

VIA CFTC PORTAL

16th June 2023

Mr. Christopher Kirkpatrick
Commodity Futures Trading Commission
1155 21st Street NW
Three Lafayette Centre
Washington, DC 20581

LCH Limited Self-Certification: Japanese License Restrictions

Dear Mr. Kirkpatrick,

Pursuant to Commodity Futures Trading Commission (“CFTC”) Regulation §40.6(a), LCH Limited (“LCH”), a derivatives clearing organization registered with the CFTC, is submitting for self-certification changes to reflect certain restrictions in the LCH’s Japanese Clearing License.

Part I: Explanation and Analysis

LCH holds a license with the Japanese Financial Services Authority (“JFSA”) to operate its SwapClear and ForexClear services in the Japanese market. In order to ensure the LCH rules align with the scope of LCH’s Japanese license requirements, LCH is amending its rulebook, where required, to provide for the following restrictions:

1. ForexClear clearing members incorporated in Japan may only clear ForexClear non-deliverable forward (NDF) transactions (and no other type of ForexClear transactions)
2. A ForexClear Clearing Member may only clear ForexClear NDF transactions (and no other type of ForexClear transaction) on behalf of clients incorporated in Japan (each, a Japanese Clearing Client); and
3. A Japanese Clearing Client may only use a Clearing Member that is not incorporated in Japan to clear ForexClear and SwapClear transactions.

Part II: Description of Rule Changes

LCH will amend the following parts of the rulebook:

- Procedures Section 1 (Clearing Member, Non-Member Market Participant and Dealer Status)
- FCM Procedures

The changes to the Procedures Section 1 are focused in Section 1.12 (Jurisdictional Requirements) and are across subsections 1.12.2 – 1.12.3. Point (c) has been added to 1.12.2, and points (c) and (d) have been added to 1.12.3. Language to the effect of the

aforementioned restrictions on Japanese Clearing Members and Clients is now included, along with changing references to SwapClear 'Contracts' to 'Transactions'.

In the FCM procedures, section 1.9 (Other Conditions) has been the focus of these changes. Subsection 1.9.2 (Restrictions on Japanese FCM Clients) has seen the addition of point (c) which now notes that FCM Clearing Members may only clear ForexClear transactions that are NDF transactions on behalf of Japanese Clearing Clients. Point (a) has been amended to include the terminology "Japanese FCM Clients", and (b) now contains updated references to 'Transactions' rather than Contracts along with 'Japanese FCM Clients' being included.

The changes to the rules are included as **Appendices I-II** in black line form. The changes will be effective not earlier than 3rd July 2023.

Part III: Core Principle Compliance

LCH reviewed the proposed changes against the requirements of the Core Principles and finds it will continue to comply with all the requirements and standards set forth therein. Specifically, these rule changes have potential relevance to Core Principle C (Participant and Product Eligibility) and Core Principle L (Public Information).

The changes described in this filing ensure that LCH continues to meet the objectives of Core Principle C and CFTC Regulation §39.12, including that LCH has appropriate requirements and restrictions for determining the eligibility of agreements, contracts or transactions that are able to be sent for clearing. The changes described in this filing provide for clarification in the LCH rules of certain restrictions in the LCH's licensing in the Japanese jurisdiction. These changes also serve to outline the specific products that are eligible for Japanese clients and Clearing Members to clear with LCH.

The changes described in this filing ensure that LCH meets the objectives of Core Principle L, and CFTC Regulation §39.21 as LCH is to make available any information that is relevant to participation in the clearing and settlement activities of LCH. The changes provided for in this submission will be included in LCH's publicly available Procedures Section 1 and FCM Procedures of the Clearing House, thereby providing clarity on certain LCH's jurisdictional license conditions and product eligibility to market participants.

Part IV: Public Information

LCH has posted a notice of pending certification with the CFTC and a copy of the submission on LCH's website at: <https://www.lch.com/resources/rulebooks/proposed-rule-changes>.

Part V: Opposing Views

There were no opposing views expressed to LCH by governing board or committee members, members of LCH or market participants.

Certification

LCH hereby certifies to the CFTC, pursuant to the procedures set forth in CFTC Regulation §40.6, that the attached submission complies with the Commodity Exchange Act, as amended, and the regulations promulgated thereunder.

Should you have any questions please contact me at james.woolley@lseg.com

Yours sincerely,

A handwritten signature in black ink, appearing to read "J. Woolley". The signature is written in a cursive style with a long, sweeping underline.

James Woolley
Regulatory Compliance Analyst
LCH Limited

Appendix I

Procedures Section 1

Clearing Member, Non-Member Market Participant and Dealer Status



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PROCEDURES SECTION 1

**CLEARING MEMBER, NON-MEMBER MARKET
PARTICIPANT AND DEALER STATUS**

The Clearing House shall be entitled to charge Clearing Members fees, charges, levies and other dues as prescribed by the Clearing House from time to time, provided, that the Clearing House shall provide Clearing Members no fewer than fourteen (14) days' prior notice of any increase to such fees, charges, levies or other dues. The Clearing House may provide the aforementioned notice by way of Clearing Member circular or notification, which may include notification via the Clearing House's website.

1.11 Other Conditions

The Clearing House may, at any time, impose additional conditions in relation to continued Clearing Member status, and at any time vary or withdraw any such conditions, provided that any such conditions which restrict, or may be considered to have the effect of restricting, access of a Clearing Member to the Clearing House shall be imposed only in circumstances where, and to the extent that, their object is to control the exposure of the Clearing House to risk. Clearing Members are referred to the Clearing House's website for further information about the relevant internal risk management policies and procedures of the Clearing House.

The relevant additional conditions imposed on a Clearing Member may include, but are not limited to, a requirement to transfer additional cash or non-cash Collateral to the Clearing House, as determined by the Clearing House.

1.12 Jurisdictional Requirements

1.12.1 Singaporean Clients

Clearing Members are required to provide a copy of the 'Notice to Singapore Clearing Clients' to Clearing Clients incorporated in or operating through a branch in Singapore. The 'Notice to Singapore Clearing Clients' is available at: https://www.lch.com/system/files/media_root/singapore%20client%20disclosure.pdf.

1.12.2 Restrictions on Clearing Members and SCM Branches incorporated ~~in~~ or domiciled in Japan (each, a “**Japanese Clearing Member**” ~~and/or~~ “**Japanese SCM Branch**”, respectively)

(a) Japanese Clearing Members and Japanese SCM Branches are not permitted to participate in the Portfolio Margining Service.

~~(b)~~ Japanese Clearing Members and Japanese SCM Branches shall not clear Yen-denominated SwapClear ~~Contracts~~ Transactions.

~~(c)~~ Japanese Clearing Members shall not clear ForexClear Transactions, except ForexClear NDF Transactions.

1.12.3 Restrictions on Clearing Clients incorporated ~~in~~ or domiciled in Japan (“**Japanese Clearing Clients**”)

(a) Clearing Members may not participate in the Portfolio Margining Service on behalf of Japanese Clearing Clients.

- ~~(b)~~ Clearing Members shall not clear Yen-denominated SwapClear ~~Contracts~~ Transactions on behalf of Japanese Clearing Clients.
- ~~(c)~~ Clearing Members shall not clear ForexClear Transactions, except ForexClear NDF Transactions, on behalf of Japanese Clearing Clients.
- ~~(b)~~(d) Japanese Clearing Members shall not clear SwapClear Transactions or ForexClear Transactions on behalf of Japanese Clearing Clients.

1.12.4 Restrictions on Clearing Clients organized under the laws of Canada, have their head office located in Canada or have their principal place of business in Canada (each, a “**Canadian Clearing Client**”)

- (a) A Clearing Member may not open the following types of Client Accounts on behalf of or with respect to a Canadian Clearing Client:
 - (i) Identified Client Omnibus Net Segregated Account;
 - (ii) Affiliated Client Omnibus Net Segregated Account;
 - (iii) Non-Identified Client Omnibus Net Segregated Account; or
- (b) A Clearing Member may not permit a Canadian Clearing Client to be a Combined Omnibus Gross Segregated Clearing Client.

Appendix II
FCM Procedures of the Clearing House



FCM PROCEDURES OF THE CLEARING HOUSE

LCH LIMITED

approval process involving the Risk Committee and Board of the Clearing House.

- 1.7.2 Each FCM Clearing Member shall maintain current written risk management policies and procedures which address the risks that the relevant FCM Clearing Member may pose to the Clearing House, including any policies and procedures that the Clearing House may reasonably request to be incorporated therein. Upon the request of the Clearing House, an FCM Clearing Member shall promptly provide the Clearing House with a copy of its current policies and procedures for review by the Clearing House.
- 1.7.3 Pursuant to, and in accordance with, FCM Regulation 14 (*Margin and Collateral*), where an FCM Clearing Member provides clearing services to an FCM Client which the FCM Clearing Member considers to have a heightened risk profile, then that FCM Clearing Member shall collect from that FCM Client additional FCM Client Funds with a value that is 10 percent above the amount that the Clearing House would normally require for such FCM Client.

FCM Clearing Members are not required to furnish the Clearing House with the additional margin described in this section. However, for the avoidance of doubt, FCM Clearing Members are required to furnish the Clearing House with the Required Margin for every FCM Client.

1.8 Other Conditions

The Clearing House may, at any time, impose additional conditions in relation to continued FCM Clearing Member status, and at any time vary or withdraw any such conditions, provided that any conditions which restrict, or may be considered to have the effect of restricting, access of an FCM Clearing Member to the Clearing House shall be imposed only in circumstances where, and to the extent that, their object is to control the exposure of the Clearing House to risk. FCM Clearing Members are referred to the Clearing House's website for further information about the relevant internal risk management policies and procedures of the Clearing House.

The relevant additional conditions imposed on an FCM Clearing Member may include, but are not limited to, a requirement to furnish additional cash or non-cash Collateral to the Clearing House, as determined by the Clearing House.

1.9 Other Conditions

1.9.1 Singaporean Clients

FCM Clearing Members are required to provide a copy of the 'Notice to Singapore Clearing Clients' to FCM Clients incorporated in or operating through a branch in Singapore. The 'Notice to Singapore Clearing Clients' is available here: <http://www.lch.com/members-clients/members/fees-ltd/annual-account-structure-fees>.

1.9.2 Restrictions on Japanese FCM Clients

- (a) FCM Clearing Members shall not permit FCM Clients incorporated ~~in~~ or domiciled in Japan ("Japanese FCM Clients") to participate in the Portfolio Margining Service.
- ~~(b)~~ FCM Clearing Members shall not clear Yen-denominated FCM SwapClear ~~Contracts—Transactions~~ on behalf of Japanese FCM Clients ~~incorporated in or domiciled in Japan~~.
- ~~(b)~~(c) FCM Clearing Members shall not clear FCM ForexClear Transactions, except FCM ForexClear NDF Transactions, on behalf of Japanese Clearing Clients.

1.10 Prescribed Terms

Pursuant to FCM Regulation 7 the Clearing House may prescribe certain provisions that an FCM Clearing Member must include in its agreement with an FCM Client.

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

- (a) the FCM Clearing Member shall comply with Applicable Law relating to the segregation of FCM Client Funds, including Part 22 of the CFTC Regulations;
- (b) FCM Client Funds delivered by the FCM 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 FCM 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 FCM Client's assets as the Securities Exchange Commission, through its employees or agents, may request;
- (d) any gains on FCM Contracts held on behalf of an FCM Client (other than de minimus amounts) may be maintained by the FCM Clearing Member only until the next Business Day following receipt; and
- (e) the FCM Client has the ability to withdraw its assets from the FCM Clearing Member as soon as reasonably practicable if the FCM Clearing Member's or the Clearing House's custody of FCM Client Funds no longer meets the requirements of Rule 17f-6 under the Investment Company Act of 1940.