

# Table of Contents

<b>REGULATIONS OF THE CLEARING HOUSE .....</b>	<b>1</b>
<b>DEFINITIONS AND INTERPRETATION .....</b>	<b>2</b>
<b>CHAPTER 1 – REGULATIONS OF GENERAL APPLICABILITY .....</b>	<b>15</b>
Regulation 101    Obligations of the Clearing House and Clearing Members Generally .....	15
Regulation 102    Clearing Member Status and the Application of Clearing House Regulations .....	16
Regulation 103    Client Business and Segregated Client Accounts .....	18
Regulation 104    Proprietary Account Clearing .....	24
Regulation 105    General Provisions Regarding Clearing Member Accounts at the Clearing House .....	25
Regulation 106    Margin; Other Obligations .....	26
Regulation 106A    Margining of Swap Product Client Accounts: Certain Additional Provisions; Without Client Excess Model; With Client Excess Model .....	31
Regulation 107    Net Present Value .....	38
Regulation 108    Transfers of Client and Proprietary Positions .....	39
Regulation 109    Market Disorder or Trade Emergency; Force Majeure; Offsetting of Contracts .....	43
Regulation 110    Currency Conversion .....	45
Regulation 111    Fees and Other Charges .....	46
Regulation 112    Records and Recordkeeping .....	47
Regulation 113    Alteration of Rulebook; Interpretation; Validity; Change in Law or CFTC Regulations .....	50
Regulation 114    Confidentiality .....	52
Regulation 115    Governing Law and Jurisdiction .....	53
Regulation 116    Exclusion of Liability .....	54
Regulation 117    Default or Bankruptcy of the Clearing House .....	56
Regulation 118    Acknowledgements and Agreements of Clients and Affiliates .....	61
<b>CHAPTER 2 – DEFAULT REGULATIONS .....</b>	<b>63</b>
Regulation 201    Applicability .....	63
Regulation 202    Steps to Take in the Event of a Default .....	64
Regulation 203    Event of Default .....	67
Regulation 204    Default Management Process .....	69

Regulation 205	Discharge of Defaulter’s Rights and Liabilities; Multiple Accounts; Treatment of Variation Margin.....	84
Regulation 206	Clearing House Certification .....	87
Regulation 207	Appointment of Persons.....	88
Regulation 208	Clearing House Cooperation with Regulators .....	89
Regulation 209	Clearing House Reports .....	90
<b>CHAPTER 3 – DEFAULT FUND REGULATIONS .....</b>		<b>91</b>
Regulation 301	Applicability; Default Fund .....	91
Regulation 302	Reduction of Losses on Default.....	92
Regulation 303	Contributions; Contractual Right of Repayment; Determining Required Amount of Contribution. ....	93
Regulation 304	Payment of Contributions .....	98
Regulation 305	Certain Terms Applicable to Contributions.....	99
Regulation 306	Interest Payable in Respect of Contributions.....	100
Regulation 307	No Assignment of Right to Receive Repayment; No Encumbering of Contributions.....	101
Regulation 308	Application of Defaulter’s Contribution, and Certification of Excess Losses.....	102
Regulation 309	Exercise of Clearing House Rights under Regulation 308 .....	103
Regulation 310	Application of Fund and Indemnity .....	104
Regulation 311	Additional Excess Losses Due to Additional Defaults .....	105
Regulation 312	Notice.....	106
Regulation 313	Delay in Clearing House’s Ability to Issue Recourse Certificates .....	107
Regulation 314	Reduction of Fund Amount and Contributions.....	108
Regulation 315	Payment of Unfunded Contributions .....	109
Regulation 316	Cessation of Clearing Member Status.....	110
Regulation 317	Recoveries from Defaulters .....	112
Regulation 318	Loss Distribution Process .....	113
Regulation 319	Voluntary Payments.....	120
Regulation 320	Insufficient Resources.....	121
Regulation 321	Security Interests in Default Fund and Related Arrangements.....	123
<b>CHAPTER 4 – SWAPCLEAR REGULATIONS.....</b>		<b>126</b>
Regulation 401	SwapClear Transactions; Registration of SwapClear Contracts; Novation and Post-Novation Compression.....	126
Regulation 402	Daily Calculation of NPV of SwapClear Contracts.....	132

Regulation 403	The reset rate for, and the net present value of, a SwapClear Contract.....	133
Regulation 404	Withdrawal of the SwapClear US Service by the Clearing House .....	134
Regulation 405	SwapClear Dealers .....	135
<b>Schedule 4A</b>	<b>SwapClear Contract Terms and Product Eligibility Criteria.....</b>	<b>136</b>

# **LCH.Clearnet LLC**

## **REGULATIONS OF THE CLEARING HOUSE**

### **Scope**

Save where expressly stated to the contrary in these LCH.Clearnet LLC Regulations (these “**Regulations**”) or the Procedures, these Regulations govern the clearing of Contracts by Clearing Members through LCH.Clearnet LLC. They do **not** govern any clearing services provided by LCH.Clearnet Limited, LCH.Clearnet SA or any other affiliates of LCH.Clearnet LLC, all of which are governed by separate sets of rules.

## Definitions and Interpretation

### I. Definitions:

In the LCH.Clearnet LLC Rulebook (referred to herein as the “**Rulebook**”) the following words and expressions shall have the following meanings, except as the context may otherwise require:

“**Account Manager Executing Party**” means an Executing Party that is eligible under the CEA and the CFTC Regulations to execute Unallocated SwapClear Transactions.

“**Affiliate**” means, with respect to a Clearing Member, any entity that controls, is controlled by or is under common control with such Clearing Member, and the account of which, when carried by the Clearing Member, would be considered a proprietary account pursuant to CFTC Regulation 1.3(y) (or any such successor or replacement regulation).

“**AIP**” has the meaning assigned to it in Regulation 204(b)(iv)(A).

“**Allocation Notice**” has the meaning assigned to it in Regulation 401(m)(iii).

“**Amendment**” has meaning assigned to it in Regulation 321(a).

“**Approved Trade Source System**” means a system or facility, such as an exchange, a clearing house, a swap execution facility, a designated contract market, trade affirmation or routing system or other similar venue or system, approved by the Clearing House for presenting Transactions to the Clearing House. For the avoidance of doubt, the “SwapClear API” is not an Approved Trade Source System.

“**Available Buffer**” means, at any given time, (i) with respect to Buffer held in the Buffer Sub-Account of an Omnibus Client Swaps Account with LCH that is subject to the Without Client Excess Model, Buffer credited therein that is not Encumbered Buffer (as described in Regulation 106A(c)(ii)(A)), and (ii) with respect to Buffer held in the Buffer Sub-Account of an Omnibus Client Swaps Account with LCH that is subject to the With Client Excess Model, Buffer credited therein that is not being used by the Clearing House to offset Margin deficits in the relevant Client Sub-Account (as described in Regulation 106A(d)(iv)).

“**Auction**” means the process of bidding by Clearing Members for an Auction Portfolio prescribed by the Clearing House following consultation with the DMG from time to time in accordance with Regulation 204(b)(iii).

“**Auction Currency**” means in relation to an Auction, the currency of an Auction Portfolio which is the subject of that Auction.

“**Auction Losses**” has the meaning assigned to it in Regulation 204(b)(v)(B).

“**Auction Portfolio**” means (i) a Portfolio; or (ii) a group of Contracts resulting from the splitting of a Portfolio pursuant to Regulation 204(b) including any connected hedging trades concluded by the Clearing House through Risk Neutralization.

“**Automatic Early Termination Event**” means any event set forth in Regulation 203(h) to Regulation 203(o) which satisfies certain criteria (including but not limited to the

jurisdiction of incorporation of a Clearing Member) that may from time to time be published by the Clearing House in a circular to Clearing Members.

“**Backload Registration Cycle**” has the meaning assigned to such term in the Procedures.

“**Backloaded Trade**” has the meaning assigned to such term in the Procedures.

“**Bankruptcy Code**” means the U.S. Bankruptcy Code.

“**Block IRS Trade**” means a trade the notional amount of which is at or above the minimum block size established by the CFTC pursuant to CFTC Regulation 43.6 for the interest rate asset class and in effect as of the date of submission of such trade to the Clearing House for registration.

“**Buffer**” has the meaning assigned to it in Regulation 106A(a).

“**Buffer Sub-Account**” has the meaning assigned to it in Regulation 106A(a).

“**Business Day**” means in respect of a Contract (except where specified otherwise in the relevant SwapClear Contract Terms), a day on which the Clearing House is open for business as set forth in the Procedures.

“**Capped Amount**” has the meaning assigned to it in Regulation 302(3).

“**Carrying FCM Clearing Member**” means an FCM Clearing Member carrying an account for a Client, and in respect of which the Contracts and Collateral attributable to such account may be transferred to a Receiving FCM Clearing Member pursuant to Regulation 108 and in accordance with the Procedures.

“**CEA**” means the Commodity Exchange Act.

“**CFTC**” means the Commodity Futures Trading Commission.

“**CFTC Regulations**” means the rules and regulations promulgated by the CFTC.

“**Cleared Swap**” means “Cleared Swap” as such term is defined in CFTC Regulation 22.1 (which, for the avoidance of doubt, shall for the purposes of the Rulebook be deemed to include Contracts).

“**Cleared Swaps Account Class**” means the account class for cleared swaps accounts (as defined in CFTC Regulation 190.01(a)(i)) for purposes of Part 190 of the CFTC Regulations and Section 4d(f) of the CEA.

“**Cleared Swaps Customer Account**” means “Cleared Swaps Customer Account” as such term is defined in CFTC Regulation 22.1.

“**Clearing End-User Notice**” means the “Clearing End-User Notice” as specified by the Clearing House from time to time and as published by the Clearing House on its website or otherwise.

“**Clearing House**” means LCH.Clearnet LLC whose principal place of business is located at 17 State Street, 28<sup>th</sup> Floor, New York, NY 10004.

“**Clearing Member**” means a person that has been approved by the Clearing House as a “Clearing Member” and for the clearing of one or more categories of Contracts, in accordance with a Clearing Membership Agreement and the Rulebook.

“**Clearing Membership Agreement**” means the agreement so designated under which, inter alia, the Clearing House agrees to make available Clearing Services to a Clearing Member in respect of Contracts together with any ancillary agreements.

“**Clearing Services**” means SwapClear Clearing Services.

“**Client**” means a client of an FCM Clearing Member (but not including Affiliates of such FCM Clearing Member) with positions in Cleared Swaps, including Contracts, on behalf of which the FCM Clearing Member provides Clearing Services and clears Contracts; provided, that any such client is only a Client with respect to its positions in Cleared Swaps.

“**Client Business**” means the provision of Clearing Services by an FCM Clearing Member to its Clients.

“**Client Funds**” means all cash, securities, receivables, rights, intangibles and any other collateral or assets held by an FCM Clearing Member (i.e., not deposited with the Clearing House) on behalf of its Clients.

“**Client Sub-Account**” means an individual segregated sub-account on behalf of an individual Client, established on the books of the Clearing House as a sub-account of the relevant Omnibus Client Swaps Account with LCH of the relevant FCM Clearing Member, which shall reflect the relevant Margin balance attributable to such sub-account, and the relevant Contracts registered to such sub-account and carried for such Client by its FCM Clearing Member.

“**Client Sub-Account Balance**” means, at any given time, the Margin balance attributable to a Client Sub-Account of a Client, as determined by the Clearing House in accordance with the Rulebook. For the avoidance of doubt, a Client Sub-Account Balance at no time reflects the value of any Buffer (including Encumbered Buffer) or the value of any Unallocated Excess.

“**Collateral**” means the cash, securities or other collateral or assets deposited with or to be deposited with (as the context may require) the Clearing House by a Clearing Member or otherwise furnished or to be furnished (as the context may require), including any proceeds therefrom, to a Clearing Member’s Proprietary Account or its Omnibus Client Swaps Account with LCH for the purpose of margining, guaranteeing and/or securing Contracts for such accounts. The Clearing House will only credit deposited securities or other noncash collateral or assets as Collateral to the extent such securities or other noncash collateral or assets are acceptable forms of collateral as set forth in the Procedures or as otherwise explicitly permitted by the Clearing House. For the avoidance of doubt, Collateral will not include, and will not be comprised of, a Clearing Member’s Contribution.

“**Consent Required Clearing Member**” has the meaning assigned to it in the Procedures.

“**Continuing Member**” has the meaning assigned to it in Regulation 316(b).

“**Contract**” means a SwapClear Contract.

“**Contract Business**” means any transaction, obligation or liability arising out of any Contract.

“**Contract Terms**” means the SwapClear Contract Terms.

“**Contribution**” has the meaning assigned to it in Regulation 303(j).

“**Currency Participant**” means, in respect of a specific SwapClear currency, a Non-Defaulting Clearing Member who at the time the Clearing House declares a Default has SwapClear Contracts for that SwapClear currency registered in its name.

“**CVR**” or “**Collateral Value Report**” has the meaning assigned to it in Regulation 106A(d)(ii).

“**Deductible**” means, at the time of preparation of a Recourse Certificate, the Capped Amount as defined in Regulation 302(3).

“**Default**” means the issue, in respect of a Clearing Member, of a Default Notice as provided for by Regulation 202 or the occurrence, in respect of a Clearing Member, of an Automatic Early Termination Event.

“**Default Fund**” has the meaning assigned to it in Regulation 301(b).

“**Default Fund Regulations**” means the portion of these Regulations set out in Chapter 3.

“**Default Regulations**” means the portion of these Regulations set out in Chapter 2.

“**Default Loss**” has the meaning assigned to it in Regulation 305(b).

“**Default Management Process**” means the processes of the Clearing House outlined in the Default Regulations, as the same may be supplemented and/or amended from time to time in accordance with the Rulebook.

“**Default Management Process Completion Date**” means the date when the Default Management Process in relation to a Default has been completed as determined by the Clearing House in consultation with the DMG and notified to all Clearing Members.

“**Default Notice**” has the meaning assigned to it in Regulation 202.

“**Default Period**” has the meaning assigned to it in Regulation 303(a).

“**Defaulter**” or “**Defaulting Clearing Member**” means a Clearing Member in respect of whom either (i) the Clearing House has issued a Default Notice under Regulation 202 or (ii) an Automatic Early Termination Event has occurred.

“**Determination Date**” has the meaning assigned to it in Regulation 303(a).



**“Derivatives Clearing Organization”** means an organization designated and registered as such by way of 7 U.S.C.A. § 1a(15).

**“DF Collateral Agent”** has the meaning assigned to it in Regulation 321(b)(i).

**“DF Security and Intercreditor Agreement”** has the meaning assigned to it in Regulation 321(b)(i).

**“DMG”** means the advisory Default Management Group which relates to both the SwapClear US Service and the SwapClear service of LCH.Clearnet Ltd., established jointly by the Clearing House and LCH.Clearnet Ltd. pursuant to the terms of Regulation 204(i) and the applicable provisions of the rules and regulations of LCH.Clearnet Ltd.

**“Economic Terms”** means that part of the SwapClear Contract Terms designated as Economic Terms by the Clearing House from time to time.

**“Eligible US Trading Venue”** means, in respect of a Clearing Member, a US Trading Venue for which the Clearing House’s records reflect that such Clearing Member has completed the Clearing House’s process for enabling the Clearing Member to be eligible to submit (or have submitted on its behalf) a transaction executed on such US Trading Venue to the Clearing House for registration.

**“Encumbered Buffer”** has the meaning assigned to it in Regulation 106(g)(iv)(A).

**“End of Day”** has the meaning assigned to it in Regulation 117(a)(i).

**“Equal Bid”** has the meaning assigned to it in Regulation 204(b)(iii)(E).

**“Excess Loss”** means the net sum or aggregate of net sums certified to be payable by a Defaulter by a Recourse Certificate less (x) the proportion of the Deductible applicable to Contract Business under Regulation 302(3) and (y) any sums then immediately payable in respect of Default Losses owed by such Defaulter by any insurer or provider of analogous services under any policy of insurance or analogous instrument written in favor of the Clearing House in relation to Default Losses.

**“Excess Margin”** means, (i) in respect of a Client Sub-Account, the amount (if any) by which the corresponding Client Sub-Account Balance exceeds the Required Margin applicable to the Contracts registered to such Client Sub-Account, and (ii) in respect of a Clearing Member’s Proprietary Account, the amount (if any) by which the Margin balance of such Proprietary Account exceeds the Required Margin applicable to the Contracts registered to such Proprietary Account, each as determined by the Clearing House in accordance with the Rulebook.

**“Executing Party”** means any party to a swap transaction (including swap transactions which are contingent on or pending clearing), whether executed bilaterally or on or through an Approved Trade Source System, that is presented to the Clearing House as a Transaction and with respect to which each party to such transaction applies to have its respective side of such transaction registered with the Clearing House (through a Clearing Member or on its own behalf as a Clearing Member, as applicable) as a Contract.

**“FCM”** means a futures commission merchant, as defined in the CEA and the CFTC Regulations thereunder, that is registered in such capacity with the CFTC.

“**FCM Clearing Member**” means a Clearing Member registered as an FCM and approved by the Clearing House to clear Contracts on behalf of Clients.

“**FCM Swaps Client Segregated Depository Account**” means an omnibus account located in the United States and maintained by an FCM Clearing Member for its Clients with a Permitted Depository (including any applicable “PPS accounts”, which are described in the Procedures), which is segregated in accordance with the CEA and regulations of the CFTC, is a Cleared Swaps Customer Account, and which contains the Client Funds of its Clients held in connection with Contracts cleared for such Clients by such FCM Clearing Member.

“**Fed Funds Rate**” means the Federal Funds Rate as published by the Federal Reserve Bank of New York.

“**FDICIA**” means the Federal Deposit Insurance Corporation Improvement Act of 1991, as amended.

“**Final Calculation Date**” has the meaning assigned to it in Regulation 117(d)(i).

“**Fund Amount**” means the amount as determined in accordance with Regulation 303(c).

“**Fund Cap**” has the meaning assigned to it in Regulation 303(c).

“**Fund Floor**” means the amount as determined in accordance with Regulation 303(c).

“**Guidance**” means guidance, in the form of one or more written notices, issued from time to time by or on behalf of the Clearing House to Clearing Members, supplementing the detail or conduct of any aspect of the Default Management Process.

“**Hedged Account**” has the meaning assigned to it in Section 2A.17.6 of the Procedures.

“**Higher Bid**” has the meaning assigned to it in Regulation 204(b)(v)(c)(2).

“**Higher Bidder**” has the meaning assigned to it in Regulation 204(b)(v)(c)(2).

“**House Business**” means the Contracts entered into by a Clearing Member in its Proprietary Account.

“**Ineligible SwapClear Contract**” has the meaning assigned to it in Regulation 401(g).

“**Ineligible SwapClear Transaction**” has the meaning assigned to it in Regulation 401(g).

“**Initial Margin**” means, with respect to the amount of Margin attributable to a particular account or accounts of a Clearing Member with the Clearing House, the portion of such Margin held in respect of the Clearing House’s initial margin requirements (as published from time to time by the Clearing House) in respect of the relevant Contracts attributable to such account or accounts.

“**Initial Resources**” has the meaning assigned to it in Regulation 204(b)(v)(B).

“**Insufficient Resources Determination**” has the meaning assigned to it in Regulation 320.

“**Late Final Calculation Date**” has the meaning assigned to it in Regulation 117(d)(iv).

“**LCH Approved Outsourcing Party**” means a person, designated as such by the Clearing House, as may be provided for in the Procedures.

“**LCH Swaps Client Segregated Depository Account**” means the omnibus account (which will consist of one or more accounts at one or more Permitted Depositories which are commingled for purposes of, and in accordance with, the applicable provisions of the CEA and the CFTC Regulations) located in the United States and maintained by the Clearing House with a Permitted Depository for the benefit of the Clients of its FCM Clearing Members, which is segregated in accordance with the CEA and the CFTC Regulations, is a Cleared Swaps Customer Account that is of the Cleared Swaps Account Class, and which contains the Collateral deposited by the FCM Clearing Members on behalf of their Clients in connection with Contracts cleared for such Clients by the FCM Clearing Members.

“**Losing Currency**” has the meaning assigned to it in Regulation 204(b)(v)(D).

“**Losing Currency Original Clearing Member**” has the meaning assigned to it in Regulation 204(b)(v)(D).

“**Losing Currency Unfunded Clearing Member**” has the meaning assigned to it in Regulation 204(b)(v)(G).

“**Loss Distribution Process**” has the meaning assigned to it in Regulation 318.

“**Margin**” means, with respect to a particular account or accounts of a Clearing Member with the Clearing House, the Collateral value that is attributable to such account or accounts for the purpose of margining, guaranteeing and/or securing Contracts in such account or accounts, as determined by the Clearing House in accordance with the Rulebook.

“**Margin Cover**” has the meaning assigned to it in Regulation 302(1).

“**Minimum Contribution Member**” means a Clearing Member in respect of which the Non-Tolerance Contribution Amount calculated under Regulation 303 is equal to or less than the Minimum Non-Tolerance Contribution for the time being.

“**Minimum Non-Tolerance Contribution**” means, subject to Regulation 303, \$10,000,000 (which, for the avoidance of doubt, excludes the \$5,000,000 minimum amount (or such lower amount as the Clearing House may establish) payable by a Clearing Member in respect of the Tolerance Contribution Amount).

“**Net Recovery**” means any sum received by the Clearing House from or for the account of a Defaulter after the issue by the Clearing House of a Recourse Certificate in respect of losses arising upon the Defaulter’s Default less any amount payable to any insurer or provider of analogous services in respect of any amount due from but not previously paid by the Defaulter.

“**New Member**” means (i) any Clearing Member whose Clearing Member status, at the time of assessment of the amount of any required Contribution, commenced or will commence after the most recent Determination Date prior to such assessment time and (ii) any Clearing Member who, at the time of assessment of the amount of any required Contribution, had not yet cleared any Contracts before the most recent Determination Date prior to such assessment time but who commenced or will commence clearing Contracts after such Determination Date.

“**Non-Defaulters’ Contributions**” means the Contributions made by Non-Defaulting Clearing Members.

“**Non-Defaulting Clearing Member**” means any Clearing Member that is not a Defaulter.

“**Non-Porting Client**” has the meaning assigned to it in Section 2A.17.6 of the Procedures.

“**Non-Tolerance Amount**” has the meaning assigned to it in Regulation 303(g).

“**Non-Tolerance Contribution Amount**” has the meaning assigned to it in Regulation 303(i).

“**Non-Tolerance Weight**” has the meaning assigned to it in Regulation 303(h).

“**NPV**” means, at any given time, the mark-to-market value of a Contract, which shall be equal to its net present value, as determined by the Clearing House in its sole discretion in accordance with the Rulebook.

“**Omnibus Client Swaps Account with LCH**” means an omnibus account located in the United States and maintained on the books of the Clearing House in the name of an FCM Clearing Member for the benefit of its Clients, in which all Contracts cleared by such FCM Clearing Member on behalf of such Clients, and all associated Collateral and Margin, will be reflected on the books of the Clearing House. Each Omnibus Client Swaps Account with LCH is a book-entry account, the associated Collateral of which is contained in the LCH Swaps Client Segregated Depository Account. The Clearing House will establish Client Sub-Accounts within each Omnibus Client Swaps Account with LCH.

“**Omnibus Collateral Value**” means, at any given time in respect of an Omnibus Client Swaps Account with LCH, the aggregate Margin, as determined by the Clearing House in accordance with the Rulebook, attributable to such Omnibus Client Swaps Account with LCH (and regardless of whether such Margin is attributed to a Client Sub-Account, Buffer Sub-Account or Unallocated Excess Sub-Account).

“**Original Contributions**” has the meaning assigned to it in Regulation 204(b)(v)(C).

“**Permitted Depository**” means “Permitted Depository” as such term is defined in CFTC Regulations 22.1 and 22.4.

“**Porting Collateral**” has meaning assigned to it in Regulation 108(a).

“**Porting Contracts**” has meaning assigned to it in Regulation 108(a).

“**Portfolios**” means, in respect of each Contract currency, the Contracts in such currency registered in the name of a Defaulting Clearing Member, and, where relevant, includes any connected hedging trades concluded by the Clearing House through Risk Neutralization.

“**Potential Unfunded Contributions**” has the meaning assigned to it in Regulation 204(b)(iv)(B)(2).

“**Procedures**” or “**LCH.Clearnet LLC Procedures**” means the document containing the working practices and administrative or other requirements of the Clearing House for the purposes of implementing or supplementing these Regulations, or the procedures for application for and regulation of membership of the Clearing House.

“**Proprietary Account**” means the house account with the Clearing House opened in the name of a Clearing Member to which Contracts made by the Clearing Member for its own account or accounts of its Affiliates (but never accounts of its Clients) are registered and to which monies in respect of such Contracts are credited.

“**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.

“**Receiving FCM Clearing Member**” means an FCM Clearing Member receiving the transfer of part or all of the Contracts and Collateral attributable to a Client from a Carrying FCM Clearing Member that previously carried such account, pursuant to Regulation 108 and in accordance with the Procedures.

“**Recourse Certificate**” has the meaning assigned to it in Regulation 308.

“**Register of SwapClear Dealers**” means the Clearing House’s register referred to as the “Register of SwapClear Dealers” which lists SwapClear Dealers regarded by the Clearing House as for the time being eligible to submit contracts for registration as SwapClear Contracts by the Clearing House.

“**Registration Time**” has the meaning assigned to it in Regulation 401(e).

“**Regulations**” or “**LCH.Clearnet LLC Regulations**” means these Regulations entitled as such and in effect, relating to Contracts and the clearing of Contracts, as they may be amended from time to time by the Clearing House.

“**Regulatory Body**” means the CFTC or any department, agency, office, court or tribunal of a nation, state, province or any other body or authority which exercises a regulatory or supervisory function under the laws of the United States or under any foreign law.

“**Relevant Default**” has the meaning assigned to it in Regulation 303(a)(ii).

“**Relevant Original Contributions**” has the meaning assigned to it in Regulation 204(b)(v)(C).

**“Relevant Unfunded Contributions”** has the meaning assigned to it in Regulation 204(b)(v)(F).

**“Remaining Original Short Bidder”** has the meaning assigned to it in Regulation 204(b)(v)(C)(2).

**“Remaining Unfunded Short Bidder”** has the meaning assigned to it in Regulation 204(b)(v)(F)(2).

**“Required Margin”** means, with respect to a particular account or accounts of a Clearing Member with the Clearing House, the amount of Initial Margin required by the Clearing House (in accordance with the Rulebook) to be held in such account or accounts from time to time.

**“Retiring Member”** means at any time any Clearing Member or, as the context may require, any former Clearing Member, who has given notice to terminate its Clearing Member status to the Clearing House or in respect of whom the Clearing House has terminated or given notice to terminate its Clearing Member status.

**“Risk Neutralization”** means the process of reducing the market risk associated with a Defaulting Clearing Member’s obligations to the Clearing House under Contracts by hedging the exposure prior to the auction process as described in Regulation 204(b)(ii).

**“Rulebook”** or **“LCH.Clearnet LLC Rulebook”** means the Regulations, the Procedures and such other rules of the Clearing House, which are applicable to Clearing Services, as published and amended from time to time by the Clearing House.

**“Short Bidder”** has the meaning assigned to it in Regulation 204(b)(v)(C)(2).

**“Standard Terms”** means those parts of the Contract Terms designated as Standard Terms by the Clearing House from time to time.

**“SwapClear Clearing Services”** means the services provided by a Clearing Member in connection with SwapClear Contracts cleared on behalf of its Clients or its Affiliates, as the case may be.

**“SwapClear Contract”** means a contract that is registered for clearing and is entered into by the Clearing House with a Clearing Member on the SwapClear Contract Terms, and which is governed by these Regulations.

**“SwapClear Contract Terms”** means the terms applicable to each SwapClear Contract as set out from time to time in the Regulations.

**“SwapClear Dealer”** means a person admitted by the Clearing House to the Register of SwapClear Dealers and who has not been removed from such register, at the Clearing House’s discretion and in accordance with the Rulebook and other policies and procedures of the Clearing House.

**“SwapClear Dealer Clearing Agreement”** means a written agreement, in the form and on the terms prescribed by the Clearing House, by and among a SwapClear Dealer, a Clearing Member approved to clear SwapClear Transactions and the Clearing House, which

sets out the terms on which the Clearing Member agrees to clear SwapClear Transactions for the SwapClear Dealer.

“**SwapClear Product Eligibility Criteria**” means the product criteria set out in paragraphs 1.1(a), 1.1(b) or 1.1(c), and paragraph 2 of Part B of Schedule 4A to these Regulations

“**SwapClear Suspension Sub-Account**” has the meaning assigned to it in Regulation 401(m)(ii).

“**SwapClear Tolerance**” has the meaning assigned to it in Section 2A.3.3 of the Procedures.

“**SwapClear Transaction**” means any transaction the details of which are presented to the Clearing House for the purpose of having such transaction registered at the Clearing House as two SwapClear Contracts, regardless of whether (a) such transaction is an existing swap transaction, (b) it was entered into in anticipation of clearing or (c) it is contingent on clearing.

“**SwapClear US Service**” means the Clearing House’s clearing service for clearing SwapClear Transactions and SwapClear Contracts.

“**Tax**” means any present or future tax, levy, impost, duty, charge, assessment, or fee of any nature (including interest, penalties, and additions thereto) that is imposed by any government or other taxing authority.

“**Tolerance Amount**” has the meaning assigned to it in Regulation 303(d).

“**Tolerance Contribution Amount**” has the meaning assigned to it in Regulation 303(f).

“**Tolerance Utilization**” means, in respect of each Clearing Member, the value of the SwapClear Tolerance utilized by that Clearing Member at any particular time, as determined by the Clearing House in its sole discretion.

“**Tolerance Weight**” has the meaning assigned to it in Regulation 303(e).

“**Termination Amount**” has the meaning assigned to it in Regulation 117(d)(iv).

“**Transaction**” means a SwapClear Transaction.

“**Unallocated Excess**” has the meaning assigned to it in Regulation 106(g)(v)(A).

“**Unallocated Excess Sub-Account**” has the meaning assigned to it in Regulation 106(g)(iii).

“**Unallocated SwapClear Contract**” has the meaning assigned to it in Regulation 401(m)(ii).

“**Unallocated SwapClear Transaction**” has the meaning assigned to it in Regulation 401(m)(i).

**“Unfunded Contribution”** has the meaning assigned to it in Regulation 315.

**“Unfunded Contribution Notice”** has the meaning assigned to it in Regulation 315.

**“US Trading Venue”** means a swap execution facility or designated contract market registered as such with the CFTC which the Clearing House has approved for the purposes of having transactions executed thereon submitted to the Clearing House for registration. For the avoidance of doubt, a US Trading Venue need not be an Approved Trade Source System.

**“US Trading Venue Transaction”** means, in respect of a Clearing Member, a transaction recorded in the Clearing House’s systems (via applicable messaging from the relevant US Trading Venue, Approved Trade Source System or otherwise) as a transaction that was executed on a swap execution facility or designated contract market that, as at the time of such execution, was an Eligible US Trading Venue in respect of such Clearing Member.

**“Variation Margin”** means the amount payable by a Clearing Member to the Clearing House or by the Clearing House to a Clearing Member, as applicable, in respect of, and in the amount of, the Clearing House’s variation margin requirements (as published from time to time by the Clearing House) in respect of a Contract and with reference to the change in the NPV of such Contract over a particular period of time.

**“Voluntary Payment”** has the meaning assigned to it in Regulation 319.

**“Voluntary Payment Notice”** has the meaning assigned to it in Regulation 319.

**“Withdrawal Date”** means the date upon which the Clearing House determines to withdraw the SwapClear US Service, in accordance with the Rulebook.

**“With Client Excess Model”** has the meaning assigned to it in Regulation 106A(d).

**“Without Client Excess Model”** has the meaning assigned to it in Regulation 106A(c).

**“Worst Case Loss”** means, in respect of an Auction Portfolio or all of the Contracts of a Non-Defaulting Clearing Member denominated in a particular currency, the largest loss which could be incurred by the Clearing House in respect of the relevant group of Contracts, as determined by the Clearing House using the appropriate formula (which in the case of SwapClear Contracts is the SwapClear PAIRS margining algorithm) based on 1250 historical scenarios (5 years history) and a holding period of 5 days.



## **II. Interpretation:**

In the Rulebook, except as the context may otherwise require:

(a) Any reference in the Rulebook to statutes, laws or regulations (or to specific provisions within them) thereof shall be to such statutes, laws or regulations (or to specific provisions within them) as amended, modified, supplemented or replaced from time to time.

(b) Any reference to a Regulatory Body includes any successor or replacement Regulatory Body.

(c) Reference to writing contained in the Rulebook shall include typing, printing, lithography, photography or any other mode of representing or reproducing words in a visible form.

(d) Words importing the singular shall, where the context permits, include the plural and vice-versa.

(e) The words “include”, “includes” or “including” are to be deemed followed by the words “without limitation”.

(f) Any reference to time contained in the Rulebook shall, unless otherwise stated, be to New York City time. Times are shown using the twenty four hour clock.

(g) Any reference in the Rulebook to a person or a party (however described) shall include its legal successors or assigns.

(h) Headings are used herein for ease of reference only.

## CHAPTER 1 – REGULATIONS OF GENERAL APPLICABILITY

### **Regulation 101      Obligations of the Clearing House and Clearing Members Generally**

- (a) The obligations of the Clearing House to each Clearing Member in respect of a Contract shall be as a counterpart to a Contract registered in the name of a Clearing Member subject to and in accordance with the Rulebook. The Clearing House shall perform its obligations under the terms of a Contract as principal to such Clearing Member in accordance with and subject to the provisions of the Rulebook, including the restrictions on the Clearing House's obligations and liabilities contained in these Regulations. The Clearing House's obligations under the terms of a Contract shall be performed in the manner and form and by such day and time as may be prescribed in the Rulebook; provided, that where the Economic Terms of a Contract specify a time by which a party thereto shall perform its obligations, the Clearing House shall be deemed to have complied with such Economic Terms if it performs its obligations promptly after such time.
  
- (b) Each Clearing Member is fully liable to the Clearing House for the performance of all obligations arising in connection with the Contracts registered to it, regardless of whether such Contracts are cleared by such Clearing Member (i) as principal with respect to Contracts in its Proprietary Account(s) (including in respect of Contracts cleared in connection with Transactions by SwapClear Dealers or Affiliates), (ii) as agent (as such term is used in, and as required by, CFTC Regulation 39.12(b)(6)) with respect to Contracts in its Omnibus Client Swaps Account with LCH, or (iii) in any other capacity.

**Regulation 102      Clearing Member Status and the Application of Clearing House Regulations**

- (a) Application to the Clearing House for Clearing Member status shall be made in accordance with the Procedures. A person's status as a Clearing Member and all Clearing Services are governed by the Rulebook and the terms of Clearing Membership Agreement entered into by such Clearing Member and the Clearing House. For the avoidance of doubt, Clearing Member status does not provide or entitle a Clearing Member to (i) any other status (as a type of clearing member or otherwise) with the Clearing House or any of its affiliates, or (ii) any shareholding or similar ownership or membership of the Clearing House or any of its affiliates.
- (b) Qualification of Clearing Members. A person must obtain approval from the Clearing House in order to become a Clearing Member and provide Clearing Services. In order to obtain such approval, and in order to maintain such approval once such approval has been obtained, a Clearing Member must:
- (i) maintain adjusted net capital (as defined in the Procedures) of at least \$50,000,000 (fifty million United States dollars); provided, that (A) the Clearing House shall be permitted (in its sole and reasonable discretion), including as described in the Procedures, to scale a Clearing Member's required level of net capital in accordance with the level of risk introduced to the Clearing House by such Clearing Member and (B) the Clearing House shall be permitted (in its sole and reasonable discretion) to scale a Clearing Member's level of risk introduced to the Clearing House by such Clearing Member in accordance with its level of net capital (and regardless of whether such Clearing Member has adjusted net capital exceeding \$50,000,000); provided, further, that each Clearing Member or Clearing Member applicant must maintain compliance with all regulatory financial requirements (whether relating to capital, equity, risk or otherwise) applicable to it, including the applicable requirements of CFTC Regulation 1.17 (in the case of FCM Clearing Members) and Part 23 of the CFTC Regulations;
  - (ii) have and maintain systems and personnel that are, in the judgment of the Clearing House, adequate to enable such Clearing Member or applicant to satisfy its operational responsibilities, in accordance with the Rulebook and, without limitation, have the connectivity and capability to process the applicable Transactions through an Approved Trade Source System;
  - (iii) be in compliance with all applicable provisions of the Rulebook and the Clearing Membership Agreement, including but not limited to the requirement to pay Contributions to the Clearing House in accordance with the Rulebook;
  - (iv) be able to successfully participate (and successfully participate) or demonstrate that it has: (A) an affiliated Clearing Member (or, alternatively, a non-Clearing Member Affiliate that clears through it or another affiliated Clearing Member) that can successfully participate; or (B) an LCH Approved Outsourcing Party that can successfully participate in a "fire drill" (as further described in the Procedures) run by the Clearing House from time to time;

- (v) be able to participate (and successfully participate) or demonstrate that it has: (A) an affiliated Clearing Member (or, alternatively, a non-Clearing Member Affiliate that clears through it or another affiliated Clearing Member) that can successfully participate; or (B) an LCH Approved Outsourcing Party that can successfully participate in the Default Management Process operated by the Clearing House;
  - (vi) have, within its corporate group, at least one banking institution, credit institution, securities firm, investment banking firm or similar entity licensed by the competent authorities of the United States or a member state of the European Union, or the equivalent of a banking institution, credit institution, securities firm, investment banking firm or similar entity licensed by the competent authorities of a country outside the United States and 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 banking institutions, credit institutions, securities firms, investment banking firms or similar entities, as applicable, within the United States or the European Union;
  - (vii) in the event of a default, be able to receive from the Clearing House and process Contracts (of the type(s) that it is approved to clear), and any associated hedge trades, in FpML (Financial products Markup Language); and
  - (viii) where a Clearing Member or applicant seeks the approval of the Clearing House to be an FCM Clearing Member and to clear Contracts on behalf of Clients, (A) be registered with the CFTC as an FCM and (B) be incorporated (or otherwise organized in the case of an entity other than a corporation) under the laws of a State within the United States.
- (c) Each Clearing Member shall at all times continue to comply with and satisfy the qualifications and requirements set forth in Regulation 102(b) and shall promptly notify the Clearing House if it has breached or reasonably expects to breach any such qualifications or requirements.
- (d) Notwithstanding anything else contained in this Regulation 102 or in the Procedures, an applicant to become a Clearing Member shall provide any additional documentation or information that is reasonably requested by the Clearing House in order to verify or substantiate the ability of such Clearing Member applicant to satisfy its obligations under the Rulebook or to satisfy its obligations as a Clearing Member.

## **Regulation 103      Client Business and Segregated Client Accounts**

- (a) Subject to the provisions of the Rulebook, Clearing Services may be provided by an FCM Clearing Member to its Clients on any terms and conditions mutually agreed to by the FCM Clearing Member and the Client; provided, however, that each FCM Clearing Member shall, before providing Clearing Services to any Client, ensure that it has entered into an agreement with that Client, or an Addendum to an existing Agreement with such Client, which, in either case, binds the Client to the applicable provisions of the Rulebook by direct reference to the Rulebook or otherwise, and any such other provisions as shall be agreed from time to time between the Clearing House and Clearing Members, or as may be prescribed by the Clearing House. Upon the registration of a Contract at the applicable Registration Time on behalf of a Client, both the FCM Clearing Member and the applicable Client shall be bound by the obligations under the Rulebook in respect of the relevant Contract on the terms entered into between the FCM Clearing Member and the Clearing House automatically and without any further action by such FCM Clearing Member or Client, which such terms shall, without limitation, incorporate all applicable terms of the Rulebook and the applicable Contract Terms.
- (b) FCM Swaps Client Segregated Depository Accounts.
- (i) Each FCM Clearing Member shall establish and maintain one or more FCM Swaps Client Segregated Depository Accounts on behalf of its Clients, in accordance with applicable provisions of the CEA and the CFTC Regulations, including but not limited to Part 1, Part 22 and Part 190 of the CFTC Regulations, and as further set forth in the Rulebook. Each FCM Swaps Client Segregated Depository Account shall be maintained with a Permitted Depository in accordance with the CEA and the CFTC Regulations and the FCM Clearing Member may commingle Client Funds of all of its Clients and other Cleared Swaps customers (provided that such assets are deposited or held in connection with Contracts or other Cleared Swaps) in such FCM Swaps Client Segregated Depository Account as a single omnibus account established and maintained in accordance with the CFTC Regulations. The FCM Swaps Client Segregated Depository Account maintained by each FCM Clearing Member shall be treated as part of the Cleared Swaps Account Class and shall be considered a Cleared Swaps Customer Account for purposes of the CFTC Regulations.
- (ii) Client Funds held in an FCM Swaps Client Segregated Depository Account that are deposited by a specific Client shall not be used to purchase, margin or settle any Contract, Cleared Swap or other trade or contract of, or to secure or extend the credit of, any person other than such Client.
- (iii) Client Funds held in an FCM Swaps Client Segregated Depository Account shall not be used to carry trades or positions of the same Client other than in connection with (A) Contracts or (B) other Cleared Swaps cleared through a Derivatives Clearing Organization other than the Clearing House.

(c) Omnibus Client Swaps Account with LCH.

- (i) Each FCM Clearing Member shall establish and maintain an Omnibus Client Swaps Account with LCH on behalf of its Clients. Clearing Services may be provided by an FCM Clearing Member to its Clients, and Contracts may be entered into by an FCM Clearing Member with the Clearing House on behalf of its Clients only through an Omnibus Client Swaps Account with LCH. Each such Omnibus Client Swaps Account with LCH shall be treated as part of the Cleared Swaps Account Class and shall be considered a Cleared Swaps Customer Account for purposes of the CFTC Regulations. In accordance with CFTC Regulation 22.8, the situs of the Omnibus Client Swaps Account with LCH shall be located in the United States.
- (ii) Omnibus Client Swaps Accounts with LCH shall be maintained and administered in accordance with the CEA and all applicable CFTC Regulations (including but not limited to Part 1, Part 22 and Part 190 of the CFTC Regulations) and as set forth in the Rulebook.

(d) Clearing House Segregated Client Account; Client Sub-Accounts; Buffer Sub-Accounts.

- (i) The Clearing House shall establish and maintain an LCH Swaps Client Segregated Depository Account on behalf of Clients, in accordance with applicable provisions of the CEA and the CFTC Regulations, including but not limited to Part 1, Part 22 and Part 190 of the CFTC Regulations. The LCH Swaps Client Segregated Depository Account shall be maintained with a Permitted Depository in accordance with the CEA and the CFTC Regulations and the Clearing House may physically commingle all Collateral furnished on behalf of Clients in the LCH Swaps Client Segregated Depository Account in accordance with the CFTC Regulations. The LCH Swaps Client Segregated Depository Account shall be maintained by the Clearing House separately from any and all assets of the Clearing Members and any other assets that the Clearing House is holding in respect of any persons other than Clients, and shall contain no assets other than the Collateral furnished by FCM Clearing Members in connection with the clearing of Contracts on behalf of their Clients. The LCH Swaps Client Segregated Depository Account maintained by the Clearing House shall be treated as part of the Cleared Swaps Account Class and shall be considered a Cleared Swaps Customer Account for purposes of the CFTC Regulations.
- (ii) The Clearing House shall establish and maintain on its books and records a Client Sub-Account in the name and on behalf of each Client of an FCM Clearing Member, as a sub-account of the Omnibus Client Swaps Account with LCH maintained for such FCM Clearing Member. The Clearing House shall reflect on its books and records the Contracts and Margin attributable to each Client Sub-Account, provided, that the books and records of the Clearing House in this regard shall be based solely on the information provided by the FCM Clearing Member, and the Clearing House shall have no obligation to verify any such information or to investigate independently any such information. Each Client Sub-Account shall be considered to be part of the

Cleared Swaps Account Class solely for purposes of Part 190 of the CFTC Regulations.

- (iii) The Clearing House shall, in accordance with the provisions of Regulation 106(g), establish and maintain on its books and records a Buffer Sub-Account on behalf of each FCM Clearing Member and its Clients, as a sub-account of the Omnibus Client Swaps Account with LCH maintained for each such FCM Clearing Member.
- (e) Notice of Deficiency in FCM Swaps Client Segregated Depository Account. Whenever an FCM Clearing Member knows or should know that the aggregate amount of funds on deposit in its FCM Swaps Client Segregated Depository Account is less than the total amount of such funds required by the CEA, the CFTC Regulations and the Rulebook to be on deposit, the FCM Clearing Member must report such deficiency immediately by telephone notice, confirmed immediately in writing by facsimile notice, to the Clearing House and the principal office of the CFTC in Washington, DC, to the attention of the Director and the Chief Accountant of the Division of Clearing and Intermediary Oversight, and, if the FCM Clearing Member is a securities broker or dealer, to the Securities and Exchange Commission, in accordance with 17 C.F.R. § 240.17a-11.
- (f) Segregation of Funds.
  - (i) All Client Funds (deposited in connection with Contracts or other Cleared Swaps) shall be separately accounted for and segregated by the relevant FCM Clearing Member as belonging to Clients and shall be held in its FCM Swaps Client Segregated Depository Account in accordance with Section 4d(f) of the CEA and the CFTC Regulations. All such Client Funds must be held by the applicable FCM Clearing Member or deposited with a Permitted Depository, and such funds shall be deposited under an account name which complies with the requirements of CFTC Regulation 22.6 and shows that they are segregated as required by the Rulebook and Part 22 of the CFTC Regulations. Each FCM Clearing Member shall obtain and retain in its files for the period provided in CFTC Regulation 1.31 a written acknowledgment, in accordance with CFTC Regulations 22.5, 1.20 and/or 1.26 (as applicable) from such Permitted Depository that it was informed that the funds deposited in the FCM Clearing Member Segregated Depository Accounts maintained by such Permitted Depository for the FCM Clearing Member are those of Clients and are being held in accordance with the provisions of the CEA, the CFTC Regulations and the Rulebook.
  - (ii) All Collateral held or maintained by the Clearing House to purchase, margin, guarantee, secure or settle Contracts of the Clients of FCM Clearing Members and all money accruing to such Clients as the result of trades, contracts or transactions so carried shall be separately accounted for and segregated as belonging to such Clients, and held in the LCH Swaps Client Segregated Depository Account, in accordance with Section 4d(f) of the CEA and the CFTC Regulations, and the Clearing House shall not hold, use or dispose of such Collateral except as belonging to such Clients. Without limitation, the applicable portion of the value of all such Collateral shall be reflected in the appropriate Client Sub-Account established for the appropriate Client. All



Collateral deposited by the Clearing House with a Permitted Depository shall be deposited under an account name which complies with the requirements of CFTC Regulation 22.6 and shows that they are segregated as required by the Rulebook, the CEA and the CFTC Regulations. The Clearing House shall obtain and retain in its files for the period provided by CFTC Regulation 1.31, a written acknowledgment, in accordance with CFTC Regulation 22.5, 1.20 and/or 1.26 (as applicable) from such Permitted Depository that it was informed that the funds deposited in any LCH Swaps Client Segregated Depository Account maintained by the Clearing House are those of Clients of FCM Clearing Members and are being held in accordance with the provisions of the CEA, the CFTC Regulations and the Rulebook.

- (iii) Each FCM Clearing Member shall treat and deal with Client Funds as belonging to the Client on whose behalf such Client Funds are deposited. All Client Funds shall be separately accounted for, and shall not be commingled with the money, securities or property of a Clearing Member or of any other person, or be used to secure or guarantee the trades, contracts or transactions, or to secure or extend the credit, of any person other than the one for whom such Client Funds are held; provided, that all Client Funds may be physically commingled in the same FCM Swaps Client Segregated Depository Account subject to and in accordance with the CEA and the CFTC Regulations; provided, further, that Client Funds may be invested in accordance with Regulation 103(k) and CFTC Regulation 1.25.
- (iv) In no event may Client Funds (deposited or held in connection with Contracts) be held or commingled and deposited with (A) Client Funds in the same account or accounts required to be separately accounted for and segregated pursuant to the provisions of Section 4d(a) of the CEA and the regulations thereunder, or (B) money, securities or property representing the foreign futures or foreign options secured amount held in accordance with CFTC Regulation 30.7.
- (v) In accordance with CFTC Regulation 22.15 (and subject to CFTC Regulation 22.3(d)), the Clearing House shall treat the Margin attributable to each Client as belonging to each such individual Client, and such amount shall be credited to such Client's applicable Client Sub-Account as provided in the Rulebook, and such amount shall not be used to margin, guarantee, or secure the Contracts or other obligations of the applicable FCM Clearing Member, other Clients or any other person. For the avoidance of doubt and notwithstanding the foregoing, the Clearing House is under no obligation to deal directly with the Client (under the terms of the Rulebook or otherwise) and the Clearing House may deal exclusively with the Clearing Members, and the Clearing House shall have no obligations to any Client under the Rulebook.
- (g) Care of Money and Securities Accruing to Clients. All money received directly or indirectly by, and all money and securities accruing to, an FCM Clearing Member from the Clearing House or from any Clearing Member or from any other person incident to or resulting from any Contracts made by or through such FCM Clearing Member on behalf of any Client shall be considered as accruing to such Client within the meaning of the Rulebook. Such money and securities shall be treated and dealt with as belonging to such Client in accordance with the provisions of the CEA, the



CFTC Regulations and the Rulebook. The value of money and securities accruing in connection with Clients' Contracts in an Omnibus Client Swaps Account with LCH shall be separately credited to such Client's Client Sub-Account.

(h) Use of Client Funds Restricted.

(i) No FCM Clearing Member shall use, or permit the use of, Client Funds to purchase, margin, or settle the trades, contracts or transactions of, or to secure or extend the credit of, any person other than its Clients. Client Funds held in an FCM Swaps Client Segregated Depository Account shall not be used to carry trades or positions of the same Client other than in connection with Contracts or other Cleared Swaps.

(ii) Client Funds held in an FCM Swaps Client Segregated Depository Account that are deposited by a specific Client shall not be used to purchase, margin or settle any Cleared Swap or other trade or contract of, or to secure or extend the credit of, any person other than such Client.

(i) Interest of Clearing Members in Client Funds; Additions and Withdrawals.

Regulation 103(f), which prohibits the commingling of Client Funds with the funds or assets of a Clearing Member, shall not be construed to prevent an FCM Clearing Member from having a residual financial interest in Client Funds, segregated as required by the CEA, the CFTC Regulations and the Rulebook and set apart for the benefit of Clients; nor shall such provisions be construed to prevent an FCM Clearing Member from adding to the Client Funds in an FCM Swaps Client Segregated Depository Account such amount or amounts of money from its own funds or unencumbered securities from its own inventory of the type permitted under Regulation 103(k), as it may deem necessary to ensure that its FCM Swaps Client Segregated Depository Account hold at all times, at a minimum, an amount equal to the amount required by the CEA, the CFTC Regulations and the Rulebook. The books and records of an FCM Clearing Member shall at all times accurately reflect its interest in the segregated Client Funds. An FCM Clearing Member may draw upon such Client Funds in the relevant FCM Swaps Client Segregated Depository Account to its own order, to the extent of its actual interest therein, including the withdrawal of securities held in FCM Swaps Client Segregated Depository Accounts held by a Permitted Depository; provided, that any such withdrawals do not result in any such account holding less in segregated Client assets than such account is required to contain at such time. Such withdrawal shall not result in Client Funds being used to purchase, margin or carry the trades, contracts or transactions, or extend the credit of any other Client or other person.

(j) Funds Held in FCM Swaps Client Segregated Depository Accounts; Exclusions Therefrom.

Money held in FCM Swaps Client Segregated Depository Accounts by an FCM Clearing Member shall not include (i) money invested in obligations or stocks of any clearing organization or in memberships in or obligations of any contract market or (ii) money held by any clearing organization which it may use for any purpose other than to purchase, margin, guarantee, secure, transfer, adjust, or settle the Contracts of the Clients of such FCM Clearing Member.

(k) Investments of Client Funds. An FCM Clearing Member may invest Client Funds, and the Clearing House may invest Collateral held on behalf of Clients, as permitted

by and in accordance with the terms and conditions set forth in CFTC Regulation 1.25, which regulation shall apply to such funds in accordance with the provisions of the CEA and the CFTC Regulations thereunder related to transactions in a Cleared Swaps Customer Account. The investment of Client Funds in instruments permitted under this paragraph shall not prevent the Clearing Member or the Clearing House so investing such funds from receiving and retaining as its own any increment or interest resulting therefrom.

(l) Deposit of Instruments Purchased with Client Funds.

(i) Each FCM Clearing Member that invests Client Funds in instruments permitted under Regulation 103(k) shall separately account for such instruments and segregate such instruments as belonging to such Clients. Such instruments, when deposited with a Permitted Depository, shall be deposited under an account name which clearly shows that they belong to Clients and are segregated as required by the CEA, the CFTC Regulations and the Rulebook. Each FCM Clearing Member, upon opening an FCM Clearing Member Segregated Depository Account, shall obtain and retain in its files a written acknowledgment from such Permitted Depository that it was informed that the instruments belong to Clients and are being held in accordance with the CEA and the CFTC Regulations. Such acknowledgment shall be retained in accordance with CFTC Regulation 1.31. Such Permitted Depository shall allow inspection of the records of such assets at any reasonable time by representatives of the Clearing House.

(ii) When it invests money belonging or accruing to Clients of its Clearing Members in instruments permitted under Regulation 103(k), the Clearing House shall separately account for such instruments and segregate such instruments as belonging to such Clients (provided that any such instruments may be held in commingled accounts, on behalf of all Clients of all FCM Clearing Members, at one or more Permitted Depositories). Such instruments, when deposited with a Permitted Depository, shall be deposited under an account name which will clearly show that they belong to Clients and are segregated as required by the CEA, the CFTC Regulations and the Rulebook. Upon opening any such account, the Clearing House shall obtain and retain in its files a written acknowledgment from such Permitted Depository that it was informed that the instruments belong to Clients of Clearing Members and are being held in accordance with the provisions of the CEA and the CFTC Regulations. Such acknowledgment shall be retained in accordance with CFTC Regulation 1.31. Such Permitted Depository shall allow inspection of such instruments at any reasonable time by representatives of the Clearing House.

(m) The CFTC Regulations and Segregation of Client Funds. Without limitation of any other provisions of the Rulebook, FCM Clearing Members shall at all times comply in all respects with the applicable provisions of Part 22 and Part 190 of the CFTC Regulations, as well as any other applicable CFTC Regulations.

## **Regulation 104      Proprietary Account Clearing**

- (a) If and to the extent permitted in the Procedures, Clearing Members shall be permitted to enter into and clear Contracts for their own account and shall be permitted to enter into and clear Contracts for the accounts of their Affiliates, in each case through their Proprietary Accounts. The Clearing House may require that Clearing Members that are not FCM Clearing Member and that wish to clear Contracts on behalf of their Affiliates, do so only through SwapClear Dealer arrangements. An FCM Clearing Member wishing to provide Clearing Services to Affiliates shall enter into an agreement with each such Affiliate, or an Addendum to an existing agreement which, in either case, binds the Affiliate to the applicable provisions of the Rulebook by direct reference to the Rulebook or otherwise, and any such other provisions as shall be agreed from time to time between the FCM Clearing Member and the Affiliate, or as may be prescribed by the Clearing House. An FCM Clearing Member providing Clearing Services to its Affiliates shall notify the Clearing House of any Affiliates for which it provides Clearing Services.
- (b) All Contracts cleared by Clearing Members in respect of Transactions executed by their affiliated SwapClear Dealers shall be cleared through such Clearing Members' Proprietary Accounts.
- (c) In the event that more than one Proprietary Account is opened in respect of a Clearing Member, the Clearing House shall have the right to combine or consolidate the balances on any or all of the Clearing Member's Proprietary Accounts, treat all such accounts as a single account and set off any amount or amounts standing from time to time to the credit of any one or more of such accounts in or towards payment or satisfaction of all or any of the Clearing Member's liabilities to the Clearing House on any one or more of such accounts, or in or towards payment or satisfaction of any other obligations of the Clearing Member to the Clearing House, including but not limited to, obligations arising in connection with Client Business.

**Regulation 105      General Provisions Regarding Clearing Member Accounts at the Clearing House**

- (a) Accounts shall be opened between each Clearing Member and the Clearing House in accordance with the Procedures. A Clearing Member shall be responsible to the Clearing House for all obligations owed to the Clearing House in respect of every account opened in respect of such Clearing Member.
- (b) A Clearing Member shall designate the account of the Clearing Member in which a prospective Contract shall be registered in the manner and form and by the time prescribed by the Procedures. If the Clearing Member fails to so designate an account, the Clearing House may, at its discretion and in accordance with the Procedures, determine in which account of the Clearing Member the Contract shall be entered.
- (c) Any rights of set-off, combination of accounts or appropriation which the Clearing House may have under these Regulations or otherwise shall apply whether or not accounts are denominated in the same currency.
- (d) Interest calculated on a basis determined from time to time by the Clearing House in accordance with the Procedures may at the Clearing House's discretion (but subject to the provisions of the Default Fund Regulations) be paid on amounts standing to the credit of any of the Clearing Member's accounts. Subject to the provisions of the Default Fund Regulations, the Clearing House may at its absolute discretion alter the basis of calculating interest rates and such alteration shall be effective in respect of all current and future business on the date notified to Clearing Members in accordance with the Procedures.
- (e) Debit balances due to the Clearing House on any account opened in respect of a Clearing Member are payable by such Clearing Member on demand and interest may at the Clearing House's discretion be charged on debit balances remaining unpaid (whether or not demand for payment is made) on a basis and at a rate determined from time to time by the Clearing House in accordance with the Procedures.
- (f) Where a payment has been made to the Clearing House by a Clearing Member through the relevant account(s), that payment will only be credited to the account of the applicable Clearing Member with the Clearing House if it (i) is paid into an account of the Clearing House with an institution which is solvent, (ii) that institution has performed its concentration function (being the transfer of net funds from the institution to a central account in the name of the Clearing House) and (iii) that institution has made any relevant payments to other Clearing Members on the date when the payment was due to be received by the Clearing House.

## **Regulation 106      Margin; Other Obligations**

- (a) The Clearing House may in accordance with the Procedures require a Clearing Member to furnish it with Margin (by the deposit of Collateral), and to keep the Clearing House furnished with Margin in an amount no less than the Required Margin at all times, such amount determined by the Clearing House in accordance with the Rulebook, as security for the performance by such Clearing Member of its obligations to the Clearing House in respect of all Contracts from time to time registered, or to be registered, in its name. The obligation upon a Clearing Member to furnish Margin to the Clearing House pursuant to this paragraph shall be in addition to any other obligation of the Clearing Member to furnish Margin to the Clearing House pursuant to these Regulations.
- (b) The Clearing House shall establish and modify margin requirements in respect of Contracts from time to time in its sole discretion and as set out in the Procedures. Margin shall be furnished by the Clearing Member in such form and manner and by such time or times as may be prescribed by the Procedures or otherwise communicated to a Clearing Member by the Clearing House.
- (c) Beneficial Ownership of Collateral Furnished.
  - (i) The Clearing House shall be entitled to assume that all Collateral furnished by a Clearing Member to the Clearing House pursuant to these Regulations or under the terms of any agreement made with the Clearing Member are the sole legal and beneficial property of the Clearing Member or are furnished for the purposes of these Regulations with the legal and beneficial owner's unconditional consent and with the authority granted to the Clearing Member to repledge such property to the Clearing House. A Clearing Member may not furnish Collateral to the Clearing House otherwise than in conformance with this paragraph. It shall be accepted by every person (including Clients and SwapClear Dealers) subject to or dealing on the terms of these Regulations that a Clearing Member has such person's unconditional consent to furnish to the Clearing House any securities or other assets of such person in the Clearing Member's possession as Collateral for the purposes of these Regulations.
  - (ii) Each Clearing Member represents and warrants to the Clearing House as at each date on which such Clearing Member furnishes Collateral to the Clearing House pursuant to these Regulations (A) that such Clearing Member is the sole legal and beneficial owner of such Collateral or, as the case may be, such Collateral is so furnished or deposited with the legal and beneficial owner's unconditional consent and with the authority granted to the Clearing Member to repledge such property to the Clearing House, and (B) that the provision to the Clearing House of such Collateral pursuant to these Regulations will not constitute or result in a breach of any trust, agreement or undertaking whatsoever.
  - (iii) The Clearing House may, in its absolute discretion and at any time, require a Clearing Member to furnish other securities or assets to the Clearing House in substitution of any Collateral furnished to the Clearing House pursuant to this Regulation 106.

- (d) The Clearing House shall be entitled to, in its absolute discretion in accordance with the Procedures and without assigning any reason and without prior notice to a Clearing Member, modify its margin requirements applicable to a Contract or to call for larger or additional amounts of Initial Margin to be furnished to it by a Clearing Member, either before registration of a Contract or at any time after registration. Without limitation of the foregoing, the Clearing House shall attempt to provide advance notice of the modified margin requirements to the applicable Clearing Member where reasonably practicable. Any Margin called by the Clearing House pursuant to this paragraph shall be furnished by the Clearing Member on demand and in such form as the Clearing House may require.
- (e) The Clearing House shall be entitled at any time to demand immediate provision of Margin from a Clearing Member in an amount deemed necessary by the Clearing House without reference to an NPV in respect of any Contract in the Clearing Member's name, if, in the opinion of the Clearing House, the furnishing of such Margin by the Clearing Member is necessary in the circumstances then prevailing which may be affecting or may in the Clearing House's opinion be likely to affect market conditions or the Clearing Member's performance of its obligations under the terms of such contracts or under the terms of any original or confirmed contract to which the member is party. In this paragraph, "immediate provision" means payment to the Clearing House within one hour of demand.
- (f) Without prejudice to the requirements of paragraph (c) above or any other applicable requirements contained in the Rulebook, the Clearing House may at its absolute discretion accept Collateral in an agreed amount and in a form other than those specified in the Procedures, subject always to the Clearing House's prior assessment as to the appropriateness of such form of Collateral in accordance with its standard risk management procedures and with any special arrangements which the Clearing House may prescribe in each case (including as to valuation and haircut). The Clearing House may at its discretion make an accommodation charge at a special rate.
- (g) If, in the sole discretion of the Clearing House, any Collateral which has been furnished to it by a Clearing Member pursuant to these Regulations is no longer either of sufficient value or otherwise acceptable to the Clearing House, the Clearing House shall be entitled to demand further provision of Collateral from such Clearing Member. Such Collateral shall be furnished by such Clearing Member on demand in a form prescribed by the Procedures; provided, that at any time the Clearing House shall be entitled to require the Clearing Member to furnish it with Collateral in a specified form and to demand that the Clearing Member replace the whole or part of any Collateral furnished by a Clearing Member pursuant to these Regulations with collateral in the form of cash.
- (h) Without prejudice to the requirements of paragraph (c) above or any other applicable requirements contained in the Rulebook, and subject to Regulation 106A below and the settlement of any other obligations of a Clearing Member to the Clearing House, upon the close-out or termination of a Contract in accordance with the Rulebook, the Clearing House shall return all (or the applicable portion of) Initial Margin attributable to such Contract to the respective Clearing Member to the extent such Initial Margin has become Excess Margin following the close-out or termination of the relevant Contract; provided, that such Clearing Member is not a Defaulter.



- (i) If the Clearing House takes any step under the Default Regulations in relation to a Clearing Member, any sum (including the price due to be paid by the Clearing House in respect of the delivery of any property or currency by or on behalf of the Clearing Member) standing to the credit of any of the Clearing Member's accounts shall be treated as Margin; provided, that under no circumstances will any Margin maintained in an Omnibus Client Swaps Accounts with LCH (in the case of an FCM Clearing Member) be applied to satisfy proprietary obligations of the FCM Clearing Member or any other obligations not related to such FCM Clearing Member's Client Business.
- (j) Each Clearing Member shall be entitled to the return of any amounts due to it (after all obligations of such Clearing Member to the Clearing House have been satisfied) pursuant to the Rulebook.
- (k) Unless the Clearing House otherwise agrees in writing, Collateral provided to the Clearing House in the form of cash shall not be capable of assignment by any person. Any purported assignment by a Clearing Member (whether by way of security or otherwise) of Collateral in the form of cash shall be void. A Clearing Member shall not otherwise encumber (or seek to encumber) any Collateral in the form of cash.
- (l) Creation of Security Interest.
  - (i) Each Clearing Member hereby grants the Clearing House a first priority security interest in and a first priority and unencumbered first lien upon any and all Collateral, Margin, cash, securities, receivables, rights and intangibles and any other collateral or assets deposited with or transferred to the Clearing House, or otherwise held by the Clearing House (including without limitation all property deposited in or attributable to a Proprietary Account, an Omnibus Client Swaps Account with LCH, the LCH Swaps Client Segregated Depository Account, or any amounts owing to a Clearing Member in a Proprietary Account), including all substitutions for and proceeds of, any such property, in connection with any Contracts cleared for such Clearing Member, its Affiliates or its Clients, as security for unconditional payment and satisfaction of the obligations and liabilities of the Clearing Member to the Clearing House under the Rulebook, but excluding any property deposited in or transferred to the Clearing House in respect of a Clearing Member's Contribution to the Default Fund.
  - (ii) The Clearing Member agrees to take any and all actions, including but not limited to the execution of any and all documents, requested by the Clearing House in order to perfect, maintain or enforce the security interest granted to the Clearing House hereunder.
  - (iii) The Clearing House may exercise any and all rights available to it with respect to the security interest granted hereunder, in accordance with the Rulebook and applicable laws.
  - (iv) Notwithstanding any other provision of this Regulation 106(l), in no event shall the Clearing House's security interest in the property attributable to a Clearing Member's Omnibus Client Swaps Accounts with LCH be security for, or be exercised to satisfy any obligations or liabilities of: (A) such Clearing Member other than in connection with obligations or liabilities

relating to such Clearing Member's Omnibus Client Swaps Accounts with LCH; or (B) a Client with a Client Sub-Account by application of Margin attributable to the Client Sub-Account of another Client.

- (v) Provided that the Clearing House is not subject to the procedures of Regulation 117 and is not otherwise insolvent, the Clearing House will, notwithstanding Section 9-207 of the New York Uniform Commercial Code, have the right to sell, pledge, rehypothecate, assign, invest, use or otherwise dispose of, or otherwise use in its business any cash Collateral it holds on behalf of a Clearing Member with respect to such Clearing Member's Proprietary Account, free from any claim or right of any nature whatsoever of the relevant Clearing Member, including any equity or right of redemption by such Clearing Member, subject only to any restrictions under applicable law (including bankruptcy law). Except to the extent otherwise specified for in the Rulebook, the Clearing House shall retain any and all income, distributions, returns, profits or any other monies received with respect to any such investments or use. For purposes of determining the amount of Collateral held pursuant to the Rulebook by the Clearing House with respect to a Clearing Member's Proprietary Account, the Clearing House will be deemed to continue to hold all such Collateral and to receive any distributions or proceeds therefrom, regardless of whether the Clearing House has exercised any rights with respect to the Collateral listed in the immediately preceding sentence.
- (vi) The Clearing House will, notwithstanding Section 9-207 of the New York Uniform Commercial Code, have the right to maintain or otherwise handle Collateral held by the Clearing House on behalf of Clients (including Collateral deposited in or attributable to an Omnibus Client Swaps Account with LCH or any LCH Swaps Client Segregated Depository Account) in the manner provided in the Rulebook, including investing such Collateral in accordance with Regulation 103(k). Except to the extent otherwise provided for in the Rulebook, the Clearing House shall retain any and all income, distributions, returns, profits or any other monies received with respect to any such investments or use.
- (vii) For the avoidance of doubt, the security interest granted pursuant to this Regulation 106(l) does not extend to, or apply to, any property deposited in, or transferred to, the Clearing House in respect of a Clearing Member's Contribution to the Default Fund of the Clearing House. Although each Clearing Member and the Clearing House intend the payment of a Contribution by the Clearing Member to the Clearing House to be an outright payment or transfer by the Clearing Member to the Clearing House (subject to the Clearing House's obligation to repay Contributions pursuant to the Default Fund Regulations), in the event that any or all of a Contribution is deemed to be collateral posted to the Clearing House by the Clearing Member (in which the Clearing Member retains an ownership interest), then, notwithstanding the immediately preceding sentence, the Clearing Member shall be deemed to have pledged to the Clearing House as security for unconditional payment and satisfaction of each and every obligation and liability of the Clearing Member to the Clearing House under the Rulebook, and the Clearing Member shall be



deemed to have granted the Clearing House a first priority security interest in, the amount of any Contribution that has been deemed to be collateral and any income thereon and other proceeds thereof, and the Clearing House shall have all of the rights of use in respect of such Contributions as referenced in Regulation 106(l)(v) and any other additional rights provided for under the Rulebook.

- (m) Each FCM Clearing Member shall ensure that where a Transaction results in the registration of a Contract on behalf of a Client that is of a “non-hedging nature” (as such term is used in Part 39 of the CFTC Regulations), it shall collect and/or remain furnished with additional Client Funds from the relevant Client in respect of such non-hedging Contract in an amount which shall be no less than the minimum percentage as required by the Clearing House and as notified to the relevant FCM Clearing Member from time to time, as further specified in the Procedures.
- (n) A Clearing Member shall provide the Clearing House with all information required under the Procedures regarding its Contracts, Client Funds and Collateral, and shall instruct the Clearing House as to the Contracts and Collateral to be reflected in the applicable Client Sub-Account. In addition, a Clearing Member shall, as soon as reasonably practicable following a request from the Clearing House, provide the Clearing House with any other information which the Clearing House may reasonably require in relation to the Clients or Affiliates of the Clearing Member, or the clearing of Contracts by such Clearing Member on behalf of its Clients, its Affiliates, or on its own behalf.
- (o) No Clearing Member may withdraw any amount from its Omnibus Client Swaps Account with LCH or its Proprietary Account if such withdrawal would cause the account’s Margin balance to be less than the Required Margin then attributable to such Omnibus Client Swaps Account with LCH or Proprietary Account, as applicable, as determined by the Clearing House in accordance with the provisions of the Rulebook; provided, further, that the Clearing House may prohibit an FCM Clearing Member from withdrawing any amount from its Proprietary Account if the Client Sub-Account Balance in any of its Client Sub-Accounts would be less than the Required Margin then attributable to any such Client Sub-Account and there is an insufficient amount of Buffer available to offset any such deficiencies.
- (p) Each FCM Clearing Member shall ensure that no Client withdraws Client Funds from the FCM Swaps Client Segregated Depository Account unless the “net liquidating value” (as such term is used in Part 39 of the CFTC Regulations) plus the Client Funds attributable to such Client remaining in the FCM Swaps Client Segregated Depository Account after such withdrawal is sufficient to meet the level of Required Margin, as calculated by the Clearing House in respect of all Contracts entered into on behalf of Client.

**Regulation 106A    Margining of Swap Product Client Accounts: Certain Additional Provisions; Without Client Excess Model; With Client Excess Model**

The contents of this Regulation 106A apply only with respect to the clearing and margining of Cleared Swaps.

- (a)     Buffer. An FCM Clearing Member is permitted to furnish Collateral that is the property of such FCM Clearing Member (and not of its Clients) to the Clearing House to be attributed to any of its Omnibus Client Swaps Accounts with LCH as excess Margin for the benefit of all of its Clients with positions registered or to be registered in such accounts, and the value of such Collateral as determined by the Clearing House in accordance with the Rulebook (such value, the “**Buffer**”) shall be recorded by the Clearing House as attributable to such FCM Clearing Member (for the benefit of its Clients) in a sub-account of the applicable Omnibus Client Swaps Account with LCH designated as a Buffer sub-account (each such sub-account, with respect to each FCM Clearing Member, a “**Buffer Sub-Account**”). The use and application of Buffer in the With Client Excess Model and the Without Client Excess Model is further discussed below in paragraphs (c) and (d), respectively, and in the Procedures.
- (b)     Unallocated Excess.
- (q)     Any Margin attributable to an Omnibus Client Swaps Account with LCH that is not allocated to a Client Sub-Account or the Buffer Sub-Account therein (such Margin, “**Unallocated Excess**”) shall be credited by the Clearing House to the Unallocated Excess sub-account (the “**Unallocated Excess Sub-Account**”) of such Omnibus Client Swaps Account with LCH. The Clearing House shall hold Unallocated Excess for the benefit of the Clients corresponding to such Omnibus Client Swaps Account with LCH as a class (the identities and amounts of which shall be recorded by such FCM Clearing Member and not the Clearing House in accordance with this Regulation 106A and other applicable provisions of the Rulebook), segregated in accordance with the CEA and CFTC Regulations, including Part 22 of the CFTC Regulations. The Clearing House shall treat and record the Unallocated Excess in respect of an Omnibus Client Swaps Account with LCH on an unallocated basis, and the Clearing House shall not attribute any portions of such Unallocated Excess to the individual Clients of such FCM Clearing Member (although the Unallocated Excess shall be held for the benefit of the applicable Clients as a class (in accordance with Part 22 of the CFTC Regulations), the records of which are kept by the applicable FCM Clearing Member).
- (r)     Each FCM Clearing Member that maintains Unallocated Excess in any of its Unallocated Excess Sub-Accounts on behalf of its applicable Clients shall ensure that its books and records accurately reflect at all times the Client or Clients to which such Unallocated Excess is attributable and the amount attributable to each such Client.

- (s) Subject to paragraph (v) below, the Clearing House shall not be permitted to, and shall not, at any time (x) apply any Unallocated Excess to the FCM Clearing Member's Proprietary Account, or (y) except in accordance with an instruction (provided in accordance with the Rulebook) by the applicable FCM Clearing Member, apply Unallocated Excess to a Client Sub-Account or to the Buffer Sub-Account.
  - (t) Upon the request of an FCM Clearing Member (including as a result of a standing instruction of an FCM Clearing Member) in accordance with the Procedures, the Clearing House will return Unallocated Excess to an FCM Clearing Member. The FCM Clearing Member shall be deemed to represent to the Clearing House, upon making any such request, that any such request complies with the CFTC Regulations and that the returned Unallocated Excess will remain segregated as required under the CFTC Regulations and the Rulebook.
  - (u) Upon the default of an FCM Clearing Member, any Unallocated Excess in such FCM Clearing Member's Unallocated Excess Sub-Accounts shall be held by the Clearing House for the benefit of the applicable Clients in accordance with Part 190 of the CFTC Regulations and applicable law, and the Clearing House shall not be permitted to apply any such Unallocated Excess to the obligations of the FCM Clearing Member to the Clearing House (on behalf of its Clients or otherwise) except to the extent required by applicable law and/or directed by the applicable bankruptcy trustee or Regulatory Body in accordance with applicable law.
  - (v) Certain additional procedures relating to Unallocated Excess differ based on whether the Omnibus Client Swaps Accounts with LCH to which such Unallocated Excess corresponds is subject to the Without Client Excess Model or the With Client Excess Model, as such models are described in Regulation 106A(c) and Regulation 106A(d) (and in other applicable provisions of the Rulebook).
- (c) Without Client Excess Model. The provisions of this Regulation 106A(c) describe certain components of the Clearing House's model for margining, in accordance with Part 22 of the CFTC Regulations, Omnibus Client Swaps Accounts with LCH in a manner which prohibits the maintenance of Excess Margin in Client Sub-Accounts on a day-to-day basis (such model is referred to in the Rulebook as the "**Without Client Excess Model**"). An alternative model which permits such Excess Margin to be maintained (the With Client Excess Model) is described in Regulation 106A(d). The Without Client Excess Model is the default model that shall apply to an FCM Clearing Member's Omnibus Client Swaps Accounts with LCH, and such model shall apply to all such accounts except where an FCM Clearing Member, to the extent permitted by the Procedures, applies to and is approved by the Clearing House to have one or more of its Omnibus Client Swaps Accounts with LCH treated in accordance with the alternative model (the With Client Excess Model described in Regulation 106A(d)).

The provisions of this Regulation 106A(c) apply only to Omnibus Client Swaps Accounts with LCH that are subject to the Without Client Excess Model.

- (i) Restriction on Excess Margin in Client Sub-Accounts on a Day-to-Day Basis. Excess Margin is not permitted to be maintained in any Client Sub-Account on a day-to-day basis. However, a Client's Client Sub-Account is permitted to maintain Excess Margin on an intraday basis. Any Excess Margin attributable to a Client Sub-Account of a Client that exists in such sub-account following a daily close of the Clearing Services shall be transferred by the Clearing House into the corresponding Unallocated Excess Sub-Account on the morning of the following Business Day (and as such, such Excess Margin shall become Unallocated Excess); provided, that all sums due from the relevant FCM Clearing Member at such time in respect of the applicable Omnibus Client Swaps Account with LCH have been paid to the Clearing House. If at any time an FCM Clearing Member furnishes Margin to the Clearing House on behalf of a Client in an amount which would cause such Client's Client Sub-Account to contain Excess Margin, the Clearing House shall be permitted to reject the deposit of any such Excess Margin or to immediately transfer any such Excess Margin back to the FCM Clearing Member.
- (ii) Application of Buffer.
- (A) The Clearing House shall be permitted to apply any portion of an FCM Clearing Member's Buffer (any portion of Buffer when applied, "**Encumbered Buffer**") to any Client Sub-Account held by such FCM Clearing Member in the same Omnibus Client Swaps Account with LCH (in which such Buffer is held) which is in or would become in default.
- (B) At no time shall the Clearing House apply Buffer in an amount that, in respect of a Client, would cause the sum of the Client's Client Sub-Account Balance and the Encumbered Buffer applicable to such Client's Client Sub-Account at such time (if any) to exceed the amount of Required Margin applicable to such Client Sub-Account. In the event that any such excess exists (*e.g.*, due to a decrease in Required Margin, the crediting of additional Margin attributable to such Client, or other reasons) with respect to a Client Sub-Account, the Clearing House shall reduce the amount of Encumbered Buffer applicable to such Client in an amount sufficient to remove any such excess, and any such reduced portion of Encumbered Buffer shall again constitute only Buffer (and shall no longer be considered Encumbered Buffer).
- (C) Any Encumbered Buffer that is applied to a Client Sub-Account on a Business Day and remains applied to such sub-account at the opening of the Clearing Services on the following Business Day (as necessary to satisfy the applicable Required Margin) shall, at such time, be deemed to become part of such Client's Client Sub-Account Balance and shall thereafter no longer constitute Encumbered Buffer or Buffer.

- (D) An FCM Clearing Member that is not a defaulter may request the return of any of its Buffer that is not Encumbered Buffer at any time in accordance with the Procedures, and upon such request the Clearing House shall return such Buffer.
  - (E) In the event that an FCM Clearing Member furnishes Collateral to be applied to its Omnibus Client Swaps Account with LCH but does not notify the Clearing House as to whether the Margin in respect of such Collateral should be considered Unallocated Excess or Buffer, and has not notified the Clearing House that such Collateral is attributable to individual Clients, the Clearing House shall treat such Margin as furnished as Buffer and credit it to the FCM Clearing Member's Buffer Sub-Account.
- (iii) Unallocated Excess.
- (A) An FCM Clearing Member is permitted to furnish Collateral on behalf of its Clients to be applied as Margin directly to the relevant Unallocated Excess Sub-Account, upon its instruction and with the prior written approval of the Clearing House in accordance with the Procedures, and the relevant Margin so furnished shall become Unallocated Excess.
  - (B) An FCM Clearing Member may provide an instruction (provided in accordance with the Rulebook) to the Clearing House directing it to apply all or a portion of its Unallocated Excess to a Client Sub-Account within the corresponding Omnibus Client Swaps Account with LCH.
- (d) With Client Excess Model. The provisions of this Regulation 106A(d) describe certain components of the Clearing House's model for margining, in accordance with Part 22 of the CFTC Regulations, Omnibus Client Swaps Accounts with LCH in a manner which provides for the maintenance of Excess Margin in Client Sub-Accounts on a day-to-day basis (such model is referred to in the Rulebook as the "**With Client Excess Model**"). FCM Clearing Members may, to the extent provided in the Procedures, apply for the Clearing House's approval to have one or more of its Omnibus Client Swaps Accounts with LCH treated in accordance with the With Client Excess Model. Any Omnibus Client Swaps Account with LCH for which no such approval of the Clearing House has been obtained shall be margined in accordance with the Without Client Excess Model (described in Regulation 106A(c)).

The provisions of this Regulation 106A(d) apply only to Omnibus Client Swaps Accounts with LCH that are subject to the With Client Excess Model.

- (i) Excess Margin in Client Sub-Accounts. An FCM Clearing Member is permitted to maintain Excess Margin with the Clearing House in respect of its Client Sub-Accounts, in accordance with the provisions of the Rulebook.

- (ii) Collateral Value Reports (CVRs). For each Omnibus Client Swaps Account with LCH maintained by an FCM Clearing Member treated in accordance with the With Client Excess Model, an FCM Clearing Member shall provide to the Clearing House, at least once on each Business Day, a “Collateral Value Report” (a “**CVR**” or “**Collateral Value Report**”) that is compliant (as determined by the Clearing House in accordance with the Procedures) and that instructs the Clearing House as to the appropriate allocation of the Omnibus Collateral Value attributable to each such Omnibus Client Swaps Accounts with LCH among (A) each Client Sub-Account therein and (B) the Buffer Sub-Account therein. FCM Clearing Members are required to produce and submit CVRs in accordance with Part 22 of the CFTC Regulations and any other applicable law, and such CVRs must be compliant with the Clearing House’s policies regarding CVRs as set forth in the Procedures and as may be set forth, from time to time, in other written materials of the Clearing House made available to FCM Clearing Members. Each FCM Clearing Member shall be fully responsible for all information contained in its CVRs and the Clearing House shall be entitled to rely fully on such information and has no obligation to conduct its own investigation (although it may do so) with respect to such information. The Clearing House shall update its applicable records in accordance with the most recently submitted compliant CVR corresponding to an Omnibus Client Swaps Account with LCH, and the most recent compliant CVR with respect thereto shall supersede any prior CVRs. A CVR will not be compliant if its allocation of the Omnibus Collateral Value would trigger a margin call. Additionally, a CVR may not be used to satisfy a margin call and a CVR that reallocates the Omnibus Collateral Value so as to satisfy a margin call shall not be compliant.
- (iii) Assumed Allocation. When an FCM Clearing Member furnishes Margin to an Omnibus Client Swaps Account with LCH for the purposes of satisfying a margin call issued by the Clearing House, such Margin shall be automatically allocated (such allocation, the “**Assumed Allocation**”) by the Clearing House (A) among each of the Client Sub-Accounts therein having at such time a Client Sub-Account Balance shortfall (in respect of the amount of Required Margin then applicable to each such sub-account) and (B) such allocation shall be made on a pro rata basis based on the amount of shortfall in each such sub-account. An FCM Clearing Member is not permitted to deliver a CVR simultaneously with its deposit of Collateral in satisfaction of a margin call so as to avoid the Assumed Allocation. However, an FCM Clearing Member may subsequently deliver a CVR allocating all or part of the Omnibus Collateral Value in the applicable account and any prior Assumed Allocation shall not limit the ability of subsequently delivered CVRs to allocate the Omnibus Collateral Value in the normal manner as provided in the Rulebook.
- (iv) Application of Buffer. The Clearing House will look to Buffer to offset any Client Sub-Account Balance deficits (on an aggregate basis) in the corresponding Omnibus Client Swaps Account with LCH, and will not

issue a margin call to an FCM Clearing Member in respect of the amounts of any such deficits to the extent such amounts could be offset by Buffer. An FCM Clearing Member that is not a defaulter may request the return of any of its Buffer that is not, at such time, being used by the Clearing House in such manner to offset any such Client Sub-Account Balance deficits.

- (v) Unallocated Excess.
  - (A) An FCM Clearing Member is permitted to furnish Collateral on behalf of its Clients to be applied as Margin directly to the relevant Unallocated Excess Sub-Account as set forth in the Procedures. Any Margin furnished by an FCM Clearing Member in respect of an Omnibus Client Swaps Account with LCH that is (1) not furnished in satisfaction of an outstanding margin call and (2) not accompanied by a new and compliant CVR, shall be automatically deemed to be furnished as Unallocated Excess and shall be credited to the applicable Unallocated Excess Sub-Account.
  - (B) An FCM Clearing Member may deliver a CVR to the Clearing House which has the effect of allocating all or a portion of the applicable Unallocated Excess into Client Sub-Accounts and/or the Buffer Sub-Account in the same Omnibus Client Swaps Account with LCH; provided, that such a CVR delivery may not be used for purposes of allocating Unallocated Excess in order to satisfy a margin call.
- (e) Required Margin Increase in a Client Sub-Account Subject to the Without Client Excess Model. If the Required Margin applicable to the Contracts registered to a Client's Client Sub-Account subject to the Without Client Excess Model is increased by the Clearing House and such increase cannot be immediately satisfied by Excess Margin in the corresponding Client Sub-Account Balance, the Client Sub-Account Balance shortfall will be satisfied in whole or in part (as applicable) by (x) the application of any Available Buffer (*i.e.*, Buffer that is not Encumbered Buffer and that is credited to the Buffer Sub-Account within the applicable Omnibus Client Swaps Account with LCH) and (y) any credit extended by the Clearing House (in the Clearing House's sole discretion), including any SwapClear Tolerance.

If the Client Sub-Account Balance shortfall referred to above cannot be fully satisfied with Available Buffer and/or Clearing House credit as set forth above, the obligation of the FCM Clearing Member to satisfy such deficit shall be discharged by:

- (A) the applicable FCM Clearing Member furnishing additional Margin to the Clearing House on behalf of the applicable Client; and/or
- (B) if the obligation of the FCM Clearing Member to satisfy the Client Sub-Account Balance deficit has not been fully

discharged pursuant to clause (A) above, by other means (if any) available to the Clearing House in accordance with the Rulebook.

- (f) Required Margin Increase in a Client Sub-Account Subject to the With Client Excess Model. If the Required Margin applicable to the Contracts registered to a Client's Client Sub-Account subject to the With Client Excess Model is increased by the Clearing House and such increase cannot be immediately satisfied by Excess Margin in the corresponding Client Sub-Account Balance, the Client Sub-Account Balance shortfall will be satisfied in whole or in part (as applicable) by (x) any Available Buffer that is credited to the Buffer Sub-Account within the applicable Omnibus Client Swaps Account with LCH and (y) any credit extended by the Clearing House (in the Clearing House's sole discretion), including any SwapClear Tolerance.

If the Client Sub-Account Balance shortfall referred to above cannot be fully satisfied with Available Buffer and/or Clearing House credit as set forth above, the obligation of the FCM Clearing Member to satisfy such deficit shall be discharged by.

- (A) the applicable FCM Clearing Member furnishing additional Margin to the Clearing House in respect of the applicable Omnibus Client Swaps Account with LCH (which shall be allocated in accordance with the Assumed Allocation); and/or
- (B) if the obligation of the FCM Clearing Member to satisfy the Client Sub-Account Balance deficit has not been fully discharged pursuant to clause (A) above, by other means (if any) available to the Clearing House in accordance with the Rulebook.



**Regulation 107      Net Present Value**

- (a) The Clearing House may determine the NPV for the purposes of the Rulebook in such manner and at such times as may be prescribed in the Procedures. Except as prescribed in the Procedures, an NPV is binding on a Clearing Member and may in no circumstances be disputed, challenged or contested.
- (b) For the avoidance of doubt, the calculation of NPVs by the Clearing House shall not affect or modify the validity of or terms of any Contracts in any way.
- (c) The Clearing House shall not be responsible for and does not warrant the accuracy of any NPV where the Clearing House relies on a price determined by a third party for purposes of determining the NPV or where the calculation of the NPV by the Clearing House is derived from information provided or made available by third parties.

## Regulation 108      Transfers of Client and Proprietary Positions

- (a) Transfer of Client Contracts and Collateral. A Receiving FCM Clearing Member may, upon the instruction or at the request of a Client, request (in the manner set out in the Procedures) that the Clearing House transfer to the Receiving FCM Clearing Member some or all of a Client's Contracts registered to its Client Sub-Account with a Carrying FCM Clearing Member (such Contracts subject to transfer, the "**Porting Contracts**"). Where the Porting Contracts constitute the entire portfolio of a Client's Contracts registered with the Carrying FCM Clearing Member (and only in such case), the Receiving FCM Clearing Member may also request in connection with such transfer the transfer of the Collateral attributable to such Client's Client Sub-Account (such Collateral, the "**Porting Collateral**"). It is a condition precedent to any transfer described in this paragraph that:
- (i) the Client has not become insolvent (such Client to be presumed to be solvent by the Clearing House unless evidenced to the contrary by the Carrying FCM Clearing Member in the manner set forth in the Procedures or as otherwise reasonably determined by the Clearing House);
  - (ii) neither the Carrying FCM Clearing Member nor the Receiving FCM Clearing Member is a Defaulter (or would become a Defaulter upon the consummation of the transfer);
  - (iii) the Receiving FCM Clearing Member has consented to the transfer of Porting Contracts and, if applicable, the Porting Collateral;
  - (iv) the Clearing House determines that following the transfer, the Receiving FCM Clearing Member shall have satisfied the Required Margin in respect of the Porting Contracts;
  - (v) in the event that the transfer would lead to an increase in Required Margin due from the Carrying FCM Clearing Member to the Clearing House, the Carrying FCM Clearing Member provides sufficient Margin to the Clearing House to satisfy such requirement; and
  - (vi) the Carrying FCM Clearing Member has not rejected such transfer (it being presumed by the Clearing House that the Carrying FCM Clearing Member has not rejected the transfer unless it has rejected it in the manner set forth in the Procedures or as otherwise reasonably determined by the Clearing House).

For purposes of clause (vi) above, the Carrying FCM Clearing Member will be entitled to reject the transfer only if (A) the applicable Client has failed to satisfy all outstanding obligations that are due and payable to the Carrying FCM Clearing Member and its Affiliates, including any increased margin due and payable that may result from the proposed transfer (for this purpose, "obligations" shall consist only of those obligations that arise as a result of cross-margining, cross-netting or other similar arrangements with respect to the Porting Contracts of the Client which are being transferred, or the Client's related collateral), (B) the transfer of the Porting Contracts would result in the Client breaching exposure limits with, and/or other risk parameters set by, the Carrying FCM Clearing Member and/or its Affiliates, or (C)

such rejection is otherwise in accordance with terms agreed as between the Carrying FCM Clearing Member and the relevant Client.

- (b) Additional Provisions Relating to Transfers of Client Collateral. In order to facilitate a transfer pursuant to paragraph (a) above that includes the transfer of Porting Collateral, the Carrying FCM Clearing Member shall notify the Clearing House of the specific Collateral which should constitute the Porting Collateral. The Receiving FCM Clearing Member shall take such actions and provide such information in connection with the transfer as may be required under the Procedures. In the event that the Carrying FCM Clearing Member fails to notify the Clearing House of the specific Collateral which should constitute the Porting Collateral, the Clearing House shall identify and select (in the manner set out in the Procedures) the Collateral it deems appropriate.

Once the Porting Collateral has been identified as set out in the above paragraph, the Receiving FCM Clearing Member may elect to reject the transfer of some or all of the Porting Collateral. Any such rejection in and of itself shall not prevent the transfer of the Porting Contracts, provided, that the conditions set out in clauses (i) through (vi) of Regulation 108(a) are satisfied in relation to such transfer. Following an acceptance by the Receiving FCM Clearing Member to receive a transfer of the Porting Collateral, the Clearing House shall transfer the Porting Collateral that has been identified to and consented by the Receiving FCM Clearing Member. In the event that, for whatever reason, the Clearing House is unable to transfer the Porting Collateral that has been accepted by the Receiving FCM Clearing Member, the Clearing House will not proceed with the transfer of the Porting Contracts.

- (c) Additional Provisions Relating to Transfers of Client Positions.

- (i) Further to the satisfaction of the conditions set out in Regulation 108(a) and (b), and provided that the Clearing House does not determine, in its sole discretion, that a transfer pursuant to Regulation 108(a) cannot be effected under the Rulebook, the Clearing House shall transfer the Porting Contracts into the name of the Receiving FCM Clearing Member on behalf of the relevant Client. The transfer of the Porting Contracts shall occur by novation of all of the Carrying FCM Clearing Member's rights and obligations in respect of such Porting Contracts to the Receiving FCM Clearing Member.
- (ii) In the case where a transfer pursuant to Regulation 108(a) will include the transfer of Porting Collateral in addition to the transfer of Porting Contracts:
- (A) Upon completion of the transfer, the Porting Collateral deposited with or transferred to the Clearing House by the Carrying FCM Clearing Member and held by the Clearing House in respect of the Porting Contracts shall, without limitation, be deemed to have been delivered by the Receiving FCM Clearing Member to the Clearing House and subject to the security interest granted by the Receiving FCM Clearing Member pursuant to Regulation 109(n) and pursuant to its Clearing Membership Agreement. Furthermore, and for the avoidance of doubt, the Carrying FCM Clearing Member shall have no right or entitlement to assert any claim over, or right with respect to, the Porting Collateral transferred.

- (B) Where all or a portion of the Porting Collateral have been accepted by the Receiving FCM Clearing Member, the transfer of the Porting Contracts and the accepted Porting Collateral shall be deemed to occur simultaneously, and the transfer of the Porting Contracts shall be conditioned on the transfer of the accepted Porting Collateral, and vice versa.
  - (C) If the transfer of all Porting Contracts and (if applicable) all accepted Porting Collateral is not completed for any reason, then any actual transfer of Porting Collateral or Porting Contracts that has occurred, as the case may be, shall be deemed not to have occurred, and any actual transfer of Porting Collateral or Porting Contracts that has occurred shall be immediately unwound.
- (d) Transfers of Contracts between Proprietary Accounts and Client Accounts of same FCM Clearing Member. If and to the extent permitted under the Procedures, a Clearing Member may:
- (i) transfer Contracts from its Proprietary Account to the Proprietary Account of another Clearing Member; and
  - (ii) transfer Contracts from accounts of its Clients to its Proprietary Account upon a client default or otherwise as permitted under and subject to applicable provisions of the CEA and the CFTC Regulations regarding segregation of assets, and in accordance with the Procedures.
- (e) Transfers between Proprietary Accounts of Two Clearing Members. To the extent permitted by and in accordance with the Procedures, a Clearing Member may transfer a Contract registered in its Proprietary Account to another Clearing Member's Proprietary Account. In addition to any other requirements or conditions set forth in the Procedures or required by the Clearing House (in its sole discretion), any such transfer is subject to the following conditions:
- (i) the Clearing House shall have received the consent of both Clearing Members to the transfer;
  - (ii) neither Clearing Member shall be a Defaulter (or would become a Defaulter upon the consummation of the transfer); and
  - (iii) the Clearing House shall have determined that the Clearing Member that is the transferee has sufficient Margin to register such transferred Contract.
- (f) Clearing Member Instructions.
- (i) Subject to paragraph (ii) below, but otherwise notwithstanding anything to the contrary in the Rulebook, in making any transfer of Porting Contracts and Porting Collateral pursuant to this Regulation 108, the Clearing House shall be authorized and entitled to rely conclusively on the instructions of and information provided by the relevant Clearing Member(s), which shall be solely responsible for all such instructions and information, including (A) ensuring that the transfer is properly authorized or rejected (as the case may

be) and (B) the transfer is being made from the appropriate Client Sub-Account and that the appropriate account, Contracts and Collateral has been identified, the Clearing House shall have no responsibility or liability therefor.

- (ii) The Clearing House shall verify that the Porting Contracts identified to it by the applicable FCM Clearing Member as being the subject of such a transfer correspond to Contracts which, according to its records, are registered in the name of the Carrying FCM Clearing Member on behalf of the relevant Client. In the event that the Clearing House identifies a discrepancy, it will notify the relevant FCM Clearing Member(s) and no transfer will occur pursuant to this Regulation 108 until such time as the Porting Contracts identified to the Clearing House by the relevant FCM Clearing Member(s) can be verified by the Clearing House.
- (g) No Assignment of Rights under a Contract. Except as may be permitted by paragraphs (d) and (e) above, expressly permitted by other parts of the Rulebook or as may otherwise be expressly permitted by the Clearing House in writing, rights under a Contract shall not be capable of assignment by a Clearing Member. Any such purported assignment by a Clearing Member, or any purported transfer that is not in compliance with this Regulation 108, shall be void.
- (h) Indemnity. The Carrying FCM Clearing Member agrees to indemnify the Clearing House in respect of all liabilities, costs, loss, fees, damages or expenses suffered or incurred by the Clearing House (howsoever arising or occurring) by reason of a proposed transfer being rejected by the Carrying FCM Clearing Member other than pursuant to the grounds set out in the final paragraph of Regulation 108(a).

**Regulation 109      Market Disorder or Trade Emergency; Force Majeure; Offsetting of Contracts**

(a) Market Disorders or Trade Emergencies. If the Clearing House determines that one of the following conditions exists:

- (i) a state of war exists or is imminent or threatened or civil unrest or terrorist or other criminal action has occurred or is imminent or threatened, and is likely to affect or has affected the normal course of business, including, but not limited to, performance under a Contract; or
- (ii) the government of any nation, state or territory or any institution or agency thereof has proclaimed or given notice of its intention to exercise, vary or revoke controls which appear likely to affect the normal course of business, including, but not limited to, performance under a Contract; or
- (iii) the U.S., the EU or any international organization, or any institution or agency thereof, has introduced, varied, terminated or allowed to lapse any provision so as to be likely to affect the normal course of business, including, but not limited to, performance under a Contract; or has given notice of its intention to do so or appears to be about to do so;

then:

- (iv) in respect of any or all such Contracts which are specified by the Clearing House in a notification to the affected Clearing Members, the Clearing House shall be entitled to offset such Contracts in accordance with paragraph (c) below at a price determined by the Clearing House or to require such Clearing Members to comply with any directions issued by the Clearing House regarding the performance of, or any other direction in respect of, such Contracts. Accounts shall be made up by the Clearing House for each Clearing Member who is a party to Contracts that are offset pursuant to this paragraph. Settlement of such accounts shall be due immediately and settlement thereof shall be made forthwith in discharge of such Contracts offset notwithstanding any further change of circumstances.

(b) Force Majeure.

- (i) None of the Clearing House, any affiliate of the Clearing House or any Clearing Member shall be liable for any failure, hindrance or delay in performance in whole or in part of its obligations under the terms of these Regulations or of any Contract if such failure, hindrance or delay arises out of events or circumstances beyond its control. Such events or circumstances may include, but are not limited to, acts of God or the public enemy, acts of a civil or military authority other than the acts referred in paragraphs (a)(i), (ii) and (iii) above, terrorist or other criminal action, sabotage, civil unrest, embargoes, blockades, fire, flood, earthquake, tornado, tsunami, other natural disasters, explosion, epidemics or plagues, labor dispute, unavailability or restriction of computer or data processing facilities, energy supplies, settlement systems or of bank transfer systems or wires, failures of software or communications systems, and any other causes beyond the parties reasonable control.

- (ii) On the happening of any one or more of the events or circumstances referred to in paragraph (b)(i) above, which shall immediately be notified by the party prevented, hindered or delayed from performing any of the obligations referred to in paragraph (b)(i) above to the other in respect of affected Contracts, the Clearing House shall be entitled to require any of the affected Contracts to be performed in accordance with directions issued by the Clearing House, or shall be entitled to require the Clearing Member to take such action as the Clearing House may direct in respect of such Contracts (including offsetting such Contracts as set forth in paragraph (c) below).
- (c) Offsetting Contracts.
  - (i) Where Contracts are offset pursuant to paragraphs (a) or (b) above (or otherwise), such offsetting shall be carried out by the Clearing House by effecting and registering opposite contracts between itself and the Clearing Member at the price referred to in the relevant Regulation or in paragraph (c)(ii) below, and thereupon settling such Contracts against such opposite contracts. Additionally, the Clearing House shall register opposite contracts between itself and such other Clearing Members as the Clearing House may select in its absolute discretion, in proportion to the net position of Contracts in their names on the same Contract Terms as the Contracts that are offset.
  - (ii) Opposite contracts effected and registered by the Clearing House pursuant to paragraph (a) and (b) above shall (subject to paragraph (a) above in the case of an opposite contract registered pursuant to paragraph (a) above) be at a price determined by the Clearing House, and shall be binding as a final settlement upon the parties effected by the offsetting Contracts. This paragraph (c)(ii) shall be without prejudice to any further liability of a Defaulter to the Clearing House or to any additional rights which the Clearing House may have against a Defaulter whether under these Regulations, at law or otherwise.
  - (iii) In this subsection (c):
    - (A) “net position” means one or more Contracts against which the Clearing Member in whose name they are registered has no offsetting Contracts on the same Economic Terms; and
    - (B) “opposite contract” means a Contract on the same terms, except as to price, as the Contract to be offset in accordance with this Regulation 109(c), but where a Clearing Member has position “X” in respect of a Contract to be offset (where such Contract consists of positions “X” and “Y”), such Clearing Member shall have position “Y” in respect of the opposite contract and vice versa.

## **Regulation 110      Currency Conversion**

For the purpose of exercising any rights under these Regulations, the Clearing House shall be entitled in its discretion to convert monies standing to the debit or credit of a Clearing Member's accounts (including FCM Swaps Client Segregated Depository Accounts and Omnibus Client Swaps Accounts with LCH) into such other currency or currencies as it thinks fit, such conversion to be effected at such reasonable rate or rates of exchange as the Clearing House may determine in accordance with the Procedures.



**Regulation 111      Fees and Other Charges**

- (a) The Clearing House shall be entitled to levy fees in respect of such matters and at such rates as may from time to time be prescribed. Such fees shall be payable by such Clearing Members, by such times, and in such manner as may be prescribed by the Procedures.
  
- (b) The Clearing House shall be entitled to make an accommodation charge at a rate determined by the Clearing House and specified in the Procedures, in respect of any security furnished to it as Collateral in a form prescribed by the Procedures. Any alteration in the basis of calculating the rates of accommodation charge shall become effective in respect of all current and future business by the time specified in the Procedures.

## Regulation 112      Records and Recordkeeping

- (a) Trading Information. The Clearing House shall make available to a Clearing Member in the manner and by the time prescribed by the Procedures, such details of original contracts presented for registration in the name of that Clearing Member, Contracts registered in that Clearing Member's name, and Collateral furnished by that Clearing Member as may be prescribed in the Procedures.
- (b) Each Clearing Member shall maintain appropriate books and records identifying all pertinent information regarding its Clients and any Affiliates for which it provides Clearing Services and regarding trades made on its own behalf through its Proprietary Account, the Contracts cleared for such Clients, Affiliates, or on its own behalf, as applicable, and the Collateral and Margin balances held in respect of such cleared Contracts. Without limitation of the foregoing, each FCM Clearing Member shall ensure that its books and records accurately reflect at all times the Contracts and Collateral maintained in connection with each Client Sub-Account for the relevant Clients.
- (c) A Clearing Member shall not be entitled to the return of any particulars, notices or any other documentation presented to the Clearing House pursuant to the Rulebook.
- (d) Record of Investments Regarding Client Funds.
  - (i) Each FCM Clearing Member that invests Client Funds shall keep a record showing the following:
    - (A) The date on which such investments were made;
    - (B) The name of the person through whom such investments were made;
    - (C) The amount of money or current market value of securities so invested;
    - (D) A description of the instruments in which such investments were made, including the CUSIP or ISIN numbers;
    - (E) The identity of the depositories or other places where such instruments are held;
    - (F) The date on which such investments were liquidated or otherwise disposed of and the amount of money or current market value of securities received of such disposition, if any;
    - (G) The name of the person to or through whom such investments were disposed of; and
    - (H) Daily valuation for each instrument and readily available documentation supporting the daily valuation for each instrument. Such supporting documentation must be sufficient to enable auditors to verify the valuations and the accuracy of any information from external sources used in those valuations.

- (ii) When the Clearing House receives documents from its FCM Clearing Members representing or evidencing investment of Client Funds, the Clearing House shall keep a record showing separately for each FCM Clearing Member the following:
  - (A) The date on which such documents were received from the FCM Clearing Member;
  - (B) A description of such documents, including the CUSIP or ISIN numbers; and
  - (C) The date on which such documents were returned to the FCM Clearing Member or the details of disposition by other means.
- (iii) Such records shall be retained in accordance with CFTC Regulation 1.31. No such investments shall be made except in instruments permitted under Regulation 103(k).
- (e) Recordation of Valuation of Instruments Purchased with Client Funds. FCM Clearing Members that invest Client Funds in instruments permitted under Regulation 103(k) shall include such instruments in their FCM Clearing Member Segregated Depository Account records and reports at values which at no time exceed their then current market value, determined as of the close of the market on the date for which such computation is made.
- (f) FCM Swaps Client Segregated Depository Accounts; Daily Computation and Record.
  - (i) Each FCM Clearing Member must compute as of the close of the previous Business Day:
    - (A) the aggregate amount of Client Funds on deposit in its FCM Swaps Client Segregated Depository Accounts on behalf of Clients;
    - (B) the amount of such Client Funds required by the CEA, the CFTC Regulations and the Rulebook to be on deposit in its FCM Swaps Client Segregated Depository Accounts on behalf of such Clients; and
    - (C) the amount of the FCM Clearing Member's residual interest in such Client Funds.
  - (ii) In computing the aggregate amount of funds required to be in its FCM Swaps Client Segregated Depository Accounts, an FCM Clearing Member may offset any net deficit in a particular Client's account against the then current market value of readily marketable securities, less applicable percentage deductions (i.e., "securities haircuts") as set forth in Rule 15c3-1(c)(2)(vi) of the Securities and Exchange Commission (17 CFR § 241.15c3-1(c)(2)(vi)), held for the same customer's account. The FCM Clearing Member must maintain a security interest in the securities, including a written authorization to liquidate the securities at the FCM Clearing Member's discretion, and must segregate the securities in a safekeeping account with a Permitted Depository. For purposes of this section, a security will be considered "readily marketable" if

it is traded on a “ready market” as defined in Rule 15c3–1(c)(11)(i) of the Securities and Exchange Commission (17 CFR § 240.15c3–1(c)(11)(i)).

- (iii) The daily computations required by this Regulation 112(f) must be completed by the FCM Clearing Member prior to noon on the next Business Day and must be kept, together with all supporting data, in accordance with the requirements of CFTC Regulation 1.31.
  
- (g) Classification of Positions. Each FCM Clearing Member shall maintain, as provided in CFTC Regulation 1.31, a record of all securities and property received from Clients in lieu of money to margin, purchase, guarantee or settle the cleared Contracts of such Clients. Such record shall show separately for each Client: a description of the securities or property received; the name and address of such Client; the dates when the securities or property were received; the identity of the Permitted Depositories or other places where such securities or property are segregated; the dates of deposits and withdrawals from such Permitted Depositories; and the dates of return of such securities or property to such Client, or other disposition thereof, together with the facts and circumstances of such other disposition.

**Regulation 113      Alteration of Rulebook; Interpretation; Validity; Change in Law or CFTC Regulations**

- (a) Alteration.
- (i) Unless these Regulations otherwise specifically provide in relation to any proposed amendment or extension, the Clearing House may from time to time, by notice delivered to Clearing Members, amend or extend these Regulations and such amendment or extension may be made with immediate effect or with such deferred effect as the Clearing House shall determine. Any amendment or extension to these Regulations may take effect so as to apply to Contracts registered in a Clearing Member's name at the time such amendment or extension comes into effect if the Clearing House so determines.
  - (ii) Unless these Regulations or the Procedures otherwise specifically provide in relation to any proposed amendment or extension, the Clearing House may from time to time amend or extend the Procedures by notice to such Clearing Members as may be affected.
  - (iii) Where the Clearing House proposes to amend the Regulations or the Procedures and any such changes are posted publicly on the website of the Clearing House, the Clearing House shall notify the Clearing Members of such proposed changes by circular or otherwise.
  - (iv) The accidental omission to give notice under this Regulation 113(a) to, or the non-receipt of notice under this Regulation 113(a) by, any Clearing Member shall not invalidate the amendment or extension with which the notice is concerned.
- (b) Conflict. The Procedures shall take effect and shall be binding on Clearing Members as if they formed part of these Regulations except that, in the event of any conflict between the provisions of these Regulations and the Procedures, the provisions of these Regulations shall prevail. In the event of inconsistency between the provisions of these Regulations or the Procedures and the rules or regulations or other contractual provisions of any trading platform or other undertaking the provisions of these Regulations and the Procedures shall prevail.
- (c) No Third Party Rights. Nothing contained in these Regulations or the Rulebook, express or implied, is intended by the Clearing House or any Clearing Members to confer any rights, benefits or remedies to any person other than the Clearing House and Clearing Members.
- (d) Headings. The headings to these Regulations and the Procedures are for convenience only and shall not affect their interpretation.
- (e) Waiver. No failure by the Clearing House to exercise, nor any delay on its part in exercising, any of its rights (in whole or in part) under these Regulations or the Procedures shall operate as a waiver of the Clearing House's rights or remedies upon that or any subsequent occasion, nor shall any single or partial exercise of any right or remedy prevent any further exercise thereof or any other right or remedy.

- (f) Validity. If at any time any provision of these Regulations or the Procedures becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of these Regulations or the Procedures nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall in any way be affected or impaired thereby.
  
- (g) Change in Law or CFTC Regulations. The Clearing House shall enforce the rules set forth in the Rulebook at all times in accordance with and subject to the CEA and the CFTC Regulations. In the event that a change in law or in the CFTC Regulations occurs but has not yet been reflected appropriately in the Rulebook, the CFTC Regulations and applicable law will prevail, the provisions of this Rulebook shall be deemed to be modified accordingly and the Clearing House will enforce these Regulations in accordance with the CFTC Regulations and applicable law.

## **Regulation 114      Confidentiality**

- (a) The Clearing House shall have authority to supply any information whatsoever concerning a Clearing Member and its trading to (i) the U.S. Internal Revenue Service or any Regulatory Body which reasonably requests or is entitled to receive any such details or information, (ii) any affiliate of the Clearing House including LCH.Clearnet Group Limited, LCH.Clearnet Limited and LCH.Clearnet SA, and (iii) any other person or body to which the Clearing House is, in its reasonable opinion, legally required to disclose the same.
- (b) The Clearing House shall also be entitled to supply any information whatsoever concerning a Clearing Member to any person (and the Clearing House will solicit an undertaking from any such person that such person will keep such information confidential) who has provided or may be contemplating entering into arrangements to provide the Clearing House directly or indirectly with stand-by or other finance, insurance cover, guarantee or other financial backing, which the Clearing House has been requested or is legally required to disclose to assist such person in relation to the provision of, or continued provision of, such finance, insurance cover, guarantee or financial backing.
- (c) Except as otherwise set forth in the Rulebook, otherwise agreed or permitted, or otherwise required by applicable law or regulation, and in all respects subject to Regulation 116, the Clearing House shall treat confidential proprietary information received from Clearing Members as confidential.

**Regulation 115      Governing Law and Jurisdiction**

- (A) THE RULEBOOK AND EACH CONTRACT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO ANY CONFLICTS OF LAWS PRINCIPLES, AND IN ACCORDANCE WITH THE LAWS OF THE UNITED STATES OF AMERICA, INCLUDING THE CEA AND APPLICABLE BANKRUPTCY AND INSOLVENCY LAWS.
  
- (B) THE CLEARING HOUSE AND EVERY CLEARING MEMBER HEREBY IRREVOCABLY AGREE FOR THE BENEFIT OF THE CLEARING HOUSE THAT (I) THE COURTS OF THE STATE OF NEW YORK, BOROUGH OF MANHATTAN IN THE UNITED STATES OF AMERICA AND (II) THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK SHALL HAVE EXCLUSIVE JURISDICTION TO HEAR AND DETERMINE ANY CLAIM OR MATTER ARISING FROM OR IN RELATION TO THE RULEBOOK OR ANY CONTRACT, AND EACH CLEARING MEMBER IRREVOCABLY SUBMITS TO SUCH JURISDICTION AND WAIVES ANY OBJECTION WHICH IT MIGHT OTHERWISE HAVE TO SUCH COURTS BEING A CONVENIENT AND APPROPRIATE FORUM; PROVIDED, THAT THIS SUBMISSION TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK, BOROUGH OF MANHATTAN AND THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK SHALL NOT (AND SHALL NOT BE CONSTRUED 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 TAKING OF ACTION IN ANY OTHER JURISDICTION, WHETHER CONCURRENTLY OR NOT.
  
- (C) THE CLEARING HOUSE AND EACH CLEARING MEMBER HEREBY IRREVOCABLY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THE RULEBOOK OR ANY CONTRACT.
  
- (D) EACH CLEARING MEMBER 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 JUDGMENT) AND EXECUTION OR ENFORCEMENT OF ANY JUDGMENT 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.



**Regulation 116      Exclusion of Liability**

- (A) NEITHER THE CLEARING HOUSE NOR ANY OF ITS AFFILIATES (INCLUDING THEIR RESPECTIVE OFFICERS, EMPLOYEES, AGENTS AND REPRESENTATIVES) SHALL BE LIABLE TO A CLEARING MEMBER OR ANY OTHER PERSON IN RESPECT OF ANY DISPUTE ARISING FROM OR IN RELATION TO ANY CONTRACT, INCLUDING BUT NOT LIMITED TO, ANY DISPUTE AS TO THE VALIDITY OR OTHERWISE OF SUCH CONTRACT, THE TERMS OF SUCH CONTRACT OR WHETHER ANY ALLEGED AGREEMENT OR ARRANGEMENT CONSTITUTES A CONTRACT.
  
- (B) THE CLEARING HOUSE SHALL NOT BE LIABLE FOR ANY OBLIGATIONS OF OR TO A PERSON WHO IS NOT A CLEARING MEMBER (INCLUDING A CLIENT OR AFFILIATE OF A CLEARING MEMBER), NOR ANY OBLIGATIONS OF A CLEARING MEMBER TO ANOTHER CLEARING MEMBER WHO IS ACTING AS A BROKER FOR THE FIRST CLEARING MEMBER, NOR SHALL THE CLEARING HOUSE BECOME LIABLE TO MAKE DELIVERIES OR ACCEPT DELIVERIES FROM A CLIENT OR AFFILIATES OF AN FCM CLEARING MEMBER.
  
- (C) WITHOUT PREJUDICE TO THE PROVISIONS OF REGULATION 101 AND REGULATION 116(D), NEITHER THE CLEARING HOUSE NOR ANY OF ITS AFFILIATES (INCLUDING THEIR RESPECTIVE OFFICERS, EMPLOYEES, AGENTS AND REPRESENTATIVES) SHALL BE LIABLE WHATSOEVER TO ANY CLEARING MEMBER, OR TO ANY OTHER PERSON IN CONTRACT, TORT (INCLUDING NEGLIGENCE), TRUST, AS A FIDUCIARY OR UNDER ANY OTHER CAUSE OF ACTION IN RESPECT OF ANY DAMAGE, LOSS, COST OR EXPENSE OF ANY NATURE WHATSOEVER SUFFERED OR INCURRED AS A RESULT OF: ANY SUSPENSION OF CLEARING SERVICES, WHETHER FOR A TEMPORARY PERIOD OR OTHERWISE, A STEP TAKEN BY THE CLEARING HOUSE UNDER REGULATIONS 109 OR 401 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 AGENT; THE OCCURRENCE OF ANY EVENT WHICH IS OUTSIDE THE CONTROL OF THE CLEARING HOUSE; OR ANY EXERCISE BY THE CLEARING HOUSE OF ITS DISCRETION UNDER THE REGULATIONS, OR ANY DECISION BY THE CLEARING HOUSE NOT TO EXERCISE ANY SUCH DISCRETION.
  
- (D) WITHOUT PREJUDICE TO REGULATION 116(B) AND REGULATION 116(D), UNLESS OTHERWISE EXPRESSLY PROVIDED IN THE REGULATIONS OR IN ANY OTHER AGREEMENT TO WHICH THE CLEARING HOUSE IS PARTY, NEITHER THE CLEARING HOUSE NOR ANY OF ITS AFFILIATES (INCLUDING THEIR RESPECTIVE OFFICERS, EMPLOYEES, AGENTS AND REPRESENTATIVES) SHALL BE LIABLE UNDER ANY CIRCUMSTANCES (INCLUDING AS A RESULT OF ANY NEGLIGENCE BY THE CLEARING HOUSE, ANY OF ITS AFFILIATES OR ANY OF THEIR RESPECTIVE OFFICERS, EMPLOYEES, AGENTS OR REPRESENTATIVES) TO ANY CLEARING MEMBER OR ANY OTHER EXECUTING PARTY FOR ANY INDIRECT OR CONSEQUENTIAL LOSS OR DAMAGE, OR LOSS OF ANTICIPATED PROFIT (WHETHER DIRECT OR INDIRECT) OR LOSS OF

BARGAIN, SUFFERED OR INCURRED BY ANY SUCH CLEARING MEMBER OR OTHER EXECUTING PARTY AND SHALL NOT IN ANY CIRCUMSTANCES BE LIABLE FOR ANY LOSS, COST, DAMAGE OR EXPENSE SUFFERED OR INCURRED BY ANY PERSON AS A RESULT OF ANY NEGLIGENCE ON THE PART OF THE CLEARING HOUSE OR ITS AFFILIATES, OR ANY OF THEIR RESPECTIVE OFFICERS, EMPLOYEES, AGENTS OR REPRESENTATIVES.

- (E) NOTHING IN THIS REGULATION 116 SHALL BE CONSTRUED AS AN ATTEMPT BY THE CLEARING HOUSE TO EXCLUDE ANY LIABILITY FOR ANY FRAUD, FRAUDULENT MISREPRESENTATION OR WILLFUL DEFAULT ON THE PART OF THE CLEARING HOUSE. THE CLEARING HOUSE ACCEPTS LIABILITY FOR ANY PERSONAL INJURY OR DEATH CAUSED BY THE NEGLIGENCE OF THE CLEARING HOUSE AND FOR ANY FRAUD OR WILLFUL DEFAULT ON THE PART OF THE CLEARING HOUSE.
  
- (f) WITHOUT PREJUDICE TO THE PROVISIONS OF REGULATION 101 AND REGULATION 116(D), NEITHER THE CLEARING HOUSE NOR ANY OF ITS AFFILIATES (INCLUDING THEIR RESPECTIVE OFFICERS, EMPLOYEES, AGENTS AND REPRESENTATIVES) SHALL BE LIABLE WHATSOEVER TO ANY CLEARING MEMBER OR TO ANY OTHER PERSON (INCLUDING ANY CLIENT) IN CONTRACT, TORT (INCLUDING 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 CLEARING MEMBER OR ANY OTHER PERSON, AS THE CASE MAY BE, AS A RESULT OF THE FAILURE OF ANY SYSTEMS, COMMUNICATION FACILITIES OR TECHNOLOGY.

## Regulation 117      **Default or Bankruptcy of the Clearing House**

(a) Clearing House Default. Each of the following events shall constitute an “**LCH Default**”:

- (i) the Clearing House fails to make an undisputed payment or collateral delivery to a Clearing Member (other than a Clearing Member that is a Defaulter) that is due and payable or deliverable under a Contract in accordance with the Rulebook and such Clearing Member has delivered written notice to the Clearing House of such failure, and either (A) such failure has not been remedied by the close of business (as specified in Section 2A.2.2 of the Procedures) on the thirtieth day (or, in the event that such thirtieth day is not a Business Day, the immediately following Business Day) following the date when the obligation to pay fell due (such time on such day, the “**End of Day**”) or (B) the Clearing House has provided written notice (by electronic circular) to all Clearing Members that it cannot remedy such failure and that it intends to pursue a bankruptcy or liquidation; or
- (ii) the Clearing House commences a voluntary case or other procedure seeking or proposing liquidation, administration, receivership, voluntary arrangement or a scheme of arrangement, or other similar relief with respect to itself or to its debts under any bankruptcy, insolvency, regulatory, supervisory or similar law, or if the Clearing House takes corporate action to authorize any of the foregoing in any such case other than for the purposes of corporate restructuring (including any consolidation, amalgamation or merger); or
- (iii) if any of the foregoing cases or procedures referred to in paragraph (ii) above is commenced in relation to the Clearing House, and any such procedure (A) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for the winding-up or liquidation of the Clearing House or (B) is not dismissed, discharged, stayed or restrained within 30 days of the institution of such procedure.

For the avoidance of doubt, a payment or delivery to a Clearing Member by the Clearing House under a Contract is due and payable in accordance with the Rulebook, for purposes of paragraph (i) above, only to the extent that the obligations of the Clearing House in respect of such Contract are not limited, modified, cancelled, terminated, discharged or otherwise altered by any applicable provisions of the Rulebook (including, *e.g.*, Regulation 109, Regulation 320 and the Default Regulations).

(b) Default Notice; LCH Default Time; Termination Date.

- (i) Notice. The Clearing House shall publish notice of an LCH Default (and specifying the Termination Date in accordance with paragraph (iii) below) by electronic circular simultaneously to all Clearing Members, and shall promptly thereafter publish notice of such LCH Default prominently on its website:
  - (A) in the case of an LCH Default under Regulation 117(a)(i)(A), at the End of Day, or, at the discretion of the Clearing House, at an earlier time on such day;

- (B) in the case of an LCH Default under Regulation 117(a)(i)(B), at the time the Clearing House provides the notice referred to therein;
  - (C) in the case of an LCH Default under Regulation 117(a)(ii), as promptly as practicable following the event referred to in Regulation 117(a)(ii); or
  - (D) in the case of an LCH Default under Regulation 117(a)(iii), as promptly as practicable following the event referred to in Regulation 117(a)(iii).
- (ii) LCH Default Time. The “**LCH Default Time**” means:
- (A) in the case of an LCH Default under Regulation 117(a)(i)(A), at the time of transmission of the electronic notice delivered in accordance with paragraph (i)(A) above, or, in the event that no such notice is delivered despite the requirement of the Clearing House to so deliver it in accordance with paragraph (i)(A) above, at the End of Day;
  - (B) in the case of an LCH Default under Regulation 117(a)(i)(B), at the time of transmission of the electronic notice delivered in accordance with such Regulation 117(a)(i)(B);
  - (C) in the case of an LCH Default under Regulation 117(a)(ii), at the time the event referred to in Regulation 117(a)(ii) occurs, notwithstanding whether or not the Clearing House has published notice in accordance with paragraph (i)(C) above; or
  - (D) in the case of an LCH Default under Regulation 117(a)(iii), at the time the event referred to in Regulation 117(a)(iii) occurs, notwithstanding whether or not the Clearing House has published notice in accordance with paragraph (i)(D) above.
- (iii) Termination Date. The “**Termination Date**” shall be the first Business Day immediately following the date of the LCH Default Time determined in accordance with paragraph (ii) above.
- (c) Upon the LCH Default Time. Effective as of the LCH Default Time:
- (i) the Clearing House shall no longer accept Transactions submitted to it for clearing or register any Contracts;
  - (ii) all open Contracts, regardless of whether such Contracts are related to House Business or Client Business, shall be terminated immediately upon and as of the LCH Default Time;
  - (iii) neither the Clearing House nor any Clearing Member shall be obliged to make any further payments or deliveries under any Contract between them which would, but for this Regulation 117, have accrued on or after the LCH Default Time other than by settlement of the Termination Amount, and any obligations to make further payments or deliveries which would otherwise have accrued

shall be satisfied by settlement (whether by payment, set off or otherwise) of the Termination Amount; and

- (iv) all other payment and delivery obligations, present or future, (other than as set out in paragraph (iii) above) in relation to any Contracts and any other obligations pursuant to the Rulebook shall be payable or deliverable as of the Termination Date and in accordance with the provisions of this Regulation 117.

The Clearing House shall, to the extent possible, return or redeliver all amounts received after the LCH Default Time in respect of a Clearing Member's attempted registration of any Contract after the LCH Default Time.

- (d) Set Off and Netting. Following an LCH Default in accordance with this Regulation 117:

- (i) Each Clearing Member shall, as promptly as reasonably practicable on or after the Termination Date, but in any event within ninety days of the Termination Date (such ninetieth day, the "**Final Calculation Date**"), determine as of the Termination Date, (A) the value of each Contract (including its losses or gains associated with each Contract) and (B) the value of all other amounts which it owes to the Clearing House and which the Clearing House owes to it, in each case whether present or future, liquidated or unliquidated, actual or contingent, pursuant to the Contract Terms and in accordance with this Regulation 117(d), and promptly provide such determination to the Clearing House. In the case of an FCM Clearing Member, all obligations between the Clearing House and the FCM Clearing Member in respect of the FCM Clearing Member's Omnibus Client Swaps Account with LCH shall be set off and netted separately on a Client Sub-Account by Client Sub-Account basis, in accordance with the CEA and the CFTC Regulations, from any other obligations between the Clearing House and such FCM Clearing Member.
- (ii) Each Clearing Member shall calculate the value, as of the Termination Date, of:
  - (A) the obligation of the Clearing Member or the Clearing House to pay Variation Margin;
  - (B) the obligation of the Clearing House to repay or redeliver any Collateral, without applying any haircuts to the valuation of the applicable collateral held as Collateral;
  - (C) the obligation of the Clearing House to repay such Clearing Member an amount equal to its Contribution, as adjusted in accordance with the Default Fund Regulations;
  - (D) in the event that the Clearing Member is a Cash Gainer as at the last successful margin run prior to the LCH Default Time, the value of any Cash Gainer Adjustments under Regulation 318; and

- (E) any other amounts that may be due to or from either the Clearing Member or the Clearing House to or from the other in relation to the Rulebook.
- (iii) The value of the loss or gain (as the case may be) associated with each Contract as referred to in paragraph (d)(i)(A) above shall include (i) losses or gains in respect of any payment or delivery required to have been made (assuming satisfaction of each applicable condition precedent) on or before the Termination Date; and (ii) any loss of bargain, cost of funding or, without duplication, loss or, as the case may be, gain as a result of the termination, liquidation, obtaining, performing or re-establishing of any hedge or related trading position, as a result of the termination, pursuant to the Rulebook, of each payment which would otherwise have been required to be made under such Contract. Amounts determined pursuant to paragraphs (d)(i) to (ii) above shall be expressed in the lawful currency of the United States (the “**Base Currency**”) or the currency of the Relevant Contract where agreed by the Clearing House and the Clearing Member. For the purposes of any calculation required to be made under this Regulation 117, the Clearing Member may convert amounts denominated in any other currency into the Base Currency at such rate prevailing at the time of the calculation as it shall reasonably select.
- (iv) On the basis of the values determined pursuant to paragraphs (d)(i) to (iii) above, an account shall be taken by each Clearing Member (as at the Termination Date) of what is due from that Clearing Member to the Clearing House and from the Clearing House to that Clearing Member and the sums so due shall be set off against each other and only the balance of the account shall be payable by the party having the claim valued at the lower amount pursuant to the foregoing (such balance, the “**Termination Amount**”). If for any reason one or more Clearing Members fails to determine and notify the applicable Termination Amount to the Clearing House by the Final Calculation Date, the Clearing House shall post a notice on its website of such failure and shall make its own determination of any such Termination Amount(s) in respect of each such Clearing Member within thirty days of the Final Calculation Date. Following the calculation by the Clearing House of any such Termination Amounts which it is required to determine in accordance with the preceding sentence, the Clearing House shall promptly notify all Clearing Members that it has completed all such calculations and shall post such notice on its website. The date on which the Clearing House provides such notice shall be referred to as the “**Late Final Calculation Date**”.
- (v) The Termination Amount in respect of each Clearing Member shall be due and payable (by the party which owes the relevant Termination Amount) by no later than the second Business Day following the Final Calculation Date or, where a Late Final Calculation Date is applicable, no later than the second Business Day following the Late Final Calculation Date.
- (e) Rights not Exclusive. The Clearing Member’s rights under this Regulation 117 shall be in addition to, and not in limitation or exclusion of, any other rights which the Clearing Member may have (whether by agreement, operation of law or otherwise). This Regulation 117 is without prejudice to the rights that the Clearing House may



have pursuant to the Rulebook against any Clearing Member prior to the occurrence of the LCH Default.

- (f) Interpretation in Relation to FDICIA. The Clearing House and each Clearing Member intend that certain provisions of the Rulebook (including this Regulation 117) be interpreted in relation to certain terms that are defined in FDICIA, as follows:
- (i) The Clearing House is a “clearing organization”.
  - (ii) An obligation of a Clearing Member to make a payment to the Clearing House, or of the Clearing House to make a payment to a Clearing Member, subject to a netting contract, is a “covered clearing obligation” and a “covered contractual payment obligation”.
  - (iii) An entitlement of a Clearing Member to receive a payment from the Clearing House, or of the Clearing House to receive a payment from a Clearing Member, subject to a netting contract, is a “covered contractual payment entitlement”.
  - (iv) The Clearing House is a “member”, and each Clearing Member is a “member”.
  - (v) The amount by which the covered contractual payment entitlements of a Clearing Member or the Clearing House exceed the covered contractual payment obligations of such Clearing Member or the Clearing House after netting under a netting contract is its “net entitlement”.
  - (vi) The amount by which the covered contractual payment obligations of a Clearing Member or the Clearing House exceed the covered contractual payment entitlements of such Clearing Member or the Clearing House after netting under a netting contract is its “net obligation”.
  - (vii) The Regulations and the Procedures, including this Regulation 117, constitute a “netting contract”.
  - (viii) For purposes of this Regulation 117(f), the term “payment” means “a payment of United States dollars, another currency, or a composite currency, and a noncash delivery, including a payment or delivery to liquidate an unmatured obligation.”
  - (ix) The provisions of the Regulations and the Procedures providing for the use and liquidation of Collateral, including Regulation 117, each constitute a “security agreement of arrangement or other credit enhancement related to one or more netting contracts between any 2 members of a clearing organization”.

## **Regulation 118      Acknowledgements and Agreements of Clients and Affiliates**

Each Client and Affiliate, by participating in Transactions and entering Contracts through its respective Clearing Member(s), shall be deemed to understand, acknowledge and agree that:

- (a) the services provided by the Clearing House with regard to the Clearing Services will be subject to and governed by the Rulebook between the Clearing House and the Clearing Member;
- (b) the Regulations shall govern the registration of Contracts and all transactions between a Client or Affiliate and its Clearing Member resulting in the registration of Contracts, and at the time of registration of a Contract the Client or Affiliate on whose behalf it was registered will be deemed to be bound by the relevant Contract on the terms entered into between the Clearing Member and the Clearing House (including, without limitation, all applicable terms of the Regulations and the schedules thereto) automatically and without any further action by such Client or Affiliate or by its Clearing Member, and such Client or Affiliate agrees to be bound by the applicable provisions of the Regulations and by the terms of the applicable Contracts in all respects;
- (c) the provisions of Regulation 116 (Exclusion of Liability) shall apply to each Client and Affiliate *mutatis mutandis* as though entered into by each Client and Affiliate directly with the Clearing House;
- (d) the Clearing House shall be under no obligation to deal directly with any Client or Affiliate, and the Clearing House may deal exclusively with the Clearing Members;
- (e) the Clearing House shall have no obligations to any Client or Affiliate with respect to any Contract or Contracts held by the relevant Clearing Member on behalf of such Client or Affiliate, including but not limited to any repayment or redelivery obligations;
- (f) no Client or Affiliate shall have any right to receive from the Clearing House, and not right to assert any claim against the Clearing House with respect to, nor shall the Clearing House be liable to any Client or Affiliate for, any payment or delivery obligation in connection with any Contract held by the relevant Clearing Member on behalf of such Client or Affiliate and the Clearing House shall make any such payments or redeliveries solely to the Clearing Member;
- (g) upon the default of a Client's or Affiliate's Clearing Member, if the Clearing House is required to do so by any Regulatory Body or applicable laws or regulations, or determines in its discretion that it is necessary for its protection, the Clearing House may close out and terminate the Client's or Affiliate's Contracts entered into by such Clearing Member, subject to applicable law, regardless of whether such Client or Affiliate had itself defaulted, and in certain circumstances the Clearing House will not transfer or otherwise re-establish such positions;
- (h) the Clearing House will not hold any assets transferred to it on behalf of any individual Client or an Affiliate;



- (i) where a Clearing Member provides a Client's or Affiliate's securities or other assets to the Clearing House as Collateral, such securities and other assets shall be held by the Clearing House in accordance with the Rulebook and applicable law, and Clients and Affiliates shall not be entitled to assert any equitable or other claim to any such securities or assets in circumstances where the assertion of such a claim would delay or inhibit (x) the disposal by the Clearing House of such securities or assets and/or (y) the application of the proceeds of sale of such securities or assets, in each case in accordance with the provisions of the Rulebook and applicable law; and
- (j) each Client and Affiliate provides its respective Clearing Member(s) with its unconditional consent for such Clearing Member(s) to furnish or deposit to or with the Clearing House any securities or other assets of such Client or Affiliate in the Clearing Member's possession, and to repledge such property to the Clearing House, as Margin for the purposes of clearing Contracts entered on behalf of the Client or Affiliate.

## CHAPTER 2 – DEFAULT REGULATIONS

### **Regulation 201      Applicability**

Except as otherwise expressly stated, the Default Regulations and the Default Fund Regulations (which consist of Chapter 2 and Chapter 3, respectively, of these Regulations) are effective with respect to all Clearing Services offered by the Clearing House. In the Default Regulations and the Default Fund Regulations, the terms “trustee” or “receiver” have the meanings assigned to them under Chapter 7 of the Bankruptcy Code.

## **Regulation 202      Steps to Take in the Event of a Default**

In the event the Clearing House determines, in its sole discretion, that a Clearing Member is unable to, or is likely to become unable to, meet its obligations in respect of one or more Contracts, the Clearing House may (or upon the occurrence of an Automatic Early Termination Event, in which case such Contracts will automatically terminate, the Clearing House shall) take such steps listed in Regulation 204 as under the circumstances appear to the Clearing House to be best suited to:

- (a) discharge all the Clearing Member's rights and liabilities under or in respect of all Contracts to which it is party or upon which it is or may be liable, and
- (b) complete the process set out in Regulation 205.

Before taking any such step the Clearing House shall consider the interests of the members of any market that the Clearing Member may belong to and shall, where in the circumstances it is reasonably practicable to do so without prejudice to those interests if applicable or the interests of the Clearing House, consult any relevant rules of Approved Trade Source System(s). As soon as practicable after the Clearing House has elected to take any such step in relation to a Clearing Member (or in the case of an Automatic Early Termination Event as soon as practicable after the occurrence of such event) the Clearing House shall send to such Clearing Member a notice of such step being taken or notice of the occurrence of an Automatic Early Termination Event (a "**Default Notice**"), and shall publish a copy of such Default Notice; provided, however, that the Clearing House shall not be liable whatsoever for any failure to deliver such notices.

The general steps which may be taken by the Clearing House in accordance with the foregoing in respect of a Defaulter or otherwise and with respect to SwapClear Contracts are:

- (i) to register a Contract in the name of the Defaulter or to decline to register a Contract in the name of the Defaulter or otherwise to exercise the Clearing House's discretion with regard to the Defaulter under Regulation 401(h);
- (ii) to effect a closing-out of a Contract of the Defaulter (whether by registering an offsetting Contract or otherwise) and at the option of the Clearing House to settle such Contracts or to effect the transfer or termination, close-out and cash-settlement of a Contract of the Defaulter by applying a price determined by the Clearing House in its discretion subject to the requirements of Part 190 of the CFTC Regulations;
- (iii) to sell any security deposited by the Defaulter (including on behalf of a Client or an Affiliate) with the Clearing House in respect of Contracts, or in respect of any agreement made between the Defaulter and the Clearing House by public or private sale for account of the Defaulter without being obliged to obtain the Defaulter's consent or any order of a court of law, and to appoint any person to execute any document for such purpose in the name and on behalf of the Defaulter;
- (iv) to transfer a Contract of the Defaulter to the account of another Clearing Member or to close out and terminate such Contract and re-establish it with another Clearing Member, being a Clearing Member entitled and willing to

have such Contract registered in its name or to transfer a Contract from the account of another Clearing Member to the account of the Defaulter for the purposes of closing out a Contract registered in an account of the Defaulter or for any other reason which the Clearing House considers appropriate in the circumstances without requiring the consent of any relevant Approved Trade Source System or other person;

- (v) to take such steps as may be desirable, to the extent permitted by applicable law, including crediting or debiting of accounts (including Margin accounts), entry into new Contracts, transfer of existing Contracts, reversal of Contracts, or termination, close-out and re-establishment of Contracts, or any other step, to preserve as far as possible the position of any Client of the Clearing Member. Where a Contract is transferred or closed-out, terminated, and re-established under paragraph (iv) above, without requiring the consent of any relevant Approved Trade Source System or other person, to transfer (whether by way of transfer or by way of termination, close-out and re-establishment of positions) to the Clearing Member to whom the Contract is transferred (or with whom the replacement Contract is re-established) such Collateral held as security for the Defaulter's obligations to the Clearing House on that account as the Clearing House may deem appropriate;
- (vi) to make or procure the making of one or more Contracts, including Contracts for the purpose of hedging market risk to which the Defaulter is exposed, and to register the same in the Defaulter's name to the extent permitted under applicable law, including applicable bankruptcy law;
- (vii) to make or procure the making of one or more Contracts with a Non-Defaulting Clearing Member, including Contracts for the purpose of hedging market risk to which the Defaulter is exposed, and to register the same in the name of the Clearing House;
- (viii) to designate a currency as a currency of account, and at the Defaulter's expense to convert any sum payable by or to the Defaulter in another currency into the currency of account;
- (ix) without prejudice to any other right of the Clearing House under the Rulebook, 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 Contract standing in its name;
- (x) 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 Regulation 202 or the steps which are or may be taken under this Regulation 204 or any provision of the Rulebook and any expenses incurred with regard thereto under Regulation 207;
- (xi) any other step calculated by the Clearing House to complete the process set out in Regulation 205; and

- (xii) to obtain such advice or assistance, whether legal advice or otherwise, as the Clearing House may in its sole discretion deem necessary and at the expense of the Defaulter for any matter arising out of or in connection with the Default.

In exercising any of the foregoing in connection with SwapClear Contracts, the Clearing House shall take any such steps in a manner that is consistent with the provisions of Regulation 204.

## **Regulation 203      Event of Default**

Without limiting the Clearing House's discretion under Regulation 202, the Clearing House may take into account any or all (or none) of the events listed below to determine whether a Clearing Member is unable to, or is likely to become unable to, meet its obligations in respect of one or more Contracts:

- (a) the Clearing Member fails duly to perform or is in breach of the Regulations, the Procedures, or any of the terms of any agreement, understanding or arrangement with the Clearing House;
- (b) the Clearing Member is in breach of the terms of membership of, or is declared to be in default by, or is suspended or expelled from membership of, an Approved Trade Source System or any other similar facility;
- (c) the Clearing Member is in breach of any rules of an Approved Trade Source System or the rules of any similar facility;
- (d) the Clearing Member is in breach of the terms of membership of, or is refused an application for or is suspended or expelled from membership of, a Regulatory Body or is in breach of the rules of a Regulatory Body to which it is subject or its authorization by a Regulatory Body is suspended or withdrawn;
- (e) the CFTC or any other Regulatory Body takes or threatens to take action against or in respect of the Clearing Member under any statutory provision, regulation or process of law;
- (f) the Clearing Member is in default in the payment of any sum whatsoever due and payable to the Clearing House;
- (g) 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;
- (h) in respect of the Clearing Member, a bankruptcy petition is filed or a bankruptcy order made or a voluntary arrangement is approved;
- (i) in respect of the Clearing Member, a receiver, conservator or trustee is appointed by a court;
- (j) an assignment or composition is made by the Clearing Member for the benefit of creditors or any of them;
- (k) a petition is presented for, an order is made for or a resolution is passed for the winding up of the Clearing Member (other than for the purpose of an amalgamation, merger or reorganization unrelated to a bankruptcy);
- (l) in respect of the Clearing Member, a petition is presented or order made for the appointment of a trustee, conservator or receiver;
- (m) the Clearing Member is wound up, dissolved, terminated, liquidated or otherwise ceases to exist due to any action of similar import;

- (n) any step analogous to those mentioned in paragraphs (i) to (n) above is taken in respect of the Clearing Member in any jurisdiction; or
- (o) any distress, execution or other process is levied or enforced or served upon or against any property of the Clearing Member.

## Regulation 204      Default Management Process

(a)    Scope and Interpretation.

- (i)    This Regulation 204 sets forth the steps that may be taken pursuant to Regulation 202 in respect of a Defaulter or otherwise, and which constitute the fundamentals of the Default Management Process which will apply to Contracts following the issue of a Default Notice relating to a Clearing Member. The fundamental principles of the Default Management Process are elaborated to the fullest extent possible in this Regulation 204. Where exhaustive detail cannot be laid out in the provisions of this Regulation 204, the process described herein will be undertaken on the basis of the principles contained herein.
- (ii)   The Clearing House has an obligation to ensure the on-going integrity of the Clearing House's clearing services and registered Contracts in the interests of the Non-Defaulting Clearing Members. When a Clearing Member defaults, Non-Defaulting Clearing Members are required to supply impartial expertise through the DMG and to bid for the Auction Portfolios of a Defaulting Clearing Member, as laid out in this Regulation 204. In addition, most Clearing Members or their Affiliates have direct interests in that integrity, notably as contributors to the various default funds of the Clearing House and its affiliates. Each Clearing Member shall take all steps and execute all documents necessary or required by the Clearing House to comply with its obligations as a Clearing Member arising out of this Regulation 204.
- (iii)   The initial margining of Contracts will be such so as to ensure that the acceptance of bids for the Auction Portfolios of a Defaulting Clearing Member will recognize risk premiums, and that equivalent premiums will be paid by the Clearing House in closing-out large positions in other Contracts traded on Approved Trade Source Systems or markets.
- (iv)   For the avoidance of doubt, and without limitation of the provisions of this Regulation 204 and the other Default Regulations, the Clearing House shall have no recourse to the process of offsetting Contracts in connection with the Default Management Process, except to the extent that offsetting would otherwise apply under the circumstances pursuant to Regulation 109.

(b)    House Business. The Default Management Process in respect of House Business shall involve the stages described in this Regulation 204(b).

- (i)    Portfolio Splitting. The Clearing House, in consultation with and the assistance of the 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 Regulation 204(b)(iii). The overriding principle is that the Clearing House will structure Auction Portfolios with the intention of ensuring the Default Management Process 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



Regulation 204(b) shall be deemed to imply: (x) that the Clearing House is under any obligation to split a particular Portfolio of a Defaulting Clearing Member (regardless of the number of Contracts that such Portfolio contains); or (y) any particular requirements as to the composition of an individual Auction Portfolio, 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.

- (ii) Risk Neutralization. The Clearing House will, in consultation with and with the assistance of the DMG, reduce the market risk associated with a Defaulting Clearing Member's obligations to the Clearing House so far as is reasonably practicable by hedging the Clearing House's exposure in Contracts to which the Defaulting Clearing Member is party. All such hedging shall be undertaken by the Clearing House with Clearing Members, on the basis of separate agreements between the Clearing House and each such Clearing Member. The aim of Risk Neutralization 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 DMG or as may reasonably be determined by the Clearing House in consultation with the DMG once a Default has been declared under the Default Regulations. For the avoidance of doubt, Risk Neutralization may happen prior to, concurrently with and/or subsequently to the splitting of a Portfolio pursuant to Regulation 204(b)(i) above.
- (iii) Auction.
  - (A) Following the completion of Risk Neutralization, the Clearing House shall auction each Auction Portfolio to Non-Defaulting Clearing Members. The Clearing House, in consultation with the 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 Clearing Member 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) Clearing Members will submit bids to the Clearing House representatives on the DMG, who will ensure that the identities of the bidders are not revealed to the Clearing Member representatives on the DMG. For the avoidance of doubt, a Clearing Member shall be entitled to submit a bid on behalf of one or more affiliated Clearing Members. The 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 DMG shall 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 Initial Margin held and, subject to their availability, the Clearing House resources as set out in Regulation 302. In the event that more than one Clearing Member 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:
    - (1) in the event that a bid was accepted, the Clearing House will notify those Currency Participants in the relevant Auction Currency together with any other Clearing Members who participated in the Auction that a bid was accepted and shall notify the Clearing Member who submitted the accepted bid that its bid was accepted;
    - (2) in the event that no bid was accepted, the Clearing House will notify all Clearing Members of the details of any further Auction.
  - (G) The Clearing Member agrees to use all reasonable efforts to make a bid in an Auction for an Auction Portfolio in respect of which such Clearing Member is a Currency Participant.
- (iv) 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 utilized by the Clearing House will be allocated in accordance with Regulation 204(b)(vi) below.
  - (B) For each AIP, the resources shall be allocated as follows:
    - (1) the resources of the Defaulting Clearing Member (in the form of: (i) that part of the Margin Cover for the Contracts of the Defaulting Clearing Member pursuant to Regulation 302(1) and (ii) the Contribution made by the Defaulting Clearing Member to the Default Fund) available pursuant to Regulation 302(2) at the time of the auction process will be allocated to the AIPs based on the proportion that (x) the risk of the relevant Auction Portfolio bears to (y) the aggregate of the risks (on an absolute

basis) for all Auction Portfolios; the portion of the Capped Amount applied to the Defaulting Clearing Member pursuant to Regulation 302(3) 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

(2) the Non-Defaulters' Contributions and the total value of the Unfunded Contributions which would be callable but have not been called by the Clearing House from the relevant Clearing Member in respect of the relevant Default in accordance with Regulation 315 (the "**Potential Unfunded Contributions**") will, subject to Regulation 204(b)(iv)(C) below, be allocated between the AIPs relating to the Auction Portfolios in which the relevant Clearing Member is a Currency Participant based on the proportion that: (x) the risk of the Contracts of such Clearing Member denominated in the relevant currency bears to (y) the aggregate of the amounts calculated in (x) in respect of each currency in which the relevant Clearing Member is a Currency Participant.

(C) Where a Portfolio for a particular Contract currency 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 (x) the risk of the Contracts in each such Auction Portfolio bears to (y) the aggregate of the amounts calculated in (x) for each of the Auction Portfolios in the relevant currency.

(v) Loss Attribution.

(A) Following the completion of all Auctions of all Auction Portfolios of the Defaulting Clearing Member, 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 utilized. Where applicable, such losses will be allocated to Non-Defaulters' Contributions in accordance with the loss attribution process described in this Regulation 204(b)(v).

(B) For each Auction Portfolio, losses to the Clearing House will be met using the resources as set out in Regulation 303. 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 Regulation 204(b)(iv). 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 Regulation 204(b)(iv)(B) allocated to the AIP related to the relevant Auction Portfolio (the "**Initial Resources**") to be fully utilized, 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 utilization of resources beyond the Initial Resources available in the relevant AIP in accordance with Regulations 302(1), 302(2) and 302(3) until such time as all Initial Resources have been fully utilized.

(C) In the case of each Auction for which there are Auction Losses in respect of which the Non-Defaulters' Contributions must be utilized, those Non-Defaulter's Contributions, not including, for these purposes, any part of such Non-Defaulters' Contributions that reflect any Unfunded Contribution since paid to 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:

(1) The Auction Losses will be attributed to the Relevant Original Contributions of those Clearing Members who are Currency Participants in the Auction Currency and who did not bid in the relevant Auction. Auction Losses will be attributed to the Relevant Original Contribution of an individual Clearing Member pursuant to this sub-paragraph (1) based upon the proportion that: (x) the value of the Relevant Original Contribution of such Clearing Member bears to (y) the total value of the Relevant Original Contributions of all Clearing Members who are Currency Participants in the Auction Currency and who did not bid in the relevant Auction;

(2) If and to the extent that there are Auction Losses outstanding after the attribution process referred to in sub-paragraph (1) above, those Auction Losses will be attributed to the Relevant Original Contributions of the Short Bidders. For the purposes of this sub-paragraph (2) and sub-paragraph (1) of Regulation 204(b)(v)(F), the term "**Short Bidder**" means any Clearing Member who is a Currency Participant in the Auction Currency and who submitted an unsuccessful bid in the relevant Auction save for any Clearing Member who submitted a higher bid in an Auction than the bid accepted by the Clearing House in accordance with Regulation 204(b)(iii)(D) (each such Clearing Member, 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 (2) based upon the proportion that (x) the variance of the bid of such Short Bidder from the winning bid (denominated in units of the relevant Auction Currency) bears to (y) the sum of the variances of the bids of all Short Bidders from the winning bid (denominated in units of the relevant Auction Currency);

Where the value of the Auction Losses attributed to an individual Short Bidder pursuant to this sub-paragraph (2) 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 (2) (each a “**Remaining Original Short Bidder**”) by (x) 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 Bidders; and (y) 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 (x) the Auction Losses being fully met; and (y) the Relevant Original Contributions of all Short Bidders being fully attributed; and

- (3) If and to the extent that there are Auction Losses outstanding after the attribution process referred to in sub-paragraph (2) above, those Auction Losses will be attributed to the Relevant Original Contribution of the Clearing Member who submitted the winning bid, together with, where applicable, the Relevant Original Contribution of any Clearing Member who submitted a bid which is 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 Clearing Member pursuant to this sub-paragraph (3) based upon the proportion that: (x) the value of the Relevant Original Contribution of such Clearing Member bears to (y) the total value of the Relevant Original Contributions of (I) the Clearing Member who submitted the winning bid; (II) any Clearing Members who submitted an Equal Bid to such winning bid; and (III) any Clearing Members 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 in the same Auction Currency in which the Relevant Original Contributions have not been fully utilized, the Clearing House shall attribute the remaining Auctions Losses amongst such remaining Original Contributions through the attribution process set out in sub-paragraphs (1) to (3) above.

- (D) If and to the extent that there are Auction Losses outstanding following the attribution process referred to in Regulation 204(b)(v)(C) above, those Auction Losses will be attributed to the Original Contributions of

those Clearing Members who are Currency Participants in any other Auction Currency in relation to which Auction Losses have arisen to the extent that Non-Defaulters' Contributions must be utilized (each a "**Losing Currency**") and whose Original Contributions have not yet been fully utilized (each a "**Losing Currency Original Clearing Member**"). Such remaining Auction Losses will be attributed to any remaining Original Contribution of each such Clearing Member pursuant to this Regulation 204(b)(v)(D) based upon the proportion that: (x) the risk of all of the Contracts of such Clearing Member denominated in each of the Losing Currencies bears to (y) the aggregate of the amounts calculated in (x) for all Losing Currency Original Clearing Members. The Clearing House will repeat the loss attribution process described in this Regulation 204(b)(v)(D) until the first to occur of (x) the Auction Losses being fully met; and (y) the Original Contributions of all Losing Currency Original Clearing Members being fully attributed.

- (E) If and to the extent that there are Auction Losses outstanding following the attribution process referred to in Regulation 204(b)(v)(D) above, those remaining Auction Losses will be allocated to the Original Contributions of each Clearing Member who is not a Currency Participant in any of the Losing Currencies based upon the proportion that (x) the value of each such Original Contribution bears to (y) the aggregate of the amounts calculated in (x) for each of such Clearing Members.
- (F) If and to the extent that there are Auction Losses outstanding following the attribution process referred to in Regulation 204(b)(v)(E) above, the 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:
  - (1) The Auction Losses will be attributed to the Relevant Unfunded Contributions of those Clearing Members who are Currency Participants in the Auction Currency and who did not bid in the relevant Auction. Auction Losses will be attributed to the Relevant Unfunded Contributions of an individual Clearing Member pursuant to this sub-paragraph (1) based upon the proportion that: (x) the value of the Relevant Unfunded Contribution of such Clearing Member bears to (y) the total value of the Relevant Unfunded Contributions of all Clearing Members who are Currency Participants in the Auction Currency and who did not bid in the relevant Auction;
  - (2) If and to the extent that there are Auction Losses outstanding after the attribution process referred to in sub-paragraph (1) 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 (2) based upon the proportion that (a) the variance of the bid of such Short Bidder



from the winning bid (denominated in units of the relevant Auction Currency) bears to (b) the sum of the variances of the bids of all Short Bidders from the winning bid (denominated in units of the relevant Auction Currency);

Where the value of the Auction Losses attributed to an individual Short Bidder pursuant to this sub-paragraph (2) 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 (2) (each a “**Remaining Unfunded Short Bidder**”) by (x) 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 (x) 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 (2) until the first to occur of (x) the Auction Losses being fully met; and (y) the Relevant Unfunded Contributions of all Short Bidders being fully attributed; and

- (3) If and to the extent that there are Auction Losses outstanding after the attribution process referred to in sub-paragraph (2) above, those Auction Losses will be attributed to the Relevant Unfunded Contribution of the Clearing Member who submitted the winning bid, together with, where applicable, the Relevant Unfunded Contribution of any Clearing Member who submitted a bid which is 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 Clearing Member pursuant to this sub-paragraph (3) based upon the proportion that: (x) the value of the Relevant Unfunded Contribution of such Clearing Member bears to (y) the total value of the Relevant Unfunded Contributions of (I) the Clearing Member who submitted the winning bid; (II) any Clearing Members who submitted an Equal Bid to such winning bid; and (III) any Clearing Members 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 (3) above, and there are AIPs relating to other Auction Portfolios in the same Auction Currency in which the Relevant Unfunded Contributions have not been fully utilized, the Clearing House shall attribute the remaining Auction Losses amongst such Remaining Unfunded Contributions

through the attribution process set out in sub-paragraphs (1) to (3) above.

- (G) If and to the extent that there are Auction Losses outstanding following the attribution process referred to in Regulation 204(b)(v)(F) above, those Auction Losses will be attributed to the Unfunded Contributions of those Clearing Members who are Currency Participants in any other Losing Currency and whose Unfunded Contributions have not yet been fully utilized (each a “**Losing Currency Unfunded Clearing Member**”). Such remaining Auction Losses will be attributed to any remaining Unfunded Contributions of each such Clearing Member pursuant to this Regulation 204(b)(v)(G) based upon the proportion that: (x) the risk of all of the Contracts of such Clearing Member denominated in each of the Losing Currencies bears to (y) the aggregate of the amounts calculated in (x) for all Losing Currency Unfunded Clearing Members. The Clearing House will repeat the loss attribution process described in this Regulation 204(b)(v)(G) until the first to occur of (s) the Auction Losses being fully met; and (t) the Unfunded Contributions of all Losing Currency Unfunded Clearing Members being fully attributed.
- (H) If and to the extent that there are Auction Losses outstanding following the attribution process referred to in Regulation 204(b)(v)(G) above, those remaining Auction Losses will be allocated to the Unfunded Contributions of each Clearing Member who is not a Currency Participant in any of the Losing Currencies based upon the proportion that (x) the value of each such Unfunded Contribution bears to (y) the aggregate of the amounts calculated in (x) for each of such Clearing Members.
- (vi) For the purposes of Regulation 204(b)(iv) and 204(b)(v) above, all references to the risk associated with an Auction Portfolio or with all of the Contracts of a Non-Defaulting Clearing Member denominated in a particular currency shall be references to such risk as determined by the Clearing House in its sole discretion on the basis of Worst Case Loss.
- (c) Default Management in respect of Client Business. The Default Management Process in respect of any Contract in respect of Client Business shall be conducted in accordance with this Regulation 204(c). Subject to the limitations set forth in this subsection (c), the Default Management Process in respect of Client Business shall be conducted in accordance with the provisions of Regulation 204(b) (to the extent applicable). Notwithstanding the foregoing sentence, (A) the Default Management Process in respect of Client Business shall be separate from the Default Management Process in respect of House Business to the extent required by applicable law, (B) the Clearing House shall conduct the Default Management Process in respect of Client Business in a manner that is at all times in accordance with the CEA, the CFTC Regulations and applicable bankruptcy or other laws, and (C) the Clearing House may conduct the Default Management Process in respect of Client Business as requested by any applicable Regulatory Body or bankruptcy trustee. In conducting the Default Management Process in respect of Client Business in accordance with the foregoing



sentence, the Clearing House may take any actions not prohibited by applicable law regarding the liquidation or transfer of Contracts carried on behalf of its Clients.

To the extent practicable under applicable laws and regulations and the Default Regulations, the Clearing House shall undertake to dispose of open Contracts held by Clients of the Defaulter in accordance with the instructions of such Clients, either by liquidating Contracts or by transferring such Contracts to the Clearing Member designated by such Clients; provided, that the Clearing House shall at all times act in accordance with the Default Regulations, the requirements of the CEA, the CFTC Regulations and applicable bankruptcy laws regarding the liquidation or transfer of Contracts; provided, further, that the Clearing House shall have no liability whatsoever for any action taken or not taken with respect to the accounts and Contracts of Clients of the Defaulter in accordance with such laws or regulations or the directions of any Regulatory Body or bankruptcy trustee. In the event that the Clearing House does not receive instructions from Clients in a timely manner, or the Clearing House for any reason deems it necessary or appropriate for its protection, or the protection of market participants, the Clearing House may take any action permitted under applicable law with respect to the open Contracts of Clients of the Defaulter that it determines to be appropriate in its sole discretion.

(d) Transfer of Cash Flows and Registration of Positions.

- (i) Following the disposal of an Auction Portfolio by way of Auction (and notwithstanding that other Auction Portfolios of the Defaulting Clearing Member may not yet have been auctioned) the Clearing House, will, with the co-operation of the Clearing Members, transfer to the Clearing Member whose bid won that Auction Portfolio the rights and obligations, from the Defaulting Clearing Member, arising out of the positions which that Clearing Member has successfully bid for under the 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 Clearing Member, or novation of rights and obligations to the winning Clearing Member. In the event that the Defaulter is the subject of an insolvency proceeding under U.S. law, the transfer of rights and obligations resulting from the successful bid for Contracts related to the Defaulter's House Business will be effected by way of registration of new Contracts with the Clearing House in the name of the winning Clearing Member. All such registrations shall be made in a way that recognizes the Variation Margin paid or received in relation to the Contracts of the Defaulting Clearing Member representing such new positions.
- (ii) In order to effect the transfer of the rights and obligations arising out of the positions for which the Clearing Member has successfully bid, the Clearing House shall prescribe such procedures and timetable as it considers reasonably appropriate in the circumstances. Clearing Members will be required to exercise best efforts to comply with such requirements as may be established by the Clearing House, after consultation with the 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 Margin in an amount required by the Clearing House for Initial Margin and Variation Margin in respect of positions which are to be registered in their names. The Clearing House agrees that in such procedures it shall make provision for set-off by the

Clearing House of amounts owed by the Clearing House to the Clearing Member as a result of the operation of the Default Management Process against sums owed by the Clearing Member to the Clearing House in respect thereof.

- (iii) Where, as a result of an Auction, the Clearing House is required to make a payment to a Clearing Member in respect of a winning bid, the Clearing House shall not be permitted to register any position, whether as a new position or as a novation of existing rights and obligations, to any such Clearing Member if the Clearing House does not simultaneously credit that Clearing Member with the requisite amount. If any position is so registered without such payment, such registration shall be deemed void ab initio and unenforceable against the relevant Clearing Member. For the avoidance of doubt, the Clearing House will utilize the resources available to it pursuant to Regulation 302 for the purposes of making such a payment notwithstanding that other Auction Portfolios of the Defaulting Clearing Member may not yet have been auctioned and that the loss attribution process provided for by Regulation 204(b)(v) has not yet occurred.
- (e) Information Regarding the Default Management Process. Whenever the Default Management Process is implemented by the Clearing House in respect of a Defaulting Clearing Member, the Clearing House will, with the assistance of the DMG, provide such ongoing information to Clearing Members as the Clearing House deems reasonably appropriate in respect of the progress of the Default Management Process.  
  
Nothing in this Regulation 204(e) shall require the Clearing House to disclose information in respect of the Default Management Process which, in the reasonable opinion of the Clearing House, may be subject to obligations of confidentiality, may constitute market sensitive data or is, in the Clearing House's reasonable opinion, inappropriate for disclosure to Clearing Members.
- (f) Bankruptcy Code and Related Issues. Notwithstanding any other provision of the Rulebook, in the event of a Default by a Clearing Member, the completion of any and all actions, including but not limited to any transfers or transactions, permitted or required to be taken by the Clearing House hereunder shall be subject in all respects to the provisions of the Bankruptcy Code, Part 190 of the CFTC Regulations, the CEA, FDICIA, and any other applicable law, and the receipt of any approvals required under the Bankruptcy Code, the CFTC Regulations or any other applicable law.
- (g) Procedures Subject to CEA and the CFTC Regulations. Notwithstanding any other provision of this Regulation 204 in the event of a Default by a Clearing Member, the operation of this Regulation 204 shall in all respects be subject to applicable provisions of the CEA and the CFTC Regulations regarding the handling, custody, liquidation, transfer and disposition of Client positions and assets, including but not limited to those provisions requiring segregation of Client assets and prohibiting application of the assets of non-defaulting Clients to amounts owed by defaulting Clients.
- (h) Miscellaneous.

- (i) Subject to Regulations 204(b)(iv) and 204(b)(v), the resources available to the Clearing House and their order of use are described in Regulation 302 and the other applicable Default Fund Regulations.
  - (ii) The Clearing House may from time to time supplement the details of any of the stages set out in Regulation 204(b) or any other aspects of the Default Management Process, in consultation with the DMG, either by way of further Guidance or immediately on notice to Clearing Members on a case-by-case basis where the Clearing House deems it appropriate to do so in the circumstances of the Default; provided, that the Clearing House may not take any such action that effects a material change to the terms of this Regulation 204 without the written consent of 50% of all Clearing Members unless such change is invoked unilaterally against all Clearing Members and is necessary to manage the Clearing House's risk or otherwise to meet the Clearing House's continuing regulatory obligations including those applicable to it as a Derivatives Clearing Organization. The Clearing House agrees that, in the ordinary course, it shall discuss any such Guidance with the DMG prior to bringing the Guidance into effect except that it shall not be required to do so where (x) the Guidance is not material to the rights and obligations of the Clearing Members or (y) the Clearing House deems it inappropriate to do so in the circumstances of the Default and it is not possible to convene the DMG in timely fashion.
  - (iii) The timetable for implementation of the stages of the Default Management Process following issue of a Default Notice by the Clearing House shall be either (x) as prescribed by the Clearing House from time to time in consultation with the DMG and set out in Guidance; or (y) imposed by the Clearing House without prior notice to the Clearing Members on a case-by-case basis where the Clearing House, in consultation with the DMG, deems it appropriate to do so in the circumstances of the Default.
- (i) Role and Constitution of the DMG.
- (i) Joint Nature of DMG. The DMG is a single body, established jointly by the Clearing House and LCH.Clearnet Ltd., in order to assist with the default manage process in respect of the Clearing House's SwapClear US Service and in respect of the SwapClear service of LCH.Clearnet Ltd. Both Clearing Members and clearing members of LCH.Clearnet Ltd. participating in its SwapClear service (including its FCM SwapClear service) shall serve on the DMG. This Regulation 204(i) shall be read to include references to processes or events that may occur in connection with LCH.Clearnet Ltd.'s SwapClear service. For example, references herein to "Default Management Process" shall also be read to include the default management process of LCH.Clearnet Ltd. relating to its SwapClear service.
  - (ii) The DMG shall meet at regular intervals in order to:
    - (A) keep under review the Default Management Process, together with any Guidance issued in respect thereof;

- (B) keep under review the terms of reference of the DMG to ensure they remain appropriate;
  - (C) consider appropriate supplements or amendments to the Default Management Process and/or Guidance in order to improve the procedures in place; and
  - (D) consider any other business relevant to the Default Management Process which any member of the DMG from time to time sees fit to raise at such meetings.
- (iii) The members of the DMG shall also meet within one hour, or as soon as reasonably practical, following notification by the Clearing House that a Default Notice has been served upon a Clearing Member, and at sufficiently frequent intervals thereafter for so long as may be necessary to assist the Clearing House in the implementation of the Default Management Process as contemplated under this Agreement. Such implementation shall include the provision of general default management advice with regard to: (x) the ongoing obligations of the Clearing House to its Non-Defaulting Clearing Members; (y) the neutralization and closing-out of the individual obligations of the Defaulting Clearing Member; and (z) the splitting of Portfolios and the disposal of Auction Portfolios in accordance with the Default Management Process. Where it is not possible or practicable for the Clearing Member to provide its nominated representative within an appropriate time frame, it shall provide an alternate of suitable experience and expertise to participate on the DMG.
- (iv) The DMG shall be made up of the following individuals who, unless stated otherwise, shall be appointed by the Clearing House, which shall ensure that the composition is such as to provide effective review of the Default Management Process and suitable expertise and representation of market-making capacity in the event of a Default:
- (A) in the event of the issuance of a Default Notice, the chief executive or deputy chief executive of the Clearing House, who shall act as chairman;
  - (B) representatives of at least five Clearing Members, being senior executives with appropriate skills and expertise;
  - (C) at least one director (staff member of director grade) of the Clearing House's Risk Management department; and
  - (D) such other individuals as the DMG considers appropriate from time to time in relation to individual meetings, including representatives of clearing members of LCH.Clearnet Ltd.
- (v) For the purpose of DMG meetings convened to deal with a specific Defaulting Clearing Member, the Clearing House may, after consultation with the DMG, invite the Defaulting Clearing Member to nominate one or more representatives to join the DMG to assist it in carrying out its functions in the

Default Management Process for that Defaulting Clearing Member, and also request representatives from any other Clearing Members. In the event of receiving such request, the Clearing Member shall be obliged to provide its nominated representative, or an alternate with appropriate skills, experience and expertise, as if the Clearing Member were a member of the DMG.

- (vi) In establishing the DMG, the Clearing House agrees that in the normal course of events (not including the Clearing House's declaration of a Default and the invocation of the processes as outlined in Regulations 204(b), 204(c) and 204(d)) it will, as far as practicable, and in accordance with the terms of reference of the DMG, rotate the membership of the DMG on a regular basis and amongst all Clearing Members. The Clearing Member agrees that, when requested to do so by the Clearing House, it will make available a representative to participate in the DMG. The Clearing House shall agree with the Clearing Member the identity of such representative and shall be able to request a substitute where it believes the Clearing Member's nominated representative does not have the requisite skills or expertise.
- (vii) Each Clearing Member who makes available a representative to serve on the DMG agrees, and shall procure that, to the extent applicable, its representative agrees:
  - (A) to ensure that such representative will be fully available, at any time and for such periods of time as the Clearing House may require during the course of a Default, to perform his function as a member of the DMG including attending meetings, considering and advising the Clearing House upon aspects of the Default Management Process. The Clearing Member shall ensure that a representative's other work commitments do not affect his availability for this purpose;
  - (B) to take all steps to respect the confidential capacity in which such a representative receives information through the DMG and to establish adequate procedures to prevent the disclosure or use for any commercial purpose outside the scope of the Default Management Process of any such confidential information by the Clearing Member or its representative. Such procedures shall normally include, without limitation, the establishment of information "firewall" within the Clearing Member; and
  - (C) to be bound by and to ensure that it and any of its executives or directors serving on the DMG complies with the requirements contained in the Procedures.
- (viii) Each Clearing Member shall accept that:
  - (A) representatives of Clearing Members serving on the DMG are doing so in order to assist the Clearing House in ensuring the on-going integrity of the Clearing House's Clearing Services in the interests of Non-Defaulting Clearing Members; and

- (B) representatives of Clearing Members serving on the DMG and their employers shall have no liability for any disinterested advice or actions, mandated or otherwise, that are undertaken as part of the Default Management Process; provided, however, that nothing in this Regulation 204(i)(vii) shall exclude the liability of such representatives and employers for any personal injury or death caused by their negligence or for any fraud or willful default on the part of such representatives and employers.
  
- (ix) The Clearing House agrees that, in exercising its rights and obligations in consulting with the DMG pursuant to this Agreement, it will use its commercially reasonable efforts to agree a common position with the DMG, provided, that nothing in this Regulation 204 shall prevent the Clearing House acting in a way which it reasonably determines necessary to manage its risk or otherwise meet its continuing regulatory obligations including those applicable to it as a Derivatives Clearing Organization.

**Regulation 205      Discharge of Defaulter's Rights and Liabilities; Multiple Accounts;  
Treatment of Variation Margin**

- (a) Upon the discharge of the Defaulter's rights and liabilities under or in respect of all Contracts to which it is party the process set forth in this Regulation 205 shall, subject to any contrary provision in Regulation 301, be completed by the Clearing House.
- (i) There shall be calculated all sums payable by or to the Defaulter in respect of the Clients of the Defaulter and each corresponding Client Sub-Account, separately on a Client Sub-Account by Client Sub-Account basis. In connection therewith the Clearing House shall have sole discretion with respect to the allocation of any available Buffer or the reallocation of any Encumbered Buffer in calculating such net sums.
- (ii) There shall be calculated all sums payable, other than in connection with Clients, by or to the Defaulter:
- (A) in respect of all Contracts (other than Contracts held on behalf of Clients);
- (B) in respect of any other sum due under the Rulebook;
- (C) in respect of any sum due relating to any breach of the Rulebook; and
- (D) in respect of any amount due from the Defaulter to the Clearing House in connection with any other business between the Defaulter and the Clearing House.
- (iii) The sum or sums so payable calculated under paragraphs (i) and (ii) above shall be aggregated or set off so as to produce as many net sums as required by Regulations 205(b) and (c) below and as required by applicable law.
- (iv) Each such net sum:
- (A) if payable by the Defaulter to the Clearing House, shall be set off against any Margin standing to the credit of the Defaulter's applicable account so as to produce a further net sum, or shall be aggregated with any debit balance of the Defaulter's applicable account, or
- (B) if payable by the Clearing House to the Defaulter, shall be aggregated with any Margin standing to the credit of the Defaulter's applicable account, or shall be set off against any debit balance of the Defaulter's applicable account so as to produce a further net sum.
- (v) Where an amount is payable by the Clearing House to the Defaulter in respect of a balance on its Proprietary Account(s), and there are amounts due to the Clearing House in respect of one or more Omnibus Client Swaps Accounts with LCH of such Defaulter, the balance of the Proprietary Account(s) may be applied to meet the shortfall in any such Omnibus Client Swaps Accounts with LCH in any way the Clearing House may determine in its sole discretion;



- (vi) In the event that the Clearing House elects to close out and liquidate Contracts attributable to Clients of the Defaulter, the Clearing House shall allocate any costs associated with such closing out and liquidation process (including hedging costs (including gains and losses associated with hedging transactions) and liquidation/auction costs and losses) among Clients whose positions were liquidated, by allocation to such Clients' Client Sub-Accounts in the manner set out in Section 2A.17.6 of the Procedures and in accordance with Parts 22 and 190 of the CFTC Regulations and any other applicable law; and
  - (vii) With respect to any Unallocated Excess maintained in the Unallocated Excess Sub-Account of the Defaulter, the Clearing House shall not be permitted to apply any such Unallocated Excess to the obligations of the Defaulter to the Clearing House (on behalf of the Defaulter's Clients or otherwise) or take any such Unallocated Excess into account for purposes of determining net sums under this Regulation 205, except to the extent required or permitted by applicable law or directed by the applicable bankruptcy trustee or Regulatory Body in accordance with applicable law.
- (b) Further Interpretation of this Regulation 205.
- (i) For the purposes of paragraph (a)(ii) of this Regulation 205 the Clearing House may assess the sum payable by or to the Defaulter in respect of any breach of the Rulebook in such reasonable manner as it thinks fit, subject to the CFTC Regulations or other applicable law.
  - (ii) In Regulation 205(a)(iv) the "Defaulter's applicable account" means:
    - (A) with regard to a net sum produced by reference to Contracts registered in one or more Client Sub-Account held on behalf of an individual Client of the Defaulter, such Client Sub-Account, or (if there is more than one) all such Client Sub-Accounts combined;
    - (B) with regard to a net sum produced by reference to Contracts registered in one or more Proprietary Accounts of the Defaulter, that Proprietary Account or those Proprietary Accounts combined and (if the Clearing House has elected in accordance with Regulation 205(c) below) any other accounts of the Defaulter with the Clearing House; and
    - (C) with regard to a net sum produced by reference to one or more accounts of the Defaulter other than Omnibus Client Swaps Accounts with LCH and other than Proprietary Accounts, such other account or those other accounts combined, and (if the Clearing House has elected in accordance with Regulation 205(c) below) Proprietary Accounts.
- (c) Multiple Accounts of Defaulter.
- (i) Where the Defaulter has more than one account with the Clearing House, the Defaulter's accounts shall be combined for the purpose of Regulations 205 and 206 as follows:



- (A) an account which is an Omnibus Client Swaps Account with LCH of the Defaulter may only be combined with other Omnibus Client Swaps Accounts with LCH of the Defaulter; provided, that no account which is a Client Sub-Account of a Client may be combined with any other account, including any Client Sub-Account of another Client of the Defaulter, other than another Client Sub-Account of the same Client held with the Defaulter; and
- (B) an account which is a Proprietary Account of the Defaulter may be combined with any other Proprietary Accounts of the Defaulter and (if the Clearing House so elects) any other accounts of the Defaulter relating to any other business between the Defaulter and the Clearing House (subject to Regulations 205(a)(v) and 205(c)(ii)).

Notwithstanding anything in the Rulebook to the contrary, in no circumstances may an account which is an Omnibus Client Swaps Account with LCH of the Defaulter (or any other type of account for a Client) be combined with any other account of the Defaulter, other than, to the extent permitted by the CEA and the CFTC Regulations, other Client accounts of the Defaulter that are in the same customer account class (as such term is used in the CEA and the CFTC Regulations).

- (ii) Notwithstanding any provisions in the Rulebook to the contrary, any loss which relates to business between the Defaulter and the Clearing House which is not related to Contracts and is not otherwise governed by the Rulebook may not be treated as a Default Loss, whether or not Margin has been applied in respect of such loss. Nothing in this Regulation 205(c)(ii) requires the Clearing House to apply Margin in respect of any such loss instead of any other amount referred to in Regulation 205(a)(i) or (a)(ii), except that the Clearing House may not apply Margin in respect of any such loss to the extent that doing so would give rise to an Excess Loss.
- (d) Variation Margin Payments Following Default of FCM Clearing Member. Following a Default by an FCM Clearing Member, the Clearing House will to the extent permitted by applicable law (including Part 190 of the CFTC Regulations and applicable bankruptcy law), credit Variation Margin on a gross basis to each individual Client Sub-Account.

## **Regulation 206      Clearing House Certification**

Upon completion of the process set out in Regulation 205, the Clearing House shall certify either (x) each sum finally payable by the Defaulter to the Clearing House (including any sums payable to the Defaulter for the benefit of one or more of its Clients) or finally payable by the Clearing House to the Defaulter or (y) the fact that no sums are finally payable by either party to the other. The certificate of the Clearing House under this Regulation 206 shall be conclusive as to the discharge of the Defaulter's rights and liabilities in respect of the Contracts to which it relates. The Clearing House shall, as soon as practicable after issuing a Default Notice in respect of a Clearing Member, appoint a day on which any net sums certified under this Regulation 206 to be due to the Defaulter are to be paid by the Clearing House. The day so appointed may fall before or after the effective date of termination of the Defaulter's Clearing Membership Agreement but shall not fall on a day before the process specified in Regulation 205 can be completed.

## **Regulation 207      Appointment of Persons**

Without further authorization, permission or cooperation from the Defaulter, the Clearing House may appoint any person to take or assist it in taking any step under these Default Regulations or to complete or assist it in completing the process set out in Regulation 205.

## **Regulation 208      Clearing House Cooperation with Regulators**

The Clearing House may co-operate, by the sharing of information and otherwise, with any Regulatory Body or relevant Approved Trade Source System, any other clearinghouse or exchange, any trustee, conservator, receiver or similar appointee 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 Regulation 202.

**Regulation 209      Clearing House Reports**

The Clearing House shall report to the Defaulter, or any trustee, conservator, receiver or similar appointee acting in relation to the Defaulter or its estate, on steps taken in relation to the Defaulter under Regulation 204.

## CHAPTER 3 – DEFAULT FUND REGULATIONS

### Regulation 301      **Applicability; Default Fund**

- (a) Applicability. Except as otherwise expressly stated, the Default Regulations and the Default Fund Regulations (which consist of Chapter 2 and Chapter 3, respectively, of these Regulations) are effective with respect to all Clearing Services offered by the Clearing House. In the Default Regulations and the Default Fund Regulations, the terms “trustee” or “receiver” have the meanings assigned to them under Chapter 7 of the Bankruptcy Code.
- (b) Default Fund. The Clearing House shall maintain a default fund (the “**Default Fund**”) which shall consist of cash or other assets in an amount equal to the Fund Amount (as adjusted from time to time in accordance with the Default Fund Regulations), and which shall be maintained in accordance with the Default Fund Regulations and the other applicable provisions of the Rulebook and in accordance with the CEA and the CFTC Regulations. The assets allocated by the Clearing House to the Default Fund account shall be separated from all other assets or accounts of the Clearing House or the Clearing Members, but there shall be no segregation or separation in respect of the amounts of any individual Contributions by Clearing Members. In the event that the value of the assets in the Default Fund falls below the aggregate amount of the Contributions of the Clearing Members (as adjusted from time to time in accordance with the Default Fund Regulations) due to investment losses realized on such assets, the Clearing House shall add cash or other assets to the Default Fund account in an amount sufficient to make the value of the Default Fund account at least equal to such aggregate amount.

In accordance with Regulation 303, the assets of the Default Fund shall be the sole property of the Clearing House and no Clearing Members or other persons shall have any legal or equitable interest therein except for the security interest as set forth in Regulation 321. Without limitation of the foregoing, the Clearing House shall not be limited in its use or investment of its assets held in the Default Fund other than (i) as required by the CEA, the CFTC Regulations or other applicable law, or (ii) where the application or repayment of assets held in the Default Fund is required by the Default Fund Regulations. For the avoidance of doubt, (x) in respect of any investment of assets held in the Default Fund, the Clearing Members shall have no right, interest, participation, risk or liability in any gains or losses in respect of any investment or use of the assets held in the Default Fund by the Clearing House, which gains or losses shall be solely for the risk or benefit of the Clearing House, and (y) in the event that the value of the Clearing House’s assets held in the Default Fund exceed the aggregate amount of the Contributions of the Clearing Members, the Clearing House may remove any such excess at any time.

Clearing Members shall be provided a security interest in the assets held in the Default Fund account through the DF Security and Intercreditor Agreement, as described in Regulation 321.

## **Regulation 302      Reduction of Losses on Default**

Subject to any contrary provision in the Rulebook, where a Defaulter fails to pay any sum payable to the Clearing House, the Clearing House shall reduce or bear its loss in the following manner:

- (1) first, to the extent the Clearing House determines appropriate, in applying any Margin and any other sum owed to the Defaulter other than any Contribution (together, “**Margin Cover**”);
- (2) second, by recourse to the Defaulter’s Contribution. The Clearing House will exercise its rights of recourse under this Regulation 302(2) by set-off against the Clearing House’s obligation to repay an amount equal to the Contribution to the Defaulter;
- (3) third, by payment from the Clearing House’s own account of an amount up to a maximum of \$2 million (or such greater amount (if any) as may be determined from time to time by the Clearing House) (such amount, the “**Capped Amount**”). For the avoidance of doubt, amounts will only be paid under this stage (3) if and to the extent that to do so would not result in the Clearing House being unable to meet all its other liabilities (taking into account for these purposes the obligation of the Clearing House to return Margin provided in the form of cash and to repay amounts equal to the Contributions of all Clearing Members);
- (4) fourth, by recourse to any insurance cover or analogous arrangement (to the extent that it is available);
- (5) fifth, by recourse to the indemnities given under Regulation 310 by Clearing Members other than the Defaulter (which shall be satisfied by set-off against the Clearing House’s obligation to repay amounts equal to the relevant Contributions of such Clearing Members); and
- (6) sixth, by recourse to any other indemnities, guarantees, undertakings or monies provided by Clearing Members.

**Regulation 303 Contributions; Contractual Right of Repayment; Determining Required Amount of Contribution.**

Contributions and Right of Repayment. Each Clearing Member shall, from time to time, pay to the Clearing House one or more sums of cash (each a “**Contribution**”) in an amount calculated by the Clearing House in accordance with these Default Fund Regulations. Where the context requires, references in the Rulebook or other related documents to a Clearing Member’s “Contribution” means, as of any given time, an amount equal to (x) the amount such Clearing Member has actually paid to the Clearing House as Contributions *less* (y) any repayments by the Clearing House to such Clearing Member in respect of its Contributions *less* (z) any amounts in respect of such Contributions that have been applied by the Clearing House to one or more Defaults pursuant to these Default Fund Regulations (or otherwise set off in accordance with the Rulebook). Each Clearing Member’s Contribution represents a payment to the Clearing House and upon its payment becomes the sole property of the Clearing House and no Clearing Member shall have any right or interest (whether at law or in equity) in such Contribution.

Each Clearing Member shall have, in respect of its Contribution from time to time, a contractual right (under these Regulations) of repayment from the Clearing House of an amount equal to its Contribution paid to the Clearing House from time to time, at the times and on the terms and subject to the conditions and adjustments as set forth in these Default Fund Regulations and other applicable provisions of the Rulebook. For the avoidance of doubt, the contractual right of a Clearing Member to a repayment of an amount equal to its Contribution referred to above shall be accounted for by the Clearing House solely as a contingent account payable and no assets of the Clearing House (whether held in the Default Fund or otherwise) shall be required to be segregated or separated in respect of Contributions (other than the general separation of the Clearing House’s assets held in the Default Fund from the Clearing House’s other assets, pursuant to Regulation 301(b)).

Determination of Required Contribution. Each Clearing Member’s required Contribution from time to time (not including any required payment of an Unfunded Contribution) shall be determined by the Clearing House in accordance with the following provisions:

Determinations will be made by the Clearing House at the close of business on the first Business Day of each month, commencing such month as the Clearing House shall notify Clearing Members by way of Clearing Member circular, and otherwise in accordance with paragraph (q) below (each a “**Determination Date**”). In addition, the amount payable in respect of the Contribution of a Clearing Member which is a New Member will be determined on the date that the relevant New Member joins the Clearing Service, and the Clearing House may at its discretion treat each Clearing Member as a New Member for the purposes of this Regulation 303 (including making such adjustments as it determines appropriate upon the addition of further New Members) until such time as the first Determination Date set out in the above-referenced circular. Notwithstanding the foregoing, following a Default, any determinations on a Determination Date and any such Determination Date which might otherwise have occurred under this Regulation 303 shall be suspended for the duration of the period (the “**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 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 sub-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 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 60 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 Contract Business (for a given scenario).
- (c) The “**Fund Amount**” shall be denominated in U.S. Dollars, and, for a given Determination Date, shall be the sum of the Non-Tolerance Amount and the Tolerance Amount. The Fund Amount for a given Determination Date shall not be less than the sum of the Non-Tolerance Amount Floor and the Tolerance Amount (the “**Fund Floor**”) and shall not be more than \$5,000,000,000 (the “**Fund Cap**”).
- (d) The “**Tolerance Amount**” shall be the amount determined by the Clearing House in its sole discretion as being required in relation to the provision of SwapClear Tolerance.
- (e) The “**Tolerance Weight**” of a Clearing Member (other than a Clearing Member which is a New Member) shall be calculated by dividing (i) the average Tolerance Utilization of the relevant Clearing Member during the 20 Business Day period preceding the relevant Determination Date in respect of all Contracts to which such Clearing Member clears, which average shall be calculated by adding together the peak Tolerance Utilization of such Clearing Member for each relevant Business Day and then dividing such sum by 20; provided, that: for Clearing Member where the peak Tolerance Utilization does not yet exist or is otherwise unavailable in respect of a Business Day, the Clearing House shall estimate the relevant peak Tolerance Utilization by reference to the actual or expected level of clearing activity of the relevant Clearing Member in relation to Contracts; by (ii) the total of such average Tolerance Utilizations of all Non-Defaulting Clearing Members other than New Members.
- (f) The value of the “**Tolerance Contribution Amount**” of: (i) a Clearing Member (other than a New Member) shall be calculated by multiplying the Tolerance Amount by the Clearing Member’s Tolerance Weight, provided that (A) where that calculation results in a value which is less than or equal to \$5,000,000 (or such lower amount as the Clearing House may establish), the value of the relevant Clearing Member’s Tolerance Contribution Amount shall be \$5,000,000 (or such lower amount as the Clearing House may establish); and (B) where that calculation results in a value which is greater than or equal to \$40,000,000, the value of the relevant Clearing Member’s Tolerance Contribution Amount shall be \$40,000,000; and (ii) a New

Member shall be \$5,000,000 (or such lower amount as the Clearing House may establish). Notwithstanding the foregoing, where the aggregate of the Tolerance Contribution Amounts is greater or less than the Tolerance Amount, the Clearing House will adjust each Clearing Member's individual Tolerance Contribution Amounts (including those of New Members) such that the aggregate of the Tolerance Contributions equals the Tolerance Amount; provided that where such an adjusted Tolerance Contribution Amount would be less than \$5,000,000 (or such lower amount as the Clearing House may establish) or more than \$40,000,000, it shall instead be \$5,000,000 (or such lower amount as the Clearing House may establish) or \$40,000,000 respectively.

- (g) The “**Non-Tolerance Amount**” shall be denominated in U.S. Dollars, and, for a given Determination Date, shall be the largest of the 60 Combined Loss Values (determined under paragraph (b) above) plus 10%. The Non-Tolerance Amount for a given Determination Date shall not be less than the amount calculated by multiplying the number of Clearing Members on the relevant date by the Minimum Non-Tolerance Contribution (the “**Non-Tolerance Amount Floor**”).
- (h) The “**Non-Tolerance Weight**” of a Clearing Member (other than a New Member) shall be calculated by dividing (i) the average daily Required Margin (as calculated under the Procedures or other arrangements applicable) applicable to such Clearing Member during the 20 Business Day period preceding the relevant Determination Date in respect of all Contracts which such Clearing Member clears by (ii) the total of such average daily Required Margin applied to all Non-Defaulting Clearing Members (other than New Members).
- (i) The “**Non-Tolerance Contribution Amount**” of a Clearing Member other than a New Member shall be calculated by multiplying that Clearing Member's Non-Tolerance Weight by the Non-Tolerance Amount.
- (j) The required Contribution of a Clearing Member at any given time, other than a New Member, is equal to the sum of the Non-Tolerance Contribution Amount and the Tolerance Contribution Amount applicable to such Clearing Member at such time. The required Contribution applicable to a New Member shall be calculated in accordance with paragraph (r) below.
- (k) If a Clearing Member's Non-Tolerance Contribution Amount (calculated in accordance with paragraph (i) above) is below the Minimum Non-Tolerance Contribution for the time being, the Clearing Member's Non-Tolerance Contribution Amount shall be adjusted so as to be the Minimum Non-Tolerance Contribution;
- (l) The “**Actual Total**” shall be calculated by adding together (i) the amount which is the product of the Minimum Non-Tolerance Contribution and the number of Minimum Contribution Members; (ii) the aggregate Non-Tolerance Contribution Amounts (calculated in accordance with paragraph (i) above) of those Clearing Members which are not Minimum Contribution Members; (iii) the aggregate Tolerance Contribution Amounts of all Clearing Member other than New Members; and (iv) the aggregate Contributions of all New Members.
- (m) Where the Actual Total is greater than the Fund Cap, the “**Excess**” shall be the arithmetical difference between the Actual Total and the Fund Cap.

- (n) Where the Actual Total is less than the Fund Floor, the “**Shortfall**” shall be the arithmetical difference between the Fund Floor and the Actual Total.
- (o) For each Clearing Member other than a Minimum Contribution Member or New Member: (i) the Clearing Member’s “**Discount**” (if any) shall be such Clearing Member’s *pro rata* share of the Excess calculated as the proportion of such Clearing Member’s Non-Tolerance Contribution Amount relative to the aggregate Non-Tolerance Contribution Amounts of all Clearing Members other than Minimum Contribution Members and New Members; and (ii) the Clearing Member’s “**Increase**” (if any) shall be such Clearing Member’s *pro rata* share of the Shortfall calculated as the proportion of such Clearing Member’s Non-Tolerance Contribution Amount relative to the aggregate Non-Tolerance Contributions of all Clearing Members other than Minimum Contribution Members and New Members.
- (p) For each Clearing Member other than a Minimum Contribution Member or a New Member, the Clearing Member’s Non-Tolerance Contribution Amount shall be adjusted by (i) the subtraction of any Discount applicable to the Clearing Member or (ii) the addition of any Increase applicable to the Clearing Member; provided, that if the application of any Discount would result in a Non-Tolerance Contribution Amount of a Clearing Member that is less than the Minimum Non-Tolerance Contribution, such Clearing Member shall pay the Minimum Non-Tolerance Contribution with respect to the Non-Tolerance Contribution Amount applicable to it, notwithstanding that the arithmetical sum of Contributions paid by all Clearing Members may thereby exceed the Fund Cap.
- (q) The Clearing House may recalculate the Fund Amount and the Contributions due from each Clearing Member on any Business Day if the largest of the 60 Combined Loss Values (determined under paragraph (b) above) on that day differs by more than 25% from the Combined Loss Value on which the previous Contribution determination was based and, on such Business Day, the Clearing House shall be entitled to require those Clearing Members whose portfolios have caused the increase in the Combined Loss Value to pay an additional amount in respect of their required Contributions.
- (r) New Member Contribution. Without prejudice to any other requirements which the Clearing House may impose, the required amount of the Contribution of a New Member shall be the sum of the Minimum Non-Tolerance Contribution and the Tolerance Contribution Amount, as adjusted by the Clearing House in its discretion and notified to the New Member. Where such adjustment would result in an increase in the required amount of any such Contribution, the Clearing House shall determine such adjustment by reference to the actual or expected level of clearing activity of the New Member.
- (s) For the purposes of the calculations made under this Regulation 303:
  - (i) references to Clearing Members do not include references to Defaulting Clearing Members (apart from any Defaulting Clearing Member in respect of which the Clearing House permits the application of this Regulation) or persons which were formerly Clearing Members but are not Clearing Members at the Determination Date at which the relevant determination is made;

- (ii) the amount of required Contributions shall be rounded upwards, if not already such a multiple, to the next integral multiple of one thousand Dollars, notwithstanding that the arithmetical sum of Contributions paid by all Clearing Members may thereby exceed the Fund Cap; and
- (iii) no account shall be taken, in calculating Initial Margin or Non-Tolerance Weight of any offsets in the Initial Margin required for Contracts from a Clearing Member, which may otherwise be permissible under the Procedures or other applicable arrangements.

## **Regulation 304      Payment of Contributions**

Upon determination of the amount of a required Contribution in accordance with Regulation 303:

- (a) If the amount of the required Contribution of a Clearing Member immediately before close of business on the relevant Determination Date exceeds the amount of the Clearing Member's Contribution as determined under Regulation 303 as at close of business on that day, an amount equal to the excess shall be repaid by the Clearing House to such Clearing Member in the manner set forth in the Procedures, and upon such repayment both the value of such Clearing Member's Contribution and the value of its contractual right (pursuant to these Regulations) to receive a repayment of an amount equal to its Contribution shall be reduced by the amount of such repayment by the Clearing House.
- (b) If the amount of the required Contribution of a Clearing Member immediately before close of business on the relevant Determination Date is the same as the amount of the Clearing Member's Contribution as so determined, no sum shall then be payable by or to such Clearing Member in respect of its Contribution.
- (c) If the amount of the required Contribution of a Clearing Member immediately before close of business on the relevant Determination Date is less than the amount of the Clearing Member's Contribution as so determined, an amount equal to the shortfall shall be paid by such Clearing Member to the Clearing House in the manner set forth in the Procedures, and upon such payment the paid amount shall become a part of such Clearing Member's Contribution.

The provisions of this Regulation 304 do not apply to a Defaulting Clearing Member, unless the Clearing House so permits in any particular case.

## **Regulation 305      Certain Terms Applicable to Contributions**

- (a) Subject to Regulations 305(b) and 305(c), and subject to Regulation 316, an amount equal to the outstanding balance of a Clearing Member's Contribution (or, as appropriate, part thereof) shall be repayable to the Clearing Member on the earliest to occur of the following events:
- (i) if the Clearing Member is not a Defaulter, the effective date of termination of the Clearing Member's status;
  - (ii) if the Clearing Member has become a Defaulter, the date or event appointed by the Clearing House for repayment of sums due to the Clearing Member under Regulation 206;
  - (iii) the amount of the required Contribution being reduced by virtue of the recalculation of its amount in accordance with Regulation 303; provided, that in this case the Clearing House shall only repay to the Clearing Member an amount equal to such reduction;
  - (iv) the Clearing House making an Insufficient Resources Determination pursuant to Regulation 320; and
  - (v) the expiry of a period of 50 years from the date on which the Contribution was paid to the Clearing House.
- (b) If a Clearing Member becomes a Defaulter, the Clearing House shall as soon as practicable after any Margin Cover has been applied pursuant to Regulation 302, certify one or more net sums then payable by the Defaulter to the Clearing House (a "**Default Loss**"), disregarding for this purpose any of the Defaulting Clearing Member's Contributions. If the Clearing House certifies any Default Loss, an amount equal to the Defaulting Clearing Member's Contributions shall immediately become due and payable to the Clearing House, but only in an amount not exceeding the total Default Loss.
- (c) If an amount becomes payable by the Clearing Member under Regulation 310, the portion of the Clearing Member's Contribution equal to such amount shall immediately become due and repayable to the Clearing House as a further required Contribution.

## **Regulation 306      Interest Payable in Respect of Contributions**

Interest shall accrue on an amount equal to the Clearing House's contingent obligation to repay a Clearing Member's Contribution from the time such Contributions are paid until such time that they are repaid to the Clearing Member or until such time that they (or any portion thereof) are applied or offset under Regulation 308, Regulation 310 or as otherwise provided under the Rulebook, in such manner as provided by the Procedures, and at a rate of interest linked to the Fed Funds Rate published on a particular day (or, in relation to any day for which a Fed Funds Rate is not available, the Fed Funds Rate most recently published before such day), but determined by the Clearing House in its sole discretion in light of market conditions at each applicable time by the Clearing House, and notified by the Clearing House to the Clearing Members. In the event that the Fed Funds Rate is negative, interest shall be payable by the Clearing Members to the Clearing House.

Interest shall be payable by the Clearing House to the Clearing Members in arrears and shall be paid on the date or dates specified by the Procedures. In these Default Fund Regulations any interest which has accrued under this Regulation shall not be regarded as part of the Contribution of any Clearing Member.

**Regulation 307      No Assignment of Right to Receive Repayment; No Encumbering of Contributions**

A Clearing Member's right to repayment of an amount equal to its Contribution or any part of it shall not be capable of assignment by the Clearing Member to any other person. As set forth in Regulation 303, each Clearing Member's Contribution represents a payment to the Clearing House and upon payment becomes the sole property of the Clearing House and no Clearing Member shall have any right or interest in such Contribution except for the security interest as set forth in Regulation 303. As such, Contributions are not capable of being charged or subject to any other form of security interest, other than by the Clearing House to the Clearing Members as expressly set forth in Regulation 303. Any purported charge or assignment by a Clearing Member (whether by way of security or otherwise) of its Contributions shall be void, and shall be considered a breach of the Rulebook. A Clearing Member shall not otherwise encumber (or seek to encumber) its Contributions.



**Regulation 308      Application of Defaulter’s Contribution, and Certification of Excess Losses**

Without prejudice to any other right of set-off or application of funds to which the Clearing House may be entitled, in the event of a Default and the certification by the Clearing House of a Default Loss under Regulation 305(b) in respect thereof, the Clearing House shall without notice set off in or towards satisfaction of any sums payable to the Clearing House by the Defaulter under Regulation 305(b) by cancelling such Defaulter’s contractual right to receive repayment from the Clearing House in respect of its Contribution. If the Clearing House is to have recourse, in accordance with Regulation 302, to the indemnities, guarantees, undertakings or monies provided by Clearing Members other than the Defaulter, as soon as practicable the Clearing House shall certify (by a “**Recourse Certificate**”):

- (a) the amount of the Defaulter’s Contribution applied under this Regulation and the net sum (if any), or each net sum (if more than one), then immediately payable by the Defaulter to the Clearing House, taking into account for this purpose the Defaulter’s Contribution; and
- (b) the extent to which any sums so payable by the Defaulter to the Clearing House but unpaid may be claimed by the Clearing House under a policy of insurance or analogous instrument relating to Default Losses.

The Clearing House may issue more than one Recourse Certificate in relation to losses arising upon any Default. Where a Recourse Certificate is to be issued, the Clearing House may assume that no further recoveries will be made in respect of obligations of the Defaulting Clearing Member beyond the value obtained by the Clearing House by setting off any repayment obligation of the Clearing House to the Defaulting Clearing Member in respect of its Contribution.

### **Regulation 309      Exercise of Clearing House Rights under Regulation 308**

The Clearing House may in the exercise of the right conferred by Regulation 308 set off the amount repayable (in accordance with Regulation 305(b)) to a Defaulter in respect of the Defaulter's Contribution or any part thereof against sums owing to the Clearing House on any account of such Defaulter (including any Omnibus Client Swaps Accounts with LCH), and the Clearing House shall have unfettered discretion in this regard; provided, that the Clearing House shall not set off any repayment obligation to a Defaulter in respect of the Defaulter's Contribution in connection with its application of the Defaulter's Contribution to any Omnibus Client Swaps Account with LCH of the Defaulter except to the extent that any Default Loss certified under Regulation 305(b) arises in relation to an Omnibus Client Swaps Account with LCH and the Clearing House so requires.

## **Regulation 310      Application of Fund and Indemnity**

By virtue of the Clearing Membership Agreement and the Rulebook, and subject to Regulation 311, each Clearing Member indemnifies the Clearing House in respect of the aggregate of the Excess Losses calculated in respect of the Defaults of Clearing Members occurring in a Default Period in an aggregate amount not exceeding the amount due from it as its Contribution on the Determination Date immediately prior to the commencement of the relevant Default Period together with any Unfunded Contribution that the Clearing House has called or would be entitled to call from such Clearing Member during such Default Period.

The amount owed by a Clearing Member to the Clearing House in respect of each Excess Loss shall be as determined in accordance with the Clearing Member's *pro rata* share of such loss arising upon the relevant Default calculated as the proportion of such Clearing Member's relevant required Contribution relative to the aggregate relevant required Contributions of all Clearing Members other than the relevant Defaulter at the time of the relevant Default. Such amount so due shall become immediately payable automatically (without any obligation on the part of the Clearing House to make demand on the Clearing Member) upon the issue by the Clearing House of the applicable Recourse Certificate, and such payment to the Clearing House shall occur automatically by immediately reducing the amount that the Clearing House is contractually required to repay (pursuant to these Default Fund Regulations) to such Clearing Member in respect of its Contribution (without prejudice to any other right of set-off or application of funds to which the Clearing House may be entitled); provided, that to the extent that such amount due to the Clearing House exceeds the current amount that the Clearing House is required to repay to the Clearing Member, then such excess shall be immediately due and payable by the Clearing Member to the Clearing House. Without prejudice to any other right of set-off or application of funds to which the Clearing House may be entitled, the Clearing House shall forthwith without notice set off any amount due in accordance with Regulation 305 to a Clearing Member in respect of the relevant Contribution of such Clearing Member in or towards satisfaction of the amount payable by such Clearing Member under this Regulation 310.

## **Regulation 311      Additional Excess Losses Due to Additional Defaults**

This Regulation applies to a first Defaulter (the “**First Defaulter**”) where an amount equal to the Contribution of the First Defaulter has not been repaid to the First Defaulter or applied by the Clearing House under Regulation 307, and Excess Losses arise upon the Defaults of other Clearing Members. Where this Regulation applies, Regulation 309 shall have effect with the following modifications:

- (a) the balances (if any) of the First Defaulter’s Contribution may be applied under Regulation 310 in respect of such relevant Excess Losses up to and including the date three months after the date of issue of the Default Notice in respect of the First Defaulter’s Default; and
- (b) after the date three months after the date of issue of such Default Notice, the balances (if any) of the First Defaulter’s Contribution may not be applied under Regulation 310 in respect of such relevant Excess Losses, but they may be retained on account of losses arising upon the First Defaulter’s own Default, and for the purposes of Regulation 310 they shall be disregarded.

**Regulation 312      Notice**

The Clearing House shall give notice to each Clearing Member as soon as practicable after an amount has become due in accordance with Regulation 310 and of the manner in which it has been satisfied.

### **Regulation 313      Delay in Clearing House's Ability to Issue Recourse Certificates**

If, in relation to a Default, the Clearing House has been unable to certify in any Recourse Certificates issued on or before the Determination Date immediately after the Default all sums which may be or become due to the Clearing House from the Defaulter (because such sums will not or may not become liquidated or for any other reason payable until a later date), the Clearing House shall be permitted to defer repayment of any portion of a Contribution otherwise due to a Clearing Member under the Rulebook and further as Margin for the performance by such Clearing Member of its obligation to indemnify the Clearing House in relation to any Excess Loss not yet certified. In fulfillment of this requirement the Clearing House may take any step which appears to the Clearing House to be appropriate, and the steps so taken may include the estimation of the amount of Excess Losses which may become certified after the relevant Determination Date as appropriate, and application of Regulation 310 as if such estimated amount were already realized as an Excess Loss. The Clearing House shall notify Clearing Members of any steps taken under this Regulation.

## **Regulation 314      Reduction of Fund Amount and Contributions**

Where, after a Default, the Clearing House has applied part or all of a Contribution under Regulation 308 or Regulation 310 (by cancellation of the Clearing House's obligation to repay a Clearing Member in respect of such Contribution), the Fund Amount shall be reduced forthwith by the aggregate amount of the Contributions or parts of Contributions so applied and the amount of the Contribution payments that each Clearing Member must maintain with the Clearing House shall be reduced by the amount of its Contribution which has been applied pursuant to Regulation 310, in each case until the next Determination Date. Unless and until the Clearing House has repaid an amount equal to a Defaulter's Contribution (or remaining portion thereof, as applicable), the Fund Amount shall be treated as having been reduced by the amount of the Defaulter's Contribution (if any), regardless of whether the Clearing House has applied part or all of that Contribution under Regulation 308.

## **Regulation 315      Payment of Unfunded Contributions**

Where, after a Default, the Clearing House determines that (i) by reason of a reduction in accordance with Regulation 314, the value of the Fund Amount has been reduced by at least 25%; or (ii) by the time of the Default Management Process Completion Date in relation to the relevant Default the value of the Fund Amount will be reduced by at least 25%, the Clearing House may, by notice in writing (the “**Unfunded Contribution Notice**”), require each Non-Defaulting Clearing Member to pay an amount to the Clearing House (each an “**Unfunded Contribution**”) in accordance with the following provisions:

- (a) Unfunded Contributions will only be payable in circumstances where the relevant Unfunded Contribution Notice is delivered by the Clearing House to Clearing Members prior to the Default Management Process Completion Date in relation to the relevant Default;
- (b) the value of the Unfunded Contribution payable by each individual Clearing Member shall be the product of (x) the percentage by which the value of the Fund Amount has been reduced and (y) the value of the Contribution of such Clearing Member as at the last Determination Date prior to the date when the relevant Default occurred;
- (c) the Clearing House may, by the delivery of one or more further Unfunded Contribution Notices, require each Non-Defaulting Clearing Member to pay one or more further Unfunded Contributions in respect of the same Default; provided, that the total value of the Unfunded Contributions payable by an individual Clearing Member in respect of a particular Default (determined in accordance with paragraph (b) above) may not exceed the value of the Contribution of such Clearing Member as at the last Determination Date prior to the date when the relevant Default occurred; and
- (d) following a Default in respect of which Unfunded Contributions were paid (the “**First Default**”), the Clearing House may require the payment of further Unfunded Contributions in respect of subsequent Defaults, (which, for the avoidance of doubt, can never be a First Default), provided, that Unfunded Contributions will not be payable in respect of any more than three Defaults in any six month period (commencing on the date of delivery of the first Unfunded Contribution Notice in respect of the First Default).

Clearing Members will be required to pay the full amount of their Unfunded Contributions (without exercising any rights of set-off or counterclaim) with the Clearing House on the Business Day following receipt of an Unfunded Contribution Notice. Upon payment by a Clearing Member of an amount equal to its Unfunded Contribution, such amount shall be deemed to be a part of such Clearing Member’s Contribution and shall be treated as such for purposes of Regulation 303 and all other provisions of the Rulebook.

For the avoidance of doubt, references to Clearing Members for the purposes of this Regulation 315 include any Clearing Member (other than a Defaulting Clearing Member) who is a Retiring Member but whose status as a Clearing Member has not yet been terminated.



## Regulation 316 Cessation of Clearing Member Status

- (a) Subject to Regulation 316(b), if a Determination Date occurs after the giving of notice by or in respect of any Retiring Member, and before the termination of such Retiring Member's Clearing Member status:
- (i) if the Retiring Member is not a Defaulter, the amount of such Retiring Member's required Contribution shall be determined by the Clearing House on the basis set out in Regulation 303 without regard to the impending termination of such Retiring Member's Clearing Member status, and the provisions of Regulation 304 shall apply in respect of such Contribution accordingly;
  - (ii) if the Retiring Member is a Defaulter, the balance of that Retiring Member's Contribution after any part of it has been applied under Regulation 308 or Regulation 310 shall not be subject to adjustment under Regulation 303, and Regulation 304 shall not apply to such Retiring Member.

Notwithstanding the foregoing, in such circumstances the amounts of the respective Contributions of all Clearing Members other than any Retiring Member shall be determined by the Clearing House on the basis set out in Regulation 303, but disregarding for all purposes any Clearing Member which is a Retiring Member, in particular disregarding such Clearing Member's daily aggregate Required Margin and such Clearing Member's daily number of Contracts and treating any such Retiring Member as no longer being a Clearing Member.

- (b) This Regulation applies at the Determination Date after a Retiring Member has given notice of termination of its Clearing Member status, where another Clearing Member (the "**Continuing Member**") has arranged to undertake clearing on behalf of the Retiring Member. If, in the opinion of the Clearing House, the required Contribution of the Continuing Member determined under the Regulation 303 does not fairly reflect the Continuing Member's share of clearing activity, the Clearing House may determine the required Contribution of the Continuing Member as if the Non-Tolerance Weight of the Retiring Member were part of the Non-Tolerance Weight of the Continuing Member. If the Clearing House determines the required amount of a Continuing Member's Contribution under this Regulation, the Clearing House shall give notice to the Continuing Member, and the provisions of Regulation 316(a) shall not apply.
- (c) A Retiring Member shall, until the completion of the process set out in Regulation 205 in relation to any Default, continue to be liable under its Regulation 310 indemnity in respect of Excess Losses arising upon such Default, notwithstanding that the Clearing Member status of the Retiring Member has terminated before that time. While a Retiring Member continues to be so liable, it shall provide such cover as the Clearing House shall require in respect of its liability in relation to any Excess Losses not yet certified, subject to such cover not exceeding the Retiring Member's required Contribution at the time of the termination of its clearing membership. In fulfillment of this requirement the Clearing House may take any step which appears to the Clearing House to be appropriate, including postponement of the date for repayment of part or all of an amount equal to the Retiring Member's Contribution. The

Clearing House shall notify the Retiring Member of any steps taken under this Regulation.

### **Regulation 317      Recoveries from Defaulters**

In the event that all or part of the Contributions of any Clearing Member have been applied in accordance with Regulation 310 and there is subsequently a Net Recovery actually received by the Clearing House from the relevant Defaulter, the Clearing House shall deposit an amount equal to Net Recovery into the Default Fund or, if the amount of the Net Recovery exceeds the amounts applied in accordance with Regulation 310 in relation to the relevant Default, the Clearing House shall deposit an amount equal to such lower amount. Upon such a deposit, the Clearing House shall apply the amount of the deposit *pro rata* to each Clearing Member (whether or not it remains at the relevant time a Clearing Member of the Clearing House) in accordance with the amounts of each such Clearing Member applied in accordance with Regulation 310, by adjusting the applicable Contributions and the corresponding contractual rights of repayment applicable to each such Clearing Member.

## **Regulation 318      Loss Distribution Process**

Where, after a Default, the Clearing House determines that the Excess Loss resulting from the Default will exceed the amounts to be applied to it under Regulation 302(1) to Regulation 302(6), the Clearing House may implement the process (the “**Loss Distribution Process**”) described in this Regulation 318.

- (a) For the purposes of this Regulation 318 and for Regulation 320, the following definitions will apply:

“**Actual Base Currency Gains, Losses and Realized 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 Realized Cash Flows by Cash Payment and any Cash Gainer Base Currency Adjustment to Cash Payment or Cash Loser Base Currency Adjustment to Cash Payment.

“**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 Regulation 302(1) to Regulation 302(6) as at the relevant Last Call Prior to Default.

“**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 Realized 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 Realized Cash Flows on such Loss Distribution Day is greater than zero.

“**Cash Gainer Base Currency Adjustment to Cash Payment**” has the meaning set out in paragraph (b)(i) of this Regulation 318.

“**Cash Gainer Payment Currency Adjustment to Cash Payment**” has the meaning set out in paragraph (b)(i) of this Regulation 318.

“**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 Realized 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 Regulation 318.

“**Cash Loser Payment Currency Adjustment to Cash Payment**” has the meaning set out in paragraph (b)(ii) of this Regulation 318.

“**Cash Payment**” means, in respect of any Business Day, the aggregated amount which would be paid by the Clearing House to a Non-Defaulting Clearing Member (expressed as a positive number) or by such Clearing Member to the Clearing House (expressed as a negative number) in respect of a Cash Payment Type in a Cash Payment Currency on such Business Day.

“**Cash Payment Currency**” means each of the 17 currencies in which payments made between the Clearing House and a Clearing Member may be denominated.

“**Cash Payment Type**” means each of the Price Alignment Interest, coupon payments, consideration (fee) payments and Variation Margin payable in respect of a Margin Account of a Non-Defaulting Clearing Member.

“**Cumulative Actual Base Currency Gains, Losses and Realized Cash Flows**” means, in respect of each Margin Account of each Non-Defaulting Clearing Member and any Business Day, the sum of the Cumulative Actual Base Currency Gains, Losses and Realized Cash Flows by Cash Payments payable on such Margin Account.

“**Cumulative Actual Base Currency Gains, Losses and Realized Cash Flows by Cash Payment**” means, in respect of each Cash Payment and any Business Day, the aggregate amount, if any, paid by the Clearing House to a Non-Defaulting Clearing Member (expressed as a positive number) or by such Clearing Member to the Clearing House (expressed as a negative number) in respect of Actual Base Currency Gains, Losses and Realized Cash Flows by Cash Payment from but excluding the relevant Last Call Prior to Default to and including such Business Day.

“**Cumulative LCH Transfer Cost**” means, on any Business Day during any Loss Distribution Period, the sum of any LCH Transfer Cost for each day from but excluding the relevant Last Call Prior to Default to and including such Business Day.

“**Cumulative Pre Haircut Base Currency Gains Losses and Realized Cash Flows**” means, in respect of each Margin Account of each Non-Defaulting Clearing Member and any Business Day, the sum of the Cumulative Pre Haircut Base Currency Gains Losses and Realized Cash Flows by Cash Payments payable on such Margin Account.

“**Cumulative Pre Haircut Base Currency Gains Losses and Realized 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 Realized Cash Flows by Cash Payment for such Cash Payment for each day from but excluding the relevant Last Call Prior to Default to and including such Business Day.

“**Distribution Haircut**” or “**DH**” means, on each Loss Distribution Day, the fraction determined by the Clearing House in accordance with the following formula:

$$DH(t) = LUL(t) / TCG(t)$$

where:

“**LUL**” means the LCH Uncovered Loss; and

“**TCG**” means the Total Cash Gains.

“**Last Call Prior to Default**” means the most recent Business Day on which payments of Margin required to be made by Clearing Members were made in full.

“**LCH Transfer Cost**” means the cost (converted, where applicable, into U.S. dollars at a rate of exchange determined by the Clearing House in its sole discretion) to the Clearing House of transferring the rights and obligations arising out of the Auction

Portfolios of a Defaulting Clearing Member to those Clearing Members who have successfully bid for such Auction Portfolios in Auctions.

“**LCH Uncovered Loss**” means, in respect of the Clearing House on any Business Day in any Loss Distribution Period, the amount calculated in accordance with the following formula:

$$\text{LCH Uncovered Loss}(t) = \text{Max} (0, (\text{TCPH}(t) + \text{CLC}(t) - \text{TAR}))$$

where:

“**TCPH**” means the Total Cumulative Pre Haircut Base Currency Gains losses and Realized Cash Flows;

“**CLC**” means the Cumulative LCH Transfer Cost;

“**TAR**” means the Total Available Resources; and

the LCH Uncovered Loss as at the Last Call Prior to Default shall be zero.

“**Loss Distribution Cap Amount**” means, in respect of each Non-Defaulting Clearing Member and any Loss Distribution Period, an amount equal to the higher of (i) \$100,000,000; (ii) the product of (a) 100 per cent. and (b) the Contribution of such Non-Defaulting Clearing Member as at the last Determination Date prior to the date when the Default occurred at the beginning of that Loss Distribution Period; and (iii) any adjusted cap as may be agreed pursuant to paragraph (d) of this Regulation 318.

“**Loss Distribution Day**” means any Business Day in a Loss Distribution Period on which the Clearing House, in consultation with the DMG, prior to calling for: (i) Margin in accordance with the provisions of the Procedures; and (ii) Required Margin, on such Business Day, determines that the LCH Uncovered Loss for that Business Day is greater than zero.

“**Loss Distribution Period**” means the period from, but excluding, the day on which a Default occurs with respect to a Clearing Member to but excluding the earlier of: (i) the Business Day on which (a) the rights and obligations arising out of the Auction Portfolios of the Defaulting Clearing Member are transferred to those Clearing Members which have successfully bid for such Auction Portfolios in Auctions, or, if any Default occurs with respect to any other Clearing Member prior to the end of a Loss Distribution Period, the rights and obligations arising out of the Auction Portfolios of any subsequent Defaulting Clearing Member are transferred to those Clearing Members who have successfully bid for such Auction Portfolios in Auctions and (b) all payments required to be made by such Clearing Members and/or the Clearing House in respect of such Auction(s) have been made in full; or (ii) any Loss Distribution Day in respect of which the Clearing House determines that the Clearing Member Adjustment Amount for any Clearing Member would be equal to or greater than the Loss Distribution Cap Amount for such Loss Distribution Day.

“**Margin Account**” means each Proprietary Account or Omnibus Client Swaps Account with LCH of a Clearing Member.

**“Payment Currency Adjustment to Cash Payment”** means one or more Cash Gainer Payment Currency Adjustment to Cash Payment(s) and/or one or more Cash Loser Payment Currency Adjustment to Cash Payment(s).

**“Pre Haircut Base Currency Gains, Losses and Realized Cash Flows by Cash Payment”** means, in respect of each Cash Payment and any Business Day, the amount (converted, where applicable, into dollars at the Rate of Exchange) which would be paid by the Clearing House to a Non-Defaulting Clearing Member (expressed as a positive number) or by such Clearing Member to the Clearing House (expressed as a negative number) on such Business Day in the absence of the application of the Distribution Haircut.

**“Rate of Exchange”** means, for any day, the applicable rate of exchange for converting one currency into another as determined by the Clearing House by reference to Reuters.

**“Clearing Member Adjustment Amount”** means in respect of the Margin Account(s) of any Non-Defaulting Clearing Member and any Loss Distribution Day, an amount equal to the sum of the Cumulative Pre Haircut Base Currency Gains Losses and Realized Cash Flows in respect of such Margin Account(s) of such Clearing Member less the sum of the Cumulative Actual Base Currency Gains, Losses and Realized Cash Flows in respect of such Margin Account(s) of such Clearing Member, in each case in respect of the Loss Distribution Period in which such Loss Distribution Day falls.

**“t”** means, in respect of any determination made in relation to a Business Day, such Business Day.

**“t-1”** means, in respect of any determination made in relation to a Business Day, the Business Day immediately prior to such Business Day.

**“Total Available Resources”** means, on any Business Day during a Loss Distribution Period the sum of (x) the Available Resources and (y) any Unfunded Contributions paid to the Clearing House since the relevant Last Call Prior to Default.

**“Total Cash Gains”** means, in respect of any Business Day, the sum of the Cash Gain in respect of all Cash Gainers on such Business Day.

**“Total Cumulative Pre Haircut Base Currency Gains losses and Realized Cash Flows”** means, in respect of any Business Day the sum of all Total Cumulative Pre Haircut Base Currency Gains Losses and Realized Cash Flows by Cash Payments.

**“Total Cumulative Pre Haircut Base Currency Gains Losses and Realized Cash Flows by Cash Payment”** means, in respect of any Business Day, the sum of the Total Pre Haircut Base Currency Gains Losses and Realized Cash Flows by Cash Payment for each Business Day from but excluding the relevant Last Call Prior to Default to and including such Business Day.

**“Total Pre Haircut Base Currency Gains Losses and Realized Cash Flows by Cash Payment”** means, in respect of any Business Day, the sum of the Pre Haircut

Base Currency Gains Losses and Realized Cash Flows by Cash Payment in respect of all Margin Accounts of all Non-Defaulting Clearing Members on such Business Day.

“**Underlying Cash Payment**” means, in respect of a Cash Gainer Base Currency Adjustment to Cash Payment or a Cash Loser Base Currency Adjustment to Cash Payment, the Cash Payment in respect of which such Cash Gainer Base Currency Adjustment to Cash Payment or Cash Loser Base Currency Adjustment to Cash Payment is calculated.

(b) Adjustment of Underlying Cash Payments.

(i) Cash Gainer.

On each Loss Distribution Day for each Margin Account of each Non-Defaulting Clearing Member which is deemed to be a Cash Gainer, the relevant Clearing Member shall be required to pay the Clearing House an amount equal to each positive amount determined as follows or, as applicable, the Clearing House shall be required to pay the relevant Clearing Member the absolute value of each negative amount determined as follows (in each case, such amount the “**Cash Gainer Payment Currency Adjustment to Cash Payment**”):

The Cash Gainer Payment Currency Adjustment to Cash Payment is the value of the amount determined in accordance with the formula below (the “**Cash Gainer Base Currency Adjustment to Cash Payment**”) converted at the Rate of Exchange into the Cash Payment Currency in which the relevant Underlying Cash Payment is denominated, where:

$$\text{Cash Gainer Base Currency Adjustment to Cash Payment (t)} = \text{PHG(t)} - (\text{CHG(t)} * \text{Max (0, 1 - DH(t))} - \text{CAG(t-1)})$$

“**PHG**” means the Pre Haircut Base Currency Gains Losses and Realized Cash Flows by Cash Payment;

“**CHG**” means the Cumulative Pre Haircut Base Currency Gains Losses and Realized Cash Flows by Cash Payment;

“**DH**” means the Distribution Haircut; and

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

(ii) Cash Loser.

On each Loss Distribution Day for each Margin Account of each Non-Defaulting Clearing Member which is deemed to be a Cash Loser, the Clearing House shall be required to pay the absolute value of each amount (the



“Cash Loser Payment Currency Adjustment to Cash Payment”) determined as follows:

The Cash Loser Payment Currency Adjustment to Cash Payment is the value of the amount determined in accordance with the formula below (the “Cash Loser Base Currency Adjustment to Cash Payment”) converted at the Rate of Exchange into the Cash Payment Currency in which the relevant Underlying Cash Payment is denominated, where

$$\text{Cash Loser Base Currency Adjustment to Cash Payment}(t) = \text{PHG}(t) - (\text{CHG}(t) - \text{CAG}(t-1))$$

“PHG” Pre Haircut Base Currency Gains Losses and Realized Cash Flows by Cash Payment;

“CHG” means the Cumulative Pre Haircut Base Currency Gains Losses and Realized Cash Flows by Cash Payment; and

“CAG” means the Cumulative Actual Base Currency Gains, Losses and Realized 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 Clearing Member.

(iv) Adjustment for exchange of notional amounts on maturity.

Where an exchange of notional amounts is applicable to any Contract on any Business Day during a Loss Distribution Period, the Clearing House may, following consultation with its risk committee or the DMG, as appropriate, make such adjustments as are necessary to the calculation of a Payment Currency Adjustment to Cash Payment to reflect the payment flows arising from such exchange of notional amounts, keeping in mind the principle that the calculation of a Payment Currency Adjustment to Cash Payment is designed to capture all profits and/or losses on positions during the relevant Loss Distribution Period.

(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 Regulation 302(1) to Regulation 302(6).

(d) Adjustment to Loss Distribution Cap Amount. If, during a Loss Distribution Period, the Clearing House considers that the Cash Gainer Payment Currency Adjustment to

Cash Payments applied to a particular Margin Account of a Clearing Member are, or are about to be equal to or greater than the Loss Distribution Cap Amount, the Clearing House may propose an adjustment to such Loss Distribution Cap Amount. If agreed by all Non-Defaulting Clearing Members, the Loss Distribution Cap Amount as adjusted pursuant to this paragraph (d) shall be applicable for the remainder of the relevant Loss Distribution Period.

- (e) No Rebate. The payment to the Clearing House by any Clearing Member 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.
- (f) Application of any Recoveries. If the Loss Distribution Process has been invoked by the Clearing House in accordance with this Regulation 318, the Clearing House shall reimburse the Clearing Members (irrespective of whether they remain Clearing Members at the time of the recovery) and the Clearing House on a *pro rata* basis by reference to the resources which have been applied pursuant to Regulation 302(1) to Regulation 302(6) and including the net amount of any one or more paid by the relevant Clearing Members:
  - (i) any amounts received from the Defaulting Clearing Member as a result of the Clearing House being a creditor of the Defaulting Clearing Member in the context of the occurrence of any of the events under Regulation 203(i) to (o) in respect of the Defaulting Clearing Member or otherwise, other than in respect of sums due to the Clearing House for its own account; or
  - (ii) any other amounts howsoever obtained or recovered in the course of the Clearing House's operation of the Default Management Process or which are otherwise referable to the Defaulting Clearing Member,

in each case net of any related expenses incurred by the Clearing House or other sums owing to the Clearing House by the Defaulting Clearing Member. For the avoidance of doubt, nothing in this paragraph (f) shall oblige the Clearing House to pursue any litigation or other action in order to recover the amounts contemplated above and if another default fund of the Clearing House has also been applied as a result of the Clearing Member's Default, any amounts recovered shall be applied *pari passu* as between the relevant default funds.

## **Regulation 319      Voluntary Payments**

Where, after the Default of one or more Clearing Members, the Clearing House determines that, notwithstanding the availability of any resources remaining under Regulation 302(1) to Regulation 302(6) and the availability of the Loss Distribution Process in accordance with the terms of Regulation 318, it is clear that the Clearing House does not have sufficient resources to meet its obligations and liabilities arising in respect of those Contracts to which it is party with Non-Defaulting Clearing Members, the Clearing House will by notice in writing (a “**Voluntary Payment Notice**”): (x) inform all Non-Defaulting Clearing Members that it has insufficient resources and that it is likely to invoke Regulation 320 and (y) invite each Non-Defaulting Clearing Member to make a payment of funds (a “**Voluntary Payment**”), in accordance with Regulation 302(6), to make up for the relevant shortfall.

Voluntary Payments will be made on the following terms:

- (a) no Clearing Member shall be obliged to make a Voluntary Payment;
- (b) any Voluntary Payment will be made by a Clearing Member by the close of business on the Business Day after receipt of the relevant Voluntary Payment Notice;
- (c) no Voluntary Payment may be withdrawn once made; and
- (d) the Clearing House shall have full discretion whether or not to accept a particular Voluntary Payment.

Any failure by the Clearing House to deliver a Voluntary Payment Notice pursuant to this Regulation 319 will not invalidate any action taken by the Clearing House pursuant to Regulation 320 nor give rise to any liability whatsoever on the part of the Clearing House.

Any Voluntary Payments remaining unused at the time of the expiry of the relevant Default Period will be accounted for rateably by the Clearing House as if they were amounts paid in respect of the Contributions of those Clearing Members from whom Voluntary Payments were accepted.

## **Regulation 320      Insufficient Resources**

For the purposes of this Regulation 320, the definitions set forth in Regulation 318(a) will also apply to the extent such defined terms are used herein. Where, following the process for inviting Voluntary Payments in accordance with Regulation 319, 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 Contracts to which it is party with Non-Defaulting Clearing Members, the following provisions shall have effect:

- (a) All outstanding 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 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 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 requirement for the position to be closed out.
- (b) On the basis of the close out values established for each outstanding Contract, an account shall be taken (as at the time of close out) of what is due in respect of each Clearing Member, from that Clearing Member to the Clearing House and from the Clearing House to that Clearing Member, as well as all other amounts owing under or in respect of Contracts and any other amounts that may be due in respect of the Clearing House’s clearing services (including for these purposes, a proportionate share of any amounts owed generally to or from the Clearing House), and the sums due from the Clearing Member 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 Contracts shall include, but not be limited to, returns of Variation Margin associated therewith and the repayment of any Net Cash Gainer Payment Currency Adjustment to Cash Payments made in the Default Period to which the Insufficient Resources Determination relates (and in respect of which Regulation 318(e) shall be specifically dis-applied), but shall exclude the repayment of any cash Collateral or any outstanding Contributions.

To the extent that the aggregate of all of the amounts owed to the Clearing House by Clearing Members plus all of those other resources applicable to the Clearing House’s clearing services under Regulation 302(1) to Regulation 302(6) that have not been applied towards an Excess Loss is less than the aggregate of the amounts owed to Clearing Members by the Clearing House, each amount owed to Clearing Members by the Clearing House shall be reduced pro rata the shortfall.

- (c) The Clearing House shall determine any amounts due to each Clearing Member in respect of the repayment of any cash Collateral and outstanding Contributions to be repaid. The claim of each such Clearing Member in respect of the foregoing shall be reduced in proportion to an amount by which (x) the value of the assets available to the Clearing House to meet the return obligations referred to in (y) bears to (y) the value of what would be due from the Clearing House to each Clearing Member in aggregate in respect of the return of Collateral received from each such Clearing Member in the form of cash and outstanding Contributions.

- (d) For each Clearing Member, the amount due to it or due from it as determined pursuant to paragraph (b) shall be aggregated with its claim determined pursuant to paragraph (c) above and only the net sum shall be payable. Where the result of such calculations is that a Clearing Member owes an amount to the Clearing House, that Clearing Member shall pay that amount to the Clearing House immediately. Where the result of such calculations is that a Clearing Member is owed an amount by the Clearing House, the Clearing House shall pay that amount to the Clearing Member immediately, subject to paragraph (f) below.
- (e) The payment of such amount to a Clearing Member, pursuant to paragraph (d) above subject to any re-calculations performed pursuant to paragraph (f) below, shall constitute the full and final payment in respect of the Clearing House's clearing services and such Clearing Member shall not be permitted to make any further claims to the Clearing House in respect of amounts relating to the clearing services nor shall it be permitted take any actions pursuant to Regulation 117 for a failure to pay any amounts in relation to the clearing services.
- (f) The Clearing House may make the payments due under paragraph (d) above in one or more installments to the Clearing Members in proportion to the value of their claims on the Clearing House under paragraph (b) above if some but not all of the amounts due under paragraph (d) above or under Regulation 302(1) to Regulation 302(6) 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 amounts will not in fact be recoverable, it shall re-determine the amounts due to Clearing Members in accordance with this Regulation 320.
- (g) This Regulation 320 shall not be applied in the event that a Clearing Member has validly taken action to close out its positions pursuant to Regulation 117.
- (h) Nothing in the foregoing shall override the obligation of the Clearing House to return Collateral provided by way of security to a Clearing Member pursuant to the Regulations and the Procedures.
- (i) In the case of an FCM Clearing Member, all obligations between the Clearing House and the FCM Clearing Member in respect of the FCM Clearing Member's Omnibus Client Swaps Account with LCH shall be determined separately under the provisions of this Regulation 320 from any other obligations between the Clearing House and such FCM Clearing Member, to the extent required by the CEA and the CFTC Regulations.

## Regulation 321      Security Interests in Default Fund and Related Arrangements

The provisions of this Regulation 321, including the obligation of the Clearing House to provide Clearing Members a security interest in the assets held in the Default Fund account as provided in the Rulebook, shall not be in effect until such time as the Clearing House shall notify the Clearing Members via Clearing Member circular of their effectiveness, and the Clearing House shall have no obligation to comply with or satisfy any such obligations or provisions until such time.

- (a) Security Interest. The Clearing House shall grant a security interest to each Clearing Member in the manner described in this Regulation 321, and such security interest shall be consistent with the following provisions:
  - (i) The security interest shall be a first security interest and shall attach only to the assets held in the segregated Default Fund account of the Clearing House and shall not attach to or be secured by any other accounts or assets of the Clearing House.
  - (ii) The security interest granted to each Clearing Member shall secure (A) the Clearing House's obligation to repay an amount equal to each such Clearing Member's outstanding Contribution and (B) all obligations of the Clearing House to such Clearing Member relating to its Contracts.
  - (iii) Each Clearing Member's security interest in the Default Fund account shall be on a *pro rata* basis with the other Clearing Members on the specific terms set out in the DF Security and Intercreditor Agreement.
  - (iv) No Clearing Member shall have the right to foreclose on the secured assets unless and until one of the events described in Regulation 117(a)(i), Regulation 117(a)(ii) or Regulation 117(a)(iii) shall have occurred.
- (b) DF Security and Intercreditor Agreement.
  - (i) The Clearing House's grant of the security interests described in this Regulation 321 shall be effected solely through a security and intercreditor agreement (including any successor or replacement agreement, the "**DF Security and Intercreditor Agreement**") among the Clearing House, the Clearing Members and a collateral agent appointed to represent the Clearing Members (the "**DF Collateral Agent**"). The DF Security and Intercreditor Agreement shall contain the security agreement relating to the security interests described in this Regulation 321, the "intercreditor" agreements among the Clearing Members, the appointment of the DF Collateral Agent as representative of the Clearing Members and the duties and obligations of the DF Collateral Agent, and other applicable terms and agreements relating to the foregoing.
  - (ii) Each Clearing Member, prior to it becoming a Clearing Member, shall be provided by the Clearing House with a copy of the DF Security and Intercreditor Agreement in effect as at such time. Each Clearing Member, by virtue of its execution and entering into of its Clearing Membership Agreement and by virtue of its agreement and obligation to be bound by the



terms of the Rulebook, is hereby made a party to the DF Security and Intercreditor Agreement (on the terms provided in the DF Security and Intercreditor Agreement). If required by the Clearing House or the DF Collateral Agent, each Clearing Member shall execute a written joinder to the DF Security and Intercreditor Agreement in further evidence of the foregoing.

- (iii) The Clearing House shall be permitted to replace the DF Collateral Agent; provided, that the Clearing House shall consult with the Clearing Members prior to any such replacement.
- (iv) The Clearing House shall be permitted to renew the DF Security and Intercreditor Agreement as required from time to time. The Clearing House shall be permitted to amend or terminate and replace the DF Security and Intercreditor Agreement at any time (to the extent permitted under the terms of the DF Security and Intercreditor Agreement) without the consent or agreement of any Clearing Member; provided, that any such amendments or the terms of any replacement DF Security and Intercreditor Agreement shall not have the effect of materially and adversely altering the rights of any Clearing Member.
- (v) Notwithstanding clause (iv) above, the Clearing House shall be permitted to make any changes to the terms of the DF Security and Intercreditor Agreement if the Clearing House obtains the consent of Clearing Members with respect to which at least 60% of the aggregate Contributions of all Clearing Members (as calculated at the Determination Date immediately preceding the date of effectiveness of the proposed change or amendment) are attributable; provided, that any changes to the terms of the DF Security and Intercreditor Agreement approved in this manner but that would adversely affect in a disproportionate manner the rights of one or more Clearing Members shall not be effective against any such disproportionately affected Clearing Member unless consented to by such Clearing Member.

(c) Related Matters.

- (i) The Clearing House shall select one or more depository banks or similar entities with which to hold the Clearing House's assets in the Default Fund account, and the Clearing House, the DF Collateral Agent and any such depository bank shall be parties to a control agreement relating to the matters set forth in the DF Security and Intercreditor Agreement and consistent with the terms therein. The Clearing House shall be permitted to replace a depository bank (or similar entity) at any time without the consent of any Clearing Member. A depository bank selected by the Clearing House may be the same entity as the DF Collateral Agent. The Clearing House shall be permitted to amend or terminate and replace any such agreement with a depository bank at any time without the consent of any Clearing Member so long as the resulting new or amended agreement is consistent with the terms of the DF Security and Intercreditor Agreement.
- (ii) The Clearing House and the Clearing Members shall take any and all actions, including but not limited to the execution of any and all documents,

reasonably required in order to perfect, maintain or enforce the security interests granted under the DF Security and Intercreditor Agreement.



## CHAPTER 4 – SWAPCLEAR REGULATIONS

### **Regulation 401      SwapClear Transactions; Registration of SwapClear Contracts; Novation and Post-Novation Compression**

- (a) A SwapClear Transaction may be presented to the Clearing House for registration as two SwapClear Contracts (in accordance with the other provisions of the Rulebook).
- (b) Where a SwapClear Transaction is presented to the Clearing House, the Clearing House shall, where applicable in accordance with paragraph (c) below and the Procedures, request the consent of each applicable Clearing Member with whom a SwapClear Contract shall be registered as a result thereof. Upon each relevant Clearing Member providing its consent, such SwapClear Transaction shall be deemed to have been “submitted” (as such term is defined and used in the Procedures) to the Clearing House for registration. Any consent shall be provided in accordance with the Procedures.
- (c) A Clearing Member which has been nominated to clear a SwapClear Contract arising from the registration of a SwapClear Transaction on behalf of a third party Executing Party, other than a SwapClear Dealer, will (only where such SwapClear Transaction is not a US Trading Venue Transaction) be notified by the Clearing House of the relevant SwapClear Transaction and shall choose whether to grant or refuse consent to the registration of such SwapClear Transaction and the SwapClear Contracts resulting from such SwapClear Transaction. Unless provided otherwise in the Procedures, in all circumstances other than those set out in the foregoing sentence and in respect of a SwapClear Transaction that is a US Trading Venue Transaction, the consent of a Clearing Member to the registration of the relevant SwapClear Transaction will occur automatically and without the need for any further action by such Clearing Member.
- (d) The Clearing House shall register or reject the registration of two SwapClear Contracts in respect of a SwapClear Transaction presented for registration subject to, and in accordance with, these Regulations and the Procedures as quickly as would be technologically practicable if fully automated systems were used (the standard required in Part 39 of the CFTC Regulations); provided, that:
  - (i) both sides of the relevant SwapClear Transaction have been properly presented and submitted for clearing by (or on behalf of the) the Executing Parties;
  - (ii) the relevant SwapClear Transaction meets the eligibility criteria prescribed in the Rulebook at the time the particulars of the SwapClear Transaction are presented to the Clearing House and continues to meet such criteria at the Registration Time;
  - (iii) such SwapClear Contract is consented to by the relevant Clearing Member (to the extent such consent is required) in accordance with paragraph (c) above and Section 2A.3.2 of the Procedures;
  - (iv) the applicable Clearing Member has paid or transferred, upon request of the Clearing House and in accordance with Regulation 106 and such other

applicable provisions of the Rulebook, all Required Margin in respect of such SwapClear Contract prior to registration (taking into account any available SwapClear Tolerance, if any); provided that if such Required Margin need not be furnished prior to registration as a condition to the registration of such SwapClear Contract unless such SwapClear Contract results from a SwapClear Transaction that is a Block IRS Trade; and

- (v) all the conditions applicable (under the terms of the Rulebook) for the registration of the other SwapClear Contract deriving from the relevant SwapClear Transaction have been satisfied.
- (e) From the time of registration by the Clearing House of two SwapClear Contracts (the “**Registration Time**”) in respect of a SwapClear Transaction in accordance with the Procedures:
- (i) such SwapClear Transaction shall be extinguished and replaced by the corresponding SwapClear Contracts, and the parties to such SwapClear Transaction shall be released and discharged from all rights and obligations under such SwapClear Transaction which fall due for performance on or after the Registration Time; and
  - (ii) each relevant Clearing Member will become bound by the obligations under the Rulebook in respect of the applicable SwapClear Contract with the Clearing House automatically and without any further action on its part, on terms that, without limitation, incorporate all applicable terms of the Rulebook and Schedule 4A to these Regulations (including the SwapClear Contract Terms applicable to the relevant SwapClear Contract).
- (f) The Economic Terms shall be such that (A) a Clearing Member paying (or clearing on behalf of a person paying) Rate X and receiving (or clearing on behalf of a person receiving) Rate Y under a SwapClear Transaction shall have such rights against, and owe such obligations to, the Clearing House under the corresponding SwapClear Contract registered by it in respect of such SwapClear Transaction as further provided for in the final paragraph of this paragraph (f) and (B) shall be such that a SwapClear Clearing Member paying (or clearing on behalf of a person paying) Rate Y and receiving (or clearing on behalf of a person receiving) Rate X under a SwapClear Transaction shall have such rights against, and owe such obligations to, the Clearing House under the corresponding SwapClear Contract registered by it in respect of such SwapClear Transaction as further provided for in the final paragraph of this paragraph (f).

In this paragraph (f), a reference to the “rights” and “obligations” is a reference to rights and obligations, falling due for exercise or performance after the Registration Time, and which are the same in nature and character as the rights or obligations set out in the Economic Terms of the corresponding SwapClear Transaction (it being assumed, for this purpose, that such SwapClear Transaction was a legal, valid, binding and enforceable obligation of the parties thereto and that the Economic Terms thereof were as presented to the Clearing House for registration), notwithstanding the change in the person entitled to them or obliged to perform them, and subject to any change thereto as a result of the operation of the Standard Terms. In this sub-

paragraph (f), a reference to “paying” means either paying under a SwapClear Transaction that is an existing swap transaction or “agreeing to pay” under a SwapClear Transaction that is contingent on clearing.

- (g) If at any time after registration of a SwapClear Contract, the Clearing House determines that the corresponding SwapClear Transaction of which details were presented for registration did not, at the Registration Time, meet the SwapClear Product Eligibility Criteria in existence at the Registration Time (an “**Ineligible SwapClear Transaction**”), the Clearing House shall, as soon as practicable thereafter, set aside both SwapClear Contracts arising from such Ineligible SwapClear Transaction. Upon a SwapClear Contract (an “**Ineligible SwapClear Contract**”) being set aside under this paragraph (g), the Clearing House will notify the SwapClear Clearing Member party to such Ineligible SwapClear Contract via the Approved Trade Source System through which details of the relevant Ineligible SwapClear Transaction were originally presented to the Clearing House that such Ineligible SwapClear Contract has been set aside. The following shall take effect immediately upon the delivery of such notice: (i) such Ineligible SwapClear Contract shall be deemed to be terminated at the time of the notification and shall thereafter have no force or effect; (ii) all Variation Margin (if any) paid by the Clearing House or by a Clearing Member in respect of such Ineligible SwapClear Contract shall be retained by the receiving party upon termination; (iii) where there is a difference between the value of the Ineligible SwapClear Contract as at the last margin run and the value (as determined by the Clearing House) of that Ineligible SwapClear Contract at the time when the Ineligible SwapClear Contract is set aside, a payment shall be made between the SwapClear Clearing Members to the original Ineligible SwapClear Transaction equal to such difference; and (iv) these payments shall be deemed to satisfy in full the relevant party’s obligations under the Ineligible SwapClear Contract and shall be retained by the receiving party upon termination as a termination payment.
- (h) Notwithstanding anything to the contrary in this Rulebook, the Clearing House may decline to register a SwapClear Transaction as a SwapClear Contract where it considers such action advisable for its own protection or the protection of the relevant market; provided, that the Clearing House may (subject to the provisions of the Rulebook) register any SwapClear Contract which reduces the risk exposure of the Clearing House and the applicable SwapClear Clearing Member, as determined in the discretion of the Clearing House. The Clearing House may, subject to paragraph (d) above and without assigning any reason, make the registration of any SwapClear Transaction subject to any conditions stipulated by the Clearing House including the furnishing of additional Margin by any SwapClear Clearing Member in whose name any such SwapClear Transaction is to be registered.
- (i) Any SwapClear Transaction of which details have been presented for registration and which are not so registered will be governed by the applicable terms or agreements among such relevant parties (including any applicable rules of an Approved Trade Source System), and the Clearing House shall have no obligations or liability in relation thereto.
- (j) If a SwapClear Transaction is revoked, avoided or otherwise declared invalid for any reason after particulars of it have been accepted by the Clearing House for registration, such revocation, avoidance or invalidity shall not affect any SwapClear

Contract arising under this Regulation 401 or any other applicable provision of the Rulebook.

- (k) In the case of a SwapClear Contract registered by the Clearing House pursuant to Regulation 202(i), the Registration Time shall be deemed to be the time chosen by the Clearing House whereupon this Regulation 401 shall take effect.
- (l) Compression Available to Clearing Members. Notwithstanding any other provision of these Regulations, if one or more SwapClear Contracts registered by a Clearing Member in accordance with the Rulebook has substantially the same Economic Terms as one or more other SwapClear Contracts previously registered for the account of such Clearing Member, and all such SwapClear Contracts are either registered on the Clearing Member's own behalf or registered on behalf of the same Client then, to the extent permitted in the Procedures, the Clearing Member may request that the Clearing House compress and combine all such SwapClear Contracts by terminating the relevant existing SwapClear Contracts and compressing them into one SwapClear Contract reflecting the aggregate economic terms, or the net economic terms, as the case may be, of the original SwapClear Contracts. Where neither of the SwapClear Contracts deriving from the registration of a SwapClear Transaction are held on behalf of a Client or an Affiliate (*i.e.*, both SwapClear Contracts are registered to the applicable Clearing Members' Proprietary Account but are not held on behalf of an Affiliate in either case), those SwapClear Contracts may not be compressed pursuant to this Regulation 401(l). For purposes of this Regulation 401(l), two or more SwapClear 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 fundamental economic attributes which influence the amount, value date and direction of all coupon cash flows. Two or more SwapClear Contracts that are compressed under the terms of this Regulation 401(l) shall be aggregated if the position of the Clearing Member (on its own behalf or on behalf of the relevant Client) is in the same direction on each such SwapClear Contract (*i.e.*, obligations to make payment aggregated and rights to receive payment aggregated), such that the SwapClear Contract that replaces the compressed SwapClear Contracts shall have a notional amount equal to the total notional amount of the compressed SwapClear Contracts. Two or more SwapClear Contracts that are compressed under the terms of this Regulation 401(l) shall be netted if the position of the Clearing Member (on its own behalf or on behalf of the relevant Client) is in the opposite direction on two or more of each such SwapClear Contracts (*i.e.*, obligations to make payment netted against rights to receive payment), such that the SwapClear Contract (if any) that replaces the compressed SwapClear Contracts shall have a notional amount equal to the net notional amount of the compressed SwapClear Contracts; provided, that in the event that the net notional amount is equal to zero such compression shall result in no replacement SwapClear Contracts. The Clearing House shall determine (in its sole discretion) whether SwapClear Contracts that are the subject of a request for compression from the Clearing Member may be compressed and, if such SwapClear Contracts are compressed, the Clearing House shall determine the resulting notional amount of the SwapClear Contract(s) (if any) that replaces the compressed SwapClear Contracts, and such determination shall be binding on the Clearing Member, absent manifest error. It is a condition for compression of SwapClear Contracts that the

amount of Margin that the Clearing House requires in respect of the original SwapClear Contracts is equal to that which is required by the Clearing House in respect of the replacement SwapClear Contract(s).

- (m) Unallocated SwapClear Transactions. In accordance with all other applicable provisions of the Rulebook, an FCM Clearing Member may register a SwapClear Contract subject to post-registration allocation on behalf of an Account Manager Executing Party in accordance with the following provisions:
- (i) A SwapClear Transaction executed by or on behalf of an Account Manager Executing Party and subject to post-registration allocation (such transaction, an “**Unallocated SwapClear Transaction**”) shall be notified to the Clearing House as such at the time it is submitted or presented to the Clearing House.
  - (ii) The SwapClear Contract registered on behalf of an Account Manager Executing Party that results from an Unallocated SwapClear Transaction (an “**Unallocated SwapClear Contract**”) shall be registered in a suspense sub-account of the applicable FCM Clearing Member’s Omnibus Client Swaps Account with LCH (such sub-account, the “**SwapClear Suspension Sub-Account**”).
  - (iii) Following registration of an Unallocated SwapClear Contract, the applicable FCM Clearing Member must notify the Clearing House (the “**Allocation Notice**”), prior to the close of the clearing of SwapClear Contracts on the Business Day in which the Unallocated SwapClear Contract was registered, of the applicable Client Sub-Accounts to which portions of the Unallocated SwapClear Contract should be allocated and the applicable portions of the Unallocated SwapClear Contract to be allocated to each such Client Sub-Account. The Allocation Notice must provide for the allocation of the full notional amount of the Unallocated SwapClear Contract. The Allocation Notice is delivered through Markitwire, the SwapClear API and/or such other means as may be approved by the Clearing House and notified to Clearing Members.
  - (iv) Following receipt of an Allocation Notice, the Clearing House shall
    - (A) close out the outstanding Unallocated SwapClear Contract and simultaneously register two or more (as applicable) SwapClear Contracts to the same SwapClear Suspension Sub-Account, which such newly registered SwapClear Contracts shall have the same Economic Terms as the Unallocated SwapClear Contract except that they shall have lower notional values corresponding to the allocation instructions provided in the Allocation Notice (which notional values shall, in the aggregate, equal the notional value of the Unallocated SwapClear Contract); and
    - (B) following the actions described in paragraph (A) above, transfer each of the newly registered SwapClear Contracts resulting from the cancellation of the Unallocated SwapClear Contract to the applicable Client Sub-Accounts in accordance with the Allocation Notice.

Where an Allocation Notice directs the entire notional amount of an Unallocated SwapClear Contract to be allocated to a single Client Sub-Account, then the Clearing House shall not take the steps described above in this paragraph (iv) and shall instead transfer the Unallocated SwapClear Contract to the applicable Client Sub-Account following receipt of the Allocation Notice. In no event can Unallocated SwapClear Contracts be further allocated once they are transferred from the SwapClear Suspension Sub-Account.

By delivering an Allocation Notice to the Clearing House, the FCM Clearing Member shall be deemed to have instructed the Clearing House to take the steps referred to in this paragraph (iv).

- (v) The allocation of Unallocated SwapClear Contracts as set forth above is subject to all other applicable provisions of the Rulebook, including the furnishing by the applicable FCM Clearing Member of adequate Margin, at or prior to the submission of the Allocating Notice, in respect of each of the applicable Client Sub-Accounts to which an Unallocated SwapClear Contract is to be allocated. If adequate Margin is not so furnished in respect of each such Client Sub-Account, the Clearing House may, in its sole discretion, delay the allocation and transfer of all or any portions of the Unallocated SwapClear Contract and may take any other actions permitted under the Rulebook.
- (vi) An FCM Clearing Member that submits and clears Unallocated SwapClear Transactions must comply with the applicable provisions of the CFTC Regulations (including CFTC Regulation 1.35 and CFTC Regulation 1.73) and all other applicable law, and shall be responsible for ensuring that Account Manager Executing Parties clearing through it shall be in compliance therewith. Upon an FCM Clearing Member executing an Unallocated SwapClear Transaction and upon delivering an Allocation Notice, such FCM Clearing Member is deemed to represent to the Clearing House that such transaction and allocation are in accordance with properly authorized instructions and are in compliance with applicable CFTC Regulations and other applicable law.



## **Regulation 402      Daily Calculation of NPV of SwapClear Contracts**

- (a) The Clearing House shall calculate the NPV of SwapClear Contracts in accordance with Regulation 107 and as set out in the Procedures.
- (b) The Clearing House shall, at least daily, receive payment from, or pay to, the Clearing Member the Variation Margin due, representing the change in the NPV of such Clearing Member's portfolio of SwapClear Contracts from the preceding Business Day, in accordance with this Regulation 402 and the Procedures.
- (c) Netting of Coupon Payments with respect to SwapClear Contracts. In respect of a portfolio of SwapClear Contracts and each payment date for Coupon Payments (in accordance with the Procedures), the Clearing House shall net:
  - (i) the sums which would otherwise have been payable by the Clearing Member to the Clearing House in respect of Variation Margin on such date and the Coupon Payments due on that date; and
  - (ii) the sums which would otherwise have been payable by the Clearing House to the Clearing Member in respect of Variation Margin on such date and the Coupon Payments due on that date,

and, if the aggregate amount that would otherwise have been payable by one party exceeds the aggregate amount that would otherwise have been payable by the other party then the obligations of each party under this Regulation 402 shall be automatically satisfied and discharged on payment by the applicable party of the excess.

All netting in respect of a portfolio of SwapClear Contracts shall be calculated separately in two net amounts, one with respect to all SwapClear Contracts held in a Clearing Member's Proprietary Account, and the other with respect to all SwapClear Contracts held on behalf of Clients.

**Regulation 403      The reset rate for, and the net present value of, a SwapClear Contract**

The Clearing House may determine the reset rate for, and the net present value of, a SwapClear Contract for the purposes of the Rulebook in such manner and at such times as may be prescribed in the Procedures. Except as prescribed in the Procedures, neither the reset rate nor the net present value determined by the Clearing House may in any circumstances be challenged.



**Regulation 404      Withdrawal of the SwapClear US Service by the Clearing House**

- (a) If at any time the Clearing House decides to withdraw the SwapClear US Service it shall give not less than six months' notice in accordance with the Procedures to all Clearing Members of the applicable Withdrawal Date. The accidental omission by the Clearing House to give notice under this Regulation 404 to, or the non-receipt of notice under this Regulation 404 by, one or more Clearing Members shall not invalidate the Withdrawal Date.
- (b) Without prejudice to its rights under the Default Regulations, the Clearing House will not, other than pursuant to action under the Default Regulations or pursuant to the entering of offsetting/compressing trades in accordance with Regulation 401(1), register a SwapClear Contract after notice to withdraw the applicable service(s) has been given under Regulation 404(a).
- (c) If, with respect to SwapClear Clearing Services, at the Withdrawal Date a Clearing Member has not closed out all of the applicable open SwapClear Contracts registered in its name, the Clearing House may, in its sole discretion:
  - (i) liquidate any or all of such SwapClear Contracts and require such SwapClear Contracts to be cash settled at a price determined by the Clearing House; or
  - (ii) postpone the Withdrawal Date until such time as the Clearing House determines.

## **Regulation 405      SwapClear Dealers**

- (a) Application for admission to the Register of SwapClear Dealers shall be made in accordance with the Rulebook. An applicant for admission to the Register of SwapClear Dealers must satisfy the criteria prescribed by the Clearing House from time to time in order to be admitted to the Register of SwapClear Dealers, as determined by the Clearing House in its sole discretion. A SwapClear Dealer shall be subject to, and governed by, the applicable provisions of the Rulebook and, if applicable, the SwapClear Dealer Clearing Agreement (or any other similar agreements) to which it is a party. The Clearing House will only permit a SwapClear Dealer to act in its SwapClear Dealer capacity with affiliated Clearing Members of such SwapClear Dealer.
- (b) A person admitted to the Register of SwapClear Dealers shall ensure that it will, at all times, satisfy the criteria prescribed by the Clearing House, from time to time, for admission to the Register of SwapClear Dealers.
- (c) The Clearing House may suspend or remove a SwapClear Dealer from the Register of SwapClear Dealers in accordance with these Regulations, the Procedures and, if applicable, the SwapClear Dealer Clearing Agreement to which it is for the time being party. Any person who has been suspended from the Register of SwapClear Dealers for a period of more than three months shall be removed from the Register of SwapClear Dealers and must make a new application if it wishes to be readmitted to the Register of SwapClear Dealers.
- (d) A SwapClear Dealer may request, by giving three months' written notice to the Clearing House, that its name be removed from the Register of SwapClear Dealers. At the end of such notice period (or at such earlier time as the Clearing House may determine in its sole discretion), the Clearing House shall remove the SwapClear Dealer from the Register of SwapClear Dealers.
- (e) A SwapClear Dealer's suspension or removal from the Register of SwapClear Dealers shall not, where such SwapClear Dealer is also a Clearing Member, in and of itself affect its Clearing Member status or its approvals to clear certain categories of Contracts.
- (f) A SwapClear Dealer that is also a Clearing Member shall automatically be removed from the Register of SwapClear Dealers upon the Clearing House serving it with a default notice in accordance with the Rulebook.
- (g) Without prejudice to paragraph (f) of this Regulation 405, the Clearing House shall suspend from the Register of SwapClear Dealers any Clearing Member whose Clearing Membership Agreement has been terminated or who is no longer eligible to have SwapClear Contracts registered in its name, and who is not, from the date of such termination or such ineligibility, party to a SwapClear Dealer Clearing Agreement with another Clearing Member, for such period as the Clearing House may determine.

## **Schedule 4A – SwapClear Contract Terms and Product Eligibility Criteria**

### **Part A**

#### **SwapClear Contract Terms**

The terms of a registered SwapClear Contract shall include these SwapClear Contract Terms which shall comprise:

- (1) Interpretation; and
- (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 Rulebook, the Clearing House will use the SwapClear Contract Terms applicable to a SwapClear Contract to calculate the amounts due under the SwapClear Contract to, or from, the Clearing House in accordance with the Procedures.

#### **1. Interpretation**

- 1.1 “ISDA 2000 Definitions” means the 2000 ISDA Definitions as published by the International Swaps and Derivatives Association, Inc. (“ISDA”), and the same are incorporated by reference herein and “ISDA 2006 Definitions” means the 2006 ISDA Definitions as published by ISDA, and the same are incorporated by reference herein.
- 1.2 Words and expressions used in these SwapClear Contract Terms which are not defined in the Rulebook but which are defined in the “ISDA 2000 Definitions” or the “ISDA 2006 Definitions” shall have the same meaning herein as in the ISDA 2000 Definitions or the ISDA 2006 Definitions as the case may be, unless expressly provided otherwise. For the avoidance of doubt where the SwapClear Contract identifies the ISDA 2000 Definitions as being applicable to that SwapClear Contract then those definitions will apply and where the SwapClear Contract identifies the ISDA 2006 Definitions as being applicable to that SwapClear Contract then those definitions will apply.
- 1.3 In the event of an inconsistency between the Rulebook and either the ISDA 2000 Definitions or the ISDA 2006 Definitions, the Rulebook will prevail.
- 1.4 References in the ISDA 2000 Definitions and the ISDA 2006 Definitions to a “Swap Transaction” shall be deemed to be references to a “SwapClear Transaction” for the purposes of SwapClear.
- 1.5 Except where expressly stated otherwise, all reference to “Articles” means Articles in the ISDA 2000 Definitions or the ISDA 2006 Definitions as the case may be as published by ISDA:

- (a) in relation to any amendments to either the ISDA 2000 Definitions and the ISDA 2006 Definitions, the Clearing House may from time to time, by notice delivered to the Clearing Members and the SwapClear Clearing Members, give directions as to whether such amendment shall apply to SwapClear Contracts with immediate effect or with such deferred effect as the Clearing House shall determine;
- (b) any such notice may provide that the amendment to the ISDA 2000 Definitions and the ISDA 2006 Definitions may take effect so as to apply to SwapClear Contracts registered in a Clearing Member's name at the time such amendment comes into effect if the Clearing House so determines; and
- (c) the accidental omission to give notice under this provision to, or the non-receipt of notice under this provision by, a Clearing Member or a SwapClear Clearing Member shall not invalidate the amendment with which the notice is concerned.

## **2. Economic Terms**

- 2.1 The Economic Terms of a SwapClear Contract shall be derived from the information presented to the Clearing House by the parties to the corresponding SwapClear Transaction in respect of the terms designated as Economic Terms in this Schedule.
- 2.2 It is part of the eligibility criteria for registration as a SwapClear Contract that the particulars of a SwapClear Transaction presented to the Clearing House must include matched information in respect of such designated Economic Terms, except that in respect of vanilla interest rate swaps with constant notional principal and variable notional swaps, the information described in either 2.3(i)(viii) or 2.3(i)(ix) below (but not both) must be provided.
- 2.3 The Economic Terms for vanilla interest rate swaps with constant notional principal and variable notional swaps comprise:
  - (a) Notional Amount (see Article 4.7) of the ISDA 2000 Definitions and Article 4.7 of the ISDA 2006 Definitions for definition) (for variable notional swaps, the Notional Amount can be set out in a Notional Amount Schedule<sup>1</sup>;
  - (b) Currency (see Article 1.7 of the ISDA 2000 Definitions and Article 1.7 of the ISDA 2006 Definitions for definition);
  - (c) Trade Date (see Article 3.7 of the ISDA 2000 Definitions and Article 3.7 of the ISDA 2006 Definitions for definition);
  - (d) Effective Date (see Article 3.2 of the ISDA 2000 Definitions and Article 3.2 of the ISDA 2006 Definitions for definition);

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<sup>1</sup> SwapClear will accept IRS, Basis or zero coupon swaps with a Notional Amount which for each payment calculation period may remain unchanged, increase or decrease relative to its previous value. The changes in notional can only take place at the calculation period start dates and must be pre-determined at the point of registration. The notional schedule will be applied at the start of the corresponding calculation period, adjusted (or unadjusted) with the calculation period calendar specified in the trade. Notional schedules need not be identical for the two legs of the trade.

- (e) Termination Date (see Article 3.3 of the ISDA 2000 Definitions and Article 3.3 of the ISDA 2006 Definitions for definition);
- (f) Additional Payments/Fees:
  - (i) the Payer of the Additional Payments/Fees (if any);
  - (ii) the amount of the Additional Payments/Fees (specify zero if none).
- (g) Business Days (see Article 1.4 of the ISDA 2000 Definitions and Article 1.4 of the ISDA 2006 Definitions for definition);
- (h) Business Day Convention (see Article 4.12 of the ISDA 2000 Definitions and Article 4.12 of the ISDA 2006 Definitions for definition);
- (i) Where Fixed Rate – Floating Rate Swap:
  - (i) Fixed Rate Payer (see Article 2.1 of the ISDA 2000 Definitions and Article 2.1 of the ISDA 2006 Definitions for definition);
  - (ii) Fixed Rate Payer Payment Dates;
  - (iii) Fixed Amount (see Article 4.4 of the ISDA 2000 Definitions and Article 4.4 of the ISDA 2006 Definitions for definition) [or Fixed Rate and Fixed Rate Day Count Fraction] [or Fixed Rate Payer Schedule]<sup>2</sup>;
  - (iv) Floating Rate Payer (see Article 2.2 of the ISDA 2000 Definitions and Article 2.2 of the ISDA 2006 Definitions for definition);
  - (v) Floating Rate Payer Payment Dates;
  - (vi) Floating Rate Payer compounding dates (if applicable);
  - (vii) Floating Amount (see Article 4.5 of the ISDA 2000 Definitions and Article 4.5 of the ISDA 2006 Definitions for definition);
  - (viii) Floating Rate Option (see Article 6.2(i) of the ISDA 2000 Definitions and Article 6.2(h) of the ISDA 2006 Definitions for definition);
 

**(Note:** The details of each such option are as provided in the Procedures).
  - (ix) Designated Maturity (see Article 7.3(b) and Article 7.3 (b) of the ISDA 2006 Definitions of the “Annex to the 2000 ISDA Definitions (June 2000 Version)” for definition);
  - (x) Spread (see Article 6.2(f) of the ISDA 2000 Definitions and Article 6.2 (e) of the ISDA 2006 Definitions for definition)<sup>3</sup>;

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<sup>2</sup> SwapClear will accept IRS, Basis or zero coupon variable notional swaps with a Fixed Rate on the fixed leg which for each calculation and/or compounding period may remain unchanged, increase or decrease relative to its previous value. The Fixed Rate must be greater than or equal to 0%.

- (xi) Reset Dates (see Article 6.2(b) of the ISDA 2000 Definitions and Article 6.2(b) of the ISDA 2006 Definitions for definition);
  - (xii) Floating Rate Day Count Fraction (see Article 6.2(g) of the ISDA 2000 Definitions and Article 6.2(f) of the ISDA 2006 Definitions for definition).
- (j) Where Floating Rate – Floating Rate Swap (“basis” swap):
- (i) Floating Rate Payer 1 (see Article 2.2 of the ISDA 2000 Definitions and Article 2.2 of the ISDA 2006 Definitions for definition):
    - (A) Floating Rate Payer Payment Dates;
    - (B) Floating Rate Payer compounding dates (if applicable);
    - (C) Floating Rate Option (see Article 6.2(i) of the ISDA 2000 Definitions and Article 6.2(h) of the ISDA 2006 Definitions for definition);

(Note: the details of each such option are as provided in the Procedures)
  - (ii) Designated Maturity (see Article 7.3(b) of the “Annex to the 2000 ISDA Definitions (June 2000 version)” and Article 7.3(b) of the ISDA 2006 Definitions for definition);
  - (iii) Spread (see Article 6.2(f) of the ISDA 2000 Definitions and Article 6.2(e) of the ISDA 2006 Definitions for definition)<sup>4</sup>;
  - (iv) Reset Dates (see Article 6.2(b) of the ISDA 2000 Definitions and Article 6.2(b) of the ISDA 2006 Definitions for definition);
  - (v) Floating Rate Day Count Fraction (see Article 6.2(g) of the ISDA 2000 Definitions and Article 6.2(f) of the ISDA 2006 Definitions for definition);
  - (vi) Floating Rate Payer 2 (see Article 2.2 of the ISDA 2000 Definitions and Article 2.2 of the ISDA 2006 Definitions for definition):
    - (A) Floating Rate Payer Payment Dates;

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<sup>3</sup> SwapClear will accept IRS, Basis or zero coupon variable notional swaps with a floating rate spread on the floating leg which for each calculation and/or compounding period may remain unchanged, increase or decrease relative to its previous value. The spread can be negative. Where such spread is variable it can be set out in a Spread schedule.

<sup>4</sup> SwapClear will accept IRS, Basis or zero coupon variable notional swaps with a floating rate spread on the floating leg which for each calculation and/or compounding period may remain unchanged, increase or decrease relative to its previous value. The spread can be negative. Where such spread is variable it can be set out in a Spread schedule.

- (B) Floating Rate Payer compounding dates (if applicable);
- (C) Floating Rate Option (see Article 6.2(i) of the ISDA 2000 Definitions and Article 6.2(h) of the ISDA 2006 Definitions for definition)

(Note: The details of each such option are as provided in the Procedures)

- (vii) Designated Maturity (see Article 7.3(b) of the “Annex to the 2000 ISDA Definitions (June 2000 version)” and Article 7.3(b) of the ISDA 2006 Definitions for definition);
- (viii) Spread (see Article 6.2(f) of the ISDA 2000 Definitions and Article 6.2(e) of the ISDA 2006 Definitions for definition)<sup>5</sup>;
- (ix) Reset Dates (see Article 6.2(b) of the ISDA 2000 Definitions and Article 6.2(b) of the ISDA 2006 Definitions for definition); and
- (x) Floating Rate Day Count Fraction (see Article 6.2(g) of the ISDA 2000 Definitions and Article 6.2(f) of the ISDA 2006 Definitions for definition).

**2.4 The Economic Terms for Forward Rate Agreements (using only the ISDA 2006 Definitions) comprise:**

- (a) Notional Amount (see Article 4.7 for definition);
- (b) Currency (see Article 1.7 for definition);
- (c) Trade Date (see Article 3.7 for definition);
- (d) Effective Date (see Article 3.2 for definition);
- (e) Termination Date (see Article 3.3 for definition);
- (f) Additional Payments/Fees:
  - (i) the Payer of the Additional Payments/Fees (if any);
  - (ii) the amount of the Additional Payments/Fees (specify zero if none).
- (g) Business Days (see Article 1.4 for definition);
- (h) Business Day Convention (see Article 4.12 for definition);
- (i) Fixed Rate Payer (see Article 2.1 for definition);

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<sup>5</sup> SwapClear will accept IRS, Basis or zero coupon variable notional swaps with a floating rate spread on the floating leg which for each calculation and/or compounding period may remain unchanged, increase or decrease relative to its previous value. The spread can be negative. Where such spread is variable it can be set out in a Spread schedule.

- (j) Fixed Rate Payer Payment Dates;
- (k) Fixed Rate;
- (l) Floating Rate Payer (see Article 2.2 for definition);
- (m) Floating Rate Payer Payment Dates;
- (n) Floating Rate Option (see Article 6.2(i) for definition);
- (o) Designated Maturity (see Article 7.3(b) for definition);
- (p) Spread (see Article 6.2(f) for definition);
- (q) Reset Dates (see Article 6.2(b) for definition);
- (r) Floating Rate Day Count Fraction (see Article 6.2(g) for definition);
- (s) FRA Discounting (see Article 8.4 (b) for definition);
- (t) Discount Rate (see Article 8.4. (c) for definition);
- (u) Discount Rate Day Count Fraction (see Article 8.4. (d) for definition); and
- (v) FRA Yield Discounting (see Article 8.4. (e) for definition).

In respect of forward rate agreements either (s) or (v) but not both should be selected.

## 2.5 Financial Centers

Detail of the relevant financial center/s must be provided using the appropriate Markitwire/FpML code as set out below:

<b>Financial Center</b>	<b>Markitwire/FpML</b>
Sydney	AUSY
Brussels	BEBR
Montreal	CAMO
Toronto	CATO
Geneva	CHGE
Zurich	CHZU
Prague	CZPR
Frankfurt	DEFR
Copenhagen	DKCO



<b>Financial Center</b>	<b>Markitwire/FpML</b>
Madrid	ESMA
Helsinki	FIHE
Paris	FRPA
London	GBLO
Hong Kong	HKHK
Budapest	HUBU
Milan	ITMI
Rome	ITRO
Tokyo	JPTO
Luxemburg	LULU
Amsterdam	NLAM
Oslo	NOOS
Auckland	NZAU
Wellington	NZWE
Stockholm	SEST
Chicago	USCH
Los Angeles	USLA
New York	USNY
Target/Euro	EUTA
Warsaw	PLWA
Singapore	SGSI
Johannesburg	ZAJO

### **3. Standard Terms**

The following terms are designated as Standard Terms of a registered SwapClear Contract:

#### **3.1 Business Days**

In addition to the Business Days for the financial centers specified in the Economic Terms, (such Business Days to be determined in accordance with the SwapsMonitor Financial Calendar) the Business Days specified in the calendar published by the Clearing House, from time to time, will apply to a SwapClear Contract.

### 3.2 **Negative Interest Rates**

The “Negative Interest Rate Method” as set out in Article 6.4(b) of the ISDA Definitions, will apply to a SwapClear Contract.

### 3.3 **Withholding and Stamp Tax Provisions**

- (a) All payments under a SwapClear Contract will be made without any deduction or withholding for or on account of any Tax unless such deduction or withholding is required by any applicable law, as modified by the practice of any relevant governmental revenue authority, then in effect. If the Clearing House or a Clearing Member is so required to deduct or withhold, then the Clearing House or the Clearing Member (“X”) will:
- i. promptly notify the recipient (“Y”) of such requirement;
  - ii. pay to the relevant authorities the full amount required to be deducted or withheld (in the case of a Clearing Member as X, including the full amount required to be deducted or withheld from any amount paid by the Clearing Member to the Clearing House under Section 3.3(b) and (c)) promptly upon the earlier of determining that such deduction or withholding is required or receiving notice that such amount has been assessed against Y;
  - iii. promptly forward to Y an official receipt (or a certified copy), or other documentation reasonably acceptable to Y, evidencing such payment to such authorities.
- (b) In the event that any payment made by a Clearing Member to the Clearing House under a SwapClear Contract is subject to deduction or withholding (either at the time of such payment or in the future) for or on account of any Tax (other than a Tax that would not have been imposed in respect of such payment but for a present or former connection between the jurisdiction of the government or taxation authority imposing such Tax and the Clearing House), then the Clearing Member shall pay to the Clearing House an amount (such amount, together with any additional amount paid pursuant to Section 3.3(g), the “**Additional Amount**”), in addition to the payment to which the Clearing House is otherwise entitled under the SwapClear Contract, necessary to ensure that the net amount actually received by the Clearing House (free and clear of any such deduction or withholding for or on account of any such Tax, whether assessed against the Clearing Member or the Clearing House), will equal the full amount the Clearing House would have received in the absence of any such deduction or withholding.

However, a Clearing Member will not be required to pay any Additional Amount to the Clearing House under this Section 3.3(b) to the extent that it would not be required to be paid but for (i) the failure by the Clearing House

to provide to the Clearing Member such forms and documents as required under Section 3.3(e), provided, that this clause (i) shall apply only if (A) the relevant Clearing Member has notified the Clearing House in writing of such failure and (B) the Clearing House has failed to provide such forms or documents within five Business Days after the receipt of such notice; or (ii) the failure of a representation made by the Clearing House pursuant to the representations that it is obligated to provide under Section 3.3(j) below to be accurate and true (unless the failure under this clause (ii) would not have occurred but for (A) any action taken by a taxing authority, or brought in a court of competent jurisdiction (regardless of whether such action is taken or brought with respect to the relevant party) or (B) a Change in Tax Law, that in each case occurs after the Clearing House and the Clearing Member provide the representations that they are obligated to provide pursuant to Section 3.3(j) (or, if applicable, the date that the Clearing House and the Clearing Member amend such representations to account for such Change in Tax Law (as defined below)) or a failure by the Clearing House to provide the representations that it is obligated to provide pursuant to Section 3.3(j).

In the event that the failure under clause (ii) of the preceding paragraph would not have occurred but for the reasons described under subclause (A) or (B) thereof, the Clearing House shall use commercially reasonable efforts to provide to the Clearing Member a new representation (to the extent that it is appropriate) for the purpose of the representations that it is obligated to provide pursuant to Section 3.3(j), promptly after the learning of such failure (so long as the provision of such representation would not materially prejudice the legal or commercial position of the Clearing House).

For the purpose of this Section 3.3(b), “**Change in Tax Law**” means the enactment, promulgation, execution or ratification of, or any change in or amendment to, any law (or in the application or official interpretation of any law).

- (c) If: (i) a Clearing Member is required by any applicable law, as modified by the practice of any relevant governmental revenue authority, to make any deduction or withholding from any payment made to the Clearing House under a SwapClear Contract for or on account of any Tax, in respect of which the Clearing Member would be required to pay an Additional Amount to the Clearing House under Section 3.3(b); (ii) the Clearing Member does not so deduct or withhold; and (iii) a liability resulting from such Tax is assessed directly against the Clearing House, then, except to the extent the Clearing Member has satisfied or then satisfies the liability resulting from such Tax, the Clearing Member will promptly pay to the Clearing House the amount of such liability (including any related liability for interest, penalties and costs, and any Taxes imposed on such amounts).
- (d) If: (i) the Clearing House is required by any applicable law, as modified by the practice of any relevant governmental revenue authority, to make any deduction or withholding from any payment made to a Clearing Member under a SwapClear Contract for or on account of any Tax; (ii) the Clearing House does not so deduct or withhold; and (iii) a liability resulting from such Tax is assessed directly against the Clearing House, then, except to the extent

the Clearing Member has satisfied or then satisfies the liability resulting from such Tax, the Clearing Member will promptly pay to the Clearing House the amount of such liability (including any related liability for interest, penalties and costs, and any Taxes imposed on such amounts).

- (e) The Clearing House shall provide to each Clearing Member (i) an Internal Revenue Service Form W-9, (ii) the tax forms and documents specified in Section 3.3(j) and Section 1.4.1(c) of the Procedures and (iii) any other form or document reasonably requested in writing by the Clearing Member in order to allow the Clearing Member to make a payment under a SwapClear Contract without deduction or withholding for or on account of any Tax or with such deduction or withholding at a reduced rate (so long as the completion, execution or submission of such form or document as described in clauses (ii) and (iii) of this paragraph would not materially prejudice the legal or commercial position of the Clearing House).
- (f) The Clearing House shall request from each Clearing Member: (i) the tax forms and documents specified in Section 3.3(j) and Section 1.4.1(c) of the Procedures and (ii) any other form or document reasonably requested in order to allow the Clearing House to make a payment under a SwapClear Contract without deduction or withholding for or on account of any Tax or with such deduction or withholding at a reduced rate. For the avoidance of doubt, in the event that any payment made by the Clearing House to a Clearing Member under a SwapClear Contract is subject to deduction or withholding (either at the time of such payment or in the future) for or on account of any Tax, the Clearing House is not required to pay any additional amount in respect of such deduction or withholding. The Clearing House will, at the Clearing Member's expense, use commercially reasonable efforts to cooperate with such Clearing Member to seek any credit or remission or other relief available with respect to any such Tax so deducted or withheld (so long as such cooperation would not, in the Clearing House's judgment, materially prejudice the legal or commercial position of the Clearing House).
- (g) Each Clearing Member shall pay any stamp, registration, documentation, excise, sales or value added Tax or any other similar Tax levied or imposed upon it or in respect of its execution or performance of any agreement, contract or transaction in connection with a SwapClear Contract and shall indemnify the Clearing House against any such stamp, registration, documentation, excise, sales or value added Tax (to the extent that the Clearing House is not able, in the Clearing House's commercially reasonable judgment, to reclaim or recover such value added Tax) or any other similar Tax levied or imposed upon the Clearing House or in respect of the Clearing House's execution or performance of any agreement, contract or transaction in connection with the Rulebook. Any payment required to be made by a Clearing Member to the Clearing House under this Section 3.3(g) shall include an additional amount equal to any Tax levied or imposed on the Clearing House as a result of the receipt of any payment under this Section 3.3(g).
- (h) Each Clearing Member shall promptly notify the Clearing House in writing upon learning that any payment made by the Clearing House to the Clearing Member or by the Clearing Member to the Clearing House under a SwapClear

Contract is subject to any Tax, other than any Tax imposed or levied based on the net income of the Clearing Member or the Clearing House, as applicable.

- (i) Clearing Members shall not have any termination or other special rights in respect of a SwapClear Contract as a result of the occurrence of adverse Tax consequences, whether relating to a Change in Tax Law or otherwise.
- (j) To the extent the Clearing House is entitled to an exemption from, or reduction of, any applicable Tax on account of which a Clearing Member would otherwise be required to pay an Additional Amount under Section 3.3(b), the Clearing House shall provide such representations and documentation as are required and requested by each Clearing Member to perfect the exemption from, or reduction of, such Tax.

### **3.4 Payments under a SwapClear Contract**

Payments under, and in respect of, a SwapClear Contract shall be calculated by the Clearing House and shall be made by, or to, the Clearing Member in accordance with the provisions of the Procedures.

### **3.5 Regulations**

A SwapClear Contract shall be subject to the Rulebook, which shall form a part of its terms. In the event of any inconsistency between these SwapClear Contract Terms and the Rulebook, the Rulebook will prevail.

### **3.6 Governing Law**

Each SwapClear Contract shall be governed by and construed in accordance with the laws of the State of New York in the United States of America without regard to principles of conflicts of law and the parties hereby irrevocably agree for the benefit of the Clearing House that (i) the courts of the State of New York, Borough of Manhattan in the United States of America, (ii) the United States District Court for the Southern District of New York, or (iii) the courts of England and Wales shall have exclusive jurisdiction to hear and determine any action or dispute which may arise herefrom. The 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 exclusive jurisdiction of the courts of the State of New York, Borough of Manhattan in the United States of America, the United States District Court for the Southern District of New York or 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.

### **3.7 Third Party Rights**

A person who is not a party to this SwapClear Contract shall have no rights under or in respect of it. Rights of third parties to enforce any terms of this SwapClear Contract are expressly excluded.

## Part B

### Product Eligibility Criteria for Registration of a SwapClear Contract

#### 1. SwapClear Transaction

Without prejudice to the Rulebook, the Clearing House will only register a SwapClear Contract pursuant to receipt of particulars of a transaction where at the time of the particulars being presented:

- (a) the transaction meets the SwapClear Product Eligibility Criteria as a SwapClear Transaction; and
- (b) each party to the transaction is an Executing Party;

and the requirements of (a) and (b) continue to be satisfied at Registration Time.

#### 1.1 SwapClear Product Eligibility Criteria for a SwapClear Transaction

- (a) Vanilla interest rate swaps with constant notional principal having the characteristics set out in the table below;

Instrument	Acceptable Currencies	Acceptable Indices <sup>6</sup>	Types		Maximum Residual Term	Notional Amount (Min-Max of the relevant currency unit)
Vanilla interest rate swaps with constant notional principal	Sterling (GBP)	GBP-LIBOR-BBA	Fixed	Single currency	18,275 days	0.01-
			vs. Floating			
	US Dollar (USD)	USD-LIBOR-BBA	Fixed	Single currency	18,275 days	0.01-
			vs. Floating			
		See Article 7.1w (vii) for definition	Floating vs. Floating		99,999,999,999.99	
		See Article 7.1(ab) (xxii) for definition	Floating vs. Floating		99,999,999,999.99	

<sup>6</sup> References in this column are to the 2006 ISDA Definitions.

<b>Instrument</b>	<b>Acceptable Currencies</b>	<b>Acceptable Indices<sup>6</sup></b>	<b>Types</b>		<b>Maximum Residual Term</b>	<b>Notional Amount (Min-Max of the relevant currency unit)</b>
		USD-Federal Funds H.15-OIS-COMPOUND	Fixed vs. Floating	Single currency	10,970 days	
		See Article 7.1(ab)(xxxix) for definition				
	Euro (EUR)	EUR-LIBOR-BBA	Fixed vs. Floating	Single currency	18,275 days	0.01-
		See Article 7.1(f)(vii) for definition	Floating vs. Floating			99,999,999,999.99
		EUR-EURIBOR-Telerate				
		See Article 7.1(f)(ii) for definition				
		EUR-EONIA-OIS-COMPOUND	Fixed vs. Floating		10,970 days	
		See Article 7.1(f)(viii) for definition				
	Australian Dollar (AUD)	AUD-BBR-BBSW	Fixed vs. Floating	Single currency	10,970 days	0.01-99,999,999,999.99
		See Article 7.1(a)(iv) for definition	Floating vs. Floating			
Vanilla interest rate swaps with constant		AUD-LIBOR-BBA				

<b>Instrument</b>	<b>Acceptable Currencies</b>	<b>Acceptable Indices<sup>6</sup></b>	<b>Types</b>		<b>Maximum Residual Term</b>	<b>Notional Amount (Min-Max of the relevant currency unit)</b>
notional principal		See Article 7.1(a) (viii) for definition				
	Canadian Dollar (CAD)	CAD-BA-CDOR	Fixed vs. Floating	Single currency	10,970 days	0.01-99,999,999,999.99
		See Article 7.1(b) (ii) for definition	Floating vs. Floating			
		CAD-LIBOR-BBA				
		See Article 7.1(b) (viii) for definition				
		CAD-CORRA-OIS-COMPOUND	Floating vs. Floating	Single currency	736 days	0.01-99,999,999,999.99
		See Article 7.1(b) (xii) for definition				
	Czech Koruna (CZK)	CZK-PRIBOR-PRBO	FIXED vs. FLOAT	Single currency	3670 days	0.01-99,999,999,999.99
		See Article 7.1r(i) for definition	FLOAT vs. FLOAT			
	Danish Krone (DKK)	DKK-CIBOR-DKNA13	Fixed vs. Floating	Single currency	3670 days	0.01-99,999,999,999.99
		See Article 7.1(e) (i) for definition	Floating vs. Floating			



<b>Instrument</b>	<b>Acceptable Currencies</b>	<b>Acceptable Indices<sup>6</sup></b>	<b>Types</b>		<b>Maximum Residual Term</b>	<b>Notional Amount (Min-Max of the relevant currency unit)</b>
		DKK-CIBOR2-DKNA13				
		See Article 7.1(e) (ii) for definition				
	Hong Kong Dollar (HKD)	HKD-HIBOR-HIBOR=	Fixed vs. Floating	Single currency	3670 days	0.01-99,999,999,999.99
		See Article 7.1(g) (ii) for definition	Floating vs. Floating			
		HKD-HIBOR-HKAB				
		See Article 7.1(g) (iii) for definition				
		HKD-HIBOR-ISDC				
		See Article 7.1(g) (i) for definition				
	Hungarian Forint (HUF)	HUF-BUBOR-Reuters	FIXED vs. FLOAT	Single currency	3670 days	1-10,000,000,000,000
		See Article 7.1r(i) for definition	FLOAT vs. FLOAT			
	Japanese Yen (JPY)	JPY-LIBOR-BBA	Fixed vs. Floating	Single currency	14620 days	1-10,000,000,000,000
		See Article 7.1(l) (iv) for definition	Floating vs. Floating			

<b>Instrument</b>	<b>Acceptable Currencies</b>	<b>Acceptable Indices<sup>6</sup></b>	<b>Types</b>		<b>Maximum Residual Term</b>	<b>Notional Amount (Min-Max of the relevant currency unit)</b>
	New Zealand Dollar (NZD)	NZD-BBR-Telerate	Fixed vs. Floating	Single currency	5495 days	0.01-99,999,999,999.99
		See Article 7.1(p) (iii) for definition	Floating vs. Floating			
	Norwegian Krone (NOK)	NOK-NIBOR-NIBR	Fixed vs. Floating	Single currency	3670 days	0.01-99,999,999,999.99
		See Article 7.1(q) (i) for definition	Floating vs. Floating			
	Singapore Dollar (SGD)	SGD-SOR-Reuters	FIXED vs. FLOAT	Single currency	3670 days	0.01-99,999,999,999.99
		See Article 7.1(t) (iii) for definition	Floating vs. Floating			
		SGD-SOR-VWAP	FIXED vs. FLOAT	Single currency	3670 days	0.01-99,999,999,999.99
		See Procedure 2C.7.12.1(v) for definition	Floating vs. Floating			
	Swedish Krona (SEK)	SEK-STIBOR-SIDE	Fixed vs. Floating	Single currency	10,970 days	0.01-99,999,999,999.99
		See Article 7.1(x) (i) for definition	Floating vs. Floating			
	Swiss Franc (CHF)	CHF-LIBOR-BBA	Fixed vs. Floating	Single currency	10,970 days	0.01-99,999,999,999.99
		See Article 7.1(y) (ii) for				

<b>Instrument</b>	<b>Acceptable Currencies</b>	<b>Acceptable Indices<sup>6</sup></b>	<b>Types</b>		<b>Maximum Residual Term</b>	<b>Notional Amount (Min-Max of the relevant currency unit)</b>
		definition				
		CHF- TOIS_OIS_ COMPOUND	Fixed vs. Floating	Single currency	736 days	
		See Article 7.1(y) (iv) for definition	Floating vs. Floating			
	Polish Zloty (PLN)	PLN	FIXED vs. FLOAT	Single currency	3670 days	0.01- 99,999,999,999.99
		WIBOR- WIBO				
		See Article 7.1r (i) for definition	FLOAT vs. FLOAT			
	South African Rand (ZAR)	ZAR	FIXED vs. FLOAT	Single currency	3670 days	0.01- 99,999,999,999.99
		JIBAR- SAFEX				
		See Article 7.1v (i) for definition	FLOAT vs. FLOAT			

(b) Variable notional swaps having the characteristics set out in the table below;

<b>Instrument</b>	<b>Acceptable Currencies</b>	<b>Acceptable Rate Options (as further set out in Article 7.1 of the 2000 ISDA Definitions and Article 7.1 of the 2006 ISDA Definitions)</b>	<b>Types</b>	<b>Single currency</b>	<b>Maximum Residual Term</b>	<b>Notional Amount (Min - Max of the relevant currency unit)</b>
Variable Notional Swap	USD	USD-LIBOR-BBA	Interest Rate Swap	Single currency	18,275 Days	
Variable Notional Swap	USD	USD-LIBOR-BBA	Basis Swap	Single currency	18,275 Days	
Variable Notional Swap	USD	USD-LIBOR-BBA	Zero Coupon Swap	Single currency	18,275 Days	
Variable Notional Swap	EUR	EUR-LIBOR-BBA	Interest Rate Swap	Single currency	18,275 Days	
Variable Notional Swap	EUR	EUR-LIBOR-BBA	Basis Swap	Single currency	18,275 Days	
Variable Notional Swap	EUR	EUR-LIBOR-BBA	Zero Coupon Swap	Single currency	18,275 Days	
Variable Notional Swap	EUR	EUR-EURIBOR-REUTERS	Interest Rate Swap	Single currency	18,275 Days	
Variable Notional Swap	EUR	EUR-EURIBOR-REUTERS	Basis Swap	Single currency	18,275 Days	
Variable Notional Swap	EUR	EUR-EURIBOR-REUTERS	Zero Coupon Swap	Single currency	18,275 Days	
Variable Notional Swap	GBP	GBP-LIBOR-BBA	Interest Rate Swap	Single currency	18,275 Days	

<b>Instrument</b>	<b>Acceptable Currencies</b>	<b>Acceptable Rate Options (as further set out in Article 7.1 of the 2000 ISDA Definitions and Article 7.1 of the 2006 ISDA Definitions)</b>	<b>Types</b>	<b>Single currency</b>	<b>Maximum Residual Term</b>	<b>Notional Amount (Min - Max of the relevant currency unit)</b>
Variable Notional Swap	GBP	GBP-LIBOR- BBA	Basis Swap	Single currency	18,275 Days	
Variable Notional Swap	GBP	GBP-LIBOR- BBA	Zero Coupon Swap	Single currency	18,275 Days	

(c) Forward rate agreements having the characteristics set out in the table below;

Instrument	Acceptable Currencies	Acceptable Rate Options (as further set out in Section 7.1 of the 2006 ISDA Definitions)	Types	Single currency	Maximum Residual Term	Notional Amount (Min - Max of the relevant currency unit)	FRA Tenors	Minimum and Maximum FRA Terms (Days)
Forward Rate Agreement	AUD	AUD-BBR-BBSW	Fixed v floating	Single currency	740 days		1m, 2m, 3m, 4m, 5m, 6m	Min 25 Max 190
Forward Rate Agreement	AUD	AUD-LIBOR-BBA	Fixed v floating	Single currency	740 days		1m, 2m, 3m, 4m, 5m, 6m, 7m, 8m, 9m, 10m, 11m, 1y	Min 25 Max 375
Forward Rate Agreement	CAD	CAD-BA-CDOR	Fixed v floating	Single currency	740 days		1m, 2m, 3m, 6m, 1y	Min 25 Max 375
Forward Rate Agreement	CAD	CAD-LIBOR-BBA	Fixed v floating	Single currency	740 days		1w, 2w, 1m, 2m, 3m, 4m, 5m, 6m, 7m, 8m, 9m, 10m, 11m, 1y	Min 3 Max 375
Forward Rate Agreement	CHF	CHF-LIBOR-BBA	Fixed v floating	Single currency	740 days		1w, 2w, 1m, 2m, 3m, 4m, 5m, 6m, 7m, 8m, 9m, 10m, 11m, 1y	Min 3 Max 375

Instrument	Acceptable Currencies	Acceptable Rate Options (as further set out in Section 7.1 of the 2006 ISDA Definitions)	Types	Single currency	Maximum Residual Term	Notional Amount (Min - Max of the relevant currency unit)	FRA Tenors	Minimum and Maximum FRA Terms (Days)
Forward Rate Agreement	CZK	CZK-PIBOR-PRBO	Fixed v floating	Single currency	740 days		1w, 2w, 1m, 2m, 3m, 6m, 9m, 1y	Min 3 Max 375
Forward Rate Agreement	DKK	DKK-CIBOR2-DKNA13	Fixed v floating	Single currency	740 days		1w, 1m, 2m, 3m, 4m, 5m, 6m, 9m, 1y	Min 3 Max 375
Forward Rate Agreement	EUR	EUR-LIBOR-BBA	Fixed v floating	Single currency	1105 days		1w, 2w, 1m, 2m, 3m, 4m, 5m, 6m, 7m, 8m, 9m, 10m, 11m, 1y	Min 3 Max 375
Forward Rate Agreement	EUR	EUR-EURIBOR-REUTERS	Fixed v floating	Single currency	1105 days		1w, 2w, 1m, 2m, 3m, 6m, 9m, 1y	Min 3 Max 375
Forward Rate Agreement	GBP	GBP-LIBOR-BBA	Fixed v floating	Single Currency	1105 days		1w, 2w, 1m, 2m, 3m, 4m, 5m, 6m, 7m, 8m, 9m, 10m, 11m, 1y	Min 3 Max 375

Instrument	Acceptable Currencies	Acceptable Rate Options (as further set out in Section 7.1 of the 2006 ISDA Definitions)	Types	Single currency	Maximum Residual Term	Notional Amount (Min - Max of the relevant currency unit)	FRA Tenors	Minimum and Maximum FRA Terms (Days)
Forward Rate Agreement	HUF	HUF-BUBOR-REUTERS	Fixed v floating	Single currency	740 days		1w, 2w, 1m, 2m, 3m, 4m, 5m, 6m, 7m, 8m, 9m, 10m, 11m, 1y	Min 3 Max 375
Forward Rate Agreement	JPY	JPY-LIBOR-BBA	Fixed v floating	Single currency	1105 days		1w, 2w, 1m, 2m, 3m, 4m, 5m, 6m, 7m, 8m, 9m, 10m, 11m, 1y	Min 3 Max 375
Forward Rate Agreement	NOK	NOK-NIBOR-NIBR	Fixed v floating	Single currency	740 days		1w, 1m, 2m, 3m, 4m, 5m, 6m, 7m, 8m, 9m, 10m, 11m, 1y	Min 3 Max 375
Forward Rate Agreement	NZD	NZD-BBR-FRA	Fixed v floating	Single currency	740 days		1m, 2m, 3m, 4m, 5m, 6m,	Min 25 Max 190
Forward Rate Agreement	PLN	PLN – WIBOR_W IBO	Fixed v floating	Single currency	740 days		1w, 2w, 1m, 3m, 6m, 9m,	Min 3 Max 375



Instrument	Acceptable Currencies	Acceptable Rate Options (as further set out in Section 7.1 of the 2006 ISDA Definitions)	Types	Single currency	Maximum Residual Term	Notional Amount (Min - Max of the relevant currency unit)	FRA Tenors	Minimum and Maximum FRA Terms (Days)
Forward Rate Agreement	SEK	SEK-STIBOR-SIDE	Fixed v floating	Single currency	740 days		1y 1w, 1m, 2m, 3m, 6m, 9m, 1y	Min 3 Max 375
Forward Rate Agreement	USD	USD-LIBOR-BBA	Fixed v floating	Single currency	1105 days		1w, 2w, 1m, 2m, 3m, 4m, 5m, 6m, 7m, 8m, 9m, 10m, 11m, 1y	Min 3 Max 375
Forward Rate Agreement	ZAR	ZAR-JIBAR-SAFEX	Fixed v floating	Single currency	740 days		1m, 3m, 6m, 9m, 1y	Min 3 Max 375

## 2. Additional SwapClear Product Eligibility Criteria

2.1 A contract must also meet the following additional criteria to be eligible as a SwapClear Transaction:

(a) Day Count Fractions

(See Article 4.16 of the “Annex to 2000 ISDA Definitions (June 2000 Version)”, and Article 4.16 of the ISDA 2006 Definitions for definition)

- (i) The Clearing House will only accept the following day count fractions for vanilla interest rate swaps with constant notional principal and variable notional swaps. Day Count Fractions are applied to each deal leg independently, as communicated via the affirmed MarkitWire trade detail:

### Day Count Fractions using the ISDA 2000 Definitions

Day Count Fraction	MarkitWire/FpML Code
30/360 (or Bond Basis)	30/360
30E/360 (or Eurobond Basis)	30E/360
Actual/360	ACT/360
Actual/365 (Fixed)	ACT/365.FIXED
Actual/365 (or Actual/Actual)	ACT/365.ISDA
Actual/Actual (ISMA)	ACT/ACT.ISMA

### Day Count Fractions using the ISDA 2006 Definitions:

Day Count Fraction	MarkitWire/FpML Code
30/360 (or Bond Basis)	30/360
30E/360 (or Eurobond Basis)	30E/360
Actual/360	ACT/360
Actual/365 (Fixed)	ACT/365.FIXED
Actual/Actual	ACT/ACT.ISDA
30E/360 (ISDA)	30E/360.ISDA
Actual/Actual (ICMA)	ACT/ACT.ICMA

- (ii) The Clearing House will only accept the following Day Count Fractions for Forward Rate Agreements Day Count Fractions are applied to each deal leg independently, as communicated via the affirmed MarkitWire trade detail:

**Day Count Fractions using the ISDA 2006 Definitions:**

<b>Day Count Fraction</b>	<b>MarkitWire/FpML Code</b>	<b>Currency</b>
Actual/365 (Fixed)	ACT/365.FIXED	CAD, AUD, NZD, PLN, ZAR, GBP
Actual/360	ACT/360	USD, EUR, CHF, DKK, JPY, NOK, SEK, CZK, HUF

<b>Fraction</b>	<b>SWIFT Code</b>
Actual/365, Actual/Actual <i>(See Article 4.16(b) for definition)</i>	ACT/365
Actual/365 (Fixed) <i>(See Article 4.16(c) for definition)</i>	AFI/365
Actual/360 <i>(See Article 4.16(d) for definition)</i>	ACT/360
30/360, 360/360, Bond Basis <i>(See Article 4.16(e) for definition)</i>	360/360
30E/360 <i>(See Article 4.16(f) for definition)</i>	30E/360

(b) Business Day Conventions

The Business Day Convention specified in the Economic Terms must be one of the following:

Following (see Article 4.12(i) of the ISDA 2000 Definitions and Article 4.12(i) of the ISDA 2006 Definitions for definition)

Modified Following (see Article 4.12(ii) of the ISDA 2000 Definitions and Article 4.12(ii) of the ISDA 2006 Definitions for definition)

Preceding (see Article 4.12(iii) of the ISDA 2000 Definitions and Article 4.12(iii) of the ISDA 2006 Definitions for definition)

For vanilla interest rate swaps with constant notional principal SwapClear does not support trades where a different business day convention is used for:

- (i) fixed period end dates and the termination date

(ii) float period end dates and the termination date

(c) Minimum and Maximum Residual Term of the Trade (Termination date – Today)

Trades in respect of vanilla interest rate swaps with constant notional principal and variable notional swaps are subject to a minimum and maximum Residual Term on the day they are received by SwapClear.

Minimum Residual Term of trade:

Termination date - Today  $\geq 1$  + currency settlement lag

where currency settlement lag is:

1 day for EUR, USD, GBP and CAD denominated trades

2 days for JPY, CHF, AUD, DKK, HKD, NZD, SEK, NOK, PLN, ZAR, SAD, HUF & CZK denominated trades

Maximum Residual Term of trade:

Termination date – Today  $\leq 3,670$  days for DKK, HKD, NZD, NOK, PLN, ZAR, SAD, HUF & CZK (10 years)

Termination date – Today  $\leq 10,970$  days for AUD, CAD, CHF & SEK (30 years)

Termination date – Today  $\leq 14,620$  days for JPY (40 years)

Termination date – Today  $\leq 18,275$  days for GBP, EUR & USD (50 years)

Maximum Residual Term to Maturity for Forward Rate Agreements

The maximum residual term to maturity for forward rate agreements is as follows:

Currency	Maximum Residual Term to Maturity
EUR, JPY, USD, GBP	1105 days (3 years)
AUD, CAD, CHF, DKK, NOK, NZD, PLN, SEK, ZAR, CZK, HUF	740 days (2 years)

(d) Designated Maturity

The Designated Maturity must be no less than one month and no more than twelve months. The Clearing House will, excepting stub periods, only accept a Designated Maturity that is a whole calendar month.

(e) Calculation Periods

(See Article 4.13 of the ISDA 2000 Definitions and Article 4.13 of the ISDA 2006 Definitions for definition.)

The Clearing House will only accept non-standard Calculation Periods (“stub periods”) at the start and/or the end of a contract.

For variable notional swaps the stub rate should be detailed either as a percentage (i.e. 5.5%), an interpolation (i.e. 1 month/3 months) or as a designated maturity (i.e. 1 month). Stub Rates within the Final Stub are calculated via interpolation or as a designated maturity.

For interpolated coupons, payment dates must fall between the rolled dates, according to the Modified Following business day convention, of the specified designated maturities. Where this does not occur and extrapolation would be required, SwapClear will reject the trade.

The minimum stub period of a variable notional swap accepted by SwapClear is 1 + Currency Settlement Lag. The minimum stub rate tenor must be  $\geq$  1 week for IRS and basis swap and  $\geq$  1 month for zero coupon swaps.

SwapClear also calculates floating periods subject to ‘IMM settlement dates as per ISDA definitions.

(f) Up-Front Fees – Eligibility of SwapClear Transactions

Any up-front fees due under a SwapClear Transaction will form part of the first variation margin payment made in connection with such SwapClear Transaction.

SwapClear Transactions with respect to which a Client or an Affiliate is an Executing Party and which are denominated in a One-Day Currency where the up-front fee is due to settle on the day of registration are not eligible for clearing.

SwapClear Transactions with respect to which a Client or an Affiliate is an Executing Party and which are denominated in a Two-Day Currency where the up-front fee is due to settle on the day of registration, or the day following registration, are not eligible for clearing.

For the purposes of this paragraph (f):

“One-Day Currency” means GBP, USD, CAD or EUR.

“Two-Day Currency” means any other eligible currency.