

  <b>Instruction</b>	<b>N°</b>	<b>Title</b>
	<b>IV.3-1</b>	<b>THE CASH AND DERIVATIVES DEFAULT FUND FOR SECURITIES AND DERIVATIVES PRODUCT GROUPS (EXCEPT MTS ITALY REGULATED MARKET)</b>

***Pursuant to Article 4.3.0.1 and Chapter 3 of Title IV of the Clearing Rule Book***

The parameters of calculation of Default Fund contribution for Transactions registered in the Cash & Derivatives Clearing System are described in a Notice.

**CHAPTER 1 SCOPE**

**Article 1**

This Default Fund is set up for Clearing Members clearing Transactions on Securities and/or Derivatives Product Groups through LCH SA (i.e. the cash and derivatives business).

The Clearing Members' contributions will be segregated for accounting purposes, in the books of LCH SA, from their individual Initial and Variation Margins.

**CHAPTER 2 THE CONTRIBUTION**

**Section 1 *Perfection of the contribution***

**A GENERAL PROVISIONS**

**Article 2**

LCH SA will make a call on each Clearing Member to contribute to the cash and derivatives Default Fund upon such Clearing Member joining the cash and derivatives Clearing Service, and generally, on a monthly basis, as stated in a Notice or following the default of a Clearing Member (each a "**Contribution Determination Date**"). The respective contributions (including any Refill Contribution) must be provided to LCH SA in their entirety within the time limit set out in a Notice.

However, in case of significant change in the business of a Clearing Member (e.g. important transfer of Open Positions from one Clearing Member to another), LCH SA may recalculate the amount of the relevant Clearing Member's contribution to the Default Fund(s) and call it before the next Contribution Determination Date. This provision applies without prejudice to the cap specified in Article 13.

**B ELIGIBLE COLLATERAL**

**Article 3**

Clearing Members have to notify LCH SA in writing of the arrangements of contribution they have chosen regarding their contribution to the Default Fund; under the condition that it is possible given the technical constraints, such arrangements have to be identical to those for the payment of Margins, as described in Instruction IV.4-1.

**Article 4**

A Clearing Member can contribute by having its cash account debited by DE NEDERLANDSCHE BANK (DNB) or by providing DNB, directly or indirectly via a "joint and several liability" declaration, with enough collateral security for the latter to issue a guarantee denominated in euro in favour of LCH SA as described in Instruction IV.4-1.

#### **Article 5**

A Clearing Member can contribute by providing National Bank of Belgium (NBB), directly or indirectly, with enough collateral security for the latter to issue a guarantee denominated in euro in favour of LCH SA as described in Instruction IV.4-1.

#### **Article 6**

Clearing Members that do not use the possibility set out in Articles 4 and 5 of this Instruction must pay their contribution in cash in euros to LCH SA's TARGET2 account at Banque de France.

#### **Article 7**

The cash transferred as Collateral by Clearing Members to LCH SA is invested in accordance with LCH SA's investment policy.

#### **Article 8**

LCH SA calculates interest on cash contributions which have not been applied to cover losses following the default of a Clearing Member. The enforceable interest rate is published on LCH SA Treasury Fee grid which is available on the website.

#### **Article 9**

In order for cash to be posted on the situation report on D and to become Collateral covering Default Fund obligations, it must be credited on LCH SA's TARGET2 account held at Banque de France in compliance with the time limits set up in a Notice.

#### **Article 10**

Payments in EURO are performed through LCH SA access to the Ancillary System Interface of TARGET2 for final payment in TARGET2.

The Clearing Member must therefore hold a TARGET2 account with one of the central banks active in TARGET2 and listed in a Notice either directly, or through a Payment Agent.

In the latter case, an agreement must be signed between the Payment Agent and the direct Ancillary System Interface participant (i.e. the Clearing Member), by which the Payment Agent undertakes to pay or receive the Collateral to or from LCH SA on behalf of the Clearing Member. A copy of this agreement must be sent to LCH SA.

### **Section 2      *Modification***

#### **Article 11**

In the case of significant volatility in the market, LCH SA can take specific measures, concerning all Clearing Members or any of them, including but not limited to, modifying arrangements or Collateral accepted from Clearing Members for the payment of contributions to the Default Fund.

### **Section 3      *Size of the cash and derivatives Default Fund and amount of the contribution***

#### **Article 12**

The Default Fund is intended, together with LCH SA's other financial resources, to be sufficient in size to cover a default of the two Clearing Members which have the first and second largest aggregate uncovered risks in relation to their Open Positions resulting from Transactions on Securities and/or Derivatives Product Groups and to their Collateral. The size of the Default Fund is as determined pursuant to a formula set out in a Notice.

#### **Article 13**

The Default Fund size will be capped at an amount set out in a Notice which will be reviewed at least once a year by LCH SA's Risk Committee.

#### **Article 14**

The Default Fund size will not fall below a floor amount set out in a Notice which will be reviewed at least once a year by LCH SA's Risk Committee.

#### **Article 15**

Pursuant to Article 4.2.0.3 of the Clearing Rule Book, LCH SA can call additional Margin from Clearing Members individually to cover their uncovered risk exceeding 45% of the Default Fund size, assessed on a daily basis, under the conditions set out in a Notice. Such additional margin will be returned when the relevant Clearing Member's new uncovered risk falls below 45% of the Default Fund size.

#### **Article 16**

For each Clearing Member, the relative weight of its uncovered risk in relation to the total sum of the uncovered risks of all Clearing Members, determines the size of its contribution to the Default Fund (subject to a minimum contribution the amount of which is fixed in a Notice (the "Minimum Contribution")).

The method and parameters used to calculate the uncovered risk and the contributions are set out in a Notice.

Non-payment by a Clearing Member of a call to contribute constitutes a Contractual Event of Default of the Clearing Member according to the Clearing Rule Book.

If the amount of a Clearing Member's contribution to the Default Fund determined by LCH SA in accordance with the above provisions is less than the amount of such Clearing Member's existing contribution maintained with LCH SA on the date of such determination, LCH SA shall refund the difference to such Clearing Member (subject to application of the Minimum Contribution).

### **CHAPTER 3     DEFAULT PROVISIONS**

#### **Section 1 Refill Contributions**

##### **Article 17**

If an Event of Default is declared in relation to a Clearing Member under the Clearing Rules, and LCH SA determines that 25% of the cash and derivatives Default Fund has been used in relation to such Event of Default (pursuant to Article 4.5.2.7 of the Clearing Rulebook), LCH SA may, by notice in writing, require each other cash and derivatives Clearing Member (each a "Non-Defaulting Clearing Member") to deposit and maintain with LCH SA an additional collateral amount (each a "Refill Contribution") in accordance with the following provisions:

Refill Contributions will only be payable in circumstances where the relevant Refill Contribution notice is delivered by LCH SA prior to the default management process completion date (as defined in an Instruction) in relation to the relevant Event of Default.

The value of the Refill Contribution payable by each Non-Defaulting Clearing Member shall be the product of (i) the percentage by which the value of the relevant Default Fund amount has been reduced since the occurrence of the Event of Default and (ii) the value of the Contribution of such Non-Defaulting Clearing Member immediately prior to the occurrence of the relevant Event of Default;

Following the payment of the first Refill Contribution in accordance with the first paragraph above, LCH SA may, by the delivery of one or more further Refill Contribution notices, require each Non-Defaulting Clearing Member to pay one or more further Refill Contributions in respect of the same Event of Default (without being bound by the 25% rule set out in the first paragraph), provided that the total value of the Refill Contributions payable by an individual non-Defaulting Clearing Member in respect of a particular Event of Default (determined in accordance with the first paragraph above) may not exceed the value of the Contribution of such Non-Defaulting Clearing Member immediately prior to the occurrence of the Event of Default; and

Following an Event of Default in respect of which Refill Contributions were paid (the "**First Default**"), LCH SA may (without in this case having to establish that 25% of the cash and derivatives Default Fund has been used) require the payment of further Refill Contributions in respect of subsequent Events of Default, (which, for the avoidance of doubt, can never be a First Default), provided that Refill Contributions will not be payable in respect of any more than three Events of Default in any six month period (commencing on the date of delivery of the first Refill Contribution notice in respect of the First Default).

Non-Defaulting Clearing Members will be required to deposit the full amount of their Refill Contributions (without exercising any rights of set-off or counterclaim) with LCH SA on the business day following receipt of a Refill Contribution notice.

## **Section 2 Suspension Period**

### **Article 18**

Following the occurrence of an Event of Default of a Clearing Member, any Contribution determination and any Contribution Determination Date which might otherwise have occurred (except any Refill Contribution which can be requested pursuant to Article 4.3.3.1 of the Clearing Rulebook), shall be suspended for the duration of the period (the "Cash and Derivatives Default Period") commencing on the date of occurrence of such Event of Default and terminating on the last to occur of the following dates (the "Cash and Derivatives Default Fund Replenishment Date"):

- (a) the date which is the close of business on the day falling 30 calendar days after the Cash and Derivatives Default Management Process Completion Date (as defined in the Instruction on "Cash and Derivatives Default Management Process") in relation to such Event of Default (or, if such day is not a business day, the next succeeding business day); and
- (b) where, prior to the end of the period referred to in (a) above (or such period as has already been extended pursuant to this sub-paragraph (b)) one or more subsequent Events of Defaults (each a "Relevant Default") occur, the date which is the close of business on the day falling 30 calendar days after the Cash and Derivatives Default Management Process Completion Date in relation to a Relevant Default which falls latest in time (or, if such day is not a business day, the next succeeding business day).

For the avoidance of doubt, the above suspension provisions shall not apply to Refill Contributions, which can be requested pursuant to Article 4.3.3.1 of the Clearing Rulebook, and which will remain payable in all circumstances notwithstanding the provisions of this Article.

Notwithstanding the above, if at any time following completion of the Cash and Derivatives Default Management Process, the cash and derivatives Default Fund amount falls below the then applicable cash and derivatives Default Fund floor amount, LCH SA may notify each Non-Defaulting Clearing Member that it is required to make a supplementary Contribution, based on the proportion that the value of its cash and derivatives Default Fund Contribution as at the last cash and derivatives Default Fund Contribution Determination Date prior to the date when the relevant Default occurred bears to the value of the aggregate Contributions of all Non-Defaulting Clearing Member as at such date, so as to reinstate the cash and derivatives Default Fund amount to a value which is no less than the cash and derivatives Default Fund floor amount. Supplementary Contributions required hereunder shall be paid within two business days after notification.

## **CHAPTER 4 REPAYMENT OF THE CONTRIBUTION**

### **Article 19**

Upon the effective termination of membership, and upon extinction of all its obligations vis-à-vis LCH SA, LCH SA shall repay to such ex-Clearing Member any part of its contributions which has not been used.