

VIA CFTC Portal

11 January 2021

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

**LCH Limited Self Certification: Rule changes related to the CFTC regulatory amendments under 17 CFR 39 (“Part 39 Regulations”)**

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 reflect the relevant CFTC regulatory amendments under the Part 39 Regulations that have a compliance date of 27 January 2021.

**Part I: Explanation and Analysis**

The LCH rules currently prescribe that FCM Clearing Members shall collect Initial Margin from customers entering into non-hedging transactions of a value that is 10 percent above the Initial Margin required by LCH (the “Required Margin”). The LCH rules will now require each FCM Clearing Member to collect such additional margin from customers that the FCM Clearing Member considers to have a heightened risk profile. The change is to comply with the CFTC amendments under §39.13 (“Risk management”) of Part 39.

Separately, LCH is making a clarification change in its Rulebook procedures to note that when effecting portfolio transfers between Carrying and Receiving Clearing Members’ accounts, LCH shall promptly transfer the transferring Contracts and the associated Collateral. The change aligns the LCH rules with the requirement under §39.15 (“Treatment of funds”) of Part 39, as amended by the CFTC.

The rule changes will go live on, or after, 27 January 2021.

**Part II: Description of Rule Changes**

The CFTC amended the requirement under the subparagraph (g) (8) (ii) of §39.13 as set out in Part I of this submission. As a result, LCH will amend its FCM Procedures under section 1.7 (“Additional Requirements”), paragraph 1.7.3, by removing the reference to non-hedging transactions and applying the requirement for FCMs to collect additional margin from customers with heightened risk profile. The rules also specify that such additional margin is not required to be delivered to LCH.

The amended requirement will also be reflected in the FCM Regulations under Regulation 14 (t) (“Margin and Collateral”).

Further, LCH is amending the FCM Procedures in sub-section 2.2.19 (“Portfolio Transfers (BAU)”) under *Transfer of Associated Collateral Balance* paragraph (v) to reflect the CFTC’s wording under §39.15, paragraph d), as set out in Part I of this submission. This change will also be reflected under the equivalent sub-sections 1.15.8 paragraph (e) of Procedures Section 2C (“SwapClear Clearing Service”) and 1.3.11 paragraph (z) of the Procedures Section 2I (“ForexClear Clearing Service”).

The texts of the above changes to the Default Rules are attached hereto as:

- **Appendix I**, FCM Procedures
- **Appendix II**, FCM Regulations
- **Appendix III**, Procedures Section 2C
- **Appendix IV**, Procedures Section 2I

### **Part III: Core Principle Compliance**

LCH has reviewed the changes against the requirements of the Core Principles, in particular Core Principles D and F, 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 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.

Yours sincerely



P.P.

Julian Oliver

Chief Compliance Officer  
LCH Limited

**Appendix I**  
FCM Procedures



**FCM PROCEDURES OF THE CLEARING HOUSE**

**LCH LIMITED**

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Except where the context otherwise requires, defined terms used herein have the meaning ascribed to them in the FCM Regulations or in other portions of the FCM Rulebook.

## 1. FCM CLEARING MEMBER STATUS

### 1.1 FCM Clearing Member Application Procedure

- (a) **Application Procedure:** An application for FCM Clearing Member status of the Clearing House must be made on the appropriate form which can be obtained from the Clearing House's Membership Department. Additional information (including legal documents) must be supplied where necessary and submitted to the Clearing House with the completed form.

Applicants approved by the Clearing House for FCM Clearing Member status (“**Approved Applicants**”) must, within three months of notification of their approval, fulfill all conditions attached to their approval. If an Approved Applicant does not fulfill all such conditions within these three months, the Clearing House may, at its sole discretion, consider the grant of approval to have lapsed and may notify the prospective FCM Clearing Member accordingly that they will be required to provide further information following which the application will be submitted for re-approval.

FCM Clearing Members have the right to apply for approval to clear one or more markets cleared by the Clearing House, subject to meeting the requirements of the Clearing House in respect of each such market. Please note that FCM Clearing Member status does not provide membership of the company LCH Limited or any right to a shareholding therein, nor does it provide the right to any shareholding in LCH Group Holdings Limited or any entitlement or right to participate in any way in LCH SA or the clearing services it offers. LCH SA has its own arrangements and admission criteria for Clearing Member status – see the LCH SA sections of the LCH website for further details.

- (b) **FCM Clearing Member status:** The terms and conditions binding on each FCM Clearing Member are set out in the FCM Rulebook (which includes these FCM Procedures), the FCM Clearing Membership Agreement, the FCM Default Management Process Agreement and the FCM Default Fund Agreement, each as amended from time to time. Two copies of the FCM Clearing Membership Agreement and the FCM Default Fund Agreement will be provided to the applicant who must sign both copies of each (but not date them) and return them to the Clearing House's Membership Department along with the application documentation.

The applicant must pay the stipulated application fee to the Clearing House. This fee must accompany the application for FCM Clearing Member status and is non-refundable.

If and when FCM Clearing Member status is granted, new FCM Clearing Members will receive a duly executed (and dated) copy of the FCM Clearing Membership Agreement and the FCM Default Fund Agreement together with the notification of acceptance and details of any condition(s) attached to FCM

ability to comply with the applicable membership criteria or Applicable Law or regulations;

- (D) copies of all reports that are required to be filed with the CFTC pursuant to parts 17 and 20 of the CFTC Regulations;
- (E) information and documents regarding the FCM Clearing Member's risk management policies and practices as requested by the Clearing House. Such information shall include, without limitation, information and documents relating to the liquidity of that FCM Clearing Member's financial resources and settlement procedures;
- (F) any other financial information that the Clearing House determines is necessary to assess whether membership criteria are being met on an ongoing basis; and
- (G) notice if the FCM Clearing Member becomes the subject of a bankruptcy petition, receivership proceeding, or the equivalent, or any other event to which it is required to notify the Clearing House under the FCM Clearing Membership Agreement or the FCM Rulebook.

In addition, and upon request from the Clearing House or the CFTC, each FCM Clearing Member shall promptly provide the information detailed in (v) above directly to the CFTC.

#### 1.6.2 ***Reduction in Net Capital***

All FCM Clearing Members must immediately notify the Clearing House of any significant reduction (usually 10 per cent. or more), from the figures shown in their last financial returns, in:

- (a) shareholders' funds; and
- (b) net capital.

### 1.7 **Additional Requirements**

#### 1.7.1 ***Notification of Changes of Ownership***

FCM Clearing Members are required to notify or pre-notify the Clearing House of changes in controlling holdings (defined as the exercise or control of 20 per cent. or more of the voting power of the firm). However, in cases of changes in ownership, and particularly where those potentially acquiring a dominant stake in an FCM Clearing Member are not known to the Clearing House, FCM Clearing Members are required to pre-notify the Clearing House of their plans. The proposed change of ownership may be subject to an approval process involving the Risk Committee and Board of the Clearing House.

- 1.7.2 Each FCM Clearing Member shall maintain current written risk management policies and procedures which address the risks that the relevant FCM Clearing

Member may pose to the Clearing House, including any policies and procedures that the Clearing House may reasonably request to be incorporated therein. Upon the request of the Clearing House, an FCM Clearing Member shall promptly provide the Clearing House with a copy of its current policies and procedures for review by the Clearing House.

1.7.3 Pursuant to, and in accordance with, FCM Regulation 14 (*Margin and Collateral*), where an FCM Clearing Member provides clearing services to an FCM Client which the FCM Clearing Member considers to have a heightened risk profile, then that Client enters into an FCM Transaction that is non-hedging in nature, the relevant FCM Clearing Member shall collect from that FCM Client additional FCM Client Funds with a value that is :

~~(a) — in respect of FCM SwapClear Contracts, 10 percent above the Required Margin amount that the Clearing House would normally require for such contracts FCM Client.~~

~~(b) — in respect of FCM ForexClear Contracts, 10 percent above the amount that the Clearing house would normally require for such contracts.~~

~~For the avoidance of doubt, FCM Regulation 14 (*Margin and Collateral*) and this Section 1.7.3 do not require that FCM Clearing Members are not required to furnish the Clearing House with the Excess Margin additional margin described in this section. However, for the avoidance of doubt, FCM Clearing Members are required to furnish the Clearing House with the Required Margin for every FCM Client.~~

## 1.8 Other Conditions

The Clearing House may, at any time, impose additional conditions in relation to continued FCM Clearing Member status, and at any time vary or withdraw any such conditions, provided that any conditions which restrict, or may be considered to have the effect of restricting, access of an FCM Clearing Member to the Clearing House shall be imposed only in circumstances where, and to the extent that, their object is to control the exposure of the Clearing House to risk. FCM Clearing Members are referred to the Clearing House's website for further information about the relevant internal risk management policies and procedures of the Clearing House.

The relevant additional conditions imposed on an FCM Clearing Member may include, but are not limited to, a requirement to furnish additional cash or non-cash Collateral to the Clearing House, as determined by the Clearing House.

## 1.9 Other Conditions

### 1.9.1 Singaporean Clients

FCM Clearing Members are required to provide a copy of the 'Notice to Singapore Clearing Clients' to FCM Clients incorporated in or operating through a branch in Singapore. The 'Notice to Singapore Clearing Clients' is available here: <http://www.lch.com/members-clients/members/fees-ltd/annual-account-structure-fees>.

compression request on subsequent days regardless of whether compression has occurred.

- (b) In order to compress an Eligible FCM ForexClear Compression Contracts, an FCM Clearing Member must follow the process for compression as set out above and must, at the time of compression, have in its applicable FCM Client Sub-Account (or FCM ForexClear Suspension Sub-Account, if applicable) or Proprietary Account two or more FCM ForexClear Contracts with the same compression identifier (being an identifier applied by the Clearing House which indicates that such FCM ForexClear Contracts are eligible for compression).
- (c) In respect of each compression run, the Clearing House will notify Clearing Members of the cut-off time by which the FCM Clearing Members must notify the Clearing House of the requested Eligible FCM ForexClear Compression Contracts to be compressed in order for such Eligible FCM ForexClear Compression Contracts to be included in the relevant compression run. The Clearing House shall process the compression of all Eligible FCM ForexClear Compression Contracts notified to it prior to such cut-off time and shall notify the applicable FCM Clearing Member after the applicable compression run of the result of such compression procedure. A notification received after the relevant cut-off time shall be treated as if such notification was submitted on the following day.
- (d) Following the compression process described above and as further set out in FCM Regulation 49(o) (*Registration of FCM ForexClear Contracts; Compression; ForexClear Accounts*), the applicable FCM Clearing Member shall promptly notify the Clearing House if it believes that any errors have occurred in the compression process or if its books and records do not reconcile with those of the Clearing House in respect of the compressed FCM ForexClear Contracts as notified to the FCM Clearing Member by the Clearing House.

#### 2.2.19 ***Portfolio Transfers (BAU)***

The Clearing House permits the transfer of one or more Transferring ForexClear Contracts between the Transfer Account of an Eligible Transferor to the Transfer Account of an Eligible Transferee, including, where relevant, the transfer of associated Collateral.

For transfers other than Permitted Transfers (as defined below), please contact the Clearing House's Risk Management Department.

#### **Permitted Transfers**

Any transfer that meets the criteria in any of (a) through (g) below shall be a "**Permitted Transfer**" for purposes of Regulation 49(r) and this Section 2.2.19. In certain circumstances, a Permitted Transfer may be effected for all or part of the notional amount associated with the Transferring ForexClear Contracts.



Collateral pursuant to Regulation 49(r) and this Section 2.2.19, including a request submitted by an FCM Client on its behalf, the Receiving Clearing Member shall be deemed to have represented to the Clearing House that all of the conditions to such transfer set forth herein have been satisfied.

### **Rejection of Transfer Request**

The Carrying Clearing Member may be entitled to reject a particular Transfer Request by notifying the Clearing House (in either electronic or written form as prescribed by the Clearing House) only if:

- (r) the Eligible Transferor has failed to satisfy all outstanding obligations that are due and payable to the Carrying Clearing Member and/or its Affiliates, including any requirement for additional collateral that may result from the proposed transfer, where, with the respect to obligations owed to Affiliates of the Carrying Clearing Member by an Eligible Transferor, "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 Transferring ForexClear Contracts of that Eligible Transferor that are being transferred or that Eligible Transferor's related collateral;
- (s) the transfer of the Transferring ForexClear Contracts of that Eligible Transferor would result in the Eligible Transferor breaching exposure limits with, and/or other risk parameters set by, the Carrying Clearing Member and/or its Affiliates; or
- (t) such rejection is in accordance with terms agreed as between the Carrying Clearing Member and the relevant Eligible Transferor.

### **Right to Call Collateral**

Permitted Transfers will only be effected once adequate Collateral is available (which may be as a consequence of margin forbearance or the transfer of associated Collateral) in respect of both Transfer Accounts affected by the transfer. In connection with any Permitted Transfer, the Clearing House may call for Collateral in respect of initial and/or variation margin to be deposited in such amounts and at such times as the Clearing House, in its sole discretion, requires. Any Collateral so called and deposited shall be reserved and made available solely in connection with the Permitted Transfer.

### **Transfer of Associated Collateral Balance**

In the case where a transfer of Transferring ForexClear Contracts pursuant to this Section 2.2.19 will include the transfer of associated Collateral to the Transfer Account of the Eligible Transferee:

- (u) upon completion of the transfer, (x) the Clearing House shall have satisfied and discharged all of its obligations under the FCM Clearing Membership Agreement and the FCM Rulebook to repay or return to the Carrying Clearing Member any amounts in respect of such

associated Collateral and (y) the associated Collateral furnished to the Clearing House by the Carrying Clearing Member and held by the Clearing House in respect of the Transferring ForexClear Contracts shall be deemed to have been delivered by the Receiving Clearing Member to the Clearing House (aa) where the Receiving Clearing Member is not an FCM Clearing Member, in the case of cash Collateral, by way of title transfer and, in the case of non-cash Collateral, shall be held by the Clearing House on behalf of the Receiving Clearing Member and such Receiving Clearing Member's rights in such non-cash Collateral shall become subject to the relevant Deed of Charge of the Receiving Clearing Member, or (bb) where the Receiving Clearing Member is an FCM Clearing Member, by way of a first-priority security interest granted by the Receiving Clearing Member to the Clearing House under the FCM Clearing Membership Agreement and the FCM Rulebook; furthermore, and for the avoidance of doubt, the Carrying Clearing Member shall have no right or entitlement to assert any claim over, or right with respect to, the associated Collateral transferred;

- (v) where all or a portion of the associated Collateral has been accepted by the Receiving Clearing Member, ~~the LCH shall promptly transfer of the Transferring ForexClear Contracts and the accepted associated Collateral shall be deemed to occur simultaneously,~~ and the transfer of the Transferring ForexClear Contracts shall be conditioned on the transfer of the accepted associated Collateral, and vice versa; and
- (w) if the transfer of all Transferring ForexClear Contracts and (if applicable) all accepted associated Collateral is not completed for any reason, then any actual transfer of associated Collateral or Transferring ForexClear Contracts that has occurred, as the case may
- (x) be, shall be deemed not to have occurred, and any actual transfer of associated Collateral or Transferring ForexClear Contracts that has occurred shall be immediately unwound.

### **Verification and Reliance**

Subject to the following paragraph, but otherwise notwithstanding anything to the contrary in the FCM Regulations or these FCM Procedures, in making any Transfer Request in accordance with Regulation 49(r) and this Section 2.2.19, the Clearing House shall be authorized and entitled to rely conclusively on the instructions of, and information provided by, the Receiving Clearing Member and the Carrying Clearing Member, which shall be solely responsible for all such instructions and information.

The Clearing House shall verify that the Transferring ForexClear Contracts identified to it by a Receiving Clearing Member as being the subject of such Transfer Request correspond to FCM ForexClear Contracts that, according to its records, are registered in the Transfer Account of the Carrying Clearing Member on behalf of the Eligible Transferor. In the event that the Clearing House identifies a discrepancy, it will notify the Receiving Clearing Member and the Carrying Clearing Member and no transfer will occur until such time as

**Appendix II**  
FCM Regulations



**FCM REGULATIONS OF THE CLEARING  
HOUSE**

**LCH LIMITED**

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## **CHAPTER V - COLLATERAL AND VALUATIONS**

### **REGULATION 14 MARGIN AND COLLATERAL**

- (a) The Clearing House may in accordance with the FCM Procedures require an FCM Clearing Member to furnish it with Margin, and to keep the Clearing House furnished with sufficient Margin at all times, in an amount determined by the Clearing House in accordance with these FCM Regulations and the FCM Procedures, as security for the performance by such FCM Clearing Member of its obligations to the Clearing House in respect of all FCM Contracts from time to time to be registered in its name as Open FCM Contracts pursuant to these FCM Regulations. The obligation upon an FCM Clearing Member to furnish Margin to the Clearing House pursuant to this paragraph shall be **in addition** to any other obligation of the FCM Clearing Member to furnish Margin or make any other payment to the Clearing House pursuant to these FCM Regulations. For the avoidance of doubt, margining requirements and policies may vary among each Business Category of FCM Contract and among each Product therein.
- (b) If insufficient monies are standing to the credit of an FCM Clearing Member's account, or if any Collateral deposited by an FCM Clearing Member as Margin is determined by the Clearing House in accordance with the FCM Procedures to be insufficient, such Margin as the Clearing House requires an FCM Clearing Member to furnish to it pursuant to paragraph (a) above or any other FCM Regulation shall be furnished by the FCM Clearing Member in such form and manner and by such time or times as may be prescribed by the FCM Procedures.
- (c) (i) The Clearing House shall be entitled to assume that all Collateral furnished by an FCM Clearing Member to the Clearing House pursuant to these FCM Regulations or under the terms of any agreement made with the FCM Clearing Member are the sole legal and beneficial property of the FCM Clearing Member or are furnished or deposited for the purposes of these FCM Regulations with the legal and beneficial owner's unconditional consent and with the authority granted to the FCM Clearing Member to repledge such property to the Clearing House. An FCM Clearing Member may not furnish Collateral to or with the Clearing House otherwise than in conformance with this paragraph. It shall be accepted by every person (including FCM Clients) subject to or dealing on the terms of these FCM Regulations that an FCM Clearing Member has such person's unconditional consent to furnish to the Clearing House any securities or other assets of such person in the FCM Clearing Member's possession as Collateral for purposes of the FCM Rulebook.
- (ii) Each FCM Clearing Member represents and warrants to the Clearing House as at each date on which such FCM Clearing Member furnishes Collateral to the Clearing House pursuant to these FCM Regulations (A) that such FCM 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 FCM 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 FCM Regulations will not constitute or result in a breach of any trust, agreement or undertaking whatsoever.

such Collateral in accordance with FCM Regulations 7(n). Except to the extent otherwise provided for in the FCM 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.

- (s) Although each FCM Clearing Member and the Clearing House intend the payment of each Contribution by the FCM Clearing Member to the Clearing House to be an outright payment or transfer by the FCM Clearing Member to the Clearing House (subject to the Clearing House's obligation to repay Contributions pursuant to FCM Default Fund Agreement and/or the Default Fund Rules), in the event that any or all of a Contribution is deemed to be collateral posted to the Clearing House by the FCM Clearing Member (in which the FCM Clearing Member retains an ownership interest), then, notwithstanding clause (m) above, the FCM 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 FCM Clearing Member to the Clearing House under the FCM Rulebook, and the FCM 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 FCM Regulation 14(q) and any other additional rights provided for under the FCM Rulebook.
- (t) Each FCM Clearing Member shall ensure that with respect to an FCM ~~Transaction Client that it determines to have a 'heightened risk profile' that results in the registration of an FCM Contract on behalf of an FCM Client that is of a "non-hedging nature"~~ (as such term is used in Part 39 of the CFTC Regulations), it shall collect or remain furnished with additional FCM Client Funds from the relevant FCM Client ~~in respect of such non-hedging FCM 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 FCM Procedures.
- (u) Each FCM Clearing Member shall ensure that no FCM Client withdraws FCM Client Funds from an FCM Client Segregated Depository Account unless the "net liquidating value" (as such term is used in Part 39 of the CFTC Regulations) plus the FCM Client Funds attributable to such FCM Client remaining in such FCM 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 FCM Contracts entered into on behalf of that FCM Client. For the purposes of this paragraph, references to "FCM Client" shall include all FCM Clients for the same beneficial owner unless the FCM Clearing Member complies with the relevant conditions set out in CFTC Letter No. 19-17 of July 10, 2019.
- (v) **Gross and Net Margining Requirements – FCM Client Positions.**
  - (i) *Swap Products.* FCM Clients and FCM Contract positions established for FCM Clients in each Business Category of FCM Contract consisting of Swap Products shall be subject to gross margin requirements on all such positions within each such Business Category of FCM Contract, on an FCM Client by FCM Client basis. Each individual FCM Client's position in any such single Business Category of FCM Contract shall be margined on a net basis, and such

**Appendix III**  
Procedures Section 2C



**LCH LIMITED**

**PROCEDURES SECTION 2C**

**SWAPCLEAR CLEARING SERVICE**

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applicable) in respect of the Related SwapClear Contracts referable to the Indirect Clearing Client;

- (c) the SwapClear Clearing Member having satisfied the Total Required Margin Amount in respect of the relevant account to which the Related SwapClear Contracts are being transferred;
- (d) the Clearing House receiving an indemnity from the SwapClear Clearing Member in a form suitable to the Clearing House; and
- (e) in respect of a Client to Client Porting, the Clearing House receiving written confirmation from the SwapClear Clearing Member that the Backup Client has agreed to act as the Backup Client in relation to such Client to Client Porting.

The Clearing House will usually arrange a transfer of the Related SwapClear Contracts referable to an Indirect Clearing Client within 24 hours of receipt of the documents listed in Section 1.14.2(a) to (e).

For the purposes of this Section 1.14, a "**Related SwapClear Contract**" has the same meaning as ascribed to such term in Section 1.13.1, save that, in this Section 1.14, the SwapClear Clearing Client is acting on behalf of one or more Indirect Clearing Clients in respect of whom the SwapClear Clearing Member clears Contracts with the Clearing House in an Indirect Gross Account.

## 1.15 Portfolio Transfers (BAU)

### 1.15.1 Introduction

The SwapClear Clearing System provides functionality for transfer of one or more Transferring SwapClear Contracts between the Transfer Account of an Eligible Transferor to the Transfer Account of an Eligible Transferee, including, where relevant, the transfer of an Associated Collateral Balance. For the avoidance of doubt, and subject to the requirements of FCM Regulation 46(p), an FCM Clearing Member, acting for its own account or for the account of an FCM Client, may be an Eligible Transferor or an Eligible Transferee.

For transfers other than Permitted Transfers (as defined in Section 1.15.2 below), please contact the Clearing House Risk Management Department.

SwapClear Dealers who wish to change their SCM will be required to execute a new SwapClear Dealer Clearing Agreement with their intended new SCM. The Clearing House will, if all parties are in agreement, effect a transfer of positions from one SCM to the other.

### 1.15.2 Permitted Transfers

An End-of-Day Full Transfer, End-of-Day Partial Transfer, Intra-Day Non-Bulk Transfer or Intra-Day Bulk Transfer that meets the criteria in any of (a) through (g) below shall be a "**Permitted Transfer**" for purposes of Regulation 60 (*Transfers*) and this Section 1.15. For the avoidance of doubt, a Permitted

the transfer. In connection with any Permitted Transfer, the Clearing House may call for Collateral in respect of initial and/or variation margin to be deposited in such amounts and at such times as the Clearing House, in its sole discretion, requires. Any Collateral so called and deposited shall be reserved and made available solely in connection with the Permitted Transfer.

#### 1.15.8 *Transfer of Associated Collateral Balance*

Where a Receiving Clearing Member notifies the Clearing House of a proposal to transfer an Associated Collateral Balance in connection with a Permitted Transfer, the Clearing House shall notify the Carrying Clearing Member of such request. Following such notification and upon request from the Clearing House, the Carrying Clearing Member shall confirm to the Clearing House the specific collateral which should comprise such Associated Collateral Balance(s). In the event that the Carrying Clearing Member fails to notify the Clearing House of the specific collateral which should comprise the Associated Collateral Balance(s), the Clearing House shall identify and select the Collateral it deems appropriate to comprise the Associated Collateral Balance(s) attributable to the Transferring SwapClear Contracts, in its sole discretion. Any Collateral so identified shall be reserved and made available solely in connection with the Permitted Transfer. Once the relevant Associated Collateral Balance(s) of the transfer have been notified by the Clearing House to the Receiving Clearing Member, the Receiving Clearing Member may elect to reject the transfer of some or all of such Associated Collateral Balance(s).

Any such election will not, of itself, prevent the transfer of the Transferring SwapClear Contracts of the Eligible Transferor and any Associated Collateral Balance which has been accepted by the Receiving Clearing Member, **provided that** the conditions set out in Section 1.15.5 above are satisfied in relation to such transfer. The Clearing House shall transfer the Associated Collateral Balance that has been identified and consented to by the Receiving Clearing Member. In the event that, for whatever reason, the Clearing House is unable to transfer such Associated Collateral Balance, the Clearing House will not proceed with the transfer of the Transferring SwapClear Contracts. In such circumstances, the Clearing House will notify the Receiving Clearing Member that the Associated Collateral Balance will not be transferred and, in order to proceed with the transfer of the associated Transferring SwapClear Contracts, the Receiving Clearing Member will have to furnish to the Clearing House sufficient collateral in respect of the Transferring SwapClear Contracts.

In the case where a transfer of Transferring SwapClear Contracts pursuant to this Section 1.15.8 will include the transfer of the Associated Collateral Balance(s) to the Transfer Account of the Eligible Transferee:

- (a) In respect of an Associated Collateral Balance that is subject to a Deed of Charge entered into between the Carrying Clearing Member and the Clearing House, such transfer shall be effected as follows:
  - (i) the Carrying Clearing Member shall relinquish all rights to such Associated Collateral Balance (including, for the avoidance of

- doubt, any beneficial interest and/or equity of redemption in respect thereof);
- (ii) such Associated Collateral Balance shall immediately upon such relinquishment be held by the Clearing House on behalf of the Receiving Clearing Member;
  - (iii) where the Receiving Clearing Member is not an FCM Clearing Member, its rights to such Associated Collateral Balance arising as described in sub-paragraph (a)(ii) above shall become, in respect of the Transferring SwapClear Contracts, subject to the relevant Deed of Charge entered into between the Receiving Clearing Member and the Clearing House (such rights thereby becoming Charged Property within the meaning of that Deed of Charge); and
  - (iv) where the Receiving Clearing Member is an FCM Clearing Member, the Associated Collateral Balance shall be deemed to have been delivered by the Receiving Clearing Member to the Clearing House by way of a first-priority security interest granted by the Receiving Clearing Member to the Clearing House under the FCM Regulations and the FCM Clearing Membership Agreement between the Receiving Clearing Member and the Clearing House.
- (b) In respect of any part of an Associated Collateral Balance that is not subject to a Client Charge or the Deed of Charge entered into between the Carrying Clearing Member and the Clearing House, such transfer shall be by novation of the Carrying Clearing Member's rights and obligations in respect of such part of the Associated Collateral Balance to the Receiving Clearing Member.
  - (c) In respect of any part of an Associated Collateral Balance that is subject to the Client Charge entered into between a Custodial Segregated Client, the Clearing House and the Carrying Clearing Member, such transfer shall be effected as set out in and in accordance with: (i) the relevant Collateral Management Agreement entered into between such Custodial Segregated Client, the Clearing House and the Carrying Clearing Member, and (ii) the relevant Collateral Management Agreement entered into between such Custodial Segregated Client, the Clearing House and the Receiving Clearing Member.
  - (d) For the avoidance of doubt, the Carrying Clearing Member shall have no right or entitlement to assert any claim over, or right with respect to, the Associated Collateral Balance Transferred.
  - (e) ~~The LCH shall promptly transfer of the Transferring SwapClear Contracts and Associated Collateral Balance shall be deemed to occur simultaneously,~~ and the transfer of the Transferring SwapClear Contracts shall be conditioned on the transfer of the Associated Collateral Balance, and vice versa.

- (f) If the transfer of the Transferring SwapClear Contracts and Associated Collateral Balance is not completed for any reason, then any actual transfer of any part of the Associated Collateral Balance or Transferring SwapClear Contracts that has occurred, as the case may be, shall be deemed not to have occurred, and any actual transfer of any part of the Associated Collateral Balance or Transferring SwapClear Contracts that has occurred shall be immediately unwound.
- (g) That portion (if any) of:
  - (i) the Clearing House Current Collateral Balance in respect of the Carrying Clearing Member which is attributable to the Transferring SwapClear Contracts (the “**Relevant Portion**”) shall be reduced to zero; and
  - (ii) the Clearing House Current Collateral Balance in respect of the Receiving Clearing Member shall be increased by an amount equal to the value of the Relevant Portion immediately prior to the reduction referred to in (i) immediately above.

#### 1.15.9 *Verification and Reliance*

- (a) Subject to paragraph (b) below, but otherwise notwithstanding anything to the contrary in the Regulations or these Procedures, in making any Transfer Request in accordance with Regulation 60 (*Transfer*) and this Section 1.15 and (where applicable) any relevant Collateral Management Agreement, the Clearing House shall be authorised and entitled to rely conclusively on the instructions of, and information provided by, the Receiving Clearing Member and the Carrying Clearing Member, which shall be solely responsible for all such instructions and information.
- (b) The Clearing House shall verify that the Transferring SwapClear Contracts identified to it by a Receiving Clearing Member as being the subject of such Transfer Request correspond to SwapClear Contracts which, according to its records, are registered in the Transfer Account of the Carrying Clearing Member on behalf of the Eligible Transferor. In the event that the Clearing House identifies a discrepancy, it will notify the Receiving Clearing Member and the Carrying Clearing Member and no transfer will occur until such time as the Transferring SwapClear Contracts identified to the Clearing House can be verified to the Clearing House.

#### 1.15.10 *Intra-Clearing Member Transfers*

In connection with any Permitted Transfer of Transferring SwapClear Contracts where the Transfer Account of the Eligible Transferor and the Transfer Account of the Eligible Transferee are held by the same SCM (*i.e.*, where the same SCM serves as both the Carrying Clearing Member and the Receiving Clearing Member), such SCM shall be deemed to make the following agreements, acknowledgements and representations:

**Appendix IV**  
Procedures Section 2I



**LCH LIMITED**

**PROCEDURES SECTION 2I**

**FOREXCLEAR CLEARING SERVICE**

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"**Settlement Currency Amount**" and a separate entry for the reversal of the aggregate net variation margin or NPV Payments which have been paid/received through the term of the ForexClear Non-Deliverable Contract. This paragraph applies even if the Settlement Date has been adjusted in accordance with the relevant ForexClear Contract Terms.

- 1.3.11 **Portfolio Transfers (BAU)**. The Clearing House permits the transfer of one or more Transferring ForexClear Contracts between the Transfer Account of an Eligible Transferor to the Transfer Account of an Eligible Transferee, including, where relevant, the transfer of an Associated Collateral Balance. For the avoidance of doubt, and subject to the requirements of FCM Regulation 49(r), an FXCCM acting for its own account or for the account of an FCM Client, may be an Eligible Transferor or an Eligible Transferee.

For transfers other than Permitted Transfers (as defined below), please contact the Clearing House's Risk Management Department.

### **Permitted Transfers**

Any transfer that meets the criteria in any of (a) through (g) below shall be a "**Permitted Transfer**" for purposes of Regulation 95 and this Section 1.3.11. In certain circumstances, a Permitted Transfer may be effected for all or part of the notional amount associated with the Transferring ForexClear Contracts. Notwithstanding the foregoing, but subject to Applicable Law, the Clearing House may reject any Permitted Transfers in its sole discretion.

- (a) a transfer of one or more Transferring ForexClear Contracts where: (A) the Transfer Account of the Eligible Transferor is a Client Account; (B) the Transfer Account of the Eligible Transferee is a Client Account; and (C) the Receiving Clearing Member and the Carrying Clearing Member are separate legal entities;
- (b) a transfer of one or more Transferring ForexClear Contracts where: (A) the Transfer Account of the Eligible Transferor is a Client Account; (B) the Transfer Account of the Eligible Transferee is a Client Account; and (C) the Receiving Clearing Member and the Carrying Clearing Member are the same legal entity;
- (c) a transfer of one or more Transferring ForexClear Contracts where: (A) the Transfer Account of the Eligible Transferor is a Client Account; (B) the Transfer Account of the Eligible Transferee is a Proprietary Account; and (C) the Receiving Clearing Member and the Carrying Clearing Member are separate legal entities;
- (d) a transfer of one or more Transferring ForexClear Contracts where: (A) the Transfer Account of the Eligible Transferor is a Proprietary Account; (B) the Transfer Account of the Eligible Transferee is a Client Account;

The Carrying Clearing Member may be entitled to reject a particular Transfer Request by notifying the Clearing House (in either electronic or written form as prescribed by the Clearing House) only if:

- (s) the Eligible Transferor has failed to satisfy all outstanding obligations that are due and payable to the Carrying Clearing Member and/or its Affiliates, including any requirement for additional collateral that may result from the proposed transfer, where, with the respect to obligations owed to Affiliates of the Carrying Clearing Member by an Eligible Transferor, “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 Transferring ForexClear Contracts of that Eligible Transferor that are being transferred or that Eligible Transferor’s related collateral;
- (t) the transfer of the Transferring ForexClear Contracts of that Eligible Transferor would result in the Eligible Transferor breaching exposure limits with, and/or other risk parameters set by, the Carrying Clearing Member and/or its Affiliates; or
- (u) such rejection is in accordance with terms agreed as between the Carrying Clearing Member and the relevant Eligible Transferor.

#### **Right to Call Collateral**

Permitted Transfers will only be effected once adequate Collateral is available (which may be as a consequence of margin forbearance or the transfer of Associated Collateral Balance) in respect of both Transfer Accounts affected by the transfer. In connection with any Permitted Transfer, the Clearing House may call for Collateral in respect of initial and/or variation margin to be deposited in such amounts and at such times as the Clearing House, in its sole discretion, requires. Any Collateral so called and deposited shall be reserved and made available solely in connection with the Permitted Transfer.

#### **Transfer of Associated Collateral Balance**

Where a Receiving Clearing Member notifies the Clearing House of a proposal to transfer an Associated Collateral Balance in connection with a Permitted Transfer, the Clearing House shall notify the Carrying Clearing Member of such request. Following such notification and upon request from the Clearing House, the Carrying Clearing Member shall confirm to the Clearing House the specific collateral that should comprise such Associated Collateral Balance(s). In the event that the Carrying Clearing Member fails to notify the Clearing House of the specific collateral that should comprise the Associated Collateral Balance(s), the Clearing House shall identify and select the Collateral it deems appropriate to comprise the Associated Collateral Balance(s) attributable to the Transferring ForexClear Contracts, in its sole discretion. Any Collateral so identified shall be reserved and made available solely in connection with the Permitted Transfer. Once the relevant Associated Collateral Balance(s) of the transfer have been notified by the Clearing House to the Receiving Clearing Member, the



Receiving Clearing Member may elect to reject the transfer of some or all of such Associated Collateral Balance(s).

Any such election will not, of itself, prevent the transfer of the Transferring ForexClear Contracts of the Eligible Transferor and any Associated Collateral Balance that has been accepted by the Receiving Clearing Member, provided that the conditions set out above are satisfied in relation to such transfer. The Clearing House shall transfer the Associated Collateral Balance that has been identified and consented to by the Receiving Clearing Member. In the event that, for whatever reason, the Clearing House is unable to transfer such Associated Collateral Balance, the Clearing House will not proceed with the transfer of the Transferring ForexClear Contracts. In such circumstances, the Clearing House will notify the Receiving Clearing Member that the Associated Collateral Balance will not be transferred and, in order to proceed with the transfer of the associated Transferring ForexClear Contracts, the Receiving Clearing Member will have to furnish to the Clearing House sufficient collateral in respect of the Transferring ForexClear Contracts.

In the case where a transfer of Transferring ForexClear Contracts pursuant to this Section 1.3.11 will include the transfer of Associated Collateral Balance(s) to the Transfer Account of the Eligible Transferee:

- (v) in respect of Associated Collateral Balance that is subject to a Deed of Charge entered into between the Carrying Clearing Member and the Clearing House, such transfer shall be effected as follows:
  - (i) the Carrying Clearing Member shall relinquish all rights to such Associated Collateral Balance (including, for the avoidance of doubt, any beneficial interest and/or equity of redemption in respect thereof);
  - (ii) such Associated Collateral Balance shall immediately upon such relinquishment be held by the Clearing House on behalf of the Receiving Clearing Member;
  - (iii) where the Receiving Clearing Member is not an FCM Clearing Member, its rights to such Associated Collateral Balance arising as described in 1.3.11(v)(ii) above shall become, in respect of the Transferring ForexClear Contracts, subject to the relevant Deed of Charge entered into between the Receiving Clearing Member and the Clearing House (such rights thereby becoming Charged Property within the meaning of that Deed of Charge); and
  - (iv) where the Receiving Clearing Member is an FCM Clearing Member, the Associated Collateral Balance shall be deemed to have been delivered by the Receiving Clearing Member to the Clearing House by way of a first-priority security interest granted by the Receiving Clearing Member to the Clearing House under the FCM Regulations and the FCM Clearing Membership Agreement between the Receiving Clearing Member and the Clearing House;

- (w) in respect of any part of an Associated Collateral Balance that is not subject to a Client Charge or the Deed of Charge entered into between the Carrying Clearing Member and the Clearing House, such transfer shall be by novation of the Carrying Clearing Member's rights and obligations in respect of such part of the Associated Collateral Balance to the Receiving Clearing Member;
- (x) in respect of any part of an Associated Collateral Balance that is subject to the Client Charge entered into between a Custodial Segregated Client, the Clearing House and the Carrying Clearing Member, such transfer shall be effected as set out in and in accordance with: (i) the relevant Collateral Management Agreement entered into between such Custodial Segregated Client, the Clearing House and the Carrying Clearing Member, and (ii) the relevant Collateral Management Agreement entered into between such Custodial Segregated Client, the Clearing House and the Receiving Clearing Member;
- (y) for the avoidance of doubt, the Carrying Clearing Member shall have no right or entitlement to assert any claim over, or right with respect to, the transferred Associated Collateral Balance;
- (z) ~~the LCH shall promptly~~ transfer ~~of~~ the Transferring ForexClear Contracts and Associated Collateral Balance ~~shall be deemed to occur simultaneously~~, and the transfer of the Transferring ForexClear Contracts shall be conditioned on the transfer of the Associated Collateral Balance, and vice versa;
- (aa) if the transfer of the Transferring ForexClear Contracts and Associated Collateral Balance is not completed for any reason, then any actual transfer of any part of the Associated Collateral Balance or Transferring ForexClear Contracts that has occurred, as the case may be, shall be deemed not to have occurred, and any actual transfer of any part of the Associated Collateral Balance or Transferring ForexClear Contracts that has occurred shall be immediately unwound;
- (bb) that portion (if any) of:
  - (i) the Clearing House Current Collateral Balance in respect of the Carrying Clearing Member which is attributable to the Transferring ForexClear Contracts (the "**Relevant Portion**") shall be reduced to zero; and
  - (ii) the Clearing House Current Collateral Balance in respect of the Receiving Clearing Member shall be increased by an amount equal to the value of the Relevant Portion immediately prior to the reduction referred to in (i) immediately above.

### **Verification and Reliance**

Subject to the following paragraph, but otherwise notwithstanding anything to the contrary in the Regulations or these Procedures, in making any Transfer

Request in accordance with Regulation 95 and this Section 1.3.11 and (where applicable) any relevant Collateral Management Agreement, the Clearing House shall be authorised and entitled to rely conclusively on the instructions of, and information provided by, the Receiving Clearing Member and the Carrying Clearing Member, which shall be solely responsible for all such instructions and information.

The Clearing House shall verify that the Transferring ForexClear Contracts identified to it by a Receiving Clearing Member as being the subject of such Transfer Request correspond to ForexClear Contracts that, according to its records, are registered in the Transfer Account of the Carrying Clearing Member on behalf of the Eligible Transferor. In the event that the Clearing House identifies a discrepancy, it will notify the Receiving Clearing Member and the Carrying Clearing Member and no transfer will occur until such time as the Transferring ForexClear Contracts identified to the Clearing House can be verified to the Clearing House.

### **Intra-Clearing Member Transfers**

In connection with any Permitted Transfer of Transferring ForexClear Contracts where the Transfer Account of the Eligible Transferor and the Transfer Account of the Eligible Transferee are held by the same FXCCM (i.e., where the same FXCCM serves as both the Carrying Clearing Member and the Receiving Clearing Member), such FXCCM shall be deemed to make the following agreements, acknowledgements and representations:

- (cc) the contractual terms of the Transferring ForexClear Contracts will not change solely as a result of the Clearing House effecting the Permitted Transfer;
- (dd) the FXCCM will remain liable to the Clearing House for all obligations under the Transferring ForexClear Contracts prior to, during and after the Permitted Transfer;
- (ee) the Clearing House may require that certain changes be made to the books and records of one or more Approved Trade Source Systems in order to reflect the Permitted Transfer;
- (ff) the Clearing House is acting solely upon the FXCCM's instructions as detailed to the Clearing House in writing and in reliance on the FXCCM's agreements and representations (including as set out in this Section 1.3.11) in connection therewith;
- (gg) the Permitted Transfer is permissible under Applicable Law and is not in violation of Applicable Law, and the FXCCM has obtained any and all necessary and appropriate consents, authorisations and approvals, and has taken any other actions required under Applicable Law in connection with the Permitted Transfer; and
- (hh) the Clearing House shall not be liable for any costs, expenses, damages or losses, whether direct or indirect, suffered by any of the parties hereto,