

VIA CFTC PORTAL

12 September 2018

Mr Christopher Kirkpatrick
Commodity Futures Trading Commission
115 21st Street NW
Three Lafayette Centre
Washington DC 20581

LCH Limited Self-Certification: UK Criminal Finances Act amendment rule changes

Dear Mr Kirkpatrick

Pursuant to CFTC regulation §40.6(a), LCH Limited (“LCH”), a derivatives clearing organization registered with the Commodity Futures Trading Commission (the “CFTC”), is submitting for self-certification changes to its rules resulting from the introduction of the Criminal Finances Act 2017 (“the Act”) in the United Kingdom in September 2017.

Part I: Explanation and Analysis

The Act aims to identify who should be liable for tax evasion and facilitation of tax related crimes. In order to protect LCH from becoming liable for the actions of its Clearing Members, LCH proposed changes to its rules in September 2017 and March 2018, and those rules were subsequently implemented.

Following further Clearing Member feedback, this amendment removes the Clearing Member warranty that was inserted by the original change, as this is now considered superfluous. Overall, the Clearing Members are still required to perform their obligations and exercise their rights under the rulebook in accordance with all applicable laws and regulations, including the Act.

The rule changes will go live on, or after, 27 September 2018.

Part II: Description of Rule Changes

The Clearing Member warranty clauses under Paragraph (e) of Regulation 48 of the General Regulations and Paragraph (e) of Regulation 40 of the FCM Regulations has been removed as it was deemed superfluous following further member feedback.

The texts of the rule changes are attached hereto as:

- i. **Appendix I**, General Regulations
- ii. **Appendix II**, FCM Regulations

Part III: Core Principle Compliance

LCH has reviewed the changes against the requirements of the Core Principles, including Core Principle R, and finds that it will continue to comply with all the requirements and standards therein.

Part IV: Public Information

LCH has posted a notice of pending certification with the CFTC and a copy of the submission on LCH's website at:

<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 the rule.

Certification

LCH hereby certifies to the Commodity Futures Trading Commission, pursuant to the procedures set forth in the 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 please contact me at julian.oliver@lch.com.

Yours sincerely



Julian Oliver
Chief Compliance Officer
LCH Limited

Appendix I
General Regulations



**GENERAL REGULATIONS OF
LCH LIMITED**

REGULATION 48 INTERPRETATION OF THESE REGULATIONS; APPLICABLE LAW

- (a) In the event of inconsistency between the provisions of these Regulations and Exchange Rules, or between these Regulations and the rules or regulations or other contractual provisions of any trading platform or other undertaking, the provisions of these Regulations shall prevail.
- (b) The headings to these Regulations are for convenience only and shall not affect their interpretation.
- (c) Members shall at all times observe, interpret and give effect to the provisions of the Rulebook in a manner which promotes and maintains:
 - (i) the Clearing House's status as a recognised central counterparty under EMIR and a registered derivatives clearing organization under the United States Commodity Exchange Act and any other legal or regulatory status it has from time to time under any other Applicable Law;
 - (ii) the good reputation and integrity of the Clearing House and the Members; and
 - (iii) the Clearing House's obligations under EMIR and any other Applicable Law to act fairly and professionally in accordance with the best interests of Members and, where applicable, Clearing Clients and sound risk management.
- (d) Members shall perform their obligations and exercise their rights under the Rulebook in accordance with Applicable Law.
- ~~(e) Each Member warrants and undertakes that, in relation to its activities as a Member, (i) it shall not undertake any activities that would amount to, or facilitate or otherwise result in another person committing, tax evasion and (ii) it shall maintain reasonable procedures designed to prevent any employees, agents or other persons who perform services for it or on its behalf from undertaking any such activities. Each Member shall give written notice to the Clearing House forthwith of any apparent breach of this clause and shall forthwith on demand supply to the Clearing House any information requested by the Clearing House related to the Member's compliance with this clause.~~

Appendix II
FCM Regulations



FCM REGULATIONS OF THE CLEARING HOUSE

LCH LIMITED

**REGULATION 40 INTERPRETATION OF THESE FCM REGULATIONS;
APPLICABLE LAW; CLEARING HOUSE DATA**

- (a) In the event of inconsistency between the provisions of these FCM Regulations and the rules or regulations or other contractual provisions of any trading platform or other undertaking the provisions of these FCM Regulations shall prevail.
- (b) The headings to these FCM Regulations are for convenience only and shall not affect their interpretation.
- (c) FCMs shall at all times observe, interpret and give effect to the provisions of the Rulebook in a manner which promotes and maintains:
 - (i) the Clearing House's status as a recognised central counterparty under EMIR and a registered derivatives clearing organization under the United States Commodity Exchange Act and any other legal or regulatory status it has from time to time under any other Applicable Law;
 - (ii) the good reputation and integrity of the Clearing House and FCMs; and
 - (iii) the Clearing House's obligations under EMIR and any Applicable Law to act fairly and professionally in accordance with the best interests of FCMs and, where applicable, FCM Clients and sound risk management.
- (d) FCMs shall perform their obligations and exercise their rights under the Rulebook in accordance with Applicable Law.
- ~~(e) Each FCM warrants and undertakes that (i) it shall not undertake any activities that would amount to, or facilitate or otherwise result in another person committing, tax evasion and (ii) it shall maintain reasonable procedures designed to prevent any employees, agents or other persons who perform services for it or on its behalf from undertaking any such activities. Each FCM shall give written notice to the Clearing House forthwith of any apparent breach of this clause and shall forthwith on demand supply to the Clearing House any information requested by the Clearing House related to the FCM's compliance with this clause.~~
- (f)(e) FCM Clearing Members, FCM Clients and the service providers of FCM Clearing Members and FCM Clients may use Clearing House Data solely for the purposes of risk management and settlement activities in relation to FCM Contracts and positions held for the account of an FCM Client. FCM Clearing Members may only disclose the Clearing House Data:
 - (i) to (A) FCM Clients for whom the FCM Clearing Member provides Client Clearing Services and/or the service providers of such FCM Clients and (B) the service providers of the FCM Clearing Members, **provided** that, in each case, the FCM Clearing Members shall require by way of written contract that each relevant FCM Client and/or service provider shall only use Clearing House Data for the purposes of the FCM Client's or FCM Clearing Member's, as applicable, risk management and settlement activities in relation to FCM Contracts and positions held for the account of an FCM Client referencing the relevant Clearing House Data; and

FCM Regulations

- (ii) where required or requested to do so by law or by a regulatory authority or for the purposes of commencing, or defending, an arbitration or court proceeding.

~~(g)~~(f) Without prejudice to paragraph (f) above and Section 2.1.1(e) of the FCM Procedures, FCMs shall not, and shall require by way of written contract that any third party receiving Clearing House Data as a result of such FCM's disclosure shall not, use any Clearing House Data for any other purpose, including:

- (i) the creation or development of any new or derived data or data product; or
- (ii) “provision of a benchmark”, “use of a benchmark” or “contribution of input data” under Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014 (Text with EEA relevance).