

VIA CFTC PORTAL

11 September 2017

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

### **LCH Limited Self Certification: Tax Evasion Warranty from Clearing Members**

Dear Mr Kirkpatrick

Pursuant to CFTC regulation §40.6(a), LCH Limited (“LCH”), a derivatives clearing organization registered with the Commodity Futures Trading Commission (the “CFTC”), is submitting for self-certification changes to its rules to ensure compliance with the UK’s new corporate criminal offence of failure to prevent the facilitation of tax evasion.

#### **Part I: Explanation and Analysis**

The new legislation aims to identify who should be liable for tax evasion and facilitation of tax-related crimes, under the UK Criminal Finances Act 2017. In order to protect LCH from becoming liable for the actions of its Clearing Members, LCH proposes to change its rule so that Clearing Members must:

- i) Warrant they will not undertake any activities that would amount to, or facilitate, tax evasion and shall maintain reasonable procedures to prevent employees and agents from engaging in such activities; and
- ii) Notify LCH of apparent breaches of this warranty along with information requested by LCH related to the Clearing Member’s compliance therewith.

The rule changes will go live on, or after, September 26, 2017.

#### **Part II: Description of Rule Changes**

A new paragraph (e) has been added to Regulation 48 (General Regulations) and Regulation 40 (FCM Regulations) to include the new obligations of Clearing Members towards LCH, as noted above, in the context of prevention of tax evasion.

The text of the changes to the General Regulations and the FCM Regulations are attached hereto as **Appendix I** and **Appendix II** respectively.

### Part III: Core Principle Compliance

LCH has reviewed the changes against the requirements of the Core Principles and finds that they will continue to comply with all the requirements and standards therein.

### Part IV: Public Information

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

<http://www.lch.com/rules-regulations/proposed-rules-changes>

### Part V: Opposing Views

There were no opposing views expressed to LCH by governing board or committee members, members of LCH.Clearnet or market participants that were not incorporated into the rule.

### Certification

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

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

Yours sincerely



Julian Oliver  
Chief Compliance Officer  
LCH Limited

**Appendix I**  
**General Regulations**



**GENERAL REGULATIONS OF  
LCH LIMITED**

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**REGULATION 48 INTERPRETATION OF THESE REGULATIONS;  
APPLICABLE LAW**

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

Appendix II  
FCM Regulations



**FCM REGULATIONS OF THE CLEARING HOUSE**

**LCH LIMITED**

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**REGULATION 40 INTERPRETATION OF THESE FCM REGULATIONS;  
APPLICABLE LAW**

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