plans for its MCA’s. Please refer to the Clearing House’s Procedures - Business Continuity Arrangements for further information.”

#### **5.2.5 Full Invocation**

Once a decision has been taken to proceed with full invocation of Business Continuity Plans, Clearing Members will be informed at the earliest opportunity. This will be achieved by disseminating the following message using the methods described in Section 5.2.1 above.

“The Clearing House has invoked all Business Continuity Plans. Please refer to the Clearing House’s Procedures - Business Continuity Arrangements for further information.”

It is anticipated that a period of approximately two hours will elapse between the invocation of full Business Continuity Plans and relocation of recovery teams. During this time most of the activities normally carried out at the Clearing House's offices will cease.

Please note that the Clearing House's primary data center is not located in its offices, and so an evacuation thereof will not affect Clearing Members' ability to access IT applications.

#### **5.2.6 Margin Calling**

In order to simplify the Treasury process, it is likely that a number of routine Treasury Procedures may be amended or suspended. These may include, but are not limited to:

- (a) the acceptance/release of securities and guarantees;
- (b) the conversion of currencies; and
- (c) the ability to cover liabilities in currencies other than their original currency.

#### **5.2.7 Registration of Contracts**

The Clearing House reserves the right, at its discretion, to amend the timing of registration as it deems necessary. In the event that registration is to be delayed, the Clearing House will notify Clearing Members as soon as practically possible.

#### **5.2.8 New Address for Document Delivery**

Following invocation of the Business Continuity Plans, the Clearing House will provide new address details for document delivery and will arrange to have its mail forwarded to its office recovery site.

#### **5.2.9 Permanent Change of Address**

If an incident is so serious that the Clearing House is unable to reoccupy its offices, Clearing Members will be informed of the proposed new office location and contact numbers prior to occupation of the premises. This information will be communicated via the methods described in Section 5.2.1.

Clearing Members will be informed of the date when the new arrangements will take effect.

#### **5.2.10 Return to Normal**

When the Clearing House is able to resume a normal service a message will be disseminated using the methods described in Section 5.2.1 above. Assuming that it has been possible to return to the Clearing House's offices the following message will be broadcast:

“The Clearing House has returned to its offices. Please revert to normal contact telephone numbers and procedures.”

If normal working is being resumed at a site other than the Clearing House’s offices, Clearing Members will already have been informed of the new office location and contact numbers see – Section 5.2.1 above. The following message will be broadcast:

“The Clearing House is resuming normal service at <insert location name>. Please use the new contact numbers previously supplied.”

### **5.3    Clearing House Data Centre**

#### **5.3.1    Failure of the Clearing House’s Data Center**

If the Clearing House’s primary data center fails during business hours, those Clearing House IT systems that are used by Clearing Members will be temporarily unavailable while processing is transferred to the secondary data center.

### **5.4    Compliance with Business Continuity Testing**

Clearing Members are required to participate in the Clearing House’s Business Continuity Planning (BCP) coordination and testing programs, as required by CFTC Regulation § 39.18. The Clearing House will notify Clearing Members when it intends to carry out any such test via a member circular and via a posting on [www.lchclearnet.com](http://www.lchclearnet.com), at least 90 days in advance. The Clearing House will, prior to the date of any such test, provide Clearing Members with further details of the steps that will be required under the relevant program.

## APPEAL PROCEDURES

### **6. APPEAL PROCEDURES**

#### **6.1 Introduction**

These Procedures describe how a Clearing Member may appeal against a decision of the Clearing House (that is, LCH.Clearnet LLC).

It should be noted that no appeal may be lodged to the Clearing House in respect of any decision of any other member company of the LCH.Clearnet Group (including LCH.Clearnet Limited and LCH.Clearnet SA).

#### **6.2 Decisions In Respect of Which an Appeal May Be Lodged**

6.2.1 A Clearing Member may appeal against any of the following decisions made by the Clearing House:

- (a) a decision by the Clearing House to rescind that Clearing Member's eligibility to have Contracts of a certain category registered in its name; or
- (b) a decision by the Clearing House to terminate that Clearing Member's Clearing Membership Agreement other than when such decision occurs in connection with the operation by the Clearing House of the Default Regulations.

6.2.2 A person who is not a Clearing Member may appeal to an Appeal Committee against the decision made by the Clearing House declining to grant Clearing Member status to that person.

6.2.3 From time to time the Clearing House may amend the lists in this Section 6.2 of decisions in respect of which appeals may be lodged.

#### **6.3 Initiating an Appeal**

6.3.1 An appeal to an Appeal Committee under this Section 6 shall be commenced by sending a copy of the APPEAL FORM in the form set out in Appendix 6A of these Procedures to the Chief Compliance Officer of LCH.Clearnet LLC (the "CCO") at LCH.Clearnet LLC, 17 State Street, 28<sup>th</sup> Floor, New York, New York 10004.

6.3.2 The APPEAL FORM must be fully completed in all material respects by the person lodging the appeal (the "**Appellant**").

6.3.3 The Appellant must enclose with its APPEAL FORM payment of \$750, which payment shall be returned if the appeal is subsequently upheld by the Appeal Committee or by the Appeal Tribunal.

6.3.4 An appeal may only be commenced under these Procedures within 28 days of the date upon which the decision to which it relates was notified to the Appellant. The Chief Executive of the Clearing House has discretion to waive this time limit if the Appellant provides a satisfactory explanation for the delay and no prejudice would be caused to any person by proceeding with the appeal in the circumstances.

6.3.5 The CCO shall acknowledge receipt of the APPEAL FORM no later than seven (7) days after receipt.

6.3.6 The CCO may request further information or clarification relating to the subject matter or grounds of the appeal.

#### **6.4      The First Tier Appeal**

6.4.1 No later than twenty-eight (28) days from receipt of any APPEAL FORM, the CCO shall:

(a) refer the appeal to an Appeal Committee comprising:

the Chief Executive of LCH.Clearnet LLC, or his or her representative; and

two members of the Board of Directors of the Clearing House with relevant market experience, nominated by the Chairman of the Clearing House; and

- (b) notify the Appellant in writing of the identity of the persons constituting the Appeal Committee; and
- (c) provide to the Appellant copies of such documents and written representations as the Clearing House intends to place before the Appeal Committee for its consideration.

6.4.2 Following notification to the Appellant in accordance with Section 6.4.1 above, the Appellant shall then have a period of fourteen (14) days to submit to the Appeal Committee such written representations and other documentation for the consideration of the Appeal Committee. All representations and documentation shall be submitted in sufficient copies so that each member of the Appeal Committee shall have a copy each.

6.4.3 The Appeal Committee shall decide upon its own procedure for considering and determining the appeal which will normally be done without an oral hearing but on the basis of the written representations and documents submitted by the appellant and such other information and documentation as the Appeal Committee considers appropriate.

6.4.4 The Appeal Committee may request further or other documentation and information from the Appellant.

6.4.5 No later than twenty-one (21) days from the date upon which the Appellant is notified of the composition of the Appeal Committee, or twenty-one (21) days from the receipt by the Appeal Committee of any further or other documentation or pursuant to Section 6.4.4 above, whichever is later, the Appeal Committee shall consider and determine the appeal before it.

6.4.6 An Appeal Committee constituted pursuant to this Section 6.4 shall promptly, and in any event no later than seven (7) days after coming to its determination, give notice of its determination to an Appellant in writing together with its reasons.

## **6.5      The Second Tier Appeal**

- 6.5.1 If an Appellant, having received notice of a determination of an appeal pursuant to Section 6.4.6 above, is not satisfied by such determination, it may appeal lodge a second tier appeal to an Appeal Tribunal.
- 6.5.2 A second tier appeal may be commenced under this Section 6.5 by the submission of a NOTICE OF FURTHER APPEAL in the form set out in Appendix 6B hereto to the CCO at LCH.Clearnet LLC, 17 State Street, 28<sup>th</sup> Floor, New York, New York 10004, setting out the reasons for the appeal. Such NOTICE OF FURTHER APPEAL must be received by the CCO no later than fourteen (14) days from the date upon which the notice of determination of the Appeal Committee was given to the Appellant.
- 6.5.3 An appeal under this Section 6.5 shall be heard by an Appeal Tribunal within three (3) months of the Notice of Appeal being received by the CCO, or such longer time as the Chairman of the Appeal Tribunal shall determine in order to provide a full and fair determination of the appeal.
- 6.5.4 An Appeal Tribunal constituted under this Section 6.5 shall consist of two (2) persons (“**Tribunal Members**”), with relevant knowledge and experience in the industry of matters in issue in the appeal, and a legally qualified Chairman. The Appellant and the Clearing House may each select a Tribunal Member from a list of no less than four (4) appropriately qualified persons nominated by the American Arbitration Association (AAA), New York City, and the Chairman shall be nominated by AAA. In the event that either the Clearing House or an Appellant fails to nominate such a Tribunal Member before a date ten (10) Business Days prior to the date fixed by the Chairman for the hearing of the appeal, then the Chairman shall nominate such Tribunal Member from the list referred to above. No person who served on the Appeal Committee which considered the Appellant’s first tier appeal shall be eligible to serve upon an Appeal Tribunal constituted in respect of that Appellant’s second tier appeal.
- 6.5.5 The Chairman of an Appeal Tribunal shall fix a date for the hearing of the appeal and shall give no less than twenty-eight (28) days notice in writing to the Appellant and the CCO of the time and place in New York City where such appeal shall be heard.
- 6.5.6 The Appellant shall provide the Appeal Tribunal, with a copy to the CCO, no less than fourteen (14) days before the date fixed for the hearing of the appeal, with written submissions setting out such representations as it wishes to put forward in support of its appeal, together with copies of all documentation and other material upon which it wishes to rely.
- 6.5.7 The Clearing House will submit written submissions, documentation and information with regard to the matters and issues relevant to the decision which is the subject of the appeal and provide a copy thereof to the Appellant.
- 6.5.8 An Appeal Tribunal may invite any person (including the Clearing House) to provide written information or written opinion with regard to any matter which forms the subject matter of an appeal.

- 6.5.9 An Appeal Tribunal shall determine its own procedure for the hearing of an appeal and shall not be bound by the rules of evidence. It may adjourn a hearing to another date or dates if it so wishes. If prior to or at such hearing an Appellant notifies the Appeal Tribunal that it wishes to make oral submissions, an opportunity shall be given to the Appellant to do so. A representative of the Appellant (and the Appellant himself, if the Appellant is an individual) and a representative of the Clearing House may attend the hearing, and the Appeal Tribunal may in its discretion invite further or other persons to attend the hearing.
- 6.5.10 At the hearing an Appellant may conduct its case itself through an employee, officer or other agent, or be represented by legal counsel, provided that if in any particular case an Appeal Tribunal is satisfied that there are good and sufficient reasons for doing so, it may refuse to permit a particular individual to represent an Appellant at the hearing.
- 6.5.11 Neither the Clearing House nor an Appellant shall have the right to call any witness or cross examine any person who shall have provided any information to an Appeal Tribunal, provided that an Appeal Tribunal may permit any such cross examination on such terms as it may determine if it decides that it is appropriate in the particular circumstances of that appeal so to do.
- 6.5.12 An Appeal Tribunal may have regard to such further or other documents and information and matters as it considers fair and reasonable in the circumstances.
- 6.5.13 Where in this Section 6.5 any time is given for the doing of anything, the Chairman of the Tribunal shall have discretion to extend such time if he determines that it is fair and reasonable in the circumstances so to do.
- 6.5.14 In considering an appeal, an Appeal Tribunal shall act fairly and impartially and shall take into consideration, *inter alia*, the following:
- (a) the Rulebook;
  - (b) the Notice of Further Appeal;
  - (c) all documentation and information placed before it by an Appellant or by the Clearing House; and
  - (d) the role and concomitant obligations of the Clearing House as a derivatives clearing organization registered with the CFTC.
- 6.5.15 An Appeal Tribunal may in its absolute discretion decline to entertain an appeal and shall dismiss such appeal where it considers the appeal to be frivolous or vexatious.
- 6.5.16 An Appellant shall pay its own costs and expenses in relation to an appeal. The Clearing House shall meet its own costs, those of the Tribunal Members and those related to the hearing other than costs and expenses incurred by the Appellant.
- 6.5.17 An Appeal Tribunal shall determine an appeal by majority vote, although the voting of an Appeal Tribunal shall remain confidential and the result shall be presented as a unanimous view by that Appeal Tribunal. An Appeal Tribunal may:

- (a) dismiss the appeal; or
  - (b) uphold the appeal.
- 6.5.18 An Appeal Tribunal shall deliver a written statement of its decision together its reasons to an Appellant and the Clearing House within twenty-eight (28) days of the date of the hearing. Except insofar as an Appeal Tribunal may direct, information about proceedings before the Appeal Tribunal and the names of persons concerned in the proceedings shall not be made public.
- 6.5.19 In the event that an Appeal Tribunal determines to uphold the appeal, the Clearing House shall within twenty-eight (28) days of the receipt of the written decision review and reconsider the decision upon which the appeal was based in the light of the conclusions of the Appeal Tribunal. The Clearing House agrees to be guided in reviewing its decision by the conclusions of the Appeal Tribunal.

## **6.6 Requests for Review**

- 6.6.1 A Clearing Member who is aggrieved by any action taken by the Clearing House or decision of the Clearing House (other than any decision set out in Section 6.2 above or any decision taken under Regulation 109 in or under or in connection with the Clearing House's powers under the Default Regulations) may, no later than fourteen (14) days after the date of the decision or action, request a review of such action or decision by the Chief Executive of the Clearing House.
- 6.6.2 A Request for Review under this Section 6.6 shall be made in writing, addressed to the Chief Executive of the Clearing House at the registered office, and shall set out details of the relevant decision or action, the reasons why the Member is aggrieved and details of such reasonable remedial or other action or monetary payment as that Member requests to be carried out in the circumstances.
- 6.6.3 The Chief Executive shall consider the Clearing Member's Request for Review and such further or other documents and information as he considers reasonably relevant and shall notify the Clearing Member in writing of the outcome of his review within a period of twenty-eight (28) days from receipt by him of the Request for Review. Where it is not possible to complete such review within such period of twenty-eight (28) days, the Chief Executive shall notify the Clearing Member accordingly and nominate a further period for the review, such period not to be longer than three (3) months from the date of such notification to the Clearing Member.

## **6.7 Default**

For the avoidance of doubt, the Clearing House shall be under no obligation to consider any Request for Review under Section 6.6 above or otherwise, or to comply with the provisions of this Section 6, and no appeal or Request for Review may be lodged under this Section 6 or otherwise, in respect of any decision or action taken by the Clearing House under the provisions of Regulation 109 or in respect of any decision, action or other matter arising out of or connected to the operation of the Default Regulations and the Clearing House's powers thereunder.

**APPENDIX 6A**  
**APPEAL FORM**

The Clearing House Appeal Procedures

Full Name of firm/company etc lodging the appeal (the “Appellant”):	
Registered office address:	
Contact address and telephone number and email (if different from the above):	
Contact name:	
Position:	
Description of decision appealed against (see Section 6.2 of the Clearing House Procedures):	
Date decision notified to Appellant:	
Set out here the grounds for appeal (if there is not enough space, please use additional sheets and staple to this form)	
What action or remedy are you seeking?	

Pursuant to Section 6.3 of the Clearing House Procedures, we request that this appeal against the above mentioned decision of the Clearing House be referred to an Appeal Committee.

---

Signed for and on behalf of the Appellant

---

(print name)

**Notes:**

Please enclose a check payable to LCH.Clearnet LLC drawn on a US Bank, in the sum of \$750. If your appeal is successful, this sum will be refunded to you.

If there are any written representations, any documentation or further material which you would like the Appeal Committee to consider when determining your appeal, you may send it with this Appeal Form if you wish. Alternatively you may send it in later. However, please note that the Procedures put a time limit on the submission of such material. See Section 6.4.2 of the Clearing House Procedures.

For any inquiries or further information please contact the CCO at +1 (212) 513-5636.

**APPENDIX 6B**  
**NOTICE OF FURTHER APPEAL**

The Clearing House Appeal Procedures

**Note:** This form should only be used if you have had a determination of an Appeal Committee and you are now commencing a Second Tier Appeal under Section 6.5 of the Clearing House Procedures.

Full Name of firm/company etc lodging the appeal (the “Appellant”):	
Registered office address:	
Contact address and telephone number and email (if different from the above):	
Contact name:	
Position:	
Details of determination of Appeal Committee appealed against (see Section 6.5 of the Clearing House Procedures):  Please attach a copy of the Determination	
Date of determination of the Appeal Committee:	
Set out here the grounds for appeal (if there is not enough space, please use additional sheets and staple to this form)	
What action or remedy are you seeking?	

Pursuant to Section 6.5 of the Clearing House Procedures, we request that an Appeal Tribunal be constituted to determine this appeal against the above mentioned determination of the Appeal Committee.

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Signed for and on behalf of the Appellant

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(print name)

**Notes:**

If there are any written representations, documentation or further materials which you would like the Appeal Tribunal to consider when determining your appeal, you may send them with this Notice of Further Appeal Form. Alternatively you may send it in later. However, please note that the Procedures put a time limit on the submission of such material. See Section 6.5.6 of the Clearing House Procedures.

For any inquiries or further information, please contact the CCO at +1 (212) 513-5636.

## **COMPLAINTS**

### **7. COMPLAINTS**

#### **7.1 Introduction**

7.1.1 These Procedures describe how a person (the “**Complainant**”) who:

- (a) has a complaint about the conduct or behavior or other actions of a Clearing Member with regard to that Clearing Member’s clearing activities with the Clearing House; or
- (b) has a complaint arising in connection with the performance of, or failure to perform, any of the Clearing House’s regulatory functions;

may make a formal complaint, and how that complaint will be investigated and resolved.

#### **7.2 How to Make a Complaint**

7.2.1 A complaint with regard to the conduct or behavior or other actions of a Clearing Member in that Clearing Member’s clearing activities conducted through the Clearing House or a complaint regarding the performance of the Clearing House or its failure to perform any of its regulatory functions:

- (a) must be made in writing, dated and addressed to the CCO at LCH.Clearnet LLC, 17 State Street, 28<sup>th</sup> Floor, New York, New York 10004;
- (b) should set out, as far as possible, details of the conduct, behavior or other actions complained of, date/s and place/s it occurred, names of person involved, outcome sought and any other relevant details;
- (c) must be made no later than three (3) months after the conduct, behavior or other actions complained of, or, if the conduct, behavior or other actions complained of consist of a series of events, no later than three (3) months after the end of the last such event; and
- (d) must contain the full name and address of the complainant and, wherever possible, a contact telephone number and email address.

7.2.2 In submitting a complaint in accordance with these Procedures, the Complainant may submit such further and other documentation and material which he/she believes may be relevant.

7.2.3 Upon receipt of a written complaint pursuant to these Procedures, the CCO shall acknowledge in writing, to the address shown in the letter of complaint, receipt of the complaint. Such acknowledgment shall be made within fourteen (14) days of receipt of the letter of complaint. After receipt of a complaint in accordance with the procedure set out in this Section, the Clearing House shall conduct an internal investigation and review of such complaint in accordance with the procedures set out in Section 7.3 below.

### **7.3 Internal Investigation and Review by the Clearing House**

- 7.3.1 No later than fourteen (14) days from receipt of a complaint of the type referred to in Section 7.1.1 or 7.1.2 above, the CCO shall refer the complaint, together with any supporting material provided by the Complainant, to an Investigation Committee.
- 7.3.2 An Investigation Committee shall consist of the CCO, the Chief Risk Officer and any one (1) of the following persons:
- (a) the Chief Executive of LCH.Clearnet LLC, or his or her representative;
  - (b) the U.S. Head of Collateral and Liquidity Management; or
  - (c) the U.S. Head of Operations;
- providing always that an Investigation Committee shall have at least one Managing Director or the representative of the Chief Executive among its number.
- 7.3.3 The Investigation Committee established pursuant to this Section 7 shall conduct an investigation into the subject matter of the complaint and shall deliver its report to the Complainant and to the Chief Executive of the Clearing House within a period of twelve (12) weeks from the referral to it of the complaint. The committee may make such recommendations as it deems fit for resolving the subject matter of the complaint. The committee may, if it so decides, make no recommendations if it considers such course of action to be appropriate in the circumstances. The report shall contain reasons for the committee's decision.
- 7.3.4 The costs of the internal investigation and review shall be borne by the Clearing House.
- 7.3.5 Where the CCO receives a written complaint which is not a complaint regarding the conduct, behavior or other actions of a Clearing Member in respect of its clearing activities with the Clearing House or is not a complaint arising in connection with the performance of, or failure to perform, any of the Clearing House's regulatory functions but is nevertheless a complaint regarding a Clearing Member or regarding the conduct, behavior or actions of an officer or employee or other staff member of the Clearing House, then such complaint shall be referred to the Chief Executive of the Clearing House to be dealt with in accordance with the REQUESTS FOR REVIEW procedure set out in Section 6.6 (Appeals Procedures) of these Procedures.

### **7.4 Referral to an Independent Investigator**

- 7.4.1 In the event that the Complainant is dissatisfied with the outcome of the Internal Investigation and Review procedure set out in Section 7.3 above, or in the event that the Complainant does not receive the report of the Investigation Committee within fourteen (14) weeks of the submission of a complaint of the kind described in Sections 7.1.1 and 7.1.2 above (and providing that the subject matter of the complaint (or substantially the same matters) shall not have already been referred to an Independent Investigator as a result of a complaint from that same Complainant), the Complainant may ask for the complaint to be referred to an Independent Investigator nominated in accordance with the procedure set out in Section 7.5 below.

- 7.4.2 A request for referral to an Independent Investigator shall be made in writing to the CCO and shall be made no later than fourteen (14) days following notification to the Complainant of the report of the Investigation Committee or sixteen (16) weeks from the submission of the original complaint to the Clearing House in accordance with Section 7.2.
- 7.4.3 Within fourteen (14) days of receipt of a written request, in accordance with Section 7.4.2 above, the CCO shall refer the complaint to an Independent Investigator.
- 7.4.4 An Independent Investigator shall be nominated for this purpose by the American Arbitration Association, New York City. Such investigator shall be a person:
- (a) independent of the Clearing House (for these purposes “independent” shall mean that such person is not and has not been an officer, director or employee of the Clearing House);
  - (b) with appropriate knowledge of how clearing is carried out by the Clearing House and of the Regulations (including the Procedures), and other relevant documentation, regulation and applicable law; and
  - (c) with appropriate experience in the market activities in respect of which the complaint is focused.
- 7.4.5 The Clearing House shall be responsible for the payment of the fees and expenses of the Independent Investigator, although this relationship shall not give rise to any employment or other relationship between the Independent Investigator and the Clearing House and shall not give rise to any duty between the Independent Investigator and the Clearing House other than that the Independent Investigator shall act as an independent complaints investigator in accordance with the terms of these Procedures.
- 7.4.6 In the event that for reasons beyond the reasonable control of the Clearing House, referral to an Independent Investigator is not made within the two (2) week period referred to in Section 7.4.3 above, then the CCO shall notify the complainant in writing of the reasons for the delay.

## **7.5 Procedure for Dealing with the Complaint**

- 7.5.1 Upon appointment, an Independent Investigator nominated in accordance with these Procedures shall forthwith notify the Complainant and the Clearing House in writing of his appointment and shall invite the Complainant and the Clearing House to make such submissions and submit such documentation as each may wish within such timescale as the Independent Investigator may determine.
- 7.5.2 The Independent Investigator shall determine his own procedure for considering the complaint referred to him, shall be guided by the requirements of fairness and may do, inter alia, any one or more of the following:
- (a) interview the Complainant;
  - (b) interview a representative of the Clearing House;

- (c) seek further or other information from the Clearing House and/or the Complainant; and/or
- (d) make such further or other reasonable inquiries as he deems fit in order properly and fully to investigate the Complaint.

## 7.6 **Outcomes**

- 7.6.1 The Independent Investigator shall, wherever reasonably possible, conclude his investigation of a complaint referred to him under these Procedures within a period of two (2) months from the date of his nomination. Where it is not reasonably possible to do so on account of the nature or complexity of the matter referred to him or other good reason, then he shall notify the Complainant and the Clearing House in writing of this fact and provide a further date for the completion of the investigation.
- 7.6.2 The Independent Investigator shall, at the end of his investigation, produce a written report setting out his findings, conclusions and reasons for his conclusions. Such report shall be provided both to the Complainant and to the Clearing House, but it shall not be made public unless the complaint is upheld in whole or in part and the Complainant so requests. In the event of such request, the report shall be made public by being published on the Clearing House's public website. Where only part of the complaint is upheld, then only that part of the report relating to that part of the complaint shall be so published.
- 7.6.3 In his written report, the Independent Investigator may:
  - (a) dismiss the complaint;
  - (b) uphold the complaint in its totality;
  - (c) uphold part of the complaint and dismiss part of the complaint; or
  - (d) make such recommendations as he deems fit in the circumstances, including a recommendation that the Clearing House make a compensatory payment and/or take such action as may be reasonably practicable to remedy the cause of the complaint.

## DISCIPLINARY PROCEEDINGS

### **8. DISCIPLINARY PROCEEDINGS**

#### **8.1 Scope of this Procedure**

All Clearing Members are subject to Disciplinary Proceedings pursuant to Section 8 of these Procedures (the “**Disciplinary Procedures**”).

Any alleged breach by a Clearing Member of an obligation set out in the Rulebook (the “**Alleged Breach**”) may be dealt with in accordance with the provisions of these Disciplinary Procedures.

These Disciplinary Procedures are without prejudice to:

- (a) any action and/or measures that may be taken by the Clearing House based on any other procedure set out in the Rulebook including, without limitation, the right of the Clearing House to issue a Default Notice under the Default Regulations;
- (b) the Clearing House’s right to take no action where it considers that taking action would be disproportionate or otherwise, in its discretion; or
- (c) any provision of any applicable law concerning enforcement by a Regulatory Body.

#### **8.2 Investigation Procedure**

Subject to Section 8.3, the investigation of an Alleged Breach pursuant to these Disciplinary Proceedings shall be handled in accordance with this Section 8.2.

##### **(a) Opening of the Investigation Procedure**

When the Clearing House commences proceedings to investigate an Alleged Breach:

the Clearing House shall send a written notice to the Clearing Member, setting out details of the Alleged Breach, including a summary of the facts relied upon in sufficient detail for a reasonable person in the Clearing Member’s position to properly understand and respond to the allegations made against it;

the Clearing House shall identify a suitably senior representative of any entity of the LCH.Clearnet group organization that shall lead the investigation procedure on behalf of the Clearing House and shall inform the Clearing Member who this representative will be in the written notice which is sent in accordance with sub-paragraph (i) above;

following receipt of the written notice sent in accordance with sub-paragraph (i) above, the Clearing Member shall be permitted to (x) raise objections in writing to the Alleged Breach of which it has been notified and/or (y) raise objections to the identity of the representative that is to lead the investigation procedure, on grounds of conflicts of interest, within forty-eight (48) hours. Where an objection is raised, either the Chief Executive or the CCO of the Clearing House shall discuss the perceived conflict of interest with the Clearing

Member within twenty-four (24) hours and shall make a decision on whether an alternative representative needs to be identified for the purposes of sub-paragraph (ii) above;

the Clearing Member shall be required to provide any information, copies or records and documents that may be reasonably requested, in connection with the examination of the Alleged Breach, to the Clearing House, provided that the Clearing Member shall not be compelled to disclose any information which it is prohibited from disclosing by virtue of applicable law or regulation, as a result of agreements signed with third parties or as a result of legal professional privilege (in which case the Clearing Member shall provide the Clearing House with proof of such prohibition). The Clearing Member is permitted to request that the Clearing House provide to it copies of the documentation it relies upon during the investigation, provided that the Clearing House shall not be required to reveal any information which it deems to be confidential;

the Clearing House may send a representative (being either the representative identified as leading the investigation procedure on behalf of the Clearing House or another representative) to the Clearing Member's offices at any time during normal business hours, having provided reasonable notice (being proportionate to the seriousness of the Alleged Breach) to the Clearing Member as part of the investigation procedure. The Clearing Member shall only be entitled to refuse access to such representative in the event of a substantiated conflict of interest. The Clearing Member shall make available all information, records and documents kept by the Clearing Member that may be reasonably required for the examination of the Alleged Breach to the Clearing House's representative; and

the Clearing Member shall exercise its reasonable best efforts to procure the attendance of any of its directors, officers, employees, agents and representatives, as may be reasonably requested, at a specified time on reasonable notice (at either the offices of the Clearing House or those of the Clearing Member) in order to answer questions or provide explanations that may be relevant for the examination of the Alleged Breach.

(b) Report

Following the conclusion of the investigation procedure, the Clearing House shall: (i) notify the Clearing Member; and (ii) produce a written report (the "**Report**") in relation to the Alleged Breach and provide it to the Clearing Member, within no more than fourteen (14) days after the notification by the Clearing House of the conclusion of the investigation procedure.

The Report shall contain the findings of the investigation, reference the provision of the Rulebook allegedly breached by the relevant Clearing Member and indicate the Clearing House's intended course of action in relation to the Alleged Breach, being either:

to proceed with Disciplinary Proceedings, in accordance with these Disciplinary Procedures, if the Clearing House believes there to be prima facie evidence of the Alleged Breach having been committed;

to discontinue these Disciplinary Proceedings and refer the matter to the Chief Executive Officer of the Clearing House to take action in accordance with the provisions of the Rulebook if the Clearing House believes there to be prima facie evidence of the Alleged

Breach having been committed but the sanctions set out in Section 8.4 of these Disciplinary Procedures are, in the Clearing House's reasonable opinion, inadequate; or

to take no further action.

(c) Disciplinary Committee Formation

Where the Clearing House determines that it wishes to proceed with Disciplinary Proceedings in accordance with Section 8.2(b)(i) above, it will convene a "**Disciplinary Committee**" consisting of:

the Chairman of the Risk Committee of the Clearing House, or his or her representative;

the CCO, or his or her representative;

the Chief Risk Officer, or his or her representative, and

two members of the Executive Committee of LCH.Clearnet Group Limited.

Details of the precise composition of the Disciplinary Committee shall be provided to the Clearing Member as part of the Report, as appropriate.

(d) Clearing Member Response

The Clearing Member shall respond to the Disciplinary Committee within fourteen (14) days of receiving a Report which indicates that the Clearing House intends to proceed with Disciplinary Proceedings, providing a statement of defense responding to the allegations.

If no response has been received by the Disciplinary Committee within fourteen (14) days or such extended period as has been agreed between the Clearing Member and the Disciplinary Committee, the Clearing House shall be relieved of its obligations to follow the remaining steps of the investigation procedure (as set out in Section 8.2(e) below), and the Disciplinary Committee may instead make a determination in respect of the Alleged Breach and issue its Recommendation to the Clearing House as provided for in Sections 8.2(g) and 8.2(h) below.

(e) Exploratory Meetings

Once the Clearing Member has responded to the Report, either the Clearing Member or the Disciplinary Committee may, within seven (7) days, request a meeting with the other party to ask further questions and discuss the Alleged Breach (the "**Meeting**").

Unless otherwise agreed between the Clearing Member and the Disciplinary Committee, the Meeting will be held at the Clearing House's offices in New York City, provided that, if appropriate, the Meeting may take place at the Clearing House's offices in London, within fourteen (14) days from the request for a Meeting.

The Disciplinary Committee and the relevant Clearing Member are each entitled to bring to the Meeting any person relevant to the Disciplinary Proceedings which includes, but is not limited to, the following:

relevant experts;  
legal advisers; and  
accounting advisers.

The Clearing House and/or the Clearing Member shall only be entitled to object to the attendance by any of the above if there is a substantiated conflict of interest.

The Disciplinary Committee shall, in addition, invite the Clearing House representative that led the investigation procedure to attend the Meeting.

The Disciplinary Committee shall, subject to the provisions of these Disciplinary Proceedings, decide upon its own procedure for conducting the Meeting and considering and determining the matters to be discussed in the course of the Meeting on the basis of the Report, the Clearing Member's response to the Report and such other information and documentation as the Disciplinary Committee considers appropriate. A secretary will be appointed to keep minutes of the Meeting.

The Disciplinary Committee may reasonably request further or other documentation and information from the Clearing Member, provided that the Clearing Member shall not be compelled to disclose any information which it is prohibited from disclosing by virtue of applicable law or regulation, as a result of agreements signed with third parties or as a result of legal professional privilege (in which case the Clearing Member shall provide the Clearing House with proof of such prohibition).

The matters discussed at the Meeting are confidential. The Disciplinary Committee and the Clearing Member must ensure that any persons attending the Meeting are subject to a confidentiality agreement.

To ensure the efficiency of the Meeting, neither the Disciplinary Committee nor the Clearing Member shall bring more than six representatives, unless otherwise agreed.

(f) Determination

Having considered the Report, the Clearing Member's response to the Report and any other information and documentation provided to the Disciplinary Committee in accordance with Section 8.2(e), and having conducted the Meeting, the Disciplinary Committee must determine whether, in its view, the Alleged Breach has been committed.

The Disciplinary Committee shall make its determination, in accordance with this Section 8.2(f), by a majority of the attendees, provided that no determination shall be made without a quorum of three (3) Disciplinary Committee members being in attendance.

In the event of a tie, the Chairman shall have a casting vote.

For the avoidance of doubt, the Disciplinary Committee shall not be bound to comply with any rule of any law or court procedure in respect of the admissibility of evidence and may, in its discretion, accept any finding of fact by:

a relevant Regulatory Body or other governmental authority; or

the courts of the United States or any state within the United States, or any other applicable court, in connection with a Dispute.

(g) Recommendation

Within seven (7) days of the later of:

the Clearing Member's response to the Report; and

the date of the Meeting, if applicable,

the Disciplinary Committee shall communicate its determination, made in accordance with Section 8.2(f) above, to the Clearing House (the "**Recommendation**").

The Disciplinary Committee shall set out in its Recommendation the grounds on which the Disciplinary Committee has determined that the Alleged Breach has or has not been committed and its proposal as to the sanctions, if any, that should be imposed by the Clearing House upon the Clearing Member pursuant to Section 8.4.

This Section 8.2(g) is without prejudice to the rights of the Disciplinary Committee to recommend that these Disciplinary Proceedings be discontinued and refer the matter to the Chief Executive of the Clearing House to take action in accordance with the provisions of the Rules if the Disciplinary Committee has determined that the Alleged Breach has been committed but the sanctions set out in Section 8.4 are, in the Disciplinary Committee's reasonable opinion, inadequate.

(h) Decision Notice

Following receipt of a Recommendation, pursuant to Section 8.2(g), the Clearing House must decide whether or not to sanction the Clearing Member in accordance with Section 8.4 or otherwise in accordance with the provisions of the Rulebook.

For the avoidance of doubt, the Clearing House shall not be bound by the terms of the Recommendation of the Disciplinary Committee.

A decision by the Clearing House in accordance with this Section 8.2(h) will be made by the Chief Executive of the Clearing House or another suitably senior executive of the Clearing House.

Within fourteen (14) days of receiving a Recommendation, the Clearing House must notify the Clearing Member of its decision by registered mail to the address notified to the Clearing House in its admission application (the "**Decision Notice**").

A Decision Notice shall include details of the grounds on which the Clearing House has come to its decision and the sanction(s), if any, to be imposed against the

Clearing Member by the Clearing House pursuant to Section 8.4 or otherwise in accordance with the provisions of the Rulebook.

(i) Action

Notwithstanding any decision by the Clearing House to convene a Disciplinary Committee and proceed with Disciplinary Proceedings in accordance with Sections 8.2(c) to 8.2(i), the Clearing House may at any time choose to:

discontinue the Disciplinary Proceedings;

determine that, in light of the relevant facts and circumstances, no sanction should be imposed upon the relevant Clearing Member pursuant to Section 8.4 below or otherwise in accordance with the provisions of the Rulebook;

take alternative action in accordance with the provisions of the Rulebook (including, without limitation, suspension or termination of the Clearing Member's membership in the Clearing House pursuant to the Rulebook and/or the issuance of a Default Notice in respect of such Clearing Member in respect of the Clearing Member pursuant to the Default Regulations), in which case the Clearing House shall be deemed to have instituted Disciplinary Proceedings in respect of the Alleged Breach; or

amend the scope of matters being considered by the Disciplinary Committee by amending the Report to add, delete or alter any detail of the Alleged Breach or to add detail of an additional Alleged Breach. For the avoidance of doubt, where the Report is amended in this way, the provisions of this Section 8.2 will apply (and, unless otherwise agreed between the Clearing Member and the Disciplinary Committee, any timing specified in this Section 8.2 will restart) in respect of the amended Report.

### **8.3 Immediate Measure**

Where the Alleged Breach comprises a breach of:

- (a) any obligation of a Clearing Member set out in the Rulebook when such breach constitutes a threat to the integrity or safety of the Clearing House or increases the risk exposure of the Clearing House or other Clearing Members;
- (b) a Clearing Member's obligation to satisfy the relevant membership criteria pursuant to Section 1;
- (c) a Clearing Member's obligation to provide information and reporting to the Clearing House pursuant to Section 1;
- (d) a Clearing Member's obligation to submit its clearing activity to audits and inspections pursuant to Section 1;
- (e) a Clearing Member's obligation to satisfy its record keeping requirements pursuant to Section 1; or
- (f) a Clearing Member's obligation to furnish the Clearing House with Margin by the required time in accordance with Regulation 106 and Section 3,

the Chief Executive or the CCO of the Clearing House shall be entitled at their sole discretion to (a) issue a letter to the relevant Clearing Member, reminding such member of their obligations under the Rulebook or (b) impose a fine on the Clearing Member in accordance with Section 8.4, without being required to follow the procedure set out in Section 8.2 above. In such circumstances the Clearing House must notify the Clearing Member of its decision and the sanction that is to be imposed by way of a Decision Notice.

#### **8.4 Sanctions**

The Clearing House shall be entitled, in its absolute discretion, to impose the following sanctions against a Clearing Member, pursuant to these Disciplinary Procedures, provided that any such sanction is proportionate and commensurate with the seriousness of the Alleged Breach:

- (a) impose a fine or require the Clearing Member to make any other form of payment in an amount which it considers appropriate;
- (b) public censure, by way of publishing all or part of the decision taken by the Clearing House pursuant to Disciplinary Proceedings on the website;
- (c) suspension for a fixed period, as determined by the Clearing House in its sole discretion from any one or all of the clearing services offered by the Clearing House;
- (d) issuance of a private warning or reprimand;
- (e) termination of the Clearing Membership Agreement; and/or
- (f) any combination of the above.

#### **8.5 Disputing a Decision**

Where a Clearing Member wishes to dispute the Clearing House's decision to impose sanctions listed in Section 8.3 or 8.4, a Clearing Member may, within twenty-eight (28) days (or such longer period as the Chief Executive or the CCO of the Clearing House may, at their discretion, direct) of receiving the Decision Notice in accordance with Section 8.2(h) or 8.3, file an Appeal in accordance with Section 6 of the Procedures. In the event that the Clearing Member does not lodge an appeal within the relevant timeframe, the decision rendered by the Clearing House in connection with the Alleged Breach shall be final and binding. In the event that the Clearing Member does lodge an Appeal, the results of the Appeal process shall be final and binding.

#### **8.6 Reporting and Publication**

The Clearing House shall:

- (a) report on its monitoring procedures in respect of the Rulebook, compliance and breaches of the Rulebook to its Regulatory Body pursuant to Applicable Law and/or on the basis of any arrangements between the Clearing House and any Regulatory Body;

- (b) immediately notify the Regulatory Body of a decision to suspend or terminate a Clearing Member's membership rights or declare a Clearing Member to be subject to an Event of Default (in each case in accordance with the Rulebook); and
- (c) prepare and publish a general report on the application of these Disciplinary Proceedings, from time to time but at least once a year, provided, however, that only the details of those Clearing Members who have defaulted or whose membership rights have been suspended or terminated by the Clearing House shall be disclosed.

#### **8.7 Infringement of Applicable Law**

If the Clearing House finds, in the course of the investigation procedure, or otherwise, serious indications of a possible infringement of Applicable Law, it shall report the matter to the relevant Regulatory Body as soon as possible.