

VIA CFTC PORTAL

24 August 2021

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

LCH Limited Self-Certification: Usage of Electronic Signatures

Dear Mr. Kirkpatrick,

Pursuant to Commodity Futures Trading Commission (“CFTC”) Regulation §40.6(a), LCH Limited (“LCH”), a derivatives clearing organization registered with the CFTC, is submitting for self-certification revisions to its rules to clarify that the use of electronic signatures is permissible for LCH business.

Part I: Explanation and Analysis

Currently, LCH’s Rules do not state affirmatively whether electronic signatures may be used when conducting LCH business. The proposed changes will confirm in both the General Regulations and the FCM Regulations of LCH that electronic signatures are permitted.

These changes will confirm explicitly that electronic signatures are permitted. There is currently no stated prohibition related to the use of electronic signatures.

Part II: Description of Rule Changes

General Regulations of LCH

Regulation 1: Definitions

The explanatory notes that follow the Definitions section are being amended to clarify that writing includes the reproduction of words in a visible *and legible* form, *irrespective of the medium used*.

Regulation 48: Interpretation of these Regulations; Applicable Law

LCH is planning to add item (e) to this regulation. Item (e) will clarify that requirements for documents to be signed may be met by *electronic signature, or electronic evidence of agreement, in each case in a form and manner that is acceptable to LCH*. Additionally, this provision explains that it *does not affect any other legal requirement that may apply to the form or manner of the execution of a document*.

The changes to the General Regulations of LCH are attached as **Appendix I**.

FCM Regulations of LCH

Regulation 1: Definitions

The explanatory notes that follow the Definitions section are being amended to clarify that writing includes the reproduction of words in a visible *and legible form, irrespective of the medium used*.

Regulation 40: Interpretation of these FCM Regulations; Applicable Law; Clearing House Data

LCH is planning to add item (g) to this regulation. Item (g) will clarify that requirements for documents to be signed may be met by *electronic signature, or electronic evidence of agreement, in each case in a form and manner that is acceptable to LCH*. Additionally, this provision explains that it *does not affect any other legal requirement that may apply to the form or manner of the execution of a document*.

The changes to the FCM Regulations of LCH are attached as **Appendix II**.

The changes to the rules are included as **Appendices I and II** in black line form. The changes will be effective not earlier than September 9, 2021.

Part III: Core Principle Compliance

LCH reviewed the proposed rule changes against the requirements of the Core Principles and finds it will continue to comply with all requirements and standards set forth therein. Specifically, this rule change has potential relevance to Core Principle L (Public Information).

The changes described in this filing ensure that LCH meets the objectives of Core Principle L, including that, in addition to the specified requirements of §39.21, LCH make available any information that is relevant to participation in the clearing and settlement activities of LCH. LCH considered its public information requirements and believes including clarification related to electronic signatures enhances its compliance with Core Principle L. The clarifying changes provided for in this submission will be included in LCH's publicly available Regulations and FCM Regulations, thereby providing clarity related to the use of electronic signatures to market participants. As a result, LCH believes these changes are consistent with the requirements of Core Principle L on Public Information under CFTC regulation §39.21.

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: <https://www.lch.com/resources/rulebooks/proposed-rule-changes>.

Part V: Opposing Views

There were no opposing views expressed to LCH by governing board or committee members, members of LCH or market participants.

Certification

LCH hereby certifies to the CFTC, pursuant to the procedures set forth in CFTC Regulation §40.6, that the attached submission complies with the Commodity Exchange Act, as amended, and the regulations promulgated thereunder.

Should you have any questions please contact me at Peter.MasseyCook@lseg.com.

Yours sincerely,

A handwritten signature in blue ink that reads "Peter Massey-Cook". The signature is written in a cursive, slightly slanted style.

Peter Massey-Cook
Senior Regulatory Advisor
LCH Limited

Appendix I

General Regulations of LCH (changed Regulations only)

Regulation 1: Definitions

Regulation 48: Interpretation of these Regulations; Applicable Law



**GENERAL REGULATIONS OF
LCH LIMITED**

"Unallocated Excess Sub-Account"	has the meaning assigned to it in the FCM Regulations
"Undertaking to Pay and Deliver"	has the meaning ascribed to such term in Regulation 11(c)
"Unfunded Contribution"	means the unfunded Contribution of a Clearing Member referable to a specific Service provided by the Clearing House
"US FXCCM"	means a ForexClear Clearing Member incorporated under the laws of any state of the United States or under the federal laws of the United States
"variation margin"	means an amount determined by the Clearing House in accordance with these Regulations and/or the Procedures in respect of original contracts or open contracts (as the case may be)

For the purpose of a ballot under clause 9.4(c) of the Clearing Membership Agreement, **"Quarter Day"** shall be construed as referring to a Determination Date.

Any reference in these Regulations or the Procedures to statutes or statutory instruments or provisions thereof shall be to such statutes or statutory instruments or provisions thereof as amended, modified or replaced from time to time.

Reference to writing contained in these Regulations or the Procedures shall include typing, printing, lithography, photography or any other mode of representing or reproducing words in a visible and legible form, irrespective of the medium used.

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

Any reference to time contained in these Regulations or the Procedures shall, unless otherwise stated, be to London time. Times are shown using the twenty four hour clock.

Any reference in these Regulations to a person or a party (howsoever described) shall include its successors.

Headings are used herein for ease of reference only.

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) Any requirement that a document is signed may be satisfied by an electronic signature or by electronic evidence of agreement, in each case in a form and manner that is acceptable to the Clearing House. This provision does not affect any other legal requirement that may apply to the form or manner of the execution of a document.

Appendix II

FCM Regulations of LCH (changed Regulations only)

Regulation 1: Definitions

Regulation 40: Interpretation of these FCM Regulations; Applicable Law; Clearing House Data



FCM REGULATIONS OF THE CLEARING HOUSE

LCH LIMITED

FCM Regulations

regulations (or to specific provisions within them) as amended, modified, supplemented or replaced from time to time.

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

Reference to writing contained in these FCM Regulations or the FCM Procedures shall include typing, printing, photography, email, or any other mode of representing or reproducing words in a visible and legible form, irrespective of the medium used.

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

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

Any reference to time contained in these FCM Regulations or the FCM Procedures shall, unless otherwise stated, be to London time. Times are shown using the twenty four hour clock.

Any reference in these FCM Regulations or the FCM Procedures to a person or a party (however described) shall include its legal successors or assigns.

Headings are used herein for ease of reference only.

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

- (a) In the event of inconsistency between the provisions of these FCM Regulations and the rules or regulations or other contractual provisions of any trading platform or other undertaking the provisions of these FCM Regulations shall prevail.
- (b) The headings to these FCM Regulations are for convenience only and shall not affect their interpretation.
- (c) FCMs shall at all times observe, interpret and give effect to the provisions of the Rulebook in a manner which promotes and maintains:
 - (i) the Clearing House's status as a recognised central counterparty under EMIR and a registered derivatives clearing organization under the United States Commodity Exchange Act and any other legal or regulatory status it has from time to time under any other Applicable Law;
 - (ii) the good reputation and integrity of the Clearing House and FCMs; and
 - (iii) the Clearing House's obligations under EMIR and any Applicable Law to act fairly and professionally in accordance with the best interests of FCMs and, where applicable, FCM Clients and sound risk management.
- (d) FCMs shall perform their obligations and exercise their rights under the Rulebook in accordance with Applicable Law.
- (e) FCM Clearing Members, FCM Clients and the service providers of FCM Clearing Members and FCM Clients may use Clearing House Data solely for the purposes of risk management and settlement activities in relation to FCM Contracts and positions held for the account of an FCM Client. FCM Clearing Members may only disclose the Clearing House Data:
 - (i) to (A) FCM Clients for whom the FCM Clearing Member provides Client Clearing Services and/or the service providers of such FCM Clients and (B) the service providers of the FCM Clearing Members, **provided** that, in each case, the FCM Clearing Members shall require by way of written contract that each relevant FCM Client and/or service provider shall only use Clearing House Data for the purposes of the FCM Client's or FCM Clearing Member's, as applicable, risk management and settlement activities in relation to FCM Contracts and positions held for the account of an FCM Client referencing the relevant Clearing House Data; and
 - (ii) where required or requested to do so by law or by a regulatory authority or for the purposes of commencing, or defending, an arbitration or court proceeding.
- (f) Without prejudice to paragraph (f) above and Section 2.1.1(e) of the FCM Procedures, FCMs shall not, and shall require by way of written contract that any third party receiving

FCM Regulations

Clearing House Data as a result of such FCM's disclosure shall not, use any Clearing House Data for any other purpose, including:

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

(g) Any requirement that a document is signed may be satisfied by an electronic signature or by electronic evidence of agreement, in each case in a form and manner that is acceptable to the Clearing House. This provision does not affect any other legal requirement that may apply to the form or manner of the execution of a document.