

SUBMISSION COVER SHEET

Registered Entity Identifier Code (optional) LCH

Date: Dec 20, 2011

IMPORTANT: CHECK BOX IF CONFIDENTIAL TREATMENT IS REQUESTED.

ORGANIZATION | LCH.Clearnet Limited

FILING AS A: DCM SEF DCO SDR ECM/SPDC

TYPE OF FILING

- **Rules and Rule Amendments**

- Certification under § 40.6 (a) or § 41.24 (a)
- "Non-Material Agricultural Rule Change" under § 40.4 (b)(5)
- Notification under § 40.6 (d)
- Request for Approval under § 40.4 (a) or § 40.5 (a)
- Advance Notice of SIDCO Rule Change under § 40.10 (a)

- **Products**

- Certification under § 39.5(b), § 40.2 (a), or § 41.23 (a)
- Swap Class Certification under § 40.2 (d)
- Request for Approval under § 40.3 (a)
- Novel Derivative Product Notification under § 40.12 (a)

RULE NUMBERS

General Regulation - New Regulation 4A

Clearing House Procedures - New rule Section 8, amended rules Sections 11.2, 11.3, 11.4, 11.5
Appendix 11A and Appendix 11B

DESCRIPTION

Introduction of new Disciplinary Procedures and consequential amendments to the Appeal Procedures

SUBMISSION OF AMENDMENTS TO THE CLEARINGHOUSE RULES

TO THE

COMMODITY FUTURES TRADING COMMISSION

SUBMITTED BY

LCH.Clearnet Limited

an English limited company

FILING AS A REGISTERED DERIVATIVES CLEARING ORGANIZATION

Pursuant to Commission Regulation § 40.6

**Submission of General Regulation 4A, Disciplinary Procedures and
Amendments to Appeal Procedures:**

- **New General Regulation 4A**
- **New Clearing House Procedures, Section 8**
- **Clearing House Procedures, Sections 11.2, 11.3, 11.4, 11.5,
Appendix 11A and Appendix 11B**

Submitted: December 20, 2011

LCH.CLEARNET LIMITED SELF-CERTIFICATION OF GENERAL REGULATION 4A, DISCIPLINARY PROCEDURES AND AMENDMENTS TO APPEAL PROCEDURES

LCH.Clearnet Limited ("LCH.Clearnet"), a derivatives clearing organization registered with the Commodity Futures Trading Commission (the "CFTC"), is submitting for self-certification, pursuant to CFTC Regulation §40.6, General Regulation 4A, Disciplinary Procedures and amendments to LCH.Clearnet's existing Appeal Procedures. General Regulation 4A, the Disciplinary Procedures and the amended Appeal Procedures will be implemented and become effective on January 9th, 2012.

Part I: Explanation and Analysis

The operation, purpose and effect of General Regulation 4A is to authorize LCH.Clearnet to institute Disciplinary Proceedings against its clearing members where there may be an alleged breach of the LCH.Clearnet's rulebook.

The operation, purpose and effect of the Disciplinary Procedures is to provide LCH.Clearnet with extended disciplinary measures, to codify existing disciplinary arrangements that LCH.Clearnet has in place to discipline clearing members, and to supplement existing complaints and appeals procedures.

The operation, purpose and effect of the amendments to the Appeal Procedures is to complement the introduction of these Disciplinary Procedures.

Disciplinary Procedures

The introduction of Disciplinary Procedures at Section 8 of the Clearing House Procedures will incorporate current internal disciplinary practices. In outline, the Disciplinary Procedures will provide LCH.Clearnet with powers of investigation, authority to form a Disciplinary Committee and authority to sanction clearing members where a breach has occurred.

1) Scope

Section 8.1 states that the Disciplinary Procedures will apply to all clearing members. However, these Disciplinary Procedures will be without prejudice to any actions or measures that LCH.Clearnet may take based on any other procedures set out within the LCH.Clearnet rulebook.

2) Investigation Procedure

LCH.Clearnet has the authority to investigate any alleged breach by a clearing member of its rules and procedures. Section 8.2 outlines the methods of investigation that LCH.Clearnet may undertake. Namely, these will include the appointment of a senior representative to lead investigations (Section 8.2(a)(ii)), the requirement that clearing members provide any necessary documentation (Section 8.2(a)(iv)) and the ability for LCH.Clearnet to send a representative to a clearing member's offices to carry out investigations (Section 8.2(a)(v)).

Following such investigations, LCH.Clearnet may authorize the formation of a Disciplinary Committee (Section 8.2(c)), whose role it will be to conduct further investigations if necessary (Section 8.2(e)) and

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make a recommendation to LCH.Clearnet as to the actions it believes should be taken regarding an alleged breach (Section 8.2(g)).

3) Immediate Measure

Section 8.3 describes the specific circumstances under which LCH.Clearnet can issue a warning letter or a fine to a clearing member without needing to follow the Investigation Procedure set out in Section 8.2.

4) Sanctions

LCH.Clearnet will have absolute discretion in its use of sanctions against any clearing member that breaches LCH.Clearnet rules and procedures. These sanctions act as both punitive measures and deterrents. Under Rule Section 8.4, LCH.Clearnet will have disciplinary measures that include fines, public censure, termination and suspension.

5) Disputing a Decision and Reporting

All clearing members will have the right to dispute any decisions reached under the Disciplinary Procedures. Clearing members must lodge an appeal via the Appeal Procedures within 28 days of any Decision Notice issued under the Disciplinary Procedures.

Section 8.6 outlines the reporting and publication procedures that LCH.Clearnet will follow.

Amended Appeal Procedures

LCH.Clearnet provides for an appeal process under its Clearing House Procedures at Section 11. The Appeal Procedures provide avenues for appeal against various decisions made by LCH.Clearnet. The amendment to the Appeal Procedures will provide for this appeals process to be available to members in relation to sanctions imposed under the Disciplinary Procedures. The other changes to Section 11 Appeal Procedures at Section 11.3, 11.4 and 11.5 are procedural changes that are a consequence of the introduction of Disciplinary Procedures.

Part II: Certification by LCH.Clearnet

LCH.Clearnet certifies to the CFTC, in accordance with CFTC Regulation §40.6, that the introduction of Disciplinary Procedures and amendments to LCH.Clearnet's Appeal Procedures comply with the Commodity Exchange Act and the CFTC Regulations promulgated thereunder. In addition, LCH.Clearnet certifies that LCH.Clearnet has posted a notice of pending certification with the CFTC and a copy of the submission on LCH.Clearnet's website at:

http://www.lchclearnet.com/rules_and_regulations/ltc/proposed_rules.asp

A signed certification is attached to this submission as Exhibit B.

Part III: Compliance with Core Principles

LCH.Clearnet complies, and will continue to comply, with all of the Core Principles.

It has been identified that the introduction of Disciplinary Procedures is in line with Core Principle H, Rule Enforcement.

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Part IV: Opposing Views

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

Exhibit A-1
General Regulation 4A

See Attached.

Regulation 4A Powers of the Clearing House

The Clearing House shall be entitled to institute Disciplinary Proceedings against its Clearing Members where there may be an alleged breach of the Rulebook.

Exhibit A-2
Disciplinary Procedures

See Attached.

SECTION 8

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8. **DISCIPLINARY PROCEEDINGS**

8.1 **SCOPE OF THIS PROCEDURE**

All Clearing Members are subject to Disciplinary Proceedings pursuant to Section 8 of these Procedures (the “**Disciplinary Procedures**”).

Any alleged breach by a Clearing Member of an obligation set out in the Rulebook (the “**Alleged Breach**”) may be dealt with in accordance with the provisions of these Disciplinary Procedures.

These Disciplinary Procedures are without prejudice to:

- (a) any action and/or measures that may be taken by the Clearing House based on any other procedure set out in the Rulebook including, without limitation, the right of the Clearing House to issue a Default Notice under the Default Rules;
- (b) the Clearing House’s right to take no action where it considers that taking action would be disproportionate or otherwise, in its discretion;
- (c) any provision of Applicable Law concerning enforcement by the Regulatory Body.

8.2 **INVESTIGATION PROCEDURE**

Subject to the provisions of Paragraph 8.3, the investigation of an Alleged Breach pursuant to these Disciplinary Proceedings shall be handled in accordance with this Paragraph 8.2.

(a) Opening of the Investigation Procedure

When the Clearing House commences proceedings to investigate an Alleged Breach:

- (i) the Clearing House shall send a written notice to the Clearing Member, setting out details of the Alleged Breach, including a summary of the facts relied on in sufficient detail for a reasonable person in the Clearing Member’s position to properly understand and respond to the allegations made against it;
- (ii) the Clearing House shall identify a suitably senior representative of any entity of the LCH.Clearnet group organisation that shall lead the investigation procedure on behalf of the Clearing House and shall inform the Clearing Member who this representative will be in the written notice which is sent in accordance with sub-paragraph (i) above;
- (iii) Following receipt of the written notice sent in accordance with sub-paragraph (i) above, the Clearing Member shall be permitted to (x) raise objections in writing to the Alleged Breach of which it has been notified and/or (y) raise objections to the identity of the representative that is to lead the investigation procedure, on grounds of conflicts of interest, within 48 hours. Where an objection is raised, either the Chief Executive Officer of the Clearing House or the Chief Compliance

Officer shall discuss the perceived conflict of interest with the Clearing Member within 24 hours and shall make a decision on whether an alternative representative needs to be identified for the purposes of sub-paragraph (ii) above;

- (iv) the Clearing Member shall be required to provide any information, copies or records and documents that may be reasonably requested, in connection with the examination of the Alleged Breach, to the Clearing House, save that the Clearing Member shall not be compelled to disclose any information which it is prohibited from disclosing by virtue of Applicable Law or regulation, as a result of agreements signed with third parties or as a result of legal professional privilege (in which case the Clearing Member shall provide the Clearing House with proof of such prohibition). The Clearing Member is permitted to request that the Clearing House provides to it copies of the documentation it relies on during the investigation, provided that the Clearing House shall not be required to reveal any information which it deems to be confidential;
- (v) the Clearing House may send a representative (being either the representative identified as leading the investigation procedure on behalf of the Clearing House or another representative) to the Clearing Member's offices at any time during normal business hours, having provided reasonable notice (being proportionate to the seriousness of the Alleged Breach) to the Clearing Member as part of the investigation procedure. The Clearing Member shall only be entitled to refuse access to such representative in the event of a substantiated conflict of interest. The Clearing Member shall make available all information, records, and documents kept by the Clearing Member, that may be reasonably required for the examination of the Alleged Breach, to the Clearing House's representative; and
- (vi) the Clearing Member shall exercise best endeavours to procure the attendance of any of its directors, officers, employees, agents and representatives, as may be reasonably requested, at a specified time on reasonable notice (at either the offices of the Clearing House or those of the Clearing Member) in order to answer questions or provide explanations that may be relevant for the examination of the Alleged Breach.

(b) Report

Following the conclusion of the investigation procedure, the Clearing House shall: (i) notify the Clearing Member; and (ii) produce a written report (the "Report") in relation to the Alleged Breach and provide it to the Clearing Member, within no more than 14 days as from the notification by the Clearing House of the conclusion of the investigation procedure.

The Report shall contain the findings of the investigation, reference the provision of the Rulebook allegedly breached by the relevant Clearing Member and indicate the Clearing House's intended course of action in relation to the Alleged Breach, being either:

- (i) to proceed with Disciplinary Proceedings, in accordance with these Disciplinary Procedures, if the Clearing House believes there to be prima facie evidence of the Alleged Breach having been committed;
 - (ii) to discontinue these Disciplinary Proceedings and refer the matter to the Chief Executive Officer of the Clearing House to take action in accordance with the provisions of the Rulebook if the Clearing House believes there to be prima facie evidence of the Alleged Breach having been committed but the sanctions set out in Paragraph 8.4 of these Disciplinary Procedures are, in the Clearing House's reasonable opinion, inadequate; or
 - (iii) to take no further action.
- (c) Disciplinary Committee Formation

Where the Clearing House determines that it wishes to proceed with Disciplinary Proceedings in accordance with Paragraph 8.2(b)(i) above, it will convene a "**Disciplinary Committee**" consisting of:

- (i) The Chairman of the Risk Committee of the Clearing House, or his representative;
- (ii) The Chief Compliance Officer, or his representative;
- (iii) The Chief Risk Officer, or his representative, and
- (iv) Two members of the Executive Committee of LCH.Clearnet Group Limited.

Details of the precise composition of the Disciplinary Committee shall be provided to the Clearing Member as part of the Report, as appropriate.

(d) Clearing Member Response

The Clearing Member shall respond to the Disciplinary Committee, within 14 days of receiving a Report which indicates that the Clearing House intends to proceed with Disciplinary Proceedings, providing a statement of defence responding to the allegations.

If no response has been received by the Disciplinary Committee within 14 days or such extended period as has been agreed between the Clearing Member and the Disciplinary Committee, the Clearing House shall be relieved of its obligations to follow the remaining steps of the investigation procedure (as set out in Paragraph 8.2(e) below) and the Disciplinary Committee may instead make a determination in respect of the Alleged Breach and issue its Recommendation to the Clearing House as provided for in Paragraphs 8.2(g) and 8.2(h) below.

(e) Exploratory Meetings

Once the Clearing Member has responded to the Report, either the Clearing Member or the Disciplinary Committee can, within 7 days, request a meeting with the other party to ask further questions and discuss the Alleged Breach (the "Meeting").

Unless otherwise agreed between the Clearing Member and the Disciplinary Committee, the Meeting will be held at the Clearing House's offices in London, provided that, if appropriate, the Meeting may take place at the Clearing House's offices in New York, within 14 days from the request for a Meeting.

The Disciplinary Committee and the relevant Clearing Member are each entitled to bring to the Meeting any person relevant to the Disciplinary Proceedings which includes but is not limited to the following:

- (i) relevant experts;
- (ii) legal advisors; and
- (iii) accounting advisors.

the Clearing House and/or the Clearing Member shall only be entitled to object to the attendance by any of the above if there is a substantiated conflict of interest.

The Disciplinary Committee shall, in addition, invite the Clearing House representative that led the investigation procedure to attend the Meeting.

The Disciplinary Committee shall, subject to the provisions of these Disciplinary Proceedings, decide upon its own procedure for conducting the Meeting and considering and determining the matters to be discussed in the course of the Meeting, on the basis of the Report, the Clearing Member's response to the Report, and such other information and documentation as the Disciplinary Committee considers appropriate. A secretary will be appointed to keep minutes of the Meeting.

The Disciplinary Committee may reasonably request further or other documentation and information from the Clearing Member, save that the Clearing Member shall not be compelled to disclose any information which it is prohibited from disclosing by virtue of Applicable Law or regulation, as a result of agreements signed with third parties or as a result of legal professional privilege (in which case the Clearing Member shall provide the Clearing House with proof of such prohibition).

The matters discussed at the Meeting are confidential. The Disciplinary Committee and the Clearing Member must ensure that any persons attending the Meeting are subject to a confidentiality agreement.

To ensure the efficiency of the Meeting, neither the Disciplinary Committee nor the Clearing Member shall bring more than six representatives, unless otherwise agreed.

(f) Determination

Having considered the Report, the Clearing Member's response to the Report, any other information and documentation provided to the Disciplinary Committee in accordance with Paragraph 8.2(e) above and conducted the Meeting, the Disciplinary Committee must determine whether, in its view, the Alleged Breach has been committed.

The Disciplinary Committee shall make its determination, in accordance with this Paragraph 8.2(f), by a majority of the attendees, provided that no determination shall be made without a quorum of three (3) Disciplinary Committee members being in attendance.

In the event of a tie, the Chairman shall have a casting vote.

For the avoidance of doubt, the Disciplinary Committee shall not be bound to comply with any rule of Applicable Law or court procedure in respect of the admissibility of evidence and may, in its discretion, accept, any finding of fact by:

- (i) a relevant Regulatory Body;
 - (ii) a Governmental Authority; or
 - (iii) the courts of England and Wales in connection with a Dispute.
- (g) Recommendation

Within 7 days of the later of:

- (i) the Clearing Member's response to the Report; and
- (ii) the date of the Meeting, if applicable,

the Disciplinary Committee shall communicate its determination, made in accordance with Paragraph 8.2(f) above, to the Clearing House (the "**Recommendation**").

The Disciplinary Committee shall set out in its Recommendation the grounds on which the Disciplinary Committee has determined that the Alleged Breach has or has not been committed and its proposal as to the sanctions, if any, that should be imposed by the Clearing House upon the Clearing Member pursuant to Paragraph 8.4 of these Disciplinary Procedures.

This Paragraph 8.2(g) is without prejudice to the rights of the Disciplinary Committee to recommend that these Disciplinary Proceedings be discontinued and refer the matter to the Chief Executive Officer of the Clearing House to take action in accordance with the provisions of the Rules if the Disciplinary Committee has determined that the Alleged Breach has been committed but the sanctions set out in Paragraph 8.4 of these Disciplinary Procedures are, in the Disciplinary Committee's reasonable opinion, inadequate.

- (h) Decision Notice

Following receipt of a Recommendation, pursuant to Paragraph 8.2(g) above, the Clearing House must decide whether or not to sanction the Clearing Member in accordance with Paragraph 8.4 of these Disciplinary Procedures or otherwise in accordance with the provisions of the Rules.

For the avoidance of doubt, the Clearing House shall not be bound by the terms of the Recommendation of the Disciplinary Committee.

A decision by the Clearing House in accordance with this Paragraph 8.2(h) will be made by the Chief Executive Officer of the Clearing House or another suitably senior executive of the Clearing House.

Within 14 days of receiving a Recommendation, the Clearing House must notify the Clearing Member of its decision by registered mail to the address notified to the Clearing House in its admission application (the "**Decision Notice**").

A Decision Notice shall include details of the grounds on which the Clearing House has come to its decision and the sanction(s), if any, to be imposed against the Clearing Member by the Clearing House pursuant to Paragraph 8.4 below or otherwise in accordance with the provisions of the Rules.

(i) Action

Notwithstanding any decision by the Clearing House to convene a Disciplinary Committee and proceed with Disciplinary Proceedings in accordance with Paragraphs 8.2(c) to 8.2(i) above, the Clearing House may at any time choose to:

- (i) discontinue the Disciplinary Proceedings;
- (ii) determine that, in light of the relevant facts and circumstances, no sanction should be imposed upon the relevant Clearing Member pursuant to Paragraph 8.4 below or otherwise in accordance with the provisions of the Rules;
- (iii) take alternative action in accordance with the provisions of the Rules (including, without limitation, suspension or termination of the Clearing Member's membership of the Clearing House pursuant to the Rulebook and/or the issuance of a Default Notice in respect of such Clearing Member in respect of the Clearing Member pursuant to the Default Rules), in which case the Clearing House shall be deemed to have instituted Disciplinary Proceedings in respect of the Alleged Breach; or
- (iv) amend the scope of matters being considered by the Disciplinary Committee by amending the Report to add, delete or alter any detail of the Alleged Breach or to add detail of an additional Alleged Breach. For the avoidance of doubt, where the Report is amended in this way, the provisions of this Paragraph 8.2 will apply (and, unless otherwise agreed between the Clearing Member and the Disciplinary Committee, any timing specified in this Paragraph 8.2 will restart) in respect of the amended Report.

8.3 **IMMEDIATE MEASURE**

Where the Alleged Breach comprises a breach of:

- (a) any of a Clearing Member's obligations set out in the Rulebook when such breach constitutes a threat to the integrity or safety of the Clearing House or increases the risk exposure of the Clearing House or other Clearing Members;

- (b) a Clearing Member's obligation to satisfy the relevant membership criteria pursuant to Section 1 of the Procedures;
- (c) a Clearing Member's obligation to provide information and reporting to the Clearing House pursuant to Section 1 of the Procedures;
- (d) a Clearing Member's obligations to submit its clearing activity to audits and inspections pursuant to Section 1 of the Procedures;
- (e) a Clearing Member's obligations to satisfy its record keeping requirements pursuant to Section 1 of the Procedures;
- (f) a Clearing Member's obligation to furnish the Clearing House with Margin by the required time in accordance with Regulation 12 of the Rulebook and Section 3 of the Procedures,

the Chief Executive Officer of the Clearing House or the Chief Compliance Officer shall be entitled at their sole discretion to, (a) issue a letter to the relevant Clearing Member, reminding such member of their obligations under the Rulebook or (b) impose a fine on the Clearing Member in accordance with Paragraph 8.4, without being required to follow the procedure set out in Paragraph 8.2 above. In such circumstances the Clearing House must notify the Clearing Member of its decision and the sanction that is to be imposed by way of a Decision Notice.

8.4 **SANCTIONS**

The Clearing House shall be entitled, in its absolute discretion, to impose the following sanctions against a Clearing Member, pursuant to these Disciplinary Procedures, provided that any such sanction is proportionate and commensurate with the seriousness of the Alleged Breach:

- (a) to impose a fine or require the Clearing Member to make any other form of payment in an amount which it considers appropriate;
- (b) public censure, by way of publishing all or part of the decision taken by the Clearing House pursuant to Disciplinary Proceedings on the Website;
- (c) suspension for a fixed period, as determined by LCH.Clearnet Limited in its sole discretion from anyone or all of the clearing services offered by the Clearing House;
- (d) issuance of a private warning or reprimand;
- (e) termination of the Clearing Membership Agreement; and/or
- (f) any combination of the above.

8.5 **DISPUTING A DECISION**

Where a Clearing Member wishes to dispute the Clearing House's decision to impose sanctions listed in Paragraph 8.3 or 8.4, a Clearing Member may, within 28 days (or such longer period as the Chief Executive Officer of the Clearing House or the Chief Compliance Officer may, at their discretion, direct) of receiving the Decision Notice in accordance with Paragraph 8.2(h) or 8.3, file an Appeal in accordance with Section 11 of the Procedures. In the event that the Clearing Member does not lodge

an appeal within the relevant timeframe, the decision rendered by the Clearing House in connection with the Alleged Breach shall be final and binding. In the event that the Clearing Member does lodge an appeal, the results of the appeal process shall be final and binding.

8.6 REPORTING AND PUBLICATION

The Clearing House shall:

- (a) report on its monitoring procedures in respect of the Rulebook, compliance and breaches of the Rulebook to its Regulatory Body pursuant to Applicable Law and/or on the basis of any arrangements between the Clearing House and any Regulatory Body;
- (b) immediately notify the Regulatory Body of a decision to suspend or terminate a Clearing Member's membership rights or declare a Clearing Member to be subject to an Event of Default (in each case in accordance with the Rulebook); and
- (c) prepare and publish a general report on the application of these Disciplinary Proceedings, from time to time but at least once a year, provided however that only the details of those Clearing Members who have defaulted or whose membership rights have been suspended or terminated by the Clearing House shall be disclosed.

8.7 INFRINGEMENT OF APPLICABLE LAW

If the Clearing House finds, in the course of the investigation procedure, or otherwise, serious indications of a possible infringement of Applicable Law, it shall report the matter to the relevant Regulatory Body as soon as possible

**Exhibit A-3
Appeal Procedures**

See Attached.

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11. **APPEAL PROCEDURES**

11.1 **INTRODUCTION**

These Procedures describe how a Member or, in certain cases, a RepoClear Dealer or SwapClear Dealer or other non-member, may appeal against a decision of the Clearing House (that is, LCH.Clearnet Limited).

It should be noted that no appeal may be lodged to the Clearing House in respect of any decision of any other member company of the LCH.Clearnet Group (including LCH.Clearnet SA).

11.2 **DECISIONS IN RESPECT OF WHICH AN APPEAL MAY BE LODGED**

11.2.1 A Member may appeal against any of the following decisions made by the Clearing House:

- a decision that the Member does not meet the criteria for extension of its clearing relationship with the Clearing House;
- a decision by the Clearing House to rescind that Member's eligibility to have contracts of a certain category or categories registered in its name;
- a decision by the Clearing House to terminate that Member's Clearing Membership Agreement other than when such decision occurs in connection with the operation by the Clearing House of its Default Rules and Procedures;
- a Decision Notice issued under the Clearing House's Disciplinary Procedures.

11.2.2 An undertaking which is not a Member may appeal to an Appeal Committee against any of the following decisions made by the Clearing House:

- a decision to decline to grant Member status to that person;
- a decision to decline to admit that undertaking to the register of RepoClear Dealers, providing that there is a Member willing and able to enter into a RepoClear Dealer Agreement with that undertaking and the Clearing House at the time of the decision;
- a decision to decline to admit that undertaking to the register of SwapClear Dealers providing that there is a Member willing and able to enter into a SwapClear Dealer Agreement with that undertaking and the Clearing House at the time of the decision;
- a decision to decline to admit that undertaking to the register of EquityClear NCM's (including EquityClear NCMs (virt-x)) providing always that there is a Member willing and able to enter into an EquityClear GCM/NCM Agreement or EquityClear GCM/LCH Agreement (virt-x), as the case may be, with that undertaking and the Clearing House at the time of the decision;

- a decision to refuse to enter into third party clearing agreement with a Member and a Designated Exchange (both of which must be willing and able to enter into such agreement at the time of the decision) and that person or undertaking. For the purposes of this Section 11 a Designated Exchange shall mean IPE, LIFFE, LME or the London Stock Exchange;
- a decision to suspend or remove a RepoClear Dealer from the register of RepoClear Dealers;
- a decision to suspend or remove a SwapClear Dealer from the register of SwapClear Dealers;
- a decision to suspend or remove an EquityClear NCM (including an EquityClear NCM (virt-x)) from the register of EquityClear NCMs.

11.2.3 From time to time the Clearing House may amend the lists in this section 11.2 of decisions in respect of which appeals may be lodged.

11.3 **INITIATING AN APPEAL**

11.3.1 An appeal to an Appeal Committee under this Section 11 shall be commenced by sending a copy of the APPEAL FORM in the form set out in Appendix 11A of these Procedures to the Company Secretary of LCH.Clearnet Limited (“the Company Secretary”) at the registered office of the Clearing House.

11.3.2 The APPEAL FORM must be fully completed in all material respects by the person lodging the appeal (“the appellant”) and must set out the grounds of the appeal and a brief statement of all matters relied upon by the appellant.

11.3.3 The appellant must enclose with its APPEAL FORM payment of £500 which payment shall be returned if the appeal is subsequently upheld by the Appeal Committee or by the Appeal Tribunal.

11.3.4 An appeal may only be commenced under these Procedures within 28 days of the date upon which the decision to which it relates was notified to the appellant. The Chief Executive of the Clearing House has a discretion to waive this time limit if the appellant provides a satisfactory explanation for the delay and no prejudice would be caused to any person by proceeding with the appeal in the circumstances.

11.3.5 The Company Secretary shall acknowledge receipt of the APPEAL FORM no later than 7 days after receipt.

11.3.6 The Company Secretary may request further information or clarification relating to the subject matter or grounds of the appeal.

11.4 **THE FIRST TIER APPEAL**

11.4.1 No later than 28 days from receipt of any APPEAL FORM the Company Secretary shall:

- 11.4.1.1 refer the appeal to an Appeal Committee comprising:
- the Chief Executive of LCH.Clearnet Limited or the Deputy Chief Executive; and
 - two directors of the Clearing House ~~with relevant market experience,~~ nominated by the Chairman of the Clearing House; and
 - in the event that the appeal concerns any activity or proposed activity of the appellant in respect of a Designated Exchange, a person nominated by that Designated Exchange. Where the appeal concerns any activity or proposed activity on more than one Designated Exchange, the Appellant shall be invited to nominate which Designated Exchange shall be invited to nominate a person to the Appeal Committee;
- 11.4.1.2 notify the appellant in writing of the identify of the persons constituting the Appeal Committee; and
- 11.4.1.3 provide to the appellant copies of such documents and written representations as the Clearing House intends to place before the Appeal Committee for its consideration.
- 11.4.2 Following notification to the appellant in accordance with 11.4.1 above, the appellant shall then have a period of 14 days to submit to the Appeal Committee such written representations and other documentation for the consideration of the Appeal Committee. All representations and documentation shall be submitted in sufficient copies so that each member of the Appeal Committee shall have a copy each.
- 11.4.3 The Appeal Committee shall decide upon its own procedure for considering and determining the appeal which will normally be done without an oral hearing but on the basis of the written representations and documents submitted by the appellant and such other information and documentation as the Appeal Committee considers appropriate. The Appeal Committee may extend time for the doing of any act under this paragraph 11.4.
- 11.4.4 The Appeal Committee may request further or other documentation and information from the appellant.
- 11.4.5 ~~No later than 21 days from the date upon which the appellant is notified of the composition of the Appeal Committee, or 21 days from the receipt by the Appeal Committee of any further or other documentation or pursuant to 11.4.4 above, whichever is the later, the Appeal Committee shall consider and determine the appeal before it.~~ The Appeal Committee shall consider and determine the appeal as soon as reasonably practicable.
- 11.4.6 An Appeal Committee constituted pursuant to this paragraph 11.4 shall promptly, and in any event, no later than ~~7~~14 days after coming to its determination, give notice of its determination to an appellant in writing together with its reasons.
- 11.4.7 The Appeal Committee may dismiss or allow the appeal in whole in part and may confirm, increase or decrease any sanction imposed under the Disciplinary Procedures upon such terms as it considers appropriate. If the appellant does not lodge an appeal of the determination of the Appeal Committee

to the Appeal Tribunal in accordance with sub-paragraph 11.5.2 of the procedures, the determination of the Appeal Committee shall be final and binding on the parties.

11.5 THE SECOND TIER APPEAL

11.5.1 If an appellant, having received notice of a determination of an appeal pursuant to paragraph 11.4.6 above, is not satisfied by such determination, it may appeal lodge a second tier appeal to an Appeal Tribunal.

11.5.2 A second tier appeal may be commenced under this paragraph 11.5 by the submission of a NOTICE OF FURTHER APPEAL in the form set out in Appendix 11B hereto to the Company Secretary at its registered office, setting out ~~the reasons for the appeal~~ the grounds of the appeal and a brief statement of all matters relied upon by the appellant. Such NOTICE OF FURTHER APPEAL must be received by the Company Secretary no later than 14 days from the date upon which the notice of determination of the Appeal Committee was given to the appellant.

11.5.3 An appeal under this paragraph 11.5 shall be heard by an Appeal Tribunal within 3 months of the Notice of Appeal being received by the Company Secretary, or such longer time as the Chairman of the Appeal Tribunal shall determine in order to provide a full and fair determination of the appeal.

11.5.4 An Appeal Tribunal constituted under this paragraph 11.5 shall consist of 2 persons ("Tribunal Members"), with relevant knowledge and experience in the industry of matters in issue in the appeal, and a legally qualified Chairman. The appellant and the Clearing House may each select a Tribunal Member from a list of no less than 4 persons appropriately qualified persons nominated by The Centre for Dispute Resolution (CEDR), London, and the Chairman shall be nominated by CEDR. In the event that either the Clearing House or an appellant fails to nominate such a Tribunal Member before a date 2 weeks prior to the date fixed by the Chairman for the hearing of the appeal, then the Chairman shall nominate such Tribunal Member from the list referred to above. No person who served on the Appeal Committee which considered the appellant's first tier appeal shall be eligible to serve upon an Appeal Tribunal constituted in respect of that appellant's second tier appeal.

11.5.5 The Appeal Tribunal shall determine the procedure of the appeal having regard to the following:-

- The appellant will open the appeal.
- The Clearing House may make submissions in response.
- The appellant may make closing submissions.
- The parties may, with the leave of the Appeal Tribunal, call witnesses, who may be cross-examined or re-examined on such terms as the Appeal Tribunal may deem appropriate.
- The Appeal Tribunal may admit evidence whether or not the same would be admissible in court and may have regard to such documents and information and matters as it considers fair and reasonable in all the circumstances.

- ~~11.5.5~~The Chairman of an Appeal Tribunal shall fix a date for the hearing of the appeal and shall give no less than 28 days notice in writing to the appellant and the Company Secretary of the time and place in London where such appeal shall be heard.
- ~~11.5.6~~The appellant shall provide the Appeal Tribunal, with a copy to the Company Secretary, no less than 14 days before the date fixed for the hearing of the appeal, with written submissions setting out such representations as it wishes to put forward in support of its appeal, together with copies of all documentation and other material upon which it wishes to rely.
- ~~11.5.7~~The Clearing House will submit written submissions, documentation and information with regard to the matters and issues relevant to the decision which is the subject of the appeal and provide a copy thereof to the appellant.
- ~~11.5.8~~11.5.5 An Appeal Tribunal may invite any person (including the Clearing House) to provide written information or written opinion with regard to any matter which forms the subject matter of an appeal.
- ~~11.5.9~~An Appeal Tribunal shall determine its own procedure for the hearing of an appeal and shall not be bound by the rules of evidence. It may adjourn a hearing to another date or dates if it so wishes. If prior to or at such hearing an appellant notifies the Appeal Tribunal that it wishes to make oral submissions an opportunity shall be given to the appellant to do so. A representative of the appellant (and the appellant himself, if the appellant is an individual) and a representative of the Clearing House may attend the hearing and the Appeal Tribunal may in its discretion invite further or other persons to attend the hearing.
- ~~11.5.10~~11.5.6 At the hearing an appellant may conduct its case itself through an employee, officer or other agent, or be represented by legal counsel PROVIDED that if in any particular case an Appeal Tribunal is satisfied that there is good and sufficient reasons for doing so, it may refuse to permit a particular individual to represent an appellant at the hearing.
- ~~11.5.11~~Neither the Clearing House nor an appellant shall have the right to call any witness or cross examine any person who shall have provided any information to an Appeal Tribunal, PROVIDED that an Appeal Tribunal may permit any such cross examination on such terms as it may determine, if it decides that it is appropriate in the particular circumstances of that appeal so to do.
- ~~11.5.12~~An Appeal Tribunal may have regard to such further or other documents and information and matters as it considers fair and reasonable in the circumstances.
- ~~11.5.13~~Where in this paragraph 11.5 any time is giving for the doing of any thing, the Chairman of the Tribunal shall have a discretion to extend such time if he determines that it is fair and reasonable in the circumstances so to do.
- ~~11.5.14~~In considering an appeal, an Appeal Tribunal shall act fairly and impartially and shall take into consideration, inter alia, the following:
- ~~•the General Regulations, Default Rules and Procedures of the Clearing House;~~
and
 - ~~•the Notice of Further Appeal; and~~

~~all documentation and information placed before it by an appellant or by the Clearing House; and~~

- ~~the role and concomitant obligations of the Clearing House ("LCH.Clearnet Limited") as a recognised clearing house under the Financial Services and Markets Act 2000.~~

~~11.5.15~~11.5.7 An Appeal Tribunal may in its absolute discretion decline to entertain an appeal and shall dismiss such appeal where it considers the appeal to be frivolous or vexatious.

~~11.5.16~~11.5.8 An appellant shall pay its own costs and expenses in relation to an appeal. The Clearing House shall meet its own costs, those of the Tribunal Members and those related to the hearing other than costs and expenses incurred by the appellant.

~~11.5.17~~11.5.9 An Appeal Tribunal shall determine an appeal by majority vote although the voting of an Appeal Tribunal shall remain confidential and the result shall be presented as a unanimous view by that Appeal Tribunal. An Appeal Tribunal may:

- dismiss the appeal; or
- uphold the appeal in whole or part.

~~11.5.18~~11.5.10 An Appeal Tribunal shall deliver a written statement of its decision together with its reasons to an appellant and the Clearing House ~~within 28 days of the date of the hearing~~ as soon as is reasonably practicable. The Appeal Tribunal hearing shall be heard in private, unless the appellant elects to hold the hearing in public. The Clearing House may decide to publish the decision of the Appeal Tribunal on such terms as it considers fit. Except in so far as an Appeal Tribunal may direct, information about proceedings before the Appeal Tribunal and the names of persons concerned in the proceedings shall not be made public.

~~11.5.19~~11.5.11 In the event that an Appeal Tribunal determines to uphold the appeal either in whole or part then the Clearing House shall within 28 days of the receipt of the written decision, ~~re-view~~review and re-consider the decision upon which the appeal was based in the light of the conclusions of the Appeal Tribunal. The Clearing House agrees to be guided in reviewing its decision by the conclusions of the Appeal Tribunal.

11.6 REQUESTS FOR REVIEW

11.6.1 A Member who is aggrieved by any action taken by the Clearing House or decision of the Clearing House (other than any decision set out in 11.2 above or any decision taken under Regulation 26 in or under or in connection with the Clearing House's powers under the Default Rules and Procedures) may, no later than 14 days after the date of the decision or action, request a review of such action or decision by the Chief Executive of the Clearing House.

11.6.2 A Request for Review under this 11.6 shall be made in writing, addressed to the Chief Executive of the Clearing House at the registered office and shall set out details of the relevant decision or action, the reasons why the Member is

aggrieved and details of such reasonable remedial or other action or monetary payment as that Member requests to be carried out in the circumstances.

- 11.6.3 The Chief Executive shall consider the Member's Request for Review and such further or other documents and information as he considers reasonably relevant and shall notify the Member in writing of the outcome of his review within a period of 28 days from receipt by him of the Request for Review. Where it is not possible to complete such review within such period of 28 days, the Chief Executive shall notify the Member accordingly and nominate a further period for the review, such period not to be longer than 3 months from the date of such notification to the Member.

11.7 **MARKET DISORDERS ETC AND DEFAULT**

For the avoidance of doubt, the Clearing House shall be under no obligation to consider any Request for Review under 11.6 above or otherwise, or comply with the provisions of this Section 11, and no appeal or Request for Review may be lodged under this Section 11 or otherwise, in respect of any decision or action taken by the Clearing House under the provisions of Regulation 26 or in respect of any decision, action or other matter arising out of or connected to the operation of the Default Rules and Default Procedures and the Clearing House's powers thereunder.

APPENDIX 11A - APPEAL FORM

The Clearing House Appeal Procedures

Full Name of firm/company etc lodging the appeal ("the appellant"):	
Registered office address:	
Contact address and telephone number and email (if different from the above):	
Contact name:	
Position:	
Description of decision appealed against (see Section 11.2 of the Clearing House Procedures):	
Date decision notified to appellant:	
Set out here the grounds for appeal and a brief statement of all facts and matters relied upon by the appellant (if there is not enough space, please use additional sheets and staple to this form)	
What action or remedy are you seeking?	

Pursuant to Section 11.3 of the Clearing House Procedures, we request that this appeal against the above mentioned decision of the Clearing House be referred to an Appeal Committee.

Signed for and on behalf of the appellant

(print name)

Notes:

Please enclose a cheque payable to LCH.Clearnet Limited drawn on a UK branch, in the sum of £500 sterling. If your appeal is successful this sum will be refunded to you.

If there are any written representations, any documentation or further material which you would like the Appeal Committee to consider when determining your appeal, you may send it with this Appeal Form if you wish. Alternatively you may send it in later. However, please note that the Procedures put a time limit on the submission of such material. See Section 11.4.2 of the Clearing House Procedures.

For any inquiries or further information please contact the Company Secretary, LCH.Clearnet Limited on +44 (0)20 7426 7000.

APPENDIX 11B - NOTICE OF FURTHER APPEAL

The Clearing House Appeal Procedures

Note: This form should only be used if you have had a determination of an Appeal Committee and you are now commencing a Second Tier Appeal under Section 11.5 of the Clearing House Procedures.

Full Name of firm/company etc lodging the appeal ("the appellant"):	
Registered office address:	
Contact address and telephone number and email (if different from the above):	
Contact name:	
Position:	
Details of determination of Appeal Committee appealed against (see Section 11.5 of the Clearing House Procedures): Please attach a copy of the Determination	
Date of determination of the Appeal Committee:	
Set out here the grounds for appeal and a brief statement of all facts and matters relied upon by the appellant (if there is not enough space, please use additional sheets and	

<p><i>staple to this form)</i></p>	
<p>What action or remedy are you seeking?</p>	

Pursuant to Section 11.5 of the Clearing House Procedures, we request that an Appeal Tribunal be constituted to determine this appeal against the above mentioned determination of the Appeal Committee.

Signed for and on behalf of the appellant

(print name)

Notes:

~~If there are any written representations, any documentation or further material which you would like the Appeal Tribunal to consider when determining your appeal, you may send it with this Notice of Further Appeal Form you wish. Alternatively you may send it in later. However, please note that the Procedures put a time limit on the submission of such material. See Section 11.5.6 of the Clearing House Procedures.~~

For any inquiries or further information please contact the Company Secretary, LCH.Clearnet Limited on +44 (0)20 7426 7000.

Exhibit B
LCH.CLEARNET Certification to CFTC

See Attached.

NEW AND AMENDED RULES SELF CERTIFICATION

LCH.Clearnet Limited hereby certifies to the Commodity Futures Trading Commission, pursuant to the procedures set forth in the Commission Regulations 40.6, that the following:

- New General Regulation 4A, new Disciplinary Procedures, and amended Appeals Procedures, which form part of the Clearing House Rules and Procedures,

comply with the Commodity Exchange Act, as amended, and the regulations promulgated thereunder.

Signed as of December 20, 2011

By: 

Name: Simon Wheatley

Title: Chief Compliance Officer

LCH.Clearnet Limited