

15 May 2018

LCH.Clearnet Limited  
Aldgate House  
33 Aldgate High Street  
London EC3N 1EA

Dear Sirs

*Opinion letter in respect of the LCH.Clearnet Limited EMIR-compliant model*

You have asked us to provide advice in respect of the laws of England and Wales ("**this jurisdiction**") in response to certain specific questions raised by LCH.Clearnet Limited ("**LCH**") in relation to membership, insolvency, security, set-off & netting and client clearing for purposes including the application of LCH for "Recognised Central Counterparty" status, pursuant to Article 17 of Regulation (EU) No 648/2012 of the European Parliament and the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories ("**EMIR**") and Section 288 of the Financial Services and Markets Act 2000 ("**FSMA**").

The relevant questions are set out in full in Section 3 of this opinion letter (the "**Opinion Letter**") together with the corresponding responses.

**1. TERMS OF REFERENCE**

1.1 This opinion is given in respect of Clearing Members which (as further specified in paragraph 2.14) are:

1.1.1 banks incorporated in this jurisdiction which have permission to accept deposits by virtue of Part 4A of FSMA but not including insurance companies which have such permission to carry out contracts of insurance. (Please note that certain other types of person, not covered by this opinion, may also have permission to accept deposits, including building societies and credit unions within the meaning of section 31 of the Credit Unions Act 1979);

1.1.2 banks incorporated in another jurisdiction but with a branch in this jurisdiction; and

197245-4-3-v5.0

70-40627706

1.1.3 investment firms incorporated in this jurisdiction or incorporated in another jurisdiction but with a branch in this jurisdiction,

which, in each case, are either English companies, foreign companies or Royal Charter Corporations.

For these purposes, an "English company" is a company which is formed and registered under the Companies Act 2006 (the "CA 2006") or the former Companies Acts (as defined in section 1171 of the CA 2006), but does not include a company formed and registered under any of the former Companies Acts in what was then Ireland; a "foreign company" is a company (other than a "Societas Europaea" established pursuant to EU Council Regulation No. 2157/2001 of 8 October 2001 on the European Company Statute) which is incorporated or formed under the laws of another jurisdiction with a branch or branches established or located in this jurisdiction; and a "Royal Charter Corporation" is a company incorporated by royal charter under the laws of this jurisdiction. As to companies registered in Scotland, see paragraph 4.38 below.

1.2 The opinions contained in this Opinion Letter are not limited to any specific Services offered by LCH but do not apply to Services offered by FCM Clearing Members in respect of FCM Contracts.

1.3 Except where otherwise defined herein, terms defined in the Rulebook (as defined below) of LCH shall have the same meaning in this Opinion Letter.

1.4 In this Opinion Letter, unless otherwise indicated:

1.4.1 "**Agreements**" means the Clearing Membership Agreement and the Deed of Charge;

1.4.2 "**Arrangements**" means the Collateral Arrangements and the Default Arrangements;

1.4.3 "**Charged Property**" has the meaning ascribed to such term in the Deed of Charge;

1.4.4 "**Clearing Membership Agreement**" means a clearing membership agreement which is substantially in the form of the Clearing Membership Agreement set out in Schedule 1;

1.4.5 "**Client Contracts**" means the Contracts entered into by a Clearing Member in respect of its Client Clearing Business;

1.4.6 "**Collateral Arrangements**" means the security arrangements provided for in the Rulebook pursuant to which a Clearing Member provides Collateral to LCH;

- 1.4.7 "**Deed of Charge**" means a deed of charge entered into between a Clearing Member and LCH which is substantially in the form of the Deed of Charge set out in Schedule 2;
- 1.4.8 "**Default Arrangements**" means the default management procedures of LCH, provided for in the Rulebook, including, in particular, under the Default Rules and, in respect of Client Contracts, under the Client Clearing Annex to the Default Rules;
- 1.4.9 "**English Clearing Member**" means a Clearing Member which is an English company;
- 1.4.10 "**Insolvency Proceedings**" means the procedures described in paragraph 3.2.1;
- 1.4.11 "**Party**" means LCH or a particular Clearing Member, and "**Parties**" means both of them;
- 1.4.12 "**Rulebook**" means the version of the General Regulations, Procedures, Default Rules, Settlement Finality Regulations and the Product Specific Contract Terms and Eligibility Criteria Manual made available on LCH's website as at the date of this Opinion Letter and submitted to and approved by the Bank of England as part of the EMIR application; and
- 1.4.13 "**Secured Obligations**" has the meaning ascribed to such term in the Deed of Charge;
- 1.4.14 "**Unregulated Entity**" means a UK entity which does not require authorisation under (and as provided for) in the UK SI 2001/544 (The Financial Services and Markets Act 2000 Regulated Activities Order 2001) to carry on House Clearing Business and which does not and will not provide Client Clearing Services;

the following principles of interpretation apply:

- 1.4.15 a reference to "**this opinion**" is to the opinion given in Section 3;
- 1.4.16 references to a "**designated system**" are to a designated system within the meaning of and for the purposes of the Settlement Finality Regulations 1999;
- 1.4.17 references to a "**recognised clearing house**" and to a "**recognised central counterparty**" are to a recognised clearing house and a recognised central counterparty, respectively, within the meaning of and for the purposes of Part 7 of the Companies Act 1989 ("**Part 7**");
- 1.4.18 a reference to the "**Cross-Border Insolvency Regulations**" means the Cross-Border Insolvency Regulations 2006;

- 1.4.19 a reference to "**CRR**" is to Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012;
- 1.4.20 a reference to "**EMIR**" is to Regulation (EU) No 648/2012 of the European Parliament and the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories;
- 1.4.21 a reference to the "**EUIR**" is to EU Council Regulation No. 1346/2000 of 29 May 2000 on insolvency proceedings;
- 1.4.22 a reference to a "**financial collateral arrangement**" is to an arrangement defined as such in the Financial Collateral Arrangements (No. 2) Regulations 2003 (the "**FCA Regulations**");
- 1.4.23 a reference to the "**Safeguards Order**" is to the Banking Act 2009 (Restriction of Partial Property Transfers) Order 2009;
- 1.4.24 a reference to the "**Settlement Finality Regulations 1999**" is to the Financial Markets and Insolvency (Settlement Finality) Regulations 1999;
- 1.4.25 a reference to the "**Special Bail-In Order**" is to the Banking Act 2009 (Restriction of Special Bail-in Provision, etc.) Order 2014;
- 1.4.26 a reference to a "**UK bank**" is to an undertaking incorporated in and as formed under the law of any part of the United Kingdom and having its head office in the United Kingdom, which has permission under Part 4A of FSMA to accept deposits; but for the purposes of this opinion does not include insurance companies or credit unions within the meaning of section 31 of the Credit Unions Act 1979;
- 1.4.27 a reference to a "**UK investment bank**" is to an undertaking to which the Investment Bank Regulations apply (being, broadly, an institution which is incorporated in the UK, authorised under FSMA to safeguard and administer investments or deal in investments as principal or agent, and holds assets for clients);
- 1.4.28 a reference to a "**UK investment firm**" is to an investment firm to which the Banking Act 2009 applies as defined in section 258A of that Act (being broadly, a UK institution which is an investment firm for the purposes of CRR but does not include a UK bank, a building society within the meaning of the Building Societies Act 1986 or credit union within the meaning of the Credit Unions Act 1979 or the Credit Unions (Northern Ireland) Order 1985);
- 1.4.29 in relation to a UK bank, the terms "**liquidator**" and "**administrator**" include a bank liquidator and bank administrator respectively; and, in relation to a UK investment bank, these terms include any individual(s) appointed as



administrator pursuant to the investment bank special administration procedure, the special administration (bank insolvency) procedure or the special administration (bank administration) procedure under the Investment Bank Regulations;

- 1.4.30 in relation to a UK bank, the terms "**liquidation**" and "**administration**" include a bank insolvency and a bank administration respectively; and, in relation to a UK investment bank, these terms include an investment bank special administration, a special administration (bank insolvency) and/or a special administration (bank administration) under the Investment Bank Regulations, as the context may require;
  - 1.4.31 a reference to an "**EEA Credit Institution**" is to an EEA credit institution as defined in the Credit Institutions (Reorganisation and Winding Up) Regulations 2004 (the "**Credit Institutions Regulations**"), which means an EEA undertaking which qualifies as a credit institution under Directive 2000/12/EC but which is not a UK credit institution;
  - 1.4.32 a reference to the "**Investment Bank Regulations**" is to the Investment Bank Special Administration Regulations 2011;
  - 1.4.33 a reference to the "**UNCITRAL Model Law**" is to the Model Law on cross-border insolvency as adopted by the United Nations Commission on International Trade Law on 30<sup>th</sup> May 1997;
  - 1.4.34 any reference to any legislation (whether primary legislation or regulations or other subsidiary legislation made pursuant to primary legislation) shall be construed as a reference to such legislation as the same may have been amended or re-enacted on or before the date of this Opinion Letter;
  - 1.4.35 unless the context otherwise requires, a reference to a "**paragraph**" is a reference to a paragraph of this Opinion Letter, a reference to a "**Section**" is to a Section of this Opinion Letter and a reference to a "**Schedule**" is a reference to a Schedule to this Opinion Letter; and
  - 1.4.36 headings are for ease of reference only and shall not affect the interpretation of this Opinion Letter.
- 1.5 For the purposes of preparing this Opinion Letter we have only reviewed the following documents (the "**Opinion Documents**"):
- 1.5.1 the Rulebook;
  - 1.5.2 the Clearing Membership Agreement; and
  - 1.5.3 the Deed of Charge.
- 1.6 This opinion is given in respect of the specific questions raised by you as set out in paragraph 3 and should be read in conjunction with our opinion entitled "Opinion

letter in respect of the Rulebook of LCH. Clearnet Limited" and dated 29 June 2015 (the "**EMIR Opinion**").

- 1.7 This Opinion Letter relates solely to matters of English law (as in force at the date hereof) and does not consider the impact of any laws (including insolvency laws) other than English law, even where, under English law, any foreign law falls to be applied. This Opinion Letter and the opinions given in it are governed by English law and relate only to English law as applied by the English courts or, where expressly stated, a duly constituted arbitral tribunal with its seat in England as at today's date. We express no opinion on the laws of any other jurisdiction.
- 1.8 We do not express any opinion as to any matters of fact, the liability of any Party to tax or accounting policy.
- 1.9 We do not opine on the enforceability of any net obligation resulting from any netting or set-off, including any net obligation certified as payable to LCH (as described at the end of our response in paragraph 3.2.6) and we do not express any view as to the effectiveness of the Default Arrangements in relation to any action which LCH may seek to take outside this jurisdiction.
- 1.10 We express no opinion as to any provisions of the Opinion Documents other than those to which express reference is made in this Opinion Letter except insofar as any such provisions directly relate to issues covered herein.
- 1.11 We have not been responsible for advising any party to the Opinion Documents other than LCH for the purposes of this Opinion Letter and the communication of this Opinion Letter to any person other than LCH does not evidence the existence of any relationship of client and adviser between us and such person.
- 1.12 We assume no duty to update this Opinion Letter or inform LCH or any other person to whom a copy of this Opinion Letter may be communicated of any change in English law (including, in particular, applicable case law), or the legal status of any party to the Services, or any other circumstance that occurs, or is disclosed to us, after the date on which this Opinion Letter is given, which might have an impact on the opinions given in this Opinion Letter.
- 1.13 The EUIR has been amended and replaced by Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (recast) which entered into force on 26 June 2015 (the "**Recast EUIR**"). Where relevant the Recast EUIR applies to insolvency proceedings opened after 26 June 2017. The EUIR continues to apply to relevant insolvency proceedings opened before that date. The scope and effect in this jurisdiction of the Recast EUIR will be different from the scope and effect of the EUIR. Those differences and their impact are not considered in this Opinion Letter.
- 1.14 The Opinions and provisions of this Opinion Letter that relate to authorised Clearing Members and Client Clearing do not apply to Unregulated Entities.

**2. ASSUMPTIONS**

We assume the following:

- 2.1 That each Party has the capacity, power and authority under all applicable law(s) to enter into the Opinion Documents and Contracts and to perform its obligations under the Opinion Documents and Contracts.
- 2.2 That each Party has taken all necessary steps and obtained and maintained all authorisations, approvals, licences and consents necessary to execute, deliver and perform the Opinion Documents and the Contracts and to ensure the legality, validity, enforceability or admissibility in evidence of the Opinion Documents and the Contracts in this jurisdiction and any other jurisdiction.
- 2.3 The Opinion Documents and each of the Contracts accurately reflect the true intentions of the Parties and have been entered into and are carried out by the Parties in good faith, for the benefit of each of them respectively, on arms' length commercial terms and for the purpose of carrying on, and by way of, their respective businesses.
- 2.4 That the Agreements are entered into between the Parties prior to the formal commencement of any insolvency procedure under the laws of any jurisdiction in respect of the Clearing Member.
- 2.5 That LCH is at all relevant times able to meet its obligations in respect of the Contracts and not subject to any insolvency procedure under the laws of any jurisdiction.
- 2.6 Save in relation to any non-performance leading to the taking of action by LCH under the Default Rules, that each Party performs its obligations under the Opinion Documents and each Contract in accordance with their respective terms.
- 2.7 That no Clearing Member is entitled to claim in relation to itself or its assets immunity from suit, attachment, execution or other legal process.
- 2.8 That the Clearing Member is not a "bridge bank" as defined in section 12 of the Banking Act 2009.
- 2.9 That LCH is at all material times a recognised central counterparty within the meaning of section 285 FSMA and for the purposes of Part 7 and a designated system.
- 2.10 That neither Party is subject to Part 7 by reason of being a recognised investment exchange (as defined in section 285 of FSMA) or, in the case of the Clearing Member, by reason of being a recognised clearing house, EEA central counterparty or third country central counterparty (each as defined in FSMA).
- 2.11 That in all circumstances LCH will take action under its Default Rules in respect of a defaulting Clearing Member with the result that sections 166(2) and 167(3) of Part 7 will not apply. As to the effect of sections 166(2) and 167(3) of Part 7 please see paragraph 4.16 below.

- 2.12 That, apart from any circulars, notifications and equivalent measures published by LCH in accordance with the Rulebook, there are not any other agreements, instruments or arrangements between the Parties which modify or supersede the terms of the Opinion Documents.
- 2.13 That none of the Rules of the Clearing House or the other provisions of the Opinion Documents discussed and opined on in this Opinion Letter has been disallowed pursuant to section 300A of the FSMA.
- 2.14 That each Clearing Member is:
- 2.14.1 a UK credit institution or an EEA Credit Institution; or
  - 2.14.2 a bank incorporated in a jurisdiction other than the United Kingdom or another member state of the EEA, with a branch in this jurisdiction; or
  - 2.14.3 a UK investment firm; or
  - 2.14.4 an Unregulated Entity (as defined in the Opinion Letter).
- and, otherwise than in respect of an Unregulated Entity, the term "**Backup Clearing Member**" shall be construed accordingly when used in this Opinion Letter.
- 2.15 That the Charged Property delivered pursuant to the Deed of Charge constitutes financial collateral (as defined in the FCA Regulations)<sup>1</sup>.
- 2.16 That title to the Charged Property is evidenced by entries in a register or account maintained by or on behalf of an "intermediary" and that the "relevant account" (each as defined in the FCA Regulations) is located in England & Wales.
- 2.17 That the provision of Charged Property to LCH can be evidenced in writing or by electronic means and any other durable medium and that such evidencing permits the identification of the Charged Property (provided that, for this purpose, it is sufficient to prove that the Charged Property taking the form of book-entry securities has been credited to, or forms a credit in, the relevant account);
- 2.18 That LCH at all times exercises its rights under the Opinion Documents and does not waive any requirement for it to consent to the withdrawal of any Charged Property.
- 2.19 That all Charged Property transferred is freely transferable and all acts or things required by the laws of this or any other jurisdiction to be done to ensure the validity of each transfer of Charged Property will have been effectively carried out.

---

<sup>1</sup> In our view the Charged Property delivered by a Clearing Member should constitute "financial instruments" and, therefore, constitute "financial collateral" (as each such term is defined in the FCA Regulations). However, we cannot exclude the possibility that a Clearing Member might deliver (and LCH might accept) Charged Property in the form of other types of Collateral.



**3. OPINION**

On the basis of the foregoing terms of reference and assumptions and subject to the reservations and the qualifications set out in Section 4 below, we make the following statements of opinion. These statements of opinion are summary conclusions on specific questions which you have raised.

For the avoidance of doubt, in our view the protections provided by Part 7 amount to an Exempting Client Clearing Rule and consequently, in accordance with your instructions, we have not opined on the Security Deed.

**3.1 Membership**

**3.1.1 *Are there any statutory limitations on the capacity of, or specific regulatory requirements associated with, any English Clearing Member entering into the Agreements (including for the purpose of granting of security under the Deed of Charge)?***

We have assumed for the purpose of this opinion that an English Clearing Member has, where required, obtained the requisite regulatory licences and approvals (see paragraph 2.2 above). There are no specific statutory limitations or regulatory requirements which would limit the capacity of an appropriately authorised (to the extent that such authorisation is required) Clearing Member to enter into the Agreements. However, we note that no person may carry on a regulated activity unless he is authorised or exempt. Pursuant to section 26 FSMA an agreement made by an unauthorised non-exempt person in the course of carrying on a regulated activity is unenforceable against the other party. Therefore, an unauthorised and non-exempt English Clearing Member which should have been authorised would be unlikely to be able to enforce the terms of the Opinion Documents and/or Contracts against LCH.

The potential limitations imposed by the constitutional documents of an English Clearing Member and the restrictions limiting the capacity of directors of an English Clearing Member to enter into the Agreements on behalf of the English Clearing Member are discussed at paragraph 3.1.3 below.

**3.1.2 *Would LCH be deemed to be domiciled, resident or carrying on business in this jurisdiction by virtue of providing clearing services to a Clearing Member? If so, would LCH be required to obtain a licence or be registered before providing clearing services to a Clearing Member or are there any special local arrangements for the recognition of overseas clearing houses in these circumstances?***

The question is not relevant to an English law analysis as LCH is domiciled, resident and carrying on business in England & Wales in any event.



3.1.3 *What type of documents should be obtained by LCH to evidence that an English Clearing Member and its officers have the capacity and authority to enter into the Agreements? Is LCH required to verify such evidence?*

*Constitutional Documents*

Prior to 1 October 2009, a company's capacity and powers were generally defined by and the objects of a company were set out in its memorandum of association. Transactions outside the scope of the company's capacity and powers could be *ultra vires*. After 1 October 2009 objects clauses contained in the memorandum of an existing company will be treated as provisions of the company's articles (section 28 CA 2006), unless and until the company chooses to remove them. As such "existing objects will thus just become limitations on directors' authority contained in the articles and amendable by special resolution", this renders the doctrine of *ultra vires* redundant<sup>2</sup>. In addition, with respect to new and existing companies, section 31(1) CA 2006 provides that "unless a company's articles specifically restrict the objects of the company, its objects are unrestricted"<sup>3</sup>. Unless a company's objects are expressly restricted in its articles, its powers will be unlimited and will include the power to enter into the Agreements. It is important to note, however, that the directors will not be able to exercise these powers unchecked. Directors must exercise their powers in furtherance of the business of the company and for its benefit, in accordance with their statutory duty to act in good faith to promote the success of the company for the benefit of its members. Please note that we have assumed for the purpose of the opinion that the relevant directors are acting in accordance with the duty of good faith (see paragraph 2.3 above).

The cumulative effect of the 1 October 2009 changes is that it is no longer necessary to check that a transaction is within the capacity of the company but it is important to ensure that the directors have not breached their authority by exceeding their powers. If, on the other hand, the directors have abused their powers (thereby breaching their fiduciary duties) by entering into a transaction which is not in the interests of, and will confer no benefit on, the company, then this will amount to a breach of duty and the transaction may be set aside at the option of the company. Please note that we have assumed for the purpose of the opinion that the relevant directors are acting in accordance with their fiduciary duties (see paragraph 2.3 above).

Section 40 CA 2006 affords protection to third parties by providing that "in favour of a person dealing with a company in good faith, the power of the directors to bind the company or authorise others to do so, is deemed to be free of any limitation under the

---

<sup>2</sup> March 2009 Special Release addendum to Gore-Browne on Companies in Section SR7

<sup>3</sup> For example, if the articles were to state that "the company **may ONLY** carry on the business of being a motor manufacturer", then the business of the company would be restricted to this activity. However, if the articles state that "the company **may** carry on the business of a motor manufacturer", this is a permissive statement, meaning that the company can carry on this activity and any other.

company's constitution". Section 40 is however unlikely to protect LCH where it has actual knowledge that the directors have abused their powers.

In view of the above, LCH should request a copy of the articles of association and memorandum of association (if any) of each English Clearing Member and check these documents for evidence of express restrictions on directors' powers (but not for evidence that those powers have been expressly conferred as was the case prior to 1 October 2009). If relevant restrictions are identified, it will be necessary to obtain a special members' resolution from the members of the English Clearing Member approving an amendment of the articles to remove these restrictions. As a practical matter, LCH will need to rely on the constitutional documents as actually provided by the English Clearing Member. LCH should therefore require each English Clearing Member to represent and certify that there have been no amendments to the versions of the constitutional documents delivered to LCH.

#### *Corporate Approvals/Signing Authority*

The authority to bind the company must be conferred either by the articles of association or by delegation under a power contained in them. In most cases, the general power to manage the company is vested in the board of directors. The articles describe how this power is to be exercised by setting out the internal procedures of the company and the limitations on the directors. A board meeting will usually be required for a company to authorise entering into an agreement. Alternatively, the board may delegate any of its powers to committees consisting of one or more directors. The directors act through resolutions passed at these committee meetings.

In addition to verifying that there are no limits on the directors' powers imposed by the constitutional documents of the English Clearing Member, it is also necessary to verify that the signatories signing the Agreements have been appropriately authorised to do so. Accordingly, each English Clearing Member should be required to provide a certified copy of the minutes of the quorate board meeting or committee meeting at which a resolution was passed authorising the execution of the Agreement(s), specifying those persons who are authorised to execute them on the part of the English Clearing Member and providing their specimen signatures.

LCH should verify the documents provided and the names and signatories of the persons signing the Agreement(s). The directors and the secretary of a company constitute "authorised signatories" for the purpose of the CA 2006 (section 44(2)(a)). However, where the board resolution authorises the directors and/or the secretary to execute the Agreement(s) LCH should still require the relevant English Clearing Member to provide the relevant form of the Appointment of Directors and Appointment of Secretary forms submitted by the company to Companies House and to confirm that such forms have not been revoked/amended in order to verify that such person(s) is/are a director/secretary. A board resolution is insufficient to authorise a person who is not a director and/or the secretary (a "third party") to execute a deed (such as the Deed of Charge). A third party can only sign a deed on behalf of a company if he/she has been appointed to do so by a power of attorney. A power of attorney must itself be executed as a deed (section 47 CA 2006). Therefore,

where the board resolution purports to authorise a third party to execute the Deed of Charge on behalf of the Clearing Member, LCH should require the relevant Clearing Member to provide a copy of the duly executed power of attorney deed (see "Due Execution" below for further detail in respect of the execution of deeds).

*Due Execution*

A contract (such as the Clearing Membership Agreement) may be executed by a company or on behalf of a company by a person acting under its authority (express or implied) (section 43 CA 2006). By contrast, a deed (such as the Deed of Charge) may only be executed by a company or on behalf of a company by a person who has been appointed as the company's attorney pursuant to a duly executed power of attorney deed (section 46 and 47 CA 2006).

A document (whether a contract or a deed) can be executed by a company:

- (a) by affixing its common seal (section 44(1)(a) CA 2006)<sup>4</sup>; or
- (b) by the document being signed on behalf of the company by either:
  - (i) two authorised signatories i.e. two directors or a director and the secretary; or
  - (ii) a director of the company in the presence of a witness who attests the signature (section 44(2) CA 2006).

The execution blocks on both the Deed of Charge and the Clearing Membership Agreement indicate that the Agreements are to be executed by the Company by two authorised signatories i.e. pursuant to the method of execution prescribed under section 44(2) CA 2006. However, if contrary to this indication a Deed of Charge is to be signed by an attorney who has been appointed by a English Clearing Member under a duly executed power of attorney deed, it is important to note that the Deed of Charge will only be validly executed as a deed by such an attorney if, and only if it is signed:

- (a) by the attorney in the presence of a witness who attests his signature; or
- (b) at his direction and in his presence and the presence of two witnesses who each attest the signature (section 1(3)(a) Law of Property (Miscellaneous Provisions) Act 1989).

---

<sup>4</sup> In accordance with its articles of association, which may require the seal to be affixed in the presence of an authorised signatory.

*Delivery*

In order to be effective a deed (such as the Deed of Charge) must be delivered. Pursuant to section 46(2) of the CA 2006 a deed executed by a company is presumed to be delivered on execution unless a contrary intention is proved. However, the deed can be delivered at a later date and should not be dated until the time of delivery.

*Insolvency*

There are various challenges which can be made where a disposition of property is made post-insolvency. As discussed below, Part 7, the Financial Collateral Regulations and the Settlement Finality Regulations 1999 provide certain protections from challenges under insolvency law (see paragraphs 3.2, 3.3 and 3.4).

However in our view and in light of the potential insolvency challenges it would be prudent for LCH to verify that a Clearing Member is not subject to Insolvency Proceedings at the time it enters into the Agreements. LCH should therefore require each Clearing Member to certify and represent that it is not subject to Insolvency Proceedings at the time of entering into the Agreements. Furthermore, LCH could conduct a winding-up search against the name of the Clearing Member with the Central Index of Winding up Petitions (held at the High Court) by telephoning the Central Index's telephone line and asking whether:

- (a) a petition for winding up has been presented; or
- (b) an application for an administration order, a notice of intention to appoint an administrator or a notice of appointment of an administrator has been presented.

A search at the Central Index of Company Winding-up Petitions at the Companies Court in London will reveal if a notice of appointment of an administrator by a qualifying floating charge holder, or notice of intention to appoint, and/or notice of appointment of, an administrator by a company or its directors has been filed with the Companies Court, London.

It is important to note that searches and enquiries only relate to insolvency proceedings commenced in England and are not conclusively capable of disclosing whether an interim or final administration order or winding up order has been made or resolution passed for the winding up of a company or whether notification of a moratorium has been given or a receiver, administrative receiver, administrator or liquidator has been appointed (or petition made for the winding up) of a company. In particular, notice of these matters may not yet have been filed with the Registrar of Companies (or if filed, may not yet be publicly available) and notice of a petition for winding up is not required to be filed with the Registrar. In addition, details of a petition for winding up may not be entered on the Central Index of Winding-Up Petitions immediately and any response to an enquiry would only relate to the last six months prior to the enquiry.



*Royal Charter Corporations*

The analysis for Clearing Members that are Royal Charter Corporations is more complex and requires a review of the relevant Clearing Member's specific constitutional documents. Further advice should be sought in respect of such Clearing Members on a case-by-case basis.

3.1.4 *Are there any formalities to be complied with upon entry into of any of the Agreements and, if so, what is the effect of a failure to comply with these?*

In respect of the execution formalities to be complied with in respect of the entry into the Agreements please see paragraph 3.1.3 above.

There are no regulatory filings which need to be made upon the entry into the Clearing Membership Agreement.

Pursuant to section 859A CA 2006 a UK-registered company entering into a charge, or any person interested in a charge granted by a UK-registered company, may register the prescribed particulars relating to such charge with Companies House. For the purposes of the relevant provisions of CA 2006, charge is defined as "(a) a mortgage and (b) a standard security, assignation in security, and any other right in security constituted under the law of Scotland, including any heritable security, but not including a pledge" (section 859A(7) CA 2006). Accordingly, the Deed of Charge is likely to constitute a registrable charge for the purposes of the Act.

Failure to register within 21 days of the execution of the charge renders the charge "void" against the liquidator, administrator and any creditor of the company (section 859H CA 2006). However, Regulation 4(4) of the FCA Regulations disapplies the effects of section 859H CA 2006 where such charge constitutes a security financial collateral arrangement. A security financial collateral arrangement is defined as:

*"an agreement or arrangement, evidenced in writing, where—*

- (a) the purpose of the agreement or arrangement is to secure the relevant financial obligations owed to the collateral-taker;*
- (b) the collateral-provider creates or there arises a security interest<sup>5</sup> in financial collateral to secure those obligations;*

---

<sup>5</sup> A security interest means " means any legal or equitable interest or any right in security, other than a title transfer financial collateral arrangement, created or otherwise arising by way of security including - (a) a pledge; (b) a mortgage; (c) a fixed charge; (d) a charge created as a floating charge where the financial collateral charged is delivered, transferred, held, registered or otherwise designated so as to be in the possession or under the control of the collateral-taker or a person acting on its behalf; any right of the collateral-provider to substitute financial collateral of the same or greater value or withdraw excess financial collateral or to collect the proceeds of credit claims until further notice shall not prevent the financial



*(c) the financial collateral is delivered, transferred, held, registered or otherwise designated so as to be in the possession or under the control of the collateral-taker or a person acting on its behalf; any right of the collateral-provider to substitute financial collateral of the same or greater value or withdraw excess financial collateral or to collect the proceeds of credit claims until further notice shall not prevent the financial collateral being in the possession or under the control of the collateral-taker; and*

*(d) the collateral-provider and the collateral-taker are both non-natural persons" (Regulation 3(1) FCA Regulations).*

For the reasons outlined at paragraph 3.2.2 below, in our view the Deed of Charge is likely to constitute a security financial collateral arrangement and accordingly it should not need to be registered. However, whether a particular arrangement constitutes a security financial collateral arrangement is a question of fact and cannot be opined on with certainty in any particular case. In particular, we would draw your attention to the assumption at paragraph 2.15 above and the qualifications at paragraphs 4.4 to 4.13 below.

The registration of companies charges provisions in sections 859A to 859H of the CA 2006 do not apply to Royal Charter Corporations.<sup>6</sup>

**3.1.5 *Would the courts of this jurisdiction uphold the contractual choice of law and jurisdiction set out in Regulation 51?***

This issue is considered in the EMIR Opinion, which should be read in conjunction with this opinion.

**3.1.6 *Will the courts uphold the judgement of the English courts or an English arbitration award?***

The first question (regarding the courts upholding the judgment of the English courts) is not relevant to an English law analysis. The enforcement of an English arbitration

---

collateral being in the possession or under the control of the collateral-taker; or (e) a lien" (Section 3(1) FCA Regulations).

<sup>6</sup> Royal Charter Corporations, as unregistered companies, are only subject to the provisions of the CA 2006 where those have been specifically extended to unregistered companies. Section 859A(6) of the CA 2006 provides that the registration of companies charges regime set out in Part 25 of the CA 2006 only applies to UK-registered companies (i.e. not to Royal Charter Corporations and other unregistered companies), and the Unregistered Companies Regulations 2009 do not seek to extend the relevant provisions to unregistered companies.

award is considered in the EMIR Opinion, which should be read in conjunction with this opinion.

3.1.7 *Are there any "public policy" considerations that that the courts may take into account in determining matters related to choice of law and/or the enforcement of foreign judgements?*

An English law judgment would not constitute a foreign judgment. Therefore, we do not address this question in this Opinion Letter. As stated above, matters relating to choice of law are considered in the EMIR Opinion, which should be read in conjunction with this opinion.

3.2 **Insolvency, Security, Set-off and Netting**

3.2.1 *Please identify the different types of insolvency proceedings and reorganisation measures. Would any of these not be covered by those events entitling LCH to liquidate, transfer or otherwise deal with Contracts as provided for in Rule 3 of the Default Rules? Are any other events or procedures not envisaged in Rule 3 of the Default Rules relevant?*

The bankruptcy, composition, rehabilitation or other insolvency or reorganisation procedures to which a Clearing Member could be subject under the laws of this jurisdiction, and which are relevant for the purposes of this Opinion Letter, are liquidation (including provisional liquidation), administration, bank insolvency, bank administration, investment bank special administration, special administration (bank insolvency), special administration (bank administration), administrative receivership, receivership, voluntary arrangements and schemes of arrangement (together called "**Insolvency Proceedings**").

The legislation applicable to Insolvency Proceedings as at the date of this Opinion Letter is:

- (a) in relation to all Insolvency Proceedings initiated after the date of this opinion except schemes of arrangement, the provisions of the Insolvency Act 1986 and the Insolvency Rules 1986;
- (b) in relation to schemes of arrangement, section 895 to section 901 of the CA 2006;
- (c) in relation to a Clearing Member which is a UK bank or a UK investment firm, the Banking Act 2009, the Banking Act 2009 (Restriction of Partial Property Transfers) Order 2009 and the Safeguards Order;
- (d) in relation to a Clearing Member which is a UK bank, the Bank Insolvency (England and Wales) Rules 2009, the Bank Administration (England and Wales) Rules 2009 and the Credit Institutions Regulations;
- (e) in relation to a Clearing Member which is a UK investment bank, the Investment Bank Regulations and the Investment Bank Special Administration

(England and Wales) Rules 2011 and, in relation to an EEA Credit Institution, the Credit Institutions Regulations;

- (f) Part 7; and
- (g) in relation to a Clearing Member which is a UK investment firm or a UK investment bank (other than a UK investment bank which is also a UK credit institution), the Cross-Border Insolvency Regulations.

In relation to (i) an obligation which is a transfer order (ii) an obligation which arises under the default arrangements of a designated system and (iii) collateral security delivered in connection with the participation in a designated system (as such terms are defined in the Settlement Finality Regulations 1999), the Settlement Finality Regulations 1999 will also be applicable. If the Opinion Documents constitute a financial collateral arrangement or an arrangement of which a financial collateral arrangement forms part, the FCA Regulations will also apply.

However, subject to section 426 of the Insolvency Act 1986:

- (a) a Clearing Member that is a foreign company may not enter administration or make a voluntary arrangement unless it is incorporated in an EEA member state, or has its centre of main interests in an EU member state (other than Denmark);
- (b) administrative receivership is not available in respect of a Clearing Member that is a foreign company, with the possible exception of foreign companies who have registered particulars under the Overseas Companies Regulations 2009;
- (c) bank insolvency and bank administration are procedures only available in respect of a Clearing Member that is a UK bank;
- (d) investment bank special administration is a procedure only available in respect of a Clearing Member that is a UK investment bank which is not a deposit-taking bank with eligible depositors, special administration (bank administration) is a procedure only available in respect of a Clearing Member that is a UK investment bank which is a deposit-taking bank; and special administration (bank insolvency) is a procedure only available in respect of a Clearing Member that is a UK investment bank which is a deposit-taking bank with eligible depositors; for these purposes, "eligible depositors" has the meaning given in section 93(3) of the Banking Act 2009, being, broadly, depositors who are eligible for compensation under the Financial Services Compensation Scheme; and
- (e) in relation to a Clearing Member that is an EEA Credit Institution, liquidation (including provisional liquidation), administration and voluntary arrangements cannot take effect on or after 5 May 2004. Furthermore, a scheme of arrangement in relation to an EEA Credit Institution which is, broadly,

intended to enable it to survive, but affects creditors' rights, or to enable its assets to be realised and distributed to creditors, may not be sanctioned by the court unless the relevant insolvency officer or administrative or judicial authority (which would usually be the officer or authority of the EEA Credit Institution's home state) has been notified and has not objected.

Additionally, a Clearing Member that is a Royal Charter Corporation cannot be made subject to a company voluntary arrangement or to administration proceedings under the Insolvency Act 1986, but may potentially be wound up pursuant to the revocation of the royal charter under which it is established; the means of revoking the charter would be governed by the provisions of the individual Clearing Member's charter. References to "**Insolvency Proceedings**" in relation to a Clearing Member that is a Royal Charter Corporation should be read accordingly.

Under Part 24 of FSMA, the "appropriate regulator" (being the PRA and/or the FCA, as more particularly defined therein) is given specific powers to petition to commence and otherwise to participate in certain Insolvency Proceedings relating to (a) any person that is (or has been) an authorised person under FSMA and (b) any person carrying on (or who has carried on) a regulated activity without authorisation or exemption under FSMA. In relation to Insolvency Proceedings which are bank insolvency, bank administration, investment bank special administration, special administration (bank administration) and special administration (bank insolvency), the PRA and/or the FCA, as the case may be, are given similar powers to intervene and rights to participate under the Banking Act 2009 and the Investment Bank Regulations, respectively.

We confirm that the events specified in Rule 3 of the Default Rules adequately refer to all Insolvency Proceedings.

3.2.2 *Would the Deed of Charge be effective in the context of insolvency proceedings or reorganisation measures in respect of a Clearing Member? Is there anything that would prevent LCH from enforcing its rights under the Deed of Charge? Would LCH be required to take any particular steps or abide by any particular procedures for the purposes of enforcing against Collateral provided to it by a Clearing Member under the Deed of Charge?*

Pursuant to the Deed of Charge, the Clearing Member agrees to grant, with full title guarantee<sup>7</sup>, in favour of LCH a first fixed security over certain specified Charged Property. The Charged Property is rendered subject to the charge by submission of the appropriate details, as provided at section 4 of the LCH Procedures, by the Clearing Member to LCH, and by the delivery of securities matching the description to a designated securities account maintained in the name of LCH. Charged Property is released from the charge when the chargor submits a release instruction to LCH (as

---

<sup>7</sup> Subject to any other charge or lien arising in favour of a Custodian Bank or Clearance System (each as defined in the Deed of Charge).



provided at section 4 of the LCH Procedures) to LCH and LCH discharges the charge under clause 4(1) of the Deed of Charge by redelivering the securities specified in the release instruction to the relevant Clearing Member.

The security interests under the Deed of Charge are validly created by a Clearing Member in favour of LCH as security for the payment or discharge of the Secured Obligations and would be effective in the context of Insolvency Proceedings in respect of a Clearing Member.

If a company enters into administration or an application is presented to the court for the making of an administration order in respect of a company or notice of intention to appoint an administrator to a company is filed with the court, the leave of the court (or, if an administrator has been appointed to the relevant company, the consent of that administrator) would be required under Paragraph 43 or 44 of Schedule B1 to the Insolvency Act 1986 in order for a secured party to enforce its rights under a security interest granted by the relevant company. Furthermore, under Paragraphs 70 and 71 of Schedule B1 to the Insolvency Act 1986, an administrator may seek leave of the court to realise property subject to security interest (other than a floating charge) as if it were not subject to that security. However, section 175(1) of Part 7 disapples the provisions of the Insolvency Act 1986 referred to in this paragraph in respect of any market charge (which will include security arrangements provided for under the Deed of Charge).

#### *Security Interest*

Insofar as the Charged Property comprises "book entry securities collateral" (as defined in the FCA Regulations) and to the extent that the Charged Property is in the "possession" or "control" (as such terms are used in the FCA Regulations) of LCH, the security arrangements under the Deed of Charge should be regarded as a financial collateral arrangement. Consequently, any question relating to proprietary effects, requirements for perfecting such security arrangements and for rendering them effective against third parties, and the steps required for realisation of the Charged Property, would be governed by the domestic law of the country in which the "relevant account" (as defined in the FCA Regulations) is maintained, which we understand to be this jurisdiction.

Similarly, under Regulation 23 of the Settlement Finality Regulations 1999, the rights of a holder of collateral security in relation to securities shall be governed by the law of the EEA State where the account in which the legal entitlement of such holder is recorded. In our view, the Charged Property qualifies as "collateral security" for these purposes and the account in which the legal entitlement of LCH (as the holder of such collateral security) is recorded would be LCH's books and records, located in this jurisdiction.

Insofar as the "relevant account" for the purposes of the FCA Regulations, and since the account recording the entitlement of the holder of the relevant collateral security for the purposes of the FCA Regulations, is maintained in this jurisdiction, there would be, in our opinion, no acts and conditions needed to be done or fulfilled under



the laws of this jurisdiction in order to ensure the recognition, effectiveness and perfection of LCH's security interest in the Charged Property and to enable LCH to enforce that security interest in accordance with the Deed of Charge.

3.2.3 ***Would LCH have the right to take the actions provided for under the Default Rules (including exercising rights to deal with Contracts under Rule 6 and rights of set-off under Rule 8 but not at this stage considering those actions specifically provided for in the Client Clearing Annex to the Default Rules) in the event that a Clearing Member was subject to insolvency proceedings or reorganisation measures? Is it necessary or recommended that LCH should specify that certain insolvency proceedings and/or reorganisation measures will constitute an Automatic Early Termination Event in accordance with Rule 3 of the Default Rules? If the answer is affirmative, please identify those specific insolvency proceedings and/or reorganisation measures to which the answer applies and briefly explain your reasoning.***

If LCH takes action under Rules 6 and 8 of its Default Rules with respect to one or more Contracts to achieve a discharge of such Contracts, the laws of this jurisdiction will give effect to such action to achieve a discharge of the Parties' rights and obligations under each such Contract and to calculate a net sum payable in respect of all such Contracts so discharged. However we note that certain provisions under the Banking Act 2009 may impact LCH's ability to terminate such Contracts and the netting arrangements contemplated by the Default Rules may be impaired, depending on how certain resolution measures are carried out in practice and how certain provisions of the Banking Act 2009 (on which there is no authority) are interpreted.

#### *Insolvency Proceedings*

We are of this view due to the application of the provisions of Part 7. Section 159(1)(b) of Part 7 provides that the default rules of a recognised clearing house (including such a recognised clearing house which, as in the case of LCH, is a recognised central counterparty) are not to be regarded as to any extent invalid at law on the grounds of inconsistency with the law relating to the distribution of the assets of a person in insolvency. Similarly, section 159(2)(c) provides that an insolvency office-holder may not exercise its powers in any way so as to prevent or interfere with *inter alia*, the settlement of a clearing member house contract<sup>8</sup>, in accordance with the default rules of a recognised central counterparty.

Accordingly, the enforceability or effectiveness of the Default Rules (including the rights to deal with Contracts under Rule 6 and rights of set-off under Rule 8 of the Default Rules) will not be affected by the commencement of Insolvency Proceedings in respect of the Clearing Member.

---

<sup>8</sup> The term "clearing member house contract" is defined in section 155(1)(b) to mean a "contract between a recognised central counterparty and clearing member recorded in the accounts of the recognised central counterparty as a position held for the account of a clearing member".

*Resolution Measures under the Banking Act 2009*

The Banking Act 2009 contains various provisions which might affect the effectiveness of the Arrangements. In particular, Part I of the Banking Act 2009 sets out the Special Resolution Regime which provides various remedies for a UK bank or UK investment firm that is failing or likely to fail. The stabilisation options available to the PRA or the Bank of England in respect of a UK bank or UK investment bank include the "bail-in option" or the transfer of securities issued by a UK bank, or property of a UK bank, to another person, by means of a "share transfer order", a "share transfer instrument", a "property transfer instrument" or in the case of "bail-in", a "resolution instrument".

Section 75 of the Banking Act 2009 gives power to the Treasury to change the law (except the Banking Act 2009 itself) for the purpose of enabling the powers granted to the PRA, the FCA, the Treasury and the Bank of England under Part I of the Banking Act 2009 to be used effectively. Such changes might affect private law rights and might be used with retrospective effect. Furthermore, under sections 23 and 40, a share transfer instrument or order, or a property transfer instrument, may include incidental, consequential or transitional provisions which might have an impact on private law rights.

A property transfer instrument may apply to only part of a UK bank's or UK investment firm's assets and liabilities (such a transfer being referred to as a "**partial property transfer**"). This may be the case because the property transfer instrument concerned expressly applies to only part of the UK bank or UK investment firm's business or because it is ineffective in relation to foreign property.

A partial property transfer could apply so as to cause the transfer of some, but not all, of the property, rights and/or liabilities of the relevant Clearing Member in relation to Contracts and/or the Charged Property associated with such Contracts, with the result that the netting arrangements under the Default Rules of LCH would be impaired. However, in this regard, article 7 of the Safeguards Order prohibits a partial property transfer which "would have the effect of modifying the operation of or rendering unenforceable (a) market contract; (b) the default rules of a recognised investment exchange or recognised clearing house; or (c) the rules of a recognised investment exchange or recognised clearing house as to the settlement of market contracts not dealt with under its default rules". Article 5 of the Safeguards Order addresses the risk that property transfer instrument may have the effect of disassociating secured obligations from security (e.g. transferring the one but not the other), by requiring that liabilities owed to or by the UK bank or UK investment firm and security related to them may not be separated pursuant to the transfer. However, the remedies for contravention are weak. Therefore, if a property transfer instrument is abused so as to affect the enforceability of the Charge granted to LCH under the Deed of Charge, LCH may not have adequate remedies on which to rely.

Under section 34 of the Banking Act 2009 encumbrances and trusts can be overreached or varied or the terms of a trust removed or altered (although in the case of partial property transfers the terms of a trust can only be removed or altered to the

extent that it is necessary or expedient to transfer to the transferee: (i) the legal or beneficial title of the Clearing Member in the property held on trust, or (ii) any powers, rights or obligations of the Clearing Member in respect of the property held on trust) and provision may be made concerning how any powers, provisions and liabilities in respect of trust property are to be exercisable or have effect.

Section 12A of the Banking Act 2009 introduces a bail-in tool, allowing resolution authorities to write down and/or convert into equity, liabilities of a failing UK bank or UK investment firm in order to maintain the failing entity as a going concern and allow the issues that cause the failure to be addressed. The objective of the bail-in tool is to absorb the losses of that entity and recapitalise it using its own resources. A bail-in resolution instrument may cancel, modify or change the form of a liability owed by the bank or investment firm or provide that a contract under which the bank has a liability is to have effect as if a specified right had been exercised under it.

However, certain liabilities are exempt from bail-in under the Banking Act 2009. The Special Bail-in Order prohibits the application of the special bail-in provisions in respect of "protected liabilities". For the purposes of Article 4 of the Special Bail-in Order, liabilities of the relevant Clearing Member in relation to Contracts would be "protected liabilities".

Where the Special Bail-in Order applies to liabilities so as to preserve the effect of netting, any net sum produced by such netting would itself be at risk of being reduced or eliminated by a special bail-in provision.

In addition to the "protected liabilities" provisions of the Special Bail-in Order, Sections 48B(7A) and 48B(8) of the Banking Act 2009 exclude liabilities (with a remaining maturity of less than 7 days) arising from the participation in designated settlement systems and owed to such systems or to operators of, or participants in, such systems from the application of the special bail-in provisions. For the purposes of Sections 48B(7A) and 48B(8) of the Banking Act 2009, liabilities of the relevant Clearing Member in relation to the Contracts would be excluded liabilities.

Under section 48Z of the Banking Act 2009, the taking of certain measures by resolution authorities in relation to an affected entity, including a crisis prevention measure, crisis management measure or a recognised third-country resolution action (each as defined in section 48Z of the Banking Act 2009), may have the effect of disapplying the rights of a counterparty to terminate its agreement with an affected entity. There is no authority as to whether the provisions of the Default Rules which permit LCH to terminate Contracts with a Clearing Member would constitute a "default event provision" within the meaning of section 48Z. In the event that the Default Rules are deemed to fall within scope and a resolution authority decides to take action under section 48Z, the netting arrangements under the Default Rules or the enforcement of security under the Deed of Charge would be impaired.

#### *Automatic Early Termination*

Under the laws of this jurisdiction, it is not necessary for the Parties to agree to an automatic, rather than an optional, termination of Contracts. Accordingly, it is not necessary to specify that certain Insolvency Proceedings and/or reorganisation measures constitute Automatic Early Termination Events.

3.2.4 *Is there a “suspect period” prior to insolvency proceedings and/or reorganisation measures where Contracts with a Clearing Member could be avoided or challenged and, if so, what are the grounds? What are the risks for LCH in entering into Contracts and in taking Collateral in respect of those Contracts during such a period? Are any special protections or exemptions from the relevant arrangements for avoidance or challenge available in respect of contracts in financial markets?*

#### *Transactions at an Undervalue*

Under section 238 of the Insolvency Act 1986, a transaction entered into by a company at any time within a specified period ending with the onset of insolvency<sup>9</sup> of the company with a person on terms that provide for the company to receive either no consideration, or a consideration the value of which, in money or money's worth, is significantly less than the value, in money or money's worth, of the consideration provided by it, may be set aside as a transaction at an undervalue. In order to be set aside, at the time the transaction is entered into the company must have been unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or have become unable to pay its debts within the meaning of that section in consequence of the transaction. It should be noted that a court would not set aside such a transaction if it were satisfied that the company entered into the transaction in good faith and for the purpose of carrying on its business and that at the time it did so there were reasonable grounds for the belief that it would benefit the company. Transactions entered into on arm's length terms and at the then prevailing market rates are unlikely to constitute transactions at an undervalue. However, the matters referred to in the last two sentences are questions of fact in each case.

Under section 165(1) of Part 7, no order can be made by a court under section 238 of the Insolvency Act 1986 to set aside a market contract to which a recognised clearing house is a party or which has been entered into under the default rules of a recognised clearing house unless section 167(3) of Part 7 applies (as to the application of section 167(3) of Part 7 to this Opinion Letter, please refer to paragraph 3.2.5 below and the assumption set out in paragraph 2.10 above).

---

<sup>9</sup> In broad terms, the earliest of the date of the commencement of winding-up, the date of presentation of a petition for an administration order, the filing with the court of a notice of intention to appoint an administrator, or the company entering administration.



*Preferences*

Under section 239 of the Insolvency Act 1986 anything done or suffered to be done by a company within a specified period ending with the onset of insolvency of that company may be set aside as a voidable preference. The thing done or suffered will be liable to be set aside if at the time it was done or suffered that company was unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or became unable to pay its debts within the meaning of that section in consequence of the thing done or suffered and that thing has the effect of putting any person in a better position, in the event of that company going into insolvent liquidation, than that person would have been in if the thing had not been done or suffered. However, the court would not make such an order if it was satisfied that the company which gave the preference was not influenced to give it by a desire to put that person in such better position.

Under section 165(1) of Part 7, no order can be made by a court under section 239 of the Insolvency Act 1986 in respect of a market contract to which a recognised clearing house is a party or which has been entered into under the default rules of a recognised clearing house unless section 167(3) of Part 7 applies (as to the application of section 167(3) of Part 7 to this Opinion Letter, please refer to paragraph 3.2.5 below and the assumption set out in paragraph 2.10 above).

We also note section 165(4) of Part 7 which extends section 165(1) to the provision of margin, a qualifying collateral arrangement, any contract effected by LCH for the purpose of realising property provided as margin and any disposition of property in accordance with the rules of LCH as to the application of property provided as margin. As per the paragraph immediately above this, no court can make an order under section 239 of the Insolvency Act 1986 to set aside such arrangements.

**3.2.5 *Is there relevant netting legislation that, in the context of insolvency proceedings and/or reorganisation measures in respect of a Clearing Member, might apply as an alternative to the relevant arrangements set out in the Default Rules?***

In a winding-up or administration under the laws of this jurisdiction, set-off (a "Statutory Insolvency Set-off") of amounts may be implemented, respectively, subject to any contrary statutory rule such as Regulation 14 of the Settlement Finality Regulations 1999 or Regulation 12(1) of the FCA Regulations, under the mandatory rules of Rule 4.90 of the Insolvency Rules 1986 or Rule 2.85 of the Insolvency Rules 1986, or, in relation to a UK bank, Rule 72 of the Bank Insolvency (England and Wales) Rules 2009, or, in relation to a UK investment bank, Rule 164 of the Investment Bank Rules.

Statutory Insolvency Set-off would only be relevant in respect of the default of a Clearing Member where section 167(3) of Part 7 applied. Section 167(3) of Part 7 applies where LCH has not taken action under its default rules in respect of a Clearing Member which is subject to certain insolvency proceedings, and fails to take action (or to notify the Bank of England of its intention to take such action) within three



business days from the date of receipt of a notice from the Bank of England. Statutory Insolvency Set-off would only apply to the extent the obligations assumed under the Opinion Documents and the Contracts are 'mutual' between the Parties, in the sense that each Party is personally and solely liable as regards obligations owed by it to the other Party and solely entitled to the benefit of obligations owed to it by the other Party. Circumstances in which the requisite mutuality will not be established include, without limitation, where a Party is acting as agent for another person, or is a trustee, or in respect of which a Party has a joint interest or in respect of which a Party's rights or obligations or any interest therein have been assigned, charged or transferred (whether in whole or in part) whether unilaterally, by agreement or by operation of law or by order (including, without limitation, pursuant to section 111 of FSMA).

In addition, Regulation 12(1) of the FCA Regulations provides that a close-out netting provision constituting a term of a financial collateral arrangement, or an arrangement of which a financial collateral arrangement forms part, shall take effect in accordance with its terms, notwithstanding that the collateral-provider or collateral-taker under the arrangement is subject to winding-up proceedings or reorganisation measures (as such terms are defined in the FCA Regulations). Close-out netting in accordance with a close-out netting provision under Regulation 12(1) of the FCA Regulations would prevail over a Statutory Insolvency Set-off in the event of liquidation or administration proceedings relating to a Clearing Member.

In our view, the Default Rules (in particular, Rules 3, 6, 7 and 8) would qualify as a close-out netting provision constituting a term of an arrangement of which a financial collateral arrangement forms part under Regulation 12(1) of the FCA Regulations, the relevant "financial collateral arrangement" for these purposes being a "title transfer financial collateral arrangement" in respect of "financial collateral" in the form of "cash" (as each such term is defined in the FCA Regulations). The arrangements for the transfer of Collateral in the form of cash between (i) LCH and each Clearing Member in respect of their respective variation margin obligations and (ii) by each Clearing Member to LCH in respect of its initial margin obligations constitute the relevant title transfer financial collateral arrangement.

**3.2.6 *Can a claim for a close-out amount be proved in insolvency proceedings without conversion into the local currency?***

The question does not seem to be relevant to an English law analysis where the close-out mechanics and net sum determined by LCH would be denominated in (or at least converted into) pounds sterling as would any Insolvency Proceedings conducted in respect of a Clearing Member and the claims proved therein.

**3.3 Client Clearing**

**3.3.1 *Please opine on the availability and effectiveness of any law, regulation or statutory provision (having the force of law) in this jurisdiction which (if so designated by LCH) would be expected to qualify as an Exempting Client Clearing Rule. Please clarify whether the relevant Rule would be expected***

*to apply to Clearing Members of all entity types or to only certain entity types.*

*If, and to the extent that, you consider such an Exempting Client Clearing Rule to be available, please (i) assume for the purposes of answering the following Questions that LCH will rely upon the existence of the relevant Exempting Client Clearing Rule and will not require those Clearing Members to which that Rule applies to enter into a Security Deed; and (ii) ignore Questions 3.1.3 to 3.1.5.*

*In cases where you do not consider an Exempting Client Clearing Rule to be available, please: (i) assume for the purposes of answering the following Questions that LCH will require Clearing Members to enter into a Security Deed; (ii) assume that the Security Deed is legal, valid, binding and enforceable under English law (as its governing law) and complies with all relevant perfection requirements under the law of any jurisdiction(s) other than this jurisdiction which you consider to be relevant to that matter; and (iii) provide a response to Questions 3.1.3 to 3.1.5.*

For the avoidance of doubt, we are of the opinion that the protections provided by Part 7 amount to an Exempting Client Clearing Rule and have responded to the questions below accordingly.

3.3.2 *If LCH were to: (i) declare a Clearing Member to be in Default in circumstances other than the commencement of insolvency proceedings or reorganisation measures in respect of that Clearing Member and (ii) seek to port the Client Contracts and Account Balance of a Clearing Client to a Backup Clearing Member as a result, could the Clearing Member or any other person successfully challenge the actions of LCH and claim for the amount of the Account Balance?*

On the assumption that a Clearing Member has defaulted (whether as a result of the commencement of an Insolvency Proceeding or not):

- (a) LCH would be entitled to exercise its rights under the provisions of the Client Clearing Annex (which forms part of the Default Rules) providing for the porting of Client Contracts and the Account Balance of a Clearing Client; and
- (b) the terms of the provisions of the Client Clearing Annex would be valid and effective under the laws of this jurisdiction.

In our view, there is no rule of the laws of this jurisdiction which would apply to prohibit the Parties from entering into a contract upon the terms of the Clearing Membership Agreement or the Client Clearing Annex.

3.3.3 *If LCH were to: (i) declare a Clearing Member to be in Default in circumstances other than the commencement of insolvency proceedings or reorganisation measures in respect of that Clearing Member; and (ii) seek to*

*return the Client Clearing Entitlement to the relevant Clearing Client or to the Defaulter for the account of such client, could the Clearing Member or any other person successfully challenge the actions of LCH and claim for the amount of the Client Clearing Entitlement?*

Our response in paragraph 3.3.2 above would apply equally in this scenario.

3.3.4 *If (i) following the commencement of Insolvency Proceedings, a Clearing Member was designated a Defaulter (whether due to the delivery of a Default Notice or (if applicable) the occurrence of an Automatic Early Termination Event); and (ii) LCH were to seek to port the Client Contracts and Account Balance of a Clearing Client to a Backup Clearing Member as a result, could an insolvency officer appointed to the Defaulter or any other person successfully challenge the actions of LCH and claim for the amount of the Account Balance?*

If LCH takes action under its Default Rules with respect to one or more Client Contracts of a defaulting Clearing Member to achieve a porting of such Contracts, English law will give effect to such action to achieve the relevant porting. We are of this view because section 158 of Part 7 extends the insolvency protections provided by Part 7 to (i) action taken to transfer qualifying collateral arrangements in conjunction with a transfer (ie. port) of clearing member client contracts (which would include the Client Contracts) and (ii) qualifying property transfers.

For the purposes of Part 7, the definition of:

"qualifying collateral arrangement" includes (a) an arrangement by which property is provided as margin and is recorded in the accounts of a recognised central counterparty as an asset held for the account of a client and (b) an arrangement by which margin is provided to a client or clearing member for the purpose of providing cover for exposures arising out of present or future client trades (section 155A(2) of the Companies Act 1989); and

"qualifying property transfer" includes transfers of property to the extent that it involves transfers to a non-defaulting Clearing Member (ie. a Backup Clearing Member) in accordance with the default rules of the recognised central counterparty, either by way of transferring the contracts and associated collateral or terminating and closing the relevant client contracts and transferring the termination or close out value.

Accordingly, a liquidator or administrator appointed to a defaulting Clearing Member would be prevented from challenging the porting of Client Contracts and the Account Balance.

3.3.5 *If (i) following the commencement of Insolvency Proceedings, a Clearing Member was designated a Defaulter (whether due to the delivery of a Default Notice or (if applicable) the occurrence of an Automatic Early Termination Event); and (ii) LCH were to seek to return the Client Clearing*

***Entitlement to the relevant Clearing Client or to the Defaulter for the account of such client, could an insolvency officer appointed to the Defaulter or any other person successfully challenge the actions of LCH and claim for the amount of the Client Clearing Entitlement?***

As discussed above at paragraph 3.3.4, the insolvency protections provided by Part 7 apply to qualifying property transfers. The definition of qualifying property transfer includes transfers of property made in accordance with Article 48(7) of EMIR. In accordance with Article 48(7) of EMIR, LCH would be required to return Client Clearing Entitlements calculated as part of the Default Arrangements directly to the relevant Clearing Client(s) (where the clients are known to LCH) or (where the clients are not known to LCH) to the Clearing Member for the account of its clients. Accordingly, the insolvency officer of the Clearing Member would be prevented from challenging the return of the Client Clearing Entitlement to the relevant Clearing Client or to the Clearing Member on behalf of such client.

***3.3.6 If (i) following the implementation of reorganisation measures, a Clearing Member was designated a Defaulter (whether due to the delivery of a Default Notice or (if applicable) the occurrence of an Automatic Early Termination Event); and (ii) LCH were to seek to port the Client Contracts and Account Balance of a Clearing Client to a Backup Clearing Member as a result, could the representative appointed to reorganise/manage the Defaulter or any other person successfully challenge the actions of LCH and claim for the amount of the Account Balance?***

Please refer to paragraph 3.2.3 above in relation to the relevant powers exercisable and the protections available under the Banking Act 2009 in relation to the default rules of a recognised clearing house in the circumstances of a partial property transfer.

As described more fully in that paragraph, article 7 of the Safeguards Order provides for protections in relation to (amongst other things) market contracts and the default rules of a recognised clearing house in the event of a partial property transfer. Hence, the arrangements in the Client Clearing Annex of the Default Rules of LCH for the porting of Client Contracts and the Account Balance of the relevant Clearing Client would remain intact and not be challengeable by the Special Resolution Unit of the Bank of England (or any of the other Authorities involved in implementing the powers under the Banking Act 2009) in the event of a partial property transfer under that Act.



3.3.7 *If (i) following the commencement of reorganisation measures, a Clearing Member was designated a Defaulter (whether due to the delivery of a Default Notice or (if applicable) the occurrence of an Automatic Early Termination Event); and (ii) LCH were to seek to return the Client Clearing Entitlement to the relevant Clearing Client or to the Defaulter for the account of such client, could the representative appointed to reorganise/manage the Defaulter or any other person successfully challenge the actions of LCH and claim for the amount of the Client Clearing Entitlement?*

Please see the response in paragraph 3.3.6. The protections available in the event of a partial property transfer under the Banking Act 2009 would apply equally to the return of the Client Clearing Entitlements to, or for the account of, the relevant Clearing Clients.

3.3.8 *Would the Security Deed provide an effective security interest under the laws of this jurisdiction over the Account Balance or Client Clearing Entitlement in favour of the relevant Clearing Client?*

We are of the opinion that the protections provided by Part 7 amount to an Exempting Client Clearing Rule and consequently, in accordance with your instructions, we have not provided an answer to this question.

3.3.9 *Are there any perfection steps which would need to be taken under the laws of this jurisdiction in order for the Security Deed to be effective?*

We are of the opinion that the protections provided by Part 7 amount to an Exempting Client Clearing Rule and consequently, in accordance with your instructions, we have not provided an answer to this question.

3.3.10 *Is there any risk of a stay on the enforcement of the Security Deed in the event of insolvency proceedings or reorganisation measures being commenced in respect of a Clearing Member?*

We are of the opinion that the protections provided by Part 7 amount to an Exempting Client Clearing Rule and consequently, in accordance with your instructions, we have not provided an answer to this question.

3.3.11 *Please provide brief details of any other significant legal or regulatory issues which might be expected to arise in connection with the provision by a Clearing Member of Client Clearing Services and which are not covered by the Questions above.*

There are no other material issues relevant to the issues addressed in this Opinion Letter which we wish to draw to your attention.

#### 3.4 Settlement Finality

3.4.1 *Would the commencement of Insolvency Proceedings in respect of a Relevant Clearing Member affect finality of settlement of transfers of funds or securities (or both) from a Relevant Clearing Member to LCH? If so, please clarify from which point in time and in which circumstances finality protections in respect of such transfers would be lost.*

The Settlement Finality Regulations 1999 reduce the risks associated with participation in payment and securities settlement systems by minimising the disruption caused by insolvency proceedings brought against a participant in such a system. As soon as a payment transfer order or a securities transfer order (a "**transfer order**") has been entered into a "designated system" (as defined in the Settlement Finality Regulations 1999) it is protected against claims of a liquidator or administrator of a defaulting Clearing Member. The point of entry of a transfer order into the designated system is determined by the rules of the designated system.

The protections of the Settlement Finality Regulations 1999 referred to will not apply in relation to any transfer order entered into the designated system of LCH (which we take to mean registered with LCH in accordance with LCH's Settlement Finality Regulations made available on LCH's website as at the date of this Opinion Letter) after the court has made a winding-up or administration order in relation to the Clearing Member or the Clearing Member has passed a resolution for creditors' voluntary winding-up, unless the transfer order is carried out on the same business day as the order or resolution of the Clearing Member and LCH can show it did not have notice of the order or resolution.

Section 159 of Part 7 similarly provides that an insolvency office-holder may not exercise its powers in any way so as to prevent or interfere with *inter alia*, the settlement of a clearing member house contract<sup>10</sup>, in accordance with the default rules of a recognised central counterparty. However under section 164(5), if LCH has notice of winding-up proceedings of a Clearing Member, it may not retain the value of any default fund contribution or any margin in relation to a market contract with the relevant Clearing Member, unless such contract has been transferred in accordance with the Default Rules.

Further, under Regulation 13 of the FCA Regulations, financial collateral transferred pursuant to a financial collateral arrangement on the day of, but after the moment of commencement of winding-up proceedings or reorganisation measures are legally

---

<sup>10</sup> The term "clearing member house contract" is defined in section 155(1)(b) to mean a "contract between a recognised central counterparty and clearing member recorded in the accounts of the recognised central counterparty as a position held for the account of a clearing member".

enforceable and binding on third parties, provided LCH (as collateral-taker) can show that it was not aware, nor should have been aware, of the commencement of such proceedings or measures with respect to the Clearing Member.

3.4.2 *Are there any circumstances (such as the commencement of Reorganisation Measures) which might give rise to a loss of finality protections before the commencement of Insolvency Proceedings? If so, please clarify from which point in time and in which circumstances finality protections would be lost.*

Please see the response in paragraph 3.4.1. We are not aware of any other circumstances in this jurisdiction which would give rise to a loss of finality protections prior to the commencement of Insolvency Proceedings.

#### 4. **QUALIFICATIONS**

##### **Effectiveness of Deed of Charge**

4.1 We express no opinion as to:

4.1.1 whether a Clearing Member has good legal or other title to the assets or rights which are expressed to be subject to a security interest under the Deed of Charge, or as to the existence or value of any such assets or rights;

4.1.2 whether any security interest constitutes a legal or equitable security interest or a fixed or specific (rather than a floating) charge; or

4.1.3 whether the Deed of Charge breaches any other agreement or instrument.

4.2 Our opinions are subject to:

4.2.1 any asset being capable of forming the subject of a security interest and not otherwise being personal to a Clearing Member;

4.2.2 the creation of such security interest not requiring any authorisation, consent or fulfilment of any other pre-condition or formality which has not been satisfied, obtained or done; and

4.2.3 any relevant contract comprised in such security being capable of being set aside as a result of any fraud, misrepresentation or any bribe or corrupt conduct.

4.3 If a winding-up order has been made or a provisional liquidator appointed in respect of a Clearing Member and the liquidator or provisional liquidator is in possession of the Charged Property, in order to exercise any power of sale or appoint a receiver, LCH or its receivers will require leave of the court to take possession of the Charged Property to avoid the risk of being held in contempt of court as a consequence of interfering with the functions of the liquidator or provisional liquidator as court-

appointed officers. However, it appears this leave will be given as of right where there is no dispute as to the validity of the security interest.

### Financial Collateral Arrangements

4.4 As a consequence of the decision in *National Westminster Bank plc -v- Spectrum Plus Limited* [2005] UK HL 41, it is possible that fixed security interests expressed to be created by the Deed of Charge could be recharacterised as floating charges. The risk of recharacterisation of a security interest as a floating charge depends on whether LCH has the requisite degree of control over the Charged Property. To the extent that the Chargor (as defined in the Deed of Charge) is able to deal with the Charged Property without LCH's substantive consent, the court is likely to hold that the security interest created under the Deed of Charge constitutes a floating charge. If the security interest created under the Deed of Charge is characterised as a floating charge then the risks set out below might apply:

- 4.4.1 the floating charge would, in certain circumstances, rank behind the preferential creditors and expenses of certain insolvency proceedings (in particular, under paragraph 99 of Schedule B1 to the Insolvency Act 1986, the expenses of an administration may rank ahead of a floating charge); and
- 4.4.2 the Chargor would be able to grant fixed charges and effect other dispositions of the relevant Charged Property which would rank higher than LCH's security interest.

Furthermore, if, contrary to our view stated in paragraphs 3.1.4 and 3.2.2 of this opinion the security interest created under the Deed of Charge was not a "financial collateral arrangement":

- 4.4.3 under section 859H of the CA 2006 a charge is void against a liquidator, an administrator and a creditor of the company unless registered within the relevant period allowed for delivery (which is ordinarily 21 days beginning on the day after creation of the charge);
- 4.4.4 under section 245 of the Insolvency Act 1986 a floating charge may be invalid if created within the period of 12 months before the onset of insolvency (as defined in paragraph 3.2.4 above);
- 4.4.5 under paragraphs 43 and 44 of Schedule B1 to the Insolvency Act 1986, a moratorium may apply which prevents enforcement of a charge without leave of the court or, where relevant, the consent of the administrator; and
- 4.4.6 under paragraphs 70 and 71 of Schedule B1 to the Insolvency Act 1986, an administrator may seek leave of the court to realise property subject to a charge.

However, as stated in paragraph 3.2.2, the powers of the administrator referred to in paragraphs 4.4.5 and 4.4.6 are disapplied under Part 7. Additionally, section 859H of



the CA 2006 and Schedule B1 to the Insolvency Act 1986 do not apply to Royal Charter Corporations.

- 4.5 A security financial collateral arrangement requires that the relevant "financial collateral" (as defined in the FCA Regulations) is in the "possession or control" (as such terms are used in the FCA Regulations) of the collateral-taker, which in this case is LCH.
- 4.6 As a result of certain amendments to the FCA Regulations, a statutory definition of "possession" in respect of financial collateral for the purposes of the FCA Regulations has been introduced. This definition has clarified that the term "possession" covers (subject to certain provisos) "financial collateral in the form of cash or financial instruments [and] includes the case where financial collateral has been credited to an account in the name of the collateral-taker or a person acting on his behalf (whether or not the collateral taker, or the person acting on his behalf, has credited the financial collateral to an account in the name of the collateral-provider on his, or that person's, books)". The FCA Regulations also state that the above applies "provided that any rights of the collateral-provider may have in relation to that financial collateral are limited to the right to substitute financial collateral of the same or greater value or to withdraw excess financial collateral", but do not clarify whether any other rights (in addition to withdrawal of excess collateral and substitution) would be acceptable for the purposes of establishing "possession" or whether the rights stated above are exclusive. Prior to the introduction of this definition of "possession", in *Gray v G-T-P Group Ltd, Re F2G Realisations Limited (in Liquidation)* [2010] EWHC 1772 (Ch) ("Gray"), Vos J had concluded that it was not possible to have "possession" of intangible assets such as book entry securities under English law. This definition of "possession" appears to have been introduced in response to that decision, although the drafting of the definition means that its precise meaning remains uncertain. In the decision in *Re Lehman Brothers International (Europe) (in administration)* [2012] EWHC 2997 (Ch) ("LBIE"), Briggs J took a slightly different view from that in Gray, concluding that it is possible to have "possession" of intangibles for the purpose of the FCA Regulations. Nevertheless, Briggs J did also conclude that such possession means more than mere custody of the assets. Rather, the collateral taker should also have rights to retain the collateral, thus making it difficult to separate the concept of possession from that of control.
- 4.7 The FCA Regulations, as amended, remain silent on the meaning of "control" in respect of which Briggs J in LBIE and Vos J in Gray took a conservative view. The court found that the collateral-taker must have, in addition to administrative control, a legal right to prevent the collateral provider from dealing with the collateral.
- 4.8 Similarly, in LBIE, to the extent that the collateral-provider was permitted to request a return of the collateral other than in respect of excess collateral without any ability of the collateral-taker to refuse such request, meant that the requirement of control was not satisfied. The decisions in Gray and LBIE are at present, the only jurisprudence available in this jurisdiction in relation to the issue of "possession" and "control" under the FCA Regulations of which we are aware.

- 4.9 As a result of the above, it is no longer possible to take a conclusive view as to whether an arrangement is a security financial collateral arrangement on the basis of either possession or control, unless such arrangement would clearly be a fixed charge under the laws of this jurisdiction or unless such arrangement is structured so as to ensure that the rights of the collateral provider are confined to substitution and the right to withdraw excess collateral; and it is possible, that an even more restrictive standard would apply. Moreover, it is possible that an arrangement could qualify as a security financial collateral arrangement under the laws of other EU jurisdictions, but not under the laws of this jurisdiction. Please note that whether or not a collateral arrangement constitutes a fixed or floating charge is a question of fact, and we express no opinion as to whether or not the Deed of Charge constitutes a fixed or floating charge.
- 4.10 There is no definition of excess collateral in the FCA Regulations. There is concern amongst commentators and practitioners that "excess" does not simply mean an excess over any level chosen by the parties. In part this stems from dicta in the judgment in LBIE (at paragraph 133) which could be taken to suggest that the excess must relate to "the state of account between [the collateral giver] and the collateral taker" and/or the "current indebtedness or...the collateral taker's reasonable estimate of its exposure". This has been taken to suggest that a level of collateral lower than the amount of the "account" or "indebtedness" or "exposure" would not constitute "excess" collateral for the purposes of the FCA Regulations. On this basis, if the parties agreed a collateral level of a percentage less than 100% of exposure, with mechanics to withdraw collateral above that agreed percentage, but potentially below the full amount of the actual exposure, then that would not be an "excess" for the purposes of the FCA Regulations. The secured obligations under the Deed of Charge are not restricted to trade exposures, but instead are defined to include all amounts (including fees, unfunded default fund contributions, indemnities etc) owing by a Clearing Member to LCH. Therefore the amount of Charged Property LCH may require the Clearing Member to maintain, and so any agreed level above which excess can be withdrawn, will likely be lower than the exposure of LCH to the Clearing Member under the Deed of Charge. On this construction it would be impossible to assess accurately the amount of such liabilities from time to time and therefore it would be impossible to determine the "excess amount" which would effectively (and somewhat surprisingly) prohibit any withdrawals. Accordingly, whilst we cannot, in the absence of jurisprudence on the point, give certainty, we believe that the better view is that this extension of the scope of secured obligations does not take the arrangements outside the protections afforded by the FCA Regulations.
- 4.11 Whilst there is no conclusive authority, for the purposes of this opinion we are of the view that in light of the fact that the Charged Property are held by LCH (either held by a Clearance System (as defined in the Deed of Charge) on behalf of, for the account of, to the order of or under the control or direction of LCH or under the control or direction of a Custodian Bank (as defined in the Deed of Charge) for the account of the Clearing House)) and that the Clearing Member is prohibited from charging or assigning (by way of security or otherwise) or creating any other proprietary interest over the Charged Property, the relevant conditions that have to be

met in order to establish "possession" or "control" for the purposes of the FCA Regulations are present.

- 4.12 A "security financial collateral arrangement" can only arise over "financial collateral", as defined in the FCA Regulations. There is some debate as to whether this requirement is satisfied where a security interest is created over both property which constitutes financial collateral and property which does not constitute financial collateral. However, in our opinion, the better view is that this requirement is satisfied in these circumstances in respect of the financial collateral where any other assets over which security is taken (such as rights against a custodian) can be viewed as ancillary to the security over the "financial collateral" itself.
- 4.13 We note that the implications of the Gray and LBIE decisions are primarily relevant in cases where the collateral received is located in this jurisdiction. If the Collateral is posted to accounts maintained in another jurisdiction, there are arguments that "possession" and "control" will be determined pursuant to the laws of the lex situs jurisdiction.

#### **Enforceability of claims**

- 4.14 Our opinions are subject to:
- 4.14.1 the power of an English court to order specific performance of an obligation or other equitable remedy is discretionary and, accordingly, an English court might make an award of damages where specific performance of an obligation or other equitable remedy is sought;
  - 4.14.2 where any party to the Opinion Documents is vested with a discretion or may determine a matter in its opinion, that party may be required to exercise its discretion in good faith, reasonably and for a proper purpose, and to form its opinion in good faith and on reasonable grounds;
  - 4.14.3 enforcement may be limited by the provisions of English law applicable to agreements held to have been frustrated by events happening after its execution;
  - 4.14.4 proceedings to enforce a claim or arbitral award may become barred under the Limitation Act 1980 or the Foreign Limitation Periods Act 1984 or may be or become subject to a defence of set-off or counterclaim;
  - 4.14.5 in some circumstances an English court may, and in certain circumstances it must, terminate or suspend proceedings commenced before it, or decline to restrain proceedings commenced in another court, notwithstanding the provisions of the Opinion Documents providing that the courts of England have jurisdiction in relation to the subject matter of those proceedings;
  - 4.14.6 a party to a contract may be able to avoid its obligations under that contract (and may have other remedies) where it has been induced to enter into that

contract by a misrepresentation, or there has been any bribe or other corrupt conduct. The English courts will generally not enforce an obligation if there has been fraud; and

- 4.14.7 any provision providing that any calculation, determination or certification is to be conclusive and binding may not be effective if such calculation, determination or certification is fraudulent, arbitrary or manifestly incorrect and an English court may regard any certification, determination or calculation as no more than prima facie evidence.

#### **Market Contracts and Default Rules under Part 7**

- 4.15 A recognised clearing house is not obliged to operate its default rules following the default of a member unless required to do so pursuant to directions given by the Bank of England under section 166 of Part 7. The Bank of England may direct LCH not to take action (or certain types of action) under its default rules in certain circumstances permitted by section 166.
- 4.16 Sections 166(2) of Part 7 applies if a recognised clearing house has not taken action under its default rules in respect of a clearing member or client (as applicable) which is subject to certain Insolvency Proceedings, and empowers the Bank of England to direct a recognised clearing house to take or refrain from taking actions under its default rules. Section 167(3) of Part 7 applies if a recognised clearing house has not taken action under its default rules in respect of a clearing member or client (as applicable) which is subject to certain Insolvency Proceedings, and fails to take action (or to notify the Bank of England, which is the agency designated for such purposes by the Secretary of State, of its intention to take such action forthwith) within three business days from the date of receipt of a notice from the Bank of England.
- 4.17 Whilst section 177 of Part 7 permits a clearing house to apply margin or a default contribution in relation to a market contract in accordance with its rules notwithstanding any prior equitable interest or right, or any right or remedy arising from a breach of fiduciary duty if the clearing house had notice of the interest, right or breach of duty at the time the property was provided as margin or a default contribution such property will be subject to the prior interest and/or right.

#### **Settlement Finality Regulations**

- 4.18 In relation to our opinions at paragraphs 3.2.2, 3.2.3 and 3.4.1, and our observations regarding the application of insolvency laws, the provisions of the Settlement Finality Regulations 1999 referred to will not apply in relation to any transfer order entered into by the designated system of LCH (which we take to mean registered with LCH) after the court has made a winding-up or administration order in relation to the Clearing Member or the Clearing Member has passed a resolution for creditors' voluntary winding-up, unless the transfer order is carried out on the same business day as the order or resolution, and LCH can show it did not have notice of the order or resolution. We express no view as to whether obligations between the Parties (in respect of Contracts or otherwise) which are, or arise from, transfer orders entered



into after the commencement of the relevant Insolvency Proceedings may be included in the termination and liquidation under the Default Arrangements but the exclusion of any such obligation would not affect the effectiveness of the Default Arrangements in respect of any other obligations entered into before such time.

4.19 In relation to our opinion at paragraphs 3.2.2, 3.2.3 and 3.4.1, there is an argument that amounts due under Contracts which constitute derivatives do not constitute "transfer orders" for the purposes of the Settlement Finality Regulations 1999. A "transfer order" may be either a "payment transfer order" or a "securities transfer order" (as defined in the Settlement Finality Regulations 1999). While a cash sum due to be paid under a Contract ought to constitute, or give rise to, a "payment transfer order", it may be that the entirety of the Contract cannot properly be so regarded. Further, if under the terms of a Contract, title to, or an interest in, a commodity or other thing which is not a "security" (meaning an instrument referred to in section C of Annex I to Directive 2004/39/EC (MiFID)) is transferred, that Contract would not appear to constitute a "transfer order". If those arguments were to prevail, the additional protections provided by the Settlement Finality Regulations 1999 which are mentioned in paragraphs 3.2.2 and 3.4.1 may not be available in respect of those Contracts.

4.20 There is an argument that, in the case of a central counterparty such as LCH, which clears a number of different products in distinct product-specific clearing services, there would not be one single designated system for the purposes of the Settlement Finality Regulations 1999 (being the single centralised cross-product clearing system operated by the central counterparty) but, instead, the system in respect of each product cleared by the central counterparty should be treated as representing a separate designated system. If this were the case, then, notwithstanding our assumption at paragraph 2.9, and notwithstanding that the Bank of England (as the relevant "designating authority" under the Settlement Finality Regulations 1999) has, as at the date of this opinion, indicated on its website that LCH as a whole constitutes a single designated system, it may be that certain Services cleared by LCH constitute or contain a designated system, whilst others do not. A possible consequence of this might be that, for certain Services, and for the Contracts cleared on those Services, the Default Arrangements would not constitute "default arrangements" for the purposes of Regulation 14 of the Settlement Finality Regulations 1999 and therefore, the protections provided for under that statutory rule would not be available in respect of the close-out netting under the Default Arrangements of the relevant Contracts and in the relevant Services.

## **EUIR**

4.21 The EUIR has direct effect in England and Wales and introduces certain conflicts of law rules for insolvency proceedings concerning debtors based in the EU that have operations in more than one EU Member State and has specific rules ensuring, amongst other things, third parties' rights in rem, rights of set off, and the rights and obligations of the parties to a payment or settlement system or to a financial market are not changed by the rules on jurisdiction in the EUIR.

- 4.22 The EUIR does not apply to insolvency proceedings concerning insurance undertakings, credit institutions, investment undertakings which provide services involving the holding of funds or securities for third parties, or to collective investment undertakings since they are subject to special arrangements and, to some extent, national supervisory authorities have extremely wide ranging powers of intervention.
- 4.23 If, as a result of the application of the jurisdictional rules contained in the EUIR, insolvency proceedings are opened in an EU Member State (other than Denmark), the law of that Member State applies to those proceedings and determines the effects of those proceedings. If the English courts are required under the EUIR to give effect to the laws of that EU Member State or to recognise and enforce any judgment of a court of that EU Member State concerning those proceedings, the security interest created by the Deed of Charge may be held to be wholly or partly invalid, or otherwise be adversely affected.
- 4.24 However, under the EUIR, the jurisdiction of incorporation of each Clearing Member will be presumed to be the centre of main interest of each Clearing Member as the place of its registered office, in the absence of proof to the contrary. In addition, under the EUIR, the effects of any insolvency proceedings opened in another Member State in which a Clearing Member possesses an establishment shall be restricted to the assets of the Clearing Member situated in the territory of that other Member State, although these may include (amongst other things) for these purposes any claims of the Clearing Member on a person whose centre of main interests is within that territory.
- 4.25 Under the EUIR, if insolvency proceedings are opened against a Clearing Member in another Member State, the opening of those proceedings will not affect (amongst other things) the "rights in rem" of creditors or third parties over assets belonging to that Clearing Member which are situated for the purposes of the EUIR within this jurisdiction at the time those proceedings are opened. However, the laws of the other Member State in which insolvency proceedings are opened will determine (amongst other things) the voidness, voidability, or unenforceability of legal acts detrimental to all creditors of the Clearing Member.
- 4.26 For Clearing Members that are entities within the scope of the EUIR, have their centre of main interest in England and Wales and no establishment in any EU Member State, the EUIR will not impact our analysis.

#### **Other Insolvency Issues**

- 4.27 Notwithstanding that this Opinion Letter is given in respect of obligations under the Agreements and Contracts which are legal, valid, binding and enforceable, we have nevertheless included in paragraphs 4.27 to 4.29 certain qualifications which address certain provisions of the insolvency law of this jurisdiction which could render the Agreements or one or more Contracts invalid and which we believe are of common interest.

- 4.28 In a winding-up of a Clearing Member by the courts of this jurisdiction, any dispositions by such Clearing Member of its property made on or after the commencement of the compulsory winding-up of such Clearing Member are void under section 127 of the Insolvency Act 1986 unless the court otherwise orders. However, pursuant to section 164(3) of Part 7, a market contract to which LCH is a party and any disposition of property pursuant to such market contract made by the relevant Clearing Member after the commencement of its compulsory winding-up will not be void under section 127 of the Insolvency Act 1986 and the value of such market contract can be included in the netting under LCH's Default Rules, unless section 164(3) is disapplied by section 167(3) of Part 7 (as to the (lack of) application of section 167(3) of Part 7 to this Opinion Letter, please refer to the assumption set out in paragraph 2.10 above).
- 4.29 In relation to paragraph 3.2.5 above, Regulation 12(1) of the FCA Regulations does not apply if at the time that (any of) the relevant financial obligations came into existence:
- (a) LCH was aware, or should have been aware, that winding up proceedings or reorganisation measures (as such terms are defined in the FCA Regulations) had commenced in relation to the Member;
  - (b) LCH had notice that a meeting of creditors of the Member had been summoned under section 98 of the Insolvency Act 1986 or that a petition for the winding-up of the Member was pending; or
  - (c) LCH had notice that an application for an administration order was pending, or that a person had given notice of intention to appoint an administrator, in respect of the Member.

Accordingly, in such circumstances, the protection granted under the FCA Regulations to a close-out netting provision may not be effective.

- 4.30 If any creditor of LCH were to attach, execute, levy execution or otherwise exercise a creditor's process (whether before or after judgment) over or against any claim owing by the Member to LCH, then the Member would be able to exercise its rights under a Netting Provision against the creditor of LCH in respect of claims which existed at the date of the attachment or other process, including the claim which is the subject of the attachment or other process. However, if the attaching creditor has become subject to Statutory Insolvency Set-Off before a Termination Date has occurred, it may be possible for the liquidator or administrator of the attaching creditor to claim the amounts subject to the attachment free of the Member's rights under the Netting Provision. This is because it may be argued that the Member seeks to exercise a set-off right in respect of an amount which is now owed by the Member to the attaching creditor rather than to LCH, and a contractual provision which purports to create a right of set-off between non-mutual claims may not be effective in Statutory Insolvency Set-Off when applied to the attaching creditor.

- 4.31 However, after the commencement of a winding-up of LCH any attachment will be ineffective unless the court otherwise orders, and in our view the court would not validate the attachment in order to defeat the rights of the Member under the Netting Provision. Further, the protections available under the Financial Collateral Regulations, the Settlement Finality Regulations 1999 and Part 7 may have effect to override the claim of the attaching creditor.
- 4.32 There is provision in both the CA 2006 and the Insolvency Act 1986 for schemes of arrangement, or voluntary arrangements in respect of companies, to be agreed by creditors or, in some cases, shareholders of the company. The courts will not sanction a scheme of arrangement under sections 895 to 901 of the CA 2006 unless reasonable efforts were made to notify those creditors, whose rights would be affected by the scheme, of the meeting to approve that scheme. In relation to company voluntary arrangements under Part I of the Insolvency Act 1986, a creditor can be bound by an arrangement even if he has not been given notice of the creditors' meeting to approve the arrangement. In the case of either a scheme of arrangement or a company voluntary arrangement, approval at the creditors' meeting of its terms does not require unanimity of the affected creditors, whether or not present at the meeting. Such arrangements could affect both the set-off rights of creditors and the value of claims which the creditors may have against the company. The disapplication of certain aspects of the general law of insolvency by Part 7 may not be effective to disapply the consequences of a scheme of arrangement under the CA 2006, since this procedure does not appear to fall within the meaning of "insolvency law" under section 190(6) of Part 7.

If the default rules of a recognised clearing house have been operated to achieve a discharge of market contracts before the approval of such an arrangement, any provision of such an arrangement which purports to unwind the application of such default rules would not bind the affected creditor if timely objection to the arrangement is made to the applicable court. An arrangement could, however, affect the value of any resulting net claim.

- 4.33 Under section 423 of the Insolvency Act 1986, the court may, on the application of the liquidator or administrator of a company (or, with the leave of the court, on the application of a "victim of the transaction" even if the company is not in liquidation or administration), set aside a transaction entered into by the company "at an undervalue" if the company entered into the transaction for the purpose of putting assets beyond the reach of a person who is making, or may at some time make, a claim against it or of otherwise prejudicing the interests of such a person in relation to the claim which he is making or may make. It is not a condition of the making of such an order that the company was insolvent at the time of the transaction. A transaction at an undervalue is defined under section 423 of the Insolvency Act 1986 in substantially the same terms as under section 238 of the Insolvency Act 1986. In general arrangements entered into in the normal course of clearing would be extremely unlikely to fall within this provision. Furthermore, the power of the court is disapplied by section 165 of Part 7 and Regulation 17 of the Settlement Finality Regulations 1999.



### Application of foreign law

- 4.34 If any obligation is or is to be performed in a jurisdiction outside England, it may not be enforceable in the English courts to the extent that performance would be illegal or contrary to public policy under the laws of the other jurisdiction. An English court may give effect to any overriding mandatory provisions of the law of the place of performance insofar as they render the performance unlawful or otherwise take into account the law of the place of performance in relation to the manner of performance and to the steps to be taken in the event of defective performance.
- 4.35 We express no opinion on the binding effect of the choice of law provisions in the Opinion Documents insofar as they relate to non-contractual obligations arising from or connected with the Opinion Documents.
- 4.36 We express no opinion as to whether a Clearing Member has created a valid security interest over any asset or right which is situated outside England (including those situated outside England and Wales within the meaning of Council Regulation (EC) No. 1346/2000 of 29 May 2000 on insolvency proceedings) or governed by a foreign law (notwithstanding, to the extent stated in the Deed of Charge, the choice of English law as the governing law of the Deed of Charge).
- 4.37 English courts may, in some circumstances, stay Insolvency Proceedings where they are of the opinion that proceedings in another forum would be more convenient or if concurrent proceedings are being brought elsewhere, but will take into account whether or not this will prejudice creditors whose claims have a close connection with this jurisdiction. Specifically, where the Chargor has no branch established or located in this jurisdiction, the English court's jurisdiction to wind up such a company may not be exercised at all if the court considers that there is not a sufficient connection with England or the court may exercise its discretion to apply foreign law to the winding-up in England.
- 4.38 The courts of Scotland have exclusive jurisdiction in relation to liquidation of a Party incorporated under the laws of Scotland (a "**Scottish Party**"). Accordingly, the courts of this jurisdiction may defer to the courts of Scotland in relation to any question arising in Insolvency Proceedings relating to a Scottish Party
- 4.39 The courts having jurisdiction in relation to insolvency law in this jurisdiction may give assistance to courts in which concurrent insolvency proceedings have commenced under the laws of another jurisdiction. Such assistance may take the form of, for example, dealing with only those assets located in this jurisdiction or selectively applying provisions of foreign law in Insolvency Proceedings which are otherwise generally governed by English law. The courts of this jurisdiction may accordingly apply foreign systems of law rather than English law where the Chargor is subject to insolvency proceedings in another jurisdiction. Under section 426 of the Insolvency Act 1986, a court with insolvency law jurisdiction in England has a discretion to apply the law of one of a list of specified jurisdictions to the insolvency of an entity (including a company incorporated and registered in England and Wales) if so requested by the competent court of that other jurisdiction. Those specified

jurisdictions are currently the other parts of the United Kingdom, the Channel Islands, the Isle of Man, Anguilla, Australia, the Bahamas, Bermuda, Botswana, Brunei, Canada, Cayman Islands, Falkland Islands, Gibraltar, Hong Kong, Ireland, Malaysia, Montserrat, New Zealand, South Africa, St. Helena, Turks and Caicos Islands, Tuvalu and the Virgin Islands. In exercising its discretion, the English court must have regard to the rules of private international law.

- 4.40 Furthermore, where the Clearing Member is an EEA Credit Institution, a liquidator or administrator may not be appointed in relation to proceedings initiated on or after 5 May 2004.
- 4.41 Under the Cross-Border Insolvency Regulations, a court may recognise a foreign insolvency proceeding, and in consequence of such recognition may limit the application of English insolvency law, or apply certain of such provisions at times, or in circumstances, where they would not otherwise be available.

However, Regulation 2 of the Cross-Border Insolvency Regulations provides that the UNCITRAL Model Law shall have the force of law in Great Britain and, under Regulation 4 of Article 1 of the UNCITRAL Model Law, an English court shall not grant any relief, or modify any relief already granted, or provide any co-operation or coordination, under or by virtue of any of the provisions of the UNCITRAL Model Law if and to the extent that such relief or modified relief or cooperation or coordination would be prohibited under or by virtue of Part 7.

#### **Other Qualifications**

- 4.42 Whilst section 177 of Part 7 permits a recognised clearing house to apply margin or a default contribution in relation to a market contract in accordance with its rules notwithstanding any prior equitable interest or right, or any right or remedy arising from a breach of fiduciary duty if the clearing house had notice of the interest, right or breach of duty at the time the property was provided as margin or a default contribution such property will be subject to the prior interest and/or right.
- 4.43 Under English law, interest imposed upon a Clearing Member under the Arrangements, an Agreement or a Contract might be held to be irrecoverable to the extent that it accrues on an unsecured debt after the making of a winding-up order or the passing of a winding-up resolution in respect of the Clearing Member, but the fact that it was held to be irrecoverable would not of itself prejudice the legality or validity of the netting arrangements under the Default Rules of LCH. If the Opinion Documents do not provide a contractual remedy for the late payment of any amount payable thereunder that is a substantial remedy within the meaning of the Late Payment of Commercial Debts (Interest) Act 1998, the Party entitled to that amount may have a right to statutory interest (and to payment of certain fixed sums) in respect of that late payment at the rate (and in the amount) from time to time prescribed pursuant to that Act. Any term of the Arrangements and/or the Agreements may be void to the extent that it excludes or varies the right to statutory interest, or purports to confer a contractual right to interest that is not a substantial remedy for late payment of that amount, within the meaning of that Act. We express no opinion as to whether

any such provisions in the Opinion Documents do in fact constitute a "substantial remedy" in compliance with the conditions set out in section 9 of such Act.

- 4.44 There is some possibility that an English court would hold that a judgment on an Opinion Document, whether given in an English court or elsewhere, would supersede the relevant Opinion Document so that any obligations relating to the payment of interest after judgment or any currency indemnities would not be held to survive the judgment.
- 4.45 Any undertaking or indemnity given by a Clearing Member in respect of stamp duty payable in the United Kingdom may be void.
- 4.46 An English court may in its discretion decline to give effect to any provision for the payment of legal costs incurred by a litigant.
- 4.47 If a Party is controlled by or otherwise connected with a person (or is itself) resident in, incorporated in or constituted under the laws of a country which is the subject of United Nations, European Community or UK sanctions implemented or effective in the United Kingdom under the United Nations Act 1946, the Emergency Laws (Re-enactments and Repeals) Act 1964, the Anti-terrorism, Crime and Security Act 2001 or the Counter-Terrorism Act 2008, or under the Treaty establishing the European Community, or is otherwise the target of any such sanctions, then the obligations of the other Party to that Party under the Arrangements may be unenforceable or void.
- 4.48 The laws of this jurisdiction may have effect so that any discretion or determination to be exercised or made by a party under the Arrangements must be exercised or made reasonably. Any provision in the Opinion Documents providing that any calculation or certification is to be conclusive and binding will not be effective if such calculation or certification is fraudulent, incorrect, arbitrary or shown not to have been given or made in good faith and will not necessarily prevent judicial enquiry into the merits of any claim by any Party thereto. An English court may regard any calculation, determination or certification as no more than prima facie evidence of the matter calculated, determined or certified.
- 4.49 Where the operation of the provisions of the Contracts (Rights of Third Parties) Act 1999 is expressly excluded in any document any person who is not a party to such agreement may be unable to enforce provisions of that agreement which are expressed to be for the benefit of that person. Such exclusion does not affect any right or remedy of any third party that exists or is available apart from pursuant to that Act.
- 4.50 The parties to the Agreements may be able to amend the Agreements or the Arrangements by oral agreement or by conduct despite any provision to the contrary.
- 4.51 Any provision of the Opinion Documents which constitutes, or purports to constitute, a restriction on the exercise of any statutory power by any party to the Agreements or any other person may be ineffective.

- 4.52 To the extent that any matter is expressly to be determined by future agreement or negotiation, the relevant provision may be unenforceable or void for uncertainty.
- 4.53 Any provision of the Opinion Documents stating that a failure or delay, on the part of any party, in exercising any right or remedy under the Opinion Document shall not operate as a waiver of such right or remedy may not be effective.
- 4.54 The effectiveness of any provision of the Opinion Documents which allows an invalid provision to be severed in order to save the remainder of the Opinion Document will be determined by the English courts in their discretion having regard to all the circumstances of the case.
- 4.55 In some circumstances an English court may, and in certain circumstances it must, terminate or suspend proceedings commenced before it, or decline to restrain proceedings commenced in another court, notwithstanding the provisions of the Opinion Documents providing that the courts of England have jurisdiction in relation to the subject matter of those proceedings.

This Opinion Letter is given for the exclusive benefit of the addressee. In this opinion we do not assume any obligation to notify or inform you of any developments subsequent to its date that might render its content untrue or inaccurate in whole or in part at such time. It may not, without prior written consent, be relied on by any other person. We consent to a copy of this Opinion Letter being made publically available on its website and to it being shown to the relevant regulators and/or any counsel appointed by the addressee to advise on matters of the laws of other jurisdictions, for information purposes only and solely on the basis that we assume no responsibility to any such parties as a result or otherwise.

Yours faithfully



**Clifford Chance LLP**



**SCHEDULE 1- CLEARING MEMBERSHIP AGREEMENT**

**CLEARING MEMBERSHIP AGREEMENT**

DATED

**LCH LIMITED**

and

("the Firm")

Address of the Firm



**THIS AGREEMENT is made on the date stated above**

**BETWEEN the Firm and LCH LIMITED ("the Clearing House"), whose registered office is at Aldgate House, 33 Aldgate High Street, London, EC3N 1EA.**

**WHEREAS:**

- A The Clearing House is experienced in carrying on the business of a clearing house and undertakes with each Clearing Member the performance of contracts registered in its name in accordance with the Rulebook;
- B The Clearing House has been appointed by certain Exchanges to provide central counterparty and other services in accordance with the terms and conditions of the Rulebook and certain agreements entered into between the Clearing House and such Exchanges;
- C The Clearing House also provides central counterparty and other services to participants in certain over-the-counter ("OTC") markets in accordance with the terms of this Agreement and the Rulebook;
- D The Firm desires to be admitted as a Clearing Member of the Clearing House to clear certain categories of Contract agreed by The Clearing House with the Firm and, the Clearing House having determined on the basis inter alia of the information supplied to it by the Firm that the Firm satisfies for the time being the relevant Criteria for Admission, the Clearing House agrees to admit the Firm as a Clearing Member subject to the terms and conditions of this Agreement.

**NOW IT IS HEREBY AGREED as follows:-**

**1 Interpretation and Scope of Agreement**

1.1. Unless otherwise expressly stated, in this Agreement:

- (a) "Cash Cover" means cover for margin (within the meaning of that term in the "Definitions" section of the Rulebook) provided in the form of a cash deposit with the Clearing House;
- (b) "Clearing Member" means a Person who has been admitted to membership of the Clearing House and whose membership has not terminated;
- (c) "Contract" means a contract or transaction eligible for registration in the Firm's name by the Clearing House in accordance with the Rulebook;
- (d) "Contribution" and "Contribution to the Default Fund" mean the sums of cash deposited by the Firm as cover in respect of the Firm's obligation to indemnify the Clearing House as provided by clause 9 of this Agreement and the Default Rules;
- (e) "Criteria for Admission" means criteria set out in one or more documents published from time to time by the Clearing House, being criteria to be satisfied by an applicant for admission as a Clearing Member in respect of the Designated Contracts which the applicant wishes to clear with the Clearing House;
- (f) "Default Fund" means the fund established under the Default Rules of the Clearing House to which the Clearing Member is required to contribute by virtue of clause 9 of this Agreement;
- (g) [DELETED]



- (h) "Default Notice" means a notice issued by the Clearing House in accordance with the Default Rules in respect of a Clearing Member who is or is likely to become unable to meet its obligations in respect of one or more Contracts;
- (i) "Default Rules" means that part of the Rulebook having effect in accordance with Part IV of the Financial Services and Market Act 2000 (Recognition Requirements for Investment Exchange and Clearing Houses) Regulations 2001 to provide for action to be taken in respect of a Clearing Member subject to a Default Notice;
- (j) "Designated Contract" has the meaning given to it in clause 2.1;
- (k) "Exchange" means an organisation responsible for administering a market with which the Clearing House has an agreement for the provision of central counterparty and other services to Clearing Members;
- (l) "Exchange Contract" means any contract which an Exchange has adopted and authorised Exchange Members to trade in under its Exchange Rules and in respect of which the Clearing House has agreed to provide central counterparty and other services;
- (m) "Exchange Member" means any person (by whatever name called) being a member of, or participant in, a Market pursuant to Exchange Rules;
- (n) "Exchange Rules" means any of the regulations, rules and administrative procedures or contractual arrangements for the time being and from time to time governing the operation of a Market administered by an Exchange and includes, without prejudice to the generality of the foregoing, any regulations made by the directors of an Exchange or by any committee established under the Rules, and, save where the context otherwise requires, includes Exchange Contracts, and the Rulebook;
- (o) "Rulebook" means the Clearing House's General Regulations, Default Rules, Settlement Finality Regulations and Procedures and such other rules of the Clearing House as published and amended from time to time;
- (p) "Market" means a futures, options, forward, stock or other market, administered by an Exchange, or an OTC market, in respect of which the Clearing House has agreed with such Exchange or, in respect of an OTC market, with one or more participants in that market, to provide central counterparty and related services on the terms of the Rulebook and in the case of an Exchange, pursuant to the terms of any agreement entered into with the Exchange;
- (q) "Person" includes any firm, company, corporation, body, association or partnership (whether or not having separate legal personality) or any combination of the foregoing;
- (r) "Procedures" means that part of the Rulebook by that name;
- (s) "Registered Contract" means a contract registered in the Firm's name by the Clearing House in accordance with the Rulebook;

- 1.2. (a) References to "the parties" are references to the parties hereto, and "party" shall be construed accordingly;
- (b) References herein to a clause are to a clause hereof and clause headings are for ease of reference only;
- (c) Unless the context otherwise requires, words (including defined terms) denoting the singular shall include the plural and vice versa;

(d) References to writing include typing, printing, lithography, photography, facsimile transmission and other modes of representing or reproducing words in a visible form; and

(e) References herein to statutes, statutory instruments, the Rulebook, or provisions thereof are to those statutes, statutory instruments, Rulebook or provisions thereof as amended, modified or replaced from time to time.

1.3 This Agreement, the terms of any other agreement to which the Clearing House and the Clearing Member are party which relates to the provision of central counterparty and other services by the Clearing House, the terms of, and applicable to, each and every Registered Contract, the Rulebook and all amendments to any of the foregoing shall together constitute a single agreement between the Clearing House and the Clearing Member and both parties acknowledge that all Registered Contracts are entered into in reliance upon the fact that all such items constitute a single agreement between the parties.

1.4 A person who is not a party to this Agreement shall have no rights under or in respect of this Agreement.

## **2 Clearing Membership**

2.1. The Firm is hereby admitted as a Clearing Member on the terms set out in this Agreement. The Firm shall be eligible to clear such categories of Contract (each a "Designated Contract") as the Clearing House shall from time to time notify to the Firm.

2.2. The Firm warrants that the information supplied by the Firm to the Clearing House in connection with the enquiry conducted by the Clearing House to determine whether the Firm satisfies for the time being the Criteria for Admission was and is at the date of this Agreement true and accurate in all material respects.

2.3. The Firm will ensure that it will at all times satisfy the Criteria for Admission. If at any time it has reason to believe that it no longer satisfies or may cease to satisfy any of such criteria the Firm shall immediately notify the Clearing House of the circumstances.

2.4. The Firm shall give written notice forthwith to the Clearing House of the occurrence of any of the following of which it is aware:-

(a) the presentation of a petition or passing of any resolution for the bankruptcy or winding-up of, or for an administration order in respect of, the Firm or of a subsidiary or holding company of the Firm;

(b) the appointment of a receiver, administrative receiver, administrator or trustee of the estate of the Firm;

(c) the making of a composition or arrangement with creditors of the Firm or any order or proposal in connection therewith;

(d) where the Firm is a partnership, an application to dissolve the partnership, the presentation of a petition to wind up the partnership, or any other event which has the effect of dissolving the partnership;

(e) where the Firm is a registered company, the dissolution of the Firm or the striking-off of the Firm's name from the register of companies;

(f) any step analogous to those mentioned in paragraphs (a) to (e) of this clause 2.4 is taken in respect of such persons as are referred to in those respective paragraphs in any jurisdiction;

(g) the granting, withdrawal or refusal of an application for, or the revocation of any licence or authorisation to carry on investment, banking or insurance business in any country;

- (h) the granting, withdrawal or refusal of an application for, or the revocation of, a license or authorisation by the Financial Conduct Authority, the Prudential Regulation Authority or membership of any self-regulating organisation, recognised or overseas investment exchange or clearing house (other than the Clearing House) under the Financial Services and Markets Act 2000 or any other body or authority which exercises a regulatory or supervisory function under the laws of the United Kingdom or any other state;
  - (i) the appointment of inspectors by a statutory or other regulatory authority to investigate the affairs of the Firm (other than an inspection of a purely routine and regular nature);
  - (j) the imposition of any disciplinary measures or sanctions (or similar measures) on the Firm in relation to its investment or other business by any Exchange, regulatory or supervisory authority;
  - (k) the entering of any judgment against the Firm under Section 150 of the Financial Services and Markets Act 2000;
  - (l) the conviction of the Firm for any offence under legislation relating to banking or other financial services, building societies, companies, credit unions, consumer credit, friendly societies, insolvency, insurance and industrial and provident societies or for any offence involving fraud or other dishonesty;
  - (m) the conviction of the Firm, or any subsidiary or holding company of the Firm for any offence relating to money laundering, or the entering of judgment or the making of any order against the Firm in any civil action or matter relating to money laundering;
  - (n) any enforcement proceedings taken or order made in connection with any judgement (other than an arbitration award or judgement in respect of the same) against the Firm; and
  - (o) any arrangement entered into by the Firm with any other Clearing Member relating to the provision of central counterparty and associated services by the Clearing House of Contracts or transactions entered into by the Firm after the effective date of termination of this Agreement.
- 2.5. The Firm shall give written notice forthwith to the Clearing House of any person becoming or ceasing to be a director of or a partner in the Firm or of the occurrence of any of the following in relation to a director of or a partner in the Firm, if aware of the same:-
- (a) the occurrence of any event specified in clause 2.4 (insofar as it is capable of materially affecting him); or
  - (b) any disqualification order under the Company Directors Disqualification Act 1986 or equivalent order in overseas jurisdictions.
- 2.6. The Firm shall give written notice forthwith to the Clearing House of any change in its name, the address of its principal place of business, registered office or UK office.
- 2.7. The Firm shall give written notice to the Clearing House forthwith upon its becoming aware that any person is to become or cease to be, or has become or ceased to be, a controller of the Firm, and shall in relation to any person becoming a controller of the Firm state:-
- (a) the controller's name, principal business and address;
  - (b) the date of the change or proposed change.

In this clause and in clause 2.9 "controller" means a person entitled to exercise or control the exercise of 20 per cent or more of the voting power in the Firm.

- 2.8. The Firm shall give written notice forthwith to the Clearing House of any change in its business which affects the Firm's ability to perform its obligations under this Agreement.
- 2.9. Where the Clearing House receives notification pursuant to any of clauses 2.3 to 2.8, or the Clearing House reasonably suspects that the Firm may no longer satisfy some or all of the Criteria for Admission or the criteria for clearing a Designated Contract, the Clearing House shall be entitled in its absolute discretion to call for information of whatsoever nature in order to determine whether the Firm continues to satisfy the Criteria for Admission or the criteria for clearing a Designated Contract. Without prejudice to the foregoing, the Clearing House may at any time call for information relating to the affairs (including the ownership) of any controller of the Firm or any person who is to become a controller of the Firm. The Firm shall forthwith on demand supply to the Clearing House information called for under this clause and shall ensure that such information is true and accurate in all respects.
- 2.10. The Firm undertakes to abide by the Rulebook and undertakes at all times to comply with other provisions of Exchange Rules so far as they apply to the Firm.
- 2.11. The Firm undertakes that at all times, to the extent the Firm is required under any applicable law to be authorised, licensed or approved in relation to activities undertaken by it, it shall be so authorised, licensed or approved.
- 2.12. The Firm agrees that in respect of any Contract for which central counterparty services are to be provided to the Firm by the Clearing House in accordance with the Rulebook, including, but not limited to, any contract made by the Firm under Exchange Rules on the floor of a Market (or through a Market's automated trading system) or otherwise, whether with a member of that Market or with a client or with any other person, and including any Contract entered into in an OTC market, the Firm shall contract as principal and not as agent.
- 2.13. The Firm shall furnish financial information to the Clearing House in accordance with the requirements of the Rulebook or such other requirements as the Clearing House may from time to time prescribe.
- 2.14. The Firm undertakes that, in its terms of business with its clients (being clients in respect of whom the Firm is subject to any regulations made pursuant to rules and/or legislation applicable to the Firm with respect to the safeguarding or segregation of clients' money):
- (a) where it is subject to Exchange Rules, it will at all times include a stipulation that contracts made under Exchange Rules with or for them shall be subject to Exchange Rules (including the Rulebook); and
  - (b) that money of such clients in the possession of the Clearing House may be dealt with by the Clearing House in accordance with the Rulebook without exception.
- 2.15. Without prejudice to clause 2.14 the Firm undertakes that its dealings with all its clients or counterparties shall be arranged so as to comply with the requirement that the Firm deals with the Clearing House as principal, and that all sums deposited with the Clearing House by way of Cash Cover (including the Firm's Contribution to the Default Fund) shall be deposited unencumbered and by the Firm acting as sole principal and as legal and beneficial owner.
- 2.16. The Firm undertakes not to assign, charge or subject to any other form of security, whether purporting to rank in priority over, *pari passu* with or subsequent to the rights of the Clearing House, any Cash Cover provided to the Clearing House, including its entitlement to repayment of its Contribution to the Default Fund or any part of it. Any purported charge, assignment or encumbrance (whether by way of security or otherwise) of Cash Cover provided to the Clearing House shall be void. The Firm shall not otherwise encumber (or seek to encumber) any Cash Cover provided to the Clearing House.

### **3 Remuneration**

- 3.1. The Clearing House shall be entitled to charge the Firm such fees, charges, levies and other dues, on such events, and calculated in accordance with such scales and methods, as are for the time prescribed by the Clearing House and, where relevant, for Exchange Contracts, after consultation with the relevant Exchange.



- 3.2. The Clearing House shall give the Firm not less than fourteen days' notice of any increase in such fees, charges, levies or other dues.

#### **4 Facilities Provided by the Clearing House**

##### **4.1. Provision of Central Counterparty Services**

- (a) Details of all Contracts to be registered by the Clearing House in the name of the Firm and in respect of which central counterparty services are to be provided shall be provided to the Clearing House in accordance with the Rulebook and any other agreement entered into between the Clearing House and the Firm.
- (b) Provided that a Contract meets the criteria for registration of that Contract in the name of the Firm and is a Designated Contract, and subject to the Rulebook, the Clearing House shall enter into a Registered Contract with the Firm in respect thereof. Each such Contract shall be registered in accordance with the Rulebook and the Clearing House shall perform its obligations in respect of all Registered Contracts in accordance with this Agreement and the Rulebook.

##### **4.2. Maintenance of Records**

The Clearing House agrees that for a period of ten years after termination of a Registered Contract it shall maintain records thereof. The Clearing House may make a reasonable charge to the Firm for the production of any such records more than three months after registration.

##### **4.3. Information**

The Clearing House will provide to the Firm such information at such times as is provided for by the Rulebook.

##### **4.4. Accounts**

The Clearing House agrees to establish and maintain one or more accounts for the Firm in accordance with the Rulebook. Accounts will be opened and kept by the Clearing House in such manner as will not prevent the Firm from complying with requirements of any regulations made pursuant to rules and/or legislation applicable to the Firm with respect to the safeguarding or segregation of clients' money and the rules of such regulatory organisation as the Firm may be subject to in respect of their cleared business.

#### **5 Default**

In the event of the Firm appearing to the Clearing House to be unable, or to be likely to become unable, to meet any obligation in respect of one or more Registered Contracts, or failing to observe any other financial or contractual obligation under the Rulebook, the Clearing House shall be entitled to take all or any of the steps set out in that regard in the Rulebook, including (but not limited to) the liquidation of all or any of the Registered Contracts.

#### **6 Disclosure of Information**

The Firm agrees that the Clearing House shall have authority to disclose any information of whatsoever nature concerning the Firm to such persons as is provided for by the Rulebook.

#### **7 Partnership**

If the Firm is a partnership, the liability of each partner in the Firm hereunder and under any Registered Contract shall be joint and several and, notwithstanding an event which would by operation of law give rise to the dissolution of the partnership, or entitle a partner to seek an order to dissolve the partnership, including, but not limited to, the event of the death, bankruptcy, winding-up or dissolution of any such partner, the respective obligations of the Clearing House and all other partners shall remain in full force and effect. If the Firm is a partnership, the Firm undertakes that if any new partner joins the Firm, the Firm shall procure that such new partner becomes jointly and severally liable alongside existing partners in respect of obligations of the Firm to the Clearing House outstanding at the date of such new partner's accession to the Firm.

## **8 Term**

- 8.1. Subject to clause 8.3 either party (provided, in the case of the Firm, that the Clearing House has not issued a Default Notice in respect of the Firm) may terminate this Agreement by giving to the other party notice in writing, such notice to specify the effective date of termination ("the termination date") which shall be a business day not less than three months after the date of the notice, and this Agreement shall, subject to clause 8.2(b), terminate on the termination date. By the close of business on the termination date the Firm shall ensure that all Registered Contracts in the Firm's name have been closed-out or transferred so that there are no open Registered Contracts to which the firm is party at the end of the termination date.
- 8.2. If, under clause 8.1, the Firm has not closed out or transferred all Registered Contracts by the set termination date the Clearing House shall, at its sole discretion, be entitled to:
  - (a) liquidate any such Registered Contracts in accordance with the Rulebook; and
  - (b) require that the Firm remains a member of the Clearing House until such time as there are no Registered Contracts in existence to which the Firm is a party and the effective date of termination of this Agreement shall be postponed until such time.
- 8.3. If the Firm is in breach of or in default under any term of this Agreement or the Rulebook, or if the Clearing House has issued a Default Notice in respect of the Firm, or if the Clearing House reasonably determines that the Firm no longer satisfies the Criteria for Admission as a Clearing Member, the Clearing House may in its absolute discretion terminate this Agreement in writing either summarily or by notice as follows.

Any termination by notice under this clause 8.3 may take effect (subject as follows) on the expiry of 30 days or such longer period as may be specified in the notice. A notice given by the Clearing House under this clause may at the Clearing House's discretion allow the Firm a specified period in which to remedy the breach or default or to satisfy the Criteria for Admission as the case may be, and may specify what is to be done to that end, and may provide that if the same is done to the satisfaction of the Clearing House within that period the termination of this Agreement shall not take effect; and if this Agreement has terminated after the Clearing House has allowed the Firm such a period for remedy or satisfaction, the Clearing House shall then notify the Firm of the fact of termination. The Clearing House may, if the Clearing House has issued a Default Notice in respect of the Firm immediately, and in any other case after the effective date of termination, take such other action as it deems expedient in its absolute discretion to protect itself or any other Clearing Member including, without limitation, the liquidation of Registered Contracts but without prejudice to its own rights in respect of such contracts.

- 8.4. Upon the termination of this Agreement for whatever reason the Firm shall unless otherwise agreed cease to be a Clearing Member.

## **9 Default Fund**

- 9.1. In this clause the term "Excess Loss" bears the meaning ascribed to it in the Rulebook.
- 9.2. The Firm, as primary obligor and not surety, hereby indemnifies the Clearing House in respect of any Excess Loss, and undertakes to deposit cash with the Clearing House as collateral for its obligations in respect of such indemnity, in accordance in each case with the Default Rules.

- 9.3. The Firm shall, in accordance with the Default Rules, continue to be liable to indemnify the Clearing House in respect of any Excess Loss arising upon any default occurring before the effective date of termination of this Agreement. Subject thereto, the indemnity hereby given shall cease to have effect on the effective date of termination of this Agreement, unless a Default Notice is issued by the Clearing House in respect of the Firm, in which case the indemnity hereby given shall cease to have effect after the date three months after the date of issue of such Default Notice.
- 9.4. Save as provided expressly by the Default Rules, the Firm shall not be entitled to exercise any right of subrogation in respect of any sum applied in satisfaction of its obligations to the Clearing House under this clause 9.

## **10 Force Majeure**

Neither party shall be liable for any failure in performance of this Agreement if such failure arises out of causes beyond its control. Such causes may include, but are not limited to, acts of God or the public enemy, acts of civil or military authority, fire, flood, labour dispute (but excluding strikes, lock-outs and labour disputes involving the employees of the party intending to rely on this clause or its sub-contractors), unavailability or restriction of computer or data processing facilities or of energy supplies, communications systems failure, failure of a common depository, clearing system or settlement system, riot or war.

## **11 The Rulebook**

In the event of conflict between the Rulebook and the provisions of this Agreement the Rulebook shall prevail.

## **12 Notices**

- 12.1. Any notice or communication to be made under or in connection with this Agreement shall be made in writing addressed to the party to whom such notice or communication is to be given; save that a notice or communication of an urgent nature shall be given or made orally and as soon as reasonably practicable thereafter confirmed in writing in conformity hereto. A notice may be delivered personally or sent by post to the address of that party stated in this Agreement, or to such other address as may have been notified by that party in accordance herewith.
- 12.2. Where a notice is sent by the Clearing House by post it shall be deemed delivered 24 hours after being deposited in the post first-class postage prepaid in an envelope addressed to the party to whom it is to be given in conformity to clause 12.1, or in the case of international mail, on the fourth business day thereafter. In all other cases notices shall be deemed delivered when actually received.

## **13 Law**

- 13.1. This Agreement shall be governed by and construed in accordance with the laws of England and Wales. The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to hear and determine any action or dispute which may arise herefrom. The Clearing House and the Firm each irrevocably submits to such jurisdiction and to waive any objection which it might otherwise have to such courts being a convenient and appropriate forum.
- 13.2. The Firm irrevocably waives, with respect to itself and its revenues and assets all immunity on the grounds of sovereignty or other similar grounds from suit, jurisdiction of any court, relief by way of injunction, order for specific performance or for recovery of property, attachment of its assets (whether before or after judgement) and execution or enforcement of any judgement to which it or its revenues or assets might otherwise be entitled in any proceedings in the courts of any jurisdiction and irrevocably agrees that it will not claim any such immunity in any proceedings.

## **14 Service of Process**

Without prejudice to any other mode of service, and subject to its right to change its agent for the purposes of this Clause on 30 days' written notice to the Clearing House, the Firm (other than where it is incorporated in England and Wales or otherwise has an office in England and Wales) appoints, as its agent for service of process relating to any proceedings

before the courts of England and Wales in connection with the Firm the person in London as notified to the Clearing House in writing with the application for admission.



IN WITNESS whereof the parties hereto have caused this Agreement to be signed by their duly authorised representatives the day and year first before written.

(Signature)

(Print Name and Title)

for THE FIRM

(Signature)

(Print Name and Title)

for THE FIRM

(Signature)

(Print Name and Title)

for LCH LIMITED

(Signature)

(Print Name and Title)

for LCH LIMITED

**LCH LIMITED**

Aldgate House 33 Aldgate High Street London EC3N 1EA

Tel: +44 (0)20 7426 7000 Fax: +44 (0)20 7426 7001

Internet: <http://www.lch.com>

©2013 LCH Limited

LCLTD/TRAIN/CMA-05/05(0.1)

**SCHEDULE 2- DEED OF CHARGE**

A company whether incorporated in England and Wales or an overseas company.



**CHARGE BY CLEARING MEMBER**

**CHARGE SECURING OWN OBLIGATIONS**

Date of Execution:  
(to be completed by LCH Limited)

\_\_\_\_\_

Date of Delivery:  
(to be completed by LCH Limited)

\_\_\_\_\_

Name and Address of Chargor:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Clearing Membership Agreement Date:

\_\_\_\_\_

Chargor's Account:

\_\_\_\_\_

**THIS DEED** made on the date above-stated **BETWEEN THE ABOVE-NAMED CHARGOR** ("the Chargor") and **LCH LIMITED** ("the Clearing House")

**WITNESSES** as follows :

1. **Interpretation**

- (1) Any reference herein to:
  - (a) any statute or to any provisions of any statute shall be construed as a reference to any statutory modification or re-enactment thereof and to any regulations or orders made thereunder and from time to time in force; and
  - (b) an agreement or instrument shall be to that agreement or instrument as amended from time to time.
- (2) A reference herein to collateral or cash being "provided" includes the act of (i) transferring, (ii) delivering, or (iii) crediting to an account or effecting, directly or indirectly, any of the foregoing.
- (3) The Clause headings shall not affect the construction hereof.

1A. **The Secured Obligations**

- (1) The Chargor shall pay to the Clearing House all monies (including settlement costs, interest and other charges) which now are or at any time hereafter may be or become due or owing by the Chargor to the Clearing House on the account identified above (or, but only if no account is identified, on all accounts of the Chargor with the Clearing House) and discharge all other liabilities of the Chargor (whether actual or contingent, now existing or hereafter incurred) to the Clearing House on the said account (or, if no account is identified, on all accounts of the Chargor with the Clearing House) in each case when due in accordance with the Clearing Membership Agreement and the Clearing House's Rulebook referred to therein (the Clearing Membership Agreement and the Clearing House's Rulebook as from time to time amended, renewed or supplemented being hereinafter referred to as "**the Agreement**") or, if the Agreement does not specify a time for such payment or discharge, promptly following demand by the Clearing House.
- (2) In the event that the Chargor fails to comply with sub-paragraph (1) above, the Chargor shall pay interest accruing from the date of demand on the monies so demanded and on the amount of all other liabilities at the rate provided for in the Agreement or, in the event of no such rate having been agreed, at a rate determined by the Clearing House (the rate so agreed or determined to apply

after as well as before any judgment), such interest to be paid upon demand of the Clearing House in accordance with its usual practices and to be compounded with principal and accrued interest in the event of its not being duly and punctually paid.

- (3) The monies, other liabilities, interest and other charges referred to in sub-paragraph (1) of this Clause, the interest referred to in sub-paragraph (2) of this Clause and all other monies and liabilities payable or to be discharged by the Chargor under or pursuant to any other provision of this Deed are hereinafter collectively referred to as "**the Secured Obligations**".

1B. **Holding of Collateral**

- (1) The Chargor shall, in accordance with the Procedures, transfer collateral to the Clearing House. Where such collateral takes the form of Securities, the Clearing House shall hold such Securities for the Chargor, subject to the terms of (and including the security constituted by) this Deed.
- (2) From time to time, in accordance with the Procedures and in the context of a transfer of one or more contracts and related cover from one member of the Clearing House to the Chargor at the request of a client of that other member or the Chargor, the Clearing House shall designate that certain Securities which it previously held for a third party are instead held by the Clearing House for the Chargor and form part of the collateral provided by the Chargor in satisfaction of its requirements under the Procedures. Upon such designation, the Clearing House shall hold such Securities for the Chargor, subject to the terms of this Deed.
- (3) The Clearing House will identify in its own books that any Securities referred to in sub-paragraphs (1) or (2) above are held by it for the account of and (as between the Chargor and the Clearing House) belong to the Chargor (subject to the terms of this Deed) and shall be recorded in the Securities Account (as defined below) which shall be subject to the security constituted by this Deed. Where the Clearing House holds any such Securities in an account (including an omnibus account) at any Clearance System or with any Custodian Bank with any other Securities, the Clearing House will take all actions within its control to ensure that such Securities are recorded in accounts with the Clearance System or Custodian Bank (as applicable) in which the Clearing House's own assets are not recorded.
- (4) All Distributions in the form of cash received by the Clearing House on any Securities which are held by the Clearing House for the account of the Chargor in accordance with sub-paragraphs (1) or (2) above and any cash provided to the Clearing House in connection with transactions relating to Securities recorded in the Securities Account (excluding, for the avoidance of doubt, any cash provided directly by the Chargor to the Clearing House as collateral on a

title transfer basis) shall be received by the Clearing House for its own account and paid into one or more accounts in the Clearing House's name, with a corresponding and equal credit arising on and being recorded in the Cash Account (as defined below) whereupon such Distributions and other cash so provided to the Clearing House as recorded in the Cash Account shall be held by the Clearing House for the account of the Chargor and shall be subject to the security constituted by this Deed and designated as such in the Clearing House's books and records.

- (5) The Clearing House may hold any Securities pursuant to this Clause 1B (*Holding of Collateral*) in one or more omnibus accounts with a Custodian Bank or Clearance System, as the case may be, together with other Securities which it holds for other third parties which have granted a charge over such assets in favour of the Clearing House in a form substantially the same as this Deed but no other Securities. The Clearing House shall ensure that any such omnibus account with a Clearance System or Custodian Bank is clearly identified as an account relating to Securities held by the Clearing House on behalf of third parties.
- (6) The Clearing House undertakes to the Chargor that it will at all times ensure that, pursuant to the terms governing any account with any Clearance System or Custodian Bank in which any Securities are held for the Chargor, any claim or security interest which that Clearance System or Custodian Bank may have against or over such Securities shall be limited to any unpaid fees owed by the Clearing House to such Clearance System or Custodian Bank in respect of such account.

## 2. Charge

- (1) The Chargor acting in due capacity (as defined in sub-paragraph (3) below) (and to the intent that the security so constituted shall be a security in favour of the Clearing House extending to all beneficial interests in the assets hereby charged and to any proceeds of sale or other realisation thereof or of any part thereof including any redemption monies paid or payable in respect thereof) hereby separately assigns, charges and pledges by way of first fixed security and by way of continuing security to the Clearing House, until discharged by the Clearing House in accordance with this Deed, for the payment to the Clearing House and the discharge of all the Secured Obligations, the Charged Property.
- (2) It shall be implied in respect of sub-paragraph (1) above that the Chargor is charging the Charged Property free from all charges and encumbrances (whether monetary or not) and from all other rights exercisable by third parties (including liabilities imposed and rights conferred by or under any enactment) except for any charge or lien routinely arising in favour of a Custodian Bank or Clearance System and applying to assets held by the Clearing House with that Custodian Bank or Clearance System and any third party's beneficial interest in



the Charged Property which ranks behind the rights of the Clearing House in respect of the Charged Property.

(3) In this Deed:

"**acting in due capacity**" in relation to the Chargor means that each of the dispositions of property hereby effected by the Chargor is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994 except as expressly permitted or contemplated under this Deed;

"**Cash Account**" means any account maintained by the Clearing House on its books for the account of the Chargor in which an amount equal to any cash Distributions or cash provided to the Clearing House in connection with transactions relating to Securities recorded in the Securities Account (excluding, for the avoidance of doubt, any cash provided directly by the Chargor to the Clearing House as collateral on a title transfer basis) are recorded;

"**Charged Property**" means at any time all present and future rights, title and interest of the Chargor in and to:

- (i) all Securities from time to time recorded in and represented by the Securities Account and held by the Clearing House for the account of the Chargor in accordance with Clause 1B;
- (ii) all Distributions including without limitation Distributions in the form of cash;
- (iii) all cash provided to the Clearing House in connection with transactions relating to Securities recorded in the Securities Account (excluding, for the avoidance of doubt, any cash provided directly by the Chargor to the Clearing House as collateral on a title transfer basis);
- (iv) the Securities Account; and
- (v) the Cash Account;

"**Chargor Custodian Bank**" means a bank or custodian or any nominee company or trust company which is a subsidiary of such a bank or custodian with which the Chargor maintains any cash account or securities account;

"**Clearance System**" shall be construed as a reference to any system from time to time used or constituted for the clearing, collective safe custody or central deposit of securities, and any depository for any of the foregoing;

"**Clearing Membership Agreement**" means in relation to the Chargor the Clearing Membership Agreement between the Chargor and the Clearing House

having the date specified on the first page of this Deed, as such agreement may be amended and or replaced from time to time;

**"Custodian Bank"** means a bank or custodian or any nominee company or trust company which is a subsidiary of such a bank or custodian with which the Clearing House maintains any cash account or securities account;

**"Default Notice"** has the meaning given to it in the Default Rules;

**"Default Rules"** has the meaning given to such term in the Clearing Membership Agreement;

**"Deed"** means this charge made between the Chargor and the Clearing House on the date above-stated, as the same may be amended, supplemented or restated from time to time;

**"Distributions"** means all rights, benefits and proceeds including, without limitation:

- (a) any dividends or interest, annual payments or other distributions; and
- (b) any proceeds of redemption, substitution, exchange, bonus or preference, under option rights or otherwise,

in each case attaching to or arising from or in respect of any Securities forming part of the Charged Property;

**"Procedures"** means the one or more documents containing the working practices and administrative requirements of the Clearing House for the purposes of implementing the Clearing House's Rulebook and Default Rules from time to time in force, or procedures for application for and regulation of clearing membership of the Clearing House;

**"Receiver"** means a receiver, receiver and manager or an administrative receiver as the Clearing House may specify at any time in the relevant appointment made under this Deed, which term will include any appointee made under a joint and/or several appointment by the Clearing House;

**"Securities"** shall be construed as a reference to bonds, debentures, notes, stock, shares, bills, certificates of deposit and other securities and instruments, including Distributions in the form of Securities (and without limitation, shall include any of the foregoing not constituted, evidenced or represented by a certificate or other document but by any entry in the books or other records of the issuer, a trustee or other fiduciary thereof, or a Clearance System); and

**"Securities Account"** means any account maintained by the Clearing House

on its books for the account of the Chargor in which Securities are recorded.

3. **Release**

- (1) Upon the Clearing House being satisfied that the Secured Obligations have been irrevocably paid or discharged in full, the Clearing House shall, at the request and cost of the Chargor, release or discharge (as appropriate) all the Charged Property from the security created by this Deed provided that, without prejudice to any remedy which the Chargor may have if the Clearing House fails to comply with its obligations under this Clause, such actions shall be without recourse to, and without any representations or warranties by, the Clearing House or any of its nominees
- (2) The Chargor may, in the circumstances specified in sections 1.1.2 and 1.1.3 of the Procedures Section 4 (*Margin and Collateral*), request that part or all of the Charged Property, or the proceeds thereof, be returned or repaid to, or to the order of, the Chargor. Where, pursuant to such a request, the Clearing House returns or repays any of the Charged Property, or the proceeds thereof, pursuant to sections 1.1.2 or 1.1.3 of the Procedures Section 4 (*Margin and Collateral*), such Charged Property shall be released or discharged (as appropriate) from the security interest created over such Charged Property and the proceeds thereof pursuant to Clause 2(1) with effect from the time such Charged Property, or the proceeds thereof, are transferred by the Clearing House to, or to the order of, the Chargor in accordance with the Procedures.

4. **Income**

Prior to a Default (as defined in Clause 11(1) below), the Clearing House consents to the payment or transfer of any and all Distributions received by the Clearing House in respect of any Charged Property to the Chargor (and upon such payment or transfer, the Distributions shall be released from the security constituted by this Deed) provided that, in the Clearing House's reasonable view, the Clearing House would still have sufficient security, following such payment or transfer, to secure the Secured Obligations.

5. **Voting rights, calls and other obligations in respect of the Securities**

- (1) The Chargor must pay all calls and other payments due and payable in respect of any Securities and must comply with all requests (including requests for information by any listing or other authority), obligations and conditions relating to the Securities. In any case of default by the Chargor in this respect the Clearing House may if it thinks fit make any such payments on behalf of the Chargor (but shall be under no obligation to do so) in which event any sums so paid shall be reimbursed by the Chargor on demand by the Clearing House and until reimbursed shall bear interest in accordance with Clause 1A(2) above.

- (2) The Chargor shall not exercise or be entitled to exercise any voting rights, powers and other rights in respect of the Securities which are held by the Clearing House for the account of the Chargor pursuant to this Deed.

6. **Reinstatement**

If any discharge, release or arrangement is made by the Clearing House in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of the Chargor and the security created by this Deed will continue or be reinstated as if the discharge, release or arrangement had not occurred.

7. **Warranties and Undertakings**

The Chargor hereby represents and warrants to the Clearing House and undertakes on an ongoing basis that:

- (i) the Chargor is duly incorporated or organised and validly existing under the laws of its jurisdiction of organisation or incorporation;
- (ii) the Chargor and each of its subsidiaries has the power to own its assets and carry on its business as it is being conducted;
- (iii) subject to any legal or equitable interest which any common depository, Clearance System or Custodian Bank may have in any Securities and to any third party's beneficial interest in the Charged Property which ranks behind the rights of the Clearing House in respect of the Charged Property, the Chargor is and will at all times during the subsistence of the security and security interest hereby constituted, be the sole and lawful owner of, and be entitled to the entire beneficial interest in, the Charged Property free from mortgages or charges (other than as a result of the security created under this Deed, any charge or lien arising in favour of any Clearance System or Custodian Bank and any charge in favour of the Chargor) or other encumbrances and no other person (save as aforesaid) has any rights or interests therein;
- (iv) save as contemplated by Clause 3(2), the Chargor has not sold or agreed to sell or otherwise disposed of or agreed to dispose of, and will not at any time during the subsistence of the security hereby constituted sell or agree to sell or otherwise dispose of or agree to dispose of, the benefit of all or any rights, titles and interest in and to the Charged Property or any part thereof;
- (v) the Chargor has and will at all material times have the necessary power to enable the Chargor to enter into and perform the obligations expressed to be assumed by the Chargor under this Deed;



- (vi) this Deed constitutes legal, valid, binding and enforceable obligations of the Chargor and is a security over, and confers a first security interest in, the Charged Property and every part thereof, effective in accordance with its terms (subject to applicable bankruptcy, resolution, reorganisation, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law));
- (vii) all necessary authorisations and filings to enable or entitle the Chargor to enter into this Deed have been obtained and are in full force and effect and will remain in such force and effect at all times during the subsistence of the security hereby constituted;
- (viii) the execution of this Deed does not violate any agreement to which the Chargor is a party or breach any obligation to which the Chargor is subject and does not conflict with any law or regulation applicable to it (if such conflict would adversely affect the Clearing House's rights under this Deed) or its constitutional documents;
- (ix) it has been and shall at all times remain expressly agreed between the Chargor and each of the Chargor's clients or other persons who are for the time being (or would be, but for the provisions of this Deed) entitled to the entire beneficial interest in all or any parts of the Charged Property that, in relation to any assets from time to time held by the Chargor or delivered to the Chargor for the account of any such client or other person which at any time form part of the Charged Property, the Chargor may, free of any interest of any such client or other person therein which is adverse to the Clearing House, charge or otherwise constitute security over such assets in favour of the Clearing House on such terms as the Clearing House may from time to time prescribe and, in particular but without limitation, on terms that the Clearing House may enforce and retain such charge or other security in satisfaction of or pending discharge of all or any obligations of the Chargor to the Clearing House;
- (x) in no case is the Chargor or the Chargor's client or other person who is for the time being the lawful owner of or person entitled to the entire beneficial interest in any part of the Charged Property, nor will the Chargor, client or other such person be, in breach of any trust or other fiduciary duty in placing or authorising the placing of any Charged Property (or rights, benefits or proceeds forming part of the Charged Property) under this Deed;
- (xi) no corporate actions, legal proceedings or other procedure or steps have been taken in relation to, or notice given in respect of, a composition, compromise, assignment or arrangement with any creditor of the Chargor or in relation to the suspension of payments or moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of, or the appointment of an administrator

to, the Chargor (other than any which will be dismissed, discharged, stayed or restrained within 15 days of their instigation) and no such step is intended by the Chargor (save for the purposes of any solvent re-organisation or reconstruction which has previously been approved by the Clearing House); and

- (xii) the Chargor undertakes to abide by the Procedures as in effect from time to time.

8. **Negative Pledge**

- (1) The Chargor hereby undertakes with the Clearing House that at no time during the subsistence of the security hereby constituted will the Chargor, otherwise than:

- (i) in favour of the Clearing House; or

- (iii) with the prior written consent of the Clearing House and in accordance with and subject to any conditions which the Clearing House may attach to such consent,

create, grant, extend or, except in relation to any charge or lien in favour of any Clearance System or Custodian Bank, permit to subsist any mortgage or other fixed security or any floating charge or other security interest on, over or in the Charged Property or any part thereof. The foregoing prohibition shall apply not only to mortgages, other fixed securities, floating charges and security interests which rank or purport to rank in point of security in priority to the security hereby constituted but also to any mortgages, securities, floating charges or security interests which rank or purport to rank *pari passu* therewith or thereafter.

- (2) Sub-paragraph (1) above does not, during the subsistence of the security hereby constituted, operate to prevent the Chargor from continuing to hold a security interest in the Charged Property previously created in favour of the Chargor, *provided always* that the interest in favour of the Chargor shall rank after the security created by this Deed.

9. **Preservation of Charged Property**

- (1) Until the security hereby constituted shall have been discharged, the Chargor shall ensure, unless required by law or regulation to restrict any transfer (in which case the Chargor shall immediately notify the Clearing House of such restrictions), that all of the Charged Property is and at all times remains free from any restriction on transfer.

- (2) The Chargor shall not, to the extent that the same is within the control of the Chargor, permit or agree to any variation of the rights attaching to or conferred

by the Charged Property or any part thereof without the prior consent of the Clearing House in writing.

- (3) The Clearing House shall not have any right of use or re-hypothecation right, in respect of the Charged Property, whether under Regulation 16 of the Financial Collateral Arrangements (No.2) Regulations 2003, the New York Uniform Commercial Code or any applicable Federal law of the United States or otherwise, *provided that* this provision shall not affect the powers of the Clearing House under Clauses 12 (*Power of Sale*) and 13 (*Right of Appropriation*) or any other rights to enforce the security interest herein created against the Charged Property.

10. **Further Assurance**

- (1) In the case of any part of the Charged Property situated in the United States of America, it is acknowledged and agreed by the Chargor that this Deed shall also constitute a security agreement for the purpose of creating a security interest in the Charged Property under applicable provisions of the Uniform Commercial Code or other applicable laws or regulations of the State of New York. For purposes hereof, "**Charged Property situated in the United States of America**" means: (i) in the case of any securities account and/or securities entitlements or other rights or assets or investment property credited to a securities account as financial assets, a securities account maintained with a securities intermediary whose jurisdiction is New York or any other State of the United States for purposes of the NY UCC; (ii) in the case of any deposit account and/or any amounts credited to a deposit account, a deposit account maintained with a bank whose jurisdiction is New York or any other State of the United States for purposes of the NY UCC; and (iii) in the case of any commodity account or any commodity contract credited to a commodity account such commodity account is maintained with a commodity intermediary whose jurisdiction is New York or any other State of the United States for purposes of the NY UCC . In furtherance of the foregoing and without limiting the generality of Clause 2 (*Charge*) above, in order to secure the payment, performance and observance of the Secured Obligations, the Chargor hereby grants to the Clearing House a continuing security interest in, right of set-off against, and an assignment to the Clearing House of all of the Charged Property situated in the United States of America and all rights thereto, in each case whether now owned or existing or hereafter acquired or arising and which shall include, without limitation, all of the Chargor's interests in any deposit accounts, investment property and securities entitlements (as such terms are defined in the Uniform Commercial Code of the State of New York; the "**NY UCC**"), together with all proceeds (as defined in the NY UCC) and products of all or any of the property described above.
- (2) The Chargor undertakes promptly to execute and do (at the cost and expense of the Chargor) all such deeds, documents, acts and things as may be

necessary or desirable in order for the Clearing House to enjoy a fully perfected security interest in the whole of the Charged Property, including without limitation the deposit of the Charged Property with a Clearance System or Custodian Bank (as applicable) and the perfection of pledges or transfers under such laws, of whatever nation or territory, as may govern the pledging or transfer of the Charged Property or part thereof or other mode of perfection of this Deed and the security interest expressed to be created hereby. Without limiting the foregoing, the Chargor agrees with and covenants to the Clearing House that with respect to all Charged Property situated in the United States of America consisting of investment property, money, instruments, securities, securities entitlements, other financial assets and commodity contracts (as defined in the NY UCC), such Charged Property shall be held, maintained or deposited, as applicable, in a securities account or commodity account (in the case of commodity contracts) (such that, in each case, the Clearing House shall become the entitlement holder thereof, as defined in the NY UCC) or a deposit account (as defined in the NY UCC), in the case of Charged Property that may be credited to a Deposit Account, in the name of the Clearing House, or, if permitted by the Procedures, may be maintained and held in the Chargor's name at a Chargor Custodian Bank (whose jurisdiction is New York or any other State of the United States for purposes of the NY UCC) which shall have executed and delivered to the Clearing House an agreement whereby such Chargor Custodian Bank agrees that it will comply with entitlement orders of the Clearing House without further consent by the Chargor. Notwithstanding anything to the contrary herein, in respect of any Charged Property situated in the United States of America, the Clearing House shall comply with all non-waivable requirements of the NY UCC with respect to how the secured party must deal with collateral under its control or in its possession.

11. **Enforcement of Security**

(1) On and at any time:

- (i) if a Default Notice is served on the Chargor in accordance with Rule 3 of the Default Rules; or
- (ii) if the Chargor requests the Clearing House to exercise any of its powers under this Deed,

(each such event a "**Default**"), the security created by or pursuant to this Deed is immediately enforceable and the Clearing House may, without notice to the Chargor or prior authorisation from any court, in its absolute discretion:

- (a) enforce all or any part of the security created by this Deed (at the times, in the manner and on the terms it thinks fit) and take possession of (provided that the Clearing House will not be liable, by reason of entering into possession of any Charged Property, to account as

mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession may be liable unless such loss, default or omission is caused by the Clearing House's gross negligence or wilful misconduct) and hold, sell, or otherwise dispose of all or any part of the Charged Property (at the time, in the manner and on the terms it thinks fit); and

- (b) whether or not it has appointed a Receiver, exercise all or any of the powers, authorisations and discretions conferred by the Law of Property Act 1925 (as varied or extended by this Deed) on chargees and by this Deed on any Receiver or otherwise conferred by law on chargees or Receivers.
- (2) The power of sale and other powers conferred by section 101 of the Law of Property Act 1925 on mortgagees, as varied and extended by this Deed, shall arise (and the Secured Obligations shall be deemed due and payable for that purpose) on the date of this Deed and shall be exercisable in accordance with Clause 11(1).

12. **Power of Sale**

- (1) If a Default has occurred, the Clearing House shall have and be entitled without prior notice to the Chargor to exercise the power to sell or otherwise dispose of, for any consideration (whether payable immediately or by instalments) as the Clearing House shall think fit, the whole or any part of the Charged Property and may (without prejudice to any right which it may have under any other provision hereof) treat such part of the Charged Property as consists of money as if it were the proceeds of such a sale or other disposal. The Clearing House shall be entitled to apply the proceeds of such sale or other disposal in paying the costs of such sale or other disposal and (subject to the rights or claims of any person entitled in priority to the Clearing House) in or towards the discharge of the Secured Obligations, the balance (if any) to be paid to the Chargor or other persons entitled thereto. Such power of sale or other disposal shall operate as a variation and extension of the statutory power of sale under section 101 of the Law of Property Act 1925.
- (2) The restriction contained in section 103 of the Law of Property Act 1925 on the exercise of the statutory power of sale shall not apply to any exercise by the Clearing House of its power of sale or other disposal. In favour of a purchaser a certificate in writing by an officer or agent of the Clearing House that either or both of such powers has arisen and is exercisable shall be conclusive evidence of that fact.
- (3) Upon any such default or failure as aforesaid the Clearing House shall also have with respect to any part of the Charged Property situated in the United States of America all of the rights and remedies of a secured party under the NY UCC or any other applicable law of the State of New York and all rights provided



herein or in any other applicable security, loan or other agreement, all of which rights and remedies shall to the full extent permitted by law be cumulative.

13. **Right of Appropriation**

(1) To the extent that any of the Charged Property constitutes "financial collateral" and this Deed and the obligations of the Chargor hereunder constitute a "security financial collateral arrangement" (in each case as defined in, and for the purposes of, the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226), as amended, (the "**Regulations**") the Clearing House shall have the right (at any time following the occurrence of a Default) to appropriate all or any part of such financial collateral in or towards discharge of the Secured Obligations and may exercise such right to appropriate upon giving written notice to the Chargor. For this purpose, the parties agree that the value of such financial collateral so appropriated shall be determined as follows:

(a) if the financial collateral is listed or traded on a recognised exchange or by reference to a public index, its value will be taken as the value at which it could have been sold on the exchange or which is given in the public index on the date of appropriation; and

(b) in any other case, the value of the financial collateral will be such amount as the Clearing House reasonably determines having taken into account advice obtained by it from an independent investment or accountancy firm of national standing selected by it.

(2) The parties agree that the method of valuation provided for in this Deed shall constitute a commercially reasonable method of valuation for the purposes of the Regulations.

14. **Immediate Recourse**

The Chargor waives any right it may have of first requiring the Clearing House to proceed against or enforce any other rights or security or claim payment from any person before claiming from the Chargor under this Deed. This waiver applies irrespective of any law or any provision of this Deed to the contrary.

15. **Consolidation of Securities**

Subsection (1) of section 93 of the Law of Property Act 1925 shall not apply to this Deed.

16. **Effectiveness of Security**

(1) This Deed shall be in addition to and shall be independent of every other security which the Clearing House may at any time hold for any of the Secured Obligations. No prior security held by the Clearing House over the whole or any

part of the Charged Property shall merge into the security hereby constituted.

- (2) This Deed shall remain in full force and effect as a continuing security unless and until the Clearing House discharges it.
- (3) Nothing contained in this Deed is intended to, or shall operate so as to, prejudice or affect any bill, note, guarantee, mortgage, pledge, charge or other security of any kind whatsoever which the Clearing House may have for the Secured Obligations of any of them or any right, remedy or privilege of the Clearing House thereunder.

17. **Avoidance of Payments**

If the Clearing House considers that any payment or discharge of the Secured Obligations is capable of being avoided or reduced by virtue of any bankruptcy, insolvency, liquidation or similar laws then such payment or discharge shall not be considered to have been made for the purposes of determining whether the Secured Obligations have been irrevocably paid or discharged in full.

18. **Power of Attorney**

The Chargor hereby irrevocably appoints the Clearing House to be the Chargor's attorney and in the Chargor's name and on the Chargor's behalf and as the act and deed of the Chargor to sign, seal, execute, deliver, perfect and do all deeds, instruments, mortgages, acts and things as may be, or as the Clearing House may consider to be, requisite for carrying out any obligation imposed on the Chargor under Clause 10 (*Further Assurance*) above, or for enabling the Clearing House to exercise its power of sale or other disposal referred to in Clause 12 (*Power of Sale*) above or for carrying out any such sale or other disposal made under such power into effect, or exercising any of the rights and powers referred to in Clause 9 (*Preservation of Charged Property*) above, including without limitation the appointment of any person as a proxy of the Chargor. The Chargor hereby undertakes to ratify and confirm all things done and documents executed by the Clearing House in the exercise of the power of attorney conferred by this Clause.

19. **Receivers and Administrators**

- (1) At any time after having been requested to do so by the Chargor or after this Deed becomes enforceable in accordance with Clause 11 (*Enforcement of Security*) above the Clearing House may by deed or otherwise (acting through an authorised officer of the Clearing House), without prior notice to the Chargor:
  - (a) appoint one or more persons to be a Receiver of the whole or any part of the Charged Property;
  - (b) appoint one or more Receivers of separate parts of the Charged

Property respectively;

- (c) remove (so far as it is lawfully able) any Receiver so appointed; and
  - (d) appoint another person(s) as an additional or replacement Receiver(s).
- (2) Each person appointed to be a Receiver pursuant to sub-paragraph (1) above will be:
- (a) entitled to act individually or together with any other person appointed or substituted as Receiver;
  - (b) for all purposes deemed to be the agent of the Chargor which shall be solely responsible for his acts, defaults and liabilities and for the payment of his remuneration and no Receiver shall at any time act as agent for the Clearing House; and
  - (c) entitled to remuneration for his services at a rate to be fixed by the Clearing House from time to time (without being limited to the maximum rate specified by law including the Law of Property Act 1925).
- (3) The powers of appointment of a Receiver shall be in addition to all statutory and other powers of appointment of the Clearing House under the Law of Property Act 1925 (as extended by this Deed) or otherwise and such powers shall remain exercisable from time to time by the Clearing House in respect of any part of the Charged Property.
- (4) Every Receiver shall (subject to any restrictions in the instrument appointing him but notwithstanding any winding-up or dissolution of the Chargor) have and be entitled to exercise, in relation to the Charged Property in respect of which he was appointed, and as varied and extended by the provisions of this Deed (in the name of or on behalf of the Chargor or in his own name and, in each case, at the cost of the Chargor):
- (a) all the powers conferred by the Law of Property Act 1925 on mortgagors and on mortgagees in possession and on receivers appointed under that Act;
  - (b) all the powers of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986 (whether or not the Receiver is an administrative receiver);
  - (c) all the powers and rights of an absolute owner and power to do or omit to do anything which the Chargor itself could do or omit to do;
  - (d) the power to delegate (either generally or specifically) the powers,

authorities and discretions conferred on it by this Deed (including the power of attorney) on such terms and conditions as it shall see fit. Such delegation shall not preclude either the subsequent exercise or any subsequent delegation or any revocation of such power, authority or discretion by the Receiver itself; and

- (e) the power to do all things (including bringing or defending proceedings in the name or on behalf of the Chargor) which seem to the Receiver to be incidental or conducive to:
  - (i) any of the functions, powers, authorities or discretions conferred on or vested in him;
  - (ii) the exercise of any rights, powers and remedies of the Clearing House provided by or pursuant to this Deed or by law (including realisation of all or any part of the Charged Property); or
  - (iii) bringing to his hands any assets of the Chargor forming part of, or which when got in would be, Charged Property.
- (5) The receipt of the Clearing House or any Receiver shall be a conclusive discharge to a purchaser and, in making any sale or disposal of any of the Charged Property or making any acquisition, the Clearing House or any Receiver may do so for such consideration, in such manner and on such terms as it thinks fit.
- (6) No purchaser or other person dealing with the Clearing House or any Receiver shall be bound to inquire whether the right of the Clearing House or such Receiver to exercise any of its powers has arisen or become exercisable or be concerned with any propriety or regularity on the part of the Clearing House or such Receiver in such dealings.
- (7) Any liberty or power which may be exercised or any determination which may be made under this Deed by the Clearing House or any Receiver may be exercised or made in its absolute and unfettered discretion without any obligation to give reasons.

20. **No liability**

Neither the Clearing House nor any receiver appointed pursuant to this Deed shall be liable by reason of: (a) taking any action permitted by this Deed; or (b) any neglect or default in connection with the Charged Property; or (c) the taking possession or realisation of all or any part of the Charged Property, except in the case of gross negligence or wilful default upon its part.

21. **Remedies, Time or Indulgence**

- (1) The rights, powers and remedies provided by this Deed are cumulative and are not, nor are they to be construed as, exclusive of any right of set-off or other rights, powers and remedies provided by law.
- (2) The obligations of the Chargor under this Deed shall not be affected by any act, omission or circumstance which, but for this provision, might operate to release or otherwise exonerate the Chargor from its obligations under this Deed or affect such obligations including (without limitation and whether or not known to the Chargor or the Clearing House):
  - (a) any unenforceability, illegality, invalidity or non-provability of any obligation of the Chargor or any other person; or
  - (b) any incapacity or lack of power, authority or legal personality or dissolution or change in the members or status of the Chargor or any other person.
- (3) No failure on the part of the Clearing House to exercise, or delay on its part in exercising, any of the rights, powers and remedies provided by this Deed or by law (collectively "**the Clearing House's Rights**") shall operate as a waiver thereof, nor shall any single or partial waiver of any of the Clearing House's Rights preclude any further or other exercise of that or any other of the Clearing House's Rights.
- (4) The Clearing House may in its discretion grant time or other indulgence or make any other arrangement, variation or release with any person not party hereto (irrespective of whether such person is liable with the Chargor) in respect of the Secured Obligations or in any way affecting or concerning them or any of them or in respect of any security for the Secured Obligations or any of them, without in any such case prejudicing, affecting or impairing the security hereby constituted, or any of the Clearing House's Rights or the exercise of the same, or any indebtedness or other liability of the Chargor to the Clearing House.

22. **Costs, Charges and Expenses**

All costs, charges and expenses of the Clearing House incurred in the exercise of any of the Clearing House's Rights, or in connection with the execution of or otherwise in relation to this Deed or in connection with the perfection or enforcement of all security hereby constituted shall be reimbursed to the Clearing House by the Chargor on demand on a full indemnity basis together with interest from the date of the same having been incurred to the date of payment at the rate referred to in Clause 1A(2) above.



23. **Accounts**

All monies received, recovered or realised by the Clearing House under this Deed (including the proceeds of any conversion of currency) may in the discretion of the Clearing House be credited to any suspense or impersonal account and may be held in such account for so long as the Clearing House shall think fit (with interest accruing thereon at such rate, if any, as the Clearing House may deem fit) pending their application from time to time (as the Clearing House shall be entitled to do in its discretion) in or towards the discharge of any of the Secured Obligations.

24. **Currency**

- (1) For the purpose of or pending the discharge of any of the Secured Obligations the Clearing House may convert any monies received, recovered or realised or subject to application by the Clearing House under this Deed (including the proceeds of any previous conversion under this Clause) from their existing currency of denomination into such other currency of denomination as the Clearing House may think fit, and any such conversion shall be effected at such commercial spot selling rate of exchange then prevailing for such other currency against the existing currency as the Clearing House may in its discretion determine.
- (2) References herein to any currency extend to any funds of that currency and for the avoidance of doubt funds of one currency may be converted into different funds of the same currency.

25. **Notices**

- (1) Any notice or demand (including any Default Notice) requiring to be served on the Chargor by the Clearing House hereunder may be served on any of the officers of the Chargor personally, or by letter addressed to the Chargor or to any of its officers and left at its registered office or any one of its principal places of business, or by posting the same by letter addressed in any such manner as aforesaid to such registered office or any such principal place of business.
- (2) Any notice or demand (including any Default Notice) sent by post in accordance with sub-paragraph (1) of this Clause shall be deemed to have been served on the Chargor at 10 a.m. Greenwich Mean Time on the business day next following the date of posting. In proving such service by post it shall be sufficient to show that the letter containing the notice or demand (including any Default Notice) was properly addressed and posted and such proof of service shall be effective notwithstanding that the letter was in fact not delivered or was returned undelivered.

26. **Provisions Severable**

Each of the provisions contained in this Deed shall be severable and distinct from one another and if at any time any one or more of such provisions is or becomes invalid, illegal or unenforceable, the validity, legality and enforceability of each of the remaining provisions of this Deed shall not in any way be affected, prejudiced or impaired thereby.

27. **Clearing House's Discretions**

Any liberty or power which may be exercised or any determination which may be made hereunder by the Clearing House may (save where stated to the contrary) be exercised or made in the absolute and unfettered discretion of the Clearing House which shall not be under any obligation to give reasons thereof.

28. **Third Party Rights**

A person who is not a party to this Deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Deed.

29. **Law and Jurisdiction**

This Deed, and any non-contractual obligations arising herefrom, shall be governed by and construed in accordance with English law, and the Chargor hereby irrevocably submits to the non-exclusive jurisdiction of the English courts; provided that with respect to issues arising as a result of the provisions of Clause 10(1) above or the use of this Deed as a security agreement as provided therein, this Deed shall be governed by and construed in accordance with applicable laws of the State of New York.

**The Chargor**

Executed as a **DEED** by

**The Chargor**

**[CHARGOR NAME]**

.....  
Signature of Director

.....  
Name of Director

.....  
Date

.....  
Signature of Director/Secretary

.....  
Name of Director/Secretary

.....  
Date

**The Clearing House**

**LCH Limited**

.....  
Signature of Authorised Signatory

.....  
Name of Authorised Signatory

.....  
Title of Authorised Signatory

.....  
Date

.....  
Signature of Authorised Signatory

.....  
Name of Authorised Signatory

.....  
Title of Authorised Signatory

.....  
Date

**Dated** \_\_\_\_\_

\_\_\_\_\_

and

**LCH LIMITED**

\_\_\_\_\_  
**CHARGE BY CLEARING MEMBER  
SECURING OWN OBLIGATIONS**  
\_\_\_\_\_

**SCHEDULE 3 -FOREXCLEAR OPTIONS CLEARING SERVICE RULES**



**VIA CFTC PORTAL SUBMISSION**

15 March 2018

Mr. Christopher Kirkpatrick  
Commodity Futures Trading Commission  
1155 21<sup>st</sup> Street NW  
Three Lafayette Centre  
Washington DC 20581

Dear Mr. Kirkpatrick:

LCH Limited ("LCH"), a derivatives clearing organization registered with the Commodity Futures Trading Commission (the "CFTC"), is submitting for self-certification, pursuant to CFTC regulation §40.6(a), Rulebook changes in respect of the ForexClear service. These changes will take effect on or after May 14, 2018.

**Part I: Explanation and Analysis**

The ForexClear service proposes to introduce clearing of European Plain Vanilla FX Options in eight currency pairs (through six currencies) and associated hedge trades (i.e. FX Forward, Swap and Spot trades)<sup>1</sup>. ForexClear will accept trades for clearing that have a remaining maturity between one business day<sup>2</sup> and two calendar years for currency pairs AUD/USD, EUR/USD, EUR/CHF, EUR/GBP, EUR/JPY, GBP/USD, USD/CHF, USD/JPY. All currency pairs follow well established calendar conventions and have a settlement convention of T+2, and LCH retains full responsibility for the 'clearing to settlement' process, with some settlement aspects being undertaken in conjunction with CLS<sup>3</sup>, with whom LCH has entered into a development and participation agreement.

ForexClear performed rigorous analysis to determine the feasibility of adding FX Option currency pairs and associated hedges to the ForexClear service portfolio. This analysis informed the LCH §39.5(a) submission to the CFTC in September 2017<sup>4</sup>. The risk management procedures for this new product adhere to the principles adopted by LCH, and set out in its Group Risk Policies. Some new risks have been identified (e.g. the settlement and exercise/expiry processes are new to the ForexClear service portfolio of products). Accordingly, ForexClear has implemented appropriate controls to mitigate such risks. The terms of the eligible contracts are as set out in the LCH Rulebook.

---

<sup>1</sup> Client clearing of deliverable FX Options and associated hedges will not be available at initial launch. This may be offered as a later phase.

<sup>2</sup> Next day trades are only permitted for settlement management purposes. Moreover, although ForexClear will be able to accept trades with same-day settlement in a default management scenario, trades with these economics will not be eligible in business-as-usual circumstances.

<sup>3</sup> CLS Bank International, the global utility for eliminating settlement risk in FX transactions.

<sup>4</sup> CFTC letter to LCH dated October 18, 2017, deemed LCH eligible to clear Foreign Exchange Options pursuant to section 5c(c)(5)(C)(iii) of the Commodity Exchange Act ("CEA") and CFTC regulation 39.5(a)(2).

**Part II: Description of Rule Changes**

In support of this initiative changes are required to the Rulebook. A summary of the changes (*Appendix A*) and marked-up versions of the sections noted below are included as appendices to this letter:

- General Regulations (*Appendix B*)
- Default Rules (*Appendix C*)
- Settlement Finality Regulations (*Appendix D*)
- Procedures Section 1 – Clearing Member and Dealer Status (*Appendix E*)
- Procedures Section 21 – ForexClear Service (*Appendix F*)
- Product Specific Contract Terms and Eligibility Criteria Manual (*Appendix G*)

**Part III: Core Principle Compliance**

LCH has concluded that compliance with the Core Principles will not be adversely impacted by this initiative, which complies with all Core Principles.

**Part IV: Public Information**

LCH has posted a notice of pending certification with the CFTC and a copy of this submission on the LCH website at <http://www.lch.com/rules-regulations/proposed-rules-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 that were not incorporated into this change.

**Certification**

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

Should you have any questions regarding this submission please contact me at [julian.oliver@lch.com](mailto:julian.oliver@lch.com)

Yours sincerely,



Julian Oliver  
Chief Compliance Officer

**LCH Rule Submission**

**Appendix A**

**Summary of Rulebook Changes**

General Regulations	Explanation
Scope	Re-numbering of Regulations applicable to the ForexClear and Listed Rates services.
Regulation 1 (Definitions)	Regulation 1 has been amended to include (i) new definitions specific to the ForexClear Option Service and (ii) revisions to existing definitions to extend their application to the ForexClear Option Service.
Regulation 2 (Obligations of the Clearing House to Each Member)	Clarifying amendment to sub-paragraph (c).
Regulation 12 (Novation)	Regulation 12 has been amended to exclude ForexClear Option Transactions from the option exercise provisions in that regulation (option exercise for ForexClear Option Transactions will be governed by Regulation 94).
Regulation 16	Amended to support the registration of ForexClear Option Transactions.
Regulation 52 (Exclusion of Liability)	Regulation 52 has been amended to provide for a limitation of liability in favour of the Clearing House by clearing members incurred as a result of any service failure of a Settlement Service Provider – see new subparagraph (i).
Regulation 90	Clarifying amendments.
Regulation 91 (Registration of ForexClear Contracts)	<p>Regulation 91 has been amended to expand the definition of “Ineligible Transaction” to include certain ForexClear Deliverable Forward Transactions, ForexClear Spot Transactions or ForexClear Swap Transactions that were not entered into in accordance with Regulation 98(a) or Regulation 100 or 101, respectively.</p> <p>Additionally, Regulation 91 will provide that, upon the exercise or deemed exercise of a ForexClear Option Contract, the relevant ForexClear Spot or Deliverable Forward Contract will be deemed immediately registered by the Clearing House.</p> <p>Clarifying and conforming changes are also made.</p>
Regulation 92	Conforming changes.
Regulation 94 (Exercise of ForexClear Option Contracts)	<p>New Regulation 94 is inserted to provide (i) the mechanism by which a ForexClear Option Buyer may exercise the rights granted to it pursuant to a ForexClear Option Contract and (ii) if a ForexClear Option Contract is not exercised or deemed to have been exercised pursuant to the Regulations, such contract shall immediately expire and become void.</p> <p>Subsequent Regulations are re-numbered.</p>
Regulation 95 (Compression)	Amended to exclude ForexClear Option Contracts from its scope (i.e., ForexClear Option Contracts will not be eligible for compression services).
Regulation 96 (Settlement of ForexClear Option Contracts)	Inserted to detail the settlement of ForexClear Option Contracts, providing that, under the relevant ForexClear Option Contract, the ForexClear Option Buyer and ForexClear Option Seller must pay to the Clearing House the Put Currency Amount and Call Currency Amount, respectively, on the relevant Settlement Date.
Regulation 97 (Premium under ForexClear Option Contracts)	Regulation 97 is inserted to provide that the premium payable under a ForexClear Option Contract shall be paid in the form and manner set forth in the Procedures.
Regulation 98 (Hedging of ForexClear Option Contracts)	Inserted to provide that a ForexClear Deliverable Forward Transaction or ForexClear Spot Transaction may only be submitted for registration by a ForexClear Clearing Member to hedge (i) foreign exchange exposure, (ii) reduction of initial margin requirements and (iii) reduction of settlement risk.
Regulation 99 (ForexClear Option Service – Membership Requirements)	Inserted to provide that the membership requirements for the ForexClear Option Service will be set forth in the Procedures. Additionally, the new regulation sets forth the actions the Clearing House may take in the event a ForexClear Option Clearing Member ceases to meet one or more of the ForexClear Option Service Membership Requirements.

<p>Regulation 100 <i>(ForexClear Option Service – Settlement Limits, Settlement Trade Down and Settlement Events)</i></p>	<p>New language inserted to provide the following:</p> <ul style="list-style-type: none"> <li>(i) the Clearing House may determine the Settlement Position Limit (the maximum permitted net deliverable or payable in a given currency on a given day arising from all ForexClear Option Contracts), Settlement Exposure Limit (the maximum permitted net deliverable or payable value in a given currency on any given day from all ForexClear Option Contracts that have a settlement date falling greater than two days from a given day) and Mandatory ForexClear Swap Limit (the maximum amount of swap transactions in a given currency the Clearing House is entitled to enter into on behalf of a ForexClear Option Clearing Member in accordance with Regulation 101) with respect to each ForexClear Option Clearing Member and ForexClear Currency;</li> <li>(ii) in the event the Clearing House wishes to change the limits referred to in clause (i), the Clearing House must propose a ballot to all ForexClear Option Clearing Members on no fewer than 10 business days' notice. If 75% or more ForexClear Option Clearing Members vote in favour (those ForexClear Option Clearing Members that do not submit a vote shall be deemed to vote in favour), the relevant revised limit will take effect following 30 calendar days (or such other time as the Clearing House determines);</li> <li>(iii) in the event the Clearing House wishes to change the caps associated with the limits references in clause (i), the Clearing House must propose a ballot upon no fewer than 10 business days' notice. Any change in a cap requires consent of 100% of ForexClear Option Clearing Members; provided, however, that the Clearing House may amend a cap in its sole discretion in limited situations (e.g., for risk related reasons);</li> <li>(iv) each business day at 10:00AM EST, the Clearing House will compare the Settlement Position Limit with respect to each ForexClear Option Clearing Member and each ForexClear Currency with the outstanding exposure of such ForexClear Option Clearing in the given ForexClear Currency. In the event the relevant ForexClear Option Clearing Member's exposure exceeds the relevant Settlement Position Limit, the Clearing House shall give notice to the relevant ForexClear Option Clearing Member and instruct it to trade down within the applicable Settlement Position Limit. In the event the relevant ForexClear Option Clearing Member does not do so by 5:00PM EST, a ForexClear Settlement Event will be declared and the Clearing House may take certain actions on behalf of the relevant ForexClear Option Clearing Member, including entering into Mandatory Settlement ForexClear Swap Contracts to reduce the relevant exposure; and</li> <li>(v) Each ForexClear Transaction (other than a ForexClear NDF Transaction) submitted for registration to the Clearing House must pass a pre-registration check, pursuant to which the Clearing House may refuse to register the relevant ForexClear Transaction if, with respect to the given Settlement Date of such ForexClear Transaction, the Settlement Exposure Amount in the relevant ForexClear Currency exceeds the relevant Settlement Exposure Limit.</li> </ul>
<p>Regulation 101 <i>(ForexClear Option Service – Liquidity Event)</i></p>	<p>New language inserted to provide:</p> <ul style="list-style-type: none"> <li>(i) in the event a ForexClear Option Clearing Member does not pay in all its relevant liabilities by 8:00AM CET on a given day, the Clearing House shall declare a ForexClear Liquidity Event has occurred, whereby the Clearing House may take certain actions, including, booking Mandatory ForexClear Swap Contracts and/or utilizing Liquidity Fund Contributions to effect full settlement; and</li> </ul>



	<p>(ii) in the event the Clearing House determines a daily settlement cycle will not complete before the applicable cut-of time for any reason, the Clearing House may book Mandatory ForexClear Swap Contracts to one or more ForexClear Option Clearing Members to effect the forward roll of all relevant liabilities to the next business day.</p>
<p>Regulation 102 (<i>ForexClear Option Service – Liquidity Fund Contributions</i>)</p>	<p>New language inserted to provide that:</p> <ul style="list-style-type: none"> <li>(i) ForexClear Option Clearing Members must pay to the Clearing House Liquidity Fund Contributions in all relevant currencies as a condition to ForexClear Option Service Membership;</li> <li>(ii) the size of Liquidity Fund Contributions is to be determined by the Clearing House, in its sole discretion, and may be amended upon no fewer than 30 days' prior notice;</li> <li>(iii) the Clearing House shall hold Liquidity Fund Contributions at central bank accounts;</li> <li>(iv) Liquidity Fund Contributions shall be returned to ForexClear Option Clearing Members upon the effectiveness of termination of their ForexClear Option Service Membership; and</li> <li>(v) in the event a ForexClear Option Clearing Member's Liquidity Fund Contribution is diminished as a result of the Clearing House exercising its rights under Regulation 101 (during a Liquidity Event), that ForexClear Option Clearing Member must pay to the Clearing House the amount of cash that was so diminished.</li> </ul>
<p>Regulation 103 (<i>Allocation of Mandatory ForexClear Swap Contracts and Mandatory Settlement ForexClear Swap Contracts</i>)</p>	<p>New language inserted to set forth the Clearing House's rights to effect the allocation of Mandatory ForexClear Swap Contracts and Mandatory Settlement ForexClear Swap Contracts to ForexClear Option Clearing Members.</p>
<p>Regulation 104 (<i>ForexClear Option Service – Payment Netting</i>)</p>	<p>Language inserted to provide for paying netting with respect to amounts payable by and to a ForexClear Clearing Member from the Clearing House's accounts at the Settlement Service Provider.</p>
<p>Regulation 105 (<i>ForexClear Option Service – Authority to Bind ForexClear Option Clearing Members</i>)</p>	<p>Language sets forth the rights granted to the Clearing House to act as agent for each ForexClear Option Clearing Member to:</p> <ul style="list-style-type: none"> <li>(i) following the occurrence of a ForexClear Liquidity Event, enter into Mandatory ForexClear Swap Contracts on behalf of a ForexClear Option Clearing Member on such terms as determined by the Clearing House in its sole discretion;</li> <li>(ii) at the time permitted by Regulation 100(k) with respect to a ForexClear Settlement Event, enter into Mandatory Settlement ForexClear Swap Contracts on behalf of a ForexClear Option Clearing Member on such terms as determined by the Clearing House in its sole discretion; and</li> <li>(iii) execute all other documents, deeds and other agreements, and to do or cause to be done any other acts, as the Clearing House determines to be lawfully necessary to give effect to any Mandatory ForexClear Swap Contract or Mandatory Settlement ForexClear Swap Contract.</li> </ul>
<p>Regulation 106 (<i>ForexClear Option Service – The Settlement Service Provider</i>)</p>	<p>Language inserted to provide:</p> <ul style="list-style-type: none"> <li>(i) a limitation of liability in favour of the Settlement Service Provider from each ForexClear Option Clearing Member (save for fraud, wilful misconduct, negligence or bad faith) in connection with settlement under the ForexClear Option Service;</li> </ul>

	<p>(ii) each ForexClear Option Clearing Member agrees that this regulation is for the benefit of, and shall be enforceable by, the Settlement Service Provider; and</p> <p>(iii) an indemnity in favour of the Settlement Service Provider from each ForexClear Option Clearing Member to indemnify and hold harmless the Clearing House for any liability, damage, loss, cost, claim or expense suffered or incurred by the Clearing House pursuant to its agreement(s) with the Settlement Service Provider, save for such arising from the fraud, wilful misconduct, negligence or bad faith of the Settlement Service Provider.</p>
<b>Procedures Section 1</b>	<b>Explanation</b>
Section 1.3.5	Section 1.3.5 is included to set forth additional criteria for ForexClear Clearing Members that wish to use the ForexClear Option Service, including requirements to pay to the Clearing House Liquidity Fund Contributions in all relevant currencies.
Section 1.3.6	Clarifying amendment to section title.
<b>Procedures Section 2I</b>	<b>Explanation</b>
Section 1	Amended to clarify where the meaning of certain references are found.
Section 1.1	Clarifying amendment to section title.
Section 1.2.1	Eligibility paragraph scope broadened to provide for more than one product type.
Section 1.2.5	Section scope broadened to provide for more than one product type and removal of details of the "Incremental Risk Check".
Section 1.3.1	Section scope broadened to provide for more than one product type.
Section 1.3.2	Reference to General Regulation, Regulation number is amended from 91 to 92.
Section 1.3.3	Section scope broadened to provide for more than one product type, and amended to provide for Counterparty Technical Validation Checks, detail Incremental Risk checks for ForexClear Option transactions, and account for Settlement Exposure Limit Checks. Some resulting clarifying amendments and re-numbering of sub-paragraphs.
Section 1.3.5	Insertion of new paragraphs to make provision to support for package transactions, whereby a ForexClear Clearing Member may present a group of two or more ForexClear Transactions for simultaneous registration to the Clearing House for registration. Subsequent paragraphs are re-numbered.
Section 1.3.7	Amended to support cancellation messages (and resulting cancellation) via approved trade source systems for ForexClear Option Contracts.
Section 1.3.8, 1.3.10 & 1.3.11	Conforming changes.
Section 1.3.12	Amended to provide that the settlement date of relevant ForexClear Option Contracts will be automatically adjusted in accordance with the "Following Business Day Convention", as set forth in the ISDA definitions. Clarifying and conforming changes.
Section 1.4.1, 1.4.2 & 1.4.4	Amended to include ForexClear Option Service-specific market data to be used by the ForexClear Service and includes provisions describing the zero coupon/market rate curve and implied volatility surface for the ForexClear Service. There are also clarifying and conforming changes.
Section 1.5.1	Clarifying changes and amended to include valuation methodology for ForexClear Option Contracts to support the ForexClear Option Service.
Section 1.5.2	Amended to provide for VM to be calculated in and paid in a currency as specified by the Clearing House, and to clarify that VM includes trade VM and Option Premium VM.

Section 1.5.3	Amended to expand the scope of ForexClear margin reports to support ForexClear Option Contracts.
Section 1.5.4	Amended to also support ForexClear Option Contracts.
Section 1.5.5	Amended to provide for the separate calculation of initial margin obligations for the ForexClear NDF Service and ForexClear Option Service, and clarify the initial margin add-ons.
Section 1.5.7	Amended to remove the step-by-step details of IMMES to support the ForexClear Option Service (i.e., the scope of this section was expanded to include the ForexClear Option Service).
Section 1.7.4	Conforming and clarifying change.
Section 1.7.8	Insertion to support reporting for the ForexClear Option Service.
Section 1.15.1	Amended to provide that the ForexClear Option Service is out of scope for the relevant compression provisions, which apply solely to ForexClear NDF Contracts.
Section 1.15.4	Reference to General Regulation, Regulation 94 changed to 95.
Section 1.16	This section and its sub-clauses were included to provide that exercise and expiry agents may be designated by the Clearing House from time to time, and the Clearing House shall have no liability to any ForexClear Clearing Members with respect to an exercise and expiry agent's facilitation and/or communication (or lack thereof) of the exercise of a ForexClear Option Contract.
Section 1.17	Insertion to set forth the automatic exercise provisions for ForexClear Option Contracts, whereby if, at the expiration time of the relevant ForexClear Contract, such contract has not been exercised but is "in-the-money", the given contract shall be automatically exercised in accordance with the Procedures.
Section 1.18	Insertion to set forth the relevant times and actions or requirements with respect to the daily settlement cycle for the ForexClear Option Service.
Section 1.19	Insertion of this section to make provisions that the Clearing House shall notify the relevant settlement limits and caps to ForexClear Clearing Members.  Additionally, if, on a given day at 10:00AM EST, a ForexClear Clearing Member's settlement position limit for a given ForexClear Currency Pair exceeds its Settlement Position Amount, the Clearing House may take all actions it deems necessary in accordance with the Regulations.
Section 1.20	Insertion to provide that, subject to the Regulations, the Clearing House shall determine the Mandatory ForexClear Swap Limit and shall notify each ForexClear Clearing Member of such via the ForexClear Service Portal.
<b>Default Rules</b>	<b>Explanation</b>
Section 6(t)	Section 6(t) is included to provide that, if a Defaulter is an Affected ForexClear Option Clearing Member, the Clearing House may take any step under Regulation 101 or Regulation 102 and, upon doing so, the circumstances described in those Regulations shall form part of the Default Rules (and be treated as if such were included in the Default Rules). Following sub-paragraph is re-numbered.
Section 15(a) <i>(Reduction of Losses on Default)</i>	Section 15(a) is amended to expressly exclude Liquidity Fund Contributions of a defaulting ForexClear Option Clearing Member from Margin Cover.
Section 15 <i>(Reduction of Losses on Default)</i>	Section 15(g) is amended to expressly exclude recourse to Liquidity Fund Contributions of a defaulting ForexClear Option Clearing Member from the Default Fund waterfall. References to sub-paragraphs within this section have been renumbered.
Schedule 3, Section 1.4	Section 1.4 is amended to include (i) new definitions that are specific to the ForexClear Option Service, (ii) revisions to existing definitions to extend their application to the ForexClear Option Service and (iii) other clarifying

	amendments.
Schedule 3, Section 2.1 ( <i>Portfolio Splitting</i> )	Section 2.1 is amended to expressly provide that nothing in Section 2.1 shall be deemed to imply any particular requirements as to the composition of an individual Auction Portfolio, including the terms of combining or separating ForexClear Contracts belonging to different ForexClear Contract Categories.
Schedule 3, Section 2.2 ( <i>Risk Neutralisation</i> )	Section 2.2 is amended to provide explicit clarification that the Clearing House may reduce the settlement risk associated with a defaulter's obligations to the Clearing House by hedging the Clearing House's exposure in open ForexClear Contracts to which the defaulter is a party.
Schedule 3, Section 2.3 ( <i>Auction</i> )	Section 2.3 is amended with clarifying and conforming changes to support the ForexClear Option Service.
Schedule 3, Section 2.4 ( <i>Auction Incentive Pools</i> )	Section 2.4 is amended with clarifying and conforming changes to support the ForexClear Option Service.
Schedule 3, Section 2.5 ( <i>Loss Attribution</i> )	Section 2.5 is amended with clarifying and conforming changes to support the ForexClear Option Service.
Schedule 3, Section 2.6	Section 2.6 is amended with clarifying and conforming changes to support the ForexClear Option Service.
Schedule 5, Rule F2	Rule F2(c) has been amended to provide that the ForexClear Fund Amount (i.e., the ForexClear default fund) is comprised of two separate default funds: a default sub-fund for the ForexClear NDF Service and a default sub-fund for the ForexClear Option Service. Amended reference to sub-paragraph.
Schedule 5, Rule F2(d)	Rule F2(d) has been amended to provide for the separate calculation of margin weight for the ForexClear NDF Service and ForexClear Option Service.
Schedule 5, Rule F2(e)	Rule F2(e) has been amended to provide for separate contributions (and calculations thereof) for the ForexClear NDF Service and ForexClear Option Service.
Schedule 5, Rule F9, F10 & F11	References to sub-paragraphs within these sections have been renumbered.
<b>Product Specific Contract Terms and Eligibility Criteria Manual</b>	<b>Explanation</b>
Schedule 6 ( <i>The ForexClear Regulations</i> ), Part A and Part B	Schedule 6, Part A and Part B are amended to provide that each section is applicable only with respect to ForexClear NDF Contracts.
Schedule 6 ( <i>The ForexClear Regulations</i> ), Part D	Schedule 6, Part D is included to set out ForexClear Spot contract terms.
Schedule 6 ( <i>The ForexClear Regulations</i> ), Part E	Schedule 6, Part E is included to make provision for registration of a ForexClear Spot contract, including product eligibility criteria.
Schedule 6 ( <i>The ForexClear Regulations</i> ), Part F	Schedule 6, Part F is included to set out ForexClear deliverable Forward contract terms.
Schedule 6 ( <i>The ForexClear Regulations</i> ), Part G	Schedule 6, Part G is included to make provision for registration of a ForexClear deliverable Forward contract including product eligibility criteria.
Schedule 6 ( <i>The ForexClear Regulations</i> ), Part H	Schedule 6, Part H is included to set out ForexClear Option contract terms.
Schedule 6 ( <i>The ForexClear Regulations</i> ), Part I	Schedule 6, Part I is included to make provision for registration of a ForexClear Option contract including eligibility criteria.

Schedule 6 ( <i>The ForexClear Regulations</i> ), Part J	Schedule 6, Part J is included to set out ForexClear Swap contract terms.
Schedule 6 ( <i>The ForexClear Regulations</i> ), Part K	Schedule 6, Part K is included to make provision for registration of a ForexClear Swap contract including eligibility criteria.
<b>Settlement Finality Regulations</b>	<b>Explanation</b>
Section 1.3, 1.5, 1.8	Amended to include (i) new definitions that are specific to the ForexClear Option Service and (ii) revisions to existing definitions to extend their application to the ForexClear Option Service. Re-numbering of following sub-paragraphs.
Section 1.9	Amended to provide that certain instructions given by the Clearing House or by or on behalf of a member pursuant to the ForexClear Option Service settlement service are to be considered Payment Transfer Orders under the Settlement Finality Regulations.
Section 1.15	Insertion of Settlement Service Provider definition.
Section 2 2.1, 2.2	Section 2 has been amended to support the ForexClear Option Service.
Section 2.5	Renumbering of sections referred to within subparagraphs.
Section 2.6	Insertion of new paragraph to clarify settlement of a payment order of the type set out in section 1.9(j) and 1.9(l)
Section 5.5	Clarifying amendment.



**LCH Rule Submission**

**Appendix B**

**General Regulations**

---

**LCH** The Markets'  
Partner

**GENERAL REGULATIONS OF  
LCH LIMITED**

---

**Deleted:** January

## CONTENTS

Regulation	Page
Regulation 1 Definitions .....	1
Chapter I – SCOPE .....	85
Regulation 2 Obligations of the Clearing House to each Member .....	85
Regulation 3 Performance by the Clearing House of its Obligations under the Terms of an Open Contract .....	86
Chapter II – STATUS .....	87
Regulation 4 Clearing Member Status of the Clearing House .....	87
Regulation 5 Resigning and Retiring Members .....	88
Regulation 6 Co-operating Clearing House Status .....	91
Regulation 7 Non-Member Market Participant Status .....	92
Regulation 8 Dealer Status .....	93
Regulation 9 Service Withdrawal .....	94
Chapter III – ACCOUNTS AND CLIENT CLEARING .....	95
Regulation 10 Accounts .....	95
Regulation 11 Client Clearing Business .....	97
Chapter IV – CONTRACT FORMATION, REGISTRATION AND TRANSFER .....	102
Regulation 12 Novation .....	102
Regulation 13 Presentation of Particulars of Original Exchange Contracts and Confirmation of Original Exchange Contracts .....	103
Regulation 14 Allocation of Original Contracts .....	104
Regulation 15 Designation .....	105
Regulation 16 Registration .....	106
Regulation 17 Trading Information .....	112
Regulation 18 Transfer .....	113
Regulation 19 Transactions entered into through an Automated Trading System or Platform .....	114
Chapter V – COLLATERAL AND VALUATIONS .....	116
Regulation 20 Margin and Collateral .....	116
Regulation 21 Premium under Option Contracts .....	122
Regulation 22 Official Quotations and Reference Price .....	123
Regulation 23 Daily Settlement or Marking to Market .....	124
Regulation 24 Settlement and Revaluation: Clearing Processing System .....	126
Regulation 25 Other Modes of Settlement and Revaluation .....	127
Chapter VI – OPTIONS, OPEN CONTRACTS SUBJECT TO TENDER AND DELIVERY CONTRACTS .....	128

Deleted: January

Regulation 26	Exercise of Options .....	128
Regulation 27	Delivery Contract Arising upon the Exercise of an Option.....	130
Regulation 28	Obligation to Make and Accept Tender .....	132
Regulation 29	Delivery Contracts.....	135
Regulation 30	Open Contracts Subject to Tender.....	136
Regulation 31	Arrangements for Delivery and Payment of Price.....	137
Regulation 32	Restrictions on Clearing House's Obligations and Liability .....	138
Chapter VII – DISPUTE RESOLUTION.....		139
Regulation 33	Arbitration: Cleared Exchange Contracts, LSE Derivatives Markets Cleared Exchange Contracts, EquityClear Contracts or LCH EnClear Contracts (for Physical Delivery).....	139
Regulation 34	Collateral in Event of a Claim .....	143
Chapter VIII – DEFAULT, DISORDER, IMPOSSIBILITY AND FORCE MAJEURE.....		144
Regulation 35	Delivery (or other) Failures .....	144
Regulation 36	Default of a Member: Substituted Obligation .....	146
Regulation 37	Market Disorders, Impossibility of Performance, Trade Emergency.....	147
Regulation 38	Force Majeure.....	149
Chapter IX – INVOICING BACK AND CURRENCY CONVERSION .....		150
Regulation 39	Invoicing Back.....	150
Regulation 40	Currency Conversion.....	153
Chapter X – DISCLOSURE, FEES, RECORDS AND AMENDMENTS.....		154
Regulation 41	Disclosure and Reporting .....	154
Regulation 42	Fees and Other Charges.....	155
Regulation 43	Records .....	156
Regulation 44	Alteration of Regulations and the Procedures.....	157
Chapter XI – NETTING AND DISTRIBUTION.....		158
Regulation 45	Netting .....	158
Regulation 46	Distribution of Assets .....	162
REGULATION 46A	Solvency Threatening Treasury Default Loss .....	163
Chapter XII – MISCELLANEOUS.....		165
Regulation 47	Procedures .....	165
Regulation 48	Interpretation of these Regulations; APPLICABLE LAW .....	166
Regulation 49	Waiver .....	167
Regulation 50	Validity of Regulations and Action .....	168
Regulation 51	Governing Law and Jurisdiction .....	169
Regulation 52	Exclusion of Liability .....	170
Regulation 53	Clearing House Data.....	173

Deleted: January

Chapter XIII – Intentionally left blank .....	174
Regulation 54 Intentionally left blank.....	174
Chapter XIV – SWAPCLEAR REGULATIONS.....	175
Regulation 55 Application of SwapClear Regulations .....	175
Regulation 56 Registration of SwapClear Contracts .....	179
Regulation 57 Compression .....	184
Regulation 58 Collateralisation of SwapClear CTM Contracts.....	195
REGULATION 57A Settlement of SwapClear STM Contracts and Conversion to SwapClear STM Contracts.....	197
Regulation 59 The applicable rate for, and the net present value of, a SwapClear Contract .....	204
Regulation 60 Portfolio Margining Service .....	205
Regulation 61 Transfer; BULK EVENTS .....	206
REGULATION 60A Inflation Swaps.....	208
Chapter XV – REPOCLEAR REGULATIONS.....	216
Regulation 62 Application of RepoClear Regulations.....	216
Regulation 63 Submission of details of RepoClear Transactions and RepoClear GC Transactions through an Approved Trade Matching System .....	220
Regulation 64 RepoClear transactions entered into through an Automated Trading System .....	221
Regulation 65 Disputes .....	225
Regulation 66 Authorisation to act as a RepoClear Clearing Member.....	226
Regulation 67 Daily Margining of RepoClear Contracts and RepoClear GC Contracts..	227
Chapter XVI – EQUITYCLEAR REGULATIONS.....	228
Regulation 68 Application of EquityClear Regulations.....	228
Regulation 69 EquityClear Open Offer for EquityClear ATP Matches .....	232
Regulation 70 EquityClear Novation Transactions .....	236
Regulation 71 Disputes and Limitation of Liability .....	239
Regulation 72 Suspension of the EquityClear service or the EquityClear Open Offer ....	240
Regulation 73 Rejection of EquityClear ATP Matches and of EquityClear Novation Transactions.....	241
Chapter XVII – LCH ENCLEAR REGULATIONS .....	243
Regulation 74 Application of LCH EnClear Regulations.....	243
Regulation 75 Registration of LCH EnClear Contracts.....	247
Regulation 76 Daily Settlement .....	248
Chapter XVIII – LSE DERIVATIVES MARKETS REGULATIONS .....	249
Regulation 77 Application of Regulations for LSE market.....	249
Regulation 78 LSE Derivatives Markets Matches.....	253

Deleted: January



Regulation 2	Regulation 78(d)78(g)Regulation 78(d)Regulation 78(g)Regulation 35Regulation 81Regulation 79Regulation 78(d)Regulation 78(f)Regulation 79Regulation 9Regulation 78(b)[ <i>INTENTIONALLY LEFT BLANK</i> ] .....	<b>Error! Bookmark not defined.</b>
Regulation 3	[ <i>INTENTIONALLY LEFT BLANK</i> ] .....	257
Regulation 79	Suspension of the Open Offer for LSE Derivatives Markets .....	258
Regulation 80	Cancellation, variation etc of LSE Derivatives Markets Cleared Exchange Contracts .....	259
Regulation 81	Rejection of LSE Derivatives Markets Matches .....	260
Regulation 4	Regulation 838485Regulation 83Regulation 83Regulation 838485Regulation 83Regulation 83Regulation 83Regulation 83[ <i>INTENTIONALLY LEFT BLANK</i> ] .....	261
Regulation 5	[ <i>INTENTIONALLY LEFT BLANK</i> ] .....	262
Regulation 6	[ <i>INTENTIONALLY LEFT BLANK</i> ] .....	263
Regulation 82	Options .....	264
Regulation 83	Re-registration of Contracts.....	265
Regulation 84	[ <i>Intentionally Left Blank</i> ] .....	266
Chapter XIX – NODAL REGULATIONS.....		267
Regulation 85	Application .....	267
Chapter XX – FOREXCLEAR REGULATIONS.....		272
Regulation 86	Application of ForexClear Regulations.....	272
Regulation 87	Registration of ForexClear Contracts.....	276
Regulation 88	Cancellation of ForexClear Contracts .....	279
Regulation 89	Variation Margin .....	280
Regulation 90	EXERCISE OF FOREXCLEAR OPTION CONTRACTS .....	281
Regulation 91	COMPRESSION .....	282
Regulation 92	SETTLEMENT OF FOREXCLEAR OPTION CONTRACTS.....	283
Regulation 93	PREMIUM UNDER FOREXCLEAR OPTION CONTRACTS.....	284
Regulation 94	HEDGING OF FOREXCLEAR OPTION CONTRACTS .....	285
Regulation 95	FOREXCLEAR OPTION SERVICE – MEMBERSHIP REQUIREMENTS .....	286
Regulation 96	FOREXCLEAR OpTION SERVICE – SETTLEMENT LIMITS, SETTLEMENT TRADE-DOWN AND STTLEMENT EVENTS.....	287
Regulation 97	FOREXCLEAR OPTION SERVICE – LIQUIDITY EVENT .....	293
Regulation 98	FOREXCLEAR OPTION SERVICE – LIQUIDITY FUND CONTRIBUTIONS .....	297
Regulation 99	ALLOCATION OF MANDATORY FOREXCLEAR SWAP CONTRACTS AND MANDATORY SETTLEMENT FOREXCLEAR SWAP CONTRACTS .....	299
Regulation 100	FOREXCLEAR OPTION SERVICE – PAYMENT NETTING .....	301

Deleted: January

Regulation 101	FOREXCLEAR OPTION SERVICE – AUTHORITY TO BIND FOREXCLEAR OPTION CLEARING MEMBERS .....	302
Regulation 102	FOREXCLEAR OPTION SERVICE – THE SETTLEMENT SERVICE PROVIDER .....	304
CHAPTER XXII – LISTED INTEREST RATES REGULATIONS.....		306
Regulation 103	– [ <i>Intentionally Left Blank</i> ] .....	306
Regulation 104	Application of Listed Interest Rates Regulations.....	307
Regulation 105	Listed Interest Rates Open Offer for Rates Exchange Matches .....	312
Regulation 106	Listed Interest Rates Novation Transactions.....	315
Regulation 107	Daily Settlement to Market.....	317
Regulation 108	Termination of Fungible Listed Interest Rates Contracts.....	318
Regulation 109	Disputes and Limitation of Liability .....	319
Regulation 110	Suspension of the Listed Interest Rates Clearing service or the Listed Interest Rates Open Offer.....	321
Regulation 111	Rejection of Rates Exchange Matches and of Listed Interest Rates Novation Transactions.....	322
Regulation 112	[ <i>Intentionally Left Blank</i> ].....	323

Deleted: January

## Scope

Save where expressly stated to the contrary in these Regulations or the Procedures, these Regulations govern clearing services provided by LCH Limited. They do not cover clearing services provided by LCH SA which are governed by a separate set of rules.

For the purposes of these Regulations, LCH Limited is referred to as the "**the Clearing House**". The terms "**Member**" or "**Clearing Member**" are used to refer to an undertaking which is entitled to receive clearing services from LCH Limited (see "Definitions"). They do not mean "shareholder" of LCH Limited or of any other undertaking in the LCH Group Holdings Limited.

Any Regulation or group of Regulations expressly stated not to apply to a category, or categories, of Contract shall not apply to such category, or categories, of Contract.

Regulation 54 to Regulation 60 (inclusive) apply only to SwapClear Contracts. Save as provided in Regulation 54, the provisions of Regulation 2 to Regulation 52 (inclusive) shall not apply to SwapClear Contracts.

Regulation 61 to Regulation 66 (inclusive) apply only to RepoClear Contracts. Save as provided in Regulation 61, the provisions of Regulation 2 to Regulation 52 (inclusive) shall not apply to RepoClear Contracts.

Regulation 67 to Regulation 72 (inclusive) apply only to EquityClear Contracts. Save as provided in Regulation 67, the provisions of Regulation 2 to Regulation 52 (inclusive) shall not apply to EquityClear Contracts.

Regulation 73 to Regulation 75 (inclusive) apply only to LCH EnClear Contracts. Save as provided in Regulation 73, the provisions of Regulation 2 to Regulation 52 (inclusive) shall not apply to LCH EnClear Contracts.

Regulation 76 to Regulation 87 (inclusive) apply only to LSE Derivatives Markets Cleared Exchange Contracts which are eligible for clearing pursuant to these Regulations and the LSE Derivatives Markets Rules. Save as provided in Regulation 76, the provisions of Regulation 2 to Regulation 52 (inclusive) shall not apply to LSE Derivatives Markets Cleared Exchange Contracts.

Regulation 89 applies only to Nodal Contracts. Save as provided in Regulation 89, the provisions of Regulation 2 to Regulation 52 (inclusive) shall not apply to Nodal Contracts.

Regulation 90 to Regulation 106 (inclusive) apply only to ForexClear Contracts. Save as provided in Regulation 90, the provisions of Regulation 2 to Regulation 52 (inclusive) shall not apply to ForexClear Contracts.

Regulation 107 to Regulation 115 (inclusive) apply only to Listed Interest Rates Contracts. Save as provided in Regulation 108, the provisions of Regulation 2 to Regulation 52 (inclusive) shall not apply to Listed Interest Rates Contracts.

Deleted: 95

Deleted: 104

Deleted: 95

Deleted: January

## REGULATION 1 DEFINITIONS

In these Regulations and the Procedures, except where the context otherwise requires, the following words and expressions shall have the following meanings:

<b>"Account Balance"</b>	means, in relation to a Relevant Client Clearing Business of a Clearing Member, an Individual Segregated Account Balance, an Indirect Gross Account Balance, a Custodial Segregated Account Balance or an Omnibus Segregated Account Balance
<b>"ACSP Compression Cycle"</b>	means a Multilateral Compression Cycle established by the Clearing House and facilitated by an ACSP nominated by the Clearing House, which shall be open to participation by SwapClear Clearing Members either on their own account or with respect to a SwapClear Clearing Client in accordance with the provisions of Regulation 56 and relevant Compression Documentation
<b>"Account Information Documents"</b>	means the documents called "LCH Account Structures under EMIR" and "Fees for EMIR Segregation Accounts", as published by the Clearing House on its website and made available to Clearing Members and Clearing Clients upon request
<b><u>"Affected ForexClear Option Clearing Member"</u></b>	<u>has the meaning assigned to it in Regulation 101</u>
<b>"Affiliated Client Omnibus Net Segregated Account"</b>	means, in relation to a Relevant Client Clearing Business, an account opened within the Clearing House by a Clearing Member on behalf of a group of Affiliated Omnibus Segregated Clearing Clients which is designated by the Clearing House as an Affiliated Client Omnibus Net Segregated Account
<b>"Affiliated Client Omnibus Segregated Account"</b>	means, in relation to a Relevant Client Clearing Business, (i) an Affiliated Client Omnibus Net Segregated Account or (ii) an Omnibus Gross Segregated Account opened on behalf of a group of Affiliated Omnibus Segregated Clearing Clients
<b>"Affiliated Omnibus Net Segregated Clearing Clients"</b>	means Affiliated Omnibus Segregated Clearing Clients in respect of whom the relevant Clearing Member clears Contracts with the Clearing House in an Affiliated Client Omnibus Net Segregated Account

Deleted: January

<b>"Approved Trade Source System"</b>	means a system or facility, such as an exchange, a clearing house, a swap execution facility, a designated contract market, trade or affirmation system or other similar venue or system, approved by the Clearing House for submitting SwapClear Transactions to the Clearing House (and excludes, for the avoidance of doubt, the ClearLink API)
<b>"Approved LSE Derivatives Markets Settlement Provider"</b>	means the securities depository or securities settlement system (or an operator thereof) approved by the Clearing House from time to time for the provision of settlement services in connection with the LSE Derivatives Markets Service
<b>"Associated Clearing House"</b>	means the clearing house appointed from time to time by a Co-operating Exchange to act as the central counterparty to some or all transactions made on, or under the rules of the Co-operating Exchange
<b>"Associated Collateral Balance"</b>	means the Account Balance or Account Balances (as applicable) that may be transferred from the Transfer Account of an Eligible Transferor to the Transfer Account of an Eligible Transferee pursuant to Regulation 60 of these Regulations and in accordance with the Procedures and (where applicable) any relevant Collateral Management Agreement
<b>"ATP Market Rules"</b>	means the rules, regulations, administrative procedures, Memorandum and Articles of Association or by-laws which regulate an ATP and the market administered by it as notified from time to time to the Clearing House
<b>"ATS Contract"</b>	means any contract subject to the Regulations entered into by the Clearing House and a RepoClear Clearing Member or a RepoClear Dealer pursuant to Default Rule 6(m), following a course of dealing on any Automated Trading System between the Clearing House and a RepoClear Clearing Member or RepoClear Dealer
<b>"ATS Participant"</b>	has the meaning assigned to such term in Regulation 63(b)
<b>"Auction Portfolio"</b>	has the meaning assigned to it in the Default Rules
<b><u>"AUD ForexClear Liquidity Fund Contribution"</u></b>	<u>means, in respect of a ForexClear Option Clearing Member, the amount (notified by the Clearing House pursuant to Regulation 102(b)) of cash denominated in Australian Dollars that is required to be paid by that ForexClear Option Clearing Member to the Clearing House</u>

Deleted: January



<b>"Business"</b>	means any transactions, liabilities or obligations arising out of any contract and includes, in relation to the relevant Services, Commodities Business, Equities Business, ForexClear Business, RepoClear Business and Rates Service Business.
<b>"business day"</b>	means in respect of a Cleared Exchange Contract, an OTC Contract (except where specified otherwise in the relevant OTC Contract Terms), an LCH EnClear Contract (except where specified otherwise in the LCH EnClear Contract Terms), an EquityClear Contract, and a Listed Interest Rates Contract (except where specified otherwise in the Listed Interest Rates Contract Terms) a day on which the Clearing House is open for business
<b>"buyer"</b>	means a Member (or the Clearing House where the context so requires) who is a buyer under the terms of an exchange contract, a Cleared Exchange Contract, a LSE Derivatives Markets Cleared Exchange Contract, a RepoClear Transaction, a RepoClear Contract, a RepoClear GC Transaction, a RepoClear GC Contract, an EquityClear ATP Match, an EquityClear Novation Transaction, a Rates Exchange Match, a Listed Interest Rates Novation Transaction or an Eligible EnClear Trade, as the case may be
<b><u>"Call Currency Amount"</u></b>	<u>means, in relation to a ForexClear Option Transaction or ForexClear Option Contract, as applicable, the amount specified as such in the ForexClear Option Contract Terms evidencing such ForexClear Option Transaction or ForexClear Option Contract, as applicable</u>
<b>"Capped Amount"</b>	has the meaning as described in Default Rule 15(c)
<b>"Carrying Clearing Member"</b>	means (a) a SwapClear Clearing Member that carries a Transfer Account from which Transferring SwapClear Contracts and the relevant Associated Collateral Balance(s) may be transferred to the Transfer Account of a Receiving Clearing Member pursuant to Regulation 60 of these Regulations and in accordance with the Procedures and (where applicable) any relevant Collateral Management Agreement, or (b) in respect of a transfer as described in sub-paragraph (ii) of the definition of "Receiving Clearing Member", an FCM Clearing Member (and, for the avoidance of doubt, a Carrying Clearing Member may be a Receiving Clearing Member, and vice versa)
<b>"CEA"</b>	has the meaning assigned to it in the Default Rules
<b>"CFTC"</b>	has the meaning assigned to it in the Default Rules

Deleted: January

<b>"CFTC Regulations"</b>	has the meaning assigned to it in the FCM Regulations
<b><u>"CHF ForexClear Liquidity Fund Contribution"</u></b>	<u>means, in respect of a ForexClear Option Clearing Member, the amount (notified by the Clearing House pursuant to Regulation 102(b)) of cash denominated in Swiss Francs that is required to be paid by that ForexClear Option Clearing Member to the Clearing House</u>
<b>"Charged Cash Collateral"</b>	has the meaning assigned to it in Regulation 20(s)(iii)
<b>"Cleared Exchange Contract"</b>	means a Contract entered into by the Clearing House on the terms of an exchange contract
<b>"Clearing Agreement"</b>	means in relation to Client Clearing Business entered into by a Clearing Member in respect of any Service, suitable contractual arrangements between the Clearing Member and its Clearing Client in relation to the relevant Client Clearing Service
<b>"Clearing Client"</b>	means any RepoClear Clearing Client, SwapClear Clearing Client, EquityClear Clearing Client, LCH EnClear Clearing Client, LSE Derivatives Market Clearing Client, Nodal Clearing Client, ForexClear Clearing Client or Listed Interest Rates Clearing Client. For the avoidance of doubt, the reference to LCH EnClear Clearing Client includes a Customer (as such term is defined in Procedure 2E 1.4 in respect of LCH EnClear Services)
<b>"Clearing House"</b>	means LCH Limited whose registered office is located at Aldgate House, 33 Aldgate High Street, London EC3N 1EA, United Kingdom
<b>"Clearing House Applied Collateral"</b>	means, in respect of an account of a Clearing Member, any cash Collateral provided by the Clearing House in respect of which the Clearing Member's obligation to return such Collateral has been discharged pursuant to the Rulebook by means of that return obligation having been set-off against an obligation owed by the Clearing House to that Clearing Member, as contemplated by Regulation 20(w)

Deleted: January

<b>"Defaulting Clearing Member"</b>	means a Clearing Member who is a Defaulter
<b>"Defaulting FXCCM"</b>	means a FXCCM who is a Defaulter
<b>"Defaulting Listed Interest Rates Clearing Member"</b>	means a Listed Interest Rates Clearing Member who has defaulted
<b>"Defaulting Rates Service Clearing Member"</b>	means a Rates Service Clearing Member who is a Defaulter
<b>"Defaulting RCM"</b>	means a RCM who is a Defaulter
<b>"Defaulting SCM "</b>	means a SCM who is a Defaulter
<b>"Default Loss"</b>	has the meaning assigned to it in Default Rule 16(b)
<b>"Default Management Process Agreement Amendment Agreement"</b>	has the meaning assigned to it in Regulation 11(s)
<b>"Default Notice"</b>	has the meaning assigned to it in Default Rule 3
<b>"Default Rules"</b>	means the Clearing House's Default Rules including the Supplements from time to time in force pursuant to Part IV of The Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges and Clearing Houses) Regulations 2001 which, for the avoidance of doubt, form a part of these General Regulations
<b><u>"Deliverable Forward Settled ForexClear Option Transaction"</u></b>	<u>means a ForexClear Option Transaction which the parties thereto have agreed (as evidenced by the ForexClear Deliverable Forward Contract Terms applicable to that ForexClear Option Transaction) shall be settled by the entry into a ForexClear Deliverable Forward Transaction</u>
<b>"delivery contract"</b>	means a Cleared Exchange Contract, LSE Derivatives Markets Cleared Exchange Contract or Listed Interest Rates Contract between the Clearing House and a Member: <ul style="list-style-type: none"> <li>(a) for the immediate sale and purchase of a reference asset or commodity arising on the exercise of an option pursuant to these Regulations; or</li> <li>(b) for the sale and purchase of a reference asset or commodity for delivery on the date specified in the contract or on the date agreed between the parties, in either case being an open contract under which tender is not required to be given</li> </ul>

Deleted: January

"EquityClear Open Offer Eligibility Criteria"

has the meaning set out in Regulation 68(c)

"EquityClear Regulations"

means those Regulations which apply to EquityClear Contracts as specified in Regulation 67

"EquityClear Service"

the service provided by the Clearing House under the EquityClear Regulations

"EUR ForexClear Liquidity Fund Contribution"

means, in respect of a ForexClear Option Clearing Member, the amount (notified by the Clearing House pursuant to Regulation 102(b)) of cash denominated in Euros that is required to be paid by that ForexClear Option Clearing Member to the Clearing House

"€GC Trade"

means a trading activity in which a RepoClear Participant ("**the First Participant**") offers to sell (or buy) an agreed value of securities comprised in a €GC Basket (as defined in the Procedures), to be allocated in accordance with the RepoClear Procedures applicable to RepoClear €GC Contracts, and another RepoClear Participant ("**the Second Participant**") offers to buy (or sell, as the case may be) the securities so allocated, on the conditions that:

- (a) at the end of a specified period of time, the Second Participant sells (or buys, as the case may be) Equivalent Securities (as such term is used in the RepoClear €GC Contract Terms) and the First Participant buys (or sells, as the case may be) those Equivalent Securities; and
- (b) the understanding of the parties is that their obligations during the term of the transaction will be represented by a series of overnight repurchase transactions affected either through CBL's service under the AutoAssign Supplement, Euroclear's AutoSelect service or any other equivalent service provided by a triparty agent, as the case may be, as contemplated by the RepoClear Procedures applicable to RepoClear €GC Contracts,

and a trade subsequently ensues

Deleted: January

<b>"Fixed Income Contract"</b>	means a RepoClear Contract or a RepoClear GC Contract
<b>"ForexClear Amendment"</b>	has the meaning assigned to it in Rule F12 of the ForexClear Default Fund Supplement
<b>"ForexClear Approved Trade Source System"</b>	means a system or facility, such as an exchange, a clearing house, a swap execution facility, a designated contract market, trade or affirmation system, a ForexClear Matcher or other similar venue or system, approved by the Clearing House for submitting ForexClear Transactions to the Clearing House (and excludes, for the avoidance of doubt, the ClearLink API)
<b>"ForexClear Business"</b>	means any transaction, obligation or liability arising out of any ForexClear Contract
<b>"ForexClear Clearing Client"</b>	means, in respect of ForexClear Client Clearing Business, an Individual Segregated Account Clearing Client, Indirect Gross Account Clearing Client or Omnibus Segregated Clearing Client
<b>"ForexClear Clearing House Business"</b>	means ForexClear Contracts entered into by a ForexClear Clearing Member with the Clearing House on a proprietary basis and for its own account
<b>"ForexClear Clearing Member (FXCCM)"</b>	means a Member who is designated by the Clearing House as a ForexClear Clearing Member eligible to clear ForexClear Contracts which includes, in the case of the Default Rules (including the ForexClear DMP Annex), the FCM Default Fund Agreement and any other document, rule or procedure as specified by the Clearing House from time to time, an FCM Clearing Member
<b>"ForexClear Client Clearing Business"</b>	means the provision of ForexClear Client Clearing Services by a ForexClear Clearing Member
<b>"ForexClear Client Clearing Services"</b>	means the entering into of ForexClear Contracts by a ForexClear Clearing Member in respect of its Individual Segregated Account Clearing Clients, Indirect Gross Account Clearing Clients and/or Omnibus Segregated Clearing Clients
<b>"ForexClear Contract"</b>	<u>means a ForexClear NDF Contract, a ForexClear Spot Contract, a ForexClear Deliverable Forward Contract, a ForexClear Option Contract or a ForexClear Swap Contract</u>
<b>"ForexClear Contract Terms"</b>	means the ForexClear <u>NDF Contract Terms, the ForexClear Spot Contract Terms, the ForexClear Deliverable Forward Contract Terms, the ForexClear Option Contract Terms or the ForexClear Swap Contract Terms (as applicable)</u>

**Deleted:** means a Contract entered into by the Clearing House with a ForexClear Clearing Member on the ForexClear Contract Terms which includes, in the case of the Default Rules (including the ForexClear DMP Annex but excluding, for the avoidance of doubt, the Client Clearing Annex), the FCM Default Fund Agreement and any other document, rule or procedure as specified by the Clearing House from time to time, an FCM ForexClear Contract

**Deleted:** terms applicable to each

**Deleted:** as set out from time to time in

**Deleted:** Product Specific

**Deleted:** and Eligibility Criteria Manual

**Deleted:** January



<b>"ForexClear Contribution"</b>	means the amount of an FXCCM's Contribution determined in accordance with the ForexClear Default Fund Supplement and shall include any (i) ForexClear Unfunded Contributions, (ii) any relevant Supplementary Contribution deposited and made by the FXCCM with the Clearing House, and (iii) if the Clearing Member is a <u>ForexClear Option Clearing Member, the ForexClear Option Service Default Fund Contribution of that ForexClear Option Clearing Member. For the avoidance of doubt, the ForexClear Contribution shall not include any of the ForexClear Liquidity Fund Contributions made by a ForexClear Option Clearing Member</u>
<b>"ForexClear Currency"</b>	means: <ul style="list-style-type: none"> <li>(a) <u>USD;</u></li> <li>(b) <u>JPY;</u></li> <li>(c) <u>EUR;</u></li> <li>(d) <u>GBP;</u></li> <li>(e) <u>CHF; or</u></li> <li>(f) <u>AUD</u></li> </ul>
<b>"ForexClear Dealer (FXD)"</b>	means a person admitted by the Clearing House to the Register of ForexClear Dealers and who has not been removed from the Register of ForexClear Dealers
<b>"ForexClear Dealer Clearing Agreement (FDC Agreement)"</b>	means a written agreement, in the form and on the terms prescribed by the Clearing House between an FXD, an FXCCM and the Clearing House
<b>"ForexClear Default Fund Supplement"</b>	means the Supplement relating to ForexClear Business
<b>"ForexClear Default Management Process"</b>	has the meaning assigned to it in the ForexClear DMP Annex in the Default Rules
<b>"ForexClear Default Management Process Completion Date"</b>	has the meaning assigned to it in the ForexClear DMP Annex in the Default Rules
<b>"ForexClear Default Period"</b>	has the meaning ascribed to it in Rule F2 of the ForexClear Default Fund Supplement

Deleted: and

Deleted: January

**"ForexClear Deliverable Forward Contract"**

means a Contract entered into by the Clearing House with a ForexClear Clearing Member on the ForexClear Deliverable Forward Contract Terms which includes, in the case of the Default Rules (including the ForexClear DMP Annex but excluding, for the avoidance of doubt, the Client Clearing Annex), the FCM Default Fund Agreement and any other document, rule or procedure as specified by the Clearing House from time to time

**"ForexClear Deliverable Forward Contract Terms"**

means the terms applicable to each ForexClear Deliverable Forward Contract as set out from time to time in the Product Specific Contract Terms and Eligibility Criteria Manual applicable to ForexClear Deliverable Forward Contracts

**"ForexClear Deliverable Forward Transaction"**

means a contract, meeting the applicable ForexClear Eligibility Criteria for registration as a ForexClear Deliverable Forward Contract, entered into between two ForexClear Participants, of which particulars are presented to the Clearing House for registration in the name of ForexClear Clearing Members in accordance with the Regulations

**"ForexClear Determination Date"**

has the meaning assigned to it in Rule F2 of the ForexClear Default Fund Supplement

**"ForexClear DMG"**

has the meaning assigned to it in the ForexClear DMP Annex in the Default Rules

**"ForexClear DMP"**

has the meaning assigned to it in the ForexClear DMP Annex in the Default Rules

**"ForexClear Eligibility Criteria"**

means the product eligibility criteria in respect of a type of ForexClear Transaction as set out in the Product Specific Contract Terms and Eligibility Criteria Manual as published on the Clearing House's website from time to time, which shall include, the ForexClear Eligibility Criteria applicable to each of (i) ForexClear Deliverable Forward Transactions, (ii) ForexClear NDF Transactions, (iii) ForexClear Option Transactions, and (iv) ForexClear Spot Transactions (as applicable)

Deleted: Transactions

Deleted:

Deleted: January

<b>"ForexClear Excess Loss"</b>	means the net sum or aggregate of net sums certified to be payable by a Defaulter in respect of ForexClear Business by a Rule 19 Certificate less (a) the proportion of the Capped Amount applicable to ForexClear Business under Rule 15(c) and (b) any sums then immediately payable in respect of ForexClear Business Default Losses owed by such Defaulter by any insurer or provider of analogous services under any policy of insurance or analogous instrument written in favour of the Clearing House
<b>"ForexClear Fund Amount"</b>	means the amount as determined in accordance with Rule F2(c) of the ForexClear Default Fund Supplement
<b><u>"ForexClear Liquidity Event"</u></b>	<u>means the event or circumstance specified as such in Regulation 101(a)</u>
<b><u>"ForexClear Liquidity Fund Contributions"</u></b>	<u>means the AUD ForexClear Liquidity Fund Contribution, CHF ForexClear Liquidity Fund Contribution, EUR ForexClear Liquidity Fund Contribution, and GBP ForexClear Liquidity Fund Contribution</u>
<b>"ForexClear Loss Distribution Process"</b>	has the meaning assigned to it in Rule F9 of the ForexClear Default Fund Supplement
<b>"ForexClear Matcher"</b>	means a party which has been notified in writing by the Clearing House to ForexClear Participants from time to time as being a matching provider for the ForexClear Service
<b>"ForexClear <u>NDF Contract</u>"</b>	<u>means a Contract entered into by the Clearing House with a ForexClear Clearing Member on the ForexClear NDF Contract Terms which includes, in the case of the Default Rules (including the ForexClear DMP Annex but excluding, for the avoidance of doubt, the Client Clearing Annex), the FCM Default Fund Agreement and any other document, rule or procedure as specified by the Clearing House from time to time, an FCM ForexClear Contract</u>
<b><u>"ForexClear, NDF Contract Terms"</u></b>	<u>means the terms applicable to each ForexClear NDF Contract as set out from time to time in the Product Specific Contract Terms and Eligibility Criteria Manual applicable to ForexClear NDF Contracts,</u>

Deleted: Participants (FXPs)"

Moved down [1]: means ForexClear Clearing Members, ForexClear Dealers and ForexClear Clearing Clients and "ForexClear Participant" means any of them

Deleted: "

Deleted: Regulations

Deleted: those Regulations which apply

Deleted: as specified in

Deleted: January

**"ForexClear NDF Transaction"**

means a contract, meeting the applicable ForexClear Eligibility Criteria for registration as a ForexClear NDF Contract, entered into between two ForexClear Participants, of which particulars are presented to the Clearing House for registration in the name of ForexClear Clearing Members in accordance with the Regulations. In addition, a ForexClear Transaction shall include an FCM ForexClear Transaction where the relevant ForexClear Clearing Member is an executing party

**"ForexClear Option Buyer"**

means, in relation to a ForexClear Option Contract, the party specified as the 'Buyer' in the Economic Terms of that ForexClear Option Contract

**"ForexClear Option Clearing Member"**

means, a Member who is designated by the Clearing House as a ForexClear Option Clearing Member eligible to have registered in its name ForexClear Option Contracts, ForexClear Deliverable Forward Contracts, ForexClear Spot Contracts and ForexClear Swap Contracts

**"ForexClear Option Contract"**

means a Contract entered into by the Clearing House with a ForexClear Clearing Member on the ForexClear Option Contract Terms which includes, in the case of the Default Rules (including the ForexClear DMP Annex but excluding, for the avoidance of doubt, the Client Clearing Annex), the FCM Default Fund Agreement and any other document, rule or procedure as specified by the Clearing House from time to time

**"ForexClear Option Contract Terms"**

means the terms applicable to each ForexClear Option Contract as set out from time to time in the Product Specific Contract Terms and Eligibility Criteria Manual applicable to ForexClear Option Contracts

**"ForexClear Option Party A"**

means, in respect of ForexClear Deliverable Forward Contract, ForexClear Spot Contract or ForexClear Swap Contract (as applicable), the ForexClear Option Clearing Member identified as "Party A" in the applicable ForexClear Deliverable Forward Contract Terms, ForexClear Spot Contract Terms or ForexClear Swap Contract Terms (as applicable)

**"ForexClear Option Party B"**

means, in respect of ForexClear Deliverable Forward Contract, ForexClear Spot Contract or ForexClear Swap Contract (as applicable), the ForexClear Option Clearing Member identified as "Party B" in the applicable ForexClear Deliverable Forward Contract Terms, ForexClear Spot Contract Terms or ForexClear Swap Contract Terms (as applicable)

Deleted: January

**"ForexClear Option Service Default Fund Contribution"**

means, for any FXCCM which is a ForexClear Option Clearing Member, the amount of that FXCCM's Contribution attributable to the ForexClear Option Service determined in accordance with the ForexClear Default Fund Supplement and the Procedures

**"ForexClear Option Seller"**

means, in relation to a ForexClear Option Contract, the party specified as the 'Seller' in the Economic Terms of that ForexClear Option Contract

**"ForexClear Option Service"**

means the service provided by the Clearing House under the ForexClear Regulations, whereby the Clearing House makes available services in respect of ForexClear Option Contracts, ForexClear Deliverable Forward Contracts, ForexClear Spot Contracts and ForexClear Swap Contracts

**"ForexClear Option Service Membership Requirements"**

has the meaning assigned to it in the Procedures

**"ForexClear Option Transaction"**

means a contract, meeting the applicable ForexClear Eligibility Criteria for registration as a ForexClear Option Contract, entered into between two ForexClear Participants, of which particulars are presented to the Clearing House for registration in the name of ForexClear Clearing Members in accordance with the Regulations.

Moved (Insertion) [1]

**"ForexClear Participants (FXPs)"**

means ForexClear Clearing Members, ForexClear Dealers and ForexClear Clearing Clients and "ForexClear Participant" means any of them

**"ForexClear Regulations"**

means those Regulations which apply to ForexClear Contract as specified in Regulation 90

**"ForexClear Service"**

means the service provided by the Clearing House under the ForexClear Regulations

**"ForexClear Settlement Event"**

means the event or circumstance specified as such in Regulation 100(g)

Deleted: January



**"ForexClear Spot Contract"**

means a Contract entered into by the Clearing House with a ForexClear Clearing Member on the ForexClear Spot Contract Terms which includes, in the case of the Default Rules (including the ForexClear DMP Annex but excluding, for the avoidance of doubt, the Client Clearing Annex), the FCM Default Fund Agreement and any other document, rule or procedure as specified by the Clearing House from time to time

**"ForexClear Spot Contract Terms"**

means the terms applicable to each ForexClear Spot Contract as set out from time to time in the Product Specific Contract Terms and Eligibility Criteria Manual applicable to ForexClear Spot Contracts

**"ForexClear Spot Transaction"**

means a contract, meeting the applicable ForexClear Eligibility Criteria for registration as a ForexClear Spot Contract, entered into between two ForexClear Participants, of which particulars are presented to the Clearing House for registration in the name of ForexClear Clearing Members in accordance with the Regulations.

**"ForexClear Swap Contract"**

means a Contract entered into by the Clearing House with a ForexClear Clearing Member on the ForexClear Swap Contract Terms which includes, in the case of the Default Rules (including the ForexClear DMP Annex but excluding, for the avoidance of doubt, the Client Clearing Annex), the FCM Default Fund Agreement and any other document, rule or procedure as specified by the Clearing House from time to time

**"ForexClear Swap Contract Terms"**

means the terms applicable to each ForexClear Swap Contract as set out from time to time in the Product Specific Contract Terms and Eligibility Criteria Manual applicable to ForexClear Swap Contracts

**"ForexClear Swap Transaction"**

means a contract, meeting the applicable ForexClear Eligibility Criteria for registration as a ForexClear Swap Contract, entered into for and on behalf of two ForexClear Option Clearing Members, of which particulars are deemed to be presented to the Clearing House for registration in the name of those ForexClear Clearing Members in accordance with the Regulations.

**"ForexClear Transaction"**

means a ForexClear NDF Transaction, a ForexClear Spot Transaction, a ForexClear Deliverable Forward Transaction a ForexClear Option Transaction or a ForexClear Swap Transaction (as applicable)

Deleted: January

<b>"ForexClear Unfunded Contribution"</b>	has the meaning assigned to it in Rule F8 of the ForexClear Default Fund Supplement
<b>"ForexClear Unfunded Contribution Notice"</b>	has the meaning assigned to it in Rule F8 of the ForexClear Default Fund Supplement
<b>"ForexClear Voluntary Payment"</b>	has the meaning assigned to it in Rule F10 of the ForexClear Default Fund Supplement
<b>"ForexClear Voluntary Payment Notice"</b>	has the meaning assigned to it in Rule F10 of the ForexClear Default Fund Supplement
<b>"Fund Amount"</b>	in relation to the Commodities Business and the Equities Business and the Listed Interest Rates Business, has the meaning given to the term "Fund Amount" in the Supplement relating to each such Business and includes such amounts and the ForexClear Fund Amount, the General Fund Amount, the RepoClear Segregated Fund Amount and/or the Rates Service Fund Amount as applicable
<b><u>"GBP ForexClear Liquidity Fund Contribution"</u></b>	<u>means, in respect of a ForexClear Option Clearing Member, the amount (notified by the Clearing House pursuant to Regulation 102(b)) of cash denominated in Sterling that is required to be paid by that ForexClear Option Clearing Member to the Clearing House</u>
<b>"GC Trade"</b>	means a €GC Trade or a Term £GC Trade
<b>"Governmental Authority"</b>	means any: <ul style="list-style-type: none"> <li>(a) governmental, inter-governmental, parliamentary or supranational body, entity, agency or department; or</li> <li>(b) regulatory, self-regulatory or other authority,</li> </ul> in each case, which has jurisdiction over the Clearing House and/or, in respect of a Clearing Member, the relevant Clearing Member.
<b>"Group Member"</b>	has the meaning assigned to it in Chapter XIV(c)(i)
<b>"Hedged Account"</b>	has the meaning assigned to it in the FCM Regulations

Deleted: January

<b>"House Clearing Business"</b>	means, in respect of SwapClear, SwapClear Clearing House Business and FCM SwapClear Clearing House Business, in respect of ForexClear, ForexClear Clearing House Business and FCM ForexClear Clearing House Business, in respect of RepoClear, RepoClear Clearing House Business and in respect of any other Service, Contracts entered into by a Clearing Member with the Clearing House on a proprietary basis and for its own account
<b>"House Excess"</b>	means in relation to a Service, that part of the Clearing Member Current Collateral Balance maintained by a Clearing Member with the Clearing House on a proprietary basis and for its own account which is in excess of the relevant Total Required Margin Amount
<b>"Identified Client Omnibus Net Segregated Account"</b>	means, in relation to a Relevant Client Clearing Business, (i) an account opened within the Clearing House by the relevant Clearing Member on behalf of its Identified Omnibus Segregated Clearing Clients which is designated by the Clearing House as an Identified Client Omnibus Net Segregated Account; together with (ii) for the purposes of the Default Rules, any Omnibus Segregated Account comprising Determined Omnibus Net Segregated Clients
<b>"Identified Client Omnibus Segregated Account"</b>	means (i) an Identified Client Omnibus Net Segregated Account or (ii) an Omnibus Gross Segregated Account opened on behalf of a group of Identified Omnibus Segregated Clearing Clients
<b>"Identified Omnibus Net Segregated Clearing Clients"</b>	means Identified Omnibus Segregated Clearing Clients in respect of whom the relevant Clearing Member clears Contracts with the Clearing House in an Identified Client Omnibus Net Segregated Account
<b>"Identified Omnibus Segregated Clearing Clients"</b>	means, in relation to a Relevant Client Clearing Business, (i) certain Omnibus Segregated Clearing Clients of the relevant Clearing Member or FCM whose identities have been recorded by the Onboarding department of the Clearing House and who are grouped together in a single Omnibus Segregated Account of the Clearing Member but who are not Affiliated Omnibus Segregated Clearing Clients; together with (ii) for the purposes of the Default Rules, any Determined Omnibus Net Segregated Clearing Clients who are grouped together in a single Omnibus Segregated Account

**"Impacted ForexClear Option Clearing Member"** [has the meaning assigned to it in Regulation 100\(g\)](#)

**"Index"** has the meaning assigned to it in Chapter XIV(a)

Deleted: January

<b>"Indirect Net Account"</b>	means, in relation to a Relevant Client Clearing Business, an Omnibus Segregated Account which is (i) opened by a Clearing Member for the purpose of providing Client Clearing Services to one or more Indirect Net Account Clearing Clients who are, in turn, providing clearing services to their Indirect Clearing Clients, and (ii) designated by the Clearing House as an Indirect Net Account, but, for the avoidance of doubt, does not include any Omnibus Segregated Account comprising Determined Omnibus Net Segregated Clients
<b>"Indirect Net Account Clearing Client"</b>	means an Omnibus Segregated Clearing Client (i) in respect of whom the relevant Clearing Member clears Contracts with the Clearing House in an Indirect Net Account, and (ii) whose identity is not recorded by the Clearing House but, for the avoidance of doubt, does not include any Determined Omnibus Net Segregated Client
<b>"Individual Segregated Account"</b>	means an account opened within the Clearing House by a Clearing Member or an FCM which enables the relevant Clearing Member or FCM (as applicable) to distinguish the assets and positions held for the account of an Individual Segregated Account Clearing Client from the assets and positions held for the account of its other clients, and which is designated by the Clearing House as an Individual Segregated Account
<b>"Individual Segregated Account Balance"</b>	means, in respect of an Individual Segregated Account Clearing Client, the Clearing Member Current Collateral Balance of the Individual Segregated Account held by the relevant Clearing Member on behalf of such client (together with any receivables, rights, intangibles and any other collateral or assets deposited or held with the Clearing House in connection with such an account)
<b>"Individual Segregated Account Clearing Client"</b>	means a Clearing Client in respect of whom the relevant Clearing Member clears Contracts with the Clearing House in an Individual Segregated Account
<b><u>"Ineligible Transaction"</u></b>	<u>has the meaning assigned to it in Regulation 91(b)</u>
<b>"Inflation Clearing Group"</b>	has the meaning assigned to it in Chapter XIV(c)(i)
<b>"Inflation Clearing Group Aggregate"</b>	has the meaning assigned to it in Chapter XIV(c)(ii)
<b>"Inflation Derived Data"</b>	has the meaning assigned to it in Regulation 60A(g)
<b>"Inflation FCM Swap Clear Contract"</b>	has the meaning assigned to it in the FCM Regulations

Deleted: January

**"LSE Derivatives Markets Service"**

the service provided by the Clearing House under the LSE Derivatives Markets Regulations

**"Mandatory ForexClear Swap Contract"**

means a ForexClear Swap Contract that is entered into for and on behalf of an Affected and/or Non-Affected ForexClear Option Clearing Member by the Clearing House acting pursuant to Regulation 101(d)(v) and Regulation 105

**"Mandatory ForexClear Swap Limit"**

means, in respect of a given day, a given ForexClear Currency and a given ForexClear Option Clearing Member, the maximum amount of Mandatory ForexClear Swap Transactions denominated in that ForexClear Currency that the Clearing House shall be entitled to enter into on that day on behalf of that ForexClear Option Clearing Member in accordance with Regulation 101, as determined in accordance with the Procedures

**"Mandatory ForexClear Swap Limit Cap"**

means, in respect of a ForexClear Currency and all ForexClear Option Clearing Members, USD1,000,000,000 (or the equivalent denominated in the relevant ForexClear Currency) (as amended from time to time in accordance with the Regulations)

**"Mandatory Settlement ForexClear Swap Contract"**

means a ForexClear Swap Contract that is entered into for and on behalf of an Impacted and/or Non-Impacted ForexClear Option Clearing Member by the Clearing House acting pursuant to Regulation 100(k) and Regulation 105

**"margin"**

means initial margin, variation margin and/or any other amounts required to be transferred and maintained under Regulation 20(a) (*Margin and Collateral*)

**"Margin Cover"**

has the meaning ascribed to such term in Default Rule 15(a)

**"market"**

means a futures, options, forward, stock or other market, administered by an Exchange, or an OTC market in respect of which the Clearing House has agreed with such Exchange or, in respect of an OTC market, with certain Participants in that market, to provide clearing services on the terms of these Regulations and the Procedures

**"Market Data"**

has the meaning assigned to it in Chapter XIV(f)(i)

**"market day"**

means in respect of a commodity, a day on which the market on which that commodity is dealt in is open for trading

**"Market Deviation Notice"**

has the meaning assigned to it in Chapter XIV(l)

Deleted: January



<b>"Nodal Client Clearing Business"</b>	means the provision of NODAL Client Clearing Services by a Nodal Service Clearing Member
<b>"Nodal Client Clearing Services"</b>	means the entering into of Nodal Contracts by a Nodal Service Clearing Member in respect of its Individual Segregated Account Clearing Clients and/or its Omnibus Segregated Clearing Clients
<b>"Nodal Contract"</b>	means a Contract entered into by the Clearing House with a Nodal Service Clearing Member pursuant to the Nodal Regulations
<b>"Nodal Contract Terms"</b>	means the terms of a Nodal Contract as set out from time to time in the Nodal contract specification provided in the Nodal Rules
<b>"Nodal Eligible Derivative Product"</b>	means a derivative product prescribed from time to time by the Clearing House as eligible for the Nodal Service
<b>"Nodal Reference Price"</b>	means a Reference Price in respect of a Nodal Contract
<b>"Nodal Regulations"</b>	means those Regulations which apply to Nodal Contracts as specified in Regulation 89
<b>"Nodal Service"</b>	means the service provided by the Clearing House under the Nodal Regulations
<b>"Nodal Service Clearing Member"</b>	means a Member who is designated by the Clearing House as eligible to clear Nodal Contracts
<b>"Nodal Trading Facility"</b>	means the facility, trading system or systems operated directly or indirectly by Nodal on which Nodal Eligible Derivative Products may be traded
<b>"Nodal Transaction"</b>	means a contract in a Nodal Eligible Derivative Product between Nodal Service Clearing Members arising or registered on a Nodal Trading Facility meeting the requirements of the Regulations and the Procedures
<b>"Nodal Rules"</b>	means the rules, practices, procedures, trading protocols and arrangements of the Nodal Trading Facility as the case may be and as may be prescribed from time to time relating to Nodal Eligible Derivative Products
<b>"Nominated Group Member"</b>	has the meaning assigned to it in Chapter XIV(k)
<b><u>"Non-Affected ForexClear Option Clearing Member"</u></b>	<u>means a ForexClear Option Clearing Member that is not an Affected ForexClear Option Clearing Member</u>

Deleted: January

"Non-Defaulting FXCCM" means an FXCCM which is not a Defaulter under Rule 4 of the Default Rules

"Non-Defaulting Joint Rates Service Clearing Member" means a Joint Rates Service Clearing Member which is not a Defaulter under Rule 4 of the Default Rules

"Non-Defaulting Rates Services Clearing Member" means a Rates Service Clearing Member which is not a Defaulter under Rule 4 of the Default Rules

"Non-Defaulting RCM" means an RCM which is not a Defaulter under Rule 4 of the Default Rules

"Non-Defaulting SCM" means an SCM which is not a Defaulter under Rule 4 of the Default Rules

"Non-Eligible Listed Interest Rates Contract" means those Listed Interest Rates Contracts other than Eligible Listed Interest Rates Contracts

"Non-Identified Client Omnibus Net Segregated Account" means, in relation to a Relevant Client Clearing Business, an account opened within the Clearing House by the relevant Clearing Member on behalf of one or more of its Non-Identified Omnibus Segregated Clearing Clients which is designated by the Clearing House as a Non-Identified Client Omnibus Net Segregated Account but, for the avoidance of doubt, does not include any Omnibus Segregated Account comprising Determined Omnibus Net Segregated Clients

"Non-Identified Omnibus Segregated Clearing Client" means, in relation to a Relevant Client Clearing Business, certain Omnibus Segregated Clearing Clients of the relevant Clearing Member or FCM whose identities are not recorded by the Onboarding department of the Clearing House and who are grouped together in an Omnibus Segregated Account which is not an Identified Client Omnibus Segregated Account, an Affiliated Client Omnibus Segregated Account or an Indirect Net Account of the Clearing Member but, for the avoidance of doubt, does not include any Determined Omnibus Net Segregated Clients

"Non-Impacted ForexClear Option Clearing Member" means, with respect to a ForexClear Settlement Event, each ForexClear Option Clearing Member that is not an Impacted ForexClear Option Clearing Member in respect of such ForexClear Settlement Event

**Deleted:** "Non-Deliverable FX Transaction"

**Deleted:** has the meaning given to it in the 1998 FX and Currency Option Definitions published by the International Swaps and Derivatives Association, Inc., the Emerging Markets Traders Association, and the Foreign Exchange Committee, or any successor organisations, as amended and updated from time to time

**Deleted:** January

**"Put Currency Amount"**

means, in relation to a ForexClear Option Transaction or ForexClear Option Contract, as applicable, the amount specified as such in the ForexClear Option Contract Terms evidencing such ForexClear Option Transaction or ForexClear Option Contract, as applicable

**"Quarter Start Date"**

has the meaning assigned to it in Regulation 60A(c)

**"Rate X" and Rate "Y"**

means, in relation to a SwapClear Transaction or a SwapClear Contract, the outstanding payment obligations of each party to the transaction, such that Rate X comprises the outstanding payment obligations of one party to the other and Rate Y comprises the outstanding payment obligations of the other party to the first party

**"Rates Exchange"**

means any trading platform approved as such from time to time by the Clearing House in respect of the Listed Interest Rates Service

**"Rates Exchange Match"**

means, in respect of a Rates Exchange, a match made on such Rates Exchange of Rates Exchange Particulars submitted by, or on behalf of, Listed Interest Rates Clearing Members, which is made either:

- (i) other than through an order book of the Rates Exchange; or
- (ii) through an order book of the Rates Exchange, and

in each case:

- (a) which the Clearing House and the Rates Exchange have agreed will be cleared in accordance with, and subject to, the Rates Exchange Rules and the Rulebook via the Listed Interest Rates Open Offer clearing mechanism (and not via novation under Regulation 98); and

regardless of whether such match is described or characterised as a trade, transaction or agreement in the relevant Rates Exchange Rules

**"Rates Exchange Particulars"**

means the orders or trade particulars, in respect of a Listed Interest Rates Eligible Product, submitted to a Rates Exchange in accordance with the relevant Rates Exchange Rules by, or on behalf of, a Listed Interest Rates Clearing Member

Deleted: January

**"Receiving Clearing Member"** means a SwapClear Clearing Member or an FCM Clearing Member that carries the Transfer Account that will receive the transfer of Transferring SwapClear Contracts and, where applicable, the relevant Associated Collateral Balance(s) held in respect of the Eligible Transferor from a Carrying Clearing Member pursuant to Regulation 60 of these Regulations and in accordance with the Procedures and (where applicable) any relevant Collateral Management Agreement. For the avoidance of doubt, (i) an entity that is a SwapClear Clearing Client may also be a Receiving Clearing Member (other than a Receiving Clearing Member that is an FCM Clearing Member), (ii) a Receiving Clearing Member that is not an FCM Clearing Member may be nominated to receive a transfer of FCM SwapClear Contracts and associated Collateral from a Carrying Clearing Member that is an FCM Clearing Member pursuant to Regulation 46(p) of the FCM Regulations (capitalised terms used in this sub-paragraph (ii) having the meanings set out in the FCM Regulations), and (iii) a Receiving Clearing Member may be a Carrying Clearing Member, and vice versa

**"Reference Currency Buyer"** means in relation to ForexClear **NDF** Contract, the party specified as the 'Reference Currency Buyer' in the Economic Terms

**Deleted:** that is a Non-Deliverable FX Transaction

**"Reference Currency Seller"** means in relation to ForexClear **NDF** Contract, the party specified as the 'Reference Currency Seller' in the Economic Terms

**Deleted:** that is a Non-Deliverable FX Transaction

**"Reference Price"** means a price (howsoever called) by reference to which a Contract is settled to market, marked to market, settled or valued in accordance with the Regulations and Procedures

**"Register of ForexClear Dealers"** means the register which lists ForexClear Dealers regarded by the Clearing House as for the time being eligible to submit contracts for registration as ForexClear Contracts by the Clearing House

**"Register of RepoClear Dealers"** means the register which lists RepoClear Dealers regarded by the Clearing House as for the time being eligible to submit contracts for registration as RepoClear Contracts or RepoClear GC Contracts by the Clearing House or to deal through one or more Automated Trading Systems specified by the Clearing House in respect of each such RepoClear Dealer pursuant to which the Clearing House becomes a party to RepoClear Contracts or RepoClear GC Contracts, as the case may be, in accordance with the terms of the RepoClear Dealer Clearing Agreement and Regulation 19

**Deleted:** January

<b>"Related Contract"</b>	means: (i) in relation to the SwapClear Service, a Related SwapClear Contract (as such term is defined in the Procedures); (ii) in relation to the RepoClear Service, a Related RepoClear Contract (as such term is defined in the Procedures); (iii) in relation to the ForexClear Service, a Related ForexClear Contract (as such term is defined in the Procedures); (iv) in relation to the EquityClear Service, a Related EquityClear Contract (as such term is defined in the Procedures); (v) in relation to the LCH EnClear Service, a Related LCH EnClear Contract (as such term is defined in the Procedures); (vi) in relation to the LSE Derivatives Markets Service, a Related LSE Derivatives Markets Cleared Exchange Contract (as such term is defined in the Procedures); (vii) in relation to the Nodal Service, a Related Nodal Contract (as such term is defined in the Procedures); and (viii) in relation to the Listed Interest Rates Service, a Related Listed Interest Rates Contract (as such term is defined in the Procedures)
<b>"Relevant Auction Contract"</b>	has the meaning given to the term in the Client Clearing Annex
<b>"Relevant Business"</b>	has the meaning as described in Default Rule 15(c)
<b>"Relevant Client Clearing Business"</b>	means the Client Clearing Business conducted by a particular Clearing Member in a particular Service
<b>"Relevant Contract"</b>	has the meaning assigned to it in the Client Clearing Annex
<b>"Relevant Default"</b>	has the meaning ascribed to it in Rule S1 of Part A of the Rates Service Default Fund Supplement - SwapClear, Rule F2 of the ForexClear Default Fund Supplement or Rule R2 of the RepoClear Default Fund Supplement, as applicable
<b><u>"Relevant FX Liability"</u></b>	<u>has the meaning assigned to it in Regulation 101</u>
<b>"re-opening contract"</b>	means a contract arising pursuant to Regulation 30(b) or 30(c)
<b>"RepoClear Additional Payments Cap"</b>	means, in respect of a RCM on any date, an amount equal to the Clearing Member Current Collateral Balance of that RCM in connection with its RepoClear Business as at the date of the Default causing losses leading to an Insufficient Resources Determination (or, where such an Insufficient Resources Determination is made following concurrent Defaults, the date of the earliest Default)
<b>"RepoClear Amendment"</b>	has the meaning assigned to it in Rule R12 of the RepoClear Default Fund Supplement

Deleted: January



<b>"Required Margin Amount"</b>	means: (i) in respect of any type of margin and any account (other than an Omnibus Gross Segregated Account or Indirect Gross Account); (ii) in respect of any type of margin and (a) each individual Omnibus Gross Segregated Clearing Client (other than a Combined Omnibus Gross Segregated Clearing Client) within an Omnibus Gross Segregated Account; or (b) the Combined Omnibus Gross Segregated Clearing Clients grouped together within an Omnibus Gross Segregated Account; and (iii) in respect of any type of margin and each Indirect Gross Sub-Account, the most recent amount of each type of margin which the Clearing House requires in respect of the relevant account, sub-account or client(s) (as the case may be) as determined by the Clearing House and as recorded on its books and records
<b>"Requisite ForexClear Option Clearing Members"</b>	<u>means, on any business day, one or more ForexClear Option Clearing Members representing at least 75% of the total number of ForexClear Option Clearing Members</u>
<b>"Resignation Effective Date"</b>	means the date on which the termination of a Resigning Member's Clearing Member status in respect of a specific Service becomes effective, as specified in Regulation 5(a)
<b>"Resigning Member"</b>	means at any time any Clearing Member: (i) who has given notice to the Clearing House for the purposes of resigning from a particular Service; or (ii) in respect of whom the Clearing House has given notice for the purposes of requiring such Clearing Member to resign from a particular Service
<b>"Resulting Forexclear Contract"</b>	means a ForexClear Contract that will exist at the time the Clearing House undertakes compression, in respect of such ForexClear Contract, in accordance with the Rulebook, but that did not exist at the time at which the applicable ForexClear Clearing Member requested such compression
<b>"Retirement Effective Date"</b>	means the date on which the termination of a Retiring Member's Clearing Member status becomes effective, as specified in Regulation 5(e)
<b>"Retiring Member"</b>	means at any time any Clearing Member or, as the context may require, any former Clearing Member: (i) who has given notice to terminate its Clearing Member status to the Clearing House; or (ii) in respect of whom the Clearing House has terminated or given notice to terminate its Clearing Member status
<b>"Return Window"</b>	has the meaning assigned to it in the Client Clearing Annex to the Default Rules

Deleted: January

<b><u>"Revised Caps"</u></b>	<u>has the meaning assigned to it in Regulation 100</u>
<b><u>"Revised Limits"</u></b>	<u>has the meaning assigned to it in Regulation 100</u>
<b>"Risk Neutralisation"</b>	has the meaning assigned to it in the Default Rules
<b>"Rule 19 Certificate"</b>	has the meaning assigned to it in Rule 19 of the Default Rules
<b>"Rulebook"</b>	means the Regulations, Default Rules, Settlement Finality Regulations, Procedures, and such other rules of the Clearing House, as published and amended from time to time
<b>"Rules Change Committee"</b>	means the decision-making body that will oversee and implement all material alterations, amendments or extensions to the Rulebook or the Clearing Membership Agreement in accordance with its terms of reference
<b>"Rules of the Clearing House"</b>	means the Rulebook of the Clearing House including the General Regulations, Default Rules, Settlement Finality Rules and Procedures
<b>"SC Regulations"</b>	means the rules and regulations of the Clearing House denoted as such
<b>"SCM Branch"</b>	means a branch or part of a SwapClear Clearing Member, not being a different legal person from the SwapClear Clearing Member, which is authorized by the Clearing House to submit to the Clearing House, in the name of that SwapClear Clearing Member, SwapClear Transactions for registration, subject to these Regulations and the Procedures, by the Clearing House as SwapClear Contracts
<b>"Security Deed"</b>	means a security deed entered into by a Clearing Member in favour of its Clearing Clients in the form prescribed by the Clearing House from time to time and published on the Clearing House's website
<b>"segregated client"</b>	means a person whose monies are held by a Member separately from the Member's own monies with whom the Member has agreed (or in respect of which the Member is required) not to use such person's monies for the Member's own account

Deleted: January

**"seller"**

means a Member (or the Clearing House where the context so requires) who is a seller under the terms of an exchange contract, a Cleared Exchange Contract, an LSE Derivatives Markets Cleared Exchange Contract, a RepoClear Transaction, a RepoClear GC Transaction, a RepoClear Contract, a RepoClear GC Contract, an EquityClear ATP Match, an EquityClear Novation Transaction, an EquityClear Contract, an LCH EnClear Contract, a Rates Exchange Match, or a Listed Interest Rates Novation Transaction, as the case may be

**"Service"**

means any one of the services made available by the Clearing House: (i) to an Exchange; (ii) under the SwapClear Regulations and under the FCM Regulations in respect of FCM SwapClear Contracts; (iii) under the RepoClear Regulations; (iv) under the EquityClear Regulations; (v) under the LCH EnClear Regulations and under the FCM Regulations in respect of FCM EnClear Contracts; (vi) under the LSE Derivatives Markets Regulations; (vii) under the Nodal Regulations; (viii) under the ForexClear Regulations and under the FCM Regulations in respect of FCM ForexClear Contracts; or (ix) under the Listed Interest Rates Regulations

**"settlement contract"**

means a contract between the Clearing House and a Member arising pursuant to Regulation 23(b), Regulation 75(b) or Regulation 99(a)

**"Settlement Exposure Amount"**

has the meaning assigned to it in Regulation 100

**"Settlement Exposure Limit"**

means, with respect to a ForexClear Option Clearing Member and a given ForexClear Currency, the "Settlement Exposure Limit" determined in accordance with the Procedures and made available from time to time by the Clearing House to that ForexClear Option Clearing Member, being the maximum permitted net deliverable or payable value in such currency on any given day arising from all ForexClear Contracts (other than ForexClear NDF Contracts) that have a Settlement Date falling more than two days after such day

**"Settlement Exposure Limit Cap"**

means, with respect to all ForexClear Option Clearing Members and all ForexClear Currencies, USD5,000,000,000 (as amended from time to time in accordance with the Regulations)

**"Settlement Position Amount"**

has the meaning assigned to it in Regulation 100

Deleted: January

**"Settlement Position Limit"**

means, with respect to a ForexClear Option Clearing Member and a given ForexClear Currency, the "Settlement Position Limit" determined in accordance with the Procedures and made available from time to time by the Clearing House to that ForexClear Option Clearing Member, being the maximum permitted net deliverable or payable value in such currency on any given day arising from all ForexClear Contracts (other than ForexClear NDF Contracts) that have a Settlement Date falling two days after such day

**"Settlement Position Limit Cap"**

means, with respect to all ForexClear Option Clearing Members and all ForexClear Currencies, USD5,000,000,000 (as amended from time to time in accordance with the Regulations)

**"settlement price"**

means one or more prices determined and issued by an Exchange in accordance with its Exchange Rules in respect of a delivery month or prompt date

In relation to a Contract other than an exchange contract, one or more prices determined in accordance with the Regulations or the Procedures.

**"Settlement Service Provider"**

means CLS Bank International or any other entity approved by the Clearing House from time to time for the provision to the Clearing House of settlement services in connection with settlement under the ForexClear Service not taking place through the Clearing House Protected Payment System

**"SONIA"**

means the overnight rate as calculated by the Wholesale Market Broker's Association and appearing on the Reuters Screen SONIA Page (or, if such a rate is not available, such SONIA-linked rate as may be determined in light of market conditions at such time by the Clearing House and notified by the Clearing House to Clearing Members)

**"Special Member"**

means:

- (a) an organisation which has the necessary licences, authorisations and approvals to act as a clearing house or otherwise provide clearing services or an organisation which has the necessary licences, authorisations and approvals to administer a futures, options, stock or other market and also to act as a clearing house in respect of such market or markets; or
- (b) an organisation carrying on comparable activities, as the Clearing House may determine from time to time,

Deleted: January

	which has concluded a Clearing Membership Agreement with the Clearing House in such form as the parties may agree, pursuant to which such organisation clears specific types of Contract and agrees to be bound by these Regulations as a Member, to the extent and subject to any variations agreed in such Clearing Membership Agreement
<b>"Specified Exchange"</b>	means London Stock Exchange plc, Nodal Exchange LLC, Hong Kong Mercantile Exchange Limited or any Exchange succeeding to any such person
<b><u>"Spot Settled ForexClear Option Transaction"</u></b>	<u>means a ForexClear Option Transaction which the parties thereto have agreed (as evidenced by the ForexClear Spot Contract Terms applicable to that ForexClear Option Transaction) shall be settled by the entry into of a ForexClear Spot Transaction</u>
<b>"Sponsored Member"</b>	has the meaning assigned to it in the SC Regulations
<b>"Standard Terms"</b>	means that part of the SwapClear Contract Terms, the RepoClear Contract Terms, the LCH EnClear Contract Terms, the ForexClear Contract Terms, or, in respect of a Designated Listed Interest Rates Contract, the Listed Interest Rates Contract Terms designated as Standard Terms by the Clearing House from time to time
<b>"STM Conversion Contracts"</b>	has the meaning assigned to it in Regulation 57A
<b>"STM Conversion Date"</b>	has the meaning assigned to it in Regulation 57A
<b>"STM Conversion Request"</b>	has the meaning assigned to it in Regulation 57A
<b>"strike price"</b>	means the price specified in an option contract which becomes the price of the reference asset or commodity under a contract for the future sale and purchase of that reference asset or commodity for future delivery or, as the case may be, under a delivery contract, in either case on the exercise of the option the subject of such option contract, in accordance with Exchange Rules, these Regulations and the Procedures, as applicable
<b>"Sub-Block Trading Venue Transaction"</b>	means a transaction, identified by the Clearing House as having been executed on a Trading Venue, the notional amount of which is below the minimum block size determined by the Clearing House in its sole and absolute discretion and published on the Clearing House's website in respect of the particular transaction and in effect as of the date of presentation of such transaction to the Clearing House for registration

Deleted: January



## CHAPTER I – SCOPE

### REGULATION 2 OBLIGATIONS OF THE CLEARING HOUSE TO EACH MEMBER

- (a) The Clearing House shall perform the obligations referred to in paragraph (b) below so as to ensure the performance of all open contracts in accordance with these Regulations.
- (b) The obligations of the Clearing House to each Member shall be, as a counterparty to an open contract registered in the name of a Member in accordance with these Regulations and the Procedures, to perform its obligations under the terms of such open contract as principal to such Member in accordance with the provisions of these Regulations and the Procedures, but subject to the restrictions on the Clearing House's obligations and liabilities contained in these Regulations.
- (c) The performance by the Clearing House of its obligations referred to in this Regulation 2 shall always be subject to the provisions of these Regulations. The benefit of the performance by the Clearing House of such obligations is conferred upon Members as principals and upon no other persons whatsoever. Save as provided in Regulation 106, it is not the intention of the Clearing House or its members to confer any benefit on or give any right to enforce any provisions of this Regulation or any of the other Regulations to any person who is not a member. Save as provided in Regulation 106, rights of third parties to enforce any provision of any of these Regulations pursuant to the Contract (Rights of Third Parties) Act 1999 are expressly excluded.

Deleted: It

Deleted: Rights

Deleted: January

## CHAPTER IV – CONTRACT FORMATION, REGISTRATION AND TRANSFER

### REGULATION 12 NOVATION

- (a) Upon registration of an original contract by the Clearing House, such contract shall be replaced by novation (without prejudice to the Clearing House's rights to effect further novation under paragraph (b) below) by two open contracts, one between the seller and the Clearing House as buyer, as principals to such contract, and one between the buyer and the Clearing House as seller, as principals to such contract. Following such novation the original contract shall be extinguished. Each open contract shall be subject to the Regulations including the restrictions on the Clearing House's obligations and liabilities set out in the Regulations (including, without limit, Regulation 32 and Regulation 52) and otherwise on the same terms as the original contract replaced by such open contracts.
- (b) Upon the transfer of an open contract (including, for the avoidance of doubt, Relevant Contracts transferred to a Backup Clearing Member pursuant to the Client Clearing Annex) pursuant to these Regulations such open contract shall be discharged and replaced by novation by an open contract between the Member into whose name the contract was transferred and the Clearing House, as principals to such open contract. Such open contract shall be subject to the Regulations and otherwise on the same terms as the open contract which it replaced, subject in the case of SwapClear Contracts to any variations contemplated under the SwapClear Regulations.
- (c) Upon the exercise of an option (excluding a ForexClear Option Transaction) by or on behalf of a Member or, as the case may be, by the Clearing House or upon the deemed exercise of such option pursuant to these Regulations, the option contract shall be replaced by novation by an open contract on the terms specified in the option contract at the strike price or at some other price in accordance with the terms of such option contract.

Deleted: January

## REGULATION 16 REGISTRATION

- (a) The Clearing House shall not register an original exchange contract in the name of a Member unless such contract has been confirmed or deemed confirmed pursuant to Regulation 12, 14 or 27 by or on behalf of a Member as a buyer and a Member as a seller who thereby have consented to such contract being registered in his name. For the avoidance of doubt, the same Member may act in a capacity of seller and buyer in respect of such registration of a contract. The Clearing House shall register a contract in the name of a Member which is a Co-operating Clearing House in accordance with the terms of any agreement made with the Co-operating Clearing House and none of the following paragraphs shall apply in respect of a Member which is a Co-operating Clearing House.
- (b) Where the Procedures so provide the Clearing House may require the Members in whose names one or more contracts are to be registered to transfer Collateral to the Clearing House in respect of their initial and variation margin obligations as a condition of registration of such contract or contracts, and such Collateral shall be transferred to the Clearing House in accordance with Regulation 20 and, if applicable, the SwapClear Regulations, the RepoClear Regulations, the EquityClear Regulations, the LCH EnClear Regulations, the ForexClear Regulations, the LSE Derivatives Markets Regulations and the Listed Interest Rates Regulations.
- (c) The Clearing House may decline to register a contract in the name of a Member where it considers such action advisable for its own protection or the protection of the relevant market. The Clearing House may, without assigning any reason, make the registration of any contract subject to any conditions stipulated by the Clearing House including, without limitation, the transfer of sufficient Collateral by both Members in whose name any such contract is to be registered.
- (d) No original exchange contract for a commodity shall be registered in the name of a Member who is not entitled under Exchange Rules to have original exchange contracts for such commodity registered in his name.
- (e) The Clearing House shall be deemed to register in the name of a Member an original contract or RepoClear Transaction at the Registration Time in respect of the relevant type of Contract, provided that, in the case of a Contract registered by the Clearing House pursuant to Rule 6(a) of the Default Rules, the Registration Time shall be deemed to be the time chosen by the Clearing House whereupon this Regulation 16 shall take effect.
- (f) Without prejudice to the Clearing House's rights under paragraph (g) of this Regulation, a Clearing Member shall be bound by a Contract registered in its name pursuant to the presentation of particulars of an Exchange Transaction, an OTC Transaction, an Eligible EnClear Trade, an EquityClear Novation Transaction, or a Listed Interest Rates Novation Transaction, as the case may be, by him or on his behalf, including: (i) in the case of a RepoClear Transaction or RepoClear GC Transaction, where such particulars are presented by a RepoClear Dealer with whom it is party to a RepoClear Dealer Clearing Agreement; (ii) in the case of a ForexClear Transaction, where such particulars are presented by a ForexClear Dealer with whom it is party to a FDC Agreement; (iii) in the case of an Eligible EnClear Trade, where such particulars are presented by an Approved Broker or otherwise on the Clearing

Deleted: January

registration by it in error or otherwise of a contract as a Contract in respect of a transaction which did not meet the eligibility criteria at the Registration Time to enable it to be registered as the relevant type of Contract.

(j) An Exchange Transaction, EquityClear Novation Transaction, Eligible EnClear, OTC Transaction or Listed Interest Rates Novation Transaction presented for registration to, and accepted by, the Clearing House shall be registered by the Clearing House as two Contracts, one between the First Clearing Member as the seller, Reference Currency Seller, the ForexClear Option Seller, ForexClear Option Party A or party paying a Fixed Price (as the case may be) and the Clearing House as the buyer, Reference Currency Buyer, ForexClear Option Buyer, ForexClear Option Party B or party paying a Floating Price (as the case may be) as principals to such contract, and the other between the Clearing House as the seller, Reference Currency Seller, ForexClear Option Seller, ForexClear Option Party A or party paying a Fixed Price (as the case may be) and the Second Clearing Member as the buyer, Reference Currency Buyer, ForexClear Option Buyer, ForexClear Option Party B or party paying a Floating Price (as the case may be) as principals to such contract. For the purposes of this Regulation 16:

(i) "First Clearing Member" is a Clearing Member who:

(A) was, before registration of the Contract party to the corresponding Exchange Transaction, Eligible EnClear Trade or OTC Transaction as the seller or the party paying a Fixed Price (as the case may be), or, if appropriate, who has Accepted such Eligible EnClear Trade in accordance with the relevant Procedures;

(B) in the case of a Repo Transaction, has a subsisting RepoClear Dealer Clearing Arrangement with a RepoClear Dealer who was party to the corresponding Repo Transaction as the seller;

(C) in the case of a ForexClear NDF Transaction, was, before registration of the ForexClear NDF Contract, party to the corresponding ForexClear NDF Transaction as the Reference Currency Seller, or who has a subsisting FDC Agreement with the ForexClear Dealer who was party to the corresponding ForexClear NDF Transaction as the Reference Currency Seller;

(D) in the case of a ForexClear Deliverable Forward Transaction, was, before registration of the ForexClear Deliverable Forward Contract, party to the corresponding ForexClear Deliverable Forward Transaction as ForexClear Option Party A;

(E) in the case of a ForexClear Spot Transaction, was, before registration of the ForexClear Spot Contract, party to the corresponding ForexClear Spot Transaction as ForexClear Option Party A;

(F) in the case of a ForexClear Swap Transaction, was, before registration of the ForexClear Swap Contract, party to the corresponding ForexClear Swap Transaction as ForexClear Option Party A;

Deleted: January

- (G) in the case of a ForexClear Option Transaction, was, before registration of the ForexClear Option Contract, party to the corresponding ForexClear Option Transaction as the ForexClear Option Seller; or
  - (H) was, before registration of the EquityClear Contract identified in the particulars of the corresponding EquityClear Novation Transaction as, or as acting as clearing member for, the seller; or
  - (I) was, before registration of the Listed Interest Rates Contract identified in the particulars of the corresponding Listed Interest Rates Novation Transaction as, or as acting as clearing member for, the seller.
- (ii) "Second Clearing Member" is a Clearing Member (who may be the same as the First Clearing Member) who:
- (A) was, before registration of the Contract, party to the corresponding Exchange Transaction, Eligible EnClear Trade or OTC Transaction as the buyer or the party paying a Floating Price (as the case may be), or, if appropriate, who has Accepted such Eligible EnClear Trade in accordance with the relevant Procedures;
  - (B) in the case of a Repo Transaction, has a subsisting RepoClear Dealer Clearing Arrangement with a RepoClear Dealer who was party to the corresponding Repo Transaction as the buyer;
  - (C) in the case of a ForexClear NDF Transaction, was, before registration of the ForexClear NDF Contract, party to the corresponding ForexClear NDF Transaction as the Reference Currency Buyer, or who has a subsisting FDC Agreement with the ForexClear Dealer who was party to the corresponding ForexClear NDF Transaction as the Reference Currency Buyer;
  - (D) in the case of a ForexClear Deliverable Forward Transaction, was, before registration of the ForexClear Deliverable Forward Contract, party to the corresponding ForexClear Deliverable Forward Transaction as ForexClear Option Party B;
  - (E) in the case of a ForexClear Spot Transaction, was, before registration of the ForexClear Spot Contract, party to the corresponding ForexClear Spot Transaction as ForexClear Option Party B;
  - (F) in the case of a ForexClear Swap Transaction, was, before registration of the ForexClear Swap Contract, party to the corresponding ForexClear Swap Transaction as ForexClear Option Party B;
  - (G) in the case of a ForexClear Option Transaction, was, before registration of the ForexClear Option Contract, party to the corresponding ForexClear Option Transaction as the ForexClear Option Buyer; or

Deleted: January



- (H) was, before registration of the EquityClear Contract identified in the particulars of the corresponding EquityClear Novation Transaction as, or as acting as clearing member for, the buyer; or
- (I) was, before registration of the Listed Interest Rates Contract identified in the particulars of the corresponding Listed Interest Rates Novation Transaction as, or as acting as clearing member for, the buyer.
- (iii) In the case of an EquityClear Novation Transaction which is an EquityClear Mixed Member Match, Regulation 69(c) applies.
- (iv) For the purposes of this Regulation 16(j), "Accepted" shall mean that the relevant LCH EnClear Clearing Member has agreed, by such means as may be prescribed from time to time by the Procedures, to become counterparty with the Clearing House to such LCH EnClear Contract.
- (k) With effect from registration of an Exchange Transaction, EquityClear Novation Transaction, Eligible EnClear Trade, OTC Transaction or Listed Interest Rates Novation Transaction as two Contracts under paragraph (i) of this Regulation 16:
  - (i) the parties to the corresponding Eligible EnClear Trade (to the extent that they are bound by these Regulations), Exchange Transaction, EquityClear Novation Transaction, OTC Transaction or Listed Interest Rates Novation Transaction shall be released and discharged from all rights and obligations thereunder which fall due for performance on or after the Registration Time; where the parties to the corresponding Eligible EnClear Trade are not bound by these Regulations, such trade shall be dealt with according to the terms agreed by the parties to that trade;
  - (ii) each Contract registered under paragraph (j) of this Regulation 16 shall be governed by the relevant Contract Terms applicable to that Contract and the General Regulations and Procedures;
  - (iii) subject always to sub-paragraph (ii) above, the First Clearing Member shall have the same rights against, and owe the same obligations to, the Clearing House under the respective Contract to which it is a party as the seller, Reference Currency Seller, the ForexClear Option Seller, ForexClear Option Party A or party paying a Fixed Price (or the person identified as acting as clearing member for that person) had and owed in respect of its counterparty under the corresponding Exchange Transaction, Eligible EnClear Trade, EquityClear Novation Transaction, OTC Transaction or Listed Interest Rates Novation Transaction; and
  - (iv) subject always to sub-paragraph (ii) above, the Second Clearing Member shall have the same rights against, and owe the same obligations to, the Clearing House under the respective Contract to which it is a party as the buyer, Reference Currency Buyer, ForexClear Option Buyer, ForexClear Option Party B or party paying a Floating Price (or the person identified as acting as clearing member for that person) had and owed in respect of its counterparty under the corresponding Exchange Transaction, Eligible EnClear Trade,

Deleted: January

## REGULATION 52 EXCLUSION OF LIABILITY

- (a) Without prejudice to the provisions of Regulations 2 and 32 and 52(e) neither the Clearing House, nor any other member of the LCH Group Holdings Limited shall have any liability whatsoever to any Member or to any other person (including, without limitation, any Clearing Client of a Member) in contract, tort (including, without limitation, negligence), trust, as a fiduciary or under any other cause of action in respect of any damage, loss, cost or expense of whatsoever nature suffered or incurred by a Member or any other person, as the case may be, as a result of: any suspension, restriction or closure of the market administered by an Exchange, an ATP or a Co-operating Clearing House, whether for a temporary period or otherwise or as a result of a decision taken on the occurrence of a market emergency; any failure by the Clearing House or an Exchange or a Co-operating Clearing House or an ATP or its operator or the relevant approved agent or the Approved EquityClear Settlement Provider to supply each other with data or information in accordance with arrangements from time to time established between any or all of such persons; the failure of any systems, communication facilities or technology supplied, operated or used by the Clearing House, an Exchange, or a Co-operating Clearing House; any event which is outside the control of the Clearing House; any act or omission of an Exchange, or a Co-operating Clearing House in connection with a Co-operating Clearing House Contract or any contracts made on such terms, including, without limitation, any error in the establishment of a settlement price made by an Exchange; any act or omission of the Clearing House, an Exchange, or a Co-operating Clearing House (as the case may be) in connection with the operation of a Link or the arrangement for the transfer of Contracts under a Link.
- (b) Neither the Clearing House nor any other member of the LCH Group Holdings Limited shall have any liability to a Member or any other person (including without limitation a SwapClear Dealer, or a RepoClear Dealer or a ForexClear Dealer) in respect of any dispute arising from or in relation to any OTC Transaction, Eligible EnClear Trade, or an ATP Match including, but not limited to, any dispute as to the validity or otherwise of such OTC Transaction, Eligible EnClear Trade, the terms of such OTC Transaction, Eligible EnClear Trade, trade or ATP Match, or whether any alleged agreement or arrangement constitutes an OTC Transaction or Eligible EnClear Trade.
- (c) Without prejudice to the provisions of Regulation 2 and Regulation 52(e), neither the Clearing House nor any other member of the LCH Group Holdings Limited shall have any liability whatsoever to any SwapClear Clearing Member, Listed Interest Rates Clearing Member, RepoClear Clearing Member, EquityClear Clearing Member, LCH EnClear Clearing Member, ForexClear Participant or to any other person (including, without limitation, a SwapClear Dealer or a RepoClear Dealer) in contract, tort (including without limitation, negligence), trust, as a fiduciary or under any other cause of action in respect of any damage, loss, cost or expense of whatsoever nature suffered or incurred as a result of: any suspension of an OTC Service or the EquityClear Service or the LCH EnClear Services (or any part thereof), whether for a temporary period or otherwise, a step taken by the Clearing House under Regulation 16(i), Regulation 37, Regulation 38, Regulation 55(h), or Regulation 72 or any failure or malfunction of any systems, communication lines or facilities, software or technology supplied, operated or used by the Clearing House or the relevant approved

Deleted: January

Regulations, Default Rules and Procedures and any other Clearing House documentation on the other hand.

- (g) For the purposes of the Contracts (Rights of Third Parties) Act 1999, save as is expressly set out herein, these Regulations, Default Rules and Procedures do not create any rights in any persons who is/are not a Member/s.
- (h) Without prejudice to Regulation 2 and Regulation 52(e), neither the Clearing House, nor any other member of the LCH Group Holdings Limited, shall have any liability whatsoever to any Member or to any other person (including, without limitation, any client of a Member) in contract, tort (including, without limitation, negligence), trust, as a fiduciary or under any other cause of action in respect of any damage, loss, cost or expense of whatsoever nature suffered or incurred by a Member or any other person as the case may be, as a result of any service failure, whether complete or partial, of any payment or securities services provider, including (without limitation) any Securities System Operator, Settlement Service Provider, custodian, settlement agent, securities depository, securities settlement system, settlement facility or central bank.
- (i) Without prejudice to any other Regulation, each ForexClear Option Clearing Member agrees to indemnify and hold harmless the Clearing House for any liability, damage, loss, cost, claim or expense (excluding any consequential, special, indirect, incidental or punitive damages, or any liability, damage, loss, cost, claim or expense arising from the fraud, wilful misconduct, negligence or bad faith of the Settlement Service Provider) suffered or incurred by the Clearing House under or arising out of, to its agreement(s) with the Settlement Service Provider, to the extent it is suffered or incurred as a direct result of the actions and/or omissions of the ForexClear Option Clearing Member in connection with the use of the ForexClear Option Service.

Deleted: January

## CHAPTER XX – FOREXCLEAR REGULATIONS

### REGULATION 90 APPLICATION OF FOREXCLEAR REGULATIONS

- (a) The Clearing House shall provide the ForexClear Service subject to and in accordance with the terms of these ForexClear Regulations and the Procedures.
- (b) ForexClear Clearing Members shall be bound by these ForexClear Regulations. Applications to become a ForexClear Clearing Member shall be made in accordance with Regulation 90(d) and (e). Other than as expressly specified in this Regulation 90, the remainder of the Regulations shall not apply to the ForexClear Service. A summary table of those Regulations which apply to the ForexClear Service as described in Regulation 90(a) to (p) is provided at Regulation 90(q).
- (c) Regulations 2 and 3 of the Regulations apply to the ForexClear Service.

#### *ForexClear Clearing Membership*

- (d) A Clearing Member may apply to become a ForexClear Clearing Member in accordance with the Procedures.
- (e) Regulation 4 applies to membership of the ForexClear Service and applications for such membership.
- (f) Regulation 5 applies to a ForexClear Clearing Member.

#### *Accounts*

- (g) Regulation 10 applies to the opening and operation of accounts with respect to a ForexClear Clearing Member. Such accounts shall be designated in accordance with Regulation 15.

#### *Client Clearing*

- (h) Regulation 11 applies to those ForexClear Clearing Members who provide (or wish to provide) Client Clearing Services.

Deleted: Member

#### *Formation, registration and transfers of ForexClear Contracts*

- (i) Regulation 16(b), (c), (e), (f), (g), (h), (j), (k) and (l), Regulation 17 and Regulation 91 govern the registration and formation of a ForexClear Contract.
- (j) Regulation 90 to Regulation 106 apply to the ForexClear Service.
- (k) Regulation 18 (and, insofar as relevant, Regulation 12(b)) apply to a ForexClear Contract that is an open contract.

#### *Margin and Collateral*

- (l) Regulation 20 applies to a ForexClear Clearing Member.

Deleted: January

**Reference prices and Revaluation**

- (m) Regulation 22 and Regulation 93 apply to open ForexClear Contracts.

**Other Applicable Regulations**

- (n) Regulations 37 to 46A inclusive apply to ForexClear Clearing Members and ForexClear Contracts.

**Default Rules**

- (o) The Default Rules (including the ForexClear DMP Annex) apply to ForexClear Clearing Members and ForexClear Contracts.

**Clearing House Settlement Finality Regulations**

- (p) The Clearing House Settlement Finality Regulations apply in relation to ForexClear Clearing Members and ForexClear Contracts.

**Summary table of Regulations which apply to the ForexClear Service**

- (q) The Regulations listed in this Regulation 90(q) apply to the ForexClear Service as described under Regulation 90(a) to (p).

Regulation	Title
Regulation 2	Obligation to the Clearing House to each Member
Regulation 3	Performance by the Clearing House of its Obligations under the Terms of an Open Contract
Regulation 4	Clearing Member Status of the Clearing House
Regulation 5	Resigning and Retiring Members
Regulation 8	Dealer Status
Regulation 9	Service Withdrawal
Regulation 10	Accounts
Regulation 11	Client Clearing Business
Regulation 12(a) & (b)	Novation
Regulation 15	Designation
Regulation 16 (except Regulation 16(a), (d), (i) and (m))	Registration

Deleted: January



## REGULATION 91 REGISTRATION OF FOREXCLEAR CONTRACTS

- (f) A ForexClear Transaction may be presented for registration as two ForexClear Contracts, or one ForexClear Contract and one FCM ForexClear Contract, in accordance with the provisions of the Rulebook.
- (a) Once a ForexClear Transaction has been presented to the Clearing House, the Clearing House shall (where applicable in accordance with paragraph (c) below and Procedure 21 (*ForexClear Clearing Service*)) request the consent of the relevant ForexClear Clearing Member with whom a ForexClear Contract shall be registered as a result thereof to such registration. Upon the ForexClear Clearing Member providing its consent, such ForexClear Transaction shall be deemed to have been submitted (as such term is defined in the Procedures) by such ForexClear Clearing Member to the Clearing House for registration. Any such consent shall be provided in accordance with the Procedures.
- (g) A ForexClear Clearing Member which has been nominated to clear the ForexClear Contract arising from the registration of a ForexClear Transaction on behalf of a third party Executing Party other than a ForexClear Dealer will (only where such ForexClear Transaction is not a Trading Venue Transaction) be notified by the Clearing House of the relevant ForexClear Transaction and shall choose whether to grant or refuse consent to the registration of such ForexClear Transaction and the ForexClear Contract resulting from such ForexClear Transaction. Where:
- (i) a ForexClear Clearing Member is an Executing Party to a ForexClear Transaction and is to clear a ForexClear Contract resulting from such ForexClear Transaction;
  - (ii) a ForexClear Dealer approved to clear ForexClear Transactions through a ForexClear Clearing Member is an Executing Party to a ForexClear Transaction and such ForexClear Clearing Member is to clear a ForexClear Contract resulting from such ForexClear Transaction; or
  - (iii) a ForexClear Transaction is an Eligible Trading Venue Transaction in respect of a ForexClear Clearing Member, and a third party Executing Party (other than a ForexClear Dealer) to such ForexClear Transaction has nominated such ForexClear Clearing Member to clear a ForexClear Contract resulting from such ForexClear Transaction,

the consent of that ForexClear Clearing Member to the registration of the relevant ForexClear Contract will occur automatically and without the need for any further action by such ForexClear Clearing Member.

- (h) The Clearing House shall register or reject the registration of a ForexClear Contract in respect of a ForexClear Transaction presented for registration subject to, and in accordance with, these Regulations, the Procedures and all Applicable Law
- (i) Subject to Regulation 91(k), if at any time falling after the registration of any ForexClear Contract the Clearing House determines that the corresponding transaction of which details were submitted for registration;

Deleted: Regulation 91

Deleted:

Deleted: January

(i) did not, at the Registration Time, meet the ForexClear Eligibility Criteria applicable to that ForexClear Transaction in existence at the Registration Time;

Deleted: (

(ii) in the case of a ForexClear Deliverable Forward Transaction or ForexClear Spot Transaction, was not, at the Registration Time, entered into in accordance with Regulation 98(a); or

(iii) in the case of a ForexClear Swap Transaction, was not, at the Registration Time, entered into in accordance with Regulation 100 or Regulation 101, each an "Ineligible Transaction";

Deleted: "Ineligible

Deleted: ");

the Clearing House shall, as soon as practicable thereafter, set aside both ForexClear Contracts arising from such Ineligible Transaction in accordance with Regulation 91(c) below.

(j) Upon a ForexClear Contract being set aside under Regulation 91(i) (an "Ineligible ForexClear Contract"), the Clearing House will notify the FXCCM party to such Ineligible ForexClear Contract via the ForexClear Approved Trade Source System that such Ineligible ForexClear Contract has been set aside. The following shall take effect immediately upon the delivery of such notice: (i) such Ineligible ForexClear Contract shall be deemed to be terminated at the time of the notification and shall thereafter have no force or effect; (ii) all collateral in respect of variation margin obligations (if any) provided by the Clearing House or by an FXCCM in respect of such Ineligible ForexClear Contract shall be retained by the receiving party upon termination; (iii) where there is a difference between the value of the Ineligible ForexClear Contract as at the last margin run and the value (as determined by the Clearing House) of that Ineligible ForexClear Contract at the time of the next official settlement rate for that currency pair, then a payment shall be made between the FXCCMs to the original Ineligible Transaction equal to such difference; and (iv) these payments shall be deemed to satisfy in full the relevant party's obligations under the Ineligible ForexClear Contract and shall be retained by the receiving party upon termination as a termination payment.

Deleted: ") being set aside under Regulation 91,

(k) The Clearing House may not determine a ForexClear NDF Transaction to be an Ineligible Transaction after the Valuation Date (as defined in the Procedures) in respect of the ForexClear NDF Contracts arising from the registration of such a ForexClear NDF Transaction has occurred.

Deleted: transaction

Deleted: transaction

(l) The Clearing House shall provide no less than 10 business days' prior notice (including by email) to ForexClear Clearing Members of an amendment to the ForexClear Eligibility Criteria.

(m) Where a ForexClear Contract relates to an FCM ForexClear Transaction, it is a condition for registration as a ForexClear Contract that the FCM ForexClear Transaction to which the ForexClear Contract relates be presented for clearing: (i) by an executing party (in its capacity as an FCM Clearing Member or ForexClear Clearing Member or through its designated FCM Clearing Member or ForexClear Clearing Member) as a ForexClear Contract or FCM ForexClear Contract (as the case may be); and (ii) by an FCM Clearing Member on behalf of its FCM Client as an FCM ForexClear Contract. In the event that the Clearing House registers a

Deleted: Executing Party

Deleted: January

ForexClear Contract and, for whatever reason, the corresponding FCM ForexClear Contract has not also been registered, the ForexClear Contract shall be deemed not to be registered as a ForexClear Contract until such time as such corresponding FCM ForexClear Contract has been registered.

- (n) In relation to an FCM ForexClear Transaction, if either the executing party (in its capacity as an FCM Clearing Member or ForexClear Clearing Member or through its designated FCM Clearing Member or ForexClear Clearing Member) or the FCM Clearing Member (as the case may be) does not present an FCM ForexClear Transaction for clearing, the Clearing House shall set aside any FCM ForexClear Contract or ForexClear Contract that has been registered (if any) and the particulars of the corresponding FCM ForexClear Transaction in question shall at the Clearing House's discretion be either: (i) deemed never to have been submitted to the Clearing House; or (ii) rejected until such time as the Executing Party (in its capacity as an FCM Clearing Member or ForexClear Clearing Member or through its designated FCM Clearing Member or ForexClear Clearing Member) or the FCM Clearing Member have presented the relevant contract to the Clearing House. In addition, any payment made under, or in respect of, any FCM ForexClear Contract set aside or deemed not cleared under this paragraph shall be repayable to the person who made the payment. Without prejudice to FCM Regulation 44 and its obligations under this Regulation 91 and under FCM Regulation 49, the Clearing House (and each other member of the LCH Group Holdings Limited and their respective officers, employees and agents) shall have no liability whatsoever to any person arising out of or in respect of the registration by it in error or otherwise of an FCM ForexClear Contract.

Deleted: Executing Party

- (o) Upon the exercise of a ForexClear Option Contract by or on behalf of a ForexClear Clearing Member or, as the case may be, by the Clearing House or upon the deemed exercise of such option pursuant to these Regulations or the Procedures, the ForexClear Option Contract shall immediately terminate and in its place a ForexClear Spot Transaction or a ForexClear Deliverable Forward Transaction shall automatically and immediately come into existence, and the related ForexClear Spot Contracts and ForexClear Deliverable Forward Contracts shall immediately be deemed to be registered by the Clearing House, on the terms specified in the applicable ForexClear Option Contract Terms, these Regulations and/or the Procedures. Notwithstanding the foregoing and in accordance with the Procedures, the Clearing House may, in its sole discretion, postpone or delay the registration of a ForexClear Spot Transaction or ForexClear Deliverable Forward Transaction resulting from the exercise of a ForexClear Option Contract in the event of an administrative, system or processing delay that affects the Clearing House's ability to register such ForexClear Spot Transaction or ForexClear Deliverable Forward Transaction. For the avoidance of doubt, a postponement or delay pursuant to this Regulation 91(h) shall not impact a ForexClear Clearing Member's ability to exercise a ForexClear Option Contract (or the deemed exercise of such ForexClear Option Contract pursuant to these Regulations or the Procedures), which exercise shall be irrevocable.

Deleted: ¶

Deleted: January

## REGULATION 92 CANCELLATION OF FOREXCLEAR CONTRACTS

- (a) A ForexClear Clearing Member may, in accordance with this Regulation 92 and the Procedures, cancel any ForexClear Contract to which it is a party.
- (b) A ForexClear Dealer may, in accordance with this Regulation 92 and the Procedures, cancel a ForexClear Contract that arose from a ForexClear Transaction to which it is a party.
- (c) A ForexClear Clearing Member shall be bound by the cancellation of a ForexClear Contract made by the relevant ForexClear Dealer.
- (d) A ForexClear Dealer shall have no obligation to inform, notify or seek the consent of any ForexClear Clearing Member prior to initiating the cancellation of a ForexClear Contract in accordance with Regulation 92(b).
- (e) Each ForexClear Clearing Member is deemed to grant a continuing authority to the Clearing House to terminate any ForexClear Contract registered in the name of that ForexClear Clearing Member upon the request of a ForexClear Dealer with whom that ForexClear Clearing Member is a party to an FDC Agreement.
- (f) The Clearing House shall have no obligation to inform, notify or seek the consent of any ForexClear Clearing Member prior to cancelling a ForexClear Contract in accordance with this Regulation 92.
- (g) The cancellation of a ForexClear Contract to which a ForexClear Clearing Member is a party (in this Regulation, the "**First ForexClear Contract**") is contingent upon *inter alia* the cancellation of the corresponding ForexClear Contract that arose from the same underlying ForexClear Transaction (in this Regulation, the "**Second ForexClear Contract**"), and vice versa.
- (h) The date and time of the cancellation of a ForexClear Contract shall be as reported by the Clearing House in accordance with the Procedures and shall be binding on ForexClear Clearing Members.
- (i) The Clearing House may decline to cancel a ForexClear Contract if:
  - (i) in the opinion of the Clearing House acting in its sole discretion, the cancellation of that ForexClear Contract is not consistent with the Regulations and Procedures of the Clearing House and any policies of the Clearing House concerning risk management; or
  - (ii) if there is insufficient Collateral standing to the credit of a ForexClear Clearing Member's account to accommodate the cancellation of the First ForexClear Contract and/or the Second ForexClear Contract.
- (j) With effect from the time of the cancellation of a ForexClear Contract in accordance with this Regulation 92, neither the ForexClear Clearing Member nor the Clearing House shall have any obligations under the terms of that ForexClear Contract and liability in respect thereof.

Deleted: a

Deleted: ),

Deleted: clearing house

Deleted: January



## REGULATION 94 EXERCISE OF FOREXCLEAR OPTION CONTRACTS

- (a) Subject to (b) below, a ForexClear Option Buyer may exercise the right or rights granted to it pursuant to a ForexClear Option Contract only by giving an irrevocable notice in the manner and at the time specified by the Procedures.
- (b) If a ForexClear Option Contract has not been exercised in the manner and by the time specified in the Procedures, then it will, subject to the satisfaction of any conditions set forth in the Procedures, be deemed exercised in the manner and at the time specified by the Procedures.
- (c) If a ForexClear Option Contract has not been exercised or deemed to have been exercised pursuant to this Regulation 94, the right or rights granted pursuant to that ForexClear Option Contract will immediately expire and become void and of no effect.
- (d) For the avoidance of doubt, a ForexClear Option Contract may be exercised (or deemed to be exercised) in partial or in whole.

Deleted: Section Break (Next Page)-  
<#>Compression¶

Deleted: January



**REGULATION 95 COMPRESSION**

(a) Nothing in this Regulation shall apply to ForexClear Contracts which are not ForexClear NDF Contracts.

(b) Notwithstanding any other provision of these Regulations, but subject to paragraph (a) above, if:

(i) one or more ForexClear Contracts registered by a ForexClear Clearing Member in accordance with the Rulebook has substantially the same Economic Terms as one or more other ForexClear Contracts registered for the account of such ForexClear Clearing Member, and

(ii) all such ForexClear Contracts are either (a) registered on the ForexClear Clearing Member's own behalf, or (b) registered on behalf of the same ForexClear Clearing Client and in the same Client Account,

then, to the extent permitted in the Procedures and this Regulation 95, the ForexClear Clearing Member may request that the Clearing House compress and combine all such ForexClear Contracts by terminating the relevant existing ForexClear Contracts and compressing them so that there results in either (1) no replacement ForexClear Contract, or (2) one or more replacement ForexClear Contracts having a net future cash flow equal to the net future cash flow of such original ForexClear Contracts. For the avoidance of doubt, in no circumstances can a ForexClear Contract registered in the Proprietary Account of a ForexClear Clearing Member be compressed pursuant to this Regulation 95 with a ForexClear Contract registered in the Client Account of that ForexClear Clearing Member.

(c) For the purposes of paragraph (b) above, two or more ForexClear Contracts may be deemed by the Clearing House to have "substantially the same Economic Terms" if they are based on the same underlying currencies and the Clearing House considers them, in its sole discretion, to have substantially the same Valuation Date (as defined in schedule 6 of the Product Specific Contract Terms and Eligibility Criteria Manual) and Settlement Date (as defined in schedule 6 of the Product Specific Contract Terms and Eligibility Criteria Manual). For the avoidance of doubt, the Clearing House may determine that two or more ForexClear Contracts have "substantially the same Economic Terms" even if they have differing Forward Rates (as defined in schedule 6 of the Product Specific Contract Terms and Eligibility Criteria Manual). The Clearing House shall determine (in its sole discretion) whether ForexClear Contracts that are the subject of a request for compression from the ForexClear Clearing Member may be compressed and, if such ForexClear Contracts are compressed, the Clearing House shall determine (in its sole discretion) whether any replacement ForexClear Contract(s) shall replace the compressed ForexClear Contracts and, if so, the resulting terms of such ForexClear Contract(s), and such determinations shall be binding on the ForexClear Clearing Member, absent manifest error. It is a condition for compression of ForexClear Contracts that the amount of Collateral that the Clearing House requires in respect of the original ForexClear Contracts is equal to that which is required by the Clearing House in respect of the replacement ForexClear Contract(s).

Deleted:

Deleted: to its Proprietary Account,

Deleted: to

Deleted: (which is not an Indirect Gross Account), or (c) on behalf of the same ForexClear Clearing Client and to the same Indirect Gross Sub-Account,

Deleted: 94

Deleted: 94

Deleted: a

Deleted:

Deleted: January

## REGULATION 96 SETTLEMENT OF FOREXCLEAR OPTION CONTRACTS

- (a) A ForexClear Option Contract that has been exercised, or deemed to be exercised, pursuant to Regulation 94 shall only be settled in accordance with this Regulation 96 and the Procedures.
- (b) Immediately upon the exercise or deemed exercise of a ForexClear Option Contract pursuant to Regulation 94:
- (i) if the ForexClear Option Contract is a Spot Settled ForexClear Option Contract, a ForexClear Spot Contract (between the same parties as the relevant ForexClear Option Contract) shall immediately arise pursuant to Regulation 91(h); and
  - (ii) if the ForexClear Option Contract is a Deliverable Forward Settled ForexClear Option Contract, a ForexClear Deliverable Forward Contract (between the same parties as the relevant ForexClear Option Contract) shall immediately arise pursuant to Regulation 91(h).
- (c) The ForexClear Spot Contract or ForexClear Deliverable Forward Contract (as applicable) that arises pursuant to this Regulation 96 shall be on the ForexClear Spot Contract Terms or ForexClear Deliverable Forward Contract Terms (as applicable), such that on the Settlement Date specified in the ForexClear Option Contract Terms relating to the relevant ForexClear Option Contract:
- (i) the party that was the ForexClear Option Buyer under the relevant ForexClear Option Contract shall be obliged to pay an amount equal to (and in the same currency as) the Put Currency Amount to the Clearing House; and
  - (ii) the party that was the ForexClear Option Seller under the relevant ForexClear Option Contract shall be obliged to pay an amount equal to (and in the same currency as) the Call Currency Amount to the Clearing House.

Deleted: January

**REGULATION 97 PREMIUM UNDER FOREXCLEAR OPTION CONTRACTS**

- (a) The premium payable by a ForexClear Option Buyer under the terms of a ForexClear Option Contract shall be paid by such party to the Clearing House in the form and manner prescribed in the Procedures and by the time specified in the Procedures.
- (b) The Clearing House shall pay to a ForexClear Option Seller under the terms of a ForexClear Option Contract the premium in the form and manner prescribed in the Procedures and by the time specified in the Procedures.

Deleted: January

## REGULATION 98 HEDGING OF FOREXCLEAR OPTION CONTRACTS

- (a) A ForexClear Clearing Member may, from time to time, submit for registration to the Clearing House one or more ForexClear Deliverable Forward Transactions or ForexClear Spot Transactions (or any combination of the same) provided that the same have been concluded for the purpose of:
- (i) hedging some or all of its foreign exchange exposure;
  - (ii) reducing its initial margin requirement; and/or
  - (iii) reducing its settlement risk.
- in each case arising under, or in connection with, (A) one or more ForexClear Option Transactions submitted by that ForexClear Clearing Member at the same time, (B) one or more ForexClear Option Contracts then registered in its name, in each case in the manner contemplated under the Procedures, or (C) in the case of (i) only, one or more other Contracts then registered with the Clearing House in its name.
- (b) No ForexClear Deliverable Forward Transaction or ForexClear Spot Transaction shall be entered into by a ForexClear Clearing Member and submitted for registration other than as may be permitted by (a) of this Regulation 98.
- (c) Each time a ForexClear Deliverable Forward Transaction or ForexClear Spot Transaction is presented to the Clearing House for registration by a ForexClear Clearing Member, that ForexClear Clearing Member represents and warrants to the Clearing House that such ForexClear Transaction is entered into for at least one of the purposes permitted under (a)(i) to (a)(iii) above.
- (d) The Clearing House shall be entitled to levy fees in addition to clearing fees on any ForexClear Deliverable Forward Transaction or ForexClear Spot Transaction submitted for registration in breach of Regulation 98(a).
- (e) Nothing in this Regulation 98 shall apply to (i) a ForexClear Deliverable Forward Contract or ForexClear Spot Contract arising pursuant to the exercise or deemed exercise of a ForexClear Option Contract pursuant to Regulation 96, or (ii) a ForexClear Spot Transaction or ForexClear Spot Contract (as applicable) entered into pursuant to Regulation 100(i).

Deleted: January

**REGULATION 99 FOREXCLEAR OPTION SERVICE – MEMBERSHIP REQUIREMENTS**

- (a) A ForexClear Clearing Member that wishes to be designated as a ForexClear Option Clearing Member shall apply to the Clearing House in the manner prescribed by the Clearing House from time to time. That Clearing Member must, at the point of application and at all times thereafter, satisfy, in a manner satisfactory to the Clearing House, the ForexClear Option Service Membership Requirements set out in the Procedures.
- (b) If, in its absolute discretion, the Clearing House determines that a ForexClear Option Clearing Member ceases to meet one or more of the ForexClear Option Service Membership Requirements in effect at the applicable time, the Clearing House may rescind that Clearing Member's eligibility to have ForexClear Option Contracts, ForexClear Deliverable Forward Contracts, ForexClear Spot Contracts and/or ForexClear Swap Contracts registered in such Clearing Member's name, but without prejudice to (i) that Clearing Member's eligibility to have registered in its name, subject to the Regulations, any other Contracts in respect of which it continues to meet the relevant eligibility criteria, and (ii) the Clearing House's rights to take the actions specified in Regulation 100, Regulation 101 or any other Regulation with respect to that ForexClear Option Clearing Member, to the extent such ForexClear Option Clearing Member continues to have any ForexClear Contracts (other than ForexClear NDF Contracts) registered in its name.

Deleted: January



**REGULATION 100 FOREXCLEAR OPTION SERVICE – SETTLEMENT LIMITS, SETTLEMENT TRADE-DOWN AND SETTLEMENT EVENTS**

**Settlement Limits**

- (a) Subject to (c) and (d) below, the Clearing House may, in its sole and absolute discretion, determine from time to time:
- (i) the Settlement Position Limit;
  - (ii) the Settlement Exposure Limit; and
  - (iii) the Mandatory ForexClear Swap Limit,
- in respect of each ForexClear Option Clearing Member and each ForexClear Currency.
- (b) From time to time the Clearing House shall notify each ForexClear Option Clearing Member of the Settlement Position Limit, Settlement Exposure Limit and Mandatory ForexClear Swap Limit applicable to it and each ForexClear Currency in accordance with the Procedures.
- (c) Subject to (e) below, if the Clearing House wishes to increase the Settlement Position Limit, Settlement Exposure Limit or, the Mandatory ForexClear Swap Limit, which shall be applicable to all ForexClear Option Clearing Members, in relation to a given ForexClear Currency to no more than the Settlement Position Limit Cap, Settlement Exposure Limit Cap or Mandatory ForexClear Swap Limit Cap applicable to that ForexClear Currency (with respect to the Mandatory ForexClear Swap Limit) or when such limit is aggregated in respect of all ForexClear Currencies (with respect to the Settlement Position Limit or Settlement Exposure Limit), then the Clearing House may propose such amendment by giving all ForexClear Option Clearing Members no fewer than 10 business days' notice, such notice to specify the proposed new Settlement Position Limit, Settlement Exposure Limit and/or Mandatory ForexClear Swap Limit (the "Revised Limits"). If the Requisite ForexClear Option Clearing Members vote in favour of the Revised Limits then the Revised Limits shall take effect following 30 calendar days' notice (or such other period as the Clearing House shall decide) from, and including, the expiration of the notice period specified above. If the Requisite ForexClear Option Clearing Members do not vote in favour of the Revised Limits then the Revised Limits shall not take effect. For the purposes of the foregoing, a ForexClear Option Clearing Member that does not communicate its vote to the Clearing House by the end of the notice period specified above shall be deemed to have voted in favour of the Revised Limits. The Clearing House shall publish the terms of the voting process on or prior to the business day on which the vote is initiated.
- (d) Subject to (e) below, if the Clearing House wishes to increase the Settlement Position Limit Cap, Settlement Exposure Limit Cap or Mandatory ForexClear Limit Cap (as applicable), then the Clearing House may propose such amendment by giving all ForexClear Option Clearing Members no fewer than 10 business days' notice, such notice to specify the proposed new Settlement Position Limit Cap, Settlement Exposure Limit Cap and/or Mandatory ForexClear Limit Cap (the "Revised Caps").

Deleted: January

If 100% of the then total number of ForexClear Option Clearing Members vote in favour of the Revised Caps then the Revised Caps shall take effect following 30 calendar days' notice (or such other period as the Clearing House shall decide) from, and including, the expiration of the notice period specified above. If less than 100% of the then total number of ForexClear Option Clearing Members vote in favour of the Revised Caps then the Revised Caps shall not take effect. For the purposes of the foregoing, a ForexClear Option Clearing Member that does not communicate its vote to the Clearing House by the end of the notice period specified above shall not be deemed to have voted in favour of the Revised Caps. The Clearing House shall publish the terms of the voting process on or prior to the business day on which the vote is initiated.

(e) The Clearing House shall be entitled to increase the Settlement Position Limit, Settlement Exposure Limit, Mandatory ForexClear Swap Limit, Settlement Position Limit Cap, Settlement Exposure Limit Cap and/or Mandatory ForexClear Swap Limit Cap without the consent of any ForexClear Option Clearing Member, and without regard for the process in paragraphs (c) or (d) above if, it determines, in its sole and absolute discretion, that:

(i) it considers such action advisable for its own protection or the protection of the relevant market;

(ii) it is required to take such action to comply with any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;

(iii) except with respect to an increase to the Settlement Position Limit, Settlement Exposure Limit and/or Mandatory ForexClear Swap Limit, a new ForexClear Clearing Member has been designated as a new ForexClear Option Clearing Member, provided however that, in such circumstance, the Clearing House shall only be entitled to increase the caps referenced in (e) above without using the process in paragraph (d) above to the extent that such increase is no greater, in percentage terms, than the percentage increase in the number of ForexClear Option Clearing Members that has occurred as a result of such ForexClear Option Clearing Member being so designated;

(iv) solely with respect to the Settlement Position Limit and/or Settlement Position Limit Cap, it considers such action advisable where (A) the register of primary nostro account providers of ForexClear Option Clearing Members is updated in accordance with the Procedures and (B) an increase to the Settlement Position Limit occurs as the direct result of the given update to register of primary nostro account providers; or

(v) it considers such action advisable in connection with an operational or technical failure or delay.

The Clearing House shall provide ForexClear Option Clearing Members with no fewer than 10 business days' prior notice of any increase to the Settlement Position Limit or Settlement Position Limit Cap pursuant to paragraph (iv) above.

Deleted: January

### Settlement Position Limit and Settlement Trade-Down

(f) At 10:00 AM Eastern Standard Time on each day the Clearing House shall compare:

(i) the Settlement Position Limit on that day with respect to a given ForexClear Option Clearing Member and a given ForexClear Currency; and

(ii) the value of the Settlement Position Amount on that day with respect to that ForexClear Option Clearing Member and that ForexClear Currency.

The "Settlement Position Amount" means, with respect to a given day, a given ForexClear Option Clearing Member and a given ForexClear Currency, the net amount of that ForexClear Currency that is or will be payable by that ForexClear Option Clearing Member under all ForexClear Contracts (other than ForexClear NDF Contracts) to which it is a party that have a Settlement Date (as defined in the applicable ForexClear Contract Terms) falling two days after such day.

(g) If, at 10:00 AM Eastern Standard Time on any day, (f)(ii) exceeds (f)(i) with respect to a ForexClear Option Clearing Member and a given ForexClear Currency then a ForexClear Settlement Event shall immediately occur with respect to that ForexClear Option Clearing Member (such ForexClear Option Clearing Member the "Impacted ForexClear Option Clearing Member") and that ForexClear Currency.

(h) The Clearing House shall, immediately upon the occurrence of a ForexClear Settlement Event, give notice in writing (which may be given by electronic messaging system or email) to the Impacted ForexClear Option Clearing Member specifying that a ForexClear Settlement Event has occurred with respect to it. A failure by the Clearing House to deliver, or any delay in the delivery of, the notice required by this paragraph (h) shall not affect the Clearing House's ability to exercise any of its rights under this Regulation 100.

(i) From the occurrence of the ForexClear Settlement Event to (but excluding) 5:00 PM Eastern Standard Time on the same day, the Impacted ForexClear Option Clearing Member shall be entitled to enter into, and submit for registration by the Clearing House, one or more ForexClear Spot Transactions, provided however that, the Clearing House may only register the related ForexClear Spot Contracts arising out of such ForexClear Spot Transaction(s) if:

(i) such ForexClear Spot Transaction(s) are for the purpose, and will have the effect, of reducing the Impacted ForexClear Option Clearing Member's Settlement Position Amount for that ForexClear Currency, so that immediately after registration of the related ForexClear Spot Contracts, the Settlement Position Amount with respect to that Impacted ForexClear Option Clearing Member and that ForexClear Currency would be less than the Settlement Position Amount with respect to that Impacted ForexClear Option Clearing Member and that ForexClear Currency immediately prior to registration of such ForexClear Spot Contracts; and

(ii) the ForexClear Spot Transaction(s) meet the applicable ForexClear Eligibility Criteria in effect on such date.

Deleted: January



For the avoidance of doubt, the Clearing House shall be entitled (in accordance with Regulation 16(c)) to refuse to register any new ForexClear Spot Contract notwithstanding that it may satisfy (i) and (ii) above if it considers such action advisable for its own protection or the protection of the relevant market.

(j) Each time a ForexClear Option Clearing Member submits a ForexClear Spot Transaction to the Clearing House for registration pursuant to (i) above, it hereby represents and warrants to the Clearing House that such ForexClear Spot Transaction (either individually or when taken together with other ForexClear Spot Transactions submitted pursuant to (i) above) satisfies the condition in (i)(i) above.

(k) If, at 5:00 PM Eastern Standard Time on the day on which the ForexClear Settlement Event has occurred, the ForexClear Settlement Event is continuing, the Clearing House shall be entitled to conclude and bind (i) the Impacted ForexClear Option Clearing Member and (ii) in accordance with the applicable allocation provisions in Regulation 103, any other ForexClear Option Clearing Member(s), to one or more Mandatory Settlement ForexClear Swap Contracts. The Clearing House shall be entitled to levy fees in addition to clearing fees on an Impacted ForexClear Option Clearing Member in connection with a ForexClear Settlement Event (with such fees being determined in respect of the excess of such Impacted ForexClear Option Clearing Member's Settlement Position Amount over the Settlement Position Limit).

(l) Each Mandatory Settlement ForexClear Swap Contract shall:

(i) be between the Impacted ForexClear Option Clearing Member or another ForexClear Option Clearing Member on the one hand, and the Clearing House on the other hand;

(ii) be concluded only with a view to either (A) reducing the Settlement Position Amount with respect to the Impacted ForexClear Clearing Member and a given ForexClear Currency, or (B) creating corresponding positions for the Clearing House vis a vis the other ForexClear Option Clearing Member(s);

(iii) be subject to immediate registration with the Clearing House in the name of the relevant ForexClear Option Clearing Member;

(iv) have an Initial Exchange Date (as defined in the ForexClear Swap Contract Terms) that is the day falling two business days (for the applicable Currency Pair (as defined in the ForexClear Swap Contract Terms)) after the date on which the ForexClear Settlement Event occurred;

(v) have a Final Exchange Date (as defined in the ForexClear Swap Contract Terms) that is the business day (for the applicable Currency Pair (as defined in the ForexClear Swap Contract Terms)) immediately following the Initial Exchange Date;

(vi) be executed at the mid-price (as determined by the Clearing House) that is prevailing at 5:00 PM Eastern Standard Time on the day on which the ForexClear Settlement Event has occurred;

(vii) meet the Product Eligibility Criteria for a ForexClear Swap Transaction; and

Deleted: January

- (viii) be allocated by the Clearing House to (A) the Impacted ForexClear Option Clearing Member in accordance with this Regulation 100, or (B) the other ForexClear Option Clearing Members in accordance with Regulation 103.
- (m) The Clearing House shall determine the mid-price of a Mandatory Settlement ForexClear Swap Contract under (l)(vi) above in its sole and absolute discretion.
- (n) A Mandatory Settlement ForexClear Swap Contract shall not be concluded with, and entered into on behalf of, a Non-Impacted ForexClear Option Clearing Member which has the effect, immediately upon registration of the related ForexClear Swap Contract, that the relevant Settlement Position Limit would be exceeded by the Settlement Position Amount applicable to any ForexClear Currency and that Non-Impacted ForexClear Option Clearing Member.
- (o) At the time and in the manner specified in the Procedures, the Clearing House shall notify each Non-Impacted ForexClear Option Clearing Member and the Impacted ForexClear Option Clearing Member of the Mandatory Settlement ForexClear Swap Contracts (if any) that it has entered into for and on its behalf.
- (p) Each ForexClear Option Clearing Member agrees and acknowledges that the Mandatory Settlement ForexClear Swap Contract entered into on its behalf by the Clearing House shall constitute part of that ForexClear Clearing Member's ForexClear Clearing House Business and shall be recorded in that ForexClear Clearing Member's Proprietary Account. In no circumstance shall a Mandatory Settlement ForexClear Swap Contract be recorded in a ForexClear Clearing Member's Client Account.
- (q) For as long as a ForexClear Settlement Event is continuing with respect to a ForexClear Option Clearing Member and a given ForexClear Currency, the Clearing House shall be entitled, in its sole and absolute discretion, to refuse to register any new ForexClear Contract in respect of any ForexClear Transaction denominated in that ForexClear Currency that is submitted by that ForexClear Option Clearing Member, other than (i) any ForexClear NDF Transaction, (ii) any ForexClear Transaction that is expressly permitted by this Regulation 100 or Regulation 101, (iii) any ForexClear Spot Transaction or ForexClear Deliverable Forward Transaction arising pursuant to the exercise of a ForexClear Option Contract under Regulation 96, or (iv) any ForexClear Transaction permitted under Regulation 98. If a ForexClear Settlement Event is still continuing at 5:00 PM Eastern Standard Time on the day on which the ForexClear Settlement Event has occurred, it will only cease to be continuing when the Clearing House registers the necessary Mandatory Settlement ForexClear Swap Contracts in accordance with this Regulation.

#### **Settlement Exposure Limit**

- (r) Each time a ForexClear Option Clearing Member submits a ForexClear Transaction (other than a ForexClear NDF Transaction) for registration with the Clearing House (either as a new ForexClear Transaction or in connection with a transfer in accordance with Regulation 18), which would, if registered, have a Settlement Date falling more than two days after the date of registration, the Clearing House shall compare:

Deleted: January



- (i) the Settlement Exposure Limit on that day with respect to that ForexClear Option Clearing Member and the relevant ForexClear Currency; and
- (ii) the value of the Settlement Exposure Amount on that day with respect to that ForexClear Option Clearing Member, that ForexClear Currency and that Settlement Date.

The "Settlement Exposure Amount" means, with respect to a given day of determination, a given ForexClear Option Clearing Member a given ForexClear Currency, and a given Settlement Date, the net expected amount of that ForexClear Currency that the Clearing House has determined, in its sole and absolute discretion, is or will be payable by that ForexClear Option Clearing Member on that Settlement Date under all ForexClear Contracts (other than ForexClear NDF Contracts) to which it is a party.

(s) If, in relation to a ForexClear Option Clearing Member and a given ForexClear Currency, either:

- (i) the most recent calculation undertaken by the Clearing House under (r) indicates that (r)(ii) exceeds (r)(i) for any Settlement Date and that ForexClear Currency; or
- (ii) that ForexClear Option Clearing Member submits for registration a ForexClear Transaction that, immediately following its registration, would have the effect that (r)(ii) would exceed (r)(i) for the relevant Settlement Date and that ForexClear Currency.

then the Clearing House shall be entitled, in its sole and absolute discretion, to refuse to register any new ForexClear Contract for that ForexClear Option Clearing Member that may, if registered, result in that ForexClear Option Clearing Member having to pay a net amount in that ForexClear Currency to the Clearing House under such ForexClear Contract on the applicable Settlement Date, other than (A) any ForexClear NDF Transaction, (B) any ForexClear Transaction that is expressly permitted by this Regulation 100 or Regulation 101, (C) any ForexClear Spot Transaction or ForexClear Deliverable Forward Transaction arising pursuant to the exercise of a ForexClear Option Contract under Regulation 96, or (D) any ForexClear Transaction permitted under Regulation 98.

Deleted: January

## **REGULATION 101 FOREXCLEAR OPTION SERVICE – LIQUIDITY EVENT**

(a) A “ForexClear Liquidity Event” shall occur immediately with respect to a ForexClear Option Clearing Member if that ForexClear Option Clearing Member does not pay, in the manner specified by the Procedures, all Relevant FX Liabilities by 8:00 AM Central European Time on the day on which such amounts are due.

(b) Upon the occurrence of a ForexClear Liquidity Event with respect to a ForexClear Option Clearing Member (such ForexClear Option Clearing Member, the “Affected ForexClear Option Clearing Member”), there shall arise an instruction by the Clearing House for itself and on behalf of the Affected ForexClear Option Clearing Member authorising the Clearing House to take such of the steps listed in (d) below it deems appropriate in the circumstances:

(i) to satisfy and/or discharge all the Affected ForexClear Option Clearing Member’s liabilities in any ForexClear Currency:

(A) that are due and payable by it on that day to the Clearing House under a ForexClear Option Contract, ForexClear Swap Contract, ForexClear Deliverable Forward Contract and/or ForexClear Spot Contract; and

(B) which the Procedures provide are to be paid by it for the Clearing House’s account at the Settlement Service Provider (the “Relevant FX Liabilities”) and

(ii) with a view to completing the settlement cycle for all payments arising under the ForexClear Option Service in all currencies on that day.

(c) The Clearing House shall, immediately upon the occurrence of a ForexClear Liquidity Event, give notice in writing (which may be given by electronic messaging system or email) to:

(i) the Affected ForexClear Option Clearing Member; and

(ii) the Non-Affected ForexClear Option Clearing Members,

specifying that a ForexClear Liquidity Event that has occurred. A failure by the Clearing House to deliver, or any delay in the delivery of, any of the notices required by this paragraph (c) shall not affect the Clearing House’s ability to exercise any of its rights under this Regulation 101.

(d) The steps which may be taken by the Clearing House under (a) above are:

### **Liquidity Fund Contributions**

(i) to utilise any of the ForexClear Liquidity Fund Contributions in respect of any ForexClear Option Clearing Member in support of the Clearing House’s obligations to make payments to other ForexClear Option Clearing Members under ForexClear Option Contracts, ForexClear Swap Contracts, ForexClear Deliverable Forward Contracts and/or ForexClear Spot Contracts to which it is a party and which correspond to Relevant FX Liabilities of an Affected ForexClear Option Clearing Member;

Deleted: January

- (ii) to satisfy and deem performed the payment obligation of the Affected ForexClear Option Clearing Member to the Clearing House under some or all of the Relevant FX Liabilities, subject always to a corresponding reimbursement obligation arising between the Affected ForexClear Option Clearing Member and the Clearing House pursuant to Regulation 102(i);
- (iii) to charge to the Affected ForexClear Option Clearing Member's account the amount (or, if the amount is not finally known, the estimated amount) of any expenses, liabilities, costs, or reimbursement obligations incurred by the Clearing House with regard to or in consequence of the circumstances in (a) or the steps which are or may be taken under this Regulation 101;
- (iv) to immediately suspend the performance of any payment obligation (denominated in any ForexClear Currency) that it owes to the Affected ForexClear Option Clearing Member on the day of the ForexClear Liquidity Event under any ForexClear Option Contract, ForexClear Swap Contract, ForexClear Deliverable Forward Contract and/or ForexClear Spot Contract, where such payment obligation is owed on the day of the ForexClear Liquidity Event, to the extent that, and for so long as, such Affected ForexClear Option Clearing Member has not paid the amount owed to the Clearing House under Regulation 102(i). If the Affected ForexClear Option Clearing Member does not pay the amount owed to the Clearing House under Regulation 102(i) when due, the Clearing House shall have the right to apply any amounts (denominated in any ForexClear Currency) that it would have owed to the Affected ForexClear Option Clearing Member but for the suspension referred to above, to the extent necessary to fully discharge that Affected ForexClear Option Clearing Member's obligation to the Clearing House under Regulation 102(i) and the Clearing House shall be entitled, pursuant to Regulation 101(d)(iii) above, to charge the Affected Clearing Member for any costs it incurs in converting any amounts pursuant to this paragraph (iv); and/or

#### **Mandatory ForexClear Swap Contracts**

- (v) to conclude, and bind the Affected ForexClear Option Clearing Member or another ForexClear Option Clearing Member on the one hand, and the Clearing House on the other hand to, one or more Mandatory ForexClear Swap Contracts on such terms as the Clearing House may determine in its sole and absolute discretion, provided always that:
  - (A) any Mandatory ForexClear Swap Contract shall be concluded only with a view to either, once registered with the Clearing House, (A) reducing or extinguishing some or all of the Relevant FX Liabilities of the Affected ForexClear Option Clearing Member in any ForexClear Currency on that day, or (B) creating corresponding positions for the Clearing House vis a vis the other ForexClear Option Clearing Member(s);
  - (B) no Mandatory ForexClear Swap Contract shall be concluded with a Non-Affected ForexClear Option Clearing Member which would (i) have the effect, immediately upon registration, that the relevant Settlement Position Limit applicable to the relevant ForexClear

Deleted: January

Currency and that Non-Affected ForexClear Option Clearing Member would be exceeded by the Settlement Position Amount applicable to the relevant ForexClear Currency and that Non-Affected ForexClear Option Clearing Member, or (ii) exceed the Mandatory ForexClear Swap Limit applicable to that Non-Affected ForexClear Option Clearing Member and the relevant ForexClear Currency;

- (C) the Initial Exchange Date (as defined in the ForexClear Swap Contract Terms) for the Mandatory ForexClear Swap Contract shall be the date on which the ForexClear Liquidity Event has occurred;
  - (D) the Final Exchange Date (as defined in the ForexClear Swap Contract Terms) for the Mandatory ForexClear Swap Contract may be any date from (but excluding) the date on which the ForexClear Liquidity Event has occurred to (and including) the date that is fourteen days after the date on which the ForexClear Liquidity Event has occurred;
  - (E) the Mandatory ForexClear Swap Contract must otherwise meet the conditions that the Clearing House, in its sole and absolute discretion, deems necessary from time to time;
  - (F) the Mandatory ForexClear Swap Contract shall be concluded on terms that it is subject to immediate registration with the Clearing House in the name of the relevant ForexClear Option Clearing Member; and
  - (G) the Mandatory ForexClear Swap Contracts arising between the Clearing House and the ForexClear Option Clearing Members other than the Affected ForexClear Option Clearing Member shall be allocated by the Clearing House in accordance with the applicable allocation provisions in Regulation 103.
- (e) At the time and in the manner specified in the Procedures, the Clearing House shall notify each Non-Affected ForexClear Option Clearing Member and the Affected ForexClear Option Clearing Member of the Mandatory ForexClear Swap Contracts (if any) that it has entered into for and on its behalf.
- (f) Each ForexClear Option Clearing Member agrees and acknowledges that the Mandatory ForexClear Swap Contracts entered into on its behalf by the Clearing House shall constitute part of that ForexClear Clearing Member's ForexClear Clearing House Business and shall be recorded in that ForexClear Clearing Member's Proprietary Account. In no circumstance shall a Mandatory ForexClear Swap Contract be recorded in a ForexClear Clearing Member's Client Account.
- (g) Nothing in this Regulation 101 requires the Clearing House to take any of the steps described, or to take any of those steps in any particular priority, order or amount except as expressly set out in these Regulations.
- (h) In the event that the Clearing House determines, in its sole and absolute discretion, that, for any reason whatsoever, the daily settlement cycle will not complete, or is not reasonably likely to complete, before the Daily CLS Cut-Off Time specified in the Procedures, the Clearing House may conclude, and bind one or more ForexClear

Deleted: January



Option Clearing Members on the one hand, and the Clearing House on the other hand, to one or more Mandatory ForexClear Swap Contracts on such terms as the Clearing House may determine in its sole and absolute discretion, provided always that:

- (A) any Mandatory ForexClear Swap Contract shall be concluded only with a view to reducing or extinguishing the liabilities of some or all of the ForexClear Option Clearing Members on that day;
  - (B) no Mandatory ForexClear Swap Contract shall be concluded with a ForexClear Option Clearing Member which would (i) have the effect, immediately upon registration, that the relevant Settlement Position Limit applicable to the relevant ForexClear Currency and that ForexClear Option Clearing Member would be exceeded by the Settlement Position Amount applicable to the relevant ForexClear Currency and that ForexClear Option Clearing Member, or (ii) exceed the Mandatory ForexClear Swap Limit applicable to that ForexClear Option Clearing Member and the relevant ForexClear Currency;
  - (C) the Initial Exchange Date (as defined in the ForexClear Swap Contract Terms) for the Mandatory ForexClear Swap Contract shall be the date on which the ForexClear Liquidity Event has occurred;
  - (D) the Final Exchange Date (as defined in the ForexClear Swap Contract Terms) for the Mandatory ForexClear Swap Contract shall be the business day (for the applicable Currency Pair (as defined in the ForexClear Swap Contract Terms)) immediately following the date on which the ForexClear Liquidity Event has occurred;
  - (E) the Mandatory ForexClear Swap Contract must otherwise meet the conditions that the Clearing House, in its sole and absolute discretion, deems necessary from time to time; and
  - (F) the Mandatory ForexClear Swap Contract shall be concluded on terms that it is subject to immediate registration with the Clearing House in the name of the relevant ForexClear Option Clearing Member.
- (i) This Regulation 101 is without prejudice to the Clearing House's rights and obligations under the Default Rules and nothing in this Regulation 101 shall require the Clearing House to take any action contemplated herein prior to taking action under the Default Rules.

Deleted: January



## REGULATION 102 FOREXCLEAR OPTION SERVICE – LIQUIDITY FUND CONTRIBUTIONS

- (a) It is a ForexClear Option Service Membership Requirement that a ForexClear Option Clearing Member has paid to the Clearing House the ForexClear Liquidity Fund Contributions applicable to it in such currencies and such amounts as the Clearing House might prescribe from time to time as applicable to it.
- (b) The currencies of the ForexClear Liquidity Fund Contributions and the size of the ForexClear Liquidity Fund Contributions shall be determined by the Clearing House, in its sole and absolute discretion, and shall be notified to each ForexClear Option Clearing Member from time to time. The Clearing House may, by not less than 30 calendar days' written notice to all ForexClear Option Clearing Members, amend the amount and/or currencies of the ForexClear Liquidity Fund Contributions.
- (c) The Clearing House shall (i) open and maintain one or more accounts in its own name with one or more central banks as it determines appropriate in its sole and absolute discretion, and (ii) ensure that the each of the ForexClear Liquidity Fund Contributions is at all times, except as permitted by Regulation 101(d)(i), paragraph (f) or paragraph (g) below, credited to such account(s).
- (d) The Clearing House shall have policies and procedures in place to ensure that, at all times, each account to which the aggregate ForexClear Liquidity Fund Contributions denominated in a given currency are credited shall have, standing to its credit, an amount of cash denominated in such currency that is at least equal to the aggregate ForexClear Liquidity Fund Contributions denominated in that currency across all ForexClear Option Clearing Members from time to time. Other than any rights of set off which may exist in relation to any account to which the ForexClear Liquidity Fund Contributions are credited from time to time, in no circumstance shall the Clearing House be entitled to assign, charge or otherwise subject to any other form of security interest, the amounts standing to the credit of such accounts from time to time, or any of its rights in respect of such accounts.
- (e) The Liquidity Fund Contributions received from a ForexClear Option Clearing Member and held by the Clearing House in accordance with this Regulation 102 shall not constitute Collateral for the purposes of the Regulations. Each ForexClear Option Clearing Member agrees and acknowledges that any Liquidity Fund Contributions received by the Clearing House are the Clearing House's own funds and such ForexClear Option Clearing Member shall have no rights in respect of such Liquidity Fund Contributions other than as expressly set out in these Regulations.
- (f) The amount of the AUD ForexClear Liquidity Fund Contribution, CHF ForexClear Liquidity Fund Contribution, EUR ForexClear Liquidity Fund Contribution and GBP ForexClear Liquidity Fund Contribution held by the Clearing House in respect of a ForexClear Option Clearing Member on the date specified in (i) or (ii) immediately below (as applicable) shall be repayable to that ForexClear Option Clearing Member on the earliest to occur of the following events:
- (i) the effective date of termination of that ForexClear Option Clearing Member's status as a ForexClear Option Clearing Member (or if that ForexClear Option

Deleted: January

Clearing Member is a Defaulter, such date as the Clearing House may determine acting in its sole and absolute discretion); and

- (ii) the effective date of termination of that ForexClear Option Clearing Member's status as a Clearing Member (or if that ForexClear Option Clearing Member is a Defaulter, such date as the Clearing House may determine acting in its sole and absolute discretion).
- (g) On any day, interest (which may be a positive or negative amount) shall accrue on, or be deducted from, the AUD ForexClear Option Service Liquidity Fund Contribution, CHF ForexClear Option Service Liquidity Fund Contribution, EUR ForexClear Option Service Liquidity Fund Contribution and GBP ForexClear Option Service Liquidity Fund Contribution held by the Clearing House in respect of a given ForexClear Option Clearing Member on such day, at such rates and in such manner as provided by the Procedures. Interest shall be payable to or by that ForexClear Option Clearing Member in arrears and shall be paid monthly on the date or dates and in the manner specified by the Procedures. Any interest which has accrued and stands to the credit of the applicable account under this paragraph (g) shall not be regarded as being part of any of the ForexClear Option Service Liquidity Fund Contributions.
- (h) A ForexClear Option Clearing Member's entitlement to repayment of any of its ForexClear Option Service Liquidity Fund Contributions or any part thereof shall not be capable of assignment by it.
- (i) In the event that any of the ForexClear Option Service Liquidity Fund Contributions held by the Clearing House on a given day is diminished as a result of the Clearing House exercising its rights under Regulation 101(d)(i) only the Affected ForexClear Clearing Member shall, on demand, pay to the Clearing House, an amount of cash denominated in the same currency as the currency of the ForexClear Option Service Liquidity Fund Contribution that was so diminished equal to the amount by which the applicable ForexClear Option Service Liquidity Fund Contribution was so diminished.
- (j) The Clearing House shall ensure that any amounts it receives pursuant to paragraph (i) or (g) above are held on the same terms as the ForexClear Option Service Liquidity Fund is held pursuant to this Regulation 102.

Deleted: January

## REGULATION 103 ALLOCATION OF MANDATORY FOREXCLEAR SWAP CONTRACTS AND MANDATORY SETTLEMENT FOREXCLEAR SWAP CONTRACTS

### Mandatory Settlement ForexClear Swap Contracts

(a) If, following the occurrence of a ForexClear Settlement Event with respect to a ForexClear Option Clearing Member and a given ForexClear Currency, the Clearing House determines that, in accordance with Regulation 100(k), it shall conclude one or more Mandatory Settlement ForexClear Swap Contracts, it shall allocate the Mandatory Settlement ForexClear Swap Contracts arising between it and the applicable ForexClear Option Clearing Members in respect of that ForexClear Settlement Event in accordance with the below, subject always to the provisions of Regulation 105:

(i) first, the Clearing House shall allocate such Mandatory Settlement ForexClear Swap Contracts amongst all ForexClear Option Clearing Members that are Impacted ForexClear Option Clearing Members in respect of any ForexClear Settlement Event that has occurred on the relevant day (and regardless of the ForexClear Currency that is the subject of such a ForexClear Settlement Event) in the proportions and in the ForexClear Currencies that the Clearing House determines acting in its sole and absolute discretion; and

(ii) second, if having allocated Mandatory Settlement ForexClear Swap Contracts in accordance with (i) above, the Settlement Position Amount (denominated in any ForexClear Currency) of any of the Impacted ForexClear Option Clearing Members identified in (i) above exceeds the relevant Settlement Position Limit applicable to that Impacted ForexClear Option Clearing Member (such excess, the "Remaining SPA Shortfall"), the Clearing House shall allocate such Mandatory Settlement ForexClear Contracts amongst all other ForexClear Option Clearing Members in the proportions and in the ForexClear Currency the Clearing House determines acting in its sole and absolute discretion, until there is no Remaining SPA Shortfall in respect of any ForexClear Option Clearing Member.

### Mandatory ForexClear Swap Contracts

(b) If, following the occurrence of a ForexClear Liquidity Event with respect to a ForexClear Option Clearing Member and a given ForexClear Currency, the Clearing House determines that, in accordance with Regulation 101(d)(v), it shall conclude one or more Mandatory ForexClear Swap Contracts, it shall allocate the Mandatory ForexClear Swap Contracts arising between it and the applicable ForexClear Option Clearing Members in respect of that ForexClear Liquidity Event in accordance with the below, subject always to the provisions of Regulation 105:

(i) first, the Clearing House shall allocate such Mandatory ForexClear Swap Contracts amongst all ForexClear Option Clearing Members that are Affected ForexClear Option Clearing Members in respect of any ForexClear Liquidity Event that has occurred on the relevant day (and regardless of the ForexClear Currency that is the subject of such a ForexClear Liquidity Event) in the

Deleted: January

proportions and in the ForexClear Currencies that the Clearing House determines acting in its sole and absolute discretion; and

- (ii) second, if having allocated Mandatory ForexClear Swap Contracts in accordance with (i) above, there remains some Relevant FX Liabilities (denominated in any ForexClear Currency) of the Affected ForexClear Option Clearing Member(s) identified in (i) above that have not been extinguished, the Clearing House shall allocate such Mandatory ForexClear Contracts amongst all other ForexClear Option Clearing Members in the proportions and in the ForexClear Currency the Clearing House determines acting in its sole and absolute discretion, until there are no Relevant FX Liabilities outstanding.

Deleted: January



## REGULATION 104 FOREXCLEAR OPTION SERVICE – PAYMENT NETTING

The Clearing House shall, on each day:

- (i) to the extent that amounts are (a) payable in the same currency, (b) payable by a ForexClear Clearing Member to the Clearing House on such day under the ForexClear Contracts (other than ForexClear NDF Contracts) then registered in the name of that ForexClear Clearing Member, and (c) payable to the Clearing House's account at the Settlement Service Provider, aggregate such amounts; and
- (ii) to the extent that amounts are (a) payable in the same currency, (b) payable to a ForexClear Clearing Member by the Clearing House on such day under the ForexClear Contracts (other than ForexClear NDF Contracts) then registered in the name of that ForexClear Clearing Member, and (c) payable from the Clearing House's account at the Settlement Service Provider, aggregate such amounts.

and the amount payable on a day to one party (the **Pavee**) by the other party (the **Payer**) under (i) or (ii) (as applicable) above shall be reduced by setting-off such amount against the amount (the **Other Amount**) payable by the Pavee to the Payer under (i) or (ii) (as applicable) above. To the extent the Other Amount is so applied, the Other Amount will be discharged promptly and in all respects.

Deleted: January



**REGULATION 105 FOREXCLEAR OPTION SERVICE – AUTHORITY TO BIND FOREXCLEAR OPTION CLEARING MEMBERS**

(a) Each ForexClear Option Clearing Member (acting individually) hereby appoints the Clearing House, with full and power and authority of that ForexClear Option Clearing Member, to act as its agent for the following purposes only:

(i) at any time following the occurrence of a ForexClear Liquidity Event (and where such ForexClear Liquidity Event is continuing), to enter into, in the name of, and on behalf of, the ForexClear Option Clearing Member, one or more Mandatory ForexClear Swap Contracts on such terms as the Clearing House shall in its sole and absolute discretion determine, provided however that:

(A) if the ForexClear Option Clearing Member is a Non-Affected ForexClear Option Clearing Member in respect of that ForexClear Liquidity Event, the Clearing House shall not have the authority to enter into any Mandatory ForexClear Swap Contract that would, (i) upon its registration by and with the Clearing House, cause the Net Settlement Amount in relation to the ForexClear Option Clearing Member on the relevant day and in relevant ForexClear Currency to exceed the Settlement Position Limit applicable to the ForexClear Option Clearing Member and the relevant ForexClear Currency on such day, or (ii) exceed the Mandatory ForexClear Swap Limit applicable to that Non-Affected ForexClear Option Clearing Member and the relevant ForexClear Currency; and

(B) the terms of the Mandatory ForexClear Swap Contract shall be subject to Regulation 101;

(ii) at the time permitted by Regulation 100(k) in respect of a ForexClear Settlement Event, to enter into, in the name of, and on behalf of, the relevant ForexClear Option Clearing Member, one or more Mandatory Settlement ForexClear Swap Contracts on such terms as the Clearing House shall in its sole and absolute discretion determine, provided however that:

(A) if the ForexClear Option Clearing Member is a Non-Impacted ForexClear Option Clearing Member in respect of that ForexClear Settlement Event, the Clearing House shall not have the authority to enter into any Mandatory Settlement ForexClear Swap Contract that would, upon its registration by and with the Clearing House, cause the Net Settlement Amount in relation to the ForexClear Option Clearing Member on the relevant day and in relevant ForexClear Currency to exceed the Settlement Position Amount applicable to the ForexClear Option Clearing Member and the relevant ForexClear Currency on such day; and

(B) the terms of the Mandatory Settlement ForexClear Swap Contracts shall be subject to Regulation 100;

Deleted: January

- (iii) to register any Mandatory ForexClear Swap Contracts or Mandatory Settlement ForexClear Swap Contracts entered into under this Regulation in the ForexClear Option Clearing Member's Proprietary Account: and
- (iv) to (A) execute in the ForexClear Option Clearing Member's name and on the ForexClear Option Clearing Member's behalf any document, contract, deed or other agreement, or (B) do, or cause to be done, any acts, in each case as the Clearing House determines (acting reasonably) to be lawfully necessary to give effect to the Mandatory ForexClear Swap Contracts and/or Mandatory Settlement ForexClear Swap Contracts entered into with such ForexClear Option Clearing Member.

Deleted: January

**REGULATION 106 FOREXCLEAR OPTION SERVICE – THE SETTLEMENT SERVICE PROVIDER**

- (a) Each ForexClear Option Clearing Member hereby agrees and acknowledges for the benefit of the Settlement Service Provider that the Settlement Service Provider shall owe no liability or responsibility whatsoever to any ForexClear Option Clearing Member with respect to the settlement services the Settlement Service Provider shall provide in connection with settlement under the ForexClear Option Service not taking place through the Clearing House Protected Payment System.
- (b) Each ForexClear Option Clearing Member agrees that this Regulation 106 shall be for the benefit of, and enforceable by, the Settlement Service Provider in accordance with the Contracts (Rights of Third Parties) Act 1999. The rights of the Clearing House to terminate, rescind or vary, waive or agree to a settlement under this Regulation 106 are not subject to the consent of any other person.

Deleted: January

**LCH Rule Submission**

**Appendix C**

**Default Rules**

---

**LCH** The Markets'  
Partner

**LCH LIMITED  
DEFAULT RULES**

---



## CONTENTS

Rule	Page
<b>DEFAULT RULES</b> .....	1
Reduction of Losses on Default .....	15
Terms on which Contribution is held .....	18
Application of Defaulter's Contribution and Certification of Aggregate Excess Losses 19	
Application of Fund and Indemnity .....	21
Effect of cessation of Clearing Member status .....	23
Schedule 1 Client Clearing Annex .....	26
Schedule 2 Rates Service DMP Annex .....	37
Schedule 3 Forexclear DMP Annex .....	73
Schedule 4 Repoclear DMP Annex .....	89
Schedule 5 ForexClear Default Fund Supplement .....	100
Schedule 6 Rates Service Default Fund Supplement .....	116
Schedule 7 RepoClear Default Fund Supplement .....	144
Schedule 8 Equities Default Fund Supplement .....	161
Schedule 9 Commodities Default Fund Supplement .....	175

Deleted: January

The Clearing House has prepared a statement explaining: (i) how a transfer under the Client Clearing DMP will work, and (ii) the main legal implications of such a transfer, including information on the applicable insolvency law in the relevant jurisdictions. This statement is available on the Clearing House's website at <http://www.lchclearnet.com/members-clients/members/fees-ltd/annual-account-structure-fees>.

## LCH LIMITED

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

#### DEFAULT RULES

1. Save where expressly stated to the contrary these Default Rules ("Rules") have effect with regard to the provision of clearing services for all markets cleared by the Clearing House. These Rules (including each Supplement) form part of the Clearing House's Rulebook but do not apply in relation to a Co-operating Clearing House.

The Rules comprise:

- these general Default Rules (Rules 1 to 27 inclusive);
- Supplements specific to the following Service(s): the Commodities Service, the Equities Service, the ForexClear Service, the Rates Service and the RepoClear Service.

Each Supplement establishes a separate default fund specific to the Service to which the Supplement relates. The Supplements establish the size of each default fund, the basis for calculating Contributions to each default fund, and include supplementary provisions addressing cases where the relevant default fund has been utilised. The general Default Rules establish the mechanisms, which apply severally to each default fund, for utilisation of the default funds, and for other matters common to all default funds. In the event of any inconsistency between the provisions of the Default Rules and the provisions of a Supplement or an Annex, the Supplement or Annex (as applicable) will prevail.

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

2.
  - (a) Words and expressions defined in the Clearing House's Rulebook shall have the same meanings in these Rules, save that (i) in relation to the provision of clearing services by an FCM Clearing Member, words and expressions defined in the Clearing House's FCM Regulations shall have the same meanings in these Rules and such meanings shall prevail over any other meaning given to the relevant word or expression in the Clearing House's Rulebook and (ii) in relation to the provision of clearing services to Sponsored Members, words and expressions defined in the Clearing House's SC Regulations shall have the same meanings in

Deleted: January

- (h) the Clearing Member fails to pay any sum due and payable, or is otherwise in default under the terms of any agreement or threatens to suspend payment or to default under the terms of any agreement;
  - (i) in respect of the Clearing Member, a bankruptcy petition is presented or a bankruptcy order is made or a voluntary arrangement is approved;
  - (j) in respect of the Clearing Member, a receiver, manager, administrator or administrative receiver is appointed or a composition or scheme of arrangement is approved by the court;
  - (k) an assignment or composition is made by the Clearing Member for the benefit of creditors or any of them;
  - (l) a petition is presented for the winding up of the Clearing Member;
  - (m) an order is made for the winding up of the Clearing Member, or a resolution is passed for the winding up of the Clearing Member (save for the purpose of its amalgamation or reconstruction);
  - (n) in respect of the Clearing Member, a petition is presented or an order made for the appointment of an administrator;
  - (o) the Clearing Member, being a partnership, is dissolved, or being a registered company, is dissolved or suffers its name to be struck off the register of companies;
  - (p) any step analogous to those mentioned in paragraphs (i) and (o) is taken in respect of the Clearing Member in any jurisdiction;
  - (q) any distress, execution or other process is levied or enforced or served upon or against any property of the Clearing Member; or
  - (r) in respect of a Clearing Member (that is a Sponsored Member), the Clearing House has declared the default of one or more of its Agent Members and such Agent Member has, as a result, become unable to perform its obligations under Schedule 7 (*RepoClear Default Fund Supplement*).
6. The steps which may be taken by the Clearing House under Rule 3 in respect of the Defaulter or otherwise are:
- (a) to register (i) an original contract, OTC Transaction or an FCM Transaction (as the case may be) in the name of the Defaulter or to decline to register an original contract, OTC Transaction or an FCM Transaction (as the case may be) in the name of the Defaulter or otherwise to exercise the Clearing House's discretion with regard to the Defaulter under (i) Regulation 16(c) (*Registration*) or (ii), in the case of an FCM Clearing Member, FCM Regulations 46(h) and 49(g) or other applicable provision in the FCM Rulebook, or (iii) in the case of a Sponsored Member, SC Regulation 12 (*Registration*) or other applicable provision of the SC Regulations;

Deleted: January

- (q) without prejudice to any other right of the Clearing House under the Regulations, to take such action as the Clearing House may deem necessary for its protection in the name and at the expense of the Defaulter with regard to any open contract standing in its name;
- (r) in respect of Contracts standing in the Defaulter's name, to charge to its account the amount (or, if the amount is not finally known, the estimated amount) of any expenses incurred by the Clearing House with regard to or in consequence of the circumstances mentioned in Rule 3 or the steps which are or may be taken under this Rule, the Regulations, the FCM Regulations or the SC Regulations (as the case may be) and any expenses incurred with regard thereto under Rule 13;
- (s) to take any other step calculated by the Clearing House to complete the process set out in Rule 8;
- (t) if the Defaulter is an Affected ForexClear Option Clearing Member, to take any step under Regulation 101 (ForexClear Option Service - Liquidity Event) or Regulation 102 (ForexClear Option Service - Liquidity Fund Contributions) of the Regulations with respect to the ForexClear Option Contracts, ForexClear Swap Contracts, ForexClear Deliverable Forward Contracts and/or ForexClear Spot Contracts then registered in the name of that Defaulter, and to the extent the Clearing House decides to take any such steps under Regulation 101 (ForexClear Option Service - Liquidity Event) or Regulation 102 (ForexClear Option Service - Liquidity Fund Contributions) in the circumstances described in this paragraph (s), those steps set out in Regulation 101 (ForexClear Option Service - Liquidity Event) or Regulation 102 (ForexClear Option Service - Liquidity Fund Contributions) shall be deemed to form part of these Default Rules as if they were set out in full herein; and
- (u) to obtain such advice or assistance, whether legal or otherwise, as the Clearing House may deem necessary and at the expense of the Defaulter for any matter arising out of or in connection with the default,

provided that:

- (i) in the case of all Client Clearing Contracts, the Clearing House: (A) shall act in accordance with the provisions of the Client Clearing Annex (which deals, amongst other things, with certain specific arrangements, procedures and steps for the transfer, termination, close-out and re-establishment or the close-out and/or settlement of such Client Clearing Contracts pursuant to this Rule 6); and (B) may also take any of the other steps set out in this Rule 6 to the extent that they do not conflict with the steps set out in the Client Clearing Annex and, provided that, in no circumstances will the Clearing House sell any security deposited as Collateral in a Client Account and forming part of the Clearing Member Current Collateral Balance in respect of such Client Account pursuant to (without limitation) paragraphs (e), (h), (p) or (r) of this Rule 6, the Client Clearing Annex to these Default Rules or otherwise for the duration of the Porting Window applicable to the relevant Clearing Client, other than (1) with the consent, to the selling

Deleted: and

Deleted: January

Treasury Accounts combined, and (if the Clearing House has elected in accordance with Rule 11(a)) any Proprietary Accounts; and

- (xii) with regard to a net sum produced by reference to Contracts registered in SM/AM Account with LCH of the Defaulter, that SM/AM Account..
  - (d) Notwithstanding any provision of the Rulebook to the contrary, any loss which relates to a Treasury Account may not be treated as a Default Loss, whether or not Collateral has been applied in respect of such loss. Nothing in this Rule 11(d) requires the Clearing House to apply Collateral in respect of any such loss, except that the Clearing House may not apply Collateral in respect of any such loss to the extent that doing so would give rise to an Excess Loss.
12. Without further authorisation, permission or cooperation from the Defaulter (or a related Agent Member), the Clearing House may appoint any person to take or assist it in taking any step under these Rules or to complete or assist it in completing the process set out in Rule 8.
13. The Clearing House may co-operate, by the sharing of information and otherwise, with any Regulatory Body or relevant Exchange, any relevant office-holder acting in relation to the Defaulter or its estate and any other authority or body having responsibility for, or any Clearing Member having an interest in, any matter arising out of or connected with the circumstances mentioned in Rule 3.
14. In addition to such copy report as it supplies under section 162(3) of the Companies Act 1989, the Clearing House shall report to the Defaulter (and, if applicable, its related Agent Members), or any relevant office-holder acting in relation to the Defaulter or its estate, on steps taken in relation to the Defaulter under Rule 6.

#### Reduction of Losses on Default

15. Subject to: (i) any contrary provision of the Rulebook and/or (ii) any variation or modification in, or clarification of, the application of the resources described below set out in an Annex, where a Defaulter fails to pay any sum payable to the Clearing House, the Clearing House shall reduce or bear its loss in the manner provided by this Rule:
- (a) first, to the extent the Clearing House determines appropriate, in applying any Collateral transferred to the Clearing House by or for the account of the Defaulter (including, where the Defaulter is a Sponsored Member, available Agent Buffer transferred to the Clearing House by the Defaulter's Agent Members in respect of the Defaulting Sponsored Member's collateral account as per Regulations 16(c) and (d)), any other sum owed to the Defaulter or its Agent Member (other than (i) any Contribution of the Defaulter or (ii) any ForexClear Option Service Liquidity Fund Contributions of the Defaulter) and any Collateral transferred to the Clearing House by a Custodial Segregated Client in respect of a Custodial Segregated Account of the Defaulter (together, "**Margin Cover**"), **provided that** (i) Margin Cover related to a particular type of Business is to be applied first to any loss attributable to that Business until such loss is absorbed; and (ii) save in the case where the relevant Client Accounts are two or more Individual Segregated Accounts and/or Custodial

Deleted: any Contribution

Deleted: January



Segregated Accounts opened by the Defaulter on behalf of the same Clearing Client (or, in the case of a Defaulter who is an FCM Clearing Member, two or more FCM Client Sub-Accounts held in the name of the same FCM Client, two or more FCM Omnibus Futures Client Accounts with LCH, or two or more FCM Omnibus Foreign Futures Client Accounts with LCH, as applicable), in no circumstances will Margin Cover transferred by or for the account of the Defaulter and/or by a Custodial Segregated Client in respect of obligations arising on a Client Account be applied by the Clearing House pursuant to this stage (a) in respect of any loss attributable to any of the Defaulter's other accounts; and (iii) in the case where the defaulter is a Sponsored Member, that Collateral transferred for Margin Cover directly be applied first before any Agent Buffer used in the context of Regulation 16; second, by (i) recourse to the Defaulter's relevant Contribution made by the Defaulter or for the account of the Defaulter by an Agent Member in respect of the type of Business to which the loss relates, followed by (ii) recourse to any other Contribution made by the Defaulter or for the account of the Defaulter by an Agent Member to the extent not utilised under (i) above. The Clearing House will exercise its rights of recourse under this stage (a) by set-off against the Clearing House's obligation to repay the relevant Contributions to the Defaulter or (B) where the Defaulter is a Sponsored Member, by recourse to the indemnities in respect of all Contributions of each Agent Member to the Defaulter's Contribution given under Rule 19 (i) and (ii) respectively by each Agent Member of the Defaulter and set-off against the Clearing House's obligation to repay contributions to the Agent Members;

- (b) third, where the Defaulter is a Sponsored Member, by recourse to the indemnities in respect of all available Agent Resource Contribution given under SC Regulation 17 (*Agent Resource Contribution*) and Rule 19 by each Agent Member of the Defaulter in respect of any Agent Resource Contribution posted by such Agent in proportion to the portfolio of the defaulted Sponsored Clearing Member (which shall be satisfied by set-off against the Clearing House's obligation to repay the relevant Agent Resource Contributions to such Agent Members);
- (c) fourth, by payment from the Clearing House's own account of an amount (the "**Capped Amount**") (i) determined by the Clearing House from time to time in accordance with the requirements relating to **the calculation and the setting** aside of dedicated own resources under the Own Resources Provision; or (ii) in the case of a subsequent Default occurring before the Clearing House has reinstated the dedicated resources required in accordance with the Own Resources Provision, representing the residual amount of such dedicated own resources.

Where there are amounts due from the Defaulter at this stage in respect of more than one type of Business (each a "**Relevant Business**" in respect of the Defaulter), a separate Capped Amount determined in accordance with Rule [15\(b\)\(i\)-\(ii\)](#) will be paid from the Clearing House's own account under this stage [\(b\)](#) in respect of such Relevant Business.

- (d) fifth, to the extent that any insurance or analogous arrangement is not available to the Clearing House, by recourse to the indemnities given under

Deleted: 15(c)

Deleted: (c)

Deleted: January

Rule 21 by Clearing Members and relevant Agent Members other than the Defaulter (which shall be satisfied by set-off against the Clearing House's obligation to repay the relevant Contributions of such Clearing Members or relevant Agent Members). If the criteria specified in a relevant Supplement for calling any Unfunded Contributions have been satisfied, then references to the Contributions of Clearing Members or relevant Agent Members other than the Defaulter in this Rule 15(d), shall include such Unfunded Contributions;

Deleted: (e)

- (e) sixth, by recourse to any insurance cover or analogous arrangement;
- (f) seventh, by recourse to the indemnities given under Rule 21 by Clearing Members or relevant Agent Members (as applicable) other than the Defaulter (which shall be satisfied by set-off against the Clearing House's obligation to repay the relevant Contributions to of such Clearing Members or relevant Agent Members (as applicable). If the criteria specified in a relevant Supplement for calling any Unfunded Contributions have been satisfied, then the references to the Contributions of Clearing Members or relevant Agent Members (as applicable) other than the Defaulter in this Rule 15(f), shall include such Unfunded Contributions;
- (g) eighth, by recourse to any other indemnities, guarantees, undertakings or monies provided by Clearing Members, excluding the ForexClear Option Service Liquidity Fund Contributions;
- (h) ninth, by recourse to the relevant Supplement.

Deleted: (g)

Deleted: , or

Where a Defaulter is engaged in more than one Relevant Business, the completion of the default management processes in respect of such Relevant Businesses may occur at different times. The Clearing House may be required to make a determination in respect of one Relevant Business (including certification of a Default Loss under Rule 16(b), certification of a net sum payable under Rule 19(i) or the value of an Excess Loss) in order to manage the Default at a time when (a) the determination is contingent on an outcome of the default management process in respect of some other Relevant Business, and (b) that outcome has not yet been reached. In the interests of efficient resolution, the Clearing House may at such point make assumptions about that outcome, and proceed with the relevant process on that basis. Where any such assumptions have been made, the Clearing House shall, on the completion of the default management processes in respect of all Relevant Businesses, make such credits to the default funds relating to the Relevant Businesses and such distributions to former Clearing Members as may be necessary to put the default funds and those firms which had contributed to such Default funds at the time of the relevant default in the position that they would have been in if the correct outcomes had been reached and the relevant assumptions had not been made.

Deleted: (a)

This Rule has effect without prejudice to any rights of the Clearing House or any other person against the Defaulter.

Deleted: January

**SCHEDULE 3  
FOREXCLEAR DMP ANNEX**

**1. Scope and interpretation**

- 1.1 The Clearing House has established a ForexClear DMP which will apply to ForexClear Contracts following the issuing of a Default Notice relating to a ForexClear Clearing Member and in respect of which, for the avoidance of doubt, the Clearing House will have no recourse to the process of invoicing-back. The fundamental principles of the ForexClear DMP are elaborated to the fullest extent possible in this Annex. Where exhaustive detail cannot be laid out in the provisions of this Annex, the ForexClear DMP will be undertaken on the basis of the principles contained herein.
- 1.2 The Clearing House has an obligation to ensure the on-going integrity of the ForexClear Service and of the ForexClear Contracts in the interests of the Non-Defaulting FXCCMs. When a ForexClear Clearing Member defaults, Non-Defaulting FXCCMs are required to supply impartial expertise through the ForexClear DMG and to bid for the Auction Portfolios of a Defaulting FXCCM, as laid out in this Annex. In addition, most FXCCMs or their parent companies or subsidiaries or fellow subsidiaries, have direct interests in that integrity, notably as contributors to the various default funds of the Clearing House. Each FXCCM shall take all steps and execute all documents necessary or required by the Clearing House to comply with its obligations as a FXCCM arising out of this ForexClear DMP Annex.
- 1.3 The initial margining process in respect of ForexClear Contracts will be such so as to ensure that the acceptance of bids for the Auction Portfolio of a Defaulting FXCCM will recognise risk premiums, and that equivalent premiums will be paid by the Clearing House in closing-out large positions in other Contracts traded on exchange or ATS-organised markets.
- 1.4 In this Annex:

"AIP" has the meaning given in Rule 2.4 of this Annex;

"Auction" means the process of bidding by FXCCMs for an Auction Portfolio, prescribed by the Clearing House, following consultation with the ForexClear DMG from time to time in accordance with Rule 2.3 of this Annex;

"Auction Losses" has the meaning given in Rule 2.5(b) of this Annex;

"Auction Portfolio" means (i) a Portfolio; or (ii) a group of ForexClear Contracts resulting from the splitting of a Portfolio pursuant to Rule 2.1 of this Annex including any connected hedging trades concluded by the Clearing House through Risk Neutralisation;

"Auction Portfolio Category" means, in relation to an Auction Portfolio, the ForexClear Contract Category to which the ForexClear Contracts in the Auction Portfolio belong, provided that in the case of an Auction Portfolio containing both ForexClear NDF Contracts and ForexClear Contracts that are not ForexClear NDF

**Deleted:** <#>"Auction Currency Pair" means in relation to an Auction, the Currency Pair of an Auction Portfolio which is the subject of that Auction,¶

**Deleted:** January

Contracts, the relevant Auction Portfolio Category shall be deemed to be the ForexClear Non-NDF Contract Category:

"Auction Portfolio Currency Pair" means in relation to an Auction Portfolio, the Currency Pair in which the ForexClear Contracts in the Auction Portfolio are denominated:

"Bankruptcy Code" means the U.S. Bankruptcy Code, as amended;

"CEA" means the U.S. Commodity Exchange Act, as amended;

"CFTC" means the U.S. Commodity Futures Trading Commission;

"Currency Pair" has the meaning set out at Part A of the Schedule to the ForexClear Regulations;

"Derivatives Clearing Organization" means an organisation designated and registered as such by way of United States Code - Title 7, Chapter 1, paragraph 7a-1;

"Equal Bid" has the meaning given in Rule 2.3(e) of this Annex;

"Expected Auction Participant" means, in respect of an Auction Portfolio, any Non-Defaulting FXCCM who, at the time the Clearing House declared a Default, has at least one Resembling Contract registered in its name:

"FCM ForexClear Client Business" means the provision of FCM ForexClear Client Clearing Services by an FCM Clearing Member to its FCM Clients;

"FCM ForexClear House Business" means the FCM ForexClear Contracts entered into by an FCM Clearing Member for its own account or for the account of an affiliate;

"ForexClear Contract Category" means a category of ForexClear Contracts, being either the ForexClear NDF Contract Category or the ForexClear Non-NDF Contract Category:

"ForexClear Default Management Process" or "ForexClear DMP" means the processes of the Clearing House outlined in this Annex, as may be supplemented and/or amended from time to time in accordance with this Annex;

"ForexClear Default Management Process Completion Date" means the date when the ForexClear Default Management Process in relation to a Default has been completed as determined by the Clearing House in consultation with the ForexClear DMG and notified to all FXCCMs;

"ForexClear DMG" means the advisory ForexClear Default Management Group established by the Clearing House pursuant to the terms of this Annex;

"ForexClear NDF Contract Category" means the category of ForexClear Contracts which comprises ForexClear NDF Contracts registered with the Clearing House:

Deleted: <#>"Currency Pair Participant" means, in respect of a specific Currency Pair, a Non-Defaulting FXCCM who at the time the Clearing House declares a Default has ForexClear Contracts for that Currency Pair registered in its name.¶

Deleted: January



"ForexClear Non-NDF Contract Category" means the category of ForexClear Contract which comprises all ForexClear Contracts registered with the Clearing House other than ForexClear NDF Contracts registered with the Clearing House;

"Guidance" means guidance, in the form of one or more written notices, issued from time to time pursuant to Rule (a) of this Annex by or on behalf of the Clearing House to FXCCMs, supplementing the detail or conduct of any aspect of the ForexClear DMP;

"Higher Bid" and "Higher Bidder" have the meanings given in Rule 2.5(c) of this Annex;

"Initial Resources" has the meaning given in Rule 2.5(b) of this Annex;

"Losing AP Type" has the meaning given in Rule 2.50 of this Annex;

"Losing Original FXCCM" has the meaning given in Rule 2.50 of this Annex;

"Losing Unfunded FXCCM" has the meaning given in Rule 2.5(g) of this Annex;

"Margin Cover" has the meaning given in Rule 15(a) of the Default Rules;

"Non-Defaulters' Contributions" means the ForexClear Contributions made by Non-Defaulting FXCCMs to the ForexClear Default Fund;

"Original Contributions" has the meaning given in Rule 2.3(c) of this Annex;

"Portfolio" means, in respect of each Currency Pair, the ForexClear Contracts in such Currency Pair registered in the name of a Defaulting FXCCM in respect of House Clearing Business or the ForexClear Contracts in such Currency Pair registered in the name of a Defaulting FXCCM in respect of Client Clearing Business and, in both such cases includes, where relevant, any hedging trades connected to the relevant ForexClear Contracts concluded by the Clearing House through Risk Neutralisation. For the avoidance of doubt, a Portfolio containing ForexClear Contracts relating to the Client Clearing Business of a Defaulting FXCCM will only contain ForexClear Contracts relating to Client Clearing Business. The Clearing House shall not be entitled to combine client and house positions in a single Portfolio;

"Potential Unfunded Contributions" has the meaning given in Rule 2.4(b) of this Annex;

"Recognised Clearing House" mean an organisation which is declared to be a recognised clearing house by a recognition order (that is for the time in force) made under section 290(1)(b) of the Financial Services and Markets Act 2000;

"Relevant Original Contributions" has the meaning given to it in Rule 2.5(c) of this Annex;

"Relevant Unfunded Contributions" has the meaning given to it in Rule 2.5(f) of this Annex;

Deleted: Currency

Deleted: (d)

Deleted: Currency

Deleted: (d)

Deleted: Currency

Deleted: January



"**Remaining Original Short Bidder**" has the meaning given to it in Rule 2.5(c) of this Annex;

"**Remaining Unfunded Short Bidder**" has the meaning given to it in Rule 2.5(f) of this Annex;

"**Resembling Contract**" means in respect of the ForexClear Contracts in a specific Auction Portfolio, a ForexClear Contract registered in the name of a Non-Defaulting FXCCM that (i) is denominated in the same currencies as the Auction Portfolio Currency Pair and (ii) belongs to the ForexClear Contract Category which corresponds to the Auction Portfolio Category of such Auction Portfolio.

"**Risk Neutralisation**" means the process of reducing the market risk and/or settlement risk associated with a Defaulting FXCCM's obligations to the Clearing House under ForexClear Contracts by hedging the exposure prior to the auction process as described in Rule 2.2 of this Annex; and

"**Short Bidder**" has the meaning given in Rule 2.5(c) of this Annex.

1.5 Terms used in this Annex which are not defined herein shall have the meanings given to them in the Regulations and in the FCM Regulations.

## 2. **ForexClear Clearing House Business and FCM ForexClear House Business**

The ForexClear Default Management Process in respect of ForexClear Clearing House Business and FCM ForexClear House Business shall involve the stages described in this Rule 2.

### 2.1 **Portfolio Splitting**

The Clearing House, in consultation with and with the assistance of the ForexClear DMG, shall determine the composition of each Auction Portfolio and shall have the discretion to divide a Portfolio into two or more individual Auction Portfolios with the aim of facilitating the efficiency of, and reducing the risk associated with, the auction process provided for in Rule 2.3 of this Annex. The overriding principle is that the Clearing House will structure Auction Portfolios with the intention of ensuring a ForexClear DMP which best protects the resources of the Clearing House, subject to compliance with applicable provisions of the CEA and the CFTC Regulations regarding segregation of client assets. Therefore, nothing in this Rule 2.1 shall be deemed to imply: (a) that the Clearing House is under any obligation to split a particular Portfolio of a Defaulting FXCCM (regardless of the number of ForexClear Contracts that such Portfolio contains); or (b) any particular requirements as to the composition of an individual Auction Portfolio (including in terms of combining or separating ForexClear Contracts belonging to different ForexClear Contract Categories), except that, subject to overriding risk procedures it is broadly anticipated that the parameters of any Auction Portfolio shall not be materially different to those set out in the Clearing House's fire drill.

### 2.2 **Risk Neutralisation**

The Clearing House will, in consultation with and with the assistance of the ForexClear DMG, reduce the market risk and/or settlement risk associated with a

Deleted: .

Deleted: January

Defaulting FXCCM's obligations to the Clearing House so far as is reasonably practicable by hedging the Clearing House's exposure in open ForexClear Contracts to which the Defaulting FXCCM is party. Hedging may be undertaken in a number of sessions, but should be undertaken as quickly as is compatible with efficient execution. All such hedging shall be undertaken by the Clearing House with FXCCMs, on the basis of separate agreements between the Clearing House and each such FXCCM. The aim of Risk Neutralisation is to reduce market exposure to within defined tolerance limits expressed as deltas or other measures of market risk and as established from time to time by the Clearing House in consultation with the ForexClear DMG or as may reasonably be determined by the Clearing House in consultation with the ForexClear DMG once a Default has been declared under the Default Rules. For the avoidance of doubt, Risk Neutralisation may happen prior to, concurrently with and/or subsequently to the splitting of a Portfolio pursuant to Rule 2.1 above.

### 2.3 *Auction*

- (a) Following the completion of Risk Neutralisation, the Clearing House shall calculate the AIP for each Auction Portfolio under Rule 2.4 and shall auction each Auction Portfolio to Non-Defaulting FXCCMs in order to seek to re-establish the positions it had with the Defaulting FXCCM under the ForexClear Contracts in each Auction Portfolio with Non-Defaulting FXCCMs and to seek to determine the net value of those ForexClear Contracts for the purposes of determining the extent of any losses to the Clearing House which are to be reduced or borne in the manner provided by Rule 15 (Reduction of Losses on Default) of the Default Rules or, as the case may be, the extent of any gains to the Clearing House which the Clearing House must pay to the Defaulting FXCCM. The Clearing House, in consultation with the ForexClear DMG, shall prescribe such procedures (in addition to those set out herein) for the conduct of the auction process as it considers reasonably appropriate from time to time.
- (b) The Clearing House shall notify each FXCCM of all details that may be reasonably required in relation to an Auction Portfolio prior to the relevant Auction.
- (c) The auction process may take place over a number of days and Auctions of different Auction Portfolios may take place at different times.
- (d) FXCCMs will submit bids to the Clearing House representatives on the ForexClear DMG, who will ensure that the identities of the bidders are not revealed to the FXCCM representatives on the ForexClear DMG. For the avoidance of doubt, an FXCCM shall be entitled to submit a bid on behalf of one or more affiliated FXCCMs. The ForexClear DMG will oversee the bidding process in a manner which it considers best protects the resources of the Clearing House and ensures an orderly process.
- (e) The Clearing House in consultation with the ForexClear DMG will have full discretion in deciding whether or not to accept a particular bid in an Auction and, in so deciding, will take into account the relevant factors that determine risk premiums, as well as the range of bids received relative to the amount of

Deleted: January

Collateral held in respect of initial margin and, subject to their availability, the Clearing House resources as set out in Rule 15 of the Clearing House's Default Rules. In the event that more than one FXCCM submits a bid of the same value (each an "Equal Bid"), the Clearing House will, subject to its discretion to reject all such Equal Bids, select the bid which was received first in time.

- (f) In the case of an Auction in which no bid is accepted or received (as the case may be), one or more further Auctions will be held in relation to the relevant Auction Portfolio. As soon as practicable following an Auction:
- (i) in the event that a bid was accepted, the Clearing House will notify those Expected Auction Participants, together with any other FXCCMs who participated in the Auction that a bid was accepted and shall notify the FXCCM who submitted the accepted bid that its bid was accepted; or
  - (ii) in the event that no bid was accepted, the Clearing House will notify all FXCCMs of the details of any further Auction.
- (g) The FXCCM agrees to use all reasonable efforts to make a bid in an Auction for an Auction Portfolio in respect of which such FXCCM is an Expected Auction Participant.

#### 2.4 Auction Incentive Pools

- (a) Before commencing the auction process, the Clearing House will calculate an auction incentive pool (each an "AIP") for each individual Auction Portfolio for the purposes of providing an initial allocation of the resources potentially available to it to satisfy any loss incurred in the Auction of each such Auction Portfolio. Notwithstanding such initial allocation, any resources utilised by the Clearing House will be allocated in accordance with Rule 2.5 below.
- (b) For each AIP, the resources shall be allocated as follows:
- (i) the resources of the Defaulting FXCCM (in the form of: (i) that part of the Margin Cover for the ForexClear Contracts of the Defaulting FXCCM pursuant to Rule 15 of the Default Rules and (ii) the ForexClear Contribution made by the Defaulting FXCCM to the ForexClear Default Fund) available pursuant to Rule 15 of the Default Rules at the time of the auction process will be allocated to the AIPs based on the proportion that (a) the risk of the relevant Auction Portfolio bears to (b) the aggregate of the risks (on an absolute basis) for all Auction Portfolios;
  - (ii) the portion of the Capped Amount applied to the ForexClear Business of the Defaulting FXCCM pursuant to Rule 15 of the Default Rules will be allocated to the AIPs based on the proportion that (a) the risk of the relevant Auction Portfolio bears to (b) the aggregate of the risks (on an absolute basis) for all Auction Portfolios; and

**Deleted:** Currency Pair

**Deleted:** in the relevant Auction  
Currency Pair

**Deleted:** a Currency Pair

**Deleted:** January

(iii) the Non-Defaulters' Contribution of each FXCCM and the total value of the ForexClear Unfunded Contributions which would be callable but have not been called by the Clearing House from the relevant FXCCM in respect of the relevant Default in accordance with Rule F8 of the Default Rules (the "**Potential Unfunded Contributions**") will, be allocated between the AIPs relating to an Auction Portfolio in respect of which the relevant FXCCM has Resembling Contracts based on the proportion that: (a) the risk of the Resembling Contracts of such FXCCM related to the relevant Auction Portfolio bears to (b) the aggregate of the amounts calculated in (a) for all of the Resembling Contracts of such FXCCM: provided that where there is more than one Auction Portfolio that corresponds to the same Resembling Contracts, the Non-Defaulter's Contributions and Potential Unfunded Contributions allocated to the AIP related to those Resembling Contracts will be further divided for the purposes of allocation into AIPs relating to the relevant Auction Portfolios based on the proportion that (a) the risk of the ForexClear Contracts in each such Auction Portfolio bears to (b) the aggregate of the amounts calculated in (a) for each of the Auction Portfolios corresponding to the relevant Resembling Contracts.

(c) Where a Portfolio for a particular Currency Pair has been split into two or more Auction Portfolios, the Non-Defaulters' Contributions and Potential Unfunded Contributions allocated to the AIP related to the relevant Portfolio will be further divided for the purposes of allocation into AIPs relating to the relevant Auction Portfolios based on the proportion that (a) the risk of the ForexClear Contracts in each such Auction Portfolio bears to (b) the aggregate of the amounts calculated in (a) for each of the Auction Portfolios in the relevant Currency Pair.

## 2.5 Loss Attribution

- (a) Following the completion of all Auctions of all Auction Portfolios of the Defaulting FXCCM, the Clearing House will determine whether losses incurred by it as a result of such Auctions are such that the Non-Defaulters' Contributions must be utilised. Where applicable, such losses will be allocated to Non-Defaulters' Contributions in accordance with the loss attribution process described in Rules 2.5(b) to 2.5(h) below.
- (b) For each Auction Portfolio, losses to the Clearing House will be met using the resources as set out in Rule 15 of the Default Rules. In applying those resources, the Clearing House will allocate the losses in respect of each Auction Portfolio (the "**Auction Losses**") by reference to the resources allocated to the AIPs related to such Auction Portfolios in accordance with Rule 2.4. Where there are no Auction Losses in respect of an Auction Portfolio or the Auction Losses in respect of an Auction Portfolio do not require the full amount of the resources referred to in sub-paragraphs (i) and (ii) of Rule 2.4(b) allocated to the AIP related to the relevant Auction Portfolio (the "**Initial Resources**") to be fully utilised, the relevant surplus Initial Resources will be allocated *pro rata* between those AIPs relating to Auction Portfolios in respect of which there are Auction Losses requiring the

**Deleted:** subject to Rule below,

**Deleted:** the

**Deleted:** Portfolios

**Deleted:** is a Currency Pair Participant

**Deleted:** ForexClear

**Deleted:** denominated in the Currency Pair

**Deleted:** in respect of

**Deleted:** Currency Pair in which the relevant FXCCM is

**Deleted:** Currency Pair Participant

**Deleted:** January



utilisation of resources beyond the Initial Resources available in the relevant AIP in accordance with Rules 15(a), 15(a) and 15(b) of the Default Rules until such time as all Initial Resources have been fully utilised.

- (c) In the case of each Auction for which there are Auction Losses in respect of which the Non-Defaulters' Contributions must be utilised, those Non-Defaulter's Contributions, not including, for these purposes, any part of such Non-Defaulters' Contributions that reflect any ForexClear Unfunded Contribution deposited with the Clearing House pursuant to the Default in respect of which the relevant Auction was held (the "**Original Contributions**") and which have been allocated to the AIP relating to the relevant Auction Portfolio (the "**Relevant Original Contributions**") will be used first in the following order:

- (i) the Auction Losses will be attributed to the Relevant Original Contributions of those FXCCMs who are Expected Auction Participants in respect of the relevant Auction Portfolio and who did not bid in the relevant Auction. Auction Losses will be attributed to the Relevant Original Contribution of an individual FXCCM pursuant to this sub-paragraph (i) based upon the proportion that: (a) the value of the Relevant Original Contribution of such FXCCM bears to (b) the total value of the Relevant Original Contributions of all FXCCMs who are Expected Auction Participants in respect of the relevant Auction Portfolio and who did not bid in the relevant Auction;

- (ii) if and to the extent that there are Auction Losses outstanding after the attribution process referred to in sub-paragraph (i) above, those Auction Losses will be attributed to the Relevant Original Contributions of the Short Bidders. For the purposes of this sub-paragraph (ii) and sub-paragraph (ii) of Rule 2.5(f), the term "**Short Bidder**" means any FXCCM who is an Expected Auction Participant and who submitted an unsuccessful bid in the relevant Auction save for any FXCCM who submitted a higher bid in an Auction than the bid accepted by the Clearing House in accordance with Rule 2.3(d) (each such FXCCM, a "**Higher Bidder**" and each such bid, a "**Higher Bid**").

Auction Losses will be attributed to an individual Short Bidder pursuant to this sub-paragraph (ii) based upon the proportion that (a) the variance of the bid of such Short Bidder from the winning bid in USD bears to (b) the sum of the variances of the bids of all Short Bidders from the winning bid in USD.

Where the value of the Auction Losses attributed to an individual Short Bidder pursuant to this sub-paragraph (ii) is greater than the value of the Relevant Original Contribution of such Short Bidder, the relevant excess Auction Losses will be attributed to each Short Bidder whose Relevant Original Contribution exceeds the value of the Auction Losses which have been attributed to it pursuant to this sub-paragraph (ii) (each a "**Remaining Original Short Bidder**") by (a) calculating the amount which is the bid of the relevant Remaining Original Short Bidder divided by the sum of the bids of all Remaining Original Short

Deleted: (b)

Deleted: (b)

Deleted: (c)

Deleted: (c)

Deleted: Currency Pair

Deleted: Currency Pair

Deleted: Currency Pair

Deleted: Currency Pair

Deleted: a Currency Pair

Deleted: in the Auction  
Currency Pair

Deleted: January



Bidders; and (b) multiplying such amount by the value of the relevant excess Auction Losses.

The Clearing House will repeat the loss attribution process described in this sub-paragraph (ii) until the first to occur of (a) the Auction Losses being fully met; and (b) the Relevant Original Contributions of all Short Bidders being fully attributed; and

- (iii) if and to the extent that there are Auction Losses outstanding after the attribution process referred to in sub-paragraph (ii) above, those Auction Losses will be attributed to the Relevant Original Contribution of the FXCCM who is an Expected Auction Participant in respect of the relevant Auction Portfolio and who submitted the winning bid, together with, where applicable, the Relevant Original Contribution of any FXCCM who is an Expected Auction Participant in respect of the relevant Auction Portfolio and who submitted a bid which was an Equal Bid or a Higher Bid in relation to that winning bid. The outstanding Auction Losses will be attributed to the Relevant Original Contribution of an individual FXCCM pursuant to this sub-paragraph (iii) based upon the proportion that: (a) the value of the Relevant Original Contribution of such FXCCM bears to (b) the total value of the Relevant Original Contributions of (i) the FXCCM who submitted the winning bid; (ii) any FXCCMs who submitted an Equal Bid to such winning bid; and (iii) any FXCCMs who were Higher Bidders in the relevant Auction.

If, for an Auction Portfolio, there remain Auction Losses outstanding after the attribution process referenced to in sub-paragraph (iii) above, and there are AIPs relating to other Auction Portfolios containing ForexClear Contracts denominated in the same Auction Portfolio Currency Pair and belonging to the same Auction Portfolio Category as the relevant Auction Portfolio in which the Relevant Original Contributions have not been fully utilised, the Clearing House shall attribute the remaining Auction Losses amongst such Remaining Original Contributions through the attribution process set out in sub-paragraphs (i) to (iii) above.

- (d) If and to the extent that there are Auction Losses outstanding following the attribution process referred to in Rule 2.5(c) above, those Auction Losses will be attributed to the Original Contributions of those FXCCMs (each a "Losing Original FXCCM") who have Resembling Contracts (which, for the purposes of this paragraph (d), shall be determined without regard to limb (i) of the definition thereof) in respect of any of the Auction Portfolios in relation to which Auction Losses have arisen (each a "Losing AP Type") and whose Original Contributions have not yet been fully utilised. Such remaining Auction Losses will be attributed to any remaining Original Contribution of each such FXCCM pursuant to this Rule 2.5(d) based upon the proportion that: (a) the risk of all of the Resembling Contracts of such FXCCM in respect all such Losing AP Types bears to (b) the aggregate risk of the amounts calculated in (a) for all Losing Original FXCCMs. The Clearing House will repeat the loss attribution process described in this Rule 2.5(d) until the first to

Deleted: 15

Deleted: are Currency Pair Participants

Deleted: other

Deleted: Currency Pair

Deleted: to the extent that Non-Defaulters' Contributions must be utilised

Deleted: Currency Pair

Deleted: (each a "Losing Currency Pair Original FXCCM")

Deleted: (d)

Deleted: ForexClear

Deleted: denominated

Deleted: any of the

Deleted: Currency Pairs

Deleted: Currency Pair

Deleted: (d)

Deleted: January

occur of (a) the Auction Losses being fully met; and (b) the Original Contributions of all Losing Currency Original FXCCMs being fully attributed.

- (e) If and to the extent that there are Auction Losses outstanding following the attribution process referred to in Rule 2.5(d) above, those remaining Auction Losses will be allocated to the Original Contributions of each FXCCM who is not a Losing Original FXCCM in respect of any of the Losing AP Types based upon the proportion that (a) the value of each such Original Contribution bears to (b) the aggregate of the amounts calculated in (a) for each of such FXCCMs.

- (f) If and to the extent that there are Auction Losses outstanding following the attribution process referred to in Rule 2.5(e) above, the ForexClear Unfunded Contributions which have been allocated to the AIP relating to the relevant Auction Portfolio (the "**Relevant Unfunded Contributions**") will be used first in the following order:

- (i) the Auction Losses will be attributed to the Relevant Unfunded Contributions of those FXCCMs who are Expected Auction Participants in respect of the relevant Auction Portfolio and who did not bid in the relevant Auction. Auction Losses will be attributed to the Relevant Unfunded Contributions of an individual FXCCM pursuant to this sub-paragraph (i) based upon the proportion that: (a) the value of the Relevant Unfunded Contribution of such FXCCM bears to (b) the total value of the Relevant Unfunded Contributions of all FXCCMs who are Expected Auction Participants in the Auction Portfolio and who did not bid in the relevant Auction;

- (ii) if and to the extent that there are Auction Losses outstanding after the attribution process referred to in sub-paragraph (i) above, those Auction Losses will be attributed to the Relevant Unfunded Contributions of the Short Bidders in the relevant Auction. Auction Losses will be attributed to an individual Short Bidder pursuant to this sub-paragraph (ii) based upon the proportion that (a) the variance of the bid of such Short Bidder from the winning bid in USD bears to (b) the sum of the variances of the bids of all Short Bidders from the winning bid in USD.

Where the value of the Auction Losses attributed to an individual Short Bidder pursuant to this sub-paragraph (ii) is greater than the value of the Relevant Unfunded Contribution of such Short Bidder, the relevant excess Auction Losses will be attributed to each Short Bidder whose Relevant Unfunded Contribution exceeds the value of the Auction Losses which have been attributed to it pursuant to this sub-paragraph (ii) (each a "**Remaining Unfunded Short Bidder**") by (a) calculating the amount which is the bid of the relevant Remaining Unfunded Short Bidder divided by the sum of the bids of all Remaining Unfunded Short Bidders; and (b) multiplying such amount by the value of the relevant excess Auction Losses.

The Clearing House will repeat the loss attribution process described in this sub-paragraph (ii) until the first to occur of (a) the Auction Losses

~~Deleted: Pair~~

~~Deleted: (d)~~

~~Deleted: Currency Pair Participant~~

~~Deleted: Currency Pairs~~

~~Deleted: Currency Pair~~

~~Deleted: Currency Pair~~

~~Deleted: Currency Pair~~

~~Deleted: Currency Pair~~

~~Deleted: January~~

being fully met; and (b) the Relevant Unfunded Contributions of all Short Bidders being fully attributed; and

- (iii) if and to the extent that there are Auction Losses outstanding after the attribution process referred to in sub-paragraph (ii) above, those Auction Losses will be attributed to the Relevant Unfunded Contribution of the FXCCM who is an Expected Auction Participant in respect of the relevant Auction Portfolio and who submitted the winning bid, together with, where applicable, the Relevant Unfunded Contribution of any FXCCM who is an Expected Auction Participant in respect of the relevant Auction Portfolio and who submitted a bid which was an Equal Bid or a Higher Bid in relation to that winning bid. The outstanding Auction Losses will be attributed to the Relevant Unfunded Contribution of an individual FXCCM pursuant to this sub-paragraph 0 based upon the proportion that: (a) the value of the Relevant Unfunded Contribution of such FXCCM bears to (b) the total value of the Relevant Unfunded Contributions of (i) the FXCCM who submitted the winning bid; (ii) any FXCCMs who submitted an Equal Bid to such winning bid; and (iii) any FXCCMs who were Higher Bidders, in the relevant Auction.

If, for an Auction Portfolio, there remain Auction Losses outstanding after the attribution process referenced to in sub-paragraph 0 above, and there are AIPs relating to other Auction Portfolios containing ForexClear Contracts denominated in the same Auction Portfolio Currency Pair and belonging to the same Auction Portfolio Category as the relevant Auction Portfolio in which the Relevant Unfunded Contributions have not been fully utilised, the Clearing House shall attribute the remaining Auction Losses amongst such Remaining Unfunded Contributions through the attribution process set out in sub-paragraphs (i) to 0 above.

- (g) If and to the extent that there are Auction Losses outstanding following the attribution process referred to in Rule 2.5(f) above, those Auction Losses will be attributed to the ForexClear Unfunded Contributions of those FXCCMs (each a "Losing Unfunded FXCCM") who have Resembling Contracts (which, for the purposes of this paragraph (g), shall be determined without regard to limb (i) of the definition thereof) in respect of any of the Losing AP Types and whose ForexClear Unfunded Contributions have not yet been fully utilised. Such remaining Auction Losses will be attributed to any remaining ForexClear Unfunded Contributions of each such FXCCM pursuant to this Rule 2.5(g) based upon the proportion that: (a) the risk of all of the Resembling Contracts of such FXCCM in respect of all such Losing AP Types bears to (b) the aggregate risk of the amounts calculated in (a) for all Losing Unfunded FXCCMs. The Clearing House will repeat the loss attribution process described in this Rule 2.5(g) until the first to occur of (a) the Auction Losses being fully met; and (b) the ForexClear Unfunded Contributions of all Losing Unfunded FXCCMs being fully attributed.

Deleted: is

Deleted:

Deleted: (iii)

Deleted: (iii)

Deleted: (iii)

Deleted: are Currency Pair Participants

Deleted: other

Deleted: Currency Pair

Deleted: (each a "Losing Currency Pair Unfunded FXCCM")

Deleted: ForexClear

Deleted: denominated

Deleted: any

Deleted: the

Deleted: Currency Pairs

Deleted: Currency Pair

Deleted: Currency Pair

Deleted: January

(h) If and to the extent that there are Auction Losses outstanding following the attribution process referred to in Rule 2.5(g) above, those remaining Auction Losses will be allocated to the ForexClear Unfunded Contributions of each FXCCM who is not a Losing Unfunded FXCCM in respect of any of the Losing AP Types based upon the proportion that (a) the value of each such ForexClear Unfunded Contribution bears to (b) the aggregate of the amounts calculated in (a) for each of such FXCCMs.

Deleted: Currency Pair Participant

Deleted: Currency Pairs

2.6 For the purposes of Rules 2.4 and 2.5 above, all references to the risk associated with (i) the ForexClear Contracts in an Auction Portfolio or (ii) the Resembling Contracts of a Non-Defaulting FXCCM, shall be references to such risk as determined by the Clearing House in its sole discretion for the purpose of calculating initial margin requirements in accordance with the Procedures.

Deleted: a ForexClear Contract

### 3. **Default Management in respect of FCM ForexClear Client Business and ForexClear Clearing Client Business**

3.1 The ForexClear DMP in respect of any Contract which is an FCM ForexClear Contract in respect of FCM ForexClear Client Business shall be conducted in accordance with FCM Regulation 13(e) (*Transfer*). The provisions of Rule 9 of the Default Rules shall also apply.

3.2 The ForexClear DMP in respect of any Contract which is a ForexClear Contract in respect of ForexClear Clearing Client Business shall be conducted in accordance with the Client Clearing Annex (which such stages, for the avoidance of doubt, will result in a ForexClear Contract in respect of ForexClear Clearing Client Business being dealt with in accordance with Rule 2 above in the event that it cannot be ported by the Clearing House).

### 4. **Transfer of Cash Flows / Registration of Positions**

4.1 Following the disposal of an Auction Portfolio by way of Auction (and notwithstanding that other Auction Portfolios of the Defaulting FXCCM may not yet have been auctioned) the Clearing House, will, with the co-operation of the FXCCMs, transfer to the FXCCM whose bid won that Auction Portfolio the rights and obligations, from the Defaulting FXCCM, arising out of the positions which that FXCCM has successfully bid for under the ForexClear Default Management Process. Such transfer may take place by way of registration of new positions with the Clearing House in the name of the relevant FXCCM, or novation of rights and obligations to the relevant FXCCM. All such registrations shall be made in a way that recognises the amounts of Collateral transferred to or from the Clearing House in respect of variation margin in relation to the ForexClear Contracts of the Defaulting FXCCM representing such new positions.

4.2 In order to effect the transfer of positions, the Clearing House shall prescribe such procedures and timetable as it considers reasonably appropriate in the circumstances. FXCCMs will be required to exercise best endeavours to comply with such requirements as may be established by the Clearing House, after consultation with the ForexClear DMG, to effect the transfer of positions, including but not limited to the payment of any sums due as a result of the winning bid and the provision of Collateral in an amount required by the Clearing House in respect of their initial margin and

Deleted: January



**SCHEDULE 5  
FOREXCLEAR DEFAULT FUND SUPPLEMENT**

- F1. **In accordance** with and subject to Rule F2, the amount of each ForexClear Clearing Member's ForexClear Contributions shall be determined by the Clearing House as soon as practicable after each ForexClear Determination Date as appropriate on the basis of information available as at close of business on such ForexClear Determination Date and notified to such FXCCM as soon as practicable after such determination in accordance with the Procedures.
- F2. Each FXCCM's ForexClear Contribution (other than any ForexClear Unfunded Contribution or any Supplementary Contribution) shall be determined by the Clearing House in accordance with the following provisions:
- (a) determinations will be made by the Clearing House on the date that an FXCCM joins the ForexClear Service, and at the close of business on the first business day of each subsequent month, and otherwise in accordance with paragraph (f) below (each a "ForexClear Determination Date") **provided, however, that** following a Default, any such determinations and any such ForexClear Determination Date which might otherwise have occurred under this Rule F2 shall be suspended for the duration of the period (the "ForexClear Default Period") commencing on the date of such Default and terminating on the last to occur of the following dates:
    - (i) the date which is the close of business on the day falling 30 calendar days after the ForexClear Default Management Process Completion Date in relation to such Default (or, if such day is not a business day, the next succeeding business day); and
    - (ii) where, prior to the end of the period referred to in (i) above (or such period as has already been extended pursuant to this paragraph (ii)), one or more subsequent Defaults (each a "Relevant Default") occur, the date which is the close of business on the day falling 30 calendar days after the ForexClear 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);
  - (b) On each business day, the Clearing House will determine a "Combined Loss Value" in respect of each of the 30 preceding business days. The Combined Loss Value in respect of a particular day will be the sum of the largest and the second largest stress-testing loss incurred on that day in relation to ForexClear Business (for a given scenario);
  - (c) the "ForexClear Fund Amount" comprises the "ForexClear NDF Sub-Fund Amount" and the "ForexClear Non-NDF Sub-Fund Amount". The ForexClear NDF Sub-Fund Amount and ForexClear Non-NDF Sub-Fund Amount shall be calculated in United States dollars ("USD") and, for a given ForexClear Determination Date, shall be (i) in relation to the ForexClear NDF Sub-Fund Amount, the largest of the 30 Combined Loss Values in respect of ForexClear NDF Contracts, and (ii) in relation to the ForexClear Non-NDF Sub-Fund Amount, the largest of the 30 Combined Loss Values in respect of

Deleted: (g)

Deleted: the largest of the 30 Combined Loss Values

Deleted: January



ForexClear Contracts other than ForexClear NDF Contracts, each as determined under paragraph (b) above plus 10 per cent. Each of the ForexClear NDF Sub-Fund Amount and ForexClear Non-NDF Sub-Fund Amount shall not be less than USD 70 million (the "ForexClear Fund Floor");

Deleted: The

- (d) the "ForexClear Margin Weight" means the "ForexClear NDF Margin Weight" or the "ForexClear Non-NDF Margin Weight", as applicable. The FXCCM's ForexClear NDF Margin Weight shall be calculated by dividing the average daily initial margin obligation (as calculated under the Procedures or other arrangements applicable) which has applied to the FXCCM during the reference period in paragraph (b) above, in respect of all ForexClear NDF Contracts to which the FXCCM is a party, by the total of such average daily obligations applied to all Non-Defaulting FXCCMs. The FXCCM's ForexClear Non-NDF Margin Weight shall be calculated by dividing the average daily initial margin obligation (as calculated under the Procedures or other arrangements applicable) which has applied to the FXCCM during the reference period in paragraph (b) above, in respect of all ForexClear Contracts other than ForexClear NDF Contracts to which the FXCCM is a party, by the total of such average daily obligations applied to all Non-Defaulting FXCCMs;

Deleted: FXCCMs

Deleted: Contracts to which the FXCCM is a party

- (e) each FXCCM's ForexClear Contribution comprises the "ForexClear NDF Contribution" and the "ForexClear Non-NDF Contribution". The FXCCM's ForexClear NDF Contribution shall be calculated by multiplying the ForexClear NDF Sub-Fund Amount by the FXCCM's ForexClear NDF Margin Weight, and shall be no less than the Minimum ForexClear Contribution. The FXCCM's ForexClear Non-NDF Contribution shall be calculated by multiplying the ForexClear Non-NDF Sub-Fund Amount by the FXCCM's ForexClear Non-NDF Margin Weight, and shall be no less than the Minimum ForexClear Contribution; and

Deleted: the FXCCM's "Preliminary

Deleted: " shall be

Deleted: .1 if the

Deleted: Preliminary

Deleted: is below the Minimum ForexClear Contribution for

Deleted: time being,

Deleted: Contribution

- (f) subject to a suspension pursuant to paragraph (a) above, the Clearing House may recalculate the ForexClear Fund Amount on any business day if the Combined Loss Value differs by more than 25 per cent. from the figure on which the previous ForexClear Contribution determination was based.

F3. For the purposes of the calculations under Rule F2:

- (a) references to "ForexClear Clearing Members" or "FXCCMs" do not include references to Defaulting FXCCMs (apart from any Defaulting FXCCM in respect of which the Clearing House permits the application of Rule F2) or persons which were formerly FXCCMs but are not FXCCMs at the ForexClear Determination Date at which the relevant determination is made;
- (b) contributions shall be rounded upwards, if not already such a multiple, to the next integral multiple of one thousand US dollars;
- (c) no account shall be taken, in calculating initial margin or ForexClear Margin Weight under Rule F2 of any offsets applied in calculating initial margin obligations imposed on an FXCCM in respect of ForexClear Contracts, which

Deleted: January

F9. **ForexClear Loss Distribution Process**

Where, after a Default, the Clearing House determines that the ForexClear Excess Loss resulting from the Default will exceed the amounts to be applied to it under Rules 15(a) to 15(g) of the Default Rules, the Clearing House may implement the process (the "**ForexClear Loss Distribution Process**") described in this Rule F9.

Deleted: 15(h)

- (a) For the purposes of this Rule F9 and Rule F11, the following definitions will apply:

**"Actual Base Currency Gains, Losses and Realised Cash Flows by Cash Payment"** means, in respect of each Cash Payment and any business day, the sum of the Pre Haircut Base Currency Gains, Losses and Realised Cash Flows by Cash Payment and any Cash Gainer Base Currency Adjustment to Cash Payment or Cash Loser Base Currency Adjustment to Cash Payment.

**"Auction Portfolio"** has the meaning assigned to it in the ForexClear DMP Annex.

**"Available Resources"** means, in respect of any Loss Distribution Period, the amounts available to the Clearing House for application in meeting any loss suffered or incurred by the Clearing House in accordance with Rules 15(a) to 15(g) of the Default Rules as at the relevant Last Call Prior to Default.

Deleted: 15(h)

**"Cash Gain"** means, in respect of any Cash Gainer and any Loss Distribution Day, the amount of positive Cumulative Pre Haircut Base Currency Gains Losses and Realised Cash Flows in respect of such Cash Gainer in respect of such Loss Distribution Day.

**"Cash Gainer"** means, in respect of any Loss Distribution Day, each Margin Account in respect of which the value of the Cumulative Pre Haircut Base Currency Gains Losses and Realised Cash Flows on such Loss Distribution Day is greater than zero.

**"Cash Gainer Payment Currency Adjustment to Cash Payment"** has the meaning set out in paragraph (b)(i) of this Rule F9.

**"Cash Loser"** means, in respect of any Loss Distribution Day, each Margin Account in respect of which the value of the Cumulative Pre Haircut Base Currency Gains Losses and Realised Cash Flows on such Loss Distribution Day is equal to or less than zero.

**"Cash Loser Base Currency Adjustment to Cash Payment"** has the meaning set out in paragraph (b)(ii) of this Rule F9.

**"Cash Loser Payment Currency Adjustment to Cash Payment"** has the meaning set out in paragraph (b)(ii) of this Rule F9.

**"Cash Payment"** means, in respect of any business day, the aggregated amount which would be paid by the Clearing House to a Non-Defaulting FXCCM (expressed as a positive number) or by such FXCCM to the Clearing

Deleted: January

where

Cash Loser Base Currency Adjustment to Cash Payment(t)  
= PHG(t) - (CHG(t) - CAG(t - 1))

"**PHG**" Pre Haircut Base Currency Gains Losses and Realised Cash Flows by Cash Payment;

"**CHG**" means the Cumulative Pre Haircut Base Currency Gains Losses and Realised Cash Flows by Cash Payment; and

"**CAG**" means the Cumulative Actual Base Currency Gains, Losses and Realised Cash Flows by Cash Payment and where "CAG" as at the Last Call Prior to Default shall be zero.

(iii) *Application of Payment Currency Adjustment to Cash Payment*

On each Loss Distribution Day, the Clearing House shall apply the payment or receipt of any Payment Currency Adjustment to Cash Payment as an offset against any payments denominated in the same Cash Payment Currency as the relevant Payment Currency Adjustment to Cash Payment due from or receivable by the relevant FXCCM.

(c) *Application of Cash Gainer Payment Currency Adjustment to Cash Payment*

The Clearing House shall apply all payments it receives in respect of Cash Gainer Payment Currency Adjustment to Cash Payments solely for the purposes of meeting any loss incurred by the Clearing House following, and in relation to, each Default, as contemplated in accordance with Rules 15(a) to 15(g) of the Default Rules.

Deleted: 15(h)

(d) *Adjustment to Loss Distribution Trigger Amount and Loss Distribution Cut-Off Date*

- (i) On each business day following the commencement of the ForexClear Loss Distribution Process (except where the Clearing House is unable to make a determination due to a systems failure or similar event beyond the Clearing House's control), the Clearing House shall determine if a Loss Distribution Trigger Event has occurred or is likely to occur and, if so, shall notify all FXCCMs accordingly.

If, at any time during a Loss Distribution Period, the Clearing House determines that:

- (A) the ForexClear Loss Distribution Process is likely to extend beyond the Loss Distribution Cut-Off Date, the Clearing House may (or, where such determination is made on the Loss Distribution Cut-Off Date, the Clearing House shall on the same business day) propose to the Non-Defaulting FXCCMs an extension of up to 10 business days, from the date of such proposal, to the Loss Distribution Cut-Off Date; and/or

Deleted: January

- (B) a Loss Distribution Trigger Event is likely to occur, the Clearing House may (or, where a Loss Distribution Trigger Event has occurred, the Clearing House shall on the same business day) propose to the Non-Defaulting FXCCMs an increase in each Non-Defaulting FXCCM's Loss Distribution Trigger Amount of up to twice the ForexClear Contribution of such Non-Defaulting FXCCM as at the last ForexClear Determination Date prior to the date when the Default occurred or \$200 million, whichever is the greater,

any proposal under (A) and/or (B) above, a "**Revised Loss Distribution Proposal**".

If (x) more than 50% of the Non-Defaulting FXCCMs participate in a vote concerning the Revised Loss Distribution Proposal and (y) the Requisite Non-Defaulting FXCCMs vote in favour of the Revised Loss Distribution Proposal, the Loss Distribution Cut-Off Date shall be extended and/or the Loss Distribution Trigger Amount shall be increased (as applicable) for each Non-Defaulting FXCCM and shall be applicable for the remainder of the relevant Loss Distribution Period or until further adjusted pursuant to this paragraph (d)(i). If more than 50% of Non-Defaulting FXCCMs do not participate in such vote and/or if the Requisite Non-Defaulting FXCCMs do not vote in favour of the Revised Loss Distribution Proposal, the Loss Distribution Period shall not be extended. For the avoidance of doubt, the Loss Distribution Cut-Off Date and Loss Distribution Trigger Amount may be adjusted one or more times in respect of a single Default pursuant to this paragraph (d).

- (ii) The Clearing House shall publish the terms of the voting process for the purposes of this paragraph (d) on or before the business day on which such vote is to be held.

(e) **No Rebate**

The payment to the Clearing House by any FXCCM of any Cash Gainer Payment Currency Adjustment to Cash Payment shall be final and shall not give rise to any obligation of the Clearing House to repay any such amount or to pay any interest thereon.

- F10. Where, after the Default of one or more FXCCMs, the Clearing House determines in its sole discretion that, notwithstanding the availability of any resources remaining under Rules 15(a) to 15(g) of the Default Rules and the availability of the ForexClear Loss Distribution Process in accordance with the terms of Rule F9, it is clear that the Clearing House does not have sufficient resources to meet its obligations and liabilities arising in respect of those ForexClear Contracts to which it is party with Non-Defaulting FXCCMs, the Clearing House will by notice in writing (a "**ForexClear Voluntary Payment Notice**"): (i) inform all Non-Defaulting FXCCMs that it has insufficient resources and that it is likely to invoke Rule F11; and (ii) invite each Non-Defaulting FXCCM to make a payment of funds (a "**ForexClear Voluntary Payment**"), in accordance with Rule 15(g) of the Default Rules, to make up for the relevant shortfall.

Deleted: 15(h)

Deleted: 15(h)

Deleted: January



ForexClear Voluntary Payments will be made on the following terms:

- (a) no FXCCM shall be obliged to make a ForexClear Voluntary Payment;
- (b) any ForexClear Voluntary Payment will be made by an FXCCM by the close of business on the business day after receipt of the relevant ForexClear Voluntary Payment Notice;
- (c) no ForexClear Voluntary Payment may be withdrawn once made; and
- (d) the Clearing House shall have full discretion whether or not to accept a particular ForexClear Voluntary Payment.

Any failure by the Clearing House to deliver a ForexClear Voluntary Payment Notice pursuant to this Rule F10 will not invalidate any action taken by the Clearing House pursuant to Rule F11 nor give rise to any liability whatsoever on the part of the Clearing House.

Any ForexClear Voluntary Payments remaining unused at the time of the expiry of the relevant ForexClear Default Period will be accounted for rateably by the Clearing House as if they were amounts paid in respect of the ForexClear Contributions by those FXCCMs from whom ForexClear Voluntary Payments were accepted.

F11. Where, following the process for inviting ForexClear Voluntary Payments in accordance with Rule F10, the Clearing House makes a determination (an "**Insufficient Resources Determination**") that it is clear that the Clearing House does not have sufficient resources to meet its obligations and liabilities arising in respect of those ForexClear Contracts to which it is party with Non-Defaulting FXCCMs, the following provisions shall have effect:

- (a) All outstanding ForexClear Contracts shall be closed out as of the clearing day following the date the Insufficient Resources Determination was made and any further obligations to make any payments under or in respect of such ForexClear Contracts shall cease. The closing prices used shall be mid prices calculated by the Clearing House in accordance with the methodology used by it to carry out end of day margin runs in respect of the outstanding ForexClear Contracts. Where such data is not available to the Clearing House, the closing price shall be the last price used by the Clearing House to calculate the variation margin or Variation Settlement requirement for the position to be closed out.
- (b) On the basis of the close out values established for each outstanding ForexClear Contract, an account shall be taken (as at the time of close out) of what is due in respect of each FXCCM, from that FXCCM to the Clearing House and from the Clearing House to that FXCCM, as well as all other amounts owing under or in respect of ForexClear Contracts and any other amounts that may be due in respect of the ForexClear Service (including for these purposes, a proportionate share of any amounts owed generally to or from the Clearing House), and the sums due from the FXCCM shall be set off against the sums due from the Clearing House and only the balance of the account shall be payable. For the avoidance of doubt, amounts in respect of

Deleted: January



ForexClear Contracts shall include, but shall not be limited to, returns of cash Collateral provided in respect of variation margin associated therewith and the repayment of any Net Cash Gainer Payment Currency Adjustment to Cash Payments made in the ForexClear Default Period to which the Insufficient Resources Determination relates (and in respect of which paragraph 5(e) of Rule F9 shall be specifically disappplied), but shall exclude the repayment of any cash Collateral provided to the Clearing House in respect of initial margin or any outstanding ForexClear Contributions.

To the extent that the aggregate of all of the amounts owed to the Clearing House by FXCCMs plus all of those other resources applicable to the ForexClear Business under Rules 15(a) to 15(g) of the Default Rules that have not been applied towards a ForexClear Excess Loss is less than the aggregate of the amounts owed to FXCCMs by the Clearing House, each amount owed to FXCCMs by the Clearing House shall be reduced *pro rata* the shortfall.

- (c) The Clearing House shall determine any amounts due to each FXCCM in respect of the repayment of cash Collateral provided in respect of initial margin obligations and outstanding ForexClear Contributions to be repaid. The claim of each such FXCCM in respect of the foregoing shall be reduced in proportion to an amount by which (i) the value of the assets available to the Clearing House to meet the return obligations referred to in (b) above bears to (ii) the value of what would be due from the Clearing House to each Clearing Member in aggregate in respect of the return of cash Collateral received from each such Clearing Member in respect of its initial margin obligations and outstanding Contributions.
- (d) For each FXCCM, the amount due to it or due from it as determined pursuant to (b) above shall be aggregated with its claim determined pursuant to (c) above and only the net sum shall be payable. Where the result of such calculations is that an FXCCM owes an amount to the Clearing House, that FXCCM shall pay that amount to the Clearing House immediately. Where the result of such calculations is that an FXCCM is owed an amount by the Clearing House, the Clearing House shall pay that amount to the FXCCM immediately, subject to (f) below.
- (e) The payment of such amount to an FXCCM, pursuant to (d) above subject to any re-calculations performed pursuant to (f), shall constitute the full and final payment in respect of the ForexClear Service and such FXCCM shall not be permitted to make any further claims on the Clearing House in respect of amounts relating to the ForexClear Service, nor shall it be permitted to notify the Clearing House of a Termination Date pursuant to Regulation 45 (*Netting*) for a failure to pay any amounts in relation to the ForexClear Service.
- (f) The Clearing House may make the payments due under(c) above in one or more instalments to the FXCCMs in proportion to the value of their claims on the Clearing House under (b) above if some but not all of the amounts due under (c) above or Rules 15(a) to 15(g) of the Default Rules have not yet been received. The Clearing House shall take reasonable steps to recover such amounts and may deduct therefrom reasonable administration costs for such recovery. To the extent that the Clearing House determines that any such

Deleted: 15(h)

Deleted: 15(h)

Deleted: January

**LCH Rule Submission**

**Appendix D**

**Settlement Finality Regulations**

## LCH Limited

### CLEARING HOUSE SETTLEMENT FINALITY REGULATIONS

#### Introduction

The Financial Markets and Insolvency (Settlement Finality) Regulations 1999 (S.I. 1999 No. 2979) (the "**SF Regulations**") implement the Settlement Finality Directive (Directive 98/26/EC) of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems (the "**SF Directive**").

The SF Directive seeks to reduce the risks associated with participation in payment and securities settlement systems by minimizing the disruption caused by insolvency proceedings brought against a participant in such a system. The protection provided by the SF Regulations is given to any system which has been designated as a "designated system" by the Financial Conduct Authority or the Bank of England as the "designating authority".

In order to obtain such designation the Clearing House is required to satisfy the relevant designating authority that the requirements of the Schedule to the SF Regulations, and certain other matters, are satisfied in respect of the Clearing House.

These Settlement Finality Regulations (which form part of these Regulations) have been promulgated by the Clearing House in order to meet such of those requirements as are not addressed elsewhere in these Regulations.

#### 1. Definitions

- 1.1 "**Concentration Bank**" means a bank or other credit institution which has a current agreement with the Clearing House to participate in the Clearing House Protected Payments System (as described in the Regulations) as a concentration bank.
- 1.2 "**Institution**" shall have the same meaning as in the SF Regulations.
- 1.3 "**The Clearing House System**" means the standardized formal arrangements, common rules, procedures as described in the Regulations, Procedures and service descriptions (each as amended from time to time) published from time to time by the Clearing House pursuant to which LCH acts as clearing service provider, and related functionality which:
  - (a) enable the Clearing House in operating its Clearing House Protected Payments System to give instructions to place at the disposal of its Members (as set out the Regulations) amounts of money on the accounts of certain banks or other credit institutions; and
  - (b) enable Members through the Clearing House Protected Payments System to give instructions to place at the disposal of the Clearing House (as set out in the Regulations) amounts of money on the accounts of certain banks or other credit institutions; and
  - ~~(c) enable Members to give instructions to place amounts of money at the disposal of the Clearing House through crediting a nominated cash account provided by a Settlement Service Provider to the Clearing House; and~~
  - (d) enable the Clearing House to give instructions to Securities Systems Operators to transfer title to, or interest in securities; and

~~(e) enable the Clearing House to give instructions to a Settlement Service Provider in relation to the Clearing House's use of settlement services provided by such Settlement Service Provider; and~~

(f) enable Members and Non Member Participants to give instructions to Securities Systems Operators to transfer title to or interest in securities; and

(g) enable the Clearing House to become central counterparty to Members in respect of eligible trades in certain derivative instruments, equities, repos, bonds GC and €GC and products, as described in the Regulations; and

(h) enable the Clearing House and Members to fulfil the obligations they incur in respect of contracts registered by the Clearing House and in respect of which it has become central counterparty; and

(i) facilitate supplementary and incidental matters.

1.4 "Member" has the same meaning as in the Regulations.

~~1.5 "Member Settlement Bank" means a bank or other credit institution, including a central bank, approved by the Clearing House from time to time for the provision of settlement services in connection with settlements on behalf of a Member under the ForexClear Service not taking place through the Clearing House Protected Payment System.~~

1.6 "Non Member Participant" means a person:

Deleted:

(a) who is not a Member or an exchange, and who is party to any one or more of the following agreements as described in the Regulations:

(i) a RepoClear Dealer Clearing Agreement;

(ii) a SwapClear Dealer Clearing Agreement; or

(iii) a ForexClear Dealer Clearing Agreement; or

(b) who acts as settlement agent for any person described in section 1.6(a) above; or

Deleted: 5

(c) who is a Non-Member Market Participant.

1.7 "PPS Bank" means a bank or other credit institution which has a current agreement with the Clearing House to participate, other than solely as a Concentration Bank, in the Clearing House Protected Payment System, as described in the Regulations.

1.8 "Participant" means all or any of the following:

Deleted: of

(a) LCH Limited ("the Clearing House");

(b) any Member;

(c) any Non-Member Participant;

(d) any PPS Bank;

Deleted:

~~(e) any Settlement Service Provider;~~

~~(f) any Member Settlement Bank.~~

## 1.9 "Payment Transfer Order" means

- (a) an instruction given by the Clearing House by means of a SWIFT message or other means to a PPS Bank to place at the disposal of a Member (by crediting a nominated account held by that Member at that bank) an amount of money to be debited from a nominated account held by the Clearing House at that bank ("a Credit Member/Debit LCH transfer order"); or
- (b) an instruction given by the Clearing House by means of a SWIFT message or other means to a PPS Bank to place at the disposal of the Clearing House (by crediting a nominated account held by the Clearing House at that bank) an amount of money to be debited from a nominated account held by a Member at that bank ("a Credit LCH/Debit Member transfer order"); or
- (c) an instruction given by the Clearing House to a Securities System Operator to place at the disposal of the Clearing House (by crediting a nominated cash account held by the Clearing House) an amount of money to be debited from a nominated account held by that Securities System Operator for a Member or Non-Member Participant, as the case may be ("an Inward Cash Account Transfer Order"); or
- (d) an instruction given by the Clearing House to a Securities System Operator to place at the disposal of a Member or Non-Member Participant, as the case may be, (by crediting a nominated cash account held by such Member or Non-Member Participant) an amount of money to be debited from a nominated account held by that Securities System Operator for the Clearing House ("an Outward Cash Account Transfer Order"); or
- (e) an instruction in the form of an electronic message forwarded by or on behalf of a Member or Non-Member Participant to the Clearing House or its agent or contractor containing data constituting particulars of an exchange contract, SwapClear Transaction, Post-Compression Contract, ForexClear Transaction, RepoClear Transaction, Repo Trade or Bond Trade, EquityClear ATP Match, LSE Derivatives Markets Orderbook Match, Eligible RepoClear GC Transaction, or Eligible EnClear Trade and submitted to the Clearing House for registration by the Clearing House in accordance with the Regulations;
- (f) an instruction by the Clearing House for itself and on behalf of a Member authorising the exercise of the Clearing House's powers under Regulation 101 to register a Mandatory ForexClear Swap Contract in the name of such Member, arising upon the occurrence of a ForexClear Liquidity Event in accordance with Regulation 101 in relation to that Member;
- (g) an open Cleared Exchange Contract, SwapClear Contract, ForexClear Contract, RepoClear Contract, RepoClear GC Contract, EquityClear Contract, LSE Derivatives Markets Cleared Exchange Contract or LCH EnClear Contract which has been registered by the Clearing House; or
- (h) an instruction given by the Clearing House to a PPS Bank by means of a SWIFT message or other means to place at the disposal of the Clearing House (by crediting a nominated account of the Clearing House at a Concentration Bank) an amount of money to be debited from a nominated account held by the Clearing House at that PPS Bank; or
- (i) an instruction given by the Clearing House to a Concentration Bank by means of a SWIFT message or other means to place at the disposal of the Clearing House (by crediting a nominated account of the Clearing House at a PPS Bank) an amount of



money to be debited from a nominated account held by the Clearing House at that Concentration Bank; or

Deleted:

- ~~(j) an instruction given by or on behalf of a Member by means of a SWIFT message or other means to a Member Settlement Bank to place at the disposal of the Clearing House (through crediting a nominated cash account provided by a Settlement Service Provider to the Clearing House) an amount of money to be debited from a nominated account held by that Member at such Member Settlement Bank; or~~
- ~~(k) an instruction by the Clearing House for itself and on behalf of a Member authorising the exercise of the Clearing House's powers under Regulation 101 to effect the discharge of certain payment obligations of that Member to the Clearing House and the corresponding assumption of another payment obligation of that Member to the Clearing House, arising upon the occurrence of a ForexClear Liquidity Event in accordance with Regulation 101 in relation to that Member, or~~
- ~~(l) an instruction given by the Clearing House to a Concentration Bank or a central bank by means of a SWIFT message or other means to place at the disposal of the Clearing House (through crediting a nominated cash account provided by a Settlement Service Provider to the Clearing House) an amount of money to be debited from a nominated account held by the Clearing House at that Concentration Bank or central bank; or~~
- ~~(m) an instruction given by the Clearing House to a Settlement Service Provider by means of a SWIFT message or other means to place at the disposal of a Member (by crediting a nominated cash account held by that Member at a Member Settlement Bank) an amount of money to be debited from a nominated account provided by that Settlement Service Provider to the Clearing House; or~~
- ~~(n) an instruction given by the Clearing House to a Settlement Service Provider by means of a SWIFT message or other means to place at the disposal of the Clearing House (by crediting a nominated cash account held by the Clearing House at a Concentration Bank or a central bank) an amount of money to be debited from a nominated account provided by that Settlement Service Provider to the Clearing House~~

- 1.10 "Procedures" means the practices and procedures of the Clearing House, as amended from time to time, including but not limited to the Procedures.
- 1.11 "Regulations" means the General Regulations, Default Rules and Procedures of the Clearing House as amended from time to time and "the Procedures" shall mean that part of the Regulations by that name.
- 1.12 "Securities System Operator" means:
- (a) an operator of a securities depository and/or securities settlement system (including but not limited to Euroclear UK & Ireland Ltd, Euroclear Bank, Clearstream Frankfurt and Clearstream Luxemburg); or
  - (b) a bank or other credit institution (including but not limited to the National Bank of Belgium and Deutsche Bank AG) which provides securities holding and/or securities settlement services to the Clearing House as a nominee or otherwise through its participation in any securities settlement system or otherwise.
- 1.13 "Securities Transfer Order" means

- (a) an instruction, given by the Clearing House on its own behalf or on behalf of a Member or Non-Member Participant, to a Securities System Operator to transfer the title to or interest in securities to a Member, a Non-Member Participant, the Clearing House or other person by means of a book entry on the register maintained by that Securities System Operator, or otherwise; or
- (b) an instruction given by a Member or Non-Member Participant to a Securities System Operator to transfer the title to or interest in securities to the Clearing House by means of a book entry on the register maintained by that Securities System Operator, or otherwise; or
- (c) an instruction in the form of an electronic message forwarded by or on behalf of a Member or Non-Member Participant to the Clearing House containing data constituting particulars of an exchange contract for the transfer of Securities, RepoClear Transaction, Bond Trade, Repo Trade, EquityClear ATP Match, Eligible RepoClear GC Transaction or LSE Derivatives Markets Orderbook Match, submitted for registration by the Clearing House in accordance with the provisions of the Regulations; or
- (d) an open Cleared Exchange Contract for the transfer of Securities, a RepoClear Contract, a RepoClear GC Contract, an EquityClear Contract, or LSE Derivatives Markets Cleared Exchange Contract for the transfer of Securities which has been registered by the Clearing House.

1.14 "Settlement Finality Directive" means Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems.

1.15 "Settlement Service Provider" means CLS Bank International or any other entity approved by the Clearing House from time to time for the provision to the Clearing House of settlement services in connection with settlements under the ForexClear Service not taking place through the Clearing House Protected Payment System.

1.16 "SF Regulations" means The Financial Markets and Insolvency (Settlement Finality) Regulations 1999 (S.I. 1999 No. 2979).

1.17 "Transfer Order" includes a Payment Transfer Order or a Securities Transfer Order.

**2. Transfer Orders – Specific Provisions**

2.1 A Transfer Order takes effect and enters the Clearing House System in accordance with the following:

(a) Payment Transfer Orders

(i) A Payment Transfer Order of the type set out in sections 1.9(a), 1.9(b), 1.9(c), 1.9(d), 1.9(h), 1.9(i), 1.9(j), 1.9(m) and 1.9(n) above takes effect and enters the Clearing House System when the relevant SWIFT message, or other electronic message or fax or other communication is sent by the Clearing House.

(ii) A Payment Transfer Order of the type set out in section 1.9(j) takes effect and enters the Clearing House System when the relevant SWIFT message, or other electronic message or fax or other communication is sent by the relevant Member.

Deleted: 8
Deleted: 8
Deleted: 8 (
Deleted: )
Deleted: 8
Deleted: 8(g
Deleted: 8(h
Deleted: 8

~~(iii) A Payment Transfer Order of the type set out in section 1.9(f) and 1.9(k) takes effect and enters the Clearing House System upon the occurrence of a ForexClear Liquidity Event in accordance with Regulation 101 in relation to the relevant Member.~~

(iv) A Payment Transfer Order of the type set out in section 1.9(e) takes effect and enters the Clearing House System when such particulars are received by the Clearing House or its agent or contractor.

(v) A Payment Transfer Order of the type set out in section 1.9(g) takes effect and enters the Clearing House System at the time of registration. Details of registration timings are given in the Procedures.

Deleted: 8(f)

(b) Securities Transfer Orders

(i) A Securities Transfer Order of the type set out in section 1.13(a) takes effect and enters the Clearing House System when the relevant SWIFT message, or other electronic message or fax is sent by the Clearing House.

Deleted: 12

(ii) A Securities Transfer Order of the type set out in section 1.13(b) takes effect and enters the Clearing House system when the relevant SWIFT message, or other electronic message or fax is sent by the Member or Non-Member Participant.

Deleted: 12

(iii) A Securities Transfer Order of the type set out in section 1.13(c) takes effect and enters the Clearing House system when the particulars thereof are received by the Clearing House or its agent or contractor.

Deleted: 12

(iv) A Securities Transfer Order of the type set out in section 1.13(d) takes effect and enters the Clearing House system at the time of registration. Details of registration timings are given in the Procedures.

Deleted: 12

2.2 A Payment Transfer Order shall be irrevocable at the time specified below for that type of Payment Transfer Order.

(a) A Credit Member/Debit LCH transfer order shall be irrevocable at the time when the relevant PPS Bank sends a SWIFT confirmation message or otherwise confirms to the Clearing House that such payment will be made.

(b) A Credit LCH/Debit Member transfer order shall be irrevocable at the time when the relevant PPS Bank sends a SWIFT confirmation message or otherwise confirms to the Clearing House that such payment will be made.

(c) An Inward Cash Account Transfer Order shall be irrevocable from the time prescribed from time to time by the relevant Securities System Operator as being the time after which such instruction may not be revoked by a participant or other person.

(d) An Outward Cash Account Transfer Order shall be irrevocable from the time prescribed from time to time by the relevant Securities System Operator as being the time after which such instruction may not be revoked by a participant or other person.

(e) An instruction in the form of an electronic message forwarded by or on behalf of a Member or Non-Member Participant to the Clearing House or its agent or contractor containing data constituting particulars of an exchange contract, RepoClear

Transaction, SwapClear Transaction, Post-Compression Contract, ForexClear Transaction, or Eligible EnClear Trade and submitted for registration by LCH in accordance with the Regulations shall be irrevocable from the time of its registration by the Clearing House.

- (f) An instruction in the form of an electronic message forwarded by or on behalf of a Member or Non-Member Participant to LCH, or its agent or contractor, containing data constituting particulars of a Bond Trade, Repo Trade, RepoClear GC Transaction, EquityClear ATP Match, or LSE Derivatives Markets Orderbook Match submitted to LCH for registration in accordance with the Regulations shall be irrevocable from the time when, having passed all relevant checks required by the Clearing House, it passes through the relevant Computer Gateway. For these purposes a relevant Computer Gateway shall mean a computer gateway of a system operated by LCH or by an agent or contractor of the Clearing House for the purposes, inter alia, of receiving such electronic messages and carrying out such checks.
- (g) An open Cleared Exchange Contract, SwapClear Contract, ForexClear Contract, RepoClear Contract, RepoClear GC Contract, EquityClear Contract, LSE Derivatives Markets Cleared Exchange Contract or LCH EnClear Contract which has been registered by the Clearing House shall be irrevocable from the time of its registration by the Clearing House.
- (h) An instruction given by the Clearing House to a PPS Bank by means of a SWIFT message or other means to place at the disposal of the Clearing House (by crediting a nominated account of the Clearing House at a Concentration Bank) an amount of money to be debited from a nominated account held by the Clearing House at that PPS Bank shall be irrevocable at the time when the relevant PPS Bank confirms to the Clearing House that such payment will be made.
- (i) An instruction given by the Clearing House to a Concentration Bank by means of a SWIFT message or other means to place at the disposal of the Clearing House (by crediting a nominated account of the Clearing House at a PPS Bank) an amount of money to be debited from a nominated account held by the Clearing House at that Concentration Bank shall be irrevocable at the time when the Concentration Bank confirms to the Clearing House that such payment will be made.
- ~~(j) An instruction given by or on behalf of a Member by means of a SWIFT message or other means to a Member Settlement Bank to place at the disposal of the Clearing House (through crediting a nominated cash account provided by a Settlement Service Provider to the Clearing House) an amount of money to be debited from a nominated account held by that Member at such Member Settlement Bank shall be irrevocable at the time when the relevant Member Settlement Bank sends a SWIFT confirmation message or otherwise confirms to the relevant Member that such payment will be made.~~
- ~~(k) An instruction given by the Clearing House to a Concentration Bank or any central bank by means of a SWIFT message or other means to place at the disposal of the Clearing House (through crediting a nominated cash account provided by a Settlement Service Provider to the Clearing House) an amount of money to be debited from a nominated account held by the Clearing House at that Concentration Bank or central bank shall be irrevocable at the time when that Concentration Bank or central bank sends a SWIFT confirmation message or otherwise confirms to the Clearing House that such payment will be made.~~



- (l) An instruction by the Clearing House for itself and on behalf of a Member of the type set out in section 1.9(f) or 1.9(k) shall be irrevocable upon the occurrence of a ForexClear Liquidity Event in accordance with Regulation 101 in relation to that Member.
- (m) An instruction given by the Clearing House to a Settlement Service Provider by means of a SWIFT message or other means to place at the disposal of a Member (by crediting a nominated cash account held by that Member at a Member Settlement Bank) an amount of money to be debited from a nominated account provided by that Settlement Service Provider to the Clearing House shall be irrevocable at the time when the Settlement Services Provider first sends confirmation to the Clearing House that such payment will be made.
- (n) An instruction given by the Clearing House to a Settlement Service Provider by means of a SWIFT message or other means to place at the disposal of the Clearing House (by crediting a nominated cash account held by the Clearing House at a Concentration Bank or a central bank) an amount of money to be debited from a nominated account provided by that Settlement Service Provider to the Clearing House shall be irrevocable at the time when the Settlement Service Provider first sends confirmation to the Clearing House that such payment will be made.

2.3 Subject to section 2.5 below, a Securities Transfer Order shall be irrevocable at the time specified hereafter for the relevant type of Securities Transfer Order.

- (a) An instruction given by the Clearing House (on its own behalf or on behalf of a Member or Non-Member Participant) to a Securities System Operator of the kind referred to in section 1.13(a) to transfer the title to or interest in securities to a Member, Non-Member Participant, to the Clearing House or other person by means of a book entry on the register maintained by that Securities System Operator shall be irrevocable at the time prescribed from time to time by that Securities System Operator as being the time after which such instruction may not be revoked by a participant or other person.
- (b) An instruction given by a Member or, where permitted or required by the Regulations, a Non-Member Participant to a Securities System Operator of the kind referred to in section 1.13(a) to transfer the title to or interest in securities to the Clearing House by means of a book entry on the register maintained by that Securities System Operator shall be irrevocable at the time prescribed from time to time by that Securities System Operator as being the time after which such instruction may not be revoked by a participant or other person.
- (c) An instruction given by the Clearing House (on its own behalf or on behalf of a Member or Non-Member Participant) to a Securities System Operator of the kind referred to in section 1.13(b) to transfer the title to or interest in securities to a Member, Non-Member Participant, to the Clearing House or other person by means of a book entry on the register maintained by another Securities System Operator shall be irrevocable at the time prescribed from time to time by that other Securities System Operator as being the time after which such instruction may not be revoked by a participant or other person.
- (d) An instruction given by a Member or, where permitted or required by the Regulations, a Non-Member Participant to a Securities System Operator of the kind referred to in section 1.13(b) to transfer the title to or interest in securities to the Clearing House by means of a book entry on the register maintained by another Securities System Operator shall be irrevocable at the time prescribed from time to

Deleted: 12

Deleted: 12

Deleted: 12

Deleted: 12



time by that other Securities System Operator as being the time after which such instruction may not be revoked by a participant or other person.

- (e) An instruction in the form of an electronic message forwarded by or on behalf of a Member or Non-Member Participant to the Clearing House or its agent or contractor containing data constituting particulars of an exchange contract, LSE Derivatives Markets Cleared Exchange Contract, RepoClear Transaction or RepoClear GC Transaction for the transfer of securities, and submitted for registration by the Clearing House in accordance with the Regulations shall be irrevocable at the time of its registration by the Clearing House.
- (f) An instruction in the form of an electronic message forwarded by or on behalf of a Member or Non-Member Participant to the Clearing House or its agent or contractor containing data constituting particulars of a Bond Trade, Repo Trade, EquityClear ATP Match, or LSE Derivatives Markets Orderbook Match submitted to LCH for registration in accordance with the Regulations shall be irrevocable from the time when, having passed all relevant checks required by the Clearing House, it passes through the relevant Computer Gateway. For these purposes a relevant Computer Gateway shall mean a computer gateway of a system operated by the Clearing House or by an agent or contractor of the Clearing House for the purposes, inter alia, of receiving such electronic messages and carrying out such checks.
- (g) An open Cleared Exchange Contract for the transfer of Securities, a RepoClear Contract, a RepoClear GC Contract, an EquityClear Contract, or LSE Derivatives Markets Cleared Exchange Contract for the transfer of Securities which has been registered by the Clearing House shall be irrevocable from the moment of its registration by LCH.

2.4

- (a) Particulars of when registration occurs for RepoClear Transactions, are set out in Section 2B of the Procedures.
- (b) Particulars of when registration occurs for SwapClear Transactions are set out in Section 2C of the Procedures.
- (c) Particulars of when registration occurs for EquityClear ATP Matches in EquityClear Eligible Equities are set out in Section 2D.
- (d) Particulars of when registration occurs for Eligible EnClear Trades are set out in Section 2E.
- (e) Particulars of when registration occurs for LSE Derivatives Markets Orderbook Matches are set out in Section 2F.
- (f) Particulars of when registration occurs for ForexClear Transactions are set out in Section 2I of the Procedures.
- (g) Particulars of when registration occurs for Listed Interest Rates Novation Transactions and Rates Exchange Matches are set out in Section 2J of the Procedures.

Deleted:

2.5

- (a) For the purposes of this section 2.5 "Onward Instruction" shall mean any instruction to a securities settlement system, which is given by a Securities System Operator of the kind referred to in section 1.12(b) above, and through which that Securities

Deleted: 11

System Operator gives effect to a Securities Transfer Order given to it by the Clearing House.

- (b) Where a Securities Transfer Order is given by LCH to a Securities Systems Operator of the kind referred to in section 1.12(b), that Securities Transfer Order shall be irrevocable from the time after which any Onward Instruction may not be revoked by that Securities Systems Operator as prescribed by the rules or other requirements of the securities settlement system to which such Onward Instruction is submitted.

Deleted: 11

2.6 Settlement of a Payment Transfer Order of the type set out in section 1.9(i) and section 1.9(l) that:

- (a) takes effect and enters the Clearing House System on any business day (the "Settlement Day"); and
- (b) results in an amount of money being credited to a nominated cash account provided by a Settlement Service Provider to the Clearing House.

shall be complete only at the earlier of (i) the settlement of all Payment Transfer Orders given by the Clearing House to that Settlement Service Provider together having the effect on that Settlement Day of reducing the balance on such nominated cash account provided by the Settlement Service Provider to zero, and (ii) the end of the business day, where the relevant "business day" for these purposes only shall begin at the start of the relevant calendar day and shall end at the latest time at which the Clearing House actually ceases settlement operations for that Settlement Day.

**3. Prohibition of Revocation of Transfer Orders**

A Transfer Order shall not be revoked or purport to be revoked by a Participant (or by any liquidator or other insolvency office-holder appointed with regard to any undertaking operated by a Participant) after the time specified in section 2 above as being the time when such instruction becomes irrevocable.

**4. Provision of information**

4.1 A Participant shall, within 14 days of being requested to do so by any person ("the applicant") and upon being paid such reasonable charge as the Participant may require, provide to the applicant the following information:

- (a) details of the systems which are designated for the purposes of the Settlement Finality Directive in which the Participant, as the case may be, participates; and
- (b) information about the main rules governing the functioning of those systems.

4.2 Nothing in this section 4 shall require the Participant to provide any of the above information to an applicant where, or to the extent that, such request is frivolous or vexatious.

4.3 Each Participant shall promptly supply to the Clearing House such information as the Clearing House may require from time to time in order for LCH to meet its obligations as the operator of a system designated under the Financial Markets and Insolvency (Settlement Finality) Regulations 1999.

**5. Notification of certain insolvency events**

5.1 Subject to section 5.2 below a Participant shall forthwith notify the Clearing House, the Financial Conduct Authority and the Bank of England if:-

- (a) a resolution is passed for the voluntary winding up of the Participant; or
- (b) a trust deed granted by the Participant (as the case may be) becomes a protected trust deed.

5.2 If a Participant is required to give notice of any of the events set out in sections 5.1(a) and 5.1(b) above by any other provisions of the Regulations, then nothing in this section shall be taken to require the giving of a further notice to the Clearing House of the same event, providing always that such notice as is given under such other provision of the Regulations is given in writing and addressed to the person identified in section 5.3 below.

5.3 Any notice to be given to the Clearing House under this provision shall be given in writing, addressed to the General Counsel, and shall be sent by first class pre-paid post or hand delivered to the following address:

LCH Limited  
Aldgate House  
33 Aldgate High Street  
London EC3N 1EA

or sent by fax (followed by postal confirmation) to the following fax number:

+44 (0)20 7426 7210.

5.4 Any notice given to the Bank of England under this provision shall be sent by first class pre-paid post or hand delivered to:

The Senior Manager  
CCP Supervision  
Market Infrastructure Directorate  
Bank of England  
20 Moorgate  
London EC2R 6DA

or sent by fax (followed by postal confirmation) to the following fax number:

+44 (0)20 7601 3217.

~~5.5 Any notice given to the Bank of England under this provision shall be given by first class pre-paid post or hand delivered to:~~

Deleted: <#>and a copy to ¶

The Senior Manager  
Payment Systems Oversight  
Market Infrastructure Division, HO-3  
Bank of England  
Threadneedle Street  
London EC2R 8AH

or sent by fax (followed by postal confirmation) to the following fax number:

+44 (0)20 7601 3561.

**LCH Rule Submission**

**Appendix E**

**Procedures Section 1 – Clearing Member and Dealer Status**

---

**LCH** The Markets'  
Partner

**LCH LIMITED**

**PROCEDURES SECTION 1**

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

---

Deleted: .CLEARNET



CONTENTS

Section	Page
1. Clearing Member, Non-Member Market Participant and Dealer Status.....	1
1.1 Application Procedure – Clearing Member, Special Clearing Member and Dealer Status.....	1
1.2 Non-Member Market Participant Status.....	3
1.3 Criteria for Clearing Member Status .....	4
1.4 Dealer Status Criteria .....	12
1.5 Extension Of Clearing Activities .....	13
1.6 Termination Of Clearing Member Status.....	15
1.7 Net Capital Requirements .....	15
1.8 Calculation Of Net Capital.....	20
1.9 Reporting.....	21
1.10 Additional Requirements.....	23
1.11 Other Conditions .....	23
1.12 Jurisdictional Requirements .....	23

Deleted: Clearnet  
Deleted: 7  
Deleted: November  
Deleted: 7

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

1.1 **Application Procedure – Clearing Member, Special Clearing Member and Dealer Status**

An application for Clearing Member status of the Clearing House, or for dealer status (whether as a ForexClear Dealer, RepoClear Dealer or SwapClear Dealer, each a "Dealer") must be made on the appropriate form which can be obtained from the Clearing House's Membership team. Additional information (including legal documents) must be supplied where necessary and submitted to the Clearing House with the completed form.

An application for the status of special Clearing Member ("**Special Clearing Member**") must be initiated by a written request to the Clearing House. The nature of the application procedure and the documents and information required from the applicant will be determined by the Clearing House by reference to the nature of the application and will be notified by the Clearing House to the applicant upon receipt of such written request.

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

Clearing Members have the right to apply for approval to clear one or more of the markets cleared by the Clearing House, subject to meeting the requirements of the Clearing House in respect of each such market. Please note that Clearing Member status does not provide membership of the company LCH.Clearnet Limited 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 SA or the clearing services it offers. LCH.Clearnet SA has its own arrangements and admission criteria for Clearing Member status – see the LCH.Clearnet SA Sections of the LCH.Clearnet website for further details.

Applicants approved as Dealers for ForexClear, RepoClear and/or SwapClear will be admitted to the Register of ForexClear Dealers, Register of RepoClear Dealers, and/or the Register of SwapClear Dealers ("**the OTC Registers**"), as appropriate. Successful admission to one OTC Register does not confer automatic admission to any other OTC Register.

1.1.1 *Clearing Member Status*

The terms and conditions binding on each Clearing Member are set out in the Clearing Membership Agreement as amended. Two copies of this document will be provided to the applicant who must sign both (but not date them) and

Deleted: .Clearnet
Deleted: 7
Deleted: November
Deleted: 7

state of the European Union, or the equivalent of a credit institution or an investment firm licensed by the competent authorities of a country outside the European Union and which is subject to prudential rules considered by the Clearing House to be at least as stringent as those applicable to credit institutions and investment firms within the European Union; and

- (d) in the event of a default, be able to receive from the Clearing House and to process SwapClear Contracts, and any associated hedge trades, in FPML format or in separated value electronic format.

Membership criteria for FCM Clearing Member status are contained in the Clearing House's FCM Regulations.

#### 1.3.4 *Supplementary Criteria Applicable to ForexClear Applicants*

In addition to the minimum Net Capital Requirements as set out in Section 1.7.2, an applicant must satisfy the following criteria:

- (a) successfully participate, or demonstrate that it has: (i) an affiliated ForexClear Clearing Member ("FXCCM") that can successfully participate; or (ii) an LCH Approved Outsourcing Party that can successfully participate, in a ForexClear "fire drill" run by the Clearing House which shall involve submitting a bid for a notional portfolio of trades within specific currency pairs in a specified timeframe. 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 the applicant's FXCCM application will not be approved;
- (b) be able to participate or demonstrate that it has: (A) an affiliated FXCCM that can successfully participate; or (B) an LCH Approved Outsourcing Party that can successfully participate, in the ForexClear default management process as operated by the Clearing House;
- (c) have, within its corporate group, at least one credit institution or investment firm licensed by the competent authorities of a member state of the European Union, or the equivalent of a credit institution or an investment firm licensed by the competent authorities of a country outside the European Union and which is subject to prudential rules considered by the Clearing House to be at least as stringent as those applicable to credit institutions and investment firms within the European Union; and
- (d) in the event of a default, be able to receive from the Clearing House and process ForexClear Contracts, and any associated hedge trades, in FPML format or, separated value electronic format.

#### 1.3.5 *Supplementary Criteria Applicable to ForexClear Option Service Applicants*

Deleted: Clearnet

Deleted: 7

Deleted: November

Deleted: 7

In addition to the criteria set out in these Procedures as being applicable to ForexClear Clearing Members, a Clearing Member that wishes to use the ForexClear Option Service must satisfy the requirements in this section, which shall be without prejudice to any other membership or participation requirements applicable to a Clearing Member under the Regulations, the Procedures and/or any Clearing Membership Agreement.

A ForexClear Clearing Member that wishes to be designated as a ForexClear Option Clearing Member shall apply to the Clearing House in the manner prescribed by the Clearing House from time to time. That Clearing Member must, at the point of application and at all times thereafter, satisfy, in a manner satisfactory to the Clearing House, the following conditions (together, the "ForexClear Option Service Membership Requirements"):

- (i) the Clearing Member must be a ForexClear Clearing Member;
- (ii) the Clearing Member must at all times have primary nostro accounts in place with a bank satisfactory to the Clearing House to record, effect and receive payments denominated in each ForexClear Currency;
- (iii) the Clearing Member must at all times be able to demonstrate to the Clearing House that it or its designated settlement agent is capable of effecting timely payments within the applicable real-time gross settlement system for each ForexClear Currency;
- (iv) the Clearing Member must at all times be able to demonstrate to the Clearing House that it has back-up account arrangements in place with a bank satisfactory to the Clearing House to record, effect and receive payments denominated in each ForexClear Currency in the event that its primary nostro is unavailable;
- (v) prior to the date on which the Clearing Member is designated as a ForexClear Option Clearing Member, the Clearing Member shall pay to the Clearing House:
  - (A) an amount of cash denominated in Australian Dollars equal to the AUD ForexClear Liquidity Fund Contribution applicable to that Clearing Member;
  - (B) an amount of cash denominated in Euros equal to the EUR ForexClear Liquidity Fund Contribution applicable to that Clearing Member;
  - (C) an amount of cash denominated in Sterling equal to the GBP ForexClear Liquidity Fund Contribution applicable to that Clearing Member; and
  - (D) an amount of cash denominated in Swiss Francs equal to the CHF ForexClear Liquidity Fund Contribution applicable to that Clearing Member.

Deleted: Clearnet

Deleted: 7

Deleted: November

Deleted: 7

- (vi) prior to the date on which the Clearing Member is designated as a ForexClear Option Clearing Member, the Clearing Member shall pay to the Clearing House the ForexClear Option Service Default Fund Contribution;
- (vii) the Clearing Member must at all times either:
- (A) have access to, and have all necessary documentation (if any) in place with, a third party provider approved by the Clearing House as being responsible for communicating, matching and facilitating the exercise and/or expiry of each ForexClear Option Contract to which it is a party; and
  - (B) have direct access to the ClearLink API, or similar direct communication methods as offered under the ForexClear Service, for the purpose of communicating directly with the Clearing House regarding exercise and/or expiry of each ForexClear Option Contract to which it is a party;
- (viii) the Clearing Member must enter into, deliver, and maintain, any agreement, deed, form or other document that is required by the Clearing House from time to time in connection with the ForexClear Option Service;
- (ix) the Clearing Member must not be a Defaulting Clearing Member;
- (x) the Clearing Member must participate in testing and trialling as requested by the Clearing House from time to time in connection with the ForexClear Option Service;
- (xi) the Clearing Member must be an "institution" or a "participant" within the meaning of The Financial Markets and Insolvency (Settlement Finality) Regulations 1999 (S.I. 1999 No. 2979) and Settlement Finality Directive (Directive 98/26/EC) of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems; and
- (xii) the Clearing Member must satisfy all other requirements and eligibility criteria that may be applicable to it from time to time under the Regulations, the Procedures and/or the Clearing Membership Agreement.

A Clearing Member's status as a ForexClear Option Clearing Member is, at all times, subject to the condition precedent that it satisfies, in a manner satisfactory to the Clearing House, the ForexClear Option Service Membership Requirements in effect at the applicable time.

The Clearing House may, from time to time, publish a list of Clearing Members who are eligible to use the ForexClear Option Service.

Deleted: Clearenet

Deleted: 7

Deleted: November

Deleted: 7



1.3.6 *Supplementary Criteria Applicable to Special Clearing Member Applicant*

The Clearing House may agree with an applicant for Special Clearing Member status, in addition to or in place of requirements set out in these Procedures, such further terms as it deems appropriate in the circumstances of the applicant and its business and these shall be reflected in the Clearing Membership Agreement.

1.3.7 *Supplementary Criteria Applicable to Clearing Members subject to certain U.S. laws*

- (a) *12 U.S.C. § 5390(a)(6)*: Where a Clearing Member is a financial company as such term is defined in 12 U.S.C. § 5381(a)(11) it shall comply with the requirements of 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 a transaction is submitted for clearing and it delivers Collateral to the Clearing House.

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 the Clearing House), 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 to the Clearing House), maintain each agreement evidencing each such transaction continuously as an official record of that Clearing Member.

- (b) *Insured Depository Institutions*: Where a Clearing Member is an insured depository institution under the U.S. Federal Deposit Insurance Act it shall comply 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 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 an insured depository institution under the 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 the Clearing House), to maintain the

Deleted: .Clearnet

Deleted: 7

Deleted: November

Deleted: 7

**LCH Rule Submission**

**Appendix F**

**Procedures Section 2I – ForexClear Service**

---

**LCH** The Markets'  
Partner

**LCH LIMITED**

**PROCEDURES SECTION 21**

**FOREXCLEAR CLEARING SERVICE**

---

## CONTENTS

Section	Page
1. Introduction and Interpretation.....	1
1.1 Users of the ForexClear Service.....	2
1.2 Service Scope .....	3
1.3 Trade Management.....	6
1.4 Market Data.....	18
1.5 Valuation and Margin.....	22
1.6 General Margining Process .....	28
1.7 ForexClear Reporting .....	30
1.8 Treasury Operations & Collateral Management .....	32
1.9 Payment of Stamp Tax .....	34
1.10 Default Management .....	34
1.11 Provision of Tax Forms.....	37
1.12 ForexClear Client Clearing .....	38
1.13 Provision of Tax Forms.....	41
1.14 Indirect Clearing.....	42
1.15 Compression.....	44
1.16 Exercise and Expiry Agent.....	45
1.17 Automatic Exercise of ForexClear Option Contracts.....	45
1.18 CLS Payment Procedures.....	46
1.19 Settlement Limits for ForexClear Option Contracts, ForexClear Deliverable Forward Contracts, ForexClear Spot Contracts and ForexClear Swap Contracts .....	47
1.20 Mandatory ForexClear Swap Limit.....	48
Schedule 1 Confidentiality, non-disclosure and participation in the ForexClear Default Management Group .....	49

Deleted: January

## 1. INTRODUCTION AND INTERPRETATION

These Procedures govern the ForexClear Service, form part of the Rulebook and must be read in conjunction with the other parts of the Rulebook.

Capitalised terms used in these Procedures not otherwise defined herein have the meanings ascribed to them in the Rulebook.

References to "Sections" shall mean sections in these Procedures.

References to "Business Day", "Calculation Agent", "Disruption Fallback", "Notional Amount", "Reference Currency", "Settlement Currency", "Settlement Currency Amount", "Settlement Date", "Settlement Rate", "Settlement Rate Option", "Trade Date", "Valuation Date", "Valuation Postponement" shall carry the meanings given to them in the Product Specific Contract Terms and Eligibility Criteria Manual as published on the Clearing House's website from time to time with respect to the relevant Currency Pair.

Deleted: ", "Currency Pair

Deleted: have

Deleted: ForexClear

References to "business day" shall carry the meaning given to it in the Rulebook.

References to "Currency Pair" are to the relevant currency pairs specified in the Schedule to the ForexClear Regulations.

"EMTA" means EMTA Inc., the trade association for the emerging markets that was formerly known as the Emerging Markets Traders Association, or any successor entity.

"EMTA Template" means, where applicable, the template terms for a Non-Deliverable FX Transaction for a particular Currency Pair that are in effect and published by EMTA on its website on the relevant Trade Date.

"LCH G10 NDF Contract Template" means, where applicable, the template terms for a Non-Deliverable FX Transaction for a particular Currency Pair that are set forth in the ForexClear Contract Terms.

"Relevant EMTA Template" means, for a particular ForexClear Contract, the EMTA Template that is incorporated by reference into the ForexClear Contract Terms applicable to such Contract, together with any amendments thereto as set out in the ForexClear Contract Terms.

"Submission Date" means the date on which a given trade is submitted to the Clearing House for registration.

Unless otherwise specified, all times are in local London time.

The liability of the Clearing House is as set out in Regulation 52 (*Exclusion of Liability*), which applies to these Procedures in its entirety unless provided otherwise.

Deleted: January



1.1 **Users of the ForexClear Service**

The ForexClear Service is an interface that processes and stores all ForexClear Transactions. FXCCMs are clearing members who have applied and have been accepted by the Clearing House to clear in the ForexClear Service. FXDs are not FXCCMs, but have met the criteria for registration as a FXD and have entered into a ForexClear Dealer Clearing Agreement with an FXCCM and the Clearing House. FXCCMs, FXDs and ForexClear Clearing Clients are collectively known as ForexClear Participants ("**FXPs**"). For membership procedures, please see Section 1 (*Clearing Member and Dealer Status*) of the Procedures.

For identification purposes each FXCCM is assigned a unique three-character mnemonic.

- 1.1.1 *Termination of FXCCM Status:* Clearing Members should contact the Clearing House Onboarding Department (+44 (0)207 426 7891/7627/7063; onboarding@lch.com) for details of how to resign from the ForexClear Service.
- 1.1.2 *Termination of FXD Status:* The ForexClear Dealer Agreement and Regulation 8 (*Dealer Status*) set out how the FXD relationship may be terminated.

Deleted: January

## 1.2 Service Scope

1.2.1 Eligibility: **ForexClear** Transactions may be submitted for clearing through the ForexClear Service. To be eligible to be registered as a ForexClear Contract, **a trade** must meet the **applicable** ForexClear Eligibility Criteria (as set out in the Product Specific Contract Terms and Eligibility Criteria Manual as published on the Clearing House's website from time to time).

**Deleted:** Non-Deliverable FX

**Deleted:** as defined in the Product Specific Contract Terms and Eligibility Criteria Manual ("NDFs")

**Deleted:** an NDF

### 1.2.2 Service Operating Hours

- (a) *Opening Days:* The ForexClear Service will be open each day, except weekends, Christmas Day and New Year's Day.
- (b) *Opening Hours:* The ForexClear Service will be open between 20:00 local London time Sunday night and 01:00 local London time Saturday morning ("**Opening Hours**"). The ForexClear Service will not accept ForexClear Transactions outside of these hours.

### 1.2.3 Accounts

#### (a) *Proprietary Accounts and Client Accounts*

##### (i) Proprietary Accounts

A FXCCM may request that the Clearing House opens one or more Proprietary Accounts in respect of its House Clearing Business.

Each Proprietary Account will map to two sub-accounts

- (A) a position account; and
- (B) a collateral account

##### (ii) Client Accounts

##### (A) Types of Client Account

Subject to Regulation 11 (*Client Clearing Business*) and Section 1.12 (*ForexClear Client Clearing*) below, a FXCCM may request that the Clearing House opens, in respect of its Client Clearing Business, one or more:

- (1) Individual Segregated Accounts;
- (2) Indirect Gross Accounts;
- (3) Non-Identified Client Omnibus Net Segregated Accounts;

**Deleted:** January

In the case of Indirect Gross Accounts, the relevant segregated sub-accounts of the client "C" position-keeping account will be further segregated into position-keeping sub-accounts for each Indirect Gross Sub-Account (relating to each Indirect Clearing Client).

- (c) The ForexClear Service also provides for a separate account for each FXCCM's ForexClear Default Fund Contribution with the account code "F".
- (d) Only the "H" and "F" accounts are obligatory. The "C" account will be used in respect of any FXCCM which engages in ForexClear Client Clearing Business.

#### 1.2.4 Branches

- (a) Submission of a static data form to LCH's Onboarding department by an FXCCM will also allow an FXCCM to be provided with one or more sub-accounts for any branch of that FXCCM (for position-keeping purposes) within that FXCCM's "H" position-keeping account.
- (b) Because the single account reflects the consolidated balances and liabilities of the FXCCM, the balances and liabilities associated with ForexClear Transactions submitted by FXDs and/or per branch will be provided as an estimate (if applicable).
- (c) Where a ForexClear Transaction is presented for clearing by a branch of an FXCCM, it is deemed to have been presented by, and in the name of, the relevant FXCCM.

#### 1.2.5 Novation and Registration

- (a) △ ForexClear Transaction must satisfy the applicable ForexClear Eligibility Criteria (set out in the Product Specific Contract Terms and Eligibility Criteria Manual as published on the Clearing House's website from time to time) at the Registration Time. Upon a ForexClear Transaction being submitted to the Clearing House for registration, the Clearing House will determine whether to accept or reject the ForexClear Transaction within the required timeframe under all Applicable Law. Where the Clearing House determines to accept the ForexClear Transaction, registration shall occur immediately and the ForexClear Transaction shall be automatically replaced with two separate ForexClear Contracts.
- (b) If any FXCCM has not transferred sufficient Collateral in respect of its Liabilities or estimated Liabilities to the Clearing House (taking into account any MER Buffer and MCE provided by the Clearing House, if any) at the time of the relevant Incremental Risk Check (as defined herein), then any submitted and unregistered ForexClear Transaction that the FXCCM has been nominated to clear and that is subject to such Incremental Risk Check will be rejected.

**Deleted:** An NDF is a

**Deleted:** (i.e. eligible for registration as a ForexClear Contract) if it satisfies

**Deleted:** <#>Prior to registering a ForexClear Contract (except where such ForexClear Contract results from a ForexClear Transaction that is a Sub-Block Trading Venue Transaction), the Clearing House will require the FXCCM in whose name such ForexClear Contract is to be registered to provide and maintain sufficient Collateral in respect of its Liabilities (as defined in paragraph of Section *(Margin Run Process)*) (or its estimated Liabilities) (taking into account any MER Buffer (as defined at paragraph of Section *(Initial Margin)*) and any MCE (as defined at Section *(Mutualised Credit Extension)*) made available by the Clearing House, if any) as a precondition to registration. This Collateral check process is referred to as the "Incremental Risk Check" (as defined at paragraph (c) of Section *(Trade Validation and Registration)*) ¶

**Deleted:** ,

**Deleted:** January

- (c) Once the ForexClear Transaction has passed the Validation Checks (as defined in paragraph (a) of Section 1.3.3 (*Trade Validation and Registration*)) and the Clearing House has determined to accept the ForexClear Transaction for registration, the Clearing House will send a message confirming the registration of the ForexClear Transaction as two ForexClear Contracts and including a datestamp of the relevant registration time to the entities specified in paragraph (a)(iii) of Section 1.3.3 (*Trade Validation and Registration*). For the purpose of the ForexClear Regulations, the time of dispatch of such message shall be the "**Registration Time**" of such ForexClear Contracts.
- (d) The definitive report of a registered ForexClear Contract will be shown on the "**All Open Contracts**" report issued by ForexClear Reporting.
- (e) If an FXCCM is declared a Defaulter, the Clearing House will not register any ForexClear Contract in the name of such Defaulter (except pursuant to the Default Rules). ForexClear Transactions in respect of non-defaulting FXCCMs will continue to be registered in accordance with, and subject to, the Rulebook.

### 1.3 Trade Management

- 1.3.1 *Trade Capture:* After the execution of a ForexClear Transaction (a "**trade**"), each FXP who is a party to the trade will submit individual instructions to the ForexClear Approved Trade Source System for matching and clearing of the trade. FXPs are not required to submit a confirmation of any trade presented to the Clearing House for registration. Presentation of the matched trade terms through the ForexClear Approved Trade Source System will ensure that the agreed terms of the trade are recorded.

Once the ForexClear Approved Trade Source System receives the trade instructions from the FXPs who are parties to the trade, the ForexClear Approved Trade Source System matches both instructions. The ForexClear Approved Trade Source System validates the trade using the applicable ForexClear Eligibility Criteria and will, if appropriate, present a single message containing the names of the FXPs who are parties to the trade and the terms of the trade to the Clearing House for registration and clearing, such matched trade being known as a "**ForexClear Transaction**". 1.3.3

The Clearing House will determine whether to accept or reject the ForexClear Transaction within the required timeframe under all Applicable Law. In respect of a ForexClear Transaction which is:

- (a) a Trading Venue Transaction, the Clearing House will notify the ForexClear Clearing Members, Trading Venue and (if the originating ForexClear Approved Trade Source System is different to the Trading Venue) the originating ForexClear Approved Trade Source System of registration or rejection of the ForexClear Transaction (as applicable); and

Deleted: an NDF

Deleted: January

the ForexClear Contract is subsequently cancelled in accordance with Regulation 92 (*Cancellation of ForexClear Contracts*).

### 1.3.3 Trade Validation and Registration

#### (a) Process Flow Description

- (i) The Clearing House performs a validation check on each trade submitted by FXPs to ensure that each such trade meets, the applicable ForexClear Eligibility Criteria and the Counterparty Technical Validation Check (as defined below). Incremental Risk Checks (as defined below) required for ForexClear Transactions and, with respect to each ForexClear Option Transaction, ForexClear Spot Transaction, ForexClear Swap Transaction and ForexClear Deliverable Forward Transaction, a Settlement Exposure Limit Check (as described herein) (together, the "**Validation Checks**").
- (ii) The Clearing House will create two trade records for a ForexClear Transaction which passes the Validation Checks and is accepted for clearing by the Clearing House: one for the ForexClear Contract between the Clearing House and the relevant FXCCM and the other for the ForexClear Contract between the Clearing House and the same or another relevant FXCCM.
- (iii) In respect of a ForexClear Transaction which is:
- (A) a Trading Venue Transaction, the Clearing House will notify the ForexClear Clearing Members, Trading Venue and (if the originating ForexClear Approved Trade Source System is different to the Trading Venue) the originating ForexClear Approved Trade Source System of registration or rejection of the ForexClear Transaction (as applicable); and
- (B) not a Trading Venue Transaction, the Clearing House will notify the ForexClear Clearing Members (via the originating ForexClear Approved Trade Source System or ClearLink API) of registration or rejection of the ForexClear Transaction (as applicable),
- in each case within the required timeframe under all Applicable Law.
- (iv) As provided in paragraph 1.2.5(c) (*Novation and Registration*), in respect of messages confirming registration, the time of dispatch of such message shall be the Registration Time of that ForexClear Contract.

Deleted: 91

Deleted: (A)

Deleted: below in paragraph (b) of this Section 1.3.3 (*Trade Validation and Registration*), (B) where applicable, the

Deleted: in paragraph (c) of this Section (*Trade Validation and Registration*), and (C) where applicable, the Consent Validation Check (as defined at paragraph (d) of this Section 1.3.3 (*Trade Validation and Registration*), in each case.

Deleted: January



- (v) The internal sub-account (i.e. FXCCM, branch, or FXD) into which each trade record is booked is derived from the BIC code within the message from the ForexClear Approved Trade Source System. The BIC links to the FXCCM reference data.
- (vi) Both new trade records arising out of the ForexClear Transaction have the same unique ForexClear ID (the "ForexClear ID"). Any further events or actions are applied on the basis of this ForexClear ID, to ensure consistency.

**(b) "Counterparty Technical Validation Check"** The counterparties to each trade (a) are both parties submitted trade particulars FXP, (b) are each a Non-Defaulting FXCCM and (c) are approved by the Clearing House to clear the relevant trade type.

- (i) Valuation Date and Settlement Date: in respect of a ForexClear NDF Transaction, (A) the Valuation Date and Settlement Date for the ForexClear Transaction must fall on a valid Business Day for the Currency Pair to which the ForexClear Transaction relates; and (B) the Settlement Date must fall on a Business Day after the Valuation Date. FXCCMs should refer to the Relevant EMTA Template for further details of the relevant Business Days for determining the Valuation Date and the Settlement Date.<sup>1</sup>

Risk and Settlement Limit Checks

- (ii) The Clearing House will apply an "Incremental Risk Check" to each individual ForexClear Transaction which is not a Sub-Block Trading Venue Transaction. The Incremental Risk Check uses a suitable approximation methodology to estimate an FXCCM's Liabilities (including the new ForexClear Transaction) against available Collateral (taking into account any MER Buffer and MCE made available by the Clearing House, if any). However, any ForexClear Transaction submitted by that FXCCM that is risk reducing (i.e. results in a reduction of that FXCCM's Liabilities) will always pass the Incremental Risk Check, even if the FXCCM has not transferred sufficient Collateral in respect of its Liabilities to the Clearing House. The Clearing House will apply an additional "Settlement Exposure Limit Check" on a per currency basis to each individual ForexClear Spot Transaction, ForexClear Deliverable Forward Transaction, ForexClear Option Transaction and ForexClear Swap Transaction, as the case may be. The Settlement Exposure Limit Check uses an approximation methodology to assess an FXCCM's Settlement Exposure Amount for each Settlement Exposure Date against a pre-determined Settlement Exposure Limit.

<sup>1</sup> As amended from time to time as per relevant EMTA Template.

**Deleted:** Clearing House checks the following in respect of

**Deleted:** submitted by FXPs for clearing (i)

**Deleted:** to the

**Deleted:** ? (ii) is

**Deleted:** in whose name a ForexClear Contract is to registered not a Defaulter? (iii) is each FXCCM in whose name a ForexClear Contract is to be registered

**Deleted:** ? (together,

**Deleted:** "Counterparty Technical Validation Check")

**Deleted:** Incremental

**Deleted:**

**Deleted:** January

- (iii) In the case of a ForexClear Settlement Event, the Clearing House will apply additional checks to each ForexClear Spot Transaction by reference to its impact on the Settlement Position Amount of the Impacted ForexClear Option Clearing Member.
  - (iv) Both FXCCMs to the ForexClear Transaction must pass the Incremental Risk Check and Settlement Exposure Limit Check in order for the Clearing House to register two ForexClear Contracts in those FXCCM's names.
  - (v) If either (or both) FXCCM(s) to a ForexClear Transaction fail(s) the Incremental Risk Check(s) and/or Settlement Exposure Limit Check(s), then the ForexClear Transaction will be rejected immediately and a notification sent in accordance with Section 1.3.3(a)(iii).
- (c) *Necessary Consent*
- (i) In the case of an FXCCM which has been nominated to register a ForexClear Transaction on behalf of a third party Executing Party other than an FXD, the Clearing House will (only where such ForexClear Transaction is not a Trading Venue Transaction) provide notification to such FXCCM of the relevant ForexClear Transaction and that it has been so nominated, via member reports, the ClearLink API or otherwise ("**Notification**"). Where an FXCCM is nominated to clear both ForexClear Contracts arising from the registration of a ForexClear Transaction in the capacities described in this paragraph, such FXCCM will receive two separate Notifications from the Clearing House in relation to such ForexClear Transaction. All Notifications shall be provided within the required timeframe under all Applicable Law. In all other cases, no Notification will be provided to any FXCCM.
  - (ii) In respect of a ForexClear Transaction that is not a Trading Venue Transaction, following receipt of a Notification, an FXCCM may choose to grant or refuse consent to register the ForexClear Transaction. It is a condition for registration of such a ForexClear Transaction that an FXCCM grants a separate consent (each, a "**Necessary Consent**") in respect of each Notification received by it in relation to the registration of such ForexClear Transaction. The Clearing House has an automated system which it operates on each business day for the purposes of rejecting ForexClear Transactions which have been presented for clearing but in respect of which any 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 ForexClear Transaction will be the expiry of the timeframe determined by the Clearing House. If an FXCCM has not notified the Clearing House of a Necessary Consent by the

Deleted: January

If a trade is presented to the Clearing House for registration and rejected, it may be re-presented for registration in the form of a new trade but with the same economic terms in accordance with, and subject to, the Rulebook and all Applicable Law, and such trade will, for the purposes of the Rulebook and upon such re-presentation, constitute a new trade.

### 1.3.5 Package Transactions

Subject to Clearing House availability, a ForexClear Clearing Member may, via an Approved Trade Source System, present to the Clearing House, in a single submission, a group of two or more ForexClear Transactions for simultaneous registration (such group of ForexClear Transactions being a "Package Transaction"). A Package Transaction must be identified to the Clearing House at the time of its presentation in the format prescribed by the Clearing House. Where the Package Transaction is not presented in the prescribed format, each constituent ForexClear Transaction within the Package Transaction will be rejected.

Where the Clearing House receives a Package Transaction for registration it shall treat each ForexClear Transaction that forms part of the Package Transaction as a new ForexClear Transaction in accordance with the Rulebook and, where each constituent ForexClear Transaction within the Package Transaction meets the registration requirements as set out in the Rulebook (including the provision of Collateral, where applicable), the Clearing House will simultaneously register all of the ForexClear Transactions within that Package Transaction. Where one or more of the constituent ForexClear Transactions does not meet the Clearing House's registration requirements then all of the constituent ForexClear Transactions of the Package Transaction shall be rejected.

Where a constituent ForexClear Transaction of a Package Transaction is a US Trading Venue Transaction, it is a condition of registration that all of the constituent ForexClear Transactions be US Trading Venue Transactions: where such condition is not met, all constituent ForexClear Transactions of the Package Transaction will be rejected. In respect of a Package Transaction comprising ForexClear Transactions that are not executed on any US Trading Venue, the Clearing House will send a Notification to the relevant ForexClear Clearing Member(s) for the acceptance of each such constituent ForexClear Transaction.

In respect of a Package Transaction submitted in a ForexClear Clearing Member's name, such ForexClear Clearing member's Margin requirement will be assessed based on the net Margin call for all of the constituent ForexClear Transactions of such Package Transaction.

The Clearing House may limit the number of ForexClear Transactions that may be included in a Package Transaction by way of member circular.

### 1.3.6 *Manual Trade Rejection, Novation and Cancellation (Exceptional Event)*

Deleted: January

- (a) From time to time, as an exceptional event, it may be necessary for the Clearing House to: (i) reject a trade presented for registration; (ii) register a ForexClear Transaction; or (iii) accept or reject a cancellation request for a ForexClear Contract or a ForexClear Transaction, in each case, manually prior to a Margin Run (e.g. in the case of a Default, when a ForexClear Transaction needs to be registered immediately to expedite the hedging and auction process or to reject a ForexClear Transaction received from an FXCCM which is a Defaulter).
- (b) The Clearing House acknowledges the action:
  - (i) in respect of trades being manually rejected or manually registered, by notifying the entities specified in Section 1.3.3(a)(iii) of such rejection or registration (as applicable); and
  - (c) in respect of a ForexClear Contract or a ForexClear Transaction being manually cancelled, by sending a message to the ForexClear Approved Trade Source System that it is "CANCELLED".

### 1.3.7 Trade Cancellation

- (a) The Clearing House accepts cancellation messages from FXPs against both non-novated trades (ForexClear Transactions) and novated trades (ForexClear Contracts).
- (b) Cancellation messages may be submitted via the ForexClear Approved Trade Source System (i) with respect to any ForexClear NDF Contract, until such ForexClear Contract is "fixed" – i.e. when its Settlement Rate has been determined on the relevant Valuation Date, (ii) with respect to any ForexClear Option Contract, until the end of day on the Business Day preceding the relevant Expiration Date and (iii) with respect to any ForexClear Spot Contract, ForexClear Swap Contract or ForexClear Deliverable Forward Contract, until the end of day two Business Days immediately preceding the Settlement Date.
- (c) A successful cancellation message results in a "CANCELLED" status message if the ForexClear Transaction or the ForexClear Contract (as the case may be) is cancelled during the Opening Hours. The status messages are sent from the Clearing House to the FXCCM via the ForexClear Approved Trade Source System.
- (d) There is no ForexClear Contract or ForexClear Transaction amendment functionality.
- (e) *Process Flow Description*
  - (i) The Clearing House accepts trade cancellation instructions from the ForexClear Approved Trade Source System for ForexClear Transactions or ForexClear Contracts (as the case may be) that have previously been submitted to the ForexClear

**Deleted:** With respect to any ForexClear Contract, cancellation

**Deleted:**

**Deleted:** January



Service. Cancellation instructions must include the ForexClear ID.

- (ii) The Clearing House checks that the cancellation instruction contains a valid ForexClear ID which relates to: (a) a ForexClear Transaction or ForexClear Contract (as the case may be) that has not been previously cancelled; and (b) in the case of a ForexClear **NDF** Contract only, a ForexClear Contract with respect to which the relevant Valuation Date has not yet occurred.
- (iii) Where a trade has already been rejected (e.g. as a result of having failed a Counterparty Technical Validation Check), the ForexClear Service sends a "CANCEL REJECTED" message to the ForexClear Approved Trade Source System for the relevant FXPs.
- (iv) All trade cancellation instructions must pass the Incremental Risk Check and Settlement Exposure Limit Check, where applicable. If any FXCCM has not transferred sufficient Collateral in respect of its Liabilities or estimated Liabilities to the Clearing House (taking into account any MER Buffer and MCE provided by the Clearing House, if any) at the time of the relevant Incremental Risk Check or Settlement Exposure Limit Check, as applicable, then any ForexClear trade cancellation instruction to which it is a party will be rejected immediately. However, any ForexClear trade cancellation instruction that is risk reducing (i.e. results in a reduction of that FXCCM's Liabilities) will always pass the Incremental Risk Check, even if the FXCCM has not transferred sufficient Collateral in respect of its Liabilities to the Clearing House.

1.3.8 *Valuation Date Event Management:* The Clearing House is the Calculation Agent and will store and apply the Settlement Rate Option and the Valuation Date for each ForexClear **NDF** Contract.

On the Valuation Date with respect to each ForexClear **NDF** Contract, the Settlement Rate will be retrieved as set forth in paragraph (a) below. The Market Data provider for Settlement Rates is Reuters.

ForexClear applies the relevant Settlement Rate to ForexClear **NDF** Contracts using the following criteria:

- (a) Settlement Rate Option source; and
- (b) Valuation Date.

The Clearing House applies the Settlement Rate to all relevant ForexClear **NDF** Contracts at a predefined time following its publication.

Deleted:

Deleted: January



The Clearing House calculates the Settlement Currency Amount in the Settlement Currency per ForexClear **NDF** Contract. FXCCMs can retrieve the Settlement Rate and Settlement Currency Amount in the Settlement Currency via ForexClear Reporting (as defined in Section 1.7 (*ForexClear Reporting*)) on the ForexClear Service Portal and on MemWeb, which are internet services onto which information is loaded and can be accessed by FXCCMs.

(c) *Process Flow Description*

- (i) After the Registration Time for a ForexClear **NDF** Contract, the ForexClear Service links a Settlement Rate Option to it in accordance with the Relevant EMTA Template or given LCH G10 NDF Contract Template, as applicable.
- (ii) On the Valuation Date, the Clearing House uses the Settlement Rate for the Currency Pair for the ForexClear **NDF** Contract when it is published by Reuters, and calculates the Settlement Currency Amount for each ForexClear **NDF** Contract in the Settlement Currency by applying the relevant Settlement Rate Option as referenced in the Relevant EMTA Template or given LCH G10 NDF Contract Template, as applicable.

1.3.9 If the Settlement Rate Option set out in the Relevant EMTA Template or given LCH G10 NDF Contract Template, as applicable, is unavailable at the relevant time, Disruption Fallback alternatives for the determination of the Settlement Rate will apply as set out in the Relevant EMTA Template or given LCH G10 NDF Contract Template, as applicable. Notwithstanding the foregoing, in the event the Clearing House determines (in its sole discretion) that a Settlement Rate Option is unavailable, the Clearing House will determine an alternative Settlement Rate Option.

1.3.10 *Settlement:* With respect to each ForexClear **NDF** Contract, the Settlement Currency Amount is calculated by the application of the Settlement Rate to the Notional Amount in accordance with the ForexClear **NDF** Contract Terms.

From (and including) the Registration Time to (and including) the Business Day immediately preceding the Settlement Date, changes in the daily value of open ForexClear **NDF** Contracts will have resulted in variation margin credits and debits between the parties (as set out at Section 1.5.2 (*Variation Margin*)). With respect to each ForexClear **NDF** Contract, on the Business Day immediately preceding the Settlement Date, the Clearing House nets the Settlement Currency Amount against the aggregate net variation margin which has been paid/received through the term of the ForexClear **NDF** Contract, the result of which is a Net Settlement Amount ("NSA"), which will be reflected in the FXCCMs' cash accounts with the Clearing House on the Settlement Date. As such, with respect to each ForexClear **NDF** Contract, the transfer to the Clearing House of all the Collateral in respect of the variation margin required during the term of such ForexClear **NDF** Contract shall satisfy the relevant party's obligation to pay the Settlement Currency Amount on the Settlement Date of such ForexClear **NDF** Contract. For the purpose of providing Nostro reconciliations, to the relevant parties, the Clearing House

Deleted: January

will provide Reporting (as defined in Section 1.7 (*ForexClear Reporting*)) which will reflect an entry for the "Settlement Currency Amount" and a separate entry for the reversal of the aggregate net variation margin which has been paid/received through the term of the ForexClear NDF Contract. This paragraph applies even if the Settlement Date has been adjusted in accordance with the ForexClear NDF Contract Terms.

- 1.3.11 *Portfolio Management*: The Clearing House allows portfolios of ForexClear Contracts to be transferred between FXCCMs (e.g. in the event of merger, or where agreed between the relevant FXPs).

The portfolio transfer capability allows the transfer of:

- (a) A single ForexClear Contract.
- (b) Part of an FXCCM's portfolio (which includes the ability to transfer ForexClear Contracts to various other FXCCMs, e.g. Bank A to Bank B for USD/RUB, Bank A to Bank C for USD/KRW and Bank A to Bank D for USD/BRL).
- (c) Portfolio transfer (i.e. the transfer of all or just one of the portfolios belonging to an FXCCM).
- (d) Multiple portfolio transfers (i.e. the transfer of several portfolios of an FXCCM).

The Clearing House will carry out the portfolio transfer. For transfers under (b), (c) and (d), this can be on either (i) a ForexClear Contract by ForexClear Contract basis, or (ii) in respect of ForexClear NDF Contracts, on a Currency Pair basis.

Before the completion of a portfolio transfer, the Clearing House will perform a margin impact analysis of the transfer to the source and destination portfolios. The Clearing House will advise the relevant FXCCM regarding any additional Collateral that may be required in order to complete the portfolio transfer.

- (e) *Legal Documentation*: The transfer of ForexClear Contracts will be documented in accordance with the standard legal documentation for the transfer of ForexClear Contracts provided by the Clearing House to FXPs. Any such transfer must be authorised by all relevant parties and executed by individuals with appropriate signing authority.

#### 1.3.12 *Reference Data*

- (a) *Holiday Event Calendar*:

The ForexClear Service uses the SwapsMonitor Financial Calendar (as published by Swaps Monitor Publications, INC.) ("**SwapsMonitor Financial Calendar**") in order to determine holidays. This requires all ForexClear Participants to be licensees of the SwapsMonitor Financial Calendar.

Deleted:

Deleted:

Deleted: or

Deleted: January

If a change is declared that affects the SwapsMonitor Financial Calendar that is referenced on ForexClear, then a corresponding calendar adjustment will be made to the ForexClear system, unless the Clearing House informs FXCCMs by notice on its website (at [www.lchclearnet.com/asset-classes/foreign-exchange/products](http://www.lchclearnet.com/asset-classes/foreign-exchange/products), or such other web page as the Clearing House determines) that the relevant change will not apply to ForexClear Contracts. a corresponding calendar adjustment will be made to the ForexClear system. The Clearing House may temporarily close the ForexClear Service to process a calendar adjustment in its clearing system. FXCCMs will be notified in advance of the date, time and expected duration of such closure.

(b) *Date Adjustment:*

As a result of the calendar adjustment process, (i) the Valuation Date and/or the Settlement Date of any affected ForexClear NDF Contracts will automatically be date adjusted in accordance with the provisions of the Relevant EMTA Template or given LCH G10 NDF Contract Template, as applicable and (ii) the Settlement Date of any affected ForexClear Spot Contract, ForexClear Swap Contract, ForexClear Deliverable Forward Contract, or ForexClear Option Contract and the Premium Payment Date of any affected ForexClear Option Contract will automatically be date adjusted in accordance with the Following Business Day Convention, as detailed in the ISDA definitions.

The Clearing House will notify the FXCCMs via file download from the Clearing Member Reporting as to any ForexClear NDF Contract, ForexClear Spot Contract, ForexClear Swap Contract, ForexClear Deliverable Forward Contract, or ForexClear Option Contract affected and the date adjustments made.

Deleted: the ForexClear Contracts

1.4 **Market Data**

1.4.1 *Sources used by ForexClear Service:* With respect to each ForexClear Contract, the ForexClear Service collates instrument quotes for the following from multiple market sources (as detailed in Section 1.4.2 (*Market Data Sources and Frequencies*)) in relation to each Currency Pair, or ForexClear Currency Pair:

Deleted: The

Deleted:

- (a) FX spot rates ("FX Spot Rates");
- (b) FX swap points ("FX Swap Points");
- (c) FX implied volatility points ("FX Volatility Points");
- (d) FX NDF Settlement Rate Option;
- (e) Interest rate swap curves and Overnight index swap curves ("Interest Rate Curves");

Deleted: (see paragraph of Section (Curve Building in ForexClear) below)

Deleted: January

- (f) PAI rates ("PAI Rates");
- (g) Country credit spreads ("Country Credit Spreads"); and
- (h) FX spot reference prices ("FX Spot Reference Prices"),

together, "Market Data".

FX Spot Rates, FX Swap Points and FX Volatility are received by the Clearing House via a live link from all eligible FXCCMs during the Opening Hours (as defined in paragraph (b) of Section 1.2.2 (Service Operating Hours)).

1.4.2 *Market Data Sources and Frequencies:* The Clearing House receives the following updated raw prices:

- (a) FX Spot Rates:
  - (i) Source – contributing FXCCMs.
  - (ii) Frequency - every time updated by contributing FXCCMs up to a maximum rate of once every five minutes.
- (b) FX Swap Points:
  - (i) Source - all contributing FXCCMs.
  - (ii) Frequency - every time updated by contributing FXCCMs up to a maximum rate of once every five minutes.
  - (iii) FX NDF tenors – as shown in the table below.

Tenor
S/N
1 week
1 month
2 months
3 months
6 months
12 months
24 months

- (iv) FX Deliverable tenors – as shown in the table below:

Tenor
<u>O/N</u>
<u>T/N</u>
<u>S/N</u>
<u>1 week</u>
<u>2 weeks</u>
<u>1 month</u>

Deleted: <#>USD LIBOR Curve,¶

Deleted: and

Deleted: (see Section (

Deleted: ) below) ("Country Credit Spreads").

Deleted: and

Deleted: Tenors

Deleted: ¶

Deleted: January

<b>Tenor</b>
<u>2 months</u>
<u>3 months</u>
<u>6 months</u>
<u>9 months</u>
<u>12 months</u>
<u>18 months</u>
<u>24 months</u>

(c) FX Volatility Points:

- (i) Source – all contributing FXCCMs.
- (ii) Frequency – every time updated by contributing FXCCMs up to a maximum rate of once every five minutes.
- (iii) Deltas and Tenors – as shown in the tables below. All delta points should be contributed for each tenor.

<b>Tenor</b>
<u>O/N</u>
<u>1 week</u>
<u>2 weeks</u>
<u>1 month</u>
<u>2 months</u>
<u>3 months</u>
<u>6 months</u>
<u>9 months</u>
<u>12 months</u>
<u>18 months</u>
<u>24 months</u>

<b>Deltas</b>
<u>ATM</u>
<u>25-RR</u>
<u>25-Fly</u>
<u>10-RR</u>
<u>10-Fly</u>

(d) FX NDF Settlement Rates:

- (i) Source - Reuters.
- (ii) Frequency - when published (as referenced in the Relevant EMTA Template or given LCH G10 NDF Contract Template, as applicable).

Deleted: Options

Deleted: January



- (e) Interest Rate Curves:
  - (i) Source - internal Clearing House.
  - (ii) Frequency - at each SwapClear margin run.
- (f) PAI rates:
  - (i) Source - LCH Treasury.
  - (ii) Frequency - daily.

**Deleted:** <#>Country Credit Spreads ¶  
 <#>Source - Bloomberg ¶  
 <#>Frequency - when published ¶  
 <#>USD LIBOR Curve ¶  
 <#>Source - SwapClear ¶  
 <#>Frequency - at each SwapClear margin run ¶

(g) Country Credit Spreads:

**Deleted:** <#> [Not Used]¶

- (i) Source – Bloomberg.
- (ii) Frequency – when published.

(h) FX Spot Reference Prices:

- (i) Source – the source published on the ForexClear website from time to time.
- (ii) Frequency – at each expiration time.

1.4.3 *Market Data Provision to FXCCMs:* Market Data used in a Margin Run is made available to FXCCMs via ForexClear Reporting (as defined in Section 1.7 (ForexClear Reporting)).

1.4.4 *Curve Building in ForexClear*

(a) *FX Curve (Zero Coupon/Market Rate Curve):* The Clearing House builds for each Currency Pair an FX curve (zero coupon/market rate curve) using the FX Spot Rates, FX Swap Points and the USD LIBOR Curve. The currency zero coupon curves are implied from the FX curve and the USD LIBOR Curve; the FX curve is used for capitalisation of forward cash flows. Cross rates spot and forward curves will be triangulated from the non cross currency pairs (i.e., the currency pairs where USD is one of the currencies). Linear interpolation is applied on zero coupon curves.

**Deleted:** based on interpolation techniques agreed through the ForexClear Risk & Trading Working Group (a group comprising the Clearing House and FXCCM's risk and trading representatives) ("RTWG")

**Deleted:** is used for discounting

(b) *Implied Volatility Surface:* The Clearing House builds for each Currency Pair or ForexClear Currency Pair an FX Implied Volatility Surface using the FX Volatility Points. Implied volatility interpolation is performed along both the delta and tenor axes. Interpolation is firstly applied on the delta axis of the two neighbouring implied volatility smiles, and then tenor axis interpolation is applied. To prevent arbitrages on the input volatility surfaces impacting on margining calculations, a de-arbitraging methodology is applied where an arbitrage exists on any reference volatility surfaces.

**Deleted:** January

- (c) *Interest Rate Curve*: The Clearing House applies standard bootstrap method to build the Interest Rate Curve. Linear interpolation is applied on zero coupon curves.
- (d) *Curve Use*: End of day is defined as 22.00 local London time ("EOD"). The following EOD data is used in the calculation of risk analytics for an EOD Margin Run (as defined in paragraph (b) of Section 1.6.1 (*Types of Margin Runs*)):
- (i) FX Spot Rates;
  - (ii) FX Swap Points; and
  - (iii) FX Volatility Points.
- 1.4.5 *Country Credit Spreads*: The Clearing House takes country credit spreads (in relation to Brazil, Russia, India, China, Chile, South Korea, Colombia, Indonesia, Malaysia, Philippines and Taiwan) from Bloomberg for use in risk multiplier calculations.

Deleted: the linear interpolation

Deleted: and

## 1.5 Valuation and Margin

### 1.5.1 Product Valuation

- (a) ForexClear NDF Contract: From (and including) the Registration Time to the EOD Margin Run on the business day preceding the Valuation Date, each ForexClear NDF Contract is valued in USD using the current market rates and discounted from the future Settlement Date to its present value (being valued using the data submitted by FXCCMs, in accordance with Section 1.4.2 (*Market Data Sources and Frequencies*)).

Deleted: Net Present Value ("NPV")

At EOD on the Valuation Date, the Settlement Rate is used to value the ForexClear NDF Contract.

If Valuation Postponement applies, the ForexClear NDF Contract is valued using the current forward price (based on the data submitted by FXCCMs, in accordance with Section 1.4.2 (*Market Data Sources and Frequencies*)) to (and including) the date on which the Settlement Rate is determined in accordance with the ForexClear NDF Contract Terms.

In the event a Settlement Rate or market rate is unavailable, as determined by the Clearing House in its sole discretion, the Clearing House will determine an alternative Settlement Rate or market rate.

- (b) ForexClear Spot Contracts, ForexClear Deliverable Forward Contracts and ForexClear Swap Contracts: From (and including) the Registration Time to the EOD Margin Run on the business day preceding the Settlement Date, each ForexClear Spot Contract, ForexClear Deliverable Forward Contract and ForexClear Swap Contract is valued in either USD or EUR using the current market rates

Deleted: January

and discounted from the future Settlement Date to its present value (using the data submitted by FXCCMs, in accordance with Section 1.5.2 (Market Data Sources and Frequencies)).

(c) *ForexClear Option Contracts:* From (and including) the Registration Time to the Expiration Date, each ForexClear Option Contract is valued in USD or EUR using the Garman-Kohlhagen option pricing model (using the data submitted by FXCCMs, in accordance with Section 1.5.2 (Market Data Sources and Frequencies)).

- 1.5.2 *Variation Margin:* Separate variation margin calculations are performed for a FXCCM's Proprietary Account, each Client Account (other than an Indirect Gross Account) and each Indirect Gross Sub-Account within an Indirect Gross Account. No offset between the Proprietary Accounts and Client Accounts accounts is allowed (except pursuant to Rule 8(d) of the Default Rules or any Insufficient Resources Determination Rule) and no offset between any Client Accounts is allowed (except pursuant to Rule 15(a)(ii) of the Default Rules, a Cross-ISA Client Excess Deduction or any Insufficient Resources Determination Rule).

The variation margin requirement in respect of each ForexClear Contract is calculated at EOD as the change from the preceding business day in its NPV. The net sum of the variation margin requirements with respect to all of the open ForexClear Contracts is credited or debited (separately for the Proprietary Account and each Client Account of the relevant FXCCM) once a day, following the EOD Margin Run.

Collateral in respect of variation margin (adjusted by PAI, as set out below) will be transferred each business day by or to each FXCCM in respect of all of its open ForexClear Contracts. The variation margin will be calculated in, and must be paid in, USD or such other currency as specified by the Clearing House from time to time.

For the avoidance of doubt, any transfers of cash Collateral by an FXCCM to the Clearing House in respect of the FXCCM's variation margin obligations or by the Clearing House to an FXCCM in respect of the Clearing House's variation margin obligations shall be for the purposes of collateralisation and not settlement of obligations under the relevant contracts.

With respect to each ForexClear Contract, the variation margin requirement is calculated every business day from (and including) the Registration Time to (and including) the EOD on the business day immediately preceding the Settlement Date.

For the avoidance of doubt, "variation margin" as used herein shall include trade variation margin and Option Premium variation margin.

- 1.5.3 *Reporting Breakdown:* ForexClear margin reports show the portfolio of open ForexClear NDF Contracts of each FXCCM and of each FXD by Currency Pairs and in the Settlement Currency (i.e. USD). ForexClear margin reports also show the portfolio of open ForexClear Option Contracts, ForexClear Spot

Deleted: USD)

Deleted: January

Contracts and ForexClear Deliverable Forward Contracts of each FXCCM and of each FXD by ForexClear Currency Pair.

1.5.4 *Price Alignment Interest ("PAI")*: The effect of daily transfers of cash Collateral in respect of variation margin results in the need for PAI. Without this adjustment, the pricing of ForexClear Contracts would differ from identical uncleared trades, as cash earned from favourable daily price moves would be priced into the product.

- (a) *PAI Calculation Methodology*: PAI is calculated at EOD on each business day from (and including) the first business day after the Trade Date to (and including) the business day immediately preceding the Settlement Date, and the currency in which the PAI payment is denominated for a given ForexClear Contract (other than a ForexClear NDF Contract) shall be determined in accordance with the table set out in 1.6.2 above.

In this Section 1.5.4 (Price Alignment Interest), "T" means any given business day; "T-1" means the business day immediately preceding T; "T+1" means the business day immediately following T; and "MTM" means the total value (expressed in the relevant currency) of an FXCCM's portfolio open of ForexClear Contracts after valuation in accordance with Section 1.5.2 (*Valuation Margin*) at close of business on any business day. The Clearing House calculates PAI in USD once a day at EOD.

- (i) Principles:
- (A) MTM is calculated at EOD on T-1.
  - (B) Change in MTM (net variation margin obligations in respect of an FXCCM's portfolio of open ForexClear Contracts) is paid/ received on the morning of T.
  - (C) PAI Rate for T to be applied is known at EOD T.
  - (D) PAI is calculated on the night of T, for MTM of T-1 for ForexClear Contracts up to the business day before their Settlement Date.
  - (E) PAI is paid / received on morning of T+1 via PPS.
- (ii) Components:
- (A) PAI Rate (annualised interest applied to an FXCCM's MTM).
  - (B) MTM.
  - (C) Accrual Factor (factor used to convert the PAI Rate from an annual rate to a daily rate, on a basis of a year of 360 days).

Deleted: 1 5 3

Deleted: USD

Deleted: January

(iii) So:

(A)  $PAI_T = PAI_{Rate} \times MTMT - I \times \text{Accrual Factor}$ .

The Clearing House uses the PAI Rate from the relevant EOD overnight index swap curves, which is sourced from the Clearing House.

(b) Variation Margin/PAI Adjustment: With respect to each FXCCM, the Clearing House makes the following adjustment to the EOD variation margin:

Deleted: variation margin

(i) if, with respect to its portfolio of open ForexClear Contracts, such FXCCM has (to but excluding the relevant EOD) paid an amount of Collateral in respect of variation margin greater than the amount of Collateral in respect of variation margin it has received, such FXCCM will receive PAI; and

(ii) if, with respect to its portfolio of open ForexClear Contracts, such FXCCM has (to but excluding the relevant EOD) received an amount of Collateral in respect of variation margin greater than the amount of Collateral in respect of variation margin it has provided, such FXCCM will pay PAI.

1.5.5 Initial Margin: The Clearing House will require FXCCMs to transfer Collateral to the Clearing House in respect of initial margin. Each FXCCM's initial margin obligation will comprise the aggregate of the initial margin obligations separately calculated in relation to (i) the ForexClear NDF Service and (ii) the ForexClear Option Service.

(a) Calculation of Initial Margin: Separate initial margin calculations are performed for a FXCCM's Proprietary Account, each Client Account (other than an Indirect Gross Account) and each Indirect Gross Sub-Account within an Indirect Gross Account. No offset between the Proprietary Accounts and the Client Accounts is allowed (except pursuant to Rule 8(d) of the Default Rules or any Insufficient Resources Determination Rule) and no offset between any Client Accounts is allowed (except pursuant to Rule 15(a)(ii) of the Default Rules, a Cross-ISA Client Excess Deduction or any Insufficient Resources Determination Rule).

The initial margin obligation is calculated on a real-time (or near real-time) basis throughout each day. With respect to each FXCCM, it is calculated for the portfolio of open ForexClear Contracts and ForexClear Transactions using ForexClear's Portfolio Analysis and Risk ("FxPAR") margining model. FxPAR is based on a modified historical simulation expected shortfall methodology. All open ForexClear Contracts and ForexClear Transactions in each Currency Pair are re-valued under a series of FX rate and yield curve scenarios to estimate the potential portfolio profit and loss and therefore the initial margin requirement.

Deleted: will be

Deleted: within the day and at EOD

Deleted: business day as part of each Margin Run

Deleted: .

Deleted: value-at-risk

Deleted: cross portfolio

Deleted: January



The adequacy of the initial margin calculation is reviewed daily. ForexClear Clearing Members will usually be notified by the Clearing House of alterations to margin model parameters no later than the day before calls are made based on the new parameters. Further details of this method are available upon request from the ForexClear Risk team.

FxPAR uses the market data submitted by FXCCMs pursuant to paragraph 1.5.1(a) (*Product Valuation*).

*Initial Margin Add-ons*: Credit risk, liquidity risk and sovereign risk margin add-ons are measured and applied to FXCCMs as part of the initial margin requirement calculation.

- (b) *Credit Risk Margin ("CRiM")*: CRiM reflects the additional risk related to the FXCCM's credit quality. The CRiM calculation considers the FXCCM's credit worthiness, initial margin obligation level and/or stress testing exposures in accordance with LCH.Clearnet Credit Risk Policy.
- (c) *Liquidity Risk Margin ("LRM")*: LRM reflects the additional risk due to the FXCCM having concentrated risk exposures above set thresholds in a particular Currency Pair or ForexClear Currency Pair or tenor of ForexClear Contracts. The LRM is calculated in accordance with parameters set by the ForexClear Default Management Group (the "FXDMG").
- (d) *Sovereign Risk Margin ("SRM")*: SRM reflects the additional risk related to a potential country default or a change in a country's currency regime which would impact ForexClear Contracts transacted in certain Reference Currencies. The SRM calculation considers the probability of sovereign default occurring and the depreciation or appreciation risk of the Reference Currencies. The SRM sovereign default probability is calculated by assessing the three month probability of default for the different sovereign countries, based on the country's 5-year credit default swap (CDS) spread.
- (e) *Settlement Management Margin ("SMM")*: SMM reflects the additional risk associated with a potential settlement failure. The SMM calculation considers the FXCCM's future settlement obligations in each of the relevant currencies and the potential cost of utilising and replenishing liquidity provisions, where required, to fulfil those settlement obligations.
- (f) *Additional Margin*: The Clearing House may require an FXCCM to transfer additional Collateral to the Clearing House (in addition to amounts of Collateral already transferred to the Clearing House in respect of initial margin and variation margin obligations) as security for the performance by an FXCCM of its obligations to the Clearing House in respect of ForexClear Contracts to which such FXCCM is a party in accordance with Regulation 20 (*Margin and Collateral*). This may be required from time to time where, in the opinion of the

**Deleted:** These scenarios will be continually monitored and reviewed periodically or on an ad hoc basis according to market conditions.

**Deleted:** Risk Multipliers

**Deleted:** Multiplier

**Deleted:** applied will consider

**Deleted:** multiplier ("LRMM")  
Where an

**Deleted:** has an exposure

**Deleted:** , the LRMM is applied and additional Collateral in respect of the initial margin obligation is required.

**Deleted:** LRMM

**Deleted:** \*) according to tenor and notional concentration. The thresholds are reviewed quarterly and use prevailing perceptions of market conditions as seen by the FXDMG.

**Deleted:** <#>LRMM increases the Collateral called in respect of the initial margin obligation due to concentrated Currency Pair exposure by tenor of ForexClear Contracts. Additional Collateral is called to mitigate the risk of a position not being closed out in five days and/or the extra hedging costs that may be incurred.  
<#>The Clearing House calculates and applies LRMM as part of each Margin Run, based on the LRMM for each Currency Pair in the FXCCM's "H" position-keeping account.

**Deleted:** multiplier

**Deleted:** ")  
An

**Deleted:** is applied when there is a perceived risk of sovereign

**Deleted:** takes into account

**Deleted:** or a regime change event

**Deleted:** ,

**Deleted:** ¶

**Deleted:** ¶

**Deleted:** The probability of a regime change event is estimated based on historical events and publicly available data for the different sovereign countries. The country CDS spreads are reviewed and updated weekly.

**Deleted:** <#>The Clearing House calculates and applies the SRM as part of each Margin Run, for each Currency Pair in the FXCCM's house position-keeping account.

**Deleted:** January

Clearing House, the risk inherent in ForexClear Contracts to which such FXCCM is a party not adequately covered by the Collateral transferred in respect of the initial margin or variation margin obligations. This may cover instances where stress testing losses under various scenarios provided in the ForexClear Default Rules have increased.

- (g) *Minimum Excess Requirement Buffer ("MER Buffer")*: To facilitate the intraday registration of ForexClear Contracts, at each EOD Margin Run, the Clearing House will call from each FXCCM an amount of Collateral in respect of the initial margin obligation referred to as "**Minimum Excess Requirement Buffer**" ("**MER Buffer**") in respect of that FXCCM's potential intraday Liabilities (as defined below at Section 1.6.2 (*Margin Run Process*)) for the following day.

The required amount of MER Buffer for an FXCCM is expressed as a percentage of the FXCCM's start-of-day portfolio initial margin, and is calibrated daily based on recent member activity such that higher levels of intraday trade volumes lead to a proportionally higher MER Buffer requirement and vice versa. The MER Buffer percentage is calculated as a given percentile of intraday peak relative initial margin changes over a given number of historical business days.

The parameters of the MER model are: MER percentile, MER lookback period, relative MER cap and absolute MER floor. The values of these parameters are calibrated based on the quantitative analysis of the FXCCMs' initial margin history across the ForexClear Service.

As ForexClear Contracts are registered in an FXCCM's name, the Clearing House will, in accordance with the Margin Run process, calculate an FXCCM's intraday Liabilities (or, in the case of an Incremental Risk Check, the FXCCM's estimated Liabilities), taking into account any MER Buffer.

At each EOD Margin Run, the Clearing House will recalculate and call the FXCCM's MER Buffer for the following day.

- 1.5.6 *Mutualised Credit Extension ("MCE")*: If an FXCCM has insufficient Collateral to enable the registration of further ForexClear Contracts in its name, then the Clearing House may make available to an FXCCM intraday credit by way of a Mutualised Credit Extension ("MCE") to enable the FXCCM to register further ForexClear Contracts. An FXCCM may utilise MCE intraday on a one-to-one basis to the value of the Collateral in respect of initial margin that would have been required to cover that FXCCM's Liabilities (or, in the case of Incremental Risk Checks, the FXCCM's estimated Liabilities). The amount of the MCE made available to an FXCCM in aggregate during any one day must not exceed an amount that is the lesser of: (a) 50% of the ForexClear MCE Default Fund Buffer; or (b) the sum of the FXCCM's Collateral in respect of initial margin and ForexClear Contribution. The amount of the "**ForexClear MCE Default Fund Buffer**" is currently

Deleted: January

zero and therefore the Clearing House will not provide MCE to any FXCCM until further notice.

For the avoidance of doubt, MCE is provided in the form of intraday initial margin forbearance and an FXCCM's utilisation of MCE does not give rise to any payment or transfer of collateral by the Clearing House nor does it result in any use of the ForexClear Fund Amount (except in events of default).

All MCE credit extended on any given day shall be revoked at the close of business on such day (unless revoked earlier in accordance with the following paragraph). As part of each EOD Margin Run, the Clearing House will call Collateral in respect of initial margin obligations from each FXCCM to replace any utilised MCE and that FXCCM's MCE will be reset for the following day (assuming such FXCCM has satisfied any margin calls). Any failure of an FXCCM to satisfy an initial margin call relating to the replacement of MCE constitutes a default by such FXCCM – just as any failure by an FXCCM to satisfy any other type of initial margin call constitutes a default.

The MCE is made available at the Clearing House's sole discretion. In particular (but without limitation), the Clearing House may refuse to extend MCE to any or all FXCCMs on risk management grounds, and may at any time require an FXCCM to provide Collateral in respect of initial margin in place of any utilised MCE.

- 1.5.7 *Initial Margin Management Events Service ("IMMES")*: IMMES aims to find risk and initial margin reducing ForexClear Contracts amongst participating FXCCMs. IMMES can be run on all Currency Pairs that are cleared through the ForexClear Service, although the primary focus will be on those Currency Pairs that contribute to the largest Collateral requirement.

FXCCMs who wish to obtain further information about, or to participate in, IMMES should contact ForexClear Risk on 0207 426 7527. To be eligible to participate in IMMES, an FXCCM must enter into an IMMES agreement with the Clearing House (the "**IMMES Agreement**").

## 1.6 General Margining Process

A "**Margin Run**" is the process by which the Clearing House calculates an FXCCM's initial margin requirement (if any) and, during an EOD Margin Run, its variation margin requirement and PAI adjustment (if required) (together its "**Margin Requirements**") and applies that FXCCM's Collateral to satisfy the Margin Requirements for that FXCCM in respect of the ForexClear Contracts within that FXCCM's portfolio.

- 1.6.1 *Types of Margin Runs*: There are three types of Margin Run:

- (a) *ITD/Ad Hoc - Day Margin Run*
- (i) ITD/Ad-hoc London daytime Margin Runs are initiated as and when dictated by the schedule published by the Clearing House

### Deleted: Business Operations

**Deleted:** <# - Step-By-Step Details¶  
<#>The Clearing House usually conducts the IMMES at least monthly ¶  
<#>A reminder that there is an IMMES run taking place is sent out the week before to each FXCCM which is a party to an IMMES Agreement with LCH and each FXCCM is asked to confirm their participation ¶  
<#>On the day of the scheduled IMMES run, the Clearing House analyses all participating FXCCMs' profiles to find ForexClear Contracts with equivalent and opposite delta values by tenor and Currency Pair to compile a list of offsetting suggested trades that are mutually beneficial in terms of initial margin obligation reduction (the "IMMES Trades") ¶  
<#>The Clearing House then analyses the relevant FXCCM ForexClear Contract portfolios with the IMMES Trades and determines the change in NPV, initial margin, delta and zero yield sensitivity from the IMMES Trades ¶  
<#>The FXCCMs on either side of the trades are advised of the economic details of the IMMES Trades ¶  
<#>If the two FXCCMs agree to undertake the IMMES Trades, the Clearing House will then put them in touch with each other. The FXCCMs will enter into the bilateral IMMES Trades and submit them to the Clearing House through the ForexClear Approved Trade Source System for registration ¶

**Deleted:** January

and notified to FXCCMs from time to time (the "**Schedule**") or as necessary, and are performed in the time period during which a PPS call can be made (the "**ITD/Ad-hoc Day Margin Run**"). PPS times are published on the Clearing House's website at: <http://www.lch.com/en/risk-collateral-management/collateral-management/protected-payments-system/pps-concentration-activities>.

Deleted: risk\_management/itd/pps/

- (ii) ITD/Ad-hoc Margin Runs are calls in respect of the initial margin obligation only. The variation margin obligation and PAI are not included in ITD/Ad-hoc Margin Runs.
- (b) *EOD Margin Run*
  - (i) The EOD Margin Run is the final ITD/Ad-hoc Day Margin Run that completes by 24:00 local London time on that business day (the "**EOD Margin Run**").
  - (ii) EOD Margin Runs are calls in respect of initial margin as well as variation margin obligations and PAI.
- (c) *ITD / Ad Hoc - Night Margin Run*
  - (i) ITD/Ad-hoc London overnight Margin Runs are initiated as and when dictated by the Schedule or as necessary, and are performed in the time period during which a PPS call cannot be made (the "**ITD/Ad-hoc Night Margin Run**").
  - (ii) ITD/Ad-hoc Night Margin Runs are calls in respect of the initial margin obligation only. The variation margin obligation and PAI are not included in ITD/Ad-hoc Night Margin Runs.

#### 16.2 *Margin Run Process*

- (a) Margin Runs cover all registered ForexClear Contracts with the status "**NOVATED**".
- (b) Margin runs will be carried out for each ForexClear Contract and ForexClear Transaction (as the case maybe) until (and including) the later of:
  - (i) EOD Margin Run on the Settlement Date; or
  - (ii) EOD Margin Run after the Settlement Rate is published.
- (c) During every Margin Run the Clearing House calculates the Collateral required in respect of the initial margin obligations and (where applicable) the Collateral required in respect of the variation margin obligations and PAI required to cover each FXCCM's relevant open ForexClear Contracts and ForexClear Transactions (each a "**Liability**" and together the "**Liabilities**"). For these purposes, liabilities in respect of the open ForexClear Contracts and ForexClear Transactions

Deleted: January

Market Data and Settlement Rate used in the valuation of ForexClear Contracts and reports of Market Data shifts for each historic scenario used in the initial margin requirement calculations.

- 1.7.3 *Trade Reports:* Reports are provided that enable FXCCMs to monitor their firms' trading events and positions in respect of ForexClear. Reports on open ForexClear Contracts and on cancelled ForexClear Transactions and ForexClear Contracts are generated at EOD and reports on transferred ForexClear Contracts are made on an ad hoc basis.
- 1.7.4 *Trade Fixing and Settlement Reports:* Reports are published on each business day detailing the ForexClear Contracts to which the Settlement Rate has been applied on that business day (the "**FX Transaction Fixings**" report), ForexClear Contracts that have been settled during that current business day (the "**Settlements Today**" report) and ForexClear Contracts that will settle the next business day (the "**FX Transactions' Fixed with Settlement Tomorrow**" report).
- 1.7.5 *Fees Reports:* Reports on trading volumes on a daily and monthly basis are provided to FXCCMs. Monthly reports are provided on the last business day of each month. They include the full trading volumes on which the monthly transaction fees will be charged to those FXCCMs choosing to have tariffs levied per transaction.
- 1.7.6 *Banking Reports:* [Follow this link for a full list of banking reports.](#)<sup>2</sup>
- 1.7.7 *Real-time Reporting:* A near real-time view of member liabilities, collateral pledged, collateral and credit utilisation will be available from the ForexClear Service Portal (referred to in paragraph (e) of Section 1.6.2 (*Margin Run Process*)).

1.7.8 *Settlement Limit Reports:* As further described in 1.19 (*Settlement Limits for ForexClear Option Contracts, ForexClear Deliverable Forward Contract and ForexClear Spot Contracts*).

## 1.8 Treasury Operations & Collateral Management

- 1.8.1 *Cover Distribution:* The Clearing House nets each FXCCM's Liabilities (i.e. margins and multipliers) and then the total of cash Collateral and non-cash Collateral are applied to offset those net Liabilities. This process is known as collateral distribution ("**Collateral Distribution**"). FXCCMs can choose whether cash or non-cash Collateral should be applied first. At the end of this process, if an FXCCM has a shortfall, a PPS (as defined in Section 1.8.2 (*Protected Payment System*) below) call for additional Collateral is made.

<sup>2</sup> [http://www.lch.com/documents/731485/762647/Banking\\_Reports\\_Reference\\_Guide\\_Ltd.pdf/662aec8d-2c06-48cb-b946-fe3b03e2dfa9http://www.lchclearnet.com/membership/training\\_and\\_education/](http://www.lch.com/documents/731485/762647/Banking_Reports_Reference_Guide_Ltd.pdf/662aec8d-2c06-48cb-b946-fe3b03e2dfa9http://www.lchclearnet.com/membership/training_and_education/)

Deleted: NDF

Deleted: NDF's

Deleted: <sup>2</sup>

Deleted: January



## 1.15 Compression

1.15.1 A ForexClear Clearing Member may compress existing ForexClear Contracts (other than ForexClear Contracts that are ForexClear Option Contracts, ForexClear Swap Contracts, ForexClear Spot Contracts and ForexClear Deliverable Forward Contracts) in accordance with Regulation 95. There are two options available to a ForexClear Clearing Member that wishes to compress such ForexClear Contracts:

- (a) a ForexClear Clearing Member can request that all such ForexClear Contracts entered into (i) on behalf of a designated ForexClear Clearing Client and in respect of a particular Client Account (or, where relevant, in respect of an Indirect Gross Sub-Account), or (ii) on such ForexClear 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 ForexClear Clearing Member after the applicable scheduled compression run) until the ForexClear Clearing Member notifies the Clearing House to discontinue such compression of such ForexClear Contracts. ForexClear Clearing Members should contact the Clearing House's Membership Department to request such a compression of such ForexClear Contracts; or
- (b) a ForexClear Clearing Member may notify the Clearing House directly through the ClearLink API specifying which such ForexClear Contracts and/or Resulting ForexClear Contracts should be compressed. The ForexClear Clearing Member will be notified after the applicable scheduled compression run whether compression has occurred and the Clearing House will not automatically reconsider such compression request on subsequent days regardless of whether compression has occurred.

1.15.2 In order to compress such a ForexClear Contract, a ForexClear Clearing Member must follow the process for compression as set out above and must, at the time of compression, have in its applicable Client Account or Proprietary Account ForexClear Contracts with the same compression identifier (being an identifier applied by the Clearing House which indicates that such ForexClear Contracts are eligible for compression).

1.15.3 In respect of each compression, the Clearing House will notify ForexClear Clearing Members of the cut-off time by which the Clearing House must be notified of the relevant ForexClear Contracts and/or Resulting ForexClear Contracts to be compressed in order for such ForexClear Contracts and/or Resulting ForexClear Contracts to be included in the relevant compression run. The Clearing House shall process the compression of all ForexClear Contracts and Resulting ForexClear Contracts notified to it prior to such cut-off time and shall notify the applicable ForexClear Clearing Member after the applicable compression run of the result of such compression procedure. A notification

Deleted: 94

Deleted: January

received after the relevant cut-off time shall be treated as if such notification was submitted on the following day.

- 1.15.4 Following the compression process described above and as further set out in Regulation 95, the applicable ForexClear 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 ForexClear Contracts as notified to the ForexClear Clearing Member by the Clearing House.

Deleted: 94

### 1.16 Exercise and Expiry Agent

Deleted: ¶

1.16.1 ForexClear Clearing Members may facilitate or communicate the exercise of (or intent to exercise) ForexClear Option Contracts to the Clearing House via an exercise and expiry agent. The Clearing House may determine, in its sole discretion, the form and manner of any instruction pursuant to this Section 1.16.

1.16.2 In the event that an exercise and expiry agent is not able to facilitate or communicate the exercise of (or intent to exercise) a ForexClear Option Contract for any reason whatsoever, and the Clearing House becomes aware of such failure to facilitate or communicate, the Clearing House will notify the relevant ForexClear Clearing Members of such failure and may provide details of one or more alternative exercise methods.

1.16.3 Exercise and expiry agents may be designated by the Clearing House from time to time and such agents shall be published on the Clearing House's website.

1.16.4 Neither the Clearing House nor any other member of the LCH Group shall have any liability whatsoever to any ForexClear Clearing Member or any other person, including any Clearing Client, in contract, tort (including negligence), trust, as a fiduciary or under any other cause of action in respect of any liabilities, damages, losses, costs or expenses of whatsoever nature suffered or incurred by a ForexClear Clearing Member or any other person, including any Clearing Client, as a result of (a) any failure by the Clearing House to provide notice pursuant to Section 1.16.2 or (b) any failure of an exercise and expiry agent to communicate the exercise of (or intent to exercise) a ForexClear Option Contract to the Clearing House.

### 1.17 Automatic Exercise of ForexClear Option Contracts

1.17.1 In relation to a ForexClear Option Contract, if, at the Expiration Time on the Expiration Date of that ForexClear Option Contract, the ForexClear Option Contract has not been exercised by the relevant ForexClear Clearing Member or the Clearing House, as the case may be, then it will be deemed exercised as of that time if the In-the-Money Amount of that ForexClear Option Contract at the Expiration Time equals or exceeds the product of:

Deleted: January

- (a) the number of basis points as published on the Clearing House's website from time to time as being applicable to the ForexClear Currency Pair referenced in that ForexClear Option Contract; and
- (b) the Call Currency Amount or the Put Currency Amount, as appropriate.

1.172 For the purposes of Section 1.17.1, the Clearing House may change the number of basis point applicable to any ForexClear Currency Pair by giving three Business Days' prior notice to the ForexClear Clearing Members via the Clearing House's website or published through a circular.

1.173 If the Clearing House receives an instruction from a ForexClear Clearing Member, including via any third party intent agent or middleware provider, before the applicable Expiration Time on the Expiration Date such instruction will in all circumstances be acted upon notwithstanding any administrative, systems or processing delays that may affect the Clearing House immediately taking the action required upon receipt of such instruction. If the Clearing House receives an instruction from a ForexClear Option Clearing Member at or after the applicable Expiration Time on the Expiration Date then Section 1.17.1 shall in all circumstances apply and the Clearing House shall have no regard to such instruction.

1.174 The "In-the Money Amount" in relation to a ForexClear Option Contract shall, in respect of the Exercise Date, be equal to:

- (a) in the case of a Call, the excess of the FX Spot Reference over the Strike Price, multiplied by the Call Currency Amount, where both the Strike Price and the Settlement Rate are quoted in terms of the amount of Put Currency to be paid per one unit of Call Currency; and
- (b) in the case of a Put, the excess of the Strike Price over the FX Spot Reference, multiplied by the Put Currency Amount, where both the Strike Price and the Settlement Rate are quoted in terms of the amount of Call Currency to be paid per one unit of Put Currency.

1.175 Capitalised terms used in this Section 1.17 and not otherwise defined shall have the meanings specified for such terms in (i) the ForexClear Option Contract Terms applicable to that ForexClear Option Contract, and, if not defined therein, (ii) the 1998 FX and Currency Options Definitions (including Annex A thereto) as published by the International Swaps and Derivatives Association, Inc., the Emerging Markets Trade Association and The Foreign Exchange Committee.

## 1.18 CLS Payment Procedures

1.181 In connection with ForexClear Spot Contracts, ForexClear Deliverable Forward Contracts, ForexClear Option Contracts and ForexClear Swap Contracts, where applicable, FXCCMs are required to meet the following requirements with respect to CLS:

Deleted: January

<u>Time</u>	<u>Action or Requirement</u>
<u>00:00 CET</u>	<u>Clearing House to provide FXCCMs expected CLS funding requirements.</u>
<u>01:30 – 02:00 CET</u>	<u>Clearing House to provide FXCCMs final CLS funding requirements. FXCCMs required to make such payments by 08:00 CET.</u>
<u>06:00 – 08:00 CET</u>	<u>FXCCMs required to make payments to cover all short positions in all currencies.</u>
<u>08:00 CET</u>	<u>CLS to issue payments to FXCCMs per settlement instructions for each relevant FXCCM.</u>
<u>09:00 CET</u>	<u>Clearing House to initiate and complete liquidity provisions.</u>

1.18.2 In connection with ForexClear Spot Contracts, ForexClear Deliverable Forward Contracts, ForexClear Option Contracts and ForexClear Swap Contracts, where applicable, the following Relevant FX Liabilities are payable to CLS by FXCCMs in accordance with the Procedures and/or instructions from the Clearing House:

- (a) Notionals;
- (b) Option Premiums; and
- (c) Reversal of Cumulative Variation Margin.

1.18.3 Each ForexClear Option Clearing Member warrants that the Relevant FX Liabilities that are paid to CLS pursuant to Section 1.19.2 are transferred free from any proprietary, equitable or other similar interest of any person.

1.18.4 Each ForexClear Option Clearing Member shall at all times maintain complete and accurate written records of all Payment Transfer Orders given by it (or on its behalf) to its Member Settlement Bank(s) in respect of all amounts under all of the ForexClear Contracts (other than ForexClear NDF Contracts) registered in its name from time to time. Upon demand by the Clearing House, a ForexClear Option Clearing Member shall immediately provide all such records to the Clearing House.

**1.19 Settlement Limits for ForexClear Option Contracts, ForexClear Deliverable Forward Contracts, ForexClear Spot Contracts and ForexClear Swap Contracts**

1.19.1 Subject to the Regulations, the Clearing House shall, in its sole and absolute discretion, determine from time to time the Settlement Position Limit and Settlement Exposure Limit in respect of each ForexClear Clearing Member and each ForexClear Currency. The Clearing House shall notify each ForexClear Clearing Member of the Settlement Position Limit and Settlement Exposure Limit applicable to it via the ForexClear Service Portal.

**Deleted:** *January*

1.19.2 If, on a given day, at 10:00AM Eastern Standard Time, the Settlement Position Limit of a ForexClear Clearing Member and a given ForexClear Currency Pair is exceeded by the Settlement Position Amount on that day with respect to that ForexClear Clearing Member and that ForexClear Currency Pair, the Clearing House may take the actions specified in Regulation 100 or such other actions as it deems necessary, including requesting that ForexClear Clearing Member to transfer extra Collateral in respect of Initial Margin.

**1.20 Mandatory ForexClear Swap Limit**

1.20.1 Subject to the Regulations, the Clearing House shall, in its sole and absolute discretion, determine from time to time the Mandatory ForexClear Swap Limit in respect of each ForexClear Clearing Member and each ForexClear Currency. The Clearing House shall notify each ForexClear Clearing Member of the Mandatory ForexClear Swap Limits applicable to it via the ForexClear Service Portal.

Deleted: January



**LCH Rule Submission**

**Appendix G**

**Product Specific Contract Terms and Eligibility Criteria Manual**

**LCH** The Markets'  
Partner

---

**PRODUCT SPECIFIC CONTRACT TERMS AND ELIGIBILITY CRITERIA  
MANUAL**

---

## CONTENTS

	Page
<u>SCHEDULE 1 REPOCLEAR .....</u>	<u>3</u>
<u>Part A Repoclear Contract Terms: Repoclear Contracts arising from Repoclear Transactions, Repo Trades or Bond Trades .....</u>	<u>3</u>
<u>Part B Product Eligibility Criteria for Registration of a RepoClear Contract.....</u>	<u>9</u>
<u>Part C Repoclear Term £GC Contract Terms: Repoclear term £GC Contracts Arising From Repoclear Term £GC Transactions Or Term £GC Trades .....</u>	<u>21</u>
<u>Part D Product Eligibility Criteria for Registration of a RepoClear Term £GC Contract .....</u>	<u>28</u>
<u>Part E RepoClear GC Contract Terms: RepoClear £GC Contracts arising from RepoClear £GC Transactions or £GC Trades .....</u>	<u>30</u>
<u>Part F Product Eligibility Criteria for Registration of a RepoClear £GC Contract.....</u>	<u>31</u>
<u>SCHEDULE 2 SWAPCLEAR .....</u>	<u>32</u>
<u>Part A Swapclear Contract Terms .....</u>	<u>32</u>
<u>Part B Product Eligibility Criteria for Registration of a SwapClear Contract .....</u>	<u>47</u>
<u>SCHEDULE 3 EQUITYCLEAR.....</u>	<u>56</u>
<u>Part A EquityClear (Equities) Contract Terms.....</u>	<u>56</u>
<u>Part B EquityClear Eligible (Equities) .....</u>	<u>58</u>
<u>Part C EquityClear (ccCFD) Contract Terms.....</u>	<u>59</u>
<u>SCHEDULE 4 LCH ENCLEAR .....</u>	<u>64</u>
<u>Part A LCH EnClear Contract Terms.....</u>	<u>64</u>
<u>Part B Product Eligibility Criteria for Registration of a LCH EnClear Contract.....</u>	<u>97</u>
<u>SCHEDULE 5 LSE DERIVATIVES MARKETS .....</u>	<u>106</u>
<u>Part A LSE Derivatives Markets Cleared Exchange Contract Terms arising from LSE Derivatives Markets OTC Trades.....</u>	<u>106</u>
<u>Part B Product Eligibility Criteria for Registration of an LSE Derivatives Markets OTC Trade.....</u>	<u>111</u>
<u>SCHEDULE 6 THE FOREXCLEAR REGULATIONS.....</u>	<u>113</u>
<u>Part A ForexClear NDF Contract Terms: FOREXCLEAR CONTRACTS ARISING FROM FOREXCLEAR NDF TRANSACTIONS .....</u>	<u>113</u>
<u>Part B Registration of a ForexClear NDF Contract - Product Eligibility Criteria .....</u>	<u>120</u>
<u>Part C</u>	<u>123</u>
<u>LCH G10 NDF Contract Templates.....</u>	<u>123</u>
<u>Part D</u>	<u>130</u>
<u>Part E</u>	<u>134</u>
<u>Registration of a ForexClear Spot Contract – Product Eligibility Criteria .....</u>	<u>134</u>

Deleted: 7

Deleted: November 2017

<u>Part F</u>	<u>136</u>
<u>ForexClear Deliverable Forward Contract Terms: ForexClear Contracts arising from ForexClear Deliverable Forward Transactions .....</u>	<u>136</u>
<u>Part G</u>	<u>140</u>
<u>Registration of a ForexClear Deliverable Forward CONTRACT – Product Eligibility Criteria.....</u>	<u>140</u>
<u>Part H</u>	<u>142</u>
<u>ForexClear Option Contract Terms: ForexClear Contracts arising from ForexClear Option Transactions .....</u>	<u>142</u>
<u>Part I</u>	<u>147</u>
<u>Registration of a ForexClear Option Contract – Product Eligibility Criteria.....</u>	<u>147</u>
<u>Part J</u>	<u>149</u>
<u>ForexClear Swap Contract Terms: ForexClear Contracts arising from ForexClear SWAP Transactions .....</u>	<u>149</u>
<u>Part K</u>	<u>153</u>
<u>Registration of a ForexClear Swap Contract – Product Eligibility Criteria.....</u>	<u>153</u>
<u>SCHEDULE 7 LISTED INTEREST RATES SERVICE.....</u>	<u>155</u>
<u>Part A</u>	<u>155</u>
<u>SHORT TERM INTEREST RATE CONTRACTS .....</u>	<u>155</u>
<u>Part B</u>	<u>160</u>
<u>DELIVERABLE BOND FUTURES .....</u>	<u>160</u>

<del>Deleted: Schedule 1 RepoClear - 1¶</del>
<del>Part A RepoClear Contract Terms RepoClear Contracts arising from RepoClear Transactions, Repo Trades or Bond Trades - 1¶</del>
<del>Part B Product Eligibility Criteria for Registration of a RepoClear Contract - 8¶</del>
<del>Part C RepoClear Term £GC Contract Terms RepoClear term £GC Contracts Arising From RepoClear Term £GC Transactions Or Term £GC Trades - 20¶</del>
<del>Part D Product Eligibility Criteria for Registration of a RepoClear Term £GC Contract - 27¶</del>
<del>Part E RepoClear GC Contract Terms RepoClear £GC Contracts arising from RepoClear £GC Transactions or £GC Trades - 29¶</del>
<del>Part F Product Eligibility Criteria for Registration of a SwapClear £GC Contract - 30¶</del>
<del>Schedule 2 Swapclear - 31¶</del>
<del>Part A Swapclear Contract Terms - 31¶</del>
<del>Part B Product Eligibility Criteria for Registration of a SwapClear Contract - 47¶</del>
<del>Schedule 3 Equityclear - 61¶</del>
<del>Part A EquityClear (Equities) Contract Terms - 61¶</del>
<del>Part B EquityClear Eligible (Equities) - 63¶</del>
<del>Part C EquityClear (ccCFD) Contract Terms - 64¶</del>
<del>Schedule 4 LCH EnClear - 69¶</del>
<del>Part A LCH EnClear Contract Terms - 69¶</del>
<del>Part B Product Eligibility Criteria for Registration of a LCH EnClear Contract - 102¶</del>
<del>Schedule 5 LSE Derivatives MARKETS - 111¶</del>
<del>Part A LSE Derivatives Markets Cleared Exchange Contract Terms arising from LSE Derivatives Markets OTC Trades - 111¶</del>
<del>Part B Product Eligibility Criteria for Registration of an LSE Derivatives Markets OTC Trade - 116¶</del>
<del>Schedule 6 THE FOREXCLEAR REGULATIONS - 118¶</del>
<del>Part A ForexClear NDF Contract Terms, FOREXCLEAR CONTRACTS ARISING FROM FOREXCLEAR NDF TRANSACTIONS - 118¶</del>
<del>Part B Registration of a ForexClear NDF Contract - Product Eligibility Criteria - 125¶</del>
<del>Part C - 128¶</del>
<del>LCH G10 NDF Contract Templates - 128¶</del>
<del>Part D - 135¶</del>
<del>Part E - 139¶</del>
<del>Registration of a ForexClear Spot Contract – Product Eligibility Criteria - 139¶</del>
<del>Part F - 141¶</del>
<del>ForexClear Deliverable Forward Contract Terms, ForexClear Contracts arising from ForexClear Deliverable Forward Transactions - 141¶</del>
<del>Part G - 145¶</del>
<del>Registration of a ForexClear Deliverable Forward CONTRACT – Product Eligibility Criteria - 145¶</del>
<del>Part H - 147¶</del>
<del>ForexClear Option Contract Terms, ForexClear Contracts arising from ForexClear Option Transactions - 147¶</del>
<del>Part I - 152¶</del>

~~Deleted: 7~~

~~Deleted: November 2017~~

**SCHEDULE 6  
THE FOREXCLEAR REGULATIONS**

**PART A**

**FOREXCLEAR NDF CONTRACT TERMS; FOREXCLEAR CONTRACTS ARISING FROM FOREXCLEAR NDF TRANSACTIONS**

Where a ForexClear NDF Contract arises between the Clearing House and a ForexClear Clearing Member pursuant to the Regulations and the terms of any agreement entered into between them, the terms of such registered ForexClear NDF Contract shall include these ForexClear NDF Contract Terms, which shall comprise:

- (1) Interpretation;
- (2) Economic Terms; and
- (3) Standard Terms, being both the:
  - A. Specific Standard Terms; and
  - B. General Standard Terms

In the event of any inconsistency between the Economic Terms and the Standard Terms, the Standard Terms will prevail.

Subject to the Regulations and the Procedures, the Clearing House will use the ForexClear NDF Contract Terms applicable to a ForexClear NDF Contract to calculate the amounts due under the ForexClear NDF Contract to, or from, the Clearing House in accordance with the Procedures.

**1. Interpretation ("Interpretation")**

- 1.1 "ISDA Definitions" means the 1998 FX and Currency Options Definitions (including Annex A thereto) as published by ISDA, EMTA and FXC and the same are incorporated by reference herein.
- 1.2 "FXC" means the Foreign Exchange Committee or any successor entity.
- 1.3 "ISDA" means International Swaps and Derivatives Association, Inc. Or any successor entity.
- 1.4 Words and expressions used in these ForexClear NDF Contract Terms which are not defined herein shall have the meanings given to them in the Regulations and the Procedures, unless expressly provided otherwise. Words and expressions used in these ForexClear Contract Terms which are not defined in the Regulations and the Procedures but which are defined in the ISDA Definitions shall have the meanings given to them in the ISDA Definitions, unless expressly provided otherwise.
- 1.5 In the event of an inconsistency, the Regulations and Procedures will prevail over the ISDA Definitions.

Deleted: The

Deleted: a

Deleted: 7

Deleted: November 2017



- 1.6 References in the ISDA Definitions to an "FX Transaction" shall be deemed to be references to a "ForexClear NDF Transaction" for the purposes of these ForexClear NDF Contract Terms.
- 1.7 Except where expressly stated otherwise, all reference to "Sections" means Sections in the ISDA Definitions.
- 1.8 In relation to any amendment to the ISDA Definitions published from time to time by ISDA, EMTA and FXC, the Clearing House may from time to time, by notice delivered to the ForexClear Clearing Members, give directions as to whether such amendment shall apply to ForexClear NDF Contracts with immediate effect or with such deferred effect as the Clearing House shall determine (provided that in any event any such amendment shall only apply in relation to ForexClear NDF Contracts that have a Trade Date that falls on or after the effective date of such amendment).
- 1.9 Any such notice may provide that despite the application of any such amendment to the ISDA Definitions to ForexClear NDF Contracts going forward, these ForexClear NDF Contracts shall continue, for the purpose of margining, valuation, set-off or otherwise, to be regarded as fully fungible with ForexClear NDF Contracts registered in a ForexClear Clearing Member's name prior to the time such amendment comes into effect.
- 1.10 The accidental omission to give notice under this provision to, or the non-receipt of notice under paragraphs 1.8 or 1.9 above by any ForexClear Clearing Member shall not invalidate the amendment with which the notice is concerned.

Deleted: ,

## 2. Economic Terms

- 2.1 The Economic Terms of a ForexClear NDF Contract shall be derived from the information presented to the Clearing House by the parties to the corresponding ForexClear NDF Transaction.
- 2.2 The particulars of a ForexClear NDF Transaction presented to the Clearing House must include matched information in respect of the following Economic Terms which are not predetermined in the EMTA Templates or LCH G10 NDF Contract Templates, where applicable:
- (a) Trade Date (Section 1.25)
  - (b) Forward Rate (Section 2.1(a))
  - (c) Reference Currency Notional Amount (Section 1.21) or Notional Amount (Section 1.17(b)) in USD
  - (d) Reference Currency Buyer (Section 1.20)
  - (e) Reference Currency Seller (Section 1.22)
  - (f) scheduled Settlement Date (Section 1.24) (where applicable, without prejudice to the adjustments set out in the relevant EMTA Template or LCH G10 NDF Contract Template)

Deleted: 7

Deleted: November 2017

- (g) scheduled Valuation Date (Section 1.16(f)) (where applicable, without prejudice to the adjustments set out in the relevant EMTA Template or LCH G10 NDF Contract Template).

2.3 However, as set out more particularly in Regulation 90, where the ForexClear **NDF** Transaction specifies a ForexClear Clearing Member as the Reference Currency Seller, with the other ForexClear Member as the Reference Currency Buyer, the Clearing House, in respect of each ForexClear **NDF** Contract to which it is party pursuant to the corresponding ForexClear **NDF** Transaction, shall be (i) the Reference Currency Buyer; and (ii) the Reference Currency Seller under such ForexClear **NDF** Contract, respectively.

### 3. Specific Standard Terms ("Specific Standard Terms")

The following terms are designated as Specific Standard Terms of a registered ForexClear **NDF** Contract:

3.1 The EMTA Template or LCH G10 NDF Contract Template, appropriate to the particular Currency Pair is incorporated by reference into these ForexClear Contract Terms, as amended herein, and governs the terms of a ForexClear **NDF** Contract relating to a given Currency Pair together with, and subject to, the Economic Terms set out in Part 2 above, the Specific Standard Terms set out in this Part 3, the General Standard Terms set out in Part 4 or Part 5 below, as applicable. For the avoidance of doubt, each EMTA Template shall be deemed to exclude the EMTA Template Terms for Non-Deliverable Cross-Currency FX Transactions published by EMTA on 31 May 2011.

3.2 In the format "Reference Currency – Settlement Currency", the Currency Pairs are

- (a) BRL-USD
- (b) CLP-USD
- (c) CNY-USD
- (d) INR-USD
- (e) KRW-USD
- (f) RUB-USD
- (g) COP-USD
- (h) IDR-USD
- (i) MYR-USD
- (j) PHP-USD
- (k) TWD-USD
- (l) PEN-USD
- (m) EUR-USD

Deleted: 7

Deleted: November 2017

- (n) GBP-USD
- (o) AUD-USD
- (p) CHF-USD
- (q) JPY-USD

3.3 Where applicable, certain Specific Standard Terms of each ForexClear NDF Contract are not provided in the EMTA Templates, but the parties to the corresponding ForexClear NDF Transaction will be required to accept the Specific Standard Terms set out below in each ForexClear NDF Contract:

- (a) Date of Annex A (Section 4.2):

Annex A to the ISDA Definitions is incorporated as amended as at the Trade Date.

- (b) Reference Currency (Section 1.19):

To be determined by using the EMTA Template or LCH G10 NDF Contract Template appropriate to the particular Currency Pair.

- (c) Calculation Agent (Section 1.3):

The Clearing House is the Calculation Agent.

3.4 If the terms of an EMTA Template conflict with these ForexClear NDF Contract Terms, these ForexClear NDF Contract Terms shall prevail. If the terms of an EMTA Template conflict with the ISDA Definitions, the terms of the EMTA Template shall prevail.

#### 4. General Standard Terms ("General Standard Terms")

The following terms are designated as General Standard Terms of a registered ForexClear NDF Contract:

##### 4.1 *Business Days*

For the purposes of determining the Settlement Date and the Valuation Date only, in addition to the Business Days for the Principal Financial Centers for the Currency Pair specified in the relevant Economic Terms, the Business Days specified in the Swaps Monitor Financial Calendar as published by Swaps Monitor Publications, Inc. (as further detailed in the Procedures) from time to time, will apply to a ForexClear NDF Contract, except where the Clearing House notifies FXCCMs otherwise in accordance with section 1.3.9 (*Reference Data*) of Section 2I (*ForexClear Clearing Service*) of the Procedures.

##### 4.2 *Withholding Tax Provisions*

- (a) All payments due under a ForexClear NDF Contract shall be made by the ForexClear Clearing Member free and clear and without deduction or withholding for or on account of any tax. Payments in respect of which such deduction or withholding is required to be made, by the ForexClear Clearing Member, shall be increased to the extent necessary to ensure that, after the making of the required

Deleted: 7

Deleted: November 2017

deduction or withholding, the Clearing House receives and retains (free from any liability in respect of such deduction or withholding) a net sum equal to the sum which it would have received and so retained had no such deduction or withholding been made or required to be made.

- (b) All payments due under a ForexClear **NDF** Contract shall be made by the Clearing House free and clear and without deduction or withholding for or on account of any tax. Payments in respect of which such deduction or withholding is required to be made, by the Clearing House, shall be increased to the extent necessary to ensure that, after the making of the required deduction or withholding, the ForexClear Clearing Member receives and retains (free from any liability in respect of such deduction or withholding) a net sum equal to the sum which it would have received and so retained had no such deduction or withholding been made or required to be made.

#### 4.3 **Payment of Stamp Tax**

Each ForexClear Clearing Member will pay any Stamp Tax or duty levied or imposed upon it in respect of any ForexClear **NDF** Contract to which it is a party by a jurisdiction in which it is incorporated, organised, managed and controlled, or considered to have its seat, or in which a branch or office through which it is acting is located ("**Stamp Tax Jurisdiction**") or by any other jurisdiction, and will indemnify the Clearing House against any Stamp Tax or duty levied or imposed upon the Clearing House by any such Stamp Tax Jurisdiction or by any other jurisdiction in respect of any ForexClear **NDF** Contract registered by the Clearing House and to which that ForexClear Clearing Member is a party.

#### 4.4 **Discontinuation of a Settlement Rate Option**

If:

- (a) the administrator of a benchmark that is a Settlement Rate Option has publicly announced that it will discontinue publication of the benchmark ("**Discontinued Rate**"); and
- (b) ISDA has published a "Multilateral Amendment Agreement" to amend certain transactions to use an alternative benchmark ("**Substitute Rate**") in the lieu of the Discontinued Rate on and from a specified date ("**Effective Date**"),

then, in respect of a ForexClear **NDF** Contract in respect of which a Settlement Rate has not been determined as at the Effective Date and which references the Discontinued Rate ("**Affected ForexClear NDF Contract**"), the Clearing House may, by written notice to all ForexClear Clearing Members, amend the Settlement Rate Option of each Affected ForexClear **NDF** Contract to reference the Substitute Rate with effect on and from the Effective Date and specify such incidental amendments to the Affected ForexClear **NDF** Contract as may be required.

The terms "ISDA", "Settlement Rate Option" and "Valuation Date" have the meanings given to them by the ForexClear **NDF** Contract Terms.

Deleted: 7

Deleted: November 2017

The accidental omission to give notice under this provision to, or the non-receipt of notice by, any ForexClear Clearing Member shall not invalidate the amendment with which the notice is concerned.

5. **General Standard Terms – G10 Currencies ("General Standard Terms – G10 Currencies")**

The following terms are designated as General Standard Terms – G10 Currencies of a registered ForexClear NDF Contract – G10 Currencies:

5.1 **Valuation Postponement for Price Source Disruption**

"**Valuation Postponement**" means, for purposes of obtaining a Settlement Rate, that the Settlement Rate will be determined on the Business Day first succeeding the day on which the Price Source Disruption ceases to exist, unless the Price Source Disruption continues to exist (measured from the date, that, but for the occurrence of the Price Source Disruption, would have been the Valuation Date) for a consecutive number of calendar days equal to the Maximum Days of Postponement. In such event, the Settlement Rate will be determined on the next Business Day after the Maximum Days of Postponement as being the applicable Fallback Reference Price.

5.2 **Fallback Reference Price**

"**Fallback Reference Price**" means the Clearing House calculated end of day spot price for the applicable Currency Pair from the previous end of day margin run.

5.3 **WM/Reuters Closing Spot Rate**

"**WM/Reuters Closing Spot Rate**" means, for the relevant Currency Pair, the exchange rate at the relevant time at which such rate is to be determined for foreign exchange transactions for value on the relevant Settlement Date, as calculated and published by the WM Company and Thomson Reuters, which appears on the respective Thomson Reuters screen, as follows:

- (a) Reference Currency: AUD; Settlement Currency: USD; Thomson Reuters Screen: USDAUDFIXM=WM
- (b) Reference Currency: GBP; Settlement Currency: USD; Thomson Reuters Screen: USDGBPFXM=WM
- (c) Reference Currency: EUR; Settlement Currency: USD; Thomson Reuters Screen: USDEURFXM=WM
- (d) Reference Currency: CHF; Settlement Currency: USD; Thomson Reuters Screen: USDCHFFIXM=WM
- (e) Reference Currency: JPY; Settlement Currency: USD; Thomson Reuters Screen: USDJPYFIXM=WM

Deleted: 7

Deleted: November 2017



**6. Payments under a ForexClear NDF Contract**

Payments under, and in respect of, a ForexClear NDF Contract shall be calculated by the Clearing House and shall be made by, or to, the ForexClear Clearing Member in accordance with the provisions of the Procedures.

**7. Regulations**

A ForexClear NDF Contract shall be subject to the Regulations and the Procedures, which shall form a part of its terms. In the event of any inconsistency between these ForexClear NDF Contract Terms and the Regulations and the Procedures, the Regulations and the Procedures will prevail.

**8. Governing Law**

Each ForexClear NDF Contract, and any non-contractual obligations arising out of or in connection with it, shall be governed by and construed in accordance with the laws of England and Wales and the parties irrevocably agree for the benefit of the Clearing House that the courts of England and Wales shall have exclusive jurisdiction to hear and determine any action or dispute which may arise here from. The ForexClear Clearing Member party hereto irrevocably submits to such jurisdiction and agrees to waive any objection it might otherwise have to such jurisdiction, save that this submission to the jurisdiction of the courts of England and Wales shall not (and shall not be construed so as to) limit the right of the Clearing House to take proceedings in any other court of competent jurisdiction, nor shall the taking of action in one or more jurisdictions preclude the Clearing House from taking action in any other jurisdiction, whether concurrently or not.

**9. Third Party Rights**

A person who is not a party to this ForexClear NDF Contract shall have no rights under or in respect of it. Rights of third parties to enforce any terms of this ForexClear NDF Contract pursuant to the Contracts (Rights of Third Parties) Act 1999 are expressly excluded.

Deleted: 7

Deleted: November 2017

**PART B**  
**REGISTRATION OF A FOREXCLEAR NDF CONTRACT - PRODUCT**  
**ELIGIBILITY CRITERIA**

**1. Registration of a ForexClear NDF Contract**

Without prejudice to the Regulations and the Procedures, the Clearing House will only register a ForexClear NDF Contract pursuant to receipt of particulars of a transaction where at the time of the particulars being presented:

- (a) the transaction meets the Product Eligibility Criteria set out in paragraph 2 or 3 below, as applicable, for a ForexClear NDF Transaction;
- (b) each party to the transaction is either (i) a ForexClear Dealer or (ii) a ForexClear Clearing Member who has not been declared a defaulter by the Clearing House; and
- (c) the ForexClear Clearing Member in whose name the ForexClear NDF Contract is to be registered has not been declared a defaulter by the Clearing House.

and the requirements of paragraphs 1(a), (b) and (c) above continue to be satisfied at the Registration Time.

**2. Product Eligibility Criteria for a ForexClear Contract – Emerging Currencies**

<b>Instrument</b>	Non-Deliverable FX Transaction
<b>Economic Terms</b>	The transaction particulars submitted to the Clearing House specify all the Economic Terms.
<b>Reference Currency</b>	One of
	BRL - Brazilian Real,
	RUB - Russian Rouble,
	INR - Indian Rupee,
	CLP - Chilean Peso,
	CNY - Chinese Yuan,
	KRW - South Korean Won,
	COP – Colombian Peso,
	IDR – Indonesian Rupiah,
	MYR – Malaysian Ringgit,

Deleted: 7

Deleted: November 2017

	PHP – Philippine Peso, ,
	TWD – Taiwan Dollar, or
	PEN – Peruvian Sol,
<b>Valuation Date</b>	A date with respect to the Currency Pair to which the ForexClear Transaction relates and is (i) a valid Business Day, (ii) no earlier than the Business Day (as defined in the Regulations) immediately following the Submission Date and (iii) determined as set forth in the Procedures and/or relevant EMTA Template for the Currency Pair.
<b>Settlement Date</b>	A date with respect to the Currency Pair to which the ForexClear <u>NDF</u> Transaction relates and is:
	no earlier than the date immediately following the Valuation Date; and
	no later than the date falling two calendar years plus two Business Days immediately following the Submission Date, provided that in each case such date shall be: (i) a valid Business Day and (ii) determined as set forth in the Procedures and/or relevant EMTA Template for the Currency Pair.
<b>Settlement Type</b>	Non-Deliverable
<b>Settlement Currency</b>	USD
<b>Calculation Agent</b>	The Clearing House

Deleted: or

Deleted:

3. **Product Eligibility Criteria for a ForexClear Contract – G10 Currencies**

<b>Instrument</b>	Non-Deliverable FX Transaction – G10 Currencies
<b>Economic Terms</b>	The transaction particulars submitted to the Clearing House specify all the Economic Terms.
<b>Reference Currency</b>	One of
	EUR – Euro,
	GBP – British Pound,
	AUD – Australian Dollar,
	CHF – Swiss Franc, or

Deleted: 7

Deleted: November 2017

	JPY – Japanese Yen.
<b>Valuation Date</b>	A date with respect to the Currency Pair to which the ForexClear <u>NDF</u> Transaction relates and is (i) a valid Business Day, (ii) no earlier than the business day (as defined in the Regulations) immediately following the Submission Date and (iii) determined as set forth in the Procedures and/or given LCH G10 NDF Contract Template.
<b>Settlement Date</b>	A date with respect to the Currency Pair to which the ForexClear <u>NDF</u> Transaction relates and is:  A. no earlier than the date immediately following the Valuation Date; and  B. no later than the date falling two calendar years plus two Business Days immediately following the Submission Date, <b>provided that</b> in each case such date shall be: (i) a valid Business Day and (ii) determined as set out in the Procedures and/or given LCH G10 NDF Contract Template.
<b>Settlement Type</b>	Non-Deliverable
<b>Settlement Currency</b>	USD
<b>Settlement Rate (Option)</b>	As set forth in the relevant LCH G10 NDF Contract Template
<b>Calculation Agent</b>	The Clearing House

Deleted: 7

Deleted: November 2017

**PART C**

**LCH G10 NDF CONTRACT TEMPLATES**

i. Specific Standard Terms for EUR/USD Non-Deliverable FX Transactions

Reference Currency:	EUR
Settlement Currency:	USD
Settlement Date:	<p>Will be valid if a business day pursuant to the New York public holiday calendar (NYB), as published by Swaps Monitor Publications, Inc., and is a day on which the Clearing House is open for business.</p> <p>Will be subject to adjustment in accordance with the Following Business Day Convention if the Valuation Date is adjusted to a date equal to or after the Settlement Date. In such cases, the Settlement Date should be adjusted to the next Business Day (which also meets the foregoing requirements) after the Valuation Date.</p>
Settlement:	Non-Deliverable
Settlement Rate (Option):	WM/Reuters Closing Spot Rate
Price Source Disruption:	Applicable
Maximum Days of Postponement:	14 days
Calculation Agent for Fallback Reference Price:	The Clearing House
Fallback Reference Price:	Calculation Agent for Fallback Reference Price
Holiday Type Determination for Valuation Date:	<p>A 'scheduled holiday' is deemed to be such when it (i) falls on the Valuation Date and (ii) is published in the SwapsMonitor Financial Calendar (with respect to the Relevant Calendar for Valuation Date) at a time greater than 48 hours prior to 9:00 London time on the Valuation Date.</p> <p>An 'unscheduled holiday' is deemed to be such when it (i) falls on the Valuation Date and (ii) is published in the SwapsMonitor Financial Calendar (with respect to the Relevant Calendar for Valuation Date) at a time less than or equal to 48 hours prior to</p>

**Deleted:** 7  
**Deleted:** November 2017



	9:00 London time on the Valuation Date.
Business Day Convention for a Holiday Type Determination Date for Valuation Date:	<p>Business Day Convention for a Holiday Type Determination Date for Valuation Date:</p> <p>A 'scheduled holiday' pursuant to Holiday Type Determination for Valuation Date with respect to the Valuation Date will adjust the Valuation Date in accordance with the Preceding Business Day Convention.</p> <p>An 'unscheduled holiday' pursuant to Holiday Type Determination for Valuation Date with respect to the Valuation Date will adjust the Valuation Date in accordance with the Following Business Day Convention.</p>
Relevant Calendar for Valuation Date:	WMR Calendar

ii. Specific Standard Terms for GBP/USD Non-Deliverable FX Transactions

Reference Currency:	GBP
Settlement Currency:	USD
Settlement Date:	<p>Will be valid if a business day pursuant to the New York public holiday calendar (NYB), as published by Swaps Monitor Publications, Inc., and is a day on which the Clearing House is open for business.</p> <p>Will be subject to adjustment in accordance with the Following Business Day Convention if the Valuation Date is adjusted to a date equal to or after the Settlement Date. In such cases, the Settlement Date should be adjusted to the next Business Day (which also meets the foregoing requirements) after the Valuation Date.</p>
Settlement:	Non-Deliverable
Settlement Rate (Option):	WM/Reuters Closing Spot Rate
Price Source Disruption:	Applicable
Maximum Days of Postponement:	14 days
Calculation Agent for Fallback Reference Price:	The Clearing House

Deleted: 7

Deleted: November 2017

Fallback Reference Price:	Calculation Agent for Fallback Reference Price
Holiday Type Determination for Valuation Date:	<p>A 'scheduled holiday' is deemed to be such when it (i) falls on the Valuation Date and (ii) is published in the SwapsMonitor Financial Calendar (with respect to the Relevant Calendar for Valuation Date) at a time greater than 48 hours prior to 9:00 London time on the Valuation Date.</p> <p>An 'unscheduled holiday' is deemed to be such when it (i) falls on the Valuation Date and (ii) is published in the SwapsMonitor Financial Calendar (with respect to the Relevant Calendar for Valuation Date) at a time less than or equal to 48 hours prior to 9:00 London time on the Valuation Date.</p>
Convention for a Holiday Type Determination Date for Valuation Date:	<p>Business Day Convention for a Holiday Type Determination Date for Valuation Date:</p> <p>A 'scheduled holiday' pursuant to Holiday Type Determination for Valuation Date with respect to the Valuation Date will adjust the Valuation Date in accordance with the Preceding Business Day Convention.</p> <p>An 'unscheduled holiday' pursuant to Holiday Type Determination for Valuation Date with respect to the Valuation Date will adjust the Valuation Date in accordance with the Following Business Day Convention.</p>
Relevant Calendar for Valuation Date:	WMR Calendar

iii. Specific Standard Terms for AUD/USD Non-Deliverable FX Transactions

Reference Currency:	AUD
Settlement Currency:	USD
Settlement Date:	<p>Will be valid if a business day pursuant to the New York public holiday calendar (NYB), as published by Swaps Monitor Publications, Inc., and is a day on which the Clearing House is open for business.</p> <p>Will be subject to adjustment in accordance with the Following Business Day Convention if the Valuation Date is adjusted to a date equal to or after the Settlement Date. In such cases, the Settlement Date should be adjusted to the next Business Day (which also meets the foregoing requirements) after the Valuation Date.</p>

Deleted: 7

Deleted: November 2017

Settlement:	Non-Deliverable
Settlement Rate (Option):	WM/Reuters Closing Spot Rate
Price Source Disruption:	Applicable
Maximum Days of Postponement:	14 days
Calculation Agent for Fallback Reference Price:	The Clearing House
Fallback Reference Price:	Calculation Agent for Fallback Reference Price
Holiday Type Determination for Valuation Date:	<p>A 'scheduled holiday' is deemed to be such when it (i) falls on the Valuation Date and (ii) is published in the SwapsMonitor Financial Calendar (with respect to the Relevant Calendar for Valuation Date) at a time greater than 48 hours prior to 9:00 London time on the Valuation Date.</p> <p>An 'unscheduled holiday' is deemed to be such when it (i) falls on the Valuation Date and (ii) is published in the SwapsMonitor Financial Calendar (with respect to the Relevant Calendar for Valuation Date) at a time less than or equal to 48 hours prior to 9:00 London time on the Valuation Date.</p>
Convention for a Holiday Type Determination Date for Valuation Date:	<p>Business Day Convention for a Holiday Type Determination Date for Valuation Date:</p> <p>A 'scheduled holiday' pursuant to Holiday Type Determination for Valuation Date with respect to the Valuation Date will adjust the Valuation Date in accordance with the Preceding Business Day Convention.</p> <p>An 'unscheduled holiday' pursuant to Holiday Type Determination for Valuation Date with respect to the Valuation Date will adjust the Valuation Date in accordance with the Following Business Day Convention.</p>
Relevant Calendar for Valuation Date:	WMR Calendar

iv. Specific Standard Terms for CHF/USD Non-Deliverable FX Transactions

Reference Currency:	CHF
---------------------	-----

Deleted: 7  
 Deleted: November 2017

Settlement Currency:	USD
Settlement Date:	<p>Will be valid if a business day pursuant to the New York public holiday calendar (NYB), as published by Swaps Monitor Publications, Inc., and is a day on which the Clearing House is open for business.</p> <p>Will be subject to adjustment in accordance with the Following Business Day Convention if the Valuation Date is adjusted to a date equal to or after the Settlement Date. In such cases, the Settlement Date should be adjusted to the next Business Day (which also meets the foregoing requirements) after the Valuation Date.</p>
Settlement:	Non-Deliverable
Settlement Rate (Option):	WM/Reuters Closing Spot Rate
Price Source Disruption:	Applicable
Maximum Days of Postponement:	14 days
Calculation Agent for Fallback Reference Price:	The Clearing House
Fallback Reference Price:	Calculation Agent for Fallback Reference Price)
Holiday Type Determination for Valuation Date:	<p>A 'scheduled holiday' is deemed to be such when it (i) falls on the Valuation Date and (ii) is published in the SwapsMonitor Financial Calendar (with respect to the Relevant Calendar for Valuation Date) at a time greater than 48 hours prior to 9:00 London time on the Valuation Date.</p> <p>An 'unscheduled holiday' is deemed to be such when it (i) falls on the Valuation Date and (ii) is published in the SwapsMonitor Financial Calendar (with respect to the Relevant Calendar for Valuation Date) at a time less than or equal to 48 hours prior to 9:00 London time on the Valuation Date.</p>
Convention for a Holiday Type Determination Date for Valuation Date:	<p>Business Day Convention for a Holiday Type Determination Date for Valuation Date:</p> <p>A 'scheduled holiday' pursuant to Holiday Type Determination for Valuation Date with respect to the Valuation Date will adjust the Valuation Date in accordance with the Preceding Business Day Convention.</p>

Deleted: 7

Deleted: November 2017

	An 'unscheduled holiday' pursuant to Holiday Type Determination for Valuation Date with respect to the Valuation Date will adjust the Valuation Date in accordance with the Following Business Day Convention.
Relevant Calendar for Valuation Date:	WMR Calendar

v. Specific Standard Terms for JPY/USD Non-Deliverable FX Transactions

Reference Currency:	JPY
Settlement Currency:	USD
Settlement Date:	Will be valid if a business day pursuant to the New York public holiday calendar (NYB), as published by Swaps Monitor Publications, Inc., and is a day on which the Clearing House is open for business.  Will be subject to adjustment in accordance with the Following Business Day Convention if the Valuation Date is adjusted to a date equal to or after the Settlement Date. In such cases, the Settlement Date should be adjusted to the next Business Day (which also meets the foregoing requirements) after the Valuation Date.
Settlement:	Non-Deliverable
Settlement Rate (Option):	WM/Reuters Closing Spot Rate
Price Source Disruption:	Applicable
Maximum Days of Postponement:	14 days
Calculation Agent for Fallback Reference Price:	The Clearing House
Fallback Reference Price:	Calculation Agent for Fallback Reference Price
Holiday Type Determination for Valuation Date:	A 'scheduled holiday' is deemed to be such when it (i) falls on the Valuation Date and (ii) is published in the SwapsMonitor Financial Calendar (with respect to the Relevant Calendar for Valuation Date) at a time greater than 48 hours prior to 9:00 London time on the Valuation Date.  An 'unscheduled holiday' is deemed to be such when it (i) falls

Deleted: 7  
Deleted: November 2017



	on the Valuation Date and (ii) is published in the SwapsMonitor Financial Calendar (with respect to the Relevant Calendar for Valuation Date) at a time less than or equal to 48 hours prior to 9:00 London time on the Valuation Date.
Convention for a Holiday Type Determination Date for Valuation Date:	<p>Business Day Convention for a Holiday Type Determination Date for Valuation Date:</p> <p>A 'scheduled holiday' pursuant to Holiday Type Determination for Valuation Date with respect to the Valuation Date will adjust the Valuation Date in accordance with the Preceding Business Day Convention.</p> <p>An 'unscheduled holiday' pursuant to Holiday Type Determination for Valuation Date with respect to the Valuation Date will adjust the Valuation Date in accordance with the Following Business Day Convention.</p>
Relevant Calendar for Valuation Date:	WMR Calendar

**Deleted:** 7

**Deleted:** November 2017

## **PART D**

### **FOREXCLEAR SPOT CONTRACT TERMS; FOREXCLEAR CONTRACTS ARISING FROM FOREXCLEAR SPOT TRANSACTIONS**

Where a ForexClear Spot Contract arises between the Clearing House and a ForexClear Clearing Member pursuant to the Regulations and the terms of any agreement entered into between them, the terms of such registered ForexClear Spot Contract shall include these ForexClear Spot Contract Terms, which shall comprise:

- (1) Interpretation;
- (2) Economic Terms; and
- (3) Standard Terms.

In the event of any inconsistency between the Economic Terms and the Standard Terms, the Standard Terms will prevail.

Subject to the Regulations and the Procedures, the Clearing House will use the ForexClear Spot Contract Terms applicable to a ForexClear Spot Contract to calculate the amounts due under the ForexClear Spot Contract to, or from, the Clearing House in accordance with the Procedures.

#### **1. Interpretation ("Interpretation")**

- 1.1 "ISDA Definitions" means the 1998 FX and Currency Options Definitions (including Annex A thereto) as published by the International Swaps and Derivatives Association, Inc. ("ISDA"), the Emerging Markets Trade Association ("EMTA") and The Foreign Exchange Committee ("FXC") and the same are incorporated by reference herein.
- 1.2 Words and expressions used in these ForexClear Spot Contract Terms which are not defined in the Regulations and the Procedures but which are defined in the ISDA Definitions shall bear the same meaning herein as in the ISDA Definitions, unless expressly provided otherwise.
- 1.3 In the event of an inconsistency, the Regulations and Procedures will prevail over the ISDA Definitions.
- 1.4 References in the ISDA Definitions to an "FX Transaction" shall be deemed to be references to a "ForexClear Spot Transaction" for the purposes of these ForexClear Spot Contract Terms.
- 1.5 Except where expressly stated otherwise, all reference to "Sections" means Sections in the ISDA Definitions.
- 1.6 In relation to any amendment to the ISDA Definitions published from time to time by ISDA, EMTA and FXC, the Clearing House may from time to time, by notice delivered to the ForexClear Clearing Members, give directions as to whether such

Deleted: 7

Deleted: November 2017

amendment shall apply to ForexClear Spot Contracts with immediate effect or with such deferred effect as the Clearing House shall determine (provided that in any event any such amendment shall only apply in relation to ForexClear Spot Contracts that have a Trade Date that falls on or after the effective date of such amendment).

1.7 Any such notice may provide that despite the application of any such amendment to the ISDA Definitions to ForexClear Spot Contracts going forward, these ForexClear Spot Contracts shall continue, for the purpose of margining, valuation, set-off or otherwise, to be regarded as fully fungible with ForexClear Spot Contracts registered in a ForexClear Clearing Member's name prior to the time such amendment comes into effect.

1.8 The accidental omission to give notice under this provision to, or the non-receipt of notice under 1.6 or 1.7 above by, any ForexClear Clearing Member shall not invalidate the amendment with which the notice is concerned.

## 2. Economic Terms

2.1 The Economic Terms of a ForexClear Spot Contract shall be derived from the information presented to the Clearing House by the parties to the corresponding ForexClear Spot Transaction.

2.2 The particulars of a ForexClear Spot Transaction presented to the Clearing House must include matched information in respect of the following Economic Terms:

(a) Trade Date (Section 1.25)

(b) Amount and currency payable by the ForexClear Clearing Member that is Party A

(c) Amount and currency payable by the ForexClear Clearing Member that is Party B

(d) Settlement Date (Section 1.24)

2.3 However, as set out more particularly in Regulation 16, where the ForexClear Spot Transaction specifies a ForexClear Clearing Member as the First Clearing Member with the other ForexClear Clearing Member as the Second Clearing Member, the Clearing House, in respect of each ForexClear Spot Contract to which it is a party pursuant to the corresponding ForexClear Spot Transaction, shall be (i) Party B, and (ii) Party A under such ForexClear Spot Contract, respectively.

## 3. Standard Terms

The following terms are designated as Standard Terms of a registered ForexClear Spot Contract:

### 3.1 Deliverable Transaction

The ForexClear Spot Transaction evidenced by these ForexClear Spot Contract Terms shall be an FX Transaction that is a Deliverable Transaction for the purposes of the ISDA Definitions.

Deleted: 7

Deleted: November 2017

### 3.2 Annex A (Section 4.2)

Annex A to the ISDA Definitions is incorporated as amended as at the Trade Date.

### 3.3 Calculation Agent (Section 1.3)

The Calculation Agent is the Clearing House.

### 3.4 Business Days

For the purposes of determining the Settlement Date only, in addition to the Business Days for the Principal Financial Centers specified in Annex A, the Business Days specified in the Swaps Monitor Financial Calendar as published by Swaps Monitor Publications, Inc. (as further detailed in the Procedures) from time to time, will apply to a ForexClear Spot Contract.

### 3.5 Withholding Tax Provisions

- (a) All payments due under a ForexClear Spot Contract shall be made by the ForexClear Clearing Member free and clear and without deduction or withholding for or on account of any tax. Payments in respect of which such deduction or withholding is required to be made, by the ForexClear Clearing Member, shall be increased to the extent necessary to ensure that, after the making of the required deduction or withholding, the Clearing House receives and retains (free from any liability in respect of such deduction or withholding) a net sum equal to the sum which it would have received and so retained had no such deduction or withholding been made or required to be made.
- (b) All payments due under a ForexClear Spot Contract shall be made by the Clearing House free and clear and without deduction or withholding for or on account of any tax. Payments in respect of which such deduction or withholding is required to be made, by the Clearing House, shall be increased to the extent necessary to ensure that, after the making of the required deduction or withholding, the ForexClear Clearing Member receives and retains (free from any liability in respect of such deduction or withholding) a net sum equal to the sum which it would have received and so retained had no such deduction or withholding been made or required to be made.

### 3.6 Payment of Stamp Tax

Each ForexClear Clearing Member will pay any Stamp Tax or duty levied or imposed upon it in respect of any ForexClear Spot Contract to which it is a party by a jurisdiction in which it is incorporated, organised, managed and controlled, or considered to have its seat, or in which a branch or office through which it is acting is located ("Stamp Tax Jurisdiction") or by any other jurisdiction, and will indemnify the Clearing House against any Stamp Tax or duty levied or imposed upon the Clearing House by any such Stamp Tax Jurisdiction or by any other jurisdiction in respect of any ForexClear Spot Contract registered by the Clearing House and to which that ForexClear Clearing Member is a party.

### 3.7 Payments under a ForexClear Spot Contract

Deleted: 7

Deleted: November 2017

Payments under, and in respect of, a ForexClear Spot Contract shall be calculated by the Clearing House and shall be made by, or to, the ForexClear Clearing Member in accordance with the provisions of the Procedures.

### 3.8 Regulations

A ForexClear Spot Contract shall be subject to the Regulations and the Procedures, which shall form a part of its terms. In the event of any inconsistency between these ForexClear Spot Contract Terms and the Regulations and the Procedures, the Regulations and the Procedures will prevail.

### 3.9 Governing Law

Each ForexClear Spot Contract, and any non-contractual obligations arising out of or in connection with it, shall be governed by and construed in accordance with the laws of England and Wales and the parties irrevocably agree for the benefit of the Clearing House that the courts of England and Wales shall have exclusive jurisdiction to hear and determine any action or dispute which may arise here from. The ForexClear Clearing Member party hereto irrevocably submits to such jurisdiction and agrees to waive any objection it might otherwise have to such jurisdiction, save that this submission to the jurisdiction of the courts of England and Wales shall not (and shall not be construed so as to) limit the right of the Clearing House to take proceedings in any other court of competent jurisdiction, nor shall the taking of action in one or more jurisdictions preclude the Clearing House from taking action in any other jurisdiction, whether concurrently or not.

### 3.10 Third Party Rights

A person who is not a party to this ForexClear Spot Contract shall have no rights under or in respect of it. Rights of third parties to enforce any terms of this ForexClear Spot Contract pursuant to the Contracts (Rights of Third Parties) Act 1999 are expressly excluded.

Deleted: 7

Deleted: November 2017



**PART E**

**REGISTRATION OF A FOREXCLEAR SPOT CONTRACT – PRODUCT ELIGIBILITY CRITERIA**

**1. Registration of a ForexClear Spot Contract**

Without prejudice to the Regulations and the Procedures, the Clearing House will only register a ForexClear Spot Contract pursuant to receipt of particulars of a transaction where at the time of the particulars being presented:

- (a) the transaction meets the Product Eligibility Criteria set out in paragraph 2 below for a ForexClear Spot Transaction;
- (b) each party to the transaction is either (i) a ForexClear Dealer or (ii) a ForexClear Clearing Member who has not been declared a defaulter by the Clearing House; and
- (c) the ForexClear Clearing Member in whose name the ForexClear Spot Contract is to be registered has not been declared a defaulter by the Clearing House.

and the requirements of Paragraph 1(a), (b) and (c) above continue to be satisfied at the Registration Time.

**2. Product Eligibility Criteria for a ForexClear Spot Contract**

<b><u>Instrument</u></b>	<u>Deliverable FX Spot Transaction</u>
<b><u>Economic Terms</u></b>	<u>The transaction particulars submitted to the Clearing House specify all the Economic Terms.</u>
<b><u>Currency Pair</u></b>	<u>One of</u>
	<u>USD/JPY,</u>
	<u>EUR/USD,</u>
	<u>GBP/USD,</u>
	<u>AUD/USD,</u>
	<u>EUR/CHF,</u>
	<u>USD/CHF,</u>
	<u>EUR/JPY,</u>
	<u>EUR/GBP</u>
<b><u>Settlement Date</u></b>	<u>A valid Business Day for the Currency Pair to which the ForexClear Transaction relates and a date falling not later than the date falling two Business Days immediately</u>

Deleted: 7

Deleted: November 2017

	<u>following the Submission Date.</u>
<u>Settlement Type</u>	<u>Deliverable</u>
<u>Calculation Agent</u>	<u>The Clearing House</u>

**Deleted:** 7  
**Deleted:** November 2017

**PART F**

**FOREXCLEAR DELIVERABLE FORWARD CONTRACT TERMS; FOREXCLEAR CONTRACTS ARISING FROM FOREXCLEAR DELIVERABLE FORWARD TRANSACTIONS**

Where a ForexClear Deliverable Forward Contract arises between the Clearing House and a ForexClear Clearing Member pursuant to the Regulations and the terms of any agreement entered into between them, the terms of such registered ForexClear Deliverable Forward Contract shall include these ForexClear Deliverable Forward Contract Terms, which shall comprise:

- (1) Interpretation;
- (2) Economic Terms; and
- (3) Standard Terms.

In the event of any inconsistency between the Economic Terms and the Standard Terms, the Standard Terms will prevail.

Subject to the Regulations and the Procedures, the Clearing House will use the ForexClear Deliverable Forward Contract Terms applicable to a ForexClear Deliverable Forward Contract to calculate the amounts due under the ForexClear Deliverable Forward Contract to, or from, the Clearing House in accordance with the Procedures.

**1. Interpretation ("Interpretation")**

- 1.1 "ISDA Definitions" means the 1998 FX and Currency Options Definitions (including Annex A thereto) as published by the International Swaps and Derivatives Association, Inc. ("ISDA"), the Emerging Markets Trade Association ("EMTA") and The Foreign Exchange Committee ("FXC") and the same are incorporated by reference herein.
- 1.2 Words and expressions used in these ForexClear Deliverable Forward Contract Terms which are not defined in the Regulations and the Procedures but which are defined in the ISDA Definitions shall bear the same meaning herein as in the ISDA Definitions, unless expressly provided otherwise.
- 1.3 In the event of an inconsistency, the Regulations and Procedures will prevail over the ISDA Definitions.
- 1.4 References in the ISDA Definitions to an "FX Transaction" shall be deemed to be references to a "ForexClear Deliverable Forward Transaction" for the purposes of these ForexClear Deliverable Forward Contract Terms.
- 1.5 Except where expressly stated otherwise, all reference to "Sections" means Sections in the ISDA Definitions.
- 1.6 In relation to any amendment to the ISDA Definitions published from time to time by ISDA, EMTA and FXC, the Clearing House may from time to time, by notice delivered to the ForexClear Clearing Members, give directions as to whether such

Deleted: 7  
Deleted: November 2017

amendment shall apply to ForexClear Deliverable Forward Contracts with immediate effect or with such deferred effect as the Clearing House shall determine (provided that in any event any such amendment shall only apply in relation to ForexClear Deliverable Forward Contracts that have a Trade Date that falls on or after the effective date of such amendment).

1.7 Any such notice may provide that despite the application of any such amendment to the ISDA Definitions to ForexClear Deliverable Forward Contracts going forward, these ForexClear Deliverable Forward Contracts shall continue, for the purpose of margining, valuation, set-off or otherwise, to be regarded as fully fungible with ForexClear Deliverable Forward Contracts registered in a ForexClear Clearing Member's name prior to the time such amendment comes into effect.

1.8 The accidental omission to give notice under this provision to, or the non-receipt of notice under 1.6 or 1.7 above by, any ForexClear Clearing Member shall not invalidate the amendment with which the notice is concerned.

## 2. Economic Terms

2.1 The Economic Terms of a ForexClear Deliverable Forward Contract shall be derived from the information presented to the Clearing House by the parties to the corresponding ForexClear Deliverable Forward Transaction.

2.2 The particulars of a ForexClear Deliverable Forward Transaction presented to the Clearing House must include matched information in respect of the following Economic Terms:

(a) Trade Date (Section 1.25)

(b) Amount and currency payable by the ForexClear Clearing Member that is Party A

(c) Amount and currency payable by the ForexClear Clearing Member that is Party B

(d) Settlement Date (Section 1.24).

2.3 However, as set out more particularly in Regulation 16, where the ForexClear Deliverable Forward Transaction specifies a ForexClear Clearing Member as the First Clearing Member with the other ForexClear Clearing Member as the Second Clearing Member, the Clearing House, in respect of each ForexClear Deliverable Forward Contract to which it is a party pursuant to the corresponding ForexClear Deliverable Forward Transaction, shall be (i) Party B, and (ii) Party A under such ForexClear Deliverable Forward Contract, respectively.

## 3. Standard Terms

The following terms are designated as Standard Terms of a registered ForexClear Deliverable Forward Contract:

### 3.1 Deliverable Transaction

Deleted: 7

Deleted: November 2017

The ForexClear Deliverable Forward Transaction evidenced by these ForexClear Deliverable Forward Contract Terms shall be an FX Transaction that is a Deliverable Transaction for the purposes of the ISDA Definitions.

### 3.2 Annex A (Section 4.2)

Annex A to the ISDA Definitions is incorporated as amended as at the Trade Date.

### 3.3 Calculation Agent (Section 1.3)

The Calculation Agent is the Clearing House.

### 3.4 Business Days

For the purposes of determining the Settlement Date only, in addition to the Business Days for the Principal Financial Centers specified in Annex A, the Business Days specified in the Swaps Monitor Financial Calendar as published by Swaps Monitor Publications, Inc. (as further detailed in the Procedures) from time to time, will apply to a ForexClear Deliverable Forward Contract.

### 3.5 Withholding Tax Provisions

- (a) All payments due under a ForexClear Deliverable Forward Contract shall be made by the ForexClear Clearing Member free and clear and without deduction or withholding for or on account of any tax. Payments in respect of which such deduction or withholding is required to be made, by the ForexClear Clearing Member, shall be increased to the extent necessary to ensure that, after the making of the required deduction or withholding, the Clearing House receives and retains (free from any liability in respect of such deduction or withholding) a net sum equal to the sum which it would have received and so retained had no such deduction or withholding been made or required to be made.
- (b) All payments due under a ForexClear Deliverable Forward Contract shall be made by the Clearing House free and clear and without deduction or withholding for or on account of any tax. Payments in respect of which such deduction or withholding is required to be made, by the Clearing House, shall be increased to the extent necessary to ensure that, after the making of the required deduction or withholding, the ForexClear Clearing Member receives and retains (free from any liability in respect of such deduction or withholding) a net sum equal to the sum which it would have received and so retained had no such deduction or withholding been made or required to be made.

### 3.6 Payment of Stamp Tax

Each ForexClear Clearing Member will pay any Stamp Tax or duty levied or imposed upon it in respect of any ForexClear Deliverable Forward Contract to which it is a party by a jurisdiction in which it is incorporated, organised, managed and controlled, or considered to have its seat, or in which a branch or office through which it is acting is located ("Stamp Tax Jurisdiction") or by any other jurisdiction, and will indemnify the Clearing House against any Stamp Tax or duty levied or imposed upon the Clearing House by any such Stamp Tax Jurisdiction or by any other jurisdiction in respect of any ForexClear Deliverable Forward

Deleted: 7

Deleted: November 2017



Contract registered by the Clearing House and to which that ForexClear Clearing Member is a party.

### 3.7 Payments under a ForexClear Deliverable Forward Contract

Payments under, and in respect of, a ForexClear Deliverable Forward Contract shall be calculated by the Clearing House and shall be made by, or to, the ForexClear Clearing Member in accordance with the provisions of the Procedures.

### 3.8 Regulations

A ForexClear Deliverable Forward Contract shall be subject to the Regulations and the Procedures, which shall form a part of its terms. In the event of any inconsistency between these ForexClear Deliverable Forward Contract Terms and the Regulations and the Procedures, the Regulations and the Procedures will prevail.

### 3.9 Governing Law

Each ForexClear Deliverable Forward Contract, and any non-contractual obligations arising out of or in connection with it, shall be governed by and construed in accordance with the laws of England and Wales and the parties irrevocably agree for the benefit of the Clearing House that the courts of England and Wales shall have exclusive jurisdiction to hear and determine any action or dispute which may arise here from. The ForexClear Clearing Member party hereto irrevocably submits to such jurisdiction and agrees to waive any objection it might otherwise have to such jurisdiction, save that this submission to the jurisdiction of the courts of England and Wales shall not (and shall not be construed so as to) limit the right of the Clearing House to take proceedings in any other court of competent jurisdiction, nor shall the taking of action in one or more jurisdictions preclude the Clearing House from taking action in any other jurisdiction, whether concurrently or not.

### 3.10 Third Party Rights

A person who is not a party to this ForexClear Deliverable Forward Contract shall have no rights under or in respect of it. Rights of third parties to enforce any terms of this ForexClear Deliverable Forward Contract pursuant to the Contracts (Rights of Third Parties) Act 1999 are expressly excluded.

Deleted: 7

Deleted: November 2017

**PART G**

**REGISTRATION OF A FOREXCLEAR DELIVERABLE FORWARD CONTRACT – PRODUCT ELIGIBILITY CRITERIA**

**1. Registration of a ForexClear Deliverable Forward Contract**

Without prejudice to the Regulations and the Procedures, the Clearing House will only register a ForexClear Deliverable Forward Contract pursuant to receipt of particulars of a transaction where at the time of the particulars being presented:

- (a) the transaction meets the Product Eligibility Criteria set out in paragraph 2 below for a ForexClear Deliverable Forward Transaction;
- (b) each party to the transaction is either (i) a ForexClear Dealer or (ii) a ForexClear Clearing Member who has not been declared a defaulter by the Clearing House; and
- (c) the ForexClear Clearing Member in whose name the ForexClear Deliverable Forward Contract is to be registered has not been declared a defaulter by the Clearing House.

and the requirements of Paragraph 1(a), (b) and (c) above continue to be satisfied at the Registration Time.

**2. Product Eligibility Criteria for a ForexClear Deliverable Forward Contract**

<b><u>Instrument</u></b>	<u>Deliverable FX Forward Transaction</u>
<b><u>Economic Terms</u></b>	<u>The transaction particulars submitted to the Clearing House specify all the Economic Terms.</u>
<b><u>Currency Pair</u></b>	<u>One of</u>
	<u>USD/JPY,</u>
	<u>EUR/USD,</u>
	<u>GBP/USD,</u>
	<u>AUD/USD,</u>
	<u>EUR/CHF,</u>
	<u>USD/CHF,</u>
	<u>EUR/JPY,</u>
	<u>EUR/GBP</u>
<b><u>Settlement Date</u></b>	<u>A valid Business Day for the Currency Pair to which the ForexClear Transaction relates and a date falling:</u>

Deleted: 7

Deleted: November 2017

	<u>not earlier than the date falling three Business Days immediately following the Submission Date; and</u>
	<u>not later than the date falling two calendar years plus two Business Days immediately following the Submission Date.</u>
<b><u>Settlement Type</u></b>	<u>Deliverable</u>
<b><u>Calculation Agent</u></b>	<u>The Clearing House</u>

Deleted: 7

Deleted: November 2017

## PART H

### FOREXCLEAR OPTION CONTRACT TERMS; FOREXCLEAR CONTRACTS ARISING FROM FOREXCLEAR OPTION TRANSACTIONS

Where a ForexClear Option Contract arises between the Clearing House and a ForexClear Clearing Member pursuant to the Regulations and the terms of any agreement entered into between them, the terms of such registered ForexClear Option Contract shall include these ForexClear Option Contract Terms, which shall comprise:

- (1) Interpretation;
- (2) Economic Terms; and
- (3) Standard Terms.

In the event of any inconsistency between the Economic Terms and the Standard Terms, the Standard Terms will prevail.

Subject to the Regulations and the Procedures, the Clearing House will use the ForexClear Option Contract Terms applicable to a ForexClear Option Contract to calculate the amounts due under the ForexClear Option Contract to, or from, the Clearing House in accordance with the Procedures.

#### 1. Interpretation ("Interpretation")

- 1.1 "ISDA Definitions" means the 1998 FX and Currency Options Definitions (including Annex A thereto) as published by the International Swaps and Derivatives Association, Inc. ("ISDA"), the Emerging Markets Trade Association ("EMTA") and The Foreign Exchange Committee ("FXC") and the same are incorporated by reference herein.
- 1.2 Words and expressions used in these ForexClear Option Contract Terms which are not defined in the Regulations and the Procedures but which are defined in the ISDA Definitions shall bear the same meaning herein as in the ISDA Definitions, unless expressly provided otherwise.
- 1.3 In the event of an inconsistency, the Regulations and Procedures will prevail over the ISDA Definitions.
- 1.4 References in the ISDA Definitions to a "Currency Option Transaction" shall be deemed to be references to a "ForexClear Option Transaction" for the purposes of these ForexClear Option Contract Terms.
- 1.5 Except where expressly stated otherwise, all reference to "Sections" means Sections in the ISDA Definitions.
- 1.6 In relation to any amendment to the ISDA Definitions published from time to time by ISDA, EMTA and FXC, the Clearing House may from time to time, by notice delivered to the ForexClear Clearing Members, give directions as to whether such amendment shall apply to ForexClear Option Contracts with immediate effect or with such deferred effect as the Clearing House shall determine (provided that in any event

Deleted: 7

Deleted: November 2017

any such amendment shall only apply in relation to ForexClear Option Contracts that have a Trade Date that falls on or after the effective date of such amendment).

1.7 Any such notice may provide that despite the application of any such amendment to the ISDA Definitions to ForexClear Option Contracts going forward, these ForexClear Option Contracts shall continue, for the purpose of margining, valuation, set-off or otherwise, to be regarded as fully fungible with ForexClear Option Contracts registered in a ForexClear Clearing Member's name prior to the time such amendment comes into effect.

1.8 The accidental omission to give notice under this provision to, or the non-receipt of notice under 1.6 or 1.7 above by, any ForexClear Clearing Member shall not invalidate the amendment with which the notice is concerned.

## 2. Economic Terms

2.1 The Economic Terms of a ForexClear Option Contract shall be derived from the information presented to the Clearing House by the parties to the corresponding ForexClear Option Transaction.

2.2 The particulars of a ForexClear Option Transaction presented to the Clearing House must include matched information in respect of the following Economic Terms:

- (a) Trade Date (Section 1.25)
- (b) Buyer (Section 3.1(a))
- (c) Seller (Section 3.1(f))
- (d) Currency Option Style (Section 3.2)
- (e) Currency Option Type (Section 3.3)
- (f) Call Currency (Section 3.1(b))
- (g) Call Currency Amount (Section 3.1(c))
- (h) Put Currency (Section 3.1(d))
- (i) Put Currency Amount (Section 3.1(e))
- (j) Strike Price (Section 3.1(g))
- (k) Expiration Date (Section 3.5(d))
- (l) Expiration Time (Section 3.5(e))
- (m) Settlement Date (Section 1.24)
- (n) Premium: Price (Section 3.4(a))
- (o) Premium Payment Date (Section 3.4(b))

Deleted: 7

Deleted: November 2017



(p) the method by which the Buyer and the Seller shall, if relevant, settle the ForexClear Option Transaction on the Exercise Date, which must either be:

(i) by way of entry into a ForexClear Spot Transaction; or

(ii) by way of entry into a ForexClear Deliverable Forward Transaction

(q) the Settlement Date of such ForexClear Spot Transaction or ForexClear Deliverable Forward Transaction

2.3 However, as set out more particularly in Regulation 16, where the ForexClear Option Transaction specifies a ForexClear Clearing Member as the Seller, with the other ForexClear Member as the Buyer, the Clearing House, in respect of each ForexClear Option Contract to which it is party pursuant to the corresponding ForexClear Option Transaction, shall be (i) the Buyer; and (ii) the Seller under such ForexClear Option Contract, respectively.

### 3. Standard Terms

3.1 The following terms are designated as Standard Terms of a registered ForexClear Option Contract:

#### 3.2 Deliverable Transaction

The ForexClear Option Transaction evidenced by these ForexClear Option Contract Terms shall be a Currency Option Transaction that is a Deliverable Currency Option Transaction for the purposes of the ISDA Definitions.

#### 3.3 Annex A (Section 4.2)

Annex A to the ISDA Definitions is incorporated as amended as at the Trade Date.

#### 3.4 Calculation Agent (Section 1.3)

The Calculation Agent is the Clearing House.

#### 3.5 Exercise (Section 3.6(a)) and Effectiveness of Notice of Exercise (Section 3.6(b))

Regulation 94 shall govern (i) the method by which the parties to a ForexClear Option Contract shall be able to exercise the rights granted pursuant to the related ForexClear Option Transaction, and (ii) the effectiveness of such exercise. Accordingly, Section 3.6(a) and Section 3.6(b) of the ISDA Definitions shall each be disapplied in their entirety.

#### 3.6 Automatic Exercise (Section 3.6(c))

(a) Subject to (b) below, Automatic Exercise shall be applicable to a ForexClear Option Transaction and the related ForexClear Option Contract.

(b) The manner in which Automatic Exercise shall apply to a ForexClear Option Transaction and the related ForexClear Option Contract shall not be as set forth in Section 3.6(c) of the ISDA Definitions, and instead, if, at the

Deleted: 7

Deleted: November 2017

Expiration Time on the Expiration Date, the ForexClear Option Transaction and the related ForexClear Option Contract has not been exercised in accordance with Regulation 94, then it shall be deemed exercised as of that time in accordance with, and subject to the satisfaction of any conditions set forth in, Regulation 94.

### 3.7 Terms Relating to Settlement (Section 3.7(a))

Regulation 95 shall govern settlement of this ForexClear Option Transaction and the related ForexClear Option Contract and accordingly Section 3.7(a) of the ISDA Definitions shall be disapplied in its entirety.

### 3.8 Business Days

For the purposes of determining the Settlement Date and Expiration Date only, in addition to the Business Days for the Principal Financial Centers specified in Annex A, the Business Days specified in the Swaps Monitor Financial Calendar as published by Swaps Monitor Publications, Inc. (as further detailed in the Procedures) from time to time, will apply to a ForexClear Option Contract.

### 3.9 Withholding Tax Provisions

- (a) All payments due under a ForexClear Option Contract shall be made by the ForexClear Clearing Member free and clear and without deduction or withholding for or on account of any tax. Payments in respect of which such deduction or withholding is required to be made, by the ForexClear Clearing Member, shall be increased to the extent necessary to ensure that, after the making of the required deduction or withholding, the Clearing House receives and retains (free from any liability in respect of such deduction or withholding) a net sum equal to the sum which it would have received and so retained had no such deduction or withholding been made or required to be made.
- (b) All payments due under a ForexClear Option Contract shall be made by the Clearing House free and clear and without deduction or withholding for or on account of any tax. Payments in respect of which such deduction or withholding is required to be made, by the Clearing House, shall be increased to the extent necessary to ensure that, after the making of the required deduction or withholding, the ForexClear Clearing Member receives and retains (free from any liability in respect of such deduction or withholding) a net sum equal to the sum which it would have received and so retained had no such deduction or withholding been made or required to be made.

### 3.10 Payment of Stamp Tax

Each ForexClear Clearing Member will pay any Stamp Tax or duty levied or imposed upon it in respect of any ForexClear Option Contract to which it is a party by a jurisdiction in which it is incorporated, organised, managed and controlled, or considered to have its seat, or in which a branch or office through which it is acting is located ("Stamp Tax Jurisdiction") or by any other jurisdiction, and will indemnify the Clearing House against any Stamp Tax or duty levied or imposed upon the Clearing House by any such Stamp Tax Jurisdiction or by any other jurisdiction in

Deleted: 7

Deleted: November 2017

respect of any ForexClear Option Contract registered by the Clearing House and to which that ForexClear Clearing Member is a party.

### 3.11 Payments under a ForexClear Option Contract

Payments under, and in respect of, a ForexClear Option Contract shall be calculated by the Clearing House and shall be made by, or to, the ForexClear Clearing Member in accordance with the provisions of the Procedures.

### 3.12 Regulations

A ForexClear Option Contract shall be subject to the Regulations and the Procedures, which shall form a part of its terms. In the event of any inconsistency between these ForexClear Option Contract Terms and the Regulations and the Procedures, the Regulations and the Procedures will prevail.

### 3.13 Governing Law

Each ForexClear Option Contract, and any non-contractual obligations arising out of or in connection with it, shall be governed by and construed in accordance with the laws of England and Wales and the parties irrevocably agree for the benefit of the Clearing House that the courts of England and Wales shall have exclusive jurisdiction to hear and determine any action or dispute which may arise here from. The ForexClear Clearing Member party hereto irrevocably submits to such jurisdiction and agrees to waive any objection it might otherwise have to such jurisdiction, save that this submission to the jurisdiction of the courts of England and Wales shall not (and shall not be construed so as to) limit the right of the Clearing House to take proceedings in any other court of competent jurisdiction, nor shall the taking of action in one or more jurisdictions preclude the Clearing House from taking action in any other jurisdiction, whether concurrently or not.

### 3.14 Third Party Rights

A person who is not a party to this ForexClear Option Contract shall have no rights under or in respect of it. Rights of third parties to enforce any terms of this ForexClear Option Contract pursuant to the Contracts (Rights of Third Parties) Act 1999 are expressly excluded.

Deleted: 7

Deleted: November 2017

**PART I**

**REGISTRATION OF A FOREXCLEAR OPTION CONTRACT – PRODUCT ELIGIBILITY CRITERIA**

**1. Registration of a ForexClear Option Contract**

Without prejudice to the Regulations and the Procedures, the Clearing House will only register a ForexClear Option Contract pursuant to receipt of particulars of a transaction where at the time of the particulars being presented:

- (a) the transaction meets the Product Eligibility Criteria set out in paragraph 2 below for a ForexClear Option Transaction;
- (b) each party to the transaction is either (i) a ForexClear Dealer or (ii) a ForexClear Clearing Member who has not been declared a defaulter by the Clearing House; and
- (c) the ForexClear Clearing Member in whose name the ForexClear Option Contract is to be registered has not been declared a defaulter by the Clearing House,

and the requirements of Paragraph 1(a), (b) and (c) above continue to be satisfied at the Registration Time.

**2. Product Eligibility Criteria for a ForexClear Option Contract**

<b><u>Instrument</u></b>	<u>Deliverable Currency Option Transaction</u>
<b><u>Economic Terms</u></b>	<u>The transaction particulars submitted to the Clearing House specify all the Economic Terms.</u>
<b><u>Currency Pair</u></b>	<u>One of</u>
	<u>USD/JPY,</u>
	<u>EUR/USD,</u>
	<u>GBP/USD,</u>
	<u>AUD/USD,</u>
	<u>EUR/CHF,</u>
	<u>USD/CHF,</u>
	<u>EUR/JPY,</u>
	<u>EUR/GBP</u>
<b><u>Currency Option Style</u></b>	<u>European</u>

Deleted: 7  
Deleted: November 2017

<b><u>Currency Option Type</u></b>	Call or Put
<b><u>Expiration Time</u></b>	<u>As submitted to the Clearing House in respect of each ForexClear Option Transaction, which must be either JPY, 3:00 pm (Japan Standard Time) or 10:00am (Eastern Standard Time)</u>
<b><u>Expiration Date</u></b>	<u>A date falling not later than the date falling two calendar years immediately following the Submission Date.</u>
<b><u>Settlement Type</u></b>	<u>Deliverable</u>
<b><u>Calculation Agent</u></b>	<u>The Clearing House</u>

Deleted: 7  
 Deleted: November 2017



**PART J**

**FOREXCLEAR SWAP CONTRACT TERMS; FOREXCLEAR CONTRACTS  
ARISING FROM FOREXCLEAR SWAP TRANSACTIONS**

Where a ForexClear Swap Contract arises between the Clearing House and a ForexClear Clearing Member pursuant to the Regulations and the terms of any agreement entered into between them, the terms of such registered ForexClear Swap Contract shall include these ForexClear Swap Contract Terms, which shall comprise:

- (1) Interpretation;
- (2) Economic Terms; and
- (3) Standard Terms.

In the event of any inconsistency between the Economic Terms and the Standard Terms, the Standard Terms will prevail.

Subject to the Regulations and the Procedures, the Clearing House will use the ForexClear Swap Contract Terms applicable to a ForexClear Swap Contract to calculate the amounts due under the ForexClear Swap Contract to, or from, the Clearing House in accordance with the Procedures.

**1. Interpretation ("Interpretation")**

- 1.1 "ISDA 2006 Definitions" means the 2006 ISDA Definitions as published by the International Swaps and Derivatives Association, Inc. ("ISDA") and the same are incorporated by reference herein.
- 1.2 Words and expressions used in these ForexClear Swap Contract Terms which are not defined in the Regulations and the Procedures but which are defined in the ISDA 2006 Definitions shall bear the same meaning herein as in the ISDA 2006 Definitions as the case may be, unless expressly provided otherwise.
- 1.3 In the event of an inconsistency, the Regulations and Procedures will prevail over the ISDA 2006 Definitions.
- 1.4 References in the ISDA 2006 Definitions to a "Swap Transaction" shall be deemed to be references to a "ForexClear Swap Transaction" for the purposes of these ForexClear Swap Contract Terms.
- 1.5 Except where expressly stated otherwise, all reference to "Sections" means Sections in the ISDA 2006 Definitions.
- 1.6 In relation to any amendment to the ISDA 2006 Definitions published from time to time by ISDA, the Clearing House may from time to time, by notice delivered to the ForexClear Clearing Members, give directions as to whether such amendment shall apply to ForexClear Swap Contracts with immediate effect or with such deferred effect as the Clearing House shall determine (provided that in any event any such amendment shall only apply in relation to ForexClear Swap Contracts that have a Trade Date that falls on or after the effective date of such amendment).

Deleted: 7

Deleted: November 2017

1.7 Any such notice may provide that despite the application of any such amendment to the ISDA 2006 Definitions to ForexClear Swap Contracts going forward, these ForexClear Swap Contracts shall continue, for the purpose of margining, valuation, set-off or otherwise, to be regarded as fully fungible with ForexClear Swap Contracts registered in a ForexClear Clearing Member's name prior to the time such amendment comes into effect.

1.8 The accidental omission to give notice under this provision to, or the non-receipt of notice under 1.6 or 1.7 above by, any ForexClear Clearing Member shall not invalidate the amendment with which the notice is concerned.

## 2. Economic Terms

2.1 The Economic Terms of a ForexClear Swap Contract shall be derived from the information presented to the Clearing House by the parties to the corresponding ForexClear Swap Transaction.

2.2 The particulars of a ForexClear Swap Transaction presented to the Clearing House (or, in the case of a Mandatory ForexClear Swap Transaction, the particulars determined by the Clearing House in accordance with Regulation 101, or in the case of a Mandatory Settlement ForexClear Transaction, the particulars determined by the Clearing House in accordance with Regulation 100) must include matched information in respect of the following Economic Terms:

(a) Trade Date (Section 3.7)

(b) Initial Exchange Amount (Section 4.1) and Currency (Section 1.7) payable by the ForexClear Clearing Member that is Party A

(c) Initial Exchange Amount (Section 4.1) and Currency (Section 1.7) payable by the ForexClear Clearing Member that is Party B

(d) Final Exchange Amount (Section 4.3) and Currency (Section 1.7) payable by the ForexClear Clearing Member that is Party A

(e) Final Exchange Amount (Section 4.3) and Currency (Section 1.7) payable by the ForexClear Clearing Member that is Party B

(f) Initial Exchange Date (Section 3.4)

(g) Final Exchange Date (Section 3.6)

(h) Business Day Convention (Section 4.12)

2.3 However, as set out more particularly in Regulation 16, where the ForexClear Swap Transaction specifies a ForexClear Clearing Member as the First Clearing Member with the other ForexClear Clearing Member as the Second Clearing Member, the Clearing House, in respect of each ForexClear Swap Contract to which it is a party pursuant to the corresponding ForexClear Swap Transaction, shall be (i) Party B, and (ii) Party A under such ForexClear Swap Contract, respectively.

Deleted: 7

Deleted: November 2017

### 3. Standard Terms

3.1 The following terms are designated as Standard Terms of a registered ForexClear Swap Contract:

#### 3.2 Calculation Agent (Section 1.3)

The Calculation Agent is the Clearing House.

#### 3.3 Withholding Tax Provisions

(a) All payments due under a ForexClear Swap Contract shall be made by the ForexClear Clearing Member free and clear and without deduction or withholding for or on account of any tax. Payments in respect of which such deduction or withholding is required to be made, by the ForexClear Clearing Member, shall be increased to the extent necessary to ensure that, after the making of the required deduction or withholding, the Clearing House receives and retains (free from any liability in respect of such deduction or withholding) a net sum equal to the sum which it would have received and so retained had no such deduction or withholding been made or required to be made.

(b) All payments due under a ForexClear Swap Contract shall be made by the Clearing House free and clear and without deduction or withholding for or on account of any tax. Payments in respect of which such deduction or withholding is required to be made, by the Clearing House, shall be increased to the extent necessary to ensure that, after the making of the required deduction or withholding, the ForexClear Clearing Member receives and retains (free from any liability in respect of such deduction or withholding) a net sum equal to the sum which it would have received and so retained had no such deduction or withholding been made or required to be made.

#### 3.4 Payment of Stamp Tax

Each ForexClear Clearing Member will pay any Stamp Tax or duty levied or imposed upon it in respect of any ForexClear Swap Contract to which it is a party by a jurisdiction in which it is incorporated, organised, managed and controlled, or considered to have its seat, or in which a branch or office through which it is acting is located ("Stamp Tax Jurisdiction") or by any other jurisdiction, and will indemnify the Clearing House against any Stamp Tax or duty levied or imposed upon the Clearing House by any such Stamp Tax Jurisdiction or by any other jurisdiction in respect of any ForexClear Swap Contract registered by the Clearing House and to which that ForexClear Clearing Member is a party.

#### 3.5 Payments under a ForexClear Swap Contract

Payments under, and in respect of, a ForexClear Swap Contract shall be calculated by the Clearing House and shall be made by, or to, the ForexClear Clearing Member in accordance with the provisions of the Procedures.

#### 3.6 Regulations

Deleted: 7

Deleted: November 2017

A ForexClear Swap Contract shall be subject to the Regulations and the Procedures, which shall form a part of its terms. In the event of any inconsistency between these ForexClear Swap Contract Terms and the Regulations and the Procedures, the Regulations and the Procedures will prevail.

### 3.7 Governing Law

Each ForexClear Swap Contract, and any non-contractual obligations arising out of or in connection with it, shall be governed by and construed in accordance with the laws of England and Wales and the parties irrevocably agree for the benefit of the Clearing House that the courts of England and Wales shall have exclusive jurisdiction to hear and determine any action or dispute which may arise here from. The ForexClear Clearing Member party hereto irrevocably submits to such jurisdiction, save that this submission to the jurisdiction of the courts of England and Wales shall not (and shall not be construed so as to) limit the right of the Clearing House to take proceedings in any other court of competent jurisdiction, nor shall the taking of action in one or more jurisdictions preclude the Clearing House from taking action in any other jurisdiction, whether concurrently or not.

### 3.8 Third Party Rights

A person who is not a party to this ForexClear Swap Contract shall have no rights under or in respect of it. Rights of third parties to enforce any terms of this ForexClear Swap Contract pursuant to the Contracts (Rights of Third Parties) Act 1999 are expressly excluded.

Deleted: 7

Deleted: November 2017



**PART K**

**REGISTRATION OF A FOREXCLEAR SWAP CONTRACT – PRODUCT ELIGIBILITY CRITERIA**

**1. Registration of a ForexClear Swap Contract**

Without prejudice to the Regulations and the Procedures, the Clearing House will only register a ForexClear Swap Contract pursuant to receipt of particulars of a transaction where at the time of the particulars being presented (or, in the case of a Mandatory ForexClear Swap Transaction, the time at which the particulars are determined by the Clearing House in accordance with Regulation 101, or in the case of a Mandatory Settlement ForexClear Transaction, the particulars determined by the Clearing House in accordance with 100):

- (a) the transaction meets the Product Eligibility Criteria set out in paragraph 2 below for a ForexClear Swap Transaction;
- (b) each party to the transaction is either (i) a ForexClear Dealer or (ii) a ForexClear Clearing Member who has not been declared a defaulter by the Clearing House; and
- (c) the ForexClear Clearing Member in whose name the ForexClear Swap Contract is to be registered has not been declared a defaulter by the Clearing House.

and the requirements of Paragraph 1(a), (b), and (c) above continue to be satisfied at the Registration Time.

**2. Product Eligibility Criteria for a ForexClear Swap Contract**

<b><u>Instrument</u></b>	<u>Currency Swap Transaction</u>
<b><u>Economic Terms</u></b>	<u>The transaction particulars submitted to the Clearing House specify all the Economic Terms.</u>
<b><u>Currency Pair</u></b>	<u>One of</u>
	<u>USD/JPY,</u>
	<u>EUR/USD,</u>
	<u>GBP/USD,</u>
	<u>AUD/USD,</u>
	<u>EUR/CHF,</u>
	<u>USD/CHF,</u>
	<u>EUR/JPY,</u>
	<u>EUR/GBP</u>

Deleted: 7

Deleted: November 2017



<b><u>Initial Exchange Date</u></b>	<u>A date falling not later than the date that is two calendar days immediately following the Submission Date.</u>
<b><u>Final Exchange Date</u></b>	<u>Any date falling between:</u> (i) <u>the date falling immediately after the Initial Exchange Date; and</u> (ii) <u>the date falling 14 calendar days after the Initial Exchange Date.</u>
<b><u>Settlement Date</u></b>	<u>A valid Business Day for the Currency Pair to which the ForexClear Transaction relates.</u>
<b><u>Settlement Type</u></b>	<u>Deliverable</u>
<b><u>Calculation Agent</u></b>	<u>The Clearing House</u>

Deleted: 7

Deleted: November 2017