

CHAPTER 3- LEGAL FRAMEWORK

Section 1.3.1 Status and Activity of LCH.Clearnet SA

A. Status

A.1.A Clearing House

Article 1.3.1.1

LCH.Clearnet SA is a clearing house within the meaning of Article L.440-1 of the French Monetary and Financial Code and acts as a central counterparty, between the Clearing Member of the buyer or the borrower and the Clearing Member of the seller or of the lender in the conditions described in the Clearing Rules.

In this framework, LCH.Clearnet SA acts in accordance with applicable banking and financial regulations.

LCH.Clearnet SA is under the supervision of the Competent Authorities within the scope of their respective remit as granted by their national law.

LCH.Clearnet SA provides its services in accordance with recommendations from the ESCB (European System of Central Banks) and ESMA (the European Securities and Markets Authority) for central counterparties in the European Union and follows the best practices in Clearing Services.

Article 1.3.1.2

When a participant of an Allied Clearing House, or one of its clients, enters into a Transaction with a Clearing Member of LCH.Clearnet SA, or with one of its Clients:

- LCH.Clearnet SA acts as a central counterparty between its Clearing Member, pursuant to Chapter 3 of Title I on the one hand, and its Allied Clearing House, on the other hand, under the conditions defined by the Clearing Rules. The Open Positions of the Allied Clearing House in the books of LCH.Clearnet SA correspond to the Transactions carried out by its own participants, and;
- The Allied Clearing House acts as a central counterparty between its own participants and LCH.Clearnet SA, under the conditions defined by the Allied Clearing House's rules.

A.2.A Securities Settlement System

Article 1.3.1.4

LCH.Clearnet SA has been notified to the European Commission as a system pursuant to the Settlement Finality Directive. Thus, as described in a Notice, any person with a legitimate interest can obtain information on LCH.Clearnet SA and its rules from its participants, upon request.

B. Scope of Activity

Article 1.3.1.5

In accordance with this Clearing Rule Book, and for Transactions eligible to novation pursuant to Article 1.3.1.6 below, LCH.Clearnet SA registers Transactions, calculates Open Positions of its Clearing Members, and the associated risk, calls Margin to cover this risk, guarantees the proper settlement of positions as central counterparty, manages the default procedures, transmits settlement instructions to the settlement provider and performs all other functions specified by the Clearing Rules.

Article 1.3.1.6

Transactions executed on any Regulated Market or MTF, or executed or matched on any Trading & Matching Platform, may give rise to novation by LCH.Clearnet SA provided that the Financial Instruments-in question comply with the following criteria:

- LCH.Clearnet SA has entered into an agreement, for the provision of Clearing Services in respect of the relevant Financial Instruments, with the Market Undertaking operating the Regulated Market, or the MTF or the operator of the Trading and Matching Platform on which the Financial Instruments are negotiated;

- The Financial Instruments are admitted for clearing under the terms of the relevant risk policy of LCH.Clearnet SA;
- Unless otherwise agreed by LCH.Clearnet SA, accommodating such Financial Instruments in the Clearing System does not involve additional substantial development costs;
- When the Financial Instruments are Securities or their underlying is a Security, such Securities are admitted for settlement by at least one of the CSDs or ICSDs with which LCH.Clearnet SA has entered into an agreement;
- Corporate events are capable of being managed by LCH.Clearnet SA.

In addition to the above listed criteria the Regulated Market, the MTF or the Trading and Matching Platform may allow their members to opt for LCH.Clearnet SA novation or to exclude their Transactions from the Clearing Services.

The eligible novation criteria listed above also apply to rights attached to a Financial Instrument and deriving from corporate events in respect of such Financial Instruments.

Article 1.3.1.7

Where so specified in a Notice, LCH.Clearnet SA can also clear off-exchange Transactions that are not executed on a Trading & Matching Platform.

Article 1.3.1.8

Any Transaction that does not comply with all the criteria mentioned in Article 1.3.1.6 is excluded from novation by LCH.Clearnet SA and therefore excluded from the scope of the Clearing Services globally described under Article 1.3.1.5 of the Clearing Rule Book.

A Notice details the Financial Instruments or Transactions concerned per trading venue. Any such decision will come into effect at least one Clearing Day after communication thereof by LCH.Clearnet SA to the relevant Market Undertaking or operator and Clearing Members via a Notice .

Article 1.3.1.9

Without prejudice to Article 1.3.1.8 above, LCH.Clearnet SA may accept to register Transactions in Securities which do not comply with the criteria listed in Article 1.3.1.6 as long as they are admitted for settlement by at least one of the CSDs or ICSDs with which LCH.Clearnet SA has entered into an agreement. In such case, such Transactions do not give rise to novation and LCH.Clearnet SA may either send the relevant information for settlement to the relevant CSD or ICSD or make available to Clearing Members the relevant information in respect of such settlement.

Article 1.3.1.10

Notwithstanding Article 1.3.1.8, as a consequence of irrevocability, in the event that the risk policy is amended, any Transaction novated pursuant to Article 1.3.2.1 prior to the entry into force of the amended risk policy will remain within the scope of the Clearing Services provided by LCH.Clearnet SA until its expiry date.

Section 1.3.2 General Clearing Principles

A. General

A.1. Novation and Irrevocability

Article 1.3.2.1

All Transactions complying with the criteria mentioned in Article 1.3.1.6 that are submitted to LCH.Clearnet SA, within the clearing hours as set out in a Notice are registered in the name of the Clearing Member. Upon registration, novation occurs. As a result of novation, LCH.Clearnet SA

becomes counterparty to the Clearing Member and becomes therefore subject to the rights and subject to the obligations arising from the Transaction registered in the name of such Clearing Member.

Article 1.3.2.2

Any Transaction₇ received by LCH.Clearnet SA₇ from a Clearing Member, pursuant to Article 1.3.2.1 is deemed irrevocable in the sense of Article L 330 1 § III of the Financial and Monetary Code as soon as it is registered in the Clearing System in accordance with Article 3.1.1.1 and within the clearing hours as set-out in a Notice, without prejudice to the exception foreseen in Article 3.3.1.3.

Article 1.3.2.3

Submission by Clearing Members of Transactions complying with the criteria mentioned in Article 1.3.1.6 signifies the acceptance by such Clearing Members of the novation.

Article 1.3.2.4

Novation takes place on a gross basis with respect to the original Transactions.

A.2. Scope of LCH.Clearnet SA's Obligations

Article 1.3.2.5

In accordance with Article 3 of the Settlement Finality Directive, upon registration in the Clearing System, Trade Legs and netting shall be legally enforceable and shall be binding on third parties.

Upon registration and as a consequence of Article 3.1.1.1, LCH.Clearnet SA undertakes to fulfil its obligations to deliver or to pay each Clearing Member on the basis of Open Positions or Net Position Exposures, as applicable, registered in its name, per Financial Instrument or per Basket.

The fulfilment of such obligations is conditional upon the timely performance by such Clearing Member of its own obligations.

Article 1.3.2.6

Upon novation, the obligations that LCH.Clearnet SA undertakes to perform as counterparty to the relevant Clearing Members with respect to Transactions and as detailed in the relevant provisions of the Clearing Rules, cover:

- For Transactions in Securities: the payment of cash and the delivery of the Securities.
- For Transactions in option contracts:
 - payment of Option Premium pursuant to Transactions and of cash amounts resulting from exercise and assignment,
 - payment of cash and delivery pursuant to the settlement of positions in the underlying Financial Instruments or assets resulting from exercise and assignments.
- For Transactions in futures contracts (excluding commodities): payment of Variation Margin and, in the case of deliverable financial futures, delivery of Financial Instruments versus payment.
- For Transactions in commodities futures contracts :
 - payment of Variation Margin;
 - payment of the amount due to the selling Clearing Member; and
 - delivery of commodities to the buying Clearing Member.
- For Repos: For both Initial Transactions and Return Transactions, payment of cash and delivery of the debt Securities. For Return Transactions payment of cash includes applicable interest.
- For Triparty Repos:
 - to the Cash Lender, payment of the total interest amount corresponding (a) to the cash amount traded pursuant to the terms of the initially traded contract, irrespective of the

- cash amount effectively settled in the case of a securities allocation fail, and (b) to the cash amount effectively settled in the case of a cash settlement fail;
- to the Cash Borrower, receipt of a cash amount equivalent to the collateralising securities effectively settled;
- to the Cash Borrower and Lender, return of the amount of cash or collateralising securities effectively paid or settled.

The circumstances in which LCH.Clearnet SA performs its delivery obligation, including delivery at a later time than the time originally specified, are set out in the applicable Instructions.

Article 1.3.2.7

For Open Positions settled through payment of a price difference, the LCH.Clearnet SA obligations as described in Article 1.3.2.6 apply to such difference.

Article 1.3.2.8

For commodities future contracts, the performance of the obligations described in Article 1.3.2.6 will take the form of a cash compensation to be calculated and applied in accordance with an Instruction.

If the Clearing Members opt for the alternative delivery procedure, as described in Article 3.4.1.11, LCH.Clearnet SA is discharged from performing its obligations as described in Article 1.3.2.6.

Article 1.3.2.9

If LCH.Clearnet SA is unable to deliver a given Financial Instrument, as a result of the market conditions, LCH.Clearnet SA will notify the relevant Clearing Member accordingly. In such case, LCH.Clearnet SA will pay a cash amount in lieu of delivery of the Financial Instrument or the assets involved. The amount will be calculated on the basis of the market price of the Financial Instrument according to a formula and a method of calculation to be specified in an Instruction.

For the avoidance of doubt, this article shall not apply to Triparty Repos.

Article 1.3.2.10

Unless otherwise stated in the Clearing Rule book, the netting of Clearing Members' obligations with those of LCH.Clearnet SA is not permitted.

A.3. General Clearing Process

Article 1.3.2.11

Unless otherwise specified in the Clearing Rule Book, at the end of the Clearing Day or at such other time as may be published in a Notice, LCH.Clearnet SA aggregates Transactions with respect to payment of cash or delivery of Securities, into Open Positions.

Article 1.3.2.12

Unless otherwise specified in the Clearing Rule Book, LCH.Clearnet SA sends the requisite delivery and payment instructions once calculated in accordance with Article 1.3.2.11 and per Financial Instrument, to the relevant central Securities depository or Securities settlement system.

The rules of the relevant central Securities depository or Securities settlement system apply with respect to transmission of such delivery and payment instructions to the central Securities depository or Securities settlement system.

In the event of settlement failure, the unsettled position is managed in accordance with the provisions on Net Fails in Chapter 4 of Title III of this Clearing Rule Book

A Notice will give details of the timeframe in which such delivery and payment instructions are sent to each central Securities depository or Securities settlement system. LCH.Clearnet SA is discharged of its obligations towards Clearing Members once payment and settlement have occurred.

The payment of funds and delivery of Securities are linked so as to occur on a simultaneous basis.

B. Provisions Related to Financial Products Traded on Markets Operated by Euronext Brussels

Article 1.3.2.13

The Belgian Common Civil Law Provisions are applicable for determining the moment of the transfer of ownership of Financial Instruments bought, sold or exchanged pursuant to as Transaction.

Section 1.3.3 Liability and Force Majeure

A. Liability of Clearing Members

Article 1.3.3.1

A Clearing Member shall be liable for any damages suffered by LCH.Clearnet SA as a direct consequence of the Clearing Member's default resulting in LCH.Clearnet SA having to satisfy its obligation under Article 1.3.2.6 and as provided for in the Clearing Rules, without any notice of default by LCH.Clearnet SA being required.

Such damages may include without limitation any one or more of the following: interest, exchange rate differences, purchase price.

Article 1.3.3.2

A Clearing Member will not be held liable for any detrimental consequences of abnormal or fraudulent use of the Clearing System or for any detrimental consequences of acts or omissions of third parties.

Article 1.3.3.3

The Clearing Member shall take all reasonable care in the selection and monitoring of any Person that is to act on its behalf.

B. Liability of LCH.Clearnet SA

Article 1.3.3.4

LCH.Clearnet SA ensures the delivery of Securities or the payment of cash, in accordance with the Clearing Rule Book following the registration of Transactions provided in Article 1.3.2.2 and the clearing of obligations deriving thereto as provided in Article 1.3.2.6, save in the event of a force majeure or third party action.

Article 1.3.3.5

The buying Clearing Member can make no claim for compensation in respect of late delivery of Securities other than as provided for in the Clearing Rules or where such late delivery results from a failure on the part of LCH.Clearnet SA itself.

The buying Clearing Member's Open Positions are no longer admitted for clearing once it has taken delivery of the relevant Securities from either LCH.Clearnet SA or the selling Clearing Member.

Article 1.3.3.6

For obligations other than the obligation to deliver Securities or pay cash amounts as referred to in Article 1.3.3.4 above, LCH.Clearnet SA is only accountable for obligations of means ("*obligation de moyens*").

In particular, LCH.Clearnet SA may under no circumstances be held liable for the above mentioned damages, unless such damages are direct result of gross negligence or a deliberate act or omission on the part of LCH.Clearnet SA.

Article 1.3.3.7

LCH.Clearnet SA may under no circumstances be held liable for direct or consequential loss suffered by any Clearing Member including without limitation loss of business, profits or revenues believed by the

Clearing Member to be the consequence of a total or partial failure by LCH.Clearnet SA to perform, its obligations in accordance with the Clearing Rules or the Admission Agreement.

Article 1.3.3.8

If a Clearing Member does not comply with its obligations, as provided for in the Clearing Rule Book or in the Admission Agreement or in case of suspension of payments, scheme of arrangement, safeguard, or receivership of the Clearing Member, or any other equivalent amicable or legal procedure commenced pursuant to the law of jurisdictions other than France, LCH.Clearnet SA may cease to perform all its obligations with respect to the Clearing Member in question, notwithstanding implementation of the measures provided in Chapter 5 of Title IV of the Clearing Rule Book. In particular, following an Event of Default, LCH.Clearnet SA will act promptly in the manner LCH.Clearnet SA deems most appropriate to contain its exposure and mitigate consequences for market participants.

In such events, LCH.Clearnet SA may not be held liable for any detrimental consequence save in the case of gross negligence or deliberate act or omission. In particular, following an Event of Default, implementation of measures provided in Chapter 5 of Title IV cannot result in any liability for LCH.Clearnet SA (a) in respect of the failing Clearing Member, including in connection with (i) process and conditions for liquidating Trade legs or Open Positions or (ii) the selling or liquidation of Margins or any other Collateral and (b) in respect of the Defaulting Clearing Member and non-defaulting Clearing Members regarding the triggering of any call on the Default Fund.

Article 1.3.3.9

Furthermore, LCH.Clearnet SA may not be held liable for any breach by a Clearing Member of its obligations, to segregate client and house assets, notably in securities settlement systems or central securities depositories in accordance with applicable law and regulations. LCH.Clearnet SA only sends delivery and payment instructions to the account indicated by the Clearing Member irrespective of such account beneficiary.

Article 1.3.3.10

LCH.Clearnet SA may not be held liable for any detrimental consequences of abnormal or fraudulent use of the Clearing System or for any detrimental consequences of acts or omissions of third parties.

Article 1.3.3.11

LCH.Clearnet SA shall take reasonable care in the selection and monitoring of any third party which may act on its behalf.

C. Force Majeure

Article 1.3.3.12

Force majeure is to be constructed in accordance with French law, meaning extraordinary events independent of the Parties' will, which cannot be foreseen or avoided even with due diligence, being beyond their control and preventing them from fulfilling their obligations pursuant to the Clearing Rules or the Admission Agreement.

Such events include inter alia, disasters, such as hurricane, earthquake, international conflicts, stroke of lightning and war.

If circumstances as referred to in the previous paragraph arise or are, likely to arise, LCH.Clearnet SA or Clearing Members, as the case may be, will take such measures as may be reasonably expected of them in order to limit as much as possible the detrimental consequences for the other party resulting from such circumstances.

Section 1.3.4 Confidentiality

Article 1.3.4.1

LCH.Clearnet SA may in accordance with applicable statutory provisions provide any information it may have to Competent Authorities.

Where a Clearing Member is also a member of a Regulated Market, MTF, or clearing house with whom LCH.Clearnet SA has entered into an agreement to clear Transactions, or to grant mutual access, such as an Allied Clearing House, LCH.Clearnet SA may likewise, and under the same conditions, pass any such information to such Regulated Market, MTF or Allied Clearing House.

Article 1.3.4.2

Upon request, LCH.Clearnet SA may provide Competent Authorities or National Treasury Agencies with information related to Net Fails in respect of Clearing Members. Any such disclosure to the National Treasury Agencies may only take place if the National Treasury Agencies are able to justify that a valid authorisation has been given by the relevant Clearing Members to LCH.Clearnet SA.

Article 1.3.4.3

Without prejudice to any monitoring and auditing powers granted by law to other bodies, LCH.Clearnet SA has an obligation in accordance with applicable statutory or regulatory provisions, to prevent or limit any fraudulent, illicit or irregular acts.

Article 1.3.4.4

Notwithstanding any other provision to the contrary, LCH.Clearnet SA shall be authorised to supply any information whatsoever concerning a Clearing Member or its Clients or a Trading Member or Associated Trading Member and its or their trading activity to LCH.Clearnet Group Limited, LCH.Clearnet Ltd, LCH.Clearnet LLC or any other sub-contracting entity belonging to the same Financial Group.

Section 1.3.5 Applicable Law

Article 1.3.5.1

The Clearing Rules shall be governed by and construed in accordance with the laws of France unless explicitly stated otherwise.

Section 1.3.6 Disputes

Article 1.3.6.1

Any dispute between LCH.Clearnet SA and a Clearing Member that may arise under the Clearing Rules shall be finally settled through the French courts or arbitration centre referred to in the Admission Agreement, subject to the complaints resolution procedure as set out in an Instruction.

Article 1.3.6.2

A Clearing Member shall, in accordance with Article 1.3.3.4 *et seq.*, notify LCH.Clearnet SA of any claim within twelve (12) months from the Clearing Day on which the Clearing Member becomes aware, or should have become aware of the occurrence of any event that may result in loss or damages.