

# **ICE Clear Europe<sup>sm</sup>**

## **Clearing Rules**

|



## Table of Contents

<a href="#">Part 1</a>	<a href="#">General Provisions</a>	4
<a href="#">Part 2</a>	<a href="#">Clearing Membership</a>	<del>113</del> 8283
<a href="#">Part 3</a>	<a href="#">Financial Requirements and Payments</a>	<del>103</del> 105
<a href="#">Part 4</a>	<a href="#">Clearing Mechanism</a>	<del>113</del> 116
<a href="#">Part 5</a>	<a href="#">Margin</a>	<del>140</del> 144
<a href="#">Part 6</a>	<a href="#">Position Limits</a>	<del>150</del> 154
<a href="#">Part 7</a>	<a href="#">Settlement and Delivery of Futures</a>	<del>153</del> 157
<a href="#">Part 8</a>	<a href="#">Options</a>	<del>157</del> 161
<a href="#">Part 9</a>	<a href="#">Default Rules</a>	<del>163</del> 167
<a href="#">Part 10</a>	<a href="#">Disciplinary Proceedings</a>	<del>255</del> 268
<a href="#">Part 11</a>	<a href="#">Guaranty Funds</a>	<del>268</del> 283
<a href="#">Part 12</a>	<a href="#">Settlement Finality Regulations and Companies Act 1989</a>	<del>276</del> 292
<a href="#">Part 13</a>	<a href="#">[Not used]</a>	<del>293</del> 309
<a href="#">Part 14</a>	<a href="#">Transition Rules for ICE Energy Markets in 2008 [No longer applicable: available on request.]</a>	<del>293</del> 310
<a href="#">Part 15</a>	<a href="#">Credit Default Swaps</a>	<del>294</del> 311
<a href="#">Part 16</a>	<a href="#">FCM/BD Clearing Member Provisions</a>	<del>320</del> 336
<a href="#">Part 17</a>	<a href="#">Foreign Exchange</a>	<del>337</del> 353
<a href="#">Part 18</a>	<a href="#">Transition Rules for LIFFE in 2013</a>	<del>343</del> 359
<a href="#">Part 19</a>	<a href="#">Sponsored Principals</a>	<del>351</del> 367
<a href="#">Part 20</a>	<a href="#">Transition Rules for ICE Endex in 2013 [No longer applicable: available on request.]</a>	<del>365</del> 382
<a href="#">Part 21</a>	<a href="#">Transition Rules for LIFFE in 2014</a>	<del>366</del> 383
<a href="#">Part 22</a>	<a href="#">Launch Rules for ICE Endex UK and ICE Endex Continental in 2015 [No longer applicable: available on request.]</a>	<del>371</del> 388

Part 23   Rules for Market transitions ..... ~~371~~Transitions389

Exhibit 1:      Customer-CM CDS Transaction Standard Terms

Exhibit 2:      Customer-CM F&O Transaction Standard Terms

Exhibit 3:      Customer-CM FX Transaction Standard Terms

Exhibit 4:      Settlement and Notices Terms

## Part 1 – General Provisions

### *Part 1 General Provisions*

#### *Rule 101 Definitions*

The term "**2003 Credit Derivatives Definitions**" means the document titled "2003 ISDA Credit Derivatives Definitions" dated 2003 published by ISDA as supplemented by (a) the 2009 ISDA Credit Derivatives Determinations Committees, Auction Settlement and Restructuring Supplement to the 2003 Credit Derivatives Definitions (published by ISDA on 14 July 2009) and the Credit Derivatives Determinations Committees Rules (published by ISDA and as amended from time to time) and (b) the 2005 Matrix Supplement to the 2003 ISDA Credit Derivatives Definitions (published by ISDA on 7 March 2005), all including as supplemented or modified by incorporation of any additional provisions thereto (howsoever described) under, and as amended by, the Contract Terms for any relevant CDS Contract from time to time.

The term "**2014 Credit Derivatives Definitions**" means the document titled "2014 ISDA Credit Derivatives Definitions" published by ISDA on 21 February 2014 including as supplemented or modified by incorporation of any additional provisions thereto (howsoever described) under, and as amended by, the Contract Terms for any relevant CDS Contract from time to time.

The term "**2003-type CDS Contract**" means a CDS Contract incorporating the 2003 Credit Derivatives Definitions.

The term "**2014-type CDS Contract**" means a CDS Contract incorporating the 2014 Credit Derivatives Definitions.

The term "**Acceptance Notice**" has the meaning set out in the CDS Procedures.

The term "**Acceptance Time**" means: (i) in relation to a CDS Contract, the "Acceptance Time" (as defined in the CDS Procedures); or (ii) in relation to an FX Contract, the "FX Acceptance Time" (as defined in the FX Procedures).

The term "**Account**" means a Customer Account of a particular Contract Category, a Proprietary Account or an Individually Segregated Sponsored Account.

The term "**Accounting Standards**" means applicable accounting standards and principles.

The term "**Affected Customer**" means a Customer in respect of whom Applicable Laws in the Customer's jurisdiction of establishment or applicable in the context of activity on a relevant trading platform do not prevent or prohibit a Customer Account providing individual client segregation, a Customer Account providing omnibus client segregation (in each case, in the manner set out in Articles 39 and 48 of EMIR), a Customer Account that is a segregated account for the exclusive purpose of holding the assets and positions of the clearing member's indirect clients that are managed by the clearing member or a Customer Account that is a segregated account for the exclusive purpose of holding the assets and positions of the indirect clients of each client of the clearing member that are managed by the clearing member (in each case, in the manner set forth under EMIR and MiFID II) being provided to the Customer.

## Part 1 – General Provisions

The term "**Affected FM Party**" means a Person prevented, hindered or delayed by a Force Majeure Event.

The term "**Affiliated Person**" or "**Affiliate**" means, with respect to any specified Person, any other Person that Controls, is Controlled by, or is under common Control with, such specified Person.

The term "**Appeal Panel**" means the panel at which an appeal of a decision of a Disciplinary Panel [or a sanction imposed as part of any Summary Disciplinary Process](#) is heard pursuant to Rule 1005 or Rule 1008, respectively.

The term "**Applicable Credit Derivatives Definitions**" means, in relation to any provisions of the Rules or the Contract Terms applicable to a CDS Non-2014 Contract or any Component Transaction in the form of a CDS Non-2014 Contract, the 2003 Credit Derivatives Definitions and, in relation to any provisions of the Rules or the Contract Terms applicable to a 2014-type CDS Contract or any Component Transaction in the form of a 2014-type CDS Contract, the 2014 Credit Derivatives Definitions.

The term "**Applicable Law**" means any applicable national, federal, supranational, state, regional, provincial, local or other statute, law, ordinance, regulation, rule, code, guidance, order, [direction](#), published practice or concession, regulatory requirement, judgment or decision of a Governmental Authority and any memorandum of understanding (or equivalent) between the Clearing House and one or more Governmental Authorities or between Governmental Authorities or any consent entered into by the Clearing House for the benefit of one or more Governmental Authorities and, for the avoidance of doubt, includes all the provisions of EMIR, [the FSMA](#), the FCA Rules, the PRA Rules, rules, regulations, guidance and approach documents of the Bank of England, the CEA, the rules and regulations of the CFTC, the Exchange Act, the rules and regulations of the SEC, the FSMR, FSRA Rules, any rules or regulations of any other Regulatory Authority and applicable Insolvency laws (including the U.S. Bankruptcy Code).

The term "**Approved Financial Institution**" means a credit institution, bank, trust company or other institution which is an "institution" as defined in the Settlement Finality Regulations and which has been designated as an approved financial institution by the Clearing House for purposes of making and receiving cash transfers to and from the Clearing House and Payment Transfer Orders.

The term "**Assessment Amount**" means an F&O Assessment Amount, a CDS Assessment Amount or an FX Assessment Amount.

The term "**Assessment Contribution**" means an F&O Assessment Contribution, a CDS Assessment Contribution or an FX Assessment Contribution.

The term "**Bankruptcy**" means, in relation to a Person, where that Person: (i) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (ii) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due or is granted suspension of payments; (iii) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (iv) institutes or has instituted against it, by a Governmental Authority with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organisation or the jurisdiction of its head or home office, a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or

## Part 1 – General Provisions

other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation by it or such Governmental Authority; (v) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and such proceeding or petition is instituted or presented by a person or entity not described in (iv) above and either (1) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (2) is not dismissed, discharged, stayed or restrained in each case within 15 days of the institution or presentation thereof; (vi) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger); (vii) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets; (viii) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 15 days thereafter; (ix) causes or is subject to any event with respect to it which, under the Applicable Laws of any jurisdiction, has an analogous effect to any of the events specified in (i) to (viii) above; or (x) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts. For the purposes of this definition and for the avoidance of doubt, "Person", in the case of a CDS Clearing Member or Sponsored Principal in respect of CDS Clearing, includes any Office (as defined in the CDS Procedures) which the Clearing House and the CDS Clearing Member or Sponsored Principal have agreed pursuant to paragraph 8.2(b)(i) of the CDS Procedures that the CDS Clearing Member or Sponsored Principal may enter into a CDS Contract through or have an open CDS Contract recorded in the name of, or any Office of such CDS Clearing Member or Sponsored Principal through which it is acting.

The term "**Basis Trades**" means a 'basis trade' transaction under applicable Market Rules or any similar transaction under any Market Rules.

~~The term "**B-Clear**" means a service operated by a Market which enables Financials & Softs Clearing Members to report bilateral trades to that Market for the purposes of the relevant Market Rules or any similar transaction under any Market Rules.~~

The term "**Bilateral CDS Transaction**" means: (i) a CDS transaction between two CDS Clearing Members (or, to the extent permitted in the CDS Procedures, involving the same CDS Clearing Member acting in two different capacities); or (ii) a CDS transaction between a CDS Clearing Member and an Affiliate of the same or a different CDS Clearing Member; or (iii) a CDS transaction between an Affiliate of a CDS Clearing Member and an Affiliate of the same or a different CDS Clearing Member; or (iv) any of cases (i), (ii) or (iii) but where a Sponsored Principal is party to the transaction instead of a CDS Clearing Member, (to which in either case (i), (ii), (iii) or (iv), for the avoidance of doubt, the Clearing House is not a party).

The term "**Board**" means the board of Directors of the Clearing House and, in the context of any power, discretion or authority of the board of the Clearing House, includes any other body established thereunder or given powers of discretion thereby, whether called a board, a committee or otherwise of the Clearing House.

## Part 1 – General Provisions

The term "**Business Day**" means a day on which the Clearing House is open for business or, in relation to deliveries in respect of a particular F&O Contract, has the meaning given in the Delivery Procedures or, in relation to certain Contract Terms, has the meaning given in or pursuant to the Contract Terms Procedures or Market Rules.

The term "**Buyer**" means, in relation to deliveries under Part 7 or a Contract of Sale, the Clearing Member (or Sponsored Principal) or the Clearing House, whichever is obliged to receive delivery of a Deliverable (whether itself or through another Person).

The term "**Buying Counterparty**" means, in respect of a Contract: (a) except in circumstances in which sub-paragraph (c) below applies, the Clearing Member that was, before formation of a Contract, party to the corresponding Transaction (or specified in the CDS Trade Particulars or FX Trade Particulars) as buyer (or, in relation to CDS Contracts, as protection buyer or, in relation to a Financially-Settled FX Contract, Reference Currency Buyer); (b) except in circumstances in which sub-paragraph (c) below applies, where a Non-FCM/BD Clearing Member's Customer is a party to the corresponding Transaction (or specified in the CDS Trade Particulars or FX Trade Particulars) as buyer, protection buyer or Reference Currency Buyer (as applicable), the Clearing Member that provides clearing services to that Customer in relation to the Transaction in question (or, for F&O Contracts, if more than one such Clearing Member exists, the Clearing Member that was selected by the Customer for the initial booking of that Transaction); (c) where an FCM/BD Customer is a party to the corresponding Transaction (or specified in the CDS Trade Particulars or FX Trade Particulars) as buyer, protection buyer or Reference Currency Buyer (as applicable), the FCM/BD Clearing Member clearing on behalf of such FCM/BD Customer; (d) in relation to F&O Contracts only and overriding any designation that would occur pursuant to (a), (b) or (c) above, where one Clearing Member that would be the Buying Counterparty in accordance with (a), (b) or (c) above has allocated an F&O Transaction to another Clearing Member for clearing in accordance with Market Rules, the Clearing Member to whom such F&O Transaction is allocated; or (e) notwithstanding (a) to (d), in respect of an Individually Segregated Sponsored Account, the Sponsored Principal shall act as principal to all Contracts as the Buying Counterparty on a joint and several basis with the Sponsor, instead of the relevant Clearing Member referred to in (a) to (d) above, subject to and as set out in Part 19.

The term "**CAD**" means Canadian dollars, or any other lawful currency that is a successor to it.

The term "**Call**", in respect of an F&O Contract, means an Option pursuant to which a Person with a Long position has the actual or notional right to buy a Deliverable from a Person with a Short position at the Strike Price and at a specified time.

The term "**Capital**":

- (a) with respect to a Non-FCM/BD Clearing Member or a Sponsored Principal that is not an FCM/BD, has the same meaning as the term "own funds", as such term is defined in the Capital Requirements Regulation and determined on a stand-alone (non-consolidated) basis and subject to the limits and deductions set out therein and, in relation to matters reserved for member states, as implemented in the United Kingdom, whether or not the relevant Clearing Member is subject to the Capital Requirements Regulation, Capital Requirements Directive or the supervision of the [FCA](#) or PRA; or

[Part 1 – General Provisions](#)

- (b) with respect to an FCM/BD Clearing Member, means its "adjusted net capital" as defined in CFTC Rule 1.17,

and, in either case, such other classes of capital as are permitted at the Clearing House's discretion pursuant to the Membership Procedures.

The term "**Capital Requirements Directive**" means Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC, and includes all delegated or implementing regulations, [national implementing measures in any member state of the European Economic Area](#), decisions and technical standards thereunder as interpreted in accordance with any applicable guidance publicly issued by the European Banking Authority or any Regulatory Authority.

The term "**Capital Requirements Regulation**" means Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012, and includes all delegated or implementing regulations, decisions and technical standards thereunder as interpreted in accordance with any applicable guidance publicly issued by the European Banking Authority or any Regulatory Authority.

The term "**CDS**" means credit default swap.

The term "**CDS Assessment Amount**" means the total amount of all CDS Assessment Contributions payable by CDS Clearing Members pursuant to Rule 909(c) in respect of an Event of Default.

The term "**CDS Assessment Contribution**" has the meaning set out in Rule 909(c).

The term "**CDS Clearing Member**" means a Clearing Member that is authorised by the Clearing House to become party to CDS Contracts.

The term "**CDS Contract**" means a Contract that is a CDS, in the form of a 2003-type CDS Contract or a 2014-type CDS Contract, to which the Clearing House is party in accordance with these Rules and the CDS Procedures, which may be in the form of a CDS relating to an index or a single reference entity or in the form of a Component Transaction.

The term "**CDS Default Amount**" has the meaning set out in Rule 908(e).

The term "**CDS Default Auction Procedures**" means the Default Auction Terms for CDS Default Auctions.

The term "**CDS Guaranty Fund**" means the guaranty fund established and maintained pursuant to Part 11 relating to the Clearing of CDS Contracts.

The term "**CDS Guaranty Fund Contribution**" means a Guaranty Fund Contribution relating to the CDS Guaranty Fund.



## Part 1 – General Provisions

The term "**CDS Standard Terms**" means the form of Customer-CM CDS Transaction Standard Terms as published by the Clearing House from time to time as an Exhibit to these Rules, but which do not form part of these Rules, which are applicable as between each Non-FCM/BD CDS Clearing Member and each of its Customers in relation to CDS Clearing, as amended from time to time in accordance with the CDS Standard Terms.

The term "**CDS Sub-Account**" means, in relation to a CDS Clearing Member or Sponsored Principal, each account at the Clearing House with a unique identification number used by that CDS Clearing Member or Sponsored Principal in accordance with an election under Rule 406(d) for the recording of details of CDS Contracts with the Clearing House, which account is linked to an identification code at Deriv/SERV for the recording of details of trades relating to such CDS Contracts and which account is further linked to one of the CDS Clearing Member's Proprietary Accounts or one of its Customer Accounts or the relevant Individually Segregated Sponsored Account, as a sub-account of the relevant Proprietary Position Account, Customer Position Account or Position Account linked to its Individually Segregated Sponsored Account (as applicable).

The term "**CDS Trade Execution/Processing Platform**" means an Exchange that has satisfied the Clearing House's requirements to be authorised to submit CDS Trade Particulars and receive Acceptance Notices on behalf of one or more CDS Clearing Members or Sponsored Principals for Clearing, including having entered into an agreement with the Clearing House to act as an "**Approved CDS Trade Execution/Processing Platform**" in relation to such submissions and receipts and, in relation to any CDS Clearing Member or Sponsored Principal on whose behalf (and, as the case may be, for whose Affiliate) it submits CDS Trade Particulars, has obtained that CDS Clearing Member's or Sponsored Principal's authorisation in writing to submit CDS Trade Particulars for Clearing and receive Acceptance Notices and accordingly, such a CDS Trade Execution/Processing Platform will be a Representative of such CDS Clearing Member or Sponsored Principal for such purposes until the expiry of not less than one Business Day's written notice to the Clearing House given by such CDS Clearing Member or Sponsored Principal that such CDS Trade Execution/Processing Platform is no longer, or is not, authorised to act as its Representative. Where an Affiliate of a CDS Clearing Member or Sponsored Principal may submit or confirm CDS Trade Particulars for the account of that CDS Clearing Member or Sponsored Principal as referred to in the CDS Procedures, any person which, as a CDS Trade Execution/Processing Platform, is a Representative of such CDS Clearing Member or Sponsored Principal shall be deemed to be, additionally, a Representative of such Affiliate for these purposes.

The term "**CDS Trade Particulars**" means trade particulars submitted to the Clearing House by one or more Clearing Members, Sponsors or Sponsored Principals (including by any Representative, including via a CDS Trade Execution/Processing Platform), which particulars, if accepted by the Clearing House, will give rise to a CDS Contract or CDS Contracts (and, in the case of particulars of a CDS submitted by or for a Non-FCM/BD Clearing Member for one of its Customer Accounts, a Customer-CM CDS Transaction). For the avoidance of doubt, CDS Trade Particulars may or may not reflect a binding Bilateral CDS Transaction between two CDS Clearing Members or Sponsored Principals or any binding transaction between a CDS Clearing Member and its Customer.

The term "**CEA**" means the U.S. Commodity Exchange Act.

## Part 1 – General Provisions

The term "**CFTC**" means the Commodity Futures Trading Commission of the United States of America, or any successor thereto.

The term "**Chairman**" means the chairman of the Board from time to time.

The term "**CHF**" means the Swiss franc, or any other lawful currency that is a successor to it.

The term "**Circular**" means a publication issued by the Clearing House for the attention of all Clearing Members and posted on the Clearing House's website in accordance with Rule 109(g).

The term "**Clearing**" means the central counterparty and, where relevant, related risk, Open Contract Position, Margin, settlement, delivery, administrative, acceptance, transaction data, settlement price establishment and other functions of the Clearing House pursuant to these Rules.

The term "**Clearing House**" means ICE Clear Europe Limited, a company registered in England & Wales with registered number 06219884.

The term "**Clearing House Account**" means an account of the Clearing House at an Approved Financial Institution.

The term "**Clearing House CDS Contributions**" means the Clearing House CDS GF Contribution and the Clearing House CDS Initial Contribution.

The term "**Clearing House CDS GF Contribution**" means amounts allocated by the Clearing House as being available to be applied following an Event of Default in accordance with Rule 908(c)(iv)(B) or Rule 908(g)(iv)(C) and as maintained pursuant to Rule 1103(f) including, where the context so requires, any proceeds of realisation of the same.

The term "**Clearing House CDS Initial Contribution**" means amounts allocated by the Clearing House as being available to be applied following an Event of Default in accordance with Rule 908(c)(ii) or Rule 908(g)(ii)(B) and as maintained pursuant to Rule 1103(f) including, where the context so requires, any proceeds of realisation of the same.

The term "**Clearing House Contributions**" means the Clearing House F&O Contributions, the Clearing House CDS Contributions and the Clearing House FX Contributions.

The term "**Clearing House F&O Contributions**" means the Clearing House F&O GF Contribution and the Clearing House F&O Initial Contribution.

The term "**Clearing House F&O GF Contribution**" means amounts allocated by the Clearing House as being available to be applied following an Event of Default in accordance with Rule 908(b)(iv)(B) or Rule 908(g)(iv)(B) and as maintained pursuant to Rule 1103(f) including, where the context so requires, any proceeds of realisation of the same.

The term "**Clearing House F&O GF (Energy) Contribution**" means that portion of the Clearing House F&O GF Contribution as is allocated by the Clearing House as applying primarily to Energy Contracts and residually to Financials & Softs Contracts.

## Part 1 – General Provisions

The term "**Clearing House F&O GF (Financials & Softs) Contribution**" means that portion of the Clearing House F&O GF Contribution as is allocated by the Clearing House as applying primarily to Financials & Softs Contracts and residually to Energy Contracts.

The term "**Clearing House F&O Initial Contribution**" means amounts allocated by the Clearing House as being available to be applied following an Event of Default in accordance with Rule 908(b)(ii) or Rule 908(g)(ii)(A) and as maintained pursuant to Rule 1103(f) including, where the context so requires, any proceeds of realisation of the same.

The term "**Clearing House F&O Initial (Energy) Contribution**" means that portion of the Clearing House F&O Initial Contribution as is allocated by the Clearing House as applying primarily to Energy Contracts and residually to Financials & Softs Contracts.

The term "**Clearing House F&O Initial (Financials & Softs) Contribution**" means that portion of the Clearing House F&O Initial Contribution as is allocated by the Clearing House as applying primarily to Financials & Softs Contracts and residually to Energy Contracts.

The term "**Clearing House FX Contributions**" means the Clearing House FX GF Contribution and the Clearing House FX Initial Contribution.

The term "**Clearing House FX GF Contribution**" means amounts allocated by the Clearing House as being available to be applied following an Event of Default in accordance with Rule 908(d)(iv)(B) or Rule 908(g)(iv)(D) and as maintained pursuant to Rule 1103(f) including, where the context so requires, any proceeds of realisation of the same.

The term "**Clearing House FX Initial Contribution**" means amounts allocated by the Clearing House as being available to be applied following an Event of Default in accordance with Rule 908(d)(ii) or Rule 908(g)(ii)(C) and as maintained pursuant to Rule 1103(e) including, where the context so requires, any proceeds of realisation of the same.

The term "**Clearing House Initial Contributions**" means the Clearing House CDS Initial Contribution, the Clearing House F&O Initial Contribution and the Clearing House FX Initial Contribution.

The term "**Clearing Member**" means a Person which has entered into a Clearing Membership Agreement with the Clearing House and which has been admitted as a clearing member pursuant to Part 2 of these Rules.

The term "**Clearing Member-Required Additional Margin**" has the meaning set out in the relevant Standard Terms.

The term "**Clearing Membership Agreement**" means an agreement between the Clearing House and a Clearing Member under which, *inter alia*, the Clearing House agrees to provide Clearing in respect of Contracts to that Clearing Member and that Clearing Member agrees to be bound by and subject to these Rules. Without prejudice to the generality of Rule 102(b) or to the effectiveness of any other agreement between a Clearing House and a Clearing Member, for the avoidance of doubt, for Clearing Members that have executed a Pledged Collateral Addendum, the

## [Part 1 – General Provisions](#)

relevant Clearing Membership Agreement will be interpreted as amended by that Pledged Collateral Addendum.

The term "**Clearing Organisation**" means any clearing house duly authorised, regulated, recognised or licensed under Applicable Laws in any jurisdiction, including any recognised clearing house, recognised overseas clearing house, derivatives clearing organisation, [securities clearing agency](#) or similar entity.

The term "**Clearing Processing System**" means the clearing processing system for Energy Contracts, the universal clearing platform for Financials & Softs Contracts and other clearing processing systems and platforms used by the Clearing House for F&O Contracts.

The term "**CLS Bank**" means CLS Bank International.

The term "**Collateral Offset Obligations**" means obligations of a Clearing Member arising pursuant to Rule 919 to pay the Clearing House, which offset obligations of the Clearing House to pay the Clearing Member or return assets in respect of Permitted Cover transferred or pledged to the Clearing House by the Clearing Member.

The term "**Component Transaction**" has the meaning set out in Part 15.

The term "**Concentration Bank**" means an Approved Financial Institution at which the Clearing House has an account or accounts for the purpose of making transfers between Clearing House Accounts.

The term "**Contract**" means a contract between the Clearing House and a Clearing Member (or Sponsored Principal) arising in accordance with these Rules, and as amended, subject to netting or aggregation in accordance with these Rules, the terms and conditions of which are the relevant Contract Terms.

The term "**Contract Category**" means any of the three categories of Contract cleared by the Clearing House which are linked to a specific Guaranty Fund, i.e. F&O Contracts, CDS Contracts and FX Contracts.

For the definition of the term "**Contract Position**", see 'Open Contract Position' below.

The term "**Contract Terms**" means all the terms and conditions of a Contract, as applicable, in: (i) the general conditions set out in the Contract Terms Procedures; (ii) (in relation to F&O Contracts only) the relevant Market Rules; (iii) (except in relation to F&O Contracts which are settled only in cash) if such F&O Contract becomes deliverable or is a Contract of Sale, the relevant Delivery Procedures for the class of F&O Contract, the specified terms set out in the Contract Terms Procedures, as applicable; and (iv) for CDS Contracts, the terms specified pursuant to Rule 1502; and (v) for FX Contracts, the general conditions set out in the Rules and Procedures.

The term "**Control**" means the rights and powers exercised over a Person by a Controller and its cognate terms shall be construed accordingly.

The term "**Controller**" has the meaning given to that term in section 422 of the FSMA.

**Part 1 – General Provisions**

The term "**Controller Guarantee**" means a guarantee given by a Controller of a Clearing Member under Rule 201(a)(viii).

The term "**Credit Support Document**" means any guarantee or letter of credit or other security interest issued or granted to or for the benefit of the Clearing House that guarantees, covers or secures the Clearing Member's or a Sponsored Principal's obligations under any Contract, but excluding any Pledged Collateral Addendum.

The term "**Credit Support Provider**" means, in respect of a Clearing Member or Sponsored Principal, each provider of a Credit Support Document in relation to that Clearing Member.

The term "**Custodian**" means any bank, custodian, sub-custodian, registry, nominee, agent, depository or settlement system.

The term "**Customer**" means a Person who is a client or customer of a Clearing Member (which Customer may, subject to Applicable Law, be acting for one or more other clients or customers for purposes of the clearing of Contracts). In respect of a Sponsor, the term includes each of its Sponsored Principals.

The term "**Customer Account**" means any one customer account at the Clearing House of the various different Customer Account Categories and comprises in the case of each Customer Account the related Customer Position Account and Customer Margin Account.

The term "**Customer Account Category**" means:

- (i) in relation to an FCM/BD Clearing Member, any of the following categories of Customer Account of such FCM/BD Clearing Member:
  - (A) each different DCM Customer Account;
  - (B) each different Non-DCM/Swap Customer Account;
  - (C) each different Swap Customer Account;
  - (D) each different General Customer Account; and
  - (E) each different SBS Customer Account; and
- (ii) in relation to a Non-FCM/BD Clearing Member, any of the following categories of Customer Account of such Non-FCM/BD Clearing Member:
  - (A) each different Segregated Customer Omnibus Account For F&O;
  - (B) each different Segregated TTfCA Customer Omnibus Account For F&O;
  - (C) each different Segregated Customer Omnibus Account For CDS;

*Part 1 – General Provisions*

- (D) each different Segregated TTFCA Customer Omnibus Account For CDS;
- (E) each different Segregated Customer Omnibus Account For FX;
- (F) each different Segregated TTFCA Customer Omnibus Account For FX;
- (G) each different Individually Segregated Margin-flow Co-mingled Account;
- (H) each different Omnibus Margin-flow Co-mingled Account;
- (I) each different Individually Segregated Sponsored Account each of which is a Customer Account of the Sponsor opened at the Clearing House in the name of the Sponsored Principal;
- (J) each different Standard Omnibus Indirect Account For F&O;
- (K) each different Standard TTFCA Omnibus Indirect Account For F&O;
- (L) each different Standard Omnibus Indirect Account For CDS;
- (M) each different Standard TTFCA Omnibus Indirect Account For CDS;
- (N) each different Standard Omnibus Indirect Account For FX;
- (O) each different Standard TTFCA Omnibus Indirect Account For FX;  
and
- (P) each different Segregated Gross Indirect Account.

The term "**Customer Account Contract**" means a Contract recorded in a Customer Position Account.

The term "**Customer Account Position**" means an Open Contract Position as recorded in a Customer Position Account, or any sub-account thereof.

The term "**Customer-Clearing Member Agreement**" has the meaning set out in the relevant Standard Terms.

The term "**Customer-CM Transaction**" means a Customer-CM CDS Transaction, Customer-CM F&O Transaction or Customer-CM FX Transaction.

The term "**Customer-CM CDS Transaction**" means a CDS transaction between a Non-FCM/BD Clearing Member and a Customer (or a Sponsor and Sponsored Principal) on economic terms similar to those of a corresponding CDS Contract recorded in one of a Clearing



## **Part 1 – General Provisions**

Member's Segregated Customer Omnibus Accounts For CDS, Segregated TTFCA Customer Omnibus Accounts For CDS, Margin-flow Co-mingled Accounts, Standard Omnibus Indirect Accounts For CDS, Standard TTFCA Omnibus Indirect Accounts For CDS or Segregated Gross Indirect Accounts (except, where applicable, the position of the CDS Clearing Member as protection buyer or protection seller and otherwise due to being governed by the CDS Standard Terms) or an Individually Segregated Sponsored Account (except as modified pursuant to Part 19 and, where applicable, the position of the Sponsor as protection buyer or protection seller and otherwise due to being governed by the CDS Standard Terms).

The term "**Customer-CM F&O Transaction**" means an F&O transaction between a Non-FCM/BD Clearing Member and a Customer (or a Sponsor and Sponsored Principal) on economic terms similar to those of a corresponding F&O Contract recorded in one of a Clearing Member's Segregated Customer Omnibus Accounts For F&O, Segregated TTFCA Customer Omnibus Accounts For F&O, Margin-flow Co-mingled Accounts, Standard Omnibus Indirect Accounts For F&O, Standard TTFCA Omnibus Indirect Accounts For F&O or Segregated Gross Indirect Accounts (except, where applicable, the position of the F&O Clearing Member as Buying Counterparty or Selling Counterparty and otherwise due to being governed by the F&O Standard Terms) or an Individually Segregated Sponsored Account (except as modified pursuant to Part 19 and, where applicable, the position of the Sponsor as Buying Counterparty or Selling Counterparty and otherwise due to being governed by the F&O Standard Terms).

The term "**Customer-CM FX Transaction**" means an FX transaction between a Non-FCM/BD Clearing Member and a Customer (or a Sponsor and Sponsored Principal) on economic terms similar to those of a corresponding FX Contract recorded in one of a Clearing Member's Segregated Customer Omnibus Accounts For FX, Segregated TTFCA Customer Omnibus Accounts For FX, Margin-flow Co-mingled Accounts, Standard Omnibus Indirect Accounts For FX, Standard TTFCA Omnibus Indirect Accounts For FX or Segregated Gross Indirect Accounts (except, where applicable, the position of the CDS Clearing Member as Reference Currency Buyer or Reference Currency Seller and otherwise due to being governed by the FX Standard Terms) or an Individually Segregated Sponsored Account (except as modified pursuant to Part 19 and, where applicable, the position of the Sponsor as Reference Currency Buyer or Reference Currency Seller and otherwise due to being governed by the FX Standard Terms).

The term "**Customer-CM Collateral**" means collateral provided by a Customer to a Clearing Member as collateral for the Customer's obligations (or, where applicable, other obligations) to the Clearing Member under Customer-CM Transactions.

The "**Customer Margin Account**" forms part of a Customer Account and the term means an account with the Clearing House opened in the name of a Clearing Member for the recording of debits and credits of Margin in respect of Customer Account Contracts recorded in the related Customer Position Account, which may be divided for administrative convenience only into sub-accounts relating to different Customers or groups of Customers. In respect of an Individually Segregated Sponsored Account, the term includes a similar account of a Sponsored Principal which is linked to the relevant Individually Segregated Sponsored Account.

The "**Customer Position Account**" forms part of a Customer Account and the term means an account (if any) with the Clearing House opened in the name of a Clearing Member relating to Contracts to which the Clearing Member is a party as a result of it acting for one or more

**Part 1 – General Provisions**

Segregated Customers and in which the Clearing House records such Contracts, which may be divided for administrative convenience only into sub-accounts (including, for the avoidance of doubt, CDS Sub-Accounts) relating to different Customers or groups of Customers. In respect of an Individually Segregated Sponsored Account, the term includes a similar position account of a Sponsored Principal which is linked to the relevant Individually Segregated Sponsored Account.

The term "**DCM Customer**" means any FCM/BD Customer with respect to any Contract arising as a result of a Transaction in U.S. Futures. A Person may be a DCM Customer in relation to certain Contracts and another category of FCM/BD Customer in relation to other Contracts.

The term "**DCM Customer Account**", in respect of an FCM/BD Clearing Member, means a kind of Customer Account with the Clearing House (in its capacity as a registered U.S. derivatives clearing organization clearing Contracts that are U.S. Futures), the books and records of which are located in the United States of America, opened in the name of the FCM/BD Clearing Member (acting in its capacity as a clearing member in relation to transactions connected with the provision of services to DCM Customers where segregation of related collateral is required in accordance with Section 4d(a) of the CEA insofar as applicable, and any applicable rules of the CFTC as promulgated thereunder and entering into market contracts in the capacity of a clearing member in relation to transactions connected with the provision of services to DCM Customers) relating to Contracts to which the FCM/BD Clearing Member is a party as a result of it acting for one or more DCM Customers (whose transactions the FCM/BD Clearing Member requests be recorded in the DCM Customer Account where the same is required in accordance with the segregation provisions of Section 4d(a) of the CEA insofar as applicable, and any applicable rules of the CFTC as promulgated thereunder) and in which the Clearing House records such Contracts and to which monies in respect of such Contracts are debited and credited, which may be divided for administrative convenience only into sub-accounts relating to different DCM Customers or groups of DCM Customers.

The term "**Default Amount**" means any of the F&O Default Amount, the CDS Default Amount or the FX Default Amount, as the context requires, and "**Default Amounts**" means any two of the foregoing or all of them, as the context requires.

The term "**Default Auction**" means an auction which takes place in accordance with any of the Default Auction Procedures.

The term "**Default Auction Procedures**" means the Default Auction Terms for F&O Default Auctions, the Default Auction Terms for CDS Default Auctions or the Default Auction Terms for FX Default Auctions, as applicable to the Relevant Contract Category in question.

The term "**Default Notice**" means a notice issued by the Clearing House under Rule 902(b).

~~The term "**Default Portability Preference**" means the identity of any one or more designated "preferred" Transferee Clearing Member(s) specified to the Clearing House by a Customer or Sponsored Principal as being the Clearing Member to which it would prefer its Customer-CM Transactions (and related Contracts) to be Transferred pursuant to the Default Portability Rules in the case of an Event of Default.~~



## Part 1 – General Provisions

The term "**Default Portability Rules**" means Rule 904 and any terms setting out the meaning of the defined terms used therein.

The term "**Defaulter**" means a Clearing Member or former Clearing Member or Sponsored Principal or former Sponsored Principal or Disclosed Principal Member or former Disclosed Principal Member in respect of whom ~~an Event of Default Notice~~ has ~~been issued~~occurred.

The term "**Deliverable**" means any property, right, interest, register or book entry, commodity, certificate, property entitlement or Investment, which is capable of being delivered pursuant to an F&O Contract or with respect to which settlement amounts are calculated.

The term "**Delivery Default**" means a Clearing Member or Sponsored Principal failing to deliver or transfer to the Clearing House in full any Deliverable required to be delivered or transferred by that Clearing Member or Sponsored Principal under or in connection with any Contract, including a failure to deliver or transfer a Deliverable in accordance with the applicable Delivery Procedures, unless such failure constitutes a Force Majeure Event affecting the relevant Clearing Member or Sponsored Principal.

The term "**Delivery Facility**" means any Person or facility used for the delivery of Deliverables (excluding Transferors and Transferees), including but not limited to, warehouses, balancing systems, gas networks, central securities depositories, settlement systems, designated systems, custodians, vessels, ports, terminals and Emissions Registries and their operators, facilities, records, ledgers and Registries (as defined in the Delivery Procedures), including National Grid, GTS, GASPOOL, Fluxys Belgium, Huberator, TenneT, Elia, TSO (as such Persons are defined in the Delivery Procedures), and gas or electricity transmission systems.

The term "**Deriv/SERV**" means the system for storage and processing of trade information in relation to CDS operated by The Depository Trust & Clearing Corporation or its Affiliates, currently known as Deriv/SERV, or any successor thereto or any other similar service specified by the Clearing House as a trade information warehouse (not being a Repository) for CDS.

The term "**Designated Controller**" means a Controller that has: (i) been notified to the Clearing House by a Clearing Member or Sponsored Principal as a controller which should be taken into account by the Clearing House for purposes of calculating the Capital or Margin requirements of the Clearing Member or Sponsored Principal; and (ii) executed in favour of, and delivered to, the Clearing House an acceptable Controller Guarantee, which Controller Guarantee remains valid and in effect.

The term "**Director**" means a director of the Clearing House.

The term "**Disciplinary Panel**" means a disciplinary panel established pursuant to Rule 1003.

The term "**Disclosed Principal Member**" means, where a Clearing Member acts as agent for a disclosed principal in respect of its Energy Contract clearing business and such principal has been admitted by the Clearing House as a Disclosed Principal Member, that principal.

The term "**Dispute**" means any dispute, difference, controversy or claim (of any and every kind or type, whether based on contract, tort, statute, regulation, or otherwise) arising out of, in relation to,

## Part 1 – General Provisions

or in connection with these Rules or any Contract, including any dispute as to the existence, construction, validity, interpretation, enforceability, termination or breach of these Rules or any Contract.

The term "**EFPs**" means an 'exchange for physicals' transaction under applicable Market Rules or any similar transaction under any Market Rules.

The term "**EFSs EFRP**" means an 'exchange for ~~swaps~~related positions' transaction under applicable Market Rules or any similar transaction under any Market Rules.

The term "EFS" means an 'exchange for ~~related-position~~swaps' transaction under applicable Market Rules or any similar transaction under any Market Rules.

The term "**Eligible Currencies**" means USD, EUR, GBP, CAD, CHF, SEK and such other currencies as are specified as eligible in the Finance Procedures or otherwise by the Clearing House from time to time.

The term "**Emission Allowance**" has the same meaning as that given to the term in MiFID II.

The term "**Emissions Registry**" means a 'registry' (within the meaning of Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC or otherwise) that has been approved by the Clearing House for purposes of deliveries of Emission Allowances under F&O Contracts.

The term "**EMIR**" (European Market Infrastructure Regulation) means Regulation (EU) No, 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories and includes all delegated or implementing regulations, decisions and technical standards thereunder as interpreted in accordance with any applicable guidance publicly issued by ESMA or any Regulatory Authority.

The term "**Encumbrance**" means any claim, charge, mortgage, security, lien, equity, beneficial interest, power of sale, option or other right to purchase, usufruct, hypothecation, retention of title, right of pre-emption or other third party right or security interest of any kind or an agreement to create any of the foregoing.

The term "**Energy**" is used to refer to the Clearing of ~~the ICE Endex, ICE Endex UK, ICE Futures Europe, ICE Futures US and IFAD~~Contracts arising on or reported through Markets, excluding the Clearing of ~~Financials & Softs Contracts on the ICE Futures Europe market~~Financial & Softs products.

The term "**Energy Block Trade Facility**" means a 'block trade' transaction under applicable Market Rules or any similar transaction under any Market Rules, for Energy Transactions.

The term "**Energy Block Transaction**" means an EFS, EFP, EFRP, Basis Trade or Energy Block Trade Facility transaction in respect of Energy reported through a Market in accordance with the relevant Market Rules.

## Part 1 – General Provisions

The term "**Energy Clearing Member**" means a Clearing Member that is authorised by the Clearing House to become party to Energy Contracts.

The term "**Energy Contracts Contract**" means ~~Contracts~~ Contract resulting from the clearing of an Energy Transactions Transaction.

The term "**Energy Matched Transaction**" means ~~an ICE Endexa Transaction, ICE Endex UK Transaction, ICE Futures Europe Transaction (excluding a Financials & Softs Transaction) or ICE Futures US Transaction or IFAD Transaction.~~ that occurs or occurred in respect of Energy on a Market in accordance with the relevant Market Rules.

The term "**Energy Transaction**" means an Energy Matched Transaction or an Energy Block Transaction where the related trade particulars or data submitted or provided to the Clearing House or the relevant Market by or on behalf of a Clearing Member or Clearing Members (including by any Representative) will give rise to a Contract or Contracts if the relevant circumstances specified in Rule 401(a) occur (or in such a case but where a Sponsored Principal takes the place of one or both of the relevant Clearing Members).

The term "**ESMA**" means the European Securities and Markets Authority or any successor ~~entity~~ thereto.

The term "**EUR**" means the euro, or any other lawful currency that is a successor to it.

The term "**Event of Default**" has the meaning set out in Rule 901 and the term "**Default**" shall be construed accordingly.

The term "**Exchange**" means any exchange or similar body duly authorised, regulated, recognised or licensed (to the extent necessary) under Applicable Laws in any jurisdiction, including, but not limited to, any recognised investment exchange, recognised overseas investment exchange, designated investment exchange, designated contract market, national securities exchange, swap execution facility, security-based swap execution facility, exempt commercial market, regulated market, alternative trading system, multilateral trading facility, swap execution facility, organised trading facility, systematic internaliser, trade affirmation or confirmation platform or similar entity.

The term "**Exchange Act**" means the U.S. Securities Exchange Act of 1934.

The term "**Exchange Delivery Settlement Price**" or "**EDSP**" in respect of a Set of F&O Contracts or an F&O Contract, means the applicable daily closing, expiry, delivery, cash settlement or other relevant price in each case determined pursuant to Rule 701 or Rule 802, as applicable, which for the avoidance of doubt may be a positive or negative number or zero.

The term "**Externalised Payments Mechanism**" has the meaning set out in Rule 302(a).

The term "**F&O**" means futures and options and refers to the Clearing of Energy or Financials & Softs products or both.

## Part 1 – General Provisions

The term "**F&O Assessment Amount**" means the total amount of all F&O Assessment Contributions payable by F&O Clearing Members pursuant to Rule 909(b) in respect of an Event of Default.

The term "**F&O Assessment Contribution**" has the meaning set out in Rule 909(b).

The term "**F&O Block Contract**" means an F&O Contract(s) resulting from an F&O Block Transaction.

The term "**F&O Block Transaction**" means a Financials & Softs Block Transaction or Energy Block Transaction.

The term "**F&O Clearing Member**" means a Clearing Member that is authorised by the Clearing House to become party to Energy Contracts or Financials & Softs Contracts or both.

The term "**F&O Contract**" means an Energy Contract and/or a Financials & Softs Contract.

The term "**F&O Default Amount**" has the meaning set out in Rule 908(e).

The term "**F&O Guaranty Fund**" means the guaranty fund established and maintained pursuant to Part 11 relating only to F&O Contracts.

The term "**F&O Guaranty Fund Contribution**" means a Guaranty Fund Contribution relating to the F&O Guaranty Fund.

The term "**F&O Matched Contract**" means an F&O Contract(s) resulting from an F&O Matched Transaction.

The term "**F&O Matched Transaction**" means an F&O Transaction that occurs or occurred on a Market in accordance with the relevant Market's rules.

The term "**F&O Standard Terms**" means the form of Customer-CM F&O Transactions Standard Terms as published by the Clearing House from time to time as an Exhibit to these Rules, but which do not form part of these Rules, which are applicable as between each Non-FCM/BD Clearing Member and each of its Customers in relation to F&O Clearing, as amended from time to time in accordance with the F&O Standard Terms.

The term "**F&O Transaction**" means an Energy Transaction or a Financials & Softs Transaction.

The term "**Failure To Pay**" means, in respect of a particular Contract Category, the failure of the Clearing House to make any payment when due (including the return of assets equivalent to any Pledged Collateral) pursuant to Part 3 of the Rules if such failure is not remedied on or before:

- (i) if no extension has been granted to the Clearing House pursuant to Rule 110(b) or Rule 110(c) prior to this date: the date falling 3 Business Days after notice of such failure is given to it by the Clearing Member or Sponsored Principal to whom such payment or return is due; or

**Part 1 – General Provisions**

- (ii) if an extension has been granted to the Clearing House as referred to in paragraph (i) of this definition, 10 a.m. on the next Business Day after service of a notice of that failure to the Clearing House by the Clearing Member or Sponsored Principal to whom such payment or return is due, provided that the 3 Business Days' period in (i) and such extension period under Rule 110(b) or (c) have cumulatively elapsed and notice is given no earlier than the final day of a period for which an extension has been granted to the Clearing House pursuant to Rule 110(b) or Rule 110(c) (or such 3 Business Day period, whichever ends at the later time),

save to the extent that any such failure to pay or return constitutes a Force Majeure Event affecting the Clearing House.

The term "**FCA**" means the UK's Financial Conduct Authority or any successor [entitythereto](#).

The term "**FCA Rules**" means all rules, requirements, directions, guidance, examples, waivers and other similar materials published or otherwise made by the FCA from time to time.

The term "**FCM/BD**" means a Person registered as a futures commission merchant with the CFTC and/or as a broker-dealer with the SEC, as applicable.

The term "**FCM/BD Clearing Member**" means a Clearing Member that is an FCM/BD.

The term "**FCM/BD Customer**" means any Customer that is: (a) a customer (as defined in CFTC Rule 39.2) of an FCM/BD Clearing Member with respect to any Contract in one or more account classes (as defined in CFTC Rule 190.01) (other than a non-public customer as defined in CFTC Rule 190.01); or (b) a customer (as defined in SEC Rule 15c3-3) of an FCM/BD Clearing Member with respect to any Contract recorded in an SBS Customer Account; provided that for the avoidance of doubt the term "FCM/BD Customer" will include a Customer of an FCM/BD Clearing Member (which Customer may, but need not, be an Affiliate of that FCM/BD Clearing Member or another Clearing Member) that is itself acting on behalf of one or more customers (other than non-public customers, as so defined) with respect to a Contract.

The term "**Financial Collateral Regulations**" means the Financial Collateral Arrangements (No. 2) Regulations 2003 (which implement Directive 2002/47/EC on financial collateral arrangements).

The term "**Financial Emergency**" means, with respect to any Clearing Member, any situation in which the financial or operational condition of such Clearing Member or any of its Designated Controllers is not or is likely not to be, in either case determined at the discretion of the Clearing House, adequate for such Clearing Member to meet its obligations (including, without limitation, its obligations to comply with these Rules) or to engage in business, or is such that it would not be in the best interests of the Clearing House or the marketplace for such Clearing Member to continue to be a Clearing Member.

The term "**Financial Indebtedness**" means any indebtedness for or in respect of: (a) monies borrowed; (b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent; (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument; (d) the amount of any liability in

## Part 1 – General Provisions

respect of any lease or hire purchase contract which would, in accordance with applicable accounting standards, be treated as a finance or capital lease; (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis); (f) any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of a borrowing; (g) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and (h) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in (a) to (g) above.

The term "**Financially-Settled FX Contract**" means an FX Contract which provides for cash settlement in a single predetermined currency on the relevant FX Settlement Date based on the difference between the values on the FX Settlement Date of: (i) the purchase of an agreed amount in one currency by the Reference Currency Buyer from the Reference Currency Seller; and (ii) the purchase by the Reference Currency Seller of an agreed amount in a different currency from the Reference Currency Buyer. Each leg of an FX Swap may form the basis of FX Trade Particulars which, if eligible for Clearing and Cleared, would give rise to two Financially-Settled FX Contracts.

The term "**Financials & Softs**" is used to refer to the Clearing of [Contracts arising on or reported through the](#) Financials & Softs ~~Contracts on~~[segment of](#) ICE Futures Europe.

The term "**Financials & Softs Block Contract**" means a Contract resulting from a Financials & Softs Block Transaction.

The term "**Financials & Softs Block Trade Facility**" means a 'block trade' transaction under applicable Market Rules or any similar transaction under any Market Rules, for Financials & Softs Transactions.

The term "**Financials & Softs Block Transaction**" means an EFS, EFP, ~~Soft Commodity EFRPs~~[EFRP](#), Basis Trade; [or](#) Financials & Softs Block Trade Facility ~~transaction or BClear~~ transaction in respect of Financials & Softs reported through a Market in accordance with the relevant Market Rules.

The term "**Financials & Softs Clearing Member**" means a Clearing Member that is authorised by the Clearing House to become party to Financials & Softs Contracts and that is a clearing member of ICE Futures Europe.

The term "**Financials & Softs Contract**" means a Financials & Softs Block Contract or a Financials & Softs Matched Contract.

The term "**Financials & Softs Matched Contract**" means a Contract resulting from a Financials & Softs Matched Transaction.

The term "**Financials & Softs Matched Transaction**" means a Transaction that occurs or occurred in respect of Financials & Softs on a Market in accordance with the relevant Market Rules.

The term "**Financials & Softs Transaction**" means a Financials & Softs Matched Transaction or a Financials & Softs Block Transaction where the related trade particulars or data submitted or



## Part 1 – General Provisions

provided to the Clearing House or ICE Futures Europe by or on behalf of a Clearing Member or Clearing Members (including by any Representative) will give rise to a Contract or Contracts if the relevant circumstances specified in Rule 401(a) occur (or in such a case but where a Sponsored Principal takes the place of one or both of the relevant Clearing Members).

The term "FINRA" means the Financial Industry Regulatory Authority, Inc., or any successor thereto.

The term "**Force Majeure Event**" means any occurrence outside the control of the Clearing House or the relevant Clearing Member or Sponsored Principal, as applicable, which hinders or prevents the performance in whole or in part of any of its obligations hereunder (excluding an obligation to make a payment, except for a payment by the Clearing House to a Clearing Member or Sponsored Principal that would be funded from a Clearing House Account at a Concentration Bank which Concentration Bank has not released or made available funds to the Clearing House when expected or required) (and, in relation only to any obligation of the Clearing House or a Clearing Member or Sponsored Principal under a Contract, which obligation has not yet fallen due, such an occurrence which would hinder or prevent performance in whole or in part of any of its obligations thereunder were the occurrence or effects of the occurrence to continue until the date of performance of the relevant obligation), including, but not limited to, fire, flood, storm, earthquake, explosion, war, hostilities, accidents howsoever caused, strike, labour dispute, lockout, work to rule or other industrial dispute, lack of energy supply, disruption or blackout of gas or electricity transmission systems, criminal action, terrorist action, civil unrest, embargoes, acts of God, acts of a public enemy, unavailability or impairment of computer or data processing facilities, the actions or omissions of third Persons (including, without limitation, Deriv/SERV, Repositories, CLS Bank, any CDS Trade Execution/Processing Platform, FX Trade Exchange/Processing Platform, Delivery Facilities, Approved Financial Institutions, Concentration Banks, bank or electronic transfer systems, Exchanges, Markets, Clearing Organisations, Governmental Authorities and Regulatory Authorities, but excluding the Clearing House in the case of a Force Majeure Event affecting the Clearing House and further excluding a Clearing Member, its Customers, Transferors and Transferees in the case of a Force Majeure Event affecting a Clearing Member and excluding a Sponsored Principal in the case of a Force Majeure Event affecting a Sponsored Principal); and, for CDS Clearing Members, Sponsored Principals and the Clearing House in relation to CDS Contracts only, Illegality; or, in relation to delivery of a Deliverable pursuant to any F&O Contract, any event that is an event of force majeure (or similar event, howsoever defined) for that F&O Contract under the Contract Terms or Market Rules.

The term "**FSMA**" means the UK's Financial Services and Markets Act 2000.

The term "**FSMR**" means the Financial Services and Markets Regulations 2015 of the Abu Dhabi Global Market.

The term "**FSRA**" means the Abu Dhabi Global Market's Financial Services Regulatory Authority or any successor ~~entity~~thereto.

The term "**FSRA Rules**" means all rules, requirements, directions, guidance, examples, waivers and other similar materials published or otherwise made by the FSRA from time to time.

## Part 1 – General Provisions

The term "**Future**" means an F&O Contract or FX Contract subject to Clearing by the Clearing House that is a 'future' or 'contract for differences etc.' under articles 84 or 85 of the FSMA (Regulated Activities) Order 2001, any similar investment which may be labelled as a 'spot', 'forward' or 'swap' contract or treated as such under any Applicable Law or any economically similar Contract that is not an investment, but excluding for the avoidance of doubt Options.

The term "**FX**" means foreign exchange.

The term "**FX Acceptance Notice**" has the meaning set out in the FX Procedures.

The term "**FX Assessment Amount**" means the total amount of all FX Assessment Contributions payable by FX Clearing Members pursuant to Rule 909(e) in respect of an Event of Default.

The term "**FX Assessment Contribution**" has the meaning set out in Rule 909(e).

The term "**FX Clearing Member**" means a Clearing Member that is authorised by the Clearing House to become party to FX Contracts.

The term "**FX Contract**" means a Contract that is a foreign exchange contract that is subject to Clearing pursuant to these Rules and of a nature as specified in Circulars issued by the Clearing House from time to time.

The term "**FX Default Amount**" has the meaning set out in Rule 908(e).

The term "**FX Guaranty Fund**" means the guaranty fund established and maintained pursuant to Part 11 relating to the Clearing of FX Contracts.

The term "**FX Guaranty Fund Contribution**" means a Guaranty Fund Contribution relating to the FX Guaranty Fund.

The term "**FX Mark-to-Market Margin**" means the Permitted Cover required to be provided to the Clearing House by a Clearing Member or Sponsored Principal by way of outright transfer as a settlement payment or by the Clearing House to a Clearing Member or Sponsored Principal in respect of FX Contracts pursuant to Rule 503(i) and the FX Procedures.

The term "**FX Notional Margin Balance**", in respect of an FX Contract on any day, means the notional sum of all FX Mark-to-Market Margin transferred by the relevant FX Clearing Member or Sponsored Principal in respect of such FX Contract to the Clearing House less all FX Mark-to-Market Margin transferred by the Clearing House in respect of such FX Contract to such FX Clearing Member or Sponsored Principal (notwithstanding that FX Mark-to-Market Margin is a settlement payment), as determined at the close of business on such day.

The term "**FX Original Margin**" means the Permitted Cover required to be provided to the Clearing House as security for the obligations of a Clearing Member or Sponsored Principal in respect of FX Contracts pursuant to Part 5 and includes, where the context so requires, any proceeds of realisation of the same.



## Part 1 – General Provisions

The term "**FX Price Alignment Amount**" means a price alignment amount calculated by reference to the relevant FX Notional Margin Balance, determined and payable as set out in the FX Procedures.

The term "**FX Settlement Date**" means (a) in relation to a Financially-Settled FX Contract, means the date on which the Reference Currency Buyer or Reference Currency Seller is obliged to make payment to the other party in order to discharge its obligations under the contract, which date may be expressed as a settlement, termination or payout date and (b) in relation to FX Trade Particulars submitted for Clearing, the date set out in the relevant FX confirmation.

The term "**FX Standard Terms**" means the form of Customer-CM FX Transaction Standard Terms as published by the Clearing House from time to time as an Exhibit to these Rules, but which do not form part of these Rules, which are applicable as between each Non-FCM/BD Clearing Member and each of its Customers in relation to FX Clearing, as amended from time to time in accordance with the FX Standard Terms.

The term "**FX Swap**" means an FX transaction that is a 'contract for differences' under article 85 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (or any economically similar transaction that is not an investment). An FX Swap may be submitted for Clearing as two separate sets of FX Trade Particulars or part of an FX Swap may be submitted for Clearing as a single set of FX Trade Particulars.

The term "**FX Trade Execution/Processing Platform**" means an Exchange that has satisfied the Clearing House's requirements to be authorised to submit FX Trade Particulars and receive FX Acceptance Notices on behalf of one or more FX Clearing Members or Sponsored Principals for Clearing, including having entered into an agreement with the Clearing House to act as an "**Approved FX Trade Execution/Processing Platform**" in relation to such submissions, confirmations and receipts and, in relation to any FX Clearing Member or Sponsored Principal on whose behalf (and, as the case may be, for whose Affiliate) it submits FX Trade Particulars, has obtained that FX Clearing Member's or Sponsored Principal's authorisation in writing or through the ICE FX clearing systems to submit and confirm FX Trade Particulars for Clearing and receipt of FX Acceptance Notices relating thereto and accordingly, such an FX Trade Execution/Processing Platform will be a Representative of such FX Clearing Member or Sponsored Principal for such purposes until the expiry of not less than one Business Day's written notice to the Clearing House given by such FX Clearing Member or Sponsored Principal that such FX Trade Execution/Processing Platform is no longer, or is not, authorised to act as its Representative. Where an Affiliate of an FX Clearing Member or Sponsored Principal may submit or confirm FX Trade Particulars for the account of that FX Clearing Member or Sponsored Principal as referred to in the FX Procedures, any person which, as an FX Trade Execution/Processing Platform, is a Representative of such FX Clearing Member or Sponsored Principal shall be deemed to be, additionally, a Representative of such Affiliate for these purposes.

The term "**FX Trade Particulars**" means trade particulars in respect of a foreign exchange transaction in the form of a non-deliverable forward of a nature which, pursuant to the FX Procedures and Circulars, is eligible to be submitted for Clearing pursuant to these Rules and the FX Procedures submitted to the Clearing House by or for one or more FX Clearing Members, Sponsors or Sponsored Principals (including by any Representative, including via an FX Trade Execution/Processing Platform), which particulars, if accepted by the Clearing House, will give rise

## Part 1 – General Provisions

to an FX Contract or FX Contracts (and, in the case of particulars of an FX transaction submitted by or for a Non-FCM/BD Clearing Member for one of its Customer Accounts, a Customer-CM FX Transaction). For the avoidance of doubt, FX Trade Particulars may or may not reflect a binding contract between two FX Clearing Members or Sponsored Principals or any binding transaction between an FX Clearing Member and its Customer.

The term "**GBP**" means the lawful currency from time to time of the United Kingdom.

The term "**General Customer**" means, for an FCM/BD Clearing Member, a Customer that is not a DCM Customer, Swap Customer, Non-DCM/Swap Customer, or SBS Customer. A Person may be a General Customer of an FCM/BD Clearing Member in relation to certain Transactions or Contracts and another category of FCM/BD Customer of an FCM/BD Clearing Member in relation to other Transactions or Contracts.

The term "**General Customer Account**" means a kind of Customer Account with the Clearing House opened in the name of an FCM/BD Clearing Member for the recording of F&O Contracts (other than U.S. Futures, Swaps or Non-DCM/Swaps) to which that FCM/BD Clearing Member is a party as a result of it acting for one or more General Customers, and related Margin.

The term "**Governmental Authority**" means any Regulatory Authority and any national, federal, supranational, state, regional, provincial, local or other government, government department, ministry, governmental or administrative authority, regulator, agency, commission, secretary of state, minister, court, tribunal, judicial body or arbitral body or any other Person exercising judicial, executive, interpretative, enforcement, regulatory, investigative, fiscal, taxing or legislative powers or authority anywhere in the world with competent jurisdiction.

The term "**Group Company**" means, with respect to any entity, an undertaking which is a parent undertaking or subsidiary undertaking of that entity or a subsidiary undertaking of any parent undertaking of that entity. For the purposes of this definition, the expressions "parent undertaking" and "subsidiary undertaking" shall have the meanings given to them in section 1162 of the Companies Act 2006, the expression "undertaking" shall have the meaning given to it in section 1161 of the Companies Act 2006 and the expression "entity" shall have the same meaning as the expression "undertaking".

The term "**Guaranty Funds**" means the F&O Guaranty Fund, the CDS Guaranty Fund and the FX Guaranty Fund.

The term "**Guaranty Fund Contribution**" means Permitted Cover transferred by a Clearing Member to the Clearing House as a contribution to the Guaranty Fund pursuant to Part 11 that has not been applied pursuant to Part 9 and includes, where the context so requires, any proceeds of realisation of the same.

The term "**Guaranty Fund Period**" (i) for the F&O Guaranty Fund, means a period for which the total amount of F&O Guaranty Fund Contributions for the F&O Guaranty Fund is fixed pursuant to the Finance Procedures (subject to any termination or suspension of any F&O Clearing Member's membership or status as an F&O Clearing Member, new F&O Clearing Members making F&O Guaranty Fund Contributions and the Clearing House's discretions pursuant to Part 11); (ii) for the CDS Guaranty Fund, means a period for which the total amount of CDS Guaranty Fund

## Part 1 – General Provisions

Contributions for the CDS Guaranty Fund is fixed pursuant to the Finance Procedures (subject to any termination or suspension of any CDS Clearing Member's membership or status as a CDS Clearing Member, new CDS Clearing Members making CDS Guaranty Fund Contributions and the Clearing House's discretions pursuant to Part 11; or (iii) for the FX Guaranty Fund, means a period for which the total amount of FX Guaranty Fund Contributions for the FX Guaranty Fund is fixed pursuant to the Procedures (subject to any termination or suspension of any FX Clearing Member's membership or status as an FX Clearing Member, new FX Clearing Members making FX Guaranty Fund Contributions and the Clearing House's discretions pursuant to Part 9).

The term "**Guidance**" means guidance issued by the Clearing House pursuant to Rule 109(f).

The term "**HM Treasury**" means Her Majesty's Treasury in the UK and any successor thereto.

The term "**ICE Endex**" means ICE Endex Markets B.V., a private limited liability company (*besloten vennootschap met beperkte aansprakelijkheid*) incorporated under Dutch law, registered with the trade register of the chamber of commerce in Amsterdam, the Netherlands, under number 09100980, and includes each of: (i) the regulated market it operates pursuant to a licence under section 5:26(1) of the Dutch Act on the Financial Supervision (*Wet op het financiële toezicht*) and (ii) the spot market known as the ICE Endex Spot Market.

The term "**ICE Endex Block Contract**" means a Contract resulting from an ICE Endex Block Transaction.

The term "**ICE Endex Block Trade Facility**" means the over-the-counter clearing service operated by ICE Endex in accordance with the ICE Endex Rules.

The term "**ICE Endex Block Transaction**" means an EFS, EFP or ICE Endex Block Trade Facility transaction reported through ICE Endex whether on the regulated market or ICE Endex Spot Market in accordance with the ICE Endex Rules (and for the avoidance of doubt, the term includes any ICE Endex Spot Market Transaction that falls within this definition).

The term "**ICE Endex Spot Market**" means the "*Spot Market*" (as that term is defined in the ICE Endex Rules) operated by ICE Endex in accordance with the ICE Endex Spot Market Rules.

The term "**ICE Endex Spot Market Contract**" means a Contract resulting from an ICE Endex Spot Market Transaction.

The term "**ICE Endex Spot Market Rules**" means the ICE Endex Rules which are applicable to ICE Endex Spot Market, to the extent that they are general in nature or apply to "*Cleared Products*" (as such term is defined in the ICE Endex Rules), and includes the "*Rules applicable to the Spot Market*" chapter of the ICE Endex Rules, as amended from time to time.

The term "**ICE Endex Spot Market Transaction**" means a transaction that occurs or occurred on or is submitted, provided or reported to the ICE Endex Spot Market in accordance with the ICE Endex Spot Market Rules.

The term "**ICE Endex Contract**" means an ICE Endex Block Contract or an ICE Endex Matched Contract.

## Part 1 – General Provisions

The term "**ICE Endex Matched Contract**" means a Contract resulting from an ICE Endex Matched Transaction.

The term "**ICE Endex Matched Transaction**" means a transaction that occurs or occurred on the ICE Endex (whether on the regulated market or ICE Endex Spot Market) in accordance with the ICE Endex Rules (and, for the avoidance of doubt, the term includes any ICE Endex Spot Market Transaction that falls within this definition).

The term "**ICE Endex Rules**" means the rules of ICE Endex (in the case of ICE Endex Spot Market, only to the extent that such rules apply to "*Cleared Products*" as such term is defined in the rules of ICE Endex) and, except when a particular rule is cross-referenced herein, has the same meaning as that given to the term "*Rules*" in the rules of ICE Endex, as amended from time to time.

The term "**ICE Endex Transaction**" means an ICE Endex Matched Transaction or an ICE Endex Block Transaction where the related trade particulars or data submitted or provided to the Clearing House or ICE Endex by or on behalf of a Clearing Member or Sponsored Principal (including by any Representative) will give rise to a Contract or Contracts if the relevant circumstances specified in Rule 401(a) occur.

The term "**ICE Endex UK**" means ICE Endex Gas Spot Ltd. (a company registered in England and Wales with registration number 08254731) and the market operator known as ICE Endex Gas Spot Ltd.

The term "**ICE Endex UK Contract**" means an ICE Endex UK Matched Contract.

The term "**ICE Endex UK Matched Contract**" means a Contract resulting from an ICE Endex UK Matched Transaction.

The term "**ICE Endex UK Matched Transaction**" has the same meaning as that given to the term "*OCM Trade*" in the rules of ICE Endex UK, as amended from time to time.

The term "**ICE Endex UK Rules**" means the rules of ICE Endex UK, and, except when a particular rule is cross-referenced herein, has the same meaning as that given to the term "*Gas Market Rules*" in the rules of ICE Endex UK, as amended from time to time.

The term "**ICE Endex UK Transaction**" means an ICE Endex UK Matched Transaction where the related trade particulars or data submitted or provided to the Clearing House or ICE Endex UK by or on behalf of a Clearing Member will give rise to a Contract or Contracts if the relevant circumstances specified in Rule 401(a) occur.

The term "**ICE Futures Europe**" means ICE Futures Europe (a company registered in England and Wales with registration number 01528617) and the recognised investment exchange (as defined in the FSMA) known as and operated by ICE Futures Europe.

The term "**ICE Futures Europe Block Contract**" means a Contract resulting from an ICE Futures Europe Block Transaction.

## [Part 1 – General Provisions](#)

The term "**ICE Futures Europe Block Trade Facility**" means the block trade facility operated by ICE Futures Europe in accordance with the ICE Futures Europe Rules.

The term "**ICE Futures Europe Block Transaction**" means an EFS, EFP or ICE Futures Europe Block Trade Facility Transaction reported through ICE Futures Europe in accordance with the ICE Futures Europe Rules.

The term "**ICE Futures Europe Contract**" means an ICE Futures Europe Block Contract or an ICE Futures Europe Matched Contract.

The term "**ICE Futures Europe Matched Contract**" means a Contract resulting from an ICE Futures Europe Matched Transaction.

The term "**ICE Futures Europe Matched Transaction**" means a Transaction that occurs or occurred on the ICE Futures Europe exchange in accordance with the ICE Futures Europe Rules.

The term "**ICE Futures Europe Rules**" means the rules of ICE Futures Europe and, except when a particular rule is cross-referenced herein, has the same meaning as that given to the term "*Regulations*" in the regulations of ICE Futures Europe.

The term "**ICE Futures Europe Transaction**" means an ICE Futures Europe Matched Transaction or an ICE Futures Europe Block Transaction where the related trade particulars or data submitted or provided to the Clearing House or ICE Futures Europe by or on behalf of a Clearing Member or Sponsored Principal (including by any Representative) will give rise to a Contract or Contracts if the relevant circumstances specified in Rule 401(a) occur.

The term "**ICE Futures US**" means ICE Futures U.S. Inc. and the designated contract market operated thereby.

The term "**ICE Futures US Block Contract**" means a Contract resulting from an ICE Futures US Block Transaction.

The term "**ICE Futures US Block Trade Facility**" means the block trade facility operated by ICE Futures US in accordance with the ICE Futures US Rules.

The term "**ICE Futures US Block Transaction**" means an EFS, EFP or ICE Futures US Block Trade Facility transaction reported through ICE Futures US in accordance with the ICE Futures US Rules.

The term "**ICE Futures US Contract**" means an ICE Futures US Block Contract or an ICE Futures US Matched Contract.

The term "**ICE Futures US Matched Contract**" means a Contract resulting from an ICE Futures US Matched Transaction.

The term "**ICE Futures US Matched Transaction**" means a transaction that occurs or occurred on the ICE Futures US exchange in accordance with the ICE Futures US Rules.



## [Part 1 – General Provisions](#)

The term "**ICE Futures US Rules**" means the bylaws and rules of ICE Futures US.

The term "**ICE Futures US Transaction**" means an ICE Futures US Matched Transaction or an ICE Futures US Block Transaction where the related trade particulars or data submitted or provided to the Clearing House or ICE Futures US by or on behalf of a Clearing Member or Sponsored Principal (including by any Representative) will give rise to a Contract or Contracts if the relevant circumstances specified in Rule 401(a) occur.

The term "**ICE Group**" means the Clearing House and all its Group Companies.

The term "**IFAD**" means ICE Futures Abu Dhabi Limited (a company registered in the Abu Dhabi Global Market with registration number 000003073) and the recognised investment exchange (as defined in the FSMR) known as and operated by ICE Futures Abu Dhabi Limited.

The term "**IFAD Block Contract**" means a Contract resulting from an IFAD Block Transaction.

The term "**IFAD Block Trade Facility**" means the block trade facility operated by IFAD in accordance with the IFAD Rules.

The term "**IFAD Block Transaction**" means an EFS, EFP or IFAD Block Trade Facility Transaction reported through IFAD in accordance with the IFAD Rules.

The term "**IFAD Contract**" means an IFAD Block Contract or an IFAD Matched Contract.

The term "**IFAD Matched Contract**" means a Contract resulting from an IFAD Matched Transaction.

The term "**IFAD Matched Transaction**" means a Transaction that occurs or occurred on the IFAD exchange in accordance with the IFAD Rules.

The term "**IFAD Rules**" means the rules of IFAD and, except when a particular rule is cross-referenced herein, has the same meaning as that given to the term "Rules" in the rules of IFAD.

The term "**IFAD Transaction**" means an IFAD Matched Transaction or an IFAD Block Transaction where the related trade particulars or data submitted or provided to the Clearing House or IFAD by or on behalf of a Clearing Member or Sponsored Principal (including by any Representative) will give rise to a Contract or Contracts if the relevant circumstances specified in Rule 401(a) occur.

The term "**ISDA**" means the International Swaps and Derivatives Association, Inc. and any successor thereto.

The term "**Illegality**" means where, after giving effect to any applicable provision, disruption fallback or remedy specified in, or pursuant to, these Rules, the Procedures and the applicable Contract Terms, due to an event or circumstance (other than any action taken by a Clearing Member or Sponsored Principal) occurring after a Contract arises, it becomes unlawful under any Applicable Law on any day, or it would be unlawful if the relevant payment, delivery or compliance were required on that day (in each case, other than as a result of a breach by the Clearing Member or Sponsored Principal of Rules 202 and 203), to perform any absolute or contingent obligation to

## Part 1 – General Provisions

make a payment or delivery in respect of such Contract, to receive a payment or delivery in respect of such Contract or to comply with any other material provision of the Rules and Procedures relating to such Contract.

The term "**Impossibility**" means where, after giving effect to any applicable provision, disruption fallback or remedy specified in, or pursuant to, these Rules, the Procedures and the applicable Contract Terms, due to an event or circumstance (other than any action taken by a Clearing Member or Sponsored Principal) occurring after a Contract arises, it becomes impossible on any day, or it would be impossible if the relevant payment, delivery or compliance were required on that day (in each case, other than as a result of a breach by the Clearing Member or Sponsored Principal of Rules 202 and 203), to perform any absolute or contingent obligation to make a payment or delivery in respect of such Contract, to receive a payment or delivery in respect of such Contract or to comply with any other material provision of the Rules and Procedures relating to such Contract.

The term "**Indirect Client**" has the same meaning as that given to the term "indirect client" in Article 1(a) of Commission (2) Delegated Regulation (EU) No 149/2013, subject to the derogations to that definition set out therein or under MiFID II in the context of long chains.

The term "**Individually Segregated Margin-flow Co-mingled Account**" has the meaning set out in the definition of Margin-flow Co-mingled Account.

The term "**Individually Segregated Sponsored Account**" means an Account of a Sponsored Principal, being a kind of Customer Account at the Clearing House for the recording of positions and related Margin, in which solely assets and positions relating to the Sponsored Principal are recorded, enabling the Sponsor and Clearing House to distinguish the assets and positions recorded in the relevant Individually Segregated Sponsored Account from assets and positions relating to other Customers of the Sponsor in its capacity as a Clearing Member and from the assets and positions relating to other Sponsored Principals and Customers.

The term "**Initial CDS Auction**" means a Default Auction held in accordance with Rule 905(b)(i) and the CDS Default Auction Procedures.

The term "**Initial Margin**" means the Permitted Cover required to be provided or actually provided (by way of title transfer pursuant to a Clearing Membership Agreement or Sponsored Principal Clearing Agreement or by way of pledge pursuant to a Pledged Collateral Addendum) to the Clearing House as collateral for the obligations of a Clearing Member or Sponsored Principal in respect of CDS Contracts including Physical Settlement Margin and other margin transferred in relation to CDS Contracts pursuant to Part 5 including any margin provided in relation to CDS Contracts pursuant to Rule 502(g), in each case as calculated or permitted to be called in accordance with the risk policies of the Clearing House, but excluding in any case Mark-to-Market Margin and any Customer-CM Collateral that is not transferred to the Clearing House and includes, where the context so requires, any proceeds of realisation of the same.

The term "**Initial Payment**" means, in relation to a CDS Contract, the payment, if any, specified as the "Initial Payment Amount" under the Contract Terms for such CDS Contract and, in relation to a Bilateral CDS Transaction or CDS Trade Particulars, the payment, usually described therein as the "Initial Payment Amount" or "Additional Amount", payable by one party thereto to the other usually

## Part 1 – General Provisions

not later than the third business day after the trade date of such Bilateral CDS Transaction or CDS Trade Particulars.

The term "**Insolvency**" means, in relation to any Person: a bankruptcy or winding-up petition being presented; a bankruptcy order being made; a suspension of payments or moratorium being granted; a voluntary arrangement being approved; an Insolvency Practitioner being appointed or petition or order being made for such an appointment (other than in connection with a Resolution Step which is not an Unprotected Resolution Step); a composition or scheme of arrangement being approved by a court or other Governmental Authority; an assignment, compromise or composition being made or approved for the benefit of any creditors or significant creditor; an order being made or resolution being passed for winding up; dissolution; the striking off of that Person's name from a register of companies or other corporate bodies; a distress process being levied or enforced or served upon or against property of that Person; a Governmental Authority making an order, instrument or other measure pursuant to which any of that Person's securities, property, rights or liabilities are transferred (other than a Resolution Step); a trust deed granted by it becoming a protected trust deed (where the terms 'trust deed' and 'protected trust deed' are construed in accordance with section 73(1) of the Bankruptcy (Scotland) Act 1985) and, for CDS Clearing Members and Sponsored Principals in respect of CDS Contracts only, also any event not otherwise falling within this definition but which constitutes a Bankruptcy in respect of such CDS Clearing Member or Sponsored Principal; or any event analogous to any of the foregoing in any jurisdiction (always excluding any frivolous or vexatious petition or solvent reorganisation, change of Control or merger notified to the Clearing House in accordance with Rule 204(a)(i)).

The term "**Insolvency Practitioner**" means a receiver, judicial manager, administrator, temporary administrator, bank administrator, manager, administrative receiver, liquidator, conservator, examiner, trustee in bankruptcy, relevant office-holder (under the Companies Act 1989) or any other Person appointed or with powers in relation to an Insolvency in any jurisdiction.

The term "**Intellectual Property**" means all intellectual property rights in any part of the world and for the entire duration of such rights, shall include, without limitation, copyright, trade marks, design rights, patents, domain names, database rights and know-how, in each case whether registered or unregistered and including applications to register and rights to apply for registration, and all similar or equivalent rights which may subsist anywhere in the world.

The term "**Investment**" means any 'specified investment' as defined in the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 or any loan, bond, obligation or debenture referenced in a CDS Contract.

The term "**Investment Losses**" means losses, liabilities, damages, costs, claims, shortfalls or expenses incurred or suffered by the Clearing House, to the extent that the same are not subjected to any power of assessment under Rule 909 or any mechanism under Rules 914 to 916, arising in connection with the default of the issuer of any instrument and/or the counterparty to any repurchase or reverse repurchase contract or similar transaction in respect of any investment(s) or re-investment(s) by the Clearing House of assets representing Original/Initial Margin, Guaranty Fund Contributions or Permitted Cover in respect thereof (including any such assets transferred by a Defaulter) or the proceeds of any of the foregoing, other than any such losses, liabilities, damages, costs, claims, shortfalls or expenses resulting directly from a failure by the Clearing House to comply with its own investment policies. For the avoidance of doubt, "Investment Losses" shall not



## *Part 1 – General Provisions*

include losses, liabilities, damages, costs, claims, shortfalls or expenses incurred or suffered by the Clearing House as a result of a Custodian default.

The term "**Invoice Back**" means the process by which an offsetting Contract of the same Set as an existing Contract is created by the Clearing House pursuant to Rule 104(a)(i) or Rule 104(b) and Rule 401(a)(vi), with the role of Buying Counterparty or Selling Counterparty reversed and, at the Clearing House's discretion, a different price or premium and other terms as are determined by the Clearing House pursuant to Rule 104 or an existing Contract is terminated by the Clearing House pursuant to Rule 104(a)(i) or Rule 104(b) at a termination price and other terms as are determined by the Clearing House pursuant to Rule 104; and the terms "**Invoiced Back**", "**Invoicing Back**" and other similar expressions shall be construed accordingly.

The term "**LCIA**" means the London Court of International Arbitration or any successor thereto.

The term "**LCIA Rules**" means the arbitration rules of the LCIA.

The term "**Long**", in respect of an Option, refers to the positions of Persons entitled to exercise Options.

The term "**Loss Assets**" means assets of the Clearing House of a value specified pursuant to Rule 919(p) which are intended to be applied towards Non-Default Losses or Investment Losses pursuant to Rule 919.

The term "**Margin**" means Permitted Cover required to be provided or actually provided (by way of title transfer pursuant to a Clearing Membership Agreement or Sponsored Principal Clearing Agreement or by way of pledge pursuant to a Pledged Collateral Addendum) to the Clearing House (or, in the case of Variation Margin, Mark-to-Market Margin and FX Mark-to-Market Margin, provided to or by the Clearing House by outright transfer of cash as a settlement payment) pursuant to a requirement for Original Margin, Variation Margin, FX Original Margin, Initial Margin, Mark-to-Market Margin, FX Mark-to-Market Margin or any other requirement under the Rules or the Finance Procedures and includes, where the context so requires, any proceeds of realisation of the same.

The term "**Margin Account**" means a Proprietary Margin Account or Customer Margin Account.

The term "**Margin-flow Co-mingled Account**" means a kind of Customer Account of a Non-FCM/BD Clearing Member at the Clearing House for the recording of positions and related Margin, in which solely assets and positions and related Margin relating to a particular Customer (or a particular group of Customers) are recorded, enabling the Clearing House to distinguish the assets and positions recorded in such account from assets, positions and Margin relating to other Customers of the Clearing Member and from assets, positions and Margin relating to Sponsored Principals, but in respect of which transfers of Permitted Cover to and from the Clearing House are co-mingled or netted with transfers of Permitted Cover relating to other Margin-flow Co-mingled Accounts of the same Clearing Member that are recorded in the same position-keeping account, in accordance with Rules 302(a)(v)-(vi) and 503(k) and the Clearing Procedures. A Margin-flow Co-mingled Account may be an Account: (i) in which solely assets and positions and related Margin relating to a particular Customer are recorded, in which case it will be an "**Individually Segregated Margin-flow Co-mingled Account**" and result in 'individual client segregation' for

## Part 1 – General Provisions

purposes of EMIR; or (ii) in which assets and positions and related Margin relating to a group of Customers (such as, without limitation, Customers that are Affiliates of one another or Customers which are all funds managed by the same fund manager or fund managers that are Affiliates of one another) are recorded, in which case it will be an "**Omnibus Margin-flow Co-mingled Account**" and result in 'omnibus client segregation' for purposes of EMIR.

The term "**Mark-to-Market Margin**" means cash required to be provided or actually provided by a Clearing Member or Sponsored Principal by way of outright transfer of cash as a settlement payment to the Clearing House or by the Clearing House to a Clearing Member or Sponsored Principal related to the market value of a Clearing Member's or Sponsored Principal's Open Contract Positions relating to CDS Contracts, as determined pursuant to Rule 503(f)(ii) and the Finance Procedures and includes, where the context so requires, any proceeds of realisation of the same.

The term "**Mark-to-Market Price**" has the meaning given in Rule 503(g).

The term "**Market**" means ICE Endex, ICE Endex UK, ICE Futures Europe, ICE Futures US, IFAD and any other Exchange for which the Clearing House provides or may provide Clearing services (and for the purposes of Clearing Membership Agreements for CDS Clearing Members and FX Clearing Members only, also includes the over-the-counter markets for CDS and FX).

The term "**Market Rules**" means the rules, regulations, procedures of, and agreements governing, a Market.

The term "**Membership Category**" means any of the three membership categories, as applicable to the clearing permissions of a Clearing Member or Sponsored Principal, that are linked to a specific Guaranty Fund, i.e. F&O, CDS and FX.

The term "**MiFID II**" means Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU and Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012, and includes all delegated or implementing regulations, national implementing measures in any member state [of the European Economic Area](#), decisions and technical standards thereunder as interpreted in accordance with any applicable guidance publicly issued by ESMA or any Regulatory Authority.

The term "**Monetary Default**" means a Clearing Member or Sponsored Principal failing to transfer or pay to the Clearing House in full any Margin, Guaranty Fund Contribution, amount due under or in connection with any Contract or other amount due to the Clearing House or required by or pursuant to Market Rules, unless such failure constitutes a Force Majeure Event affecting the relevant Clearing Member or Sponsored Principal.

The term "**Money Laundering Directive**" means Directive [2005/60/EC\(EU\) 2015/849](#), and [the relevant implementing measures in each member state of the European Economic Area which has implemented Directive \[2005\\(EU\\) 2015/60/EC849\]\(#\)](#), including the Money Laundering Regulations [2007](#).

## Part 1 – General Provisions

The term "**Money Laundering Regulations**" means the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017/692.

The term "**National Grid**" has the meaning given in the Delivery Procedures.

The term "**Network Code**" has the meaning given in the Delivery Procedures.

The term "**Nominated Bank Account**" means a Nominated Customer Bank Account or a Nominated Proprietary Bank Account.

The term "**Nominated Customer Bank Account**" means an account (if any) of a Clearing Member at an Approved Financial Institution, nominated by the Clearing Member in accordance with the Finance Procedures, used by the Clearing Member for transfers to or from the Clearing House of amounts due in respect of a particular Customer Account (or all its Margin-flow Co-mingled Accounts related to the same position-keeping account or all its Segregated Gross Indirect Accounts related to the same position-keeping account) which may be designated by a Clearing Member for payments in respect of a single Customer Account or Customer Accounts of a particular Customer Account Category (or all its Margin-flow Co-mingled Accounts related to the same position-keeping account or all its Segregated Gross Indirect Accounts related to the same position-keeping account). For the avoidance of doubt, a Nominated Customer Bank Account is not and does not form part of a Customer Account. The term includes a similar account nominated by a Sponsored Principal in accordance with Rule 1901(b) and 1902, which must be linked to the relevant Individually Segregated Sponsored Account.

The term "**Nominated Proprietary Bank Account**" means an account of a Clearing Member at an Approved Financial Institution, nominated by the Clearing Member in accordance with the Finance Procedures, used by the Clearing Member for transfers to or from the Clearing House of amounts due in respect of a Proprietary Account, which may be designated for payments in respect of F&O Contracts, FX Contracts, CDS Contracts or any or all of them. For the avoidance of doubt, a Nominated Proprietary Bank Account is not and does not form part of a Proprietary Account.

The term "**Non-DCM/Swap**" means, in relation to an FCM/BD Clearing Member, a transaction or Contract that is not a U.S. Future, SBS or a Swap (as described in paragraphs (i) or (ii) of the definition thereof) and that is a "foreign future" or "foreign option" made on or subject to the rules of a "foreign board of trade", each as defined in the CEA or regulations thereunder, which will include without limitation any such transaction or Contract that is an ICE Endex Transaction, an ICE Endex Contract, an ICE Futures Europe Transaction, an ICE Futures Europe Contract, an IFAD Transaction, an IFAD Contract, a Financials & Softs Transaction and a Financials & Softs Contract.

The term "**Non-DCM/Swap Customer**", in respect of an FCM/BD Clearing Member, means a Customer with respect to a transaction or Contract that is a Non-DCM/Swap and which Customer is required by Applicable Laws to be treated as a Non-DCM/Swap Customer. A Person may be a Non-DCM/Swap Customer in relation to certain transactions or Contracts and another category of FCM/BD Customer in relation to other transactions or Contracts.

## Part 1 – General Provisions

The term "**Non-DCM/Swap Customer Account**", in respect of an FCM/BD Clearing Member, means a kind of Customer Account with the Clearing House that is not a DCM Customer Account, Swap Customer Account or SBS Customer Account in relation to which the FCM/BD Clearing Member: (i) acts in its capacity as a clearing member in relation to Non-DCM/Swaps (other than Permitted Co-mingled Contracts) connected with the provision of services to Non-DCM/Swap Customers; and (ii) enters into market contracts in the capacity of a clearing member in relation only to transactions connected with the provision of services to Non-DCM/Swap Customers.

The term "**Non-Default Losses**" means losses, liabilities, damages, costs, claims, shortfalls or expenses incurred or suffered by the Clearing House that are not Investment Losses, arising in connection with any event other than an Event of Default and which threaten the Clearing House's solvency.

The term "**Non-FCM/BD CDS Clearing Member**" means any CDS Clearing Member that is not an FCM/BD Clearing Member.

The term "**Non-FCM/BD Clearing Member**" means any Clearing Member that is not an FCM/BD Clearing Member.

~~The term "**Non-Transfer Positions**" in respect of a Customer Account of a Clearing Member, means the Customer Account Positions in respect of which either: (i) the relevant Customer has not made a Default Portability Preference; or (ii) a Default Portability Preference has been made by the relevant Customer but has not been communicated to the Clearing House by such Clearing Member or, where permitted, by such Customer, in each case in accordance with the Rules and the Procedures.~~

The term "**Omnibus Margin-flow Co-mingled Account**" has the meaning set out in the definition of Margin-flow Co-mingled Account.

The term "**Open Contract Position**", in respect of each Set of Contracts for a Clearing Member or Sponsored Principal from time to time, comprises the Contract Position and, for F&O Contracts only, the Net Amount Position, where:

- (a) *Contract Position* means:
- (i) in relation to a Proprietary Position Account for F&O Contracts that are Futures: where a Clearing Member or Sponsored Principal is party to one or more Futures Contracts of a particular Set, the number that equals the netted sum of buy and sell obligations pursuant to those Contracts recorded in that account;
  - (ii) in relation to a Proprietary Position Account for F&O Contracts that are Options: where a Clearing Member or Sponsored Principal is party to one or more Options Contracts of a particular Set, the number that equals the netted sum of Long and Short obligations pursuant to those Contracts recorded in that account;
  - (iii) in relation to a Customer Position Account for F&O Contracts that are Futures: where a Clearing Member or Sponsored Principal is party to one or more Futures Contracts of a particular Set, the gross number of buy positions and the gross

Part 1 – General Provisions

- number of sell positions pursuant to those Contracts recorded in that account (subject to any netting pursuant to Rule 406);
- (iv) in relation to a Customer Position Account for F&O Contracts that are Options: where a Clearing Member or Sponsored Principal is party to one or more Options Contracts of a particular Set, the gross number of Long positions and the gross number of Short positions pursuant to those Contracts recorded in that account (subject to any netting pursuant to Rule 406);
  - (v) in relation to a Proprietary Position Account for CDS Contracts: where a Clearing Member or Sponsored Principal is party to one or more CDS Contracts of a particular Set, the number that equals the aggregate of all Floating Rate Payer Calculation Amounts for (and as defined pursuant to) each CDS Contract of that Set recorded in that account where it acts as Selling Counterparty minus the aggregate of all Floating Rate Payer Calculation Amounts for each CDS Contract of that Set recorded in that account where it acts as Buying Counterparty, provided that Matched CDS Contracts will be held and calculated on a gross basis;
  - (vi) in relation to a Customer Position Account for CDS Contracts: where a Clearing Member or Sponsored Principal is party to one or more CDS Contracts of a particular Set, the gross number of all Floating Rate Payer Calculation Amounts for (and as defined pursuant to) each CDS Contract of that Set recorded in that account where it acts as Selling Counterparty; and the gross number of all Floating Rate Payer Calculation Amounts for each CDS Contract of that Set recorded in that account where it acts as Buying Counterparty, subject in either case to any netting pursuant to Rule 406, provided that Matched CDS Contracts will be held and calculated on a gross basis;
  - (vii) in relation to a Proprietary Account for FX Contracts: where a Clearing Member or Sponsored Principal is party to one or more FX Contracts of a particular Set, both the gross Financially-Settled FX Contracts to which the Clearing Member or Sponsored Principal is party as Reference Currency Buyer and the gross Financially-Settled FX Contracts to which the Clearing Member or Sponsored Principal is party as Reference Currency Seller for a particular Set, without prejudice to any requirement for Margin to be called based on the position derived from the Financially-Settled FX Contracts to which the Clearing Member or Sponsored Principal is party as Reference Currency Buyer being netted against the Financially-Settled FX Contracts to which the Clearing Member or Sponsored Principal is party as Reference Currency Seller (or *vice versa*) for a particular Set; and
  - (viii) in relation to a Customer Account for FX Contracts: where a Clearing Member or Sponsored Principal is party to one or more FX Contracts of a particular Set, both the gross Financially-Settled FX Contracts where the Clearing Member or Sponsored Principal is identified as Reference Currency Buyer and the gross Financially-Settled FX Contracts where the Clearing Member or Sponsored Principal is identified as Reference Currency Seller for a particular Set, without prejudice to any requirement for Margin to be called based on the position derived



## Part 1 – General Provisions

from the Financially-Settled FX Contracts where the Clearing Member or Sponsored Principal is identified as Reference Currency Buyer being netted against the Financially-Settled FX Contracts where the Clearing Member or Sponsored Principal is identified as Reference Currency Seller (or *vice versa*) for a particular Set to the extent permitted under these Rules and the Procedures for the Customer Account in question,

in any case as calculated by the Clearing House from time to time based on data received by the Clearing House in respect of Contracts entered into by the Clearing Member or Sponsored Principal up to the close of business on the immediately preceding Business Day (or such other period determined by the Clearing House at its discretion); and

- (b) *Net Amount Position* for F&O Contracts, means the price at which the Contract Position for any Set is recorded on the Clearing House's books based on Exchange Delivery Settlement Prices for each Contract.

The term "**Opening Days**" means the days upon which the Clearing House is operational, which may vary for different Contracts or between deliveries and other business, as notified by the Clearing House from time to time.

The term "**Opening Hours**" means the hours during which the Clearing House is operational, which may vary for different Contracts or between deliveries and other business, as notified by the Clearing House from time to time.

The term "**Option**" means an F&O Contract subject to Clearing by the Clearing House that is an 'option' under article 83 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 or any economically similar Contract that is not an investment.

The term "**Original Margin**" means the Permitted Cover required to be provided or actually provided (by way of title transfer pursuant to a Clearing Membership Agreement or Sponsored Principal Clearing Agreement or by way of pledge pursuant to a Pledged Collateral Addendum) to the Clearing House as collateral for the obligations of a Clearing Member or Sponsored Principal in respect of F&O Contracts pursuant to Part 5 including [buyer's security, seller's security, delivery Margin and](#) any margin provided in relation to F&O Contracts pursuant to Rule 502(g), in each case as calculated or permitted to be called in accordance with the risk policies of the Clearing House, and including where the context so requires, any proceeds of realisation of the same, but excluding in any case Variation Margin.

The term "**Permitted Co-mingled Contract**" means, with respect to an FCM/BD Clearing Member, a Contract that is a Non-DCM/Swap which has been designated by the Clearing House by Circular and approved by the appropriate Regulatory Authority or Regulatory Authorities to be recorded in a Swap Customer Account or a DCM Customer Account, as applicable, rather than a Non-DCM/Swap Customer Account.

The term "**Permitted Cover**" means cash in Eligible Currencies and other assets determined by the Clearing House as permissible for Margin or Guaranty Fund Contributions and includes, where the context so requires, any such cash or assets transferred to the Clearing House and any proceeds of realisation of the same. A particular kind of currency or asset may be determined by

## Part 1 – General Provisions

the Clearing House to be Permitted Cover only in respect of Proprietary Accounts, particular kinds of Customer Accounts, Energy Contracts, Financials & Softs Contracts, F&O Contracts, FX Contracts, CDS Contracts or certain Sets of Contracts.

The term "**Person**" means any individual, partnership, firm, body corporate, association, trust, unincorporated organisation or other entity, including:

- (a) an investment fund (*Sondervermögen*) within the meaning of the German Investment Act (*Investmentgesetz* – "**InvG**") or the German Investment Capital Act (*Kapitalanlagegesetzbuch* – "**KAGB**"), including a sub-fund (*Teilfonds*) within the meaning of section 34 para. (2) InvG or a sub-fund (*Teilsondervermögen*) within the meaning of section 96 para (2) KAGB; or
- (b) a fund segment of such investment fund;
 

(in each case under (a) and (b)) managed by a German investment company (*Kapitalanlagegesellschaft*) ("**KAG**") within the meaning of the InvG or by a German management company (*Kapitalverwaltungsgesellschaft*) ("**KVG**") within the meaning of the KAGB; or
- (c) any similar structures in any other jurisdiction.

The term "**Physical Settlement Margin**" means the Permitted Cover required to be provided or actually provided (by way of title transfer pursuant to a Clearing Membership Agreement or Sponsored Principal Clearing Agreement or by way of pledge pursuant to a Pledged Collateral Addendum) to the Clearing House as collateral for the obligations of a Clearing Member or Sponsored Principal related to the risk and size of such Clearing Member's or Sponsored Principal's obligations relating to physical settlement of a CDS Contract, as determined pursuant to Rule 503(f)(i) and the Finance Procedures and as calculated or permitted to be called in accordance with the risk policies of the Clearing House from time to time, including the proceeds of realisation of the same.

The term "**Pledged Collateral**" means Margin (or Permitted Cover in respect thereof) provided by a Clearing Member or Sponsored Principal in respect of a Pledged Collateral Account by way of pledge pursuant to a Pledged Collateral Addendum and any proceeds of realisation of the same.

The term "**Pledged Collateral Account**" means a Proprietary Account or Customer Account (or any sub-account of such an account) in respect of which the Clearing House has designated (including by way of Rule 1603(c) or Circular) that some or all Margin (or Permitted Cover in respect thereof) is to be provided by a Clearing Member or Sponsored Principal by way of security interest in accordance with a Pledged Collateral Addendum rather than by way of title transfer pursuant to the Clearing Membership Agreement or Sponsored Principal Clearing Agreement.

The term "**Pledged Collateral Addendum**" means a pledged collateral addendum to a Clearing Membership Agreement or Sponsored Principal Clearing Agreement entered into between a Clearing Member or Sponsored Principal and the Clearing House and shall, for an FCM/BD Clearing Member, Non FCM/BD Clearing Member, Sponsored Principal and/or particular Account,

## [Part 1 – General Provisions](#)

refer to the relevant form of pledged collateral addendum for such Clearing Member, Sponsored Principal or Account as specified by the Clearing House from time to time.

[The term "Porting Notice" has the meaning set out in the relevant Standard Terms.](#)

The term "**Position Account**" means a Proprietary Position Account or Customer Position Account.

The term "**Position Holder**" has the meaning set out in Rule 407.

The term "**Position Limit**", of any Clearing Member or Sponsored Principal or in respect of any Account, means the limit(s) on Open Contract Positions established by the Clearing House pursuant to Rule 601.

The term "**Potential Event of Default**" means any event which, with the giving of notice or the lapse of time or both, would constitute an Event of Default.

The term "**PRA**" means the UK's Prudential Regulatory Authority or any successor ~~entity~~[thereto](#).

The term "**PRA Rules**" means all rules, requirements, directions, guidance, examples, waivers and other similar materials published or otherwise made by the PRA from time to time.

The term "**President**" means the president of the Clearing House from time to time.

The term "**Procedures**" means the procedures of the Clearing House from time to time, as amended pursuant to Rule 109(e) and any reference to the "**Finance Procedures**", "**Delivery Procedures**", "**Clearing Procedures**", "**Complaint Resolution Procedures**", "**CDS Procedures**", "**Contract Terms Procedures**", "**Membership Procedures**", "**Business Continuity Procedures**", "**FX Procedures**", "**FX Contract Terms**", "**Default Auction Procedures**", "**CDS Default Auction Procedures**", "**Default Auction Terms for F&O Default Auctions**", "**Default Auction Terms for FX Default Auctions**", "**Default Auction Terms for CDS Default Auctions**" or any other section of the Procedures shall be interpreted accordingly.

The term "**Proprietary Account**" refers to a proprietary account at the Clearing House which may be designated for CDS Contracts, Energy Contracts or FX Contracts and all related Margin and comprises a Proprietary Position Account and Proprietary Margin Account.

The term "**Proprietary Account Contract**" means a Contract recorded in a Proprietary Position Account (or any sub-account thereof).

The term "**Proprietary Account Position**" means an Open Contract Position as recorded in a Proprietary Position Account (or any sub-account thereof).

The "**Proprietary Margin Account**" forms part of a Proprietary Account and the term means an account with the Clearing House which is not a Customer Margin Account, opened in the name of a Clearing Member for the recording of debits and credits of Margin in respect of Proprietary Account Contracts recorded in the related Proprietary Position Account, which may be divided for



## Part 1 – General Provisions

administrative convenience only into sub-accounts including for F&O Contracts only, for CDS Contracts only or for FX Contracts only.

The "**Proprietary Position Account**" forms part of a Proprietary Account and the term means an account with the Clearing House which is not a Customer Position Account, opened in the name of a Clearing Member in which Proprietary Account Contracts entered into by the Clearing Member (whether directly or indirectly) and/or related Open Contract Positions are recorded, which may be divided for administrative convenience only into sub-accounts including for F&O Contracts only, for CDS Contracts only or for FX Contracts only.

The term "**Put**", in respect of an F&O Contract, means an Option pursuant to which the Person with a Long position has the actual or notional right to sell a Deliverable to the Person with a Short position at the Strike Price and at a specified time.

The term "**Reference Currency Buyer**" means, (i) in respect of an FX transaction referred to in FX Trade Particulars, the person identified as the Reference Currency Buyer in the Clearing House's records of such FX Trade Particulars; and (ii) in respect of an FX Contract, the Clearing House if the Clearing Member or Sponsored Principal who is party to that FX Contract (or its Customer) was identified as the Reference Currency Buyer in the corresponding FX Trade Particulars, or the Clearing Member or Sponsored Principal who (or whose Customer) was identified as the Reference Currency Buyer in the corresponding FX Trade Particulars.

The term "**Reference Currency Seller**" means, (i) in respect of an FX transaction referred to in FX Trade Particulars, the person identified as the Reference Currency Seller in the Clearing House's records of such FX Trade Particulars; and (ii) in respect of an FX Contract, the Clearing House if the Clearing Member or Sponsored Principal who is party to that FX Contract (or its Customer) was identified as the Reference Currency Seller in the corresponding FX Trade Particulars, or the Clearing Member or Sponsored Principal who (or whose Customer) was identified as the Reference Currency Seller in the corresponding FX Trade Particulars.

The term "**Regulatory Authority**" means any Governmental Authority which exercises a regulatory or supervisory function under the laws of any jurisdiction in relation to financial services, the financial markets, Exchanges or Clearing Organisations (including, without limitation, the FCA, the PRA, any other Person given powers under the FSMA, the Bank of England, HM Treasury, the college (as defined in EMIR) or any member of such college, the European System of Central Banks, the European Central Bank, the European Securities and Markets Authority, FINRA, the [National Futures Association](#), the CFTC, the SEC and the FSRA).

The term "**Relevant Contract Category**" subject to Rule 914(f), means one of the three categories of Contract (F&O, CDS or FX) to which an Assessment Contribution, RGD Determination or Termination Circular relates (as applicable in Rules 909, 914 or 916 respectively), as designated by the Clearing House in the relevant Circular.

The term "**Repository**" means a trade repository (as defined in EMIR) used for the reporting of Contracts (which may also be used for the recording of Transactions submitted for Clearing).

The term "**Representative**" means any Person that carries out or is responsible for (or purports to carry out or be responsible for) any of the functions of another Person and any Persons that any

## Part 1 – General Provisions

such Person employs, authorises or appoints to act on its behalf, including without limitation any director, partner, officer, executive, employee, Affiliate, Customer, contractor or agent of that other Person (provided, in the case of a Clearing Member, that a Customer will only be treated as a Representative of a Clearing Member in respect of any act, omission, conduct or behaviour in its capacity as a Customer to the extent that the Clearing Member is bound by the conduct of such Customer pursuant to Rule 102(j) or Rule 1516(b)). In relation to an Individually Segregated Sponsored Account, the Sponsor is a Representative of the Sponsored Principal.

The term "**Resolution Step**", in respect of a Person other than the Clearing House, means a Governmental Authority exercising one or more of its stabilisation powers under the Banking Act 2009 or powers to adopt early intervention measures, powers to exercise resolution tools or resolution powers under national legislation of any European Economic Area jurisdiction implementing the Bank Recovery and Resolution Directive (Directive 2014/59/EU) or any similar or analogous steps under similar or analogous Applicable Laws in the European Economic Area or protective measures or restructuring procedures under the Swiss Banking Act (*Bundesgesetz über die Banken und Sparkassen*, SR 952.0) or the exercise of powers and functions in order to facilitate the resolution of the Person under any of the Banking Act 1959 of Australia, the Insurance Act 1973 of Australia, the Life Insurance Act 1995 of Australia or the Financial Sector (Business Transfer and Group Restructure) Act 1999 of Australia.

The term "**Rule Change**" means any amendment, alteration, restatement, addition, deletion or other change to the Rules (excluding, for purposes of this definition, the Procedures, any Guidance or any Circular) ~~made in accordance with~~ or Contract Terms. Rule 109, among others, governs the process for making Rule Changes.

The term "**Rules**" means these rules, together with the Procedures, as interpreted in accordance with Guidance and Circulars.

The term "**Sanction**" means any Applicable Law executing foreign policy, security, sanction, trade embargo, boycott, export control, foreign trade control, non-proliferation or anti-terrorism objectives or similar restrictions on any business with a particular jurisdiction, certain types of business or activity or specified Persons that is imposed, administered or enforced from time to time by: (i) the European Union; (ii) HM Treasury or the United Kingdom; (iii) OFAC or the United States of America and/or its President; (iv) the United Nations Security Council; or (v) any of their successors.

The term "**SBS**" means a security-based swap (as defined in the Exchange Act), but does not include U.S. Futures, Non-DCM/Swaps and Swaps.

The term "**SBS Customer**", in respect of an FCM/BD Clearing Member, means any FCM/BD Customer with respect to any Contract arising as a result of CDS Trade Particulars relating to an SBS and registered in an SBS Customer Account of that FCM/BD Clearing Member. A Person may be a SBS Customer in relation to certain Contracts and another category of FCM/BD Customer in relation to other Contracts.

The term "**SBS Customer Account**", in respect of an FCM/BD Clearing Member, means a kind of Customer Account with the Clearing House (in its capacity as a registered clearing agency registered with the SEC under the Exchange Act), opened in the name of the FCM/BD Clearing

## Part 1 – General Provisions

Member relating to Contracts to which the FCM/BD Clearing Member is a party as a result of it acting for one or more SBS Customers (whose transactions the Clearing Member requests be recorded in an SBS Customer Account where that is required in accordance with Section 3E(b) of the Exchange Act and SEC Rule 15c3-3, insofar as applicable and any other applicable rules of the SEC) and in which the Clearing House records such Contracts and to which monies in respect of such Contracts are debited and credited, which may be divided for administrative convenience only into sub-accounts relating to different SBS Customers or groups of SBS Customers.

The term "**SEC**" means the Securities and Exchange Commission of the United States of America, or any successor thereto.

The term "**Secondary CDS Auction**" means a Default Auction held in accordance with Rule 905(d)(i)(B) and the CDS Default Auction Procedures.

The term "**Segregated Customer**" means a Customer of a Non-FCM/BD Clearing Member in circumstances where, whether as a result of any requirement of Applicable Law, agreement or arrangement, a customer asset segregation, client money, client asset, trust or other client asset protection regime (being more than the mere requirement arising under EMIR to distinguish from the Proprietary Account assets and positions of the Clearing Member), such as a requirement on the Clearing Member to segregate client money arising under CASS 7 of the FCA ~~rules~~ [Rules](#) applies as between the Customer and the Clearing Member to assets at the time immediately prior to transfer to the Clearing House as Margin for a relevant Customer Margin Account.

The term "**Segregated Customer Omnibus Account For F&O**" means a kind of Customer Account with the Clearing House opened in the name of a Non-FCM/BD Clearing Member for the recording of F&O Contracts to which that Non-FCM/BD Clearing Member is a party as a result of it acting for one or more Segregated Customers, and related Margin (and in which no assets or positions relating to the Non-FCM/BD Clearing Member's own account are recorded, enabling the Non-FCM/BD Clearing Member to distinguish the assets and positions in F&O Contracts held for the account of its Segregated Customers).

The term "**Segregated Customer Omnibus Account For CDS**" means a kind of Customer Account with the Clearing House opened in the name of a Non-FCM/BD CDS Clearing Member for the recording of CDS Contracts to which that Non-FCM/BD CDS Clearing Member is a party as a result of it acting for one or more Segregated Customers, and related Margin (and in which no assets or positions relating to the Non-FCM/BD CDS Clearing Member's own account are recorded, enabling the Non-FCM/BD CDS Clearing Member to distinguish the assets and positions in CDS Contracts held for the account of its Segregated Customers).

The term "**Segregated Customer Omnibus Account For FX**" means a kind of Customer Account with the Clearing House opened in the name of a Non-FCM/BD Clearing Member for the recording of FX Contracts to which that Non-FCM/BD Clearing Member is a party as a result of it acting for one or more Segregated Customers, and related Margin (and in which no assets or positions relating to the Non-FCM/BD Clearing Member's own account are recorded, enabling the Non-FCM/BD Clearing Member to distinguish the assets and positions in FX Contracts held for the account of its Segregated Customers).

## [Part 1 – General Provisions](#)

The term "**Segregated Gross Indirect Account**" means a kind of Customer Account of a Non-FCM/BD Clearing Member at the Clearing House for the recording of positions and related Margin, in which solely assets or positions relating to the Indirect Clients of a particular Customer are recorded, enabling the Clearing House to distinguish the assets and positions of one Indirect Client recorded in such account from the assets and positions of another Indirect Client recorded in the same account, and to distinguish the assets and positions recorded in such account from the assets or positions of other Indirect Clients and from assets or positions relating to the proprietary assets, positions and Margin of the same Customer and from any assets or positions of other Customers of the Clearing Member and from the assets or positions of the Clearing Member on its own account and also from assets or positions relating to Sponsored Principals, but in respect of which transfers of Permitted Cover to and from the Clearing House are co-mingled or netted with transfers of Permitted Cover relating to other Segregated Gross Indirect Accounts of the same Clearing Member that are recorded in the same position-keeping account, in accordance with Rules 302(a)(vii)-(viii) and 503(k) and the Clearing Procedures. A Segregated Gross Indirect Account is intended for usage as a "segregated account for the exclusive purpose of holding the assets and positions of the indirect clients of each client of the clearing member that are managed by the clearing member" for purposes of EMIR and MiFID II. A collection of Segregated Gross Indirect Accounts using the same position-keeping account as specified in the Clearing Procedures is referred to in some Clearing House documentation as a "Gross Omnibus Indirect Account".

The term "**Segregated TTFCA Customer**" means a Customer of a Non-FCM/BD Clearing Member which provides collateral to the Non-FCM/BD Clearing Member on a title transfer financial collateral arrangement basis or otherwise in circumstances in which no customer asset segregation, client money, client asset, trust or other client asset protection regime applies (other than the requirement arising under EMIR to distinguish from the Proprietary Account assets and positions of the Clearing Member) as between the Customer and the Non-FCM/BD Clearing Member to assets at the time immediately prior to transfer to the Clearing House as Margin for a relevant Customer Margin Account.

The term "**Segregated TTFCA Customer Omnibus Account For CDS**" means a kind of Customer Account with the Clearing House opened in the name of a Non-FCM/BD CDS Clearing Member for the recording of CDS Contracts to which that Non-FCM/BD CDS Clearing Member is a party as a result of it acting for one or more Segregated TTFCA Customers, and related Margin (and in which no assets or positions relating to the Non-FCM/BD CDS Clearing Member's own account are recorded, enabling the Non-FCM/BD CDS Clearing Member to distinguish the assets and positions in CDS Contracts held for the account of its Segregated TTFCA Customers).

The term "**Segregated TTFCA Customer Omnibus Account For F&O**" means a kind of Customer Account with the Clearing House opened in the name of a Non-FCM/BD Clearing Member for the recording of F&O Contracts to which that Non-FCM/BD Clearing Member is a party as a result of it acting for one or more Segregated TTFCA Customers, and related Margin (and in which no assets or positions relating to the Non-FCM/BD Clearing Member's own account are recorded, enabling the Non-FCM/BD Clearing Member to distinguish the assets and positions in F&O Contracts held for the account of its Segregated TTFCA Customers).

The term "**Segregated TTFCA Customer Omnibus Account For FX**" means a kind of Customer Account with the Clearing House opened in the name of a Non-FCM/BD Clearing Member for the recording of FX Contracts to which that Non-FCM/BD Clearing Member is a

## Part 1 – General Provisions

party as a result of it acting for one or more Segregated TTFCAs Customers, and related Margin (and in which no assets or positions relating to the Non-FCM/BD Clearing Member's own account are recorded, enabling the Non-FCM/BD Clearing Member to distinguish the assets and positions in FX Contracts held for the account of its Segregated TTFCAs Customers).

The term "**SEK**" means Swedish krona, or any other lawful currency that is a successor to it.

The term "**Seller**" means, in relation to deliveries under Part 7 or a Contract of Sale, the Clearing Member (or Sponsored Principal) or the Clearing House, whichever is obliged to make delivery of a Deliverable (whether itself or through another Person).

The term "**Selling Counterparty**" means, in respect of a Contract: (a) except in circumstances in which sub-paragraph (c) below applies, the Clearing Member that was, before formation of a Contract for Clearing, party to the corresponding Transaction (or specified in the CDS Trade Particulars or FX Trade Particulars) as seller (or, in relation to CDS Contracts, as protection seller or, in relation to Financially-Settled FX Contracts, Reference Currency Seller); or (b) except in circumstances in which sub-paragraph (c) below applies, where a Non-FCM/BD Clearing Member's Customer is party to the corresponding Transaction (or specified in the CDS Trade Particulars or FX Trade Particulars) as seller, protection seller or Reference Currency Seller (as applicable), the Clearing Member that provides clearing services to that Customer in relation to the Transaction in question (or, for F&O Contracts, if more than one such Clearing Member exists, the Clearing Member that was selected by the Customer for the initial booking of that Transaction); (c) where an FCM/BD Customer is a party to the corresponding Transaction (or specified in the CDS Trade Particulars or FX Trade Particulars) as seller, protection seller or Reference Currency Seller (as applicable), the FCM/BD Clearing Member clearing on behalf of such FCM/BD Customer; (d) in relation to F&O Contracts only and overriding any designation that would occur pursuant to (a), (b) or (c) above, where one Clearing Member that would be a Selling Counterparty in accordance with (a), (b) or (c) above has allocated an F&O Transaction to another Clearing Member for clearing in accordance with Market Rules, the Clearing Member to whom such F&O Transaction is allocated; or (e) notwithstanding (a) to (d), in respect of an Individually Segregated Sponsored Account, the Sponsored Principal shall act as principal to all Contracts as the Selling Counterparty on a joint and several basis with the Sponsor, instead of the relevant Clearing Member referred to in (a) to (d) above, subject to and as set out in Part 19.

The term "**Set**" means:

- (a) for Futures Contracts: a set or class of Contracts that are identical as to their terms (including the Deliverable to which such Contract relates and settlement date; but excluding any amount paid or to be paid for entry into the Contract and any amount paid or to be paid in respect of the entry into, settlement or delivery of a Contract);
- (b) for Options Contracts: a set of Contracts that are identical as to their terms (including the Deliverable to which such Contracts relate, contract date and Strike Price; but excluding any amount paid or to be paid for entry into or writing of a Contract and any amount paid or to be paid in respect of settlement);
- (c) for CDS Contracts that are based on an index (including Triggered Restructuring CDS Contract Portions and Component Transactions forming part thereof or, pursuant to the



## Part 1 – General Provisions

Rules, resulting therefrom), a set of Contracts that are similar as to their terms (including, without limitation, identical as to their terms concerning the Applicable Credit Derivatives Definitions, the reference entities and obligations to which any payment or delivery obligation is linked, series number, fixed rate and scheduled termination date; but which may differ, without limitation, as to any Initial Payment, the 'Trade Date' and any provisions relating to tax or the provision of forms relating to tax);

- (d) for CDS Contracts that are based on a single reference entity, a set of Contracts that are similar as to their terms (including, without limitation, identical as to their terms concerning the Applicable Credit Derivatives Definitions, the reference entity and obligations to which any payment or delivery obligation is linked, fixed rate, scheduled termination date and, where terms are determined by reference to a "Physical Settlement Matrix", referring to the same version of such "Physical Settlement Matrix"; but which may differ, without limitation, as to any Initial Payment, the 'Trade Date' and any provisions relating to tax or the provision of forms relating to tax); and
- (e) for Financially-Settled FX Contracts: a set of Contracts that are identical as to their terms and economic characteristics (including the currency pair to which such Financially-Settled FX Contracts relate and their FX Settlement Date; but excluding any amount paid or to be paid for entry into or writing of the Financially-Settled FX Contract, any amount paid or to be paid in respect of settlement under the Financially-Settled FX Contract and the position of the FX Clearing Member or Clearing House as Reference Currency Buyer or Reference Currency Seller).

The term "**Settlement and Notices Terms**" means the Settlement and Notices Terms as published by the Clearing House from time to time as an Exhibit to these Rules, but which do not form part of these Rules, which are applicable in respect of CDS Contracts, Customer-CM CDS Transactions and clearing agreements or arrangements between FCM/BD Clearing Members that are CDS Clearing Members and their Customers, as amended from time to time in accordance with the terms thereof.

The term "**Settlement Finality Directive**" means Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems, and includes any national implementing measures in any member state [of the European Economic Area and, in the UK, the Settlement Finality Regulations](#).

The term "**Settlement Finality Regulations**" means the Financial Markets and Insolvency (Settlement Finality) Regulations 1999.

The term "**Short**", in respect of an Option, refers to the positions of Persons against whom Options may be exercised.

~~The term "**Soft Commodity EFRP**" means a 'Soft Commodity EFRP' transaction under applicable Market Rules or any similar transaction under any Market Rules.~~

The term "**Sponsor**" means a Clearing Member that has permission from the Clearing House to act as such, acting in its capacity as sponsor of an Individually Segregated Sponsored Account.



## Part 1 – General Provisions

The term "**Sponsor Agreement**" means an agreement between a Sponsor and the Clearing House under which, *inter alia*, the Sponsor agrees to act as a Sponsor, the Sponsor agrees to be bound by and subject to these Rules in its capacity as such and pursuant to which the Sponsor nominates Sponsored Principals for whom it will act as Sponsor.

The term "**Sponsored Principal**" means the principal in respect of an Individually Segregated Sponsored Account. A Sponsored Principal must also be a client (as defined in EMIR) that is a Customer of the Sponsor and may be either a Segregated Customer or a Segregated TTFCA Customer.

The term "**Sponsored Principal Clearing Agreement**" means an agreement between a Sponsored Principal and the Clearing House under which, *inter alia*, the Sponsored Principal agrees to act as a Sponsored Principal and the Clearing House agrees to provide Clearing in respect of Contracts of the Sponsored Principal and the Sponsored Principal agrees to be bound by and subject to these Rules. Without prejudice to the generality of Rule 102(b) or to the effectiveness of any other agreement between the Clearing House and a Sponsored Principal, for the avoidance of doubt, for Sponsored Principals that have executed a Pledged Collateral Addendum, the relevant Sponsored Principal Clearing Agreement will be interpreted as amended by that Pledged Collateral Addendum.

The term "**Standard Omnibus Indirect Account**" means a Standard Omnibus Indirect Account for F&O, Standard TTFCA Omnibus Indirect Account for F&O, Standard Omnibus Indirect Account for CDS, Standard TTFCA Omnibus Indirect Account for CDS, Standard Omnibus Indirect Account for FX or Standard TTFCA Omnibus Indirect Account for FX.

The term "**Standard Omnibus Indirect Account For CDS**" means a kind of Customer Account with the Clearing House opened in the name of a Non-FCM/BD Clearing Member for the recording of CDS Contracts to which that Clearing Member is a party as a result of it acting for one or more Segregated Customers which have Indirect Clients, and related Margin (and in which no assets or positions relating to the Clearing Member's own account nor any assets or positions relating to the proprietary business of any Customer are recorded), enabling the Clearing Member to distinguish the assets and positions in CDS Contracts held for the account of Segregated Customers solely in respect of transactions entered into by such Segregated Customers with Indirect Clients. A Standard Omnibus Indirect Account for CDS is intended for usage as a "segregated account for the exclusive purpose of holding the assets and positions of the clearing member's indirect clients that are managed by the clearing member" for purposes of EMIR and MiFID II.

The term "**Standard Omnibus Indirect Account For F&O**" means a kind of Customer Account with the Clearing House opened in the name of a Non-FCM/BD Clearing Member for the recording of F&O Contracts to which that Clearing Member is a party as a result of it acting for one or more Segregated Customers which have Indirect Clients, and related Margin (and in which no assets or positions relating to the Clearing Member's own account nor any assets or positions relating to the proprietary business of any Customer are recorded), enabling the Clearing Member to distinguish the assets and positions in F&O Contracts held for the account of Segregated Customers solely in respect of transactions entered into by such Segregated Customers with Indirect Clients. A Standard Omnibus Indirect Account for F&O is intended for usage as a "segregated account for the exclusive purpose of holding the assets and positions of the clearing

## *Part 1 – General Provisions*

member's indirect clients that are managed by the clearing member" for purposes of EMIR and MiFID II.

The term "**Standard Omnibus Indirect Account For FX**" means a kind of Customer Account with the Clearing House opened in the name of a Non-FCM/BD Clearing Member for the recording of FX Contracts to which that Clearing Member is a party as a result of it acting for one or more Segregated Customers which have Indirect Clients, and related Margin (and in which no assets or positions relating to the Clearing Member's own account nor any assets or positions relating to the proprietary business of any Customer are recorded), enabling the Clearing Member to distinguish the assets and positions in FX Contracts held for the account of Segregated Customers solely in respect of transactions entered into by such Segregated Customers with Indirect Clients. A Standard Omnibus Indirect Account for FX is intended for usage as a "segregated account for the exclusive purpose of holding the assets and positions of the clearing member's indirect clients that are managed by the clearing member" for purposes of EMIR and MiFID II.

The term "**Standard Payments Mechanism**" has the meaning set out in Rule 302(a).

The term "**Standard Terms**" means CDS Standard Terms, F&O Standard Terms or FX Standard Terms.

The term "**Standard TTFCA Omnibus Indirect Account For CDS**" means a kind of Customer Account with the Clearing House opened in the name of a Non-FCM/BD Clearing Member for the recording of CDS Contracts to which that Clearing Member is a party as a result of it acting for one or more Segregated TTFCA Customers which have Indirect Clients, and related Margin (and in which no assets or positions relating to the Clearing Member's own account nor any assets or positions relating to the proprietary business of any Customer are recorded), enabling the Clearing Member to distinguish the assets and positions in CDS Contracts held for the account of Segregated TTFCA Customers solely in respect of transactions entered into by such Segregated TTFCA Customers with Indirect Clients. A Standard TTFCA Omnibus Indirect Account for CDS is intended for usage as a "segregated account for the exclusive purpose of holding the assets and positions of the clearing member's indirect clients that are managed by the clearing member" for purposes of EMIR and MiFID II.

The term "**Standard TTFCA Omnibus Indirect Account For F&O**" means a kind of Customer Account with the Clearing House opened in the name of a Non-FCM/BD Clearing Member for the recording of F&O Contracts to which that Clearing Member is a party as a result of it acting for one or more Segregated TTFCA Customers which have Indirect Clients, and related Margin (and in which no assets or positions relating to the Clearing Member's own account nor any assets or positions relating to the proprietary business of any Customer are recorded), enabling the Clearing Member to distinguish the assets and positions in F&O Contracts held for the account of Segregated TTFCA Customers solely in respect of transactions entered into by such Segregated TTFCA Customers with Indirect Clients. A Standard TTFCA Omnibus Indirect Account for F&O is intended for usage as a "segregated account for the exclusive purpose of holding the assets and positions of the clearing member's indirect clients that are managed by the clearing member" for purposes of EMIR and MiFID II.

## Part 1 – General Provisions

The term "**Standard TTFCA Omnibus Indirect Account For FX**" means a kind of Customer Account with the Clearing House opened in the name of a Non-FCM/BD Clearing Member for the recording of FX Contracts to which that Clearing Member is a party as a result of it acting for one or more Segregated TTFCA Customers which have Indirect Clients, and related Margin (and in which no assets or positions relating to the Clearing Member's own account nor any assets or positions relating to the proprietary business of any Customer are recorded), enabling the Clearing Member to distinguish the assets and positions in FX Contracts held for the account of Segregated TTFCA Customers solely in respect of transactions entered into by such Segregated TTFCA Customers with Indirect Clients. A Standard TTFCA Omnibus Indirect Account for FX is intended for usage as a "segregated account for the exclusive purpose of holding the assets and positions of the clearing member's indirect clients that are managed by the clearing member" for purposes of EMIR and MiFID II.

The term "**Strike Price**" in respect of an Option, means the price of the relevant Deliverable at which the Option may be or is exercised.

The term "**Summary Disciplinary Committee**" means a summary disciplinary committee established pursuant to Rule 1004(c).

The term "**Summary Disciplinary Process**" has the meaning set out in Rule 1008(a).

The term "**Surplus Collateral**" in respect of a Clearing Member, Sponsored Principal or particular Account or account for Guaranty Fund Contributions at any time, means any Permitted Cover transferred to the Clearing House that is not required to satisfy the current or most recently calculated applicable requirements in respect of Margin or Guaranty Fund Contributions at such time. For the avoidance of doubt, Swap Customer Excess Margin (as defined in Rule 1602) does not constitute Surplus Collateral, except as set out in Rule 1605(k)(viii).

The term "**Swap**" means (i) a "swap" as defined in the CEA and the Exchange Act, (ii) to the extent permitted to be held in an account with swaps (as defined in (i) above) under Applicable Law, a "security-based swap" as defined in the CEA and the Exchange Act, and (iii) Permitted Co-mingled Contracts recorded in a Swap Customer Account.

The term "**Swap Customer**", in respect of an FCM/BD Clearing Member, means any FCM/BD Customer with respect to any Contract arising as a result of the submission of CDS Trade Particulars or FX Trade Particulars that relates to a Swap. A Person may be a Swap Customer in relation to certain Contracts and another category of FCM/BD Customer in relation to other Contracts.

The term "**Swap Customer Account**", in respect of an FCM/BD Clearing Member, means a kind of Customer Account with the Clearing House (in its capacity as a registered U.S. derivatives clearing organisation clearing Swaps), the books and records of which are located in the United States of America, opened in the name of the FCM/BD Clearing Member (acting in its capacity as a clearing member in relation to transactions connected with the provision of services to Swap Customers where segregation of related collateral is required in accordance with Section 4d(f) of the CEA insofar as applicable, and any applicable rules of the CFTC as promulgated thereunder and any interpretations thereof by the CFTC, and entering into market contracts in the capacity of a clearing member in relation to transactions connected with the provision of services to Swap

## Part 1 – General Provisions

Customers) relating to Contracts to which the Clearing Member is a party as a result of it acting for one or more Swap Customers (whose transactions the FCM/BD Clearing Member requests be recorded in a Swap Customer Account where the same is required in accordance with the segregation provisions of Section 4d(f) of the CEA insofar as applicable, and any applicable rules of the CFTC as promulgated thereunder and any interpretations thereof by the CFTC) and in which the Clearing House records such Contracts and to which monies in respect of such Contracts are debited and credited, which may be divided for administrative convenience only into sub-accounts relating to different Swap Customers or groups of Swap Customers.

The term "**Termination Close-Out Deadline Date**" means: (i) in respect of termination of clearing membership or status as a Sponsored Principal either generally or in respect of a particular Membership Category under Rule 209(a)(ii) to (iv) or Rule 209(c), the date falling 30 Business Days after the Termination Notice Time; (ii) in respect of a termination of clearing membership or status as a Sponsored Principal in respect of a particular Membership Category under Rule 917(c) or Rule 918, the date falling 20+x Business Days after the relevant Termination Notice Time where x= the total number of unexpired Business Days in the Cooling-Off Termination Period; (iii) notwithstanding (i) and (ii), in any case, such later date as the Clearing House may at its discretion permit and notify in writing to the affected Clearing Member or Sponsored Principal; or (iv) in respect of termination of clearing membership or status as a Sponsored Principal following an Event of Default under Rule 209(a)(i), is inapplicable.

The term "**Termination Close-Out Time**" means: (i) in respect of termination of clearing membership or status as a Sponsored Principal generally (other than following an Event of Default under Rule 209(a)(i)), the time at which a Clearing Member or Sponsored Principal ceases to be party to any open Contracts with the Clearing House; (ii) in respect of termination of clearing membership or status as a Sponsored Principal in respect of a particular Membership Category, the time at which a Clearing Member or Sponsored Principal ceases to be party to any open Contracts of the relevant Membership Category with the Clearing House; or (iii) in respect of termination of clearing membership or status as a Sponsored Principal generally following an Event of Default under Rule 209(a)(i), is inapplicable.

The term "**Termination Date**" means: (A) in respect of termination of clearing membership or status as a Sponsored Principal either generally or in respect of a particular Membership Category (other than following an Event of Default under Rule 209(a)(i)), the later of: (i) where applicable, the Termination Close-Out Deadline Date; and (ii) the date of the Termination Close-Out Time; or (B) in respect of termination of clearing membership or status as a Sponsored Principal generally following an Event of Default under Rule 209(a)(i), the date on which default proceedings are completed or such other date as is specified by the Clearing House in writing.

The term "**Termination Notice**" means a notice served by a Clearing Member of termination of its membership or of its membership of a particular Membership Category or by a Sponsored Principal of termination of its status as such in respect of a particular Membership Category under Rule 209(c)(i)(A) or Rule 917(c).

The term "**Termination Notice Time**" means the time of service by a Clearing Member or Sponsored Principal of a Termination Notice.

## Part 1 – General Provisions

The term "**Trade Nomination**" has the meaning given in the Delivery Procedures.

The term "**Transaction**" means: (i) in respect of the Clearing of CDS Contracts, CDS Trade Particulars; (ii) in respect of the Clearing of F&O Contracts, any F&O Transaction; or (iii) in respect of the Clearing of FX Contracts, FX Trade Particulars. For the avoidance of doubt: (A) CDS Trade Particulars, FX Trade Particulars or an F&O Transaction will be valid and constitute a Transaction for purposes of this definition regardless of whether they reflect a binding contract or transaction between two Clearing Members (or any Sponsored Principal) or between a Clearing Member and its Customer and CDS Trade Particulars, FX Trade Particulars or an F&O Transaction shall include any trade particulars or any data resulting from the matching of any trade or block orders; and (B) in the case of an F&O Transaction made on or reported to a Market, the Transaction need not yet have been reported to the Clearing House in order to give rise to an F&O Contract.

The term "**Transaction Rights or Obligations**" means the rights, liabilities or obligations (if any) of a Clearing Member, Sponsor or Sponsored Principal relating to, or arising out of or in connection with any Transaction, whether pursuant to contract, tort, equity, restitution or otherwise, whether joint or several, pursuant to the laws of any jurisdiction, which fall or fell due for performance to any Person other than as between a Customer (excluding a Sponsored Principal) of a Clearing Member in relation to the Transaction in question and such Clearing Member (to which the relevant Standard Terms shall apply), but excluding any rights or liabilities arising pursuant to the relationship of agency between an FCM/BD Clearing Member and its Customer arising in accordance with Part 16.

The term "**Transfer**" has the meaning given to that term in Rule 904(a).

The term "**Transferee**" means a Person nominated by a Buyer to whom a transfer or delivery is to be made [of a Deliverable](#) under an F&O Contract, pursuant to Part 7 and the Delivery Procedures, and includes reference to the Buyer where transfer or delivery is to be made to the Buyer.

The term "**Transferee Clearing Member**" means a Clearing Member which becomes party to a Contract as a result of a Transfer pursuant to Part 9 of the Rules.

The term "**Transferor**" means a Person nominated by a Seller by whom a transfer or delivery is to be made [of a Deliverable](#) under an F&O Contract, pursuant to Part 7 and the Delivery Procedures, and includes reference to the Seller where transfer or delivery is to be made by the Seller.

The term "**Tribunal**" means an arbitral tribunal established under Rule 117.

The term "**Under-priced Auction**" means, (i) for the F&O and FX Contract Categories, a situation in which a Default Auction has taken place in accordance with the Default Auction Procedures and the Clearing House determines that such Default Auction is a failed F&O Auction or a failed FX Auction in accordance with the applicable Default Auction Procedures; and (ii) for the CDS Contract Category, that a situation in which a Secondary CDS Auction may be held has arisen pursuant to Rule 905(d)(i)(B).

The term "**Unprotected Resolution Step**" means a Resolution Step occurring in respect of a Person, other than the Clearing House, in which either (x) the substantive obligations of that Person



## *Part 1 – General Provisions*

to the Clearing House (including payment and delivery obligations and the provision of collateral) under the Clearing Membership Agreement, these Rules, the Procedures or any other agreement between that Person and the Clearing House are not being performed or (y) the Clearing House is not prohibited or otherwise prevented from declaring an Event of Default or exercising its termination and close-out rights under Part 9 with respect to that Person, whether as a result of section 48Z of the Banking Act or otherwise.

The term "**USD**" means the lawful currency from time to time of the United States of America.

The term "**U.S. Future**" means (i) a Future or an Option that is an option on a Future, in either case that is traded on or subject to the rules of a designated contract market under Section 5 of the CEA and (ii) Permitted Co-mingled Contracts recorded in a DCM Customer Account. For the avoidance of doubt, U.S. Futures will not include Swaps or SBS.

The term "**U.S. Person**" means a Person that is organised under the laws of or has its principal place of business in the United States of America or a state or territory thereof.

The term "**Variation Margin**" means the cash required to be provided or actually provided by a Clearing Member or Sponsored Principal by way of outright transfer of cash as a settlement payment to the Clearing House or by the Clearing House to a Clearing Member or Sponsored Principal related to the market value of a Clearing Member's or Sponsored Principal's Open Contract Positions relating to F&O Contracts, as determined pursuant to Rule 503(e) and the Finance Procedures and includes, where the context so requires, any proceeds of realisation of the same.

The term "**Withdrawal Date**" means, if at any time the Clearing House decides to terminate its services, either generally or in relation to a significant part of its business or certain categories of Contract, the date on which that termination will take effect.

### **Rule 102** *Interpretation*

- (a) Any reference to a statute, statutory provision or rule shall include any notice, order, guidance, example, regulation or subordinate legislation made from time to time under that statute, statutory provision or rule which is in force from time to time. Any reference to a statute or statutory provision shall include such statute or provision as from time to time amended, modified, re-enacted or consolidated from time to time and (so far as liability thereunder may exist or can arise) shall include also any past statute or statutory provision (as from time to time modified, re-enacted or consolidated) which was applicable at the time of any relevant action or omission.
- (b) References to any rules or any agreement are references to such rules or agreement as amended or restated from time to time, provided that such amendments or restatements are made in accordance with these Rules.
- (c) The Interpretation Act 1978 shall apply to these Rules in the same way as it applies to an enactment.



*Part 1 – General Provisions*

- (d) When a reference is made in these Rules to a rule, part, paragraph or procedure, such reference is to a Rule, Part, paragraph, Procedure of, or made under these Rules, unless otherwise indicated.
- (e) The headings in these Rules are for reference purposes only and do not affect in any way the meaning or interpretation of these Rules.
- (f) To the extent there is any conflict between any of the provisions of these Rules, a Clearing Membership Agreement, a Sponsored Principal Clearing Agreement, a Sponsor Agreement, the Procedures (including all exhibits, attachments and appendices thereto), any Guidance or Circular or Market Rules or between any of the foregoing, the provision of the first document specified in the paragraphs below shall prevail, control, govern and be binding upon the parties:
  - (i) these Rules (excluding the Procedures, Contract Terms (save to the extent that the Contract Terms are in the Rules but excluding Contract Terms that are in the Procedures) and any other document incorporated by reference) (except Rules 301(h), (i), (j) or (k) only in the event of any conflict between any such provision on the one hand and any provision of the Contract Terms of a CDS Contract relating to tax on the other hand, in which case the relevant provision of the Contract Terms of the CDS Contract shall prevail; and except as provided in Rule 1518);
  - (ii) the Clearing Membership Agreement;
  - (iii) in relation to an Individually Segregated Sponsored Account, the Sponsored Principal Clearing Agreement;
  - (iv) in relation to an Individually Segregated Sponsored Account, the Sponsor Agreement;
  - (v) in the case of CDS Contracts only, the CDS Procedures;
  - (vi) in the case of F&O Contracts only, those aspects of the Market Rules that include contract terms only or contract specifications which govern deliveries or which otherwise apply to cleared Contracts;
  - (vii) in the case of F&O Contracts only, the Contract Terms other than those set out in these Rules or Market Rules (except as set out in Rule 102(f)(i)) (excluding the Rules and any other document incorporated by reference);
  - (viii) the Procedures (excluding any Contract Terms set out in the Procedures) save to the extent included in (v);
  - (ix) Market Rules other than those referred to in Rule 102(f)(vi) to (vii) above (excluding any document described in Rule 102(f)(i) to (vii) incorporated by reference);
  - (x) any Guidance;

*Part 1 – General Provisions*

- (xi) any Circular (except for a Circular communicating an amendment to any of the above documents in accordance with these Rules, in which case the amendments communicated in such Circular shall be binding on the effective date specified in the Circular as if such amendments were one of those documents);
  - (xii) in the case of CDS Contracts recorded in a Customer Account of a Non-FCM/BD Clearing Member, the CDS Standard Terms (solely to the extent that the CDS Standard Terms may be of interpretative relevance to the Rules or a CDS Contract);
  - (xiii) in the case of F&O Contracts recorded in a Customer Account of a Non-FCM/BD Clearing Member, the F&O Standard Terms (solely to the extent that the F&O Standard Terms may be of interpretative relevance to the Rules or an F&O Contract);
  - (xiv) in the case of FX Contracts recorded in a Customer Account of a Non-FCM/BD Clearing Member, the FX Standard Terms (solely to the extent that the FX Standard Terms may be of interpretative relevance to the Rules or an FX Contract); and
  - (xv) in the case of CDS Contracts and Customer-CM CDS Transactions, the Settlement and Notices Terms.
- (g) All Clearing Members must comply with the relevant provisions of EMIR and other Applicable Law when providing services to Customers. In particular, all Clearing Members must offer, at least, a choice of one Customer Account providing individual client segregation and one Customer Account providing omnibus client segregation (in the manner set out in Articles 39 and 48 of EMIR) to all Affected Customers. Clearing Members must also offer a choice of using a Segregated Gross Indirect Account or Standard Omnibus Indirect Account to Affected Customers with Indirect Clients. For a Clearing Member that is prevented or prohibited under Applicable Laws itself from providing such Customer Accounts to an Affected Customer, this offer must include, to the extent possible and practicable under Applicable Laws, an offer to procure the provision to the Affected Customer of such a Customer Account by another Clearing Member (which may be an Affiliate). Clearing Members must provide details of the costs and level of protection under individual versus omnibus segregation. A Clearing Member must record the choice of omnibus or individual client segregation or of Segregated Gross Indirect Account or Standard Omnibus Indirect Account made by each of its Customers in writing.
- (h) All references to timings or times of day are to London (UK) times, unless indicated otherwise. Business hours shall occur only on Business Days and shall be construed accordingly.
- (i) All references to "**tax**" shall include, without limitation, any tax, levy, impost, social security contributions, duty, or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying the same).

Part 1 – General Provisions

- (j) Each Clearing Member shall be bound by any act, omission, conduct or behaviour ("**conduct**") of its Representatives or of its Customers or clients of such Customers in any instance in which any such Representative, Customer or client of such Customer:
- (i) is permitted by the Clearing Member to have access to any system or interface of any Market, CDS Trade Execution/Processing Platform, FX Trade Execution/Processing Platform or the Clearing House which access enables or results in the entry into of Contracts and relates to Clearing by that Clearing Member for such Customer or client (which access, without limitation shall be deemed to have been granted by the Clearing Member if the Customer or client in question has been nominated to the Clearing House as an Eligible Person pursuant to the Clearing Membership Agreement to which such Clearing Member is a party);
  - (ii) is permitted by the Clearing Member to have access to any system or interface of any Market, CDS Trade Execution/Processing Platform, FX Trade Execution/Processing Platform or the Clearing House which relates to Clearing by that Clearing Member for such Customer or client and which is used for the enriching of data held by the Clearing House relating to Contracts, the post-trade management of Contracts, allocations from one Clearing Member to another Clearing Member under Rule 401(a)(viii) or Rule 401(e), the transfer of Contracts between any Proprietary Account or Customer Account or between different Proprietary Accounts or Customer Accounts (or any sub-account of any of the foregoing) of a Clearing Member, position transfers, novations or assignments under Rule 408(a), the service of any notice, the exercise or abandonment of any Option, the closing-out, expiry or termination of any Future or the netting, combining or offsetting of any Contract recorded in a particular account;
  - (iii) is nominated by an F&O Clearing Member as a Transferee or Transferor for purposes of delivery under an F&O Contract; or
  - (iv) is otherwise duly appointed to carry out such conduct as an agent of the Clearing Member.

If a Customer or client of a Customer or any of their Representatives would have breached the Rules in respect of any instance listed in (i), (ii), (iii) or (iv) above if it were a Clearing Member, then such Customer, client or Representative or their Clearing Member may be subject to disciplinary proceedings, in which Rule 1003(t) or Rule 1008 applies. The application of this Rule 102(j) to Customers of CDS Clearing Members (acting in such capacity) is excluded in Rule 1516(b). This Rule 102(j), in as much as it is relevant to conduct relating to FX Data, is subject to the provisions of Rule 1708(a).

In addition, a Clearing Member, Sponsor or Sponsored Principal shall be bound by and responsible for any conduct of or by any of the following Persons (including for purposes of disciplinary proceedings under Part 10):

- (A) the Clearing Member, Sponsor or Sponsored Principal itself (including its employees, officers, directors or partners); and

Part 1 – General Provisions

- (B) the Clearing Member's, Sponsor's or Sponsored Principal's Representatives (excluding Customers and their Customers' clients), as if such conduct were the conduct of the Clearing Member, Sponsor or Sponsored Principal itself (but this provision shall not, for the avoidance of doubt, apply to determine any liability of a Clearing Member, Sponsor, Sponsored Principal or Defaulter for losses of the Clearing House or any of its Affiliates or any Market or any of their officers, directors or employees, committees (or any individual committee member), which liabilities are governed solely by Rule 111 and Rule 905(f)).
- (k) Pursuant to Rule 102(f), a Clearing Member's liability under clause 3.5 of the Clearing Membership Agreement shall be limited by Rules 102(j) and 1516(b), as applicable.
- (l) Any capitalised term used in these Rules that is not defined in Rule 101 or elsewhere herein shall have the meaning given to it (in order of priority) in the Procedures, the Clearing House's standard form Clearing Membership Agreement, the Clearing House's standard form Sponsored Principal Clearing Agreement, the Clearing House's standard form Sponsor Agreement and any relevant Market Rules.
- (m) Each of the Rules shall, unless the context otherwise requires, be construed as an independent provision and shall be in addition and without prejudice to any other provision of the Rules.
- (n) If any provision of these Rules (or part of any provision) is found by any court or other Governmental Authority to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of the Rules, and the validity, legality or enforceability of the other provisions of these Rules shall not be affected.
- (o) The Rules, together with the applicable Clearing Membership Agreement, and other documents listed in Rule 102(f) that are given contractual force pursuant to these Rules (other than the Standard Terms and Settlement and Notices Terms), form a contract between the Clearing House and each Clearing Member. In the case of a Clearing Member that is also a Sponsor, certain provisions of the Rules, together with the applicable Sponsor Agreement, and other documents given contractual force pursuant to these Rules, form a contract between the Clearing House, each Sponsor acting in its capacity as such and each Sponsored Principal for which such Sponsor acts. The Rules, together with the applicable Sponsored Principal Clearing Agreement (if any) and other documents given contractual force pursuant to these Rules, also form a contract between the Clearing House, each Sponsored Principal and the Sponsor for that Sponsored Principal. All obligations of the Clearing House hereunder are solely to Clearing Members, Sponsors and Sponsored Principals. No Person other than the Clearing House has any obligation to Clearing Members, Sponsors or Sponsored Principals pursuant to these Rules except as expressly provided in any provisions of these Rules, the Procedures, any of the Standard Terms or the Settlement and Notices Terms purporting to create or define rights and obligations as between Clearing Members or Sponsored Principals or between Clearing Members and their Customers (each a "**Bilateral Obligation**"). Subject to any Bilateral Obligation in respect of which the relevant Clearing Members, Sponsored Principals or Customers (as applicable) shall have the right to enforce the relevant provisions of these Rules,

*Part 1 – General Provisions*

Procedures, Standard Terms or Settlement and Notices Terms against one another, and except as provided in Rule 102(v) and Rule 1903(j), no Person shall have any right pursuant to the Contracts (Rights of Third Parties) Act 1999 to enforce any provision of these Rules or the Procedures.

- (p) Any matter or right stated to be in, of or at the Clearing House's discretion shall be subject to the Clearing House's sole, unfettered and absolute discretion and such discretion may be exercised at any time. Where there is a provision that the Clearing House (or its Directors, officers, employees or committees (or any individual committee member)) may make further directions upon or in relation to the operation of a Rule or may make or authorise any arrangement, direction or procedure thereunder, the Clearing House may make such direction or make or authorise such arrangement or procedure in relation to or under the whole or any part of the Rule and may make or authorise different directions, arrangements or procedures in relation to different Persons and may make or authorise such directions, arrangements or procedures generally or in relation to a particular Person or particular occasion and in all cases subject to such conditions as it may think fit. Any action taken at the discretion of the Clearing House may not be challenged by any Person (subject to the requirements of Rule 111(c) and the right of such Person to make a complaint pursuant to the Complaint Resolution Procedures or Part 10). [This Rule 102\(p\) shall apply equally to any Disciplinary Panel, Summary Disciplinary Committee or Appeal Panel appointed pursuant to Part 10 of the Rules in the same way as it applies to the Clearing House.](#)

- (q) Without prejudice to the requirements of any Applicable Laws including, but not limited to, those relating to clients' money made under sections 138 and 139 of the FSMA and notwithstanding any other provision of these Rules, nothing in these Rules shall have the effect of enabling, requiring or implying that any Margin or other amounts transferred to the Clearing House in relation to a Clearing Member's or Defaulter's:

- (i) Customer Account of any class be used to meet a loss or shortfall on any of that Clearing Member's or Defaulter's Proprietary Accounts;
- (ii) particular Customer Account be used to meet a loss or shortfall on another of the same Clearing Member's or Defaulter's Customer Account;
- (iii) particular Proprietary Account be used to meet a loss or shortfall on another of the same Clearing Members' or Defaulter's Proprietary Accounts;

(which restrictions, for the avoidance of doubt, shall not apply to any Guaranty Fund Contribution or Assessment Contribution).

Without prejudice to the requirements of any Applicable Laws including, but not limited to, those relating to clients' money made under sections 138 and 139 of the FSMA, nothing in these Rules shall have the effect of enabling, requiring or implying that any Contracts recorded in a Clearing Member's or Defaulter's:

- (iv) Customer Account of any class be netted, combined or offset with any Contract recorded in any of that Clearing Member's or Defaulter's Proprietary Accounts;

*Part 1 – General Provisions*

- (v) particular Customer Account be netted, combined or offset with any Contract recorded in another Customer Account of the same Clearing Member or Defaulter; or
- (vi) particular Proprietary Account be netted, combined or offset with any Contract recorded in another Proprietary Account of the same Clearing Member or Defaulter;

(except as expressly provided under the Rules and to the extent permissible under Applicable Laws).

For the avoidance of doubt and ease of reference, the following provisions or documents relevant to asset and account segregation also apply in respect of each Segregated Customer Omnibus Account For CDS, Segregated Customer Omnibus Account For F&O, Segregated Customer Omnibus Account For FX, Standard Omnibus Indirect Account For F&O, Standard Omnibus Indirect Account For CDS and Standard Omnibus Indirect Account For FX of each Clearing Member that is subject to CASS 7.18 of the FCA ~~rules~~Rules, as well as each Individually Segregated Sponsored Account, Margin-flow Commingled Account and Segregated Gross Indirect Account of such a Clearing Member in respect of which the Clearing House gives an acknowledgement in accordance with paragraph (viii) below:

- (vii) the third and fourth sentences of clause 5.3 of the Clearing Membership Agreement (and equivalent provisions of the Sponsored Principal Clearing Agreement and Sponsor Agreement, if applicable); and
- (viii) any letter delivered to the Clearing House pursuant to CASS 7.18, where the Clearing House has countersigned the same and returned it to the Clearing Member.

Any reference in these Rules or the Procedures to Rule 102(q) shall be deemed to include a reference to such provisions as are mentioned in paragraph (vii) and such letters as are mentioned in paragraph (viii), as are applicable to the Clearing Member concerned.

- (r) The Rules shall at all times be observed, interpreted and given effect to in the manner most conducive to the promotion and maintenance of recognition of:
  - (i) the Clearing House as a recognised clearing house under the FSMA, an authorised central counterparty under EMIR, as having any status or licence granted by a Market or Delivery Facility, as a registered derivatives clearing organization under the CEA and as a registered clearing agency under the Exchange Act and any other legal or regulatory status it has from time to time under any other Applicable Law;
  - (ii) the good reputation of the Clearing House (and Clearing Members and Sponsored Principals);
  - (iii) high standards of integrity and fair dealing in accordance with FCA Rules and other Applicable Law;



*Part 1 – General Provisions*

- (iv) the Clearing House's obligation under EMIR and other Applicable Law to act fairly and professionally in accordance with the best interests of Clearing Members, Sponsored Principals and Customers and sound risk management; and
- (v) proper protection for all Persons interested in the performance of Contracts.

To the extent that the Clearing House or any Clearing Member or Sponsored Principal has any right under these Rules which may on its face be performed in a manner that goes beyond that which is permitted by Applicable Law, that right may only be exercised to the extent permitted under Applicable Law.

- (s) Subject to Rule 1608, these Rules, each Contract and all non-contractual obligations arising out of or in connection with these Rules or any Contract, shall be governed by and construed in accordance with the laws of England and Wales.
- (t) These Rules may be supplemented by processes established pursuant to documents governing the internal governance of the Clearing House and its committees.
- (u) References in these Rules to UK or English legislation or European Directives shall be interpreted as references to such legislation as implemented in England and Wales, including by the relevant Governmental Authorities. References in these Rules to U.S. federal or state legislation or regulation shall be interpreted as references to such legislation or regulation as implemented in the U.S. including by the relevant U.S. Governmental Authorities.
- (v) Notwithstanding Rule 102(o), nothing in these Rules shall preclude a Customer or any other Person from agreeing to the application of these Rules or any provision of these Rules in their agreements with any Clearing Member or third party, in which case the Clearing House shall be entitled to enforce any provision of these Rules (including, without limitation, Rule 111) as a third party with rights pursuant to the Contracts (Rights of Third Parties) Act 1999.
- (w) To the extent permitted by Applicable Laws and without prejudice to Rule 408, a Clearing Member may outsource performance of any of its obligations under the Rules to an Affiliate or other Person, but will remain fully liable to the Clearing House for such performance notwithstanding the outsourcing, provided that a Clearing Member may nominate another Person to perform its responsibilities with respect to the submission of end-of-day prices and participation in Default Auctions and consequences of the same under Part 9 of the Rules, Partial Tear-Up under Rule 915 and such other obligations as permitted by the Clearing House, if such Person is acceptable to the Clearing House and enters into an agreement with the Clearing Member and Clearing House on such terms and conditions as are specified by the Clearing House. In any circumstances in which a Person performs pursuant to an outsourcing arrangement or such a nomination, such Person will act as the Clearing Member's Representative.
- (x) If a Person with obligations under these Rules or a Contract is a partnership, the liability of each partner in the partnership under or in connection with these Rules or the Contract shall be joint and several. In the event of any circumstances which would be operation of

## Part 1 – General Provisions

Applicable Law give rise to the dissolution of the partnership, or entitle a partner to seek an order to dissolve the partnership, the obligations of the partners shall remain in full force and effect.

- (y) Where a Contract is not a derivative for the purposes of MiFID II, or any national implementing measure of a member state of the European Economic Area, any provisions in these Rules with respect to Repositories shall not apply, unless the Clearing House or other relevant persons determine to submit details to Repositories on a voluntary basis.

### **Rule 103** *Delay in performance by the Clearing House*

Subject to the provisions of the Contract Terms and further subject as set out in the Procedures, where an obligation of the Clearing House must be performed immediately, promptly or by or prior to a specified time or date but is not so performed, the Clearing House shall not be in breach of these Rules if, having used all reasonable endeavours to perform such obligation by such specified time or date, it performs the relevant obligation promptly after such specified time or date.

### **Rule 104** *Invoicing Back and Specification of Terms*

- (a) Other than in circumstances in which Rule 912 applies and subject to Rules 104(c) to (f), if a Force Majeure Event, Illegality or Impossibility affects Contracts of a particular Set, the Clearing House shall have the right, in consultation with the relevant Market (if any) to:
  - (i) Invoice Back Contracts of such Set; or
  - (ii) specify or over-ride the price or other terms of Contracts of such Set.
- (b) The Clearing House shall in addition have the right, in consultation with the relevant Market, to Invoice Back an Energy Contract that is subject to delivery or tender in the circumstances and in the manner set out in the Delivery Procedures.
- (c) Any instance of Invoicing Back or specification or over-riding of price or other terms under Rule 104(a) must, subject to Rule 109(c), be approved in advance by an affirmative vote of the Board at a quorate meeting, at which meeting the facts giving rise to the Force Majeure Event, Illegality or Impossibility, as the case may be, will be considered and at which the Board decides that it would be appropriate to exercise the right in question. Any exercise of such a right will further be undertaken subject to any additional processes established pursuant to documents governing the internal governance of the Clearing House and its committees.
- (d) Neither Invoicing Back rights nor specification or over-riding of price or other terms rights under Rule 104(a) or 104(b) are to be exercised by the Clearing House to deal with the general management of an Event of Default (such as for the purpose of changing the amount of any liability of the Clearing House to a Defaulter (or deemed defaulter) or to a Clearing Member or Sponsored Principal which would be a Defaulter on the making of the relevant declaration by the Clearing House under Rule 901(a) or of any liability of any Defaulter (or deemed defaulter) or any such Clearing Member or Sponsored Principal to the Clearing House) or as an alternative to applying the process in Part 10 *et seq.* in

## Part 1 – General Provisions

circumstances in which such provisions apply. However, nothing in this Rule 104(d) shall prevent the Clearing House from exercising its rights under Rule 104(a) or Rule 104(b) in respect of a Contract to which a Defaulter is party where, in the case of Rule 104(a), a Force Majeure Event, Illegality or Impossibility affects a Contract of a particular Set to which a Defaulter is party in a similar way to that in which it affects Contracts of the same Set to which non-defaulting Clearing Members or Sponsored Principals are party, where the Clearing House takes similar action in respect of Contracts of the same Set of non-defaulting Clearing Members and Sponsored Principals in accordance with this Rule 104 or where, in respect of Rule 104(b) and an Energy Contract that is subject to delivery or tender, the Delivery Procedures provide for Invoicing Back to take place in respect of a Defaulter's Contract.

- (e) Where the Clearing House exercises any of its rights under Rule 104(a) or (b), it will do so in good faith and in accordance with Rule 102(r).
- (f) The Clearing House will not exercise any rights under Rule 104(a) or (b) to Invoice Back or specify or over-ride the price or other terms of any Contract to which a Clearing Member or Sponsored Principal is party unless there is an objective justification for it doing so and such an approach is applied objectively. The price at which any Invoicing Back or specification or over-riding of price or other terms under Rule 104(a) or (b) is executed shall be determined in a commercially reasonable manner and, in respect of an Energy Contract that is subject to delivery or tender, in accordance with the Delivery Procedures. The process established in Rule 109(k) shall apply to any class of Contract whenever the Clearing House exercises its rights under Rule 104(a), *mutatis mutandis*.
- (g) Provided that any rights exercised under this Rule 104 are exercised in accordance with this Rule 104, any resulting Invoicing Back, specification or over-riding of price or other terms by the Clearing House shall be final and binding for the purposes of these Rules and not be subject to challenge by any Person under these Rules or otherwise, except in the case of manifest error, negligence or fraud.

### **Rule 105**

#### ***Termination***

- (a) If at any time the Clearing House decides to or must cease acting as a clearing house, either generally, in relation to a particular Exchange or in relation to a class of Contracts (including if it determines, following loss of any authorisation, status, approval or recognition from a Regulatory Authority, a Delivery Facility or a Market, that it is unable to continue its business or a particular business), it shall give advance notice of the proposed Withdrawal Date by Circular. In the event of a complete cessation of services or of services in relation to a particular Exchange or any class of Contracts, at least four months' notice shall be necessary ~~unless~~. In any other event for which there is a Withdrawal Date or if there are no Open Contract Positions of any Clearing Member in all relevant Sets, at least one month's notice shall be necessary. Notwithstanding the above, where (i) any action by the Regulatory Authority, Delivery Facility or Market giving rise to the cessation of services takes effect within a shorter period. ~~In any other event for which there is a Withdrawal Date, at least one month's notice shall be necessary, such shorter notice period shall instead apply; or (ii) the cessation occurs as a result of a termination of services by an Exchange, the notice period required under Market Rules shall instead apply and the Exchange will be~~

## Part 1 – General Provisions

responsible for providing such notice. The Clearing House shall be entitled to postpone any such Withdrawal Date, generally or in respect of any individual Clearing Member, Sponsored Principal, Exchange or class of Contract.

- (b) If, at any Withdrawal Date, any affected Contracts have not been finally settled, the Clearing House shall be entitled to terminate any or all such Contracts and require any such Contracts to be cash settled on terms specified by the Clearing House in accordance with Rule 104.
- (c) Rule 918(a)(i), (ii), (iii), (v), (vi) and (vii) and Rule 918(b) shall apply, *mutatis mutandis*, in relation to a termination of the Clearing House's services, whether generally or in respect of a particular Contract Category, as applicable, in the event of any termination under this Rule 105. For such purposes, the term Termination Notice Time as used in Rule 918 shall be read as referring to the time at which the Clearing House issues a notice relating to the withdrawal, the terms Termination Close-out Deadline Date and Termination Date as used in Rule 918 shall be read as referring to the Withdrawal Date, the term Relevant Contract Category as used in Rule 918 refers to the Sets of Contracts being withdrawn and the terms Relevant Membership Category, Relevant Guaranty Fund Contributions and Relevant Assessment Contributions as used in Rule 918 shall be interpreted accordingly.

### **Rule 106      Confidentiality and Information**

- (a) The Clearing House shall be entitled to keep records in an electronic or durable medium of all data or information available to it under these Rules or otherwise concerning Clearing Members (including financial statements filed with the Clearing House), Customers, Sponsored Principals, Sponsors, Accounts, Margin, Transactions, Contracts, past or current Open Contract Positions, deliveries and settlement.
- (b) The following information received or held by the Clearing House shall be held in confidence by the Clearing House and shall not be made known to any other Person, subject to paragraph (c):
  - (i) information received or held by the Clearing House concerning Transactions, Contracts or past or current Open Contract Positions held with the Clearing House;
  - (ii) information concerning or positions with any other Clearing Organisation for a Clearing Member or Sponsored Principal or relating to any Customer;
  - (iii) information concerning Margin payments between the Clearing House or any other Clearing Organisation and a Clearing Member or Sponsored Principal, including in relation to a Customer;
  - (iv) information concerning deliveries made by or to a Clearing Member or any of its Transferors or Transferees;
  - (v) any financial statements filed with the Clearing House by any Clearing Member or Sponsored Principal; or

Part 1 – General Provisions

- (vi) any other information relating to a Clearing Member, Sponsored Principal, Sponsor or Customer provided by a Clearing Member, Sponsored Principal, Sponsor or Customer to the Clearing House at the Clearing House's request, or pursuant to the Rules or Applicable Laws.
- (c) Subject, at all times to Applicable Laws, the Clearing House may, notwithstanding Rule 106(b), make the following disclosures of confidential information, subject to such terms and conditions as the Clearing House may from time to time deem appropriate:
  - (i) to a Regulatory Authority or Governmental Authority where a lawful request is made to the Clearing House by or on behalf of the same or pursuant to Applicable Laws or where disclosure is required under Applicable Laws or is necessary for the making of a complaint or report under Applicable Laws for an offence alleged or suspected to have been committed under Applicable Laws;
  - (ii) in the case of a breach by a Clearing Member or Sponsored Principal of: (A) any clearing membership criteria established by the Clearing House, whether as a breach of Rule 202(a)(iv) (including as applied to Sponsored Principals pursuant to Rule 1901(k)) or otherwise; or (B) in the case of a Clearing Member, such Clearing Member's obligation to publicly disclose prices and fees associated with the clearing services it provides and/or its obligation to provide Customers with separate access to each specific service it provides; to the public, subject to any decision made by any Regulatory Authority pursuant to article 38(5) of EMIR;
  - (iii) pursuant to any Applicable Law, including any order of a competent court or other Governmental Authority or otherwise to such other Persons, at such times and in such manner as may be required by Applicable Law;
  - (iv) to any member of the ICE Group, any Exchange or Clearing Organisation and any of their or the Clearing House's Representatives, committees, experts, Delivery Facilities, auditors, advisers or lawyers including (without limitation) for audit, compliance, making or taking delivery, market surveillance or disciplinary purposes, for the purposes of an arbitration pursuant to Rule 117 or any proceedings in support of such an arbitration, or in relation to any possible or actual Event of Default or the termination or suspension of any clearing membership;
  - (v) to any Person in the business of providing data processing or similar services for the purposes of performing computations or analysis, or of preparing reports or records, for the Clearing House;
  - (vi) to any Person who has provided or is considering entering into a loan, insurance policy, guarantee or other financial arrangement with the Clearing House or any of its Affiliates, provided that information identifying the positions or name of a Clearing Member or any of its accounts or the name of any of a Clearing Member's Customers will not be so disclosed, except, in the case of a Clearing Member and its accounts only, as is necessary to respond to any enquiries of such a Person

*Part 1 – General Provisions*

- concerning the Clearing House's or any of its Affiliates' potential losses or exposures relating to an Event of Default (whether or not declared);
- (vii) to the Secretary of State, any Insolvency Practitioner and any other authority or Person having responsibility for any matter arising out of or connected with an Event of Default;
  - (viii) in the case of information relating to any Transaction or Contract (including details of the parties thereto and related Margin), to Deriv/SERV, a Repository or Governmental Authority for purposes of transaction reporting;
  - (ix) to any Person or to the public as a result of its complaints procedure or disciplinary proceedings;
  - (x) to any Person if the information comes into the public domain, other than as a result of a breach of this Rule by the Clearing House or its Representatives;
  - (xi) in the case of information concerning any Individually Segregated Sponsored Account, to the Sponsor or Sponsored Principal in respect of such Account;
  - (xii) in the case of information concerning any Customer, to any Clearing Member with a relationship with such Customer in respect of one of its Customer Accounts;
  - (xiii) otherwise with the written consent of the Person or Persons to whom the confidential information relates; or
  - (xiv) pursuant to any obligation on the Clearing House or a Market under the rules or terms of a Delivery Facility or as is needed to comply with any obligation or to exercise any right under these Rules.
- (d) Clearing Members, Sponsored Principals, Sponsors and Customers are given notice that the Clearing House is subject to section 348 (Restrictions on disclosure of confidential information by the FCA / PRA etc.) and regulations made under section 349 (Exemptions from section 348) of the FSMA. Clearing Members, Sponsored Principals, Sponsors and Customers shall be deemed to consent to any use, disclosure or non-disclosure of information by the Clearing House that is required or permitted pursuant to Applicable Law.
- (e) The Clearing House is a Controller in relation to Personal Data provided to it by Clearing Members, Sponsored Principals, Customers and their Representatives. Each Clearing Member and Sponsored Principal shall ensure that in respect of any Personal Data that it provides to the Clearing House it has a lawful basis for processing the relevant Personal Data in this manner.
- (f) In this Rule 106 only, the terms "Control" (and derivations thereof), "Process" (and derivations thereof), "Personal Data" and "Controller" each have the meaning given to such terms in Regulation (EU) 2016/679 (General Data Protection Regulation) (including any relevant implementing measure or successor legislation thereto).



## *Part 1 – General Provisions*

- (g) Each Clearing Member, Sponsored Principal and the Clearing House:
- (i) acknowledges that the recording of telephone conversations between the trading, clearing and other relevant personnel of the Clearing Member or Sponsored Principal and the Clearing House or their Group Companies in connection with the Rules and any Contract, potential Contract or Transaction will take place to the extent permitted or required under Applicable Law;
  - (ii) acknowledges, to the extent permitted by Applicable Law, that recordings may be submitted in evidence in any Dispute; and
  - (iii) acknowledges that the remainder of this Rule 106 shall apply to any such recordings made by the Clearing House.

### ***Rule 107 Conversion to other Eligible Currency***

The Clearing House shall be entitled to direct Approved Financial Institutions to convert any cash standing to the debit or credit of any Clearing Member or Sponsored Principal into such other Eligible Currency as the Clearing House, in its discretion, determines is appropriate or expedient. Any such conversion shall be effected at a reasonable exchange rate determined by the Clearing House at its discretion or such Approved Financial Institution.

### ***Rule 108 Maintenance of Records; Return of Documents and other Materials***

- (a) Clearing Members and other Persons that provide or present any documentation or other materials to the Clearing House are required to make a copy (whether electronic or physical) prior to doing so and must maintain each such copy for at least ten years. Clearing Members that are authorised and regulated by the FCA or PRA will be deemed to satisfy this requirement if they comply with all applicable FCA Rules and PRA Rules or MiFID II rules on record-keeping in relation to their activities connected with the Clearing House.
- (b) The Clearing House shall not be obliged to return or provide a copy of any document or other materials presented or provided by any Clearing Member or other Person to the Clearing House, except where an express right to such copy or return is set out in these Rules.

### ***Rule 109 Alteration of Rules, Procedures, Guidance and Circulars***

- (a) The Clearing House shall provide details (which, where appropriate, will include a reasoned account) of any Rule Change in a Circular. A Rule Change shall take effect and be binding on the Clearing House, Clearing Members, Sponsored Principals and other Persons who have agreed to be bound by the Rules on the relevant date specified by the Clearing House in a Circular. Where the reason for any Rule Change is not manifest in the amended text of the Rules, the Clearing House will seek to provide an appropriate reasoned account of the Rule Change.

*Part 1 – General Provisions*

- (b) The Clearing House shall be entitled, at its discretion, to make any Rule Change at any time and without consulting Clearing Members or any other Persons where such Rule Change:
- (i) is of a minor nature and relates to Rules of an administrative or commercial nature;
  - (ii) is of a limited, technical nature, if a consultation is reasonably considered by the Clearing House not to be appropriate;
  - (iii) relates to the Clearing House's fees, if a consultation is reasonably considered by the Clearing House not to be appropriate;
  - (iv) is considered by the Clearing House to be necessary as a result of an Event of Default, Force Majeure Event or Financial Emergency which has been recognised by an affirmative vote of the Board at a quorate meeting (subject always to Rule 109(c)) and subject to any processes established pursuant to documents governing the internal governance of the Clearing House and its committees;
  - (v) is required to ensure compliance by the Clearing House or any Clearing Member, Sponsored Principal or Customer with Applicable Laws, Accounting Standards or the requirements of any Governmental Authority or Regulatory Authority or is necessary or desirable to maintain the Clearing House's statuses as referred to in Rule 102(r), any Clearing House's status or licence granted by any Delivery Facility or Market, or any other legal or regulatory status it has under any other Applicable Law;
  - (vi) concerns the parameters for Margin or the Guaranty Fund or classes of or haircuts for Permitted Cover, if a consultation is reasonably considered by the Clearing House not to be appropriate;
  - (vii) results from, and is or can be implemented solely by, a change in:
    - (A) Market Rules made by the relevant Market;
    - (B) the Credit Derivatives Determinations Committees Rules made by the Persons lawfully entitled to amend that document; or
    - (C) any other document (excluding, for the avoidance of doubt, the Applicable Credit Derivatives Definitions) that is not published by the Clearing House but which is incorporated into or forms part of the Contract Terms of any Contract in circumstances in which, pursuant to the Rules, upon such document being amended there results in a change to the Contract Terms without the need for any further step by the Clearing House,

which changes, for the avoidance of doubt shall take effect upon the relevant Market Rules, Credit Derivatives Determinations Committees Rules or other document itself being amended without the need for any Circular or notice on the part of the Clearing House;

*Part 1 – General Provisions*

- (viii) involves a technical or operational specification of any Contract Term previously published in a Circular or found in a Clearing House policy or procedure but which is not set out in the Rules or otherwise in the Procedures;
- (ix) involves the removal of an existing Contract Set or the addition of a new Contract Set; or
- (x) is considered by the Clearing House to be of an urgent nature (provided that the Clearing House may consult Clearing Members in relation to the continued applicability of the Rule Change after the urgent event or circumstance has concluded or ended), of a nature that would not affect significantly the rights of Clearing Members or of a nature where a consultation would otherwise not be appropriate or necessary;

provided that, in any such case, the requirements of sections 300A to 300E of the FSMA or article 10(4) of the Settlement Finality Regulations would not prevent such Rule Change from being made.

- (c) In relation to the determination of an Event of Default, a Force Majeure Event or a Financial Emergency pursuant to Rule 109(b)(iv) or, in relation to a Force Majeure Event only, Rule 112(b), or in relation to an approval of Invoicing Back under Rule 104(a), in the event that the Clearing House is unable to convene a meeting of the Board sufficiently promptly in the circumstances, any Director, officer, employee or committee (or any individual committee member) of the Clearing House designated by the Board from time to time for purposes of the applicable determination or approval may make such determination or approval, as the case may be, provided that the Clearing House shall convene a meeting of the Board as soon as practicable thereafter to ratify such determination or approval, rescind such determination or approval (only where, if rescission is desired, this is possible and practicable) or, where rescission is desired but not possible and practicable, to amend such determination or approval as appropriate.
- (d) In cases other than those described in Rule 109(b), prior to any proposed Rule Change taking effect, the Clearing House will either: (i) issue a consultation paper by Circular or (ii) consult with a smaller number of Clearing Members selected by the Clearing House at its discretion. In cases where this Rule 109(d) applies, the Clearing House will seek to provide at least 14 days from the date of the relevant Circular for Persons to respond to the consultation. The contents of responses and the names of Persons who respond to any consultation may be made publicly available by the Clearing House, unless the Clearing House receives a request to the contrary by a Person making a response. If the Clearing House receives any such requests for confidentiality or anonymity, the Clearing House may state that an anonymous response was made and may make public a summary of the contents of any response but the response will otherwise be subject to Rule 106. Clearing Members are encouraged, where appropriate, to inform their Customers and Sponsored Principals for whom they act as Sponsor of proposed Rule Changes.
- (e) The Clearing House may at any time amend the Procedures, subject to any processes established pursuant to documents governing the internal governance of the Clearing House and its committees. Any such amendment shall have immediate effect or shall take effect

Part 1 – General Provisions

- at such time as is specified by the Clearing House. The Clearing House will issue a Circular in respect of any amendment to the Procedures.
- (f) The Clearing House may issue, amend or revoke interpretative Guidance in relation to any aspect of the management of the Clearing House, its action under these Rules or the conduct of business of the Clearing House, Clearing Members, Sponsored Principals or Customers at any time at its discretion and without prior consultation.
- (g) The Clearing House may issue Circulars or amend or revoke the contents of Circulars in connection with Clearing, the Rules or any action taken by it under the Rules at any time at its discretion and without prior consultation.
- (h) None of the following (whether proven, evidenced or alleged) shall invalidate any Rule Change, Procedures amendment or the contents of any Circular or Guidance in respect of any Person:
- (i) omission by the Clearing House to give any notice or publish any Circular which may be required under these Rules;
  - (ii) non-receipt of any Circular by a Person or any of its Representatives;
  - (iii) lack of awareness on the part of the Person or any of its Representatives;
  - (iv) lack or inadequacy of any reasoned account; or
  - (v) failure by the Clearing House to comply with its obligations under Rule 109(d).
- (i) Without prejudice to the generality of Rule 109(h), in the event of any of the circumstances in Rule 109(h)(i), (iv) or (v) occurring, the Clearing House will consider what action should appropriately be taken in relation to the Rule Change which may (or may not) include the Clearing House:
- (i) opening a second or subsequent consultation on the past Rule Change, subject to the procedures required by this Rule 109 *mutatis mutandis*; or
  - (ii) allowing Clearing Members or Sponsored Principals to make representations or submissions in relation to a past Rule Change and considering whether to propose a new Rule Change in accordance with this Rule 109.
- (j) In accordance with Section 2 of the CDS Standard Terms, a change may be made to the CDS Standard Terms in the same way as a Rule Change is made pursuant to this Rule 109. In accordance with Section 2 of the F&O Standard Terms, a change may be made to the F&O Standard Terms in the same way as a Rule Change is made pursuant to this Rule 109. In accordance with Section 2 of the FX Standard Terms, a change may be made to the FX Standard Terms in the same way as a Rule Change is made pursuant to this Rule 109.
- (k) The Clearing House may specify a one-off irreversible payment under Contracts of a particular relevant Set by Buying Counterparties or Selling Counterparties (which in any case shall also include an irreversible payment by the Clearing House to the extent that it

**Part 1 – General Provisions**

takes a similar position in the affected Set), if it has made or proposes to make any Rule Change or other change to Contract Terms which the Clearing House determines, pursuant to documents governing the internal governance of the Clearing House and its committees, materially affects Exchange Delivery Settlement Prices, Mark-to-Market Prices or FX Mark-to-Market Prices of such Set. In such circumstances, the amount payable, the party that is obliged to make such payments, and the date of payments (which may be by reference to the date of introduction of a particular future Rule Change or change to Contract Terms) shall be specified by the Clearing House in a Circular. In making such determinations, the Clearing House may have reference to a poll of, or to price submissions by, Clearing Members or Market prices, the need and process for which is to be determined in any case pursuant to documents governing the internal governance of the Clearing House and its committees.

***Rule 110 Extension or Waiver of Rules***

- (a) The performance by any Clearing Member or Sponsored Principal of any of its obligations under the Rules or any Contract may be waived by the Clearing House whenever in its discretion it considers that such waiver is necessary or in the best interests of the Clearing House. Waivers or variations of requirements may be publicised at the discretion of the Clearing House.
- (b) Subject to Rule 110(c) and (g), the time fixed by the Rules for filing any report or other document, for submitting any information or for making transfers or payments may be extended by the Clearing House whenever in its discretion it considers that such extension is necessary or in the best interests of the Clearing House. Any such extension may continue in effect after the event or events giving rise thereto.
- (c) Any extension of the time for making transfers, payments or performance for any length of time longer than 3 Business Days after such transfer, payment or performance is due must be approved by the Clearing House in advance by an affirmative vote of the Board at a quorate meeting, at which meeting the facts giving rise to the proposed use of this provision will be considered and the meeting shall decide whether it would be appropriate to use this power, and provided further that the use of this power will be undertaken subject to any processes established pursuant to documents governing the internal governance of the Clearing House and its committees.
- (d) Any waiver of any right or consent given by the Clearing House under these Rules is only effective if it is in writing, applies only in the circumstances for which it is given and shall not prevent the Clearing House from subsequently relying on the relevant provision. No delay or failure to exercise by the Clearing House of any of its rights or pursuing any of its remedies hereunder shall constitute a waiver. No single or partial exercise of any right or remedy by the Clearing House shall prevent any further exercise of the same or any other right or remedy.
- (e) If any extension of any length of time is approved in respect of any payment, transfer or performance under this Rule 110, any notice given to the Clearing House prior to the end of such extension period shall be deemed not to have been given.

**Part 1 – General Provisions**

- (f) The Clearing House shall be entitled without breach of these Rules to delay the making of a payment to any Clearing Member or Sponsored Principal in respect of a Variation Margin or Mark-to-Market Margin call in respect of all or any of a Clearing Member's or Sponsored Principal's accounts on an intra-day basis without following the procedure set out in Rule 110(a) to (e) in circumstances in which:
- (i) another Clearing Member or Clearing Members or Sponsored Principal or Sponsored Principals has or have been or will be asked to make payment in respect of a Variation Margin or Mark-to-Market Margin call occurring at or around the same time;
  - (ii) that other Clearing Member or Sponsored Principal has, or those other Clearing Members or Sponsored Principals have failed to pay the Clearing House (which term for purposes of this Rule 110(f) and Rule 503(k) includes a request for payment or planned request for payment not yet being made, confirmed or due including for technical or operational reasons); and
  - (iii) the total amount of such failure or failures to pay exceeds the Original Margin, Initial Margin or FX Original Margin for each Proprietary Account or Customer Account to which the unpaid call relates provided by the Clearing Member or Clearing Members or Sponsored Principal or Sponsored Principals that has or have failed to pay the Clearing House.
- (g) No right of the Clearing House under this Rule 110 shall be exercised so as to extend the time at which a payment in any currency to any Clearing Member in respect of Variation Margin or Mark-to-Market Margin is otherwise due on any Business Day, in respect of all or any of a Clearing Member's accounts, beyond the time of commencement of the daily payment cycle for the relevant currency for the next Business Day (or, where the Externalised Payments Mechanism is applicable, the relevant time when the payment would be made on the next Business Day).

***Rule 111 Liability***

- (a) Each Clearing Member shall indemnify and hold harmless the Clearing House against any and all losses, liabilities, damages, injuries, costs, claims, shortfalls and expenses (excluding any consequential losses, liabilities, damages, injuries, costs, claims, shortfalls or expenses) incurred or suffered by the Clearing House or any of its Directors, officers, employees, or committees (including any individual committee member, but only in so far as that Person is acting in the capacity of a committee member) arising out of or in connection with any of the following:
- (i) a breach (or an allegation made by the Clearing House or any Governmental Authority of a breach) by such Clearing Member of any of its obligations under these Rules, the Procedures, its Clearing Membership Agreement, a Sponsor Agreement or any Contract;
  - (ii) such Clearing Member's conduct (excluding conduct attributed to a Clearing Member solely as a result of the conduct of a Customer under Rule 102(j)),



Part 1 – General Provisions

excluding conduct which the Clearing Member is obliged to perform and has performed in accordance with the Rules or Procedures or its Clearing Membership Agreement or Sponsor Agreement;

- (iii) a breach by such Clearing Member of any Customer-CM Transaction, agency relationship or other contract with its Customer or a failure to perform by such Clearing Member in breach of any other obligation to such Customer (including, without limitation, any failure by such Clearing Member in whole or in part to pass on or credit to any Customer equivalent performance under a Customer-CM Transaction or other contract with its Customer to that which such Clearing Member has received under a Customer Account Contract from the Clearing House where such failure constitutes a breach or failure to perform as aforementioned);
- (iv) if it is a CDS Clearing Member, a Customer-CM Relationship Claim (as defined at Rule 111(i) below) in respect of a breach or failure to perform alleged by a Customer of the CDS Clearing Member acting in such capacity but only to the extent that (A) the Indemnifying CM (as defined at Rule 111(i) below) has elected to defend against, negotiate or settle the Customer-CM Relationship Claim in accordance with Rule 111(i)(ii) below; (B) the Customer-CM Relationship Claim has been resolved; and (C) the Clearing House has been unable to recover from the Customer any or a portion of any losses, liabilities, damages, injuries, costs and expenses (excluding any consequential losses, liabilities, damages, injuries, costs or expenses) it has incurred or suffered in respect of that Customer-CM Relationship Claim; in which case the Indemnifying CM shall indemnify the Clearing House only for the portion of the indemnifiable amounts not recovered from the Customer;
- (v) except in respect of a CDS Clearing Member acting in that capacity: (A) any claim made or alleged against the Clearing House by, or any liability of the Clearing House to, an Eligible Person (as defined in the relevant Clearing Membership Agreement), Transferor, Transferee or Customer of that Clearing Member; or (B) such Clearing Member's conduct to the extent that the same is not covered by Rule 111(a)(ii); or
- (vi) a breach (or an allegation made by the Clearing House or any Governmental Authority of a breach) by the Clearing Member of any Applicable Law,

provided that a Clearing Member shall not indemnify or hold harmless the Clearing House or any of its Directors, officers, employees or committees (or any individual committee member) to the extent that any such loss, liability, damage, injury, cost or expense arises out of or in connection with:

- (A) a breach by the Clearing House of any of its obligations under these Rules, the Procedures or any Contract;
- (B) fraud, bad faith, gross negligence or wilful misconduct by the Clearing House or any of its Directors, officers, employees or committees (or any individual committee member); or

*Part 1 – General Provisions*

- (C) personal injury or death resulting from negligence, recklessness or an intentional act or omission of the Clearing House or any of its Directors, officers, employees or committees (or any individual committee member).
- (b) The provisions of this Rule 111 shall apply:
- (i) without prejudice to the liability of any other Person subject to the Rules or the rules of any Exchange for the same conduct;
  - (ii) in the case of inconsistency with any other provision of the Rules, in priority to that other provision;
  - (iii) whether or not the Clearing Member's Representative(s) are subject to the Rules;
  - (iv) whether or not the Clearing Member's Representative(s) can be conclusively identified (provided that it is established that the relevant conduct was in fact carried out by a Clearing Member's Representative, albeit an unidentified Clearing Member's Representative); and
  - (v) save as expressly set out in Rule 111(f), to Sponsored Principals (and Sponsored Principal Clearing Agreements) and Disclosed Principal Members (and their agreements with the Clearing House), in each case in the same way as they apply to a Clearing Member that has no Customers (and Clearing Membership Agreements).
- (c) Neither the Clearing House nor any of its Representatives, its Affiliates or its Affiliates' Representatives shall be liable to any Clearing Member or any other Person in respect of any loss, liability, damage, injury, cost or expense incurred or suffered by such Clearing Member or Person, whether in contract, tort or restitution, as a fiduciary or under any other cause of action, arising out of or in connection with any of the following:
- (i) any suspension, restriction or closure of the Clearing House or its services;
  - (ii) any failure or malfunction of or inability to use any systems, communication lines or facilities or technology supplied, operated or used (directly or indirectly) by the Clearing House, any Market or any Delivery Facility or the suspension, restriction or closure of any Market or Delivery Facility;
  - (iii) any act or omission of any Exchange, any Market, any Delivery Facility, any Clearing Member or any other third party including any error in relation to price data;
  - (iv) any Force Majeure Event affecting the Clearing House (including, in relation to a delivery, a Force Majeure Event affecting a Person making or taking delivery on behalf of the Clearing House);
  - (v) any dispute relating to the validity, existence or terms of any Contract;

Part 1 – General Provisions

- (vi) the exercise (or failure to exercise) by the Clearing House of any discretion or right conferred upon it pursuant to these Rules;
- (vii) the exercise (or failure to exercise) by any Exchange of any discretion or right conferred upon it pursuant to its rules (including, without limitation, in relation to error trades);
- (viii) any indirect or consequential loss, liability, damage, injury, cost or expense, any loss of profit (whether direct or indirect) or any loss of bargain;
- (ix) any action in libel, defamation or slander in connection with the issue of any Default Notice, conduct of any proceedings relating to an Event of Default, the timing of termination of any Contracts or the manner in which or the price at which any Contracts are terminated following an Event of Default;
- (x) rejection of any application to become a Clearing Member;
- (xi) any Contract being void pursuant to Rule 403 or avoided pursuant to Rule 404, including (without limitation) the causes and consequences of such Contract being void or voidable;
- (xii) any action or inaction on the part of a Transferor or Transferee;
- (xiii) in respect of a Contract subject to tender, delivery or physical settlement:
  - (A) a tender given by the Clearing House;
  - (B) any documents accompanying a tender as required by Market Rules or the Procedures;
  - (C) the performance by the Clearing House of its obligations to make delivery of a Deliverable under a Contract or to pay the price or Exchange Delivery Settlement Price; or
  - (D) any other loss, liability, damage, injury, cost or expense arising under the terms of a Contract in relation to tender, delivery or physical settlement,

unless, the relevant Clearing Member gives notice of its loss, liability, damage, injury, cost or expense within seven Business Days of either the day on which relevant documents must be taken up and paid for by the Clearing Member (whether or not the Clearing Member fulfils that obligation) or the Clearing Member must take delivery of the Deliverable, whichever is the earlier;
- (xiv) as a result of any action taken by it pursuant to Market Rules on the basis that Market Rules are to any extent invalid or *ultra vires* or that a determination or request made by the Market or any agreement made by the Market, is *ultra vires* or incompatible with Market Rules;

*Part 1 – General Provisions*

- (xv) any express or implied representations or warranties in relation to the Clearing House's systems, including, but not limited to, representations or warranties of good title, merchantability and fitness for purpose or for a particular use;
- (xvi) any statement, representation, assurance or warranty of the Clearing House or any other Person other than as expressly set out in the Rules, Procedures, Contract Terms, a Clearing Membership Agreement, a Sponsored Principal Clearing Agreement or a Sponsor Agreement; or
- (xvii) any action, suit or proceeding brought against the Clearing House over one year after the time that a cause of action, suit or proceeding has accrued

provided that neither this Rule 111(c) nor any other provision of these Rules shall affect the application of section 291 of the FSMA or shall exclude or restrict the liability of the Clearing House or any other Person for:

- (xviii) fraud, bad faith, gross negligence or wilful misconduct;
  - (xix) personal injury or death resulting from negligence, recklessness, or an intentional act or omission;
  - (xx) obligations under Contracts (except that, other than as provided in Part 7, the terms of CDS Contracts, Part 15, the terms of FX Contracts, Part 17, and the Procedures, the Clearing House shall have no obligation physically to make or accept delivery of any Deliverable and shall have no liability arising out of the failure or lateness of another Clearing Member (or its Transferor or Transferee) physically to make or accept any such delivery or make any such payment); or
  - (xxi) any liability which in accordance with Applicable Laws cannot be excluded, to the extent such liability cannot lawfully be excluded.
- (d) Any possible action, suit or proceeding against the Clearing House must be notified to the Clearing House as soon as reasonably practicable, including all relevant details then known and supporting documentation.
- (e) [Not used.]
- (f) Save for any liability which it cannot exclude pursuant to Applicable Laws, the Clearing House shall not be liable pursuant to these Rules or any Clearing Membership Agreement, Sponsored Principal Clearing Agreement or Sponsor Agreement to any Person who is not a Clearing Member or Sponsored Principal. Without prejudice to the generality of the foregoing, the Clearing House shall not be liable (save for any liability which it cannot by law exclude) to any Transferor or Transferee (that is not the Seller or Buyer under a Contract, respectively) or to any Customer of a Clearing Member (except in the case of a Customer as expressly set out in Part 16 of the Rules and elsewhere in respect of Customers of FCM Clearing Members; and in the case of a Sponsored Principal as expressly set out in Part 19 the Rules and elsewhere).

*Part 1 – General Provisions*

- (g) If the Clearing House is found liable to a Clearing Member in respect of a Contract and another Clearing Member is also found liable to the Clearing House in respect of a Contract which arose pursuant to the same Transaction as the first Contract, then the liability of the Clearing House under the first Contract shall be deemed to be a foreseeable consequence of the breach by the Clearing Member of the second Contract and the Clearing House shall be entitled to be indemnified by such Clearing Member in accordance with this Rule 111.
- (h) Damage or loss to the property of the Clearing House or any other property on the Clearing House's premises will be paid for by the Clearing Member causing such damage or loss.
- (i) If the Clearing House is subject to any claim by a third party which would, if the claim were successful, be likely to give rise to a right on the part of the Clearing House to make a claim under Rule 111(a)(iii) (such claim, a "**Customer-CM Relationship Claim**") or Rule 111(a)(iv), in each case, against a CDS Clearing Member acting in that capacity that is not a Defaulter ("**Indemnifying CM**"):
  - (i) the Clearing House will:
    - (A) promptly provide the Indemnifying CM with notice of the Customer-CM Relationship Claim and all documentation and correspondence in its possession that is materially relevant to the Customer-CM Relationship Claim (save to the extent that the provision of such documentation or correspondence to the Indemnifying CM is restricted by a duty of confidentiality or by any Applicable Law); and
    - (B) provide the Indemnifying CM with a reasonable opportunity to comment on correspondence and documents proposed to be sent by the Clearing House to the claimant that is material to the Customer-CM Relationship Claim (save to the extent that the provision of any draft correspondence is restricted by a duty of confidentiality or by any Applicable Law);
  - (ii) the Indemnifying CM shall have the right to defend against, negotiate, settle, or otherwise deal with a Customer-CM Relationship Claim, provided that:
    - (A) if the Indemnifying CM elects to defend against, negotiate, settle, or otherwise deal with a Customer-CM Relationship Claim, it shall, within thirty (30) calendar days (or sooner if the nature of the Customer-CM Relationship Claim so requires) from the date of receipt of notice from the Clearing House of the Customer-CM Relationship Claim, notify the Clearing House, the relevant officer, or the relevant employee, as applicable, of its intent to do so;
    - (B) the Indemnifying CM will at all times conduct itself with reference to the requirements of Rule 102(r); and
    - (C) the Indemnifying CM will consult with the Clearing House in connection with any document or proposed document concerning the

**Part 1 – General Provisions**

Customer-CM Relationship Claim that relates to the Clearing House or makes statements about the Clearing House's conduct, and will take into account any reasonable suggestions or comments received by it from the Clearing House in relation to any such document or proposed document (and the reasonableness of any comments of the Clearing House shall be interpreted, without limitation, with reference to the principles set out in Rule 102(r)); and

- (iii) if the Indemnifying CM does not elect to itself defend against, negotiate, settle, or otherwise deal with a Customer-CM Relationship Claim within the period specified in Rule 111(i)(ii)(A),
  - (A) the Indemnifying CM will promptly provide the Clearing House with all documentation and correspondence in its possession that is materially relevant to the Customer-CM Relationship Claim (save to the extent that the provision of such documentation or correspondence to the Clearing House is restricted by a duty of confidentiality or by any Applicable Law); and
  - (B) the Clearing House will, in addition to its obligations in Rule 111(i)(i):
    - (1) take into account any reasonable suggestions or comments received by it from the Indemnifying CM in relation to proposed correspondence or documents referred to in Rule 111(i)(i)(B) (and the reasonableness of any comments shall be interpreted, without limitation, with reference to the principles set out in Rule 102(r)); and
    - (2) consult with the Indemnifying CM in respect of the resolution of the Customer-CM Relationship Claim, including, prior to any settlement, in respect of the terms of settlement.

**Rule 112      *Force Majeure and similar events***

- (a) Neither the Clearing House nor a Clearing Member or Sponsored Principal shall be liable for any failure, hindrance or delay in performance in whole or in part of its obligations under these Rules or of any Contract if and to the extent that such failure, hindrance or delay arises as a result of a Force Majeure Event.
- (b) On the occurrence of any Force Majeure Event (and, where the Force Majeure Event affects the Clearing House, an affirmative vote of the Board at a quorate meeting recognising such Force Majeure Event (subject always to Rule 109(c)):
  - (i) the Affected FM Party shall immediately notify the Clearing House of the same (or, if the Affected FM Party is the Clearing House, the Clearing House shall issue a Circular in relation to the Force Majeure Event);



Part 1 – General Provisions

- (ii) the Clearing House shall be entitled to require any Contracts affected by the event or circumstance to be performed in accordance with directions issued by the Clearing House or to be Invoiced Back;
  - (iii) the Clearing House shall be entitled to require any Clearing Member or Sponsored Principal to take such action as the Clearing House may direct in respect of Contracts affected by the event or circumstance;
  - (iv) the Clearing House shall be entitled to require Clearing Members or Sponsored Principals to comply with any directions issued by the Clearing House regarding the performance of, or otherwise in respect of, such affected Contracts as are specified by the Clearing House; and, upon receipt of such an invoice, settlement of all affected accounts shall be due immediately and shall be made forthwith in discharge of such Contracts;
  - (v) a Clearing Member or Sponsored Principal affected by a Force Majeure Event shall use all reasonable endeavours to mitigate the effects of the same upon its ability to perform its obligations to the Clearing House and if the Clearing House is affected by a Force Majeure Event, it shall use all reasonable endeavours to mitigate the effects of same upon its ability to perform such obligations to Clearing Members; and
  - (vi) the Affected FM Party shall notify the Clearing House immediately as soon as its ability to perform is no longer affected by the Force Majeure Event (or, if Affected FM Party is the Clearing House, the Clearing House shall issue a Circular in relation to the cessation of the Force Majeure Event).
- (c) If a Market determines in accordance with Market Rules that an excessive position or unwarranted speculation or any other undesirable situation or practice is developing or has developed which is affecting or capable of affecting the Market, the Clearing House may take such action as is requested of it by that Market in respect of one or more Contracts.

**Rule 113**      *Notices*

- (a) The delivery by hand, electronic transmission; or facsimile ~~or telephone~~ of any notice, order or other communication to:
  - (i) a Clearing Member or Sponsored Principal, at the address, facsimile number or ~~telephone number last designated by it~~ e-mail address last notified by such Person to the Clearing House as acceptable for the receipt of notices, orders or other communications (or through such other communication system as is specified by the Clearing House from time to time in accordance with the Procedures); or
  - (ii) a Person appointed by a Clearing Member under Rule 113(e), at the address, facsimile number or e-mail address last notified to the Clearing House as acceptable for service of process,

Part 1 – General Provisions

shall be good and sufficient delivery thereof to such ~~Person~~Clearing Member or Sponsored Principal (unless another method of delivery is specified in the Rules or in relation to any Contract). The publication of a Circular shall amount to good and sufficient delivery of the contents of the Circular to all Clearing Members and Sponsored Principals.

- (b) Any notice, document, communication, filing or form to be served on, filed with, made to or provided to the Clearing House pursuant to these Rules or in relation to any Contract shall be served, filed, made or provided at the address, fax number or e-mail address (or through such other communication system) as is specified by the Clearing House from time to time in accordance with the Procedures and shall be marked for the attention of such person or department as is specified by the Clearing House from time to time in accordance with the Procedures. Unless another form or method is specified in the Rules or the Procedures for the notice, document, communication, filing or form in question, a notice, document, communication, filing or form must be served, filed, made or provided in writing.
- (c) ~~Any~~Subject to Rule 113(d), any notice, document, communication, order, filing or form, unless otherwise specified in the Rules or the Procedures, will only be effectively served, filed, made or provided and delivered ~~to the Clearing House~~ for the purposes of these Rules:
- (i) if sent by post, on the third Business Day (or tenth Business Day in the case of airmail) after the day on which it was deposited in the post, full postage prepaid, in a correctly addressed envelope; ~~or~~
  - (ii) if sent by fax or any other form of electronic communication (including e-mail or other electronic systems), at the time of transmission; or
  - (iii) ~~(ii) if delivered in person or by courier, at the time of delivery or, if not delivered during business hours on a Business Day, on the following Business Day.~~

For the purposes of paragraph (ii) above, the "time of transmission" shall mean the time at which an e-mail or other electronic communication is recorded in the Clearing House's systems as having been sent or received by the Clearing House. Effective service and delivery shall be deemed to have been achieved by the Clearing House at this time.

- (d) ~~Unless otherwise specified in the Rules or Procedures, any notice by fax or electronic communication shall not be effective until hard copy confirmation is served pursuant to Rule 113(e)~~Effective service and delivery of a notice, document, communication, order, filing or form determined in accordance with Rule 113(c) shall be deemed to have been immediately achieved regardless of whether the time of receipt is during Opening Hours on a Business Day.
- (e) Each Clearing Member that is not incorporated or registered in England and Wales shall appoint and maintain an agent in England and Wales to act as its agent to accept service of process issued out of the courts of England and Wales and in relation to any arbitration commenced pursuant to Rule 117, the Clearing Membership Agreement or any Sponsor Agreement as well as any notice, order or other communication under these Rules, the Clearing Membership Agreement or any Sponsor Agreement, and shall deliver to the Clearing House an agreement substantially in the form specified by the Clearing House

## Part 1 – General Provisions

relating to such appointment countersigned by such agent. No Clearing Member shall give any notice of revocation to, or otherwise terminate the appointment of, any such agent unless prior to such termination it has validly appointed a replacement agent in England and Wales reasonably acceptable to the Clearing House to accept service of process issued out of the courts of England and Wales and in relation to any arbitration commenced pursuant to Rule 117, as well as any notice, order or other communication under these Rules, the Clearing Membership Agreement or any Sponsor Agreement and has delivered to the Clearing House a copy of that agent's acceptance of that appointment substantially in the form specified by the Clearing House countersigned by such agent. If for any reason any agent appointed under this Rule 113(e) ceases to be such an agent, the Clearing Member shall forthwith appoint a replacement agent in England and Wales and deliver to the Clearing House a copy of the new agent's acceptance of that appointment substantially in the form specified by the Clearing House countersigned by such agent within 10 Business Days of such appointment. Nothing in these Rules, the Procedures, the Clearing Membership Agreement, any Sponsor Agreement or any Contract shall affect the right of the Clearing House to serve process in any other manner permitted by Applicable Law.

### **Rule 114      *Action by the Clearing House***

- (a) Except as otherwise specifically set out herein, any action permitted or required to be taken by the Clearing House may be taken by the Board, the Chairman, the President, any other Director or any other employee, officer or committee (or any individual committee member) to whom or which authority has been delegated by the Clearing House, the Board, the Chairman, the President or any committee.
- (b) Where there is a provision to the effect that an action may be taken or power exercised by the Clearing House, any action taken or power exercised by the Clearing House shall be without prejudice to the right of the Clearing House to exercise such powers and take such other steps (or not as the case may be) as it may think fit upon that or any other occasion.
- (c) The Clearing House may outsource operational functions, services or activities. If it does so, this shall not affect the Clearing House's responsibilities and liabilities under these Rules, any Clearing Membership Agreement, any Sponsored Principal Clearing Agreement, any Sponsor Agreement or Applicable Laws.
- (d) In the interests of the proper functioning of the Clearing House and its Clearing-related functions, the Clearing House may take any measure it deems reasonably necessary in relation to the organisation and the operation of the Clearing House taking all relevant circumstances into account, whether or not these measures are set out in these Rules, provided that the Clearing House may not take any measure under this Rule 114(d) that would constitute a breach of any provision of these Rules or the Procedures or that would modify any provision of these Rules or the Procedures and provided further that any exercise of its rights under this Rule 114(d) must take place in accordance with the relevant documents governing the internal governance of the Clearing House and its committees.

## *Part 1 – General Provisions*

### ***Rule 115 Relations with Governmental Authorities and other Persons***

- (a) With a view to maintaining its statuses referred to in Rule 102(r), the Clearing House may:
  - (i) make arrangements with any Person for monitoring compliance with and investigating alleged breaches of the Rules (and arrangements, Procedures and directions made, authorised or given thereunder); and
  - (ii) co-operate generally with any Governmental Authority.
- (b) Without prejudice to the generality of Rule 115(a), and subject to Rule 106:
  - (i) this may include making arrangements for the sharing of information with Governmental Authorities; and
  - (ii) the Clearing House may, where appropriate, at any time refer a complaint or any other matter coming to its attention to one or more Exchanges, Clearing Organisations or Regulatory Authorities for its or their comment or investigation and may, pending the result of such reference, either suspend or continue with (in whole or in part) its own investigation, proceedings or other actions.

### ***Rule 116 Opening Hours***

The Clearing House will give notice of any changes to its Opening Days, Opening Hours and Business Days from time to time by Circular.

### ***Rule 117 Dispute Resolution***

- (a) Any Dispute between the Clearing House and the Clearing Member(s) that is not subject to the procedures of Part 10 of these Rules or the Complaint Resolution Procedures shall be referred to and finally resolved by arbitration under the LCIA Rules, which Rules are deemed to be incorporated into this Rule 117. In the event of a conflict between any provision of the LCIA Rules and this Rule 117, this Rule 117 shall prevail.
- (b) The seat of arbitration will be London and the language of the arbitration proceedings shall be English.
- (c) The Tribunal will comprise three arbitrators appointed by the LCIA Court. The LCIA Court shall nominate one of the arbitrators to act as the chairman of the Tribunal. The members of the Tribunal will be persons considered by the LCIA Court in its discretion to have experience with respect to the subject matter of the Dispute. Tribunal members shall not be current or former employees or directors of any Clearing Member that is a party to the arbitration, current or former employees of the Clearing House or any person or persons with a material interest or conflict of interest in the outcome of the Dispute.
- (d) The Tribunal shall have the power on the application of any party to an existing arbitration, to require one or more Clearing Members to be joined to an existing arbitration. Each

*Part 1 – General Provisions*

Clearing Member agrees that it may be joined as an additional party to an arbitration involving the Clearing House and another Clearing Member.

- (e) If more than one arbitration is begun under these Rules and the Clearing House or a Clearing Member that is a party to an arbitration so concerned serves notice upon the Tribunals concerned that it believes two or more arbitrations are substantially related and that the issues should be heard in one set of proceedings, the Tribunal appointed in the first-filed of such proceedings shall have the power to determine whether, in the interests of justice and efficiency, the proceedings should be consolidated and heard together before that Tribunal.
- (f) In the case of such joinder or consolidation, the Tribunal shall make a single, final award determining all Disputes between the relevant parties in those proceedings. Each Clearing Member and the Clearing House irrevocably waives any right to challenge any award or order of any Tribunal by reason of the fact that it arises from a joined or consolidated arbitration. In addition to the waiver of challenge on the basis of joinder set out in clause 8.5 of the Clearing Membership Agreement, each Clearing Member and the Clearing House hereby irrevocably waives any right to challenge any award or order of any tribunal appointed under the Clearing Membership Agreement by reason of the fact that it arises from a consolidated arbitration.
- (g) The award of the arbitral Tribunal will be final and binding on the Clearing House and any Clearing Member from the day it is made. Judgment upon the award may be entered or the award enforced through any other procedure in any court of competent jurisdiction.
- (h) No arbitral proceedings under this Rule 117 may be instigated where arbitral proceedings could have been instigated in respect of the same Dispute under Market Rules.
- (i) The provisions of this Rule 117 may not be varied by any Clearing Member or Clearing Members save where each Clearing Member that is a party to the Dispute or arbitration proceedings and the Clearing House agree in express written terms.
- (j) The commencement of any arbitral proceedings shall be without prejudice to and shall not limit in any way the right of the Clearing House to instigate any procedure under Part 9 or Part 10 of these Rules, including without limitation in relation to any Event of Default, any investigation, disciplinary proceedings or the imposition of a sanction.
- (k) Each Clearing Member that now or hereafter has a right to claim sovereign immunity from suit or sovereign immunity from enforcement for itself or any of its assets shall be deemed to have irrevocably waived any such immunity to the fullest extent permitted by Applicable Laws. Such waiver shall apply in respect of any immunity from:
  - (i) any proceedings commenced pursuant to this Rule 117;
  - (ii) any judicial, administrative or other proceedings to aid an arbitration commenced pursuant to this Rule 117; and

*Part 1 – General Provisions*

- (iii) any effort to confirm, enforce, or execute any decision, settlement, award, judgment, service of process, execution order or attachment (including pre-judgment attachment) that results from any judicial or administrative proceedings commenced pursuant to this Rule 117.
- (l) The rights and obligations of a Clearing Member under the Rules and in relation to any Contract are of a commercial and not a governmental nature.
- (m) No Clearing Member shall raise or in any way whatsoever assert a defence of sovereign immunity in relation to any claim or enforcement proceedings arising from a Dispute under these Rules.
- (n) All Permitted Cover standing to the credit of a Clearing Member who is party to one or more Contracts subject to a Dispute or difference to which this Rule 117 or Market Rules applies, whether or not such Permitted Cover is held with respect to a disputed Contract, may be retained by the Clearing House until the Dispute in question is finally disposed of.
- (o) This Rule 117 is subject to Rule 1608.
- (p) This Rule 117 applies to Disputes in connection with Sponsored Principals and Sponsored Principal Clearing Agreements in the same way that it applies to Disputes in connection with Clearing Members and Clearing Membership Agreements;
- (q) This Rule 117 applies to Disputes in connection with Sponsors and Sponsor Agreements in the same way that it applies to Disputes in connection with Clearing Members and Clearing Membership Agreements.



## Part 2 – Clearing Membership

### **Part 2 Clearing Membership**

This Part 2 does not apply to Sponsored Principals save to the extent expressly set out in Part 19.

#### **Rule 201 Clearing Membership Criteria**

- (a) In order to attain and maintain membership as a Clearing Member, a Person must, at a minimum, as from the date on which it is proposed that it becomes a Clearing Member:
- (i) have paid the Clearing House's (non-refundable) application fee (if applicable) and provided completed membership application forms;
  - (ii) (if proposing to become a Clearing Member in relation to F&O Transactions) be a member of each relevant Market that it wishes to clear;
  - (iii) (if proposing to become a Clearing Member in relation to ICE Endex UK Transactions) each Clearing Member's Transferor and Transferee must: (A) be a member of ICE Endex UK or have other adequate arrangements in place to enable the Clearing Member, effectively and promptly, to manage the default of its Transferors and Transferees for ICE Endex UK Transactions; (B) be a User (as such term is defined in the Network Code); and (C) where a Clearing Member's Transferor or Transferee is not a Trader User, hold a Gas Transporter's Licence or a Shipper's Licence (as such terms are defined in the Network Code), which in either case is in force with no notice of revocation having been given in respect of such designations;
  - (iv) (if proposing to become a Clearing Member in relation to ICE Endex Spot Market Transactions) each Clearing Member's Transferor and Transferee must: (A) be a member of ICE Endex Spot Market or have other adequate arrangements in place to enable the Clearing Member, effectively and promptly, to manage the default of its Transferors and Transferees for ICE Endex Spot Market Transactions; and (B) be a Licensed Shipper (as defined in the Delivery Procedures), with no notice of revocation having been given in respect of such designations;
  - (v) be a user of or otherwise have access to at least one Repository (if any) for the Contracts it proposes to clear where such ~~Contract is~~ [Contracts are](#) required to be reported to a repository under Applicable Law;
  - (vi) have nominated a Person, satisfactory to the Clearing House, who: (A) is a director, general partner, trustee or officer of the applicant (or Person occupying a similar status or performing similar functions); (B) is responsible for the clearing operations of the applicant; and (C) is authorised to act on behalf of the applicant in all transactions with or involving the Clearing House; and (D) has all authorisations, registrations, licences, permissions, non-objections, consent or approvals required under Applicable Law in any jurisdiction in order to act as a representative for the relevant Clearing Member's business in connection with the Clearing House, and have nominated a second Person who meets the requirements of (A) to (D) above

## Part 2 – Clearing Membership

- and who is authorised to act on behalf of the applicant in the event of the death, incapacity or other inability of the first Person to so act;
- (vii) maintain and, where applicable, procure that all of its Designated Controllers maintain, sufficient Capital in accordance with Rule 206;
  - (viii) where a Controller Guarantee is or is to be provided by a Designated Controller, procure that the Controller Guarantee is executed in such form and delivered in such manner as the Clearing House may prescribe from time to time;
  - (ix) be party to a Clearing Membership Agreement with the Clearing House and any related annexes or agreements as are required by the Clearing House under Rule 201(b);
  - (x) have in place all necessary regulatory authorisations, licences, permissions and approvals in its country of origin, the UK and any other jurisdiction in which it conducts business;
  - (xi) be fit and proper, have sufficient qualities of financial, compliance and managerial responsibility, operational capacity, business integrity, reputation and competence as the Clearing House, in its discretion, considers necessary or appropriate and satisfy the Clearing House that its directors, officers and Controllers also satisfy such tests, including having adequate segregation of front and back office functions and adequate back office and compliance support, as required under Applicable Laws;
  - (xii) satisfy the internal stringent credit criteria established by the Clearing House, such satisfaction to be confirmed by an examination of its books and records; provided further that this requirement may, at the discretion of the Clearing House, be met by a Controller of the Clearing Member if such Controller provides a guarantee in accordance with the Finance Procedures;
  - (xiii) have such facilities, equipment, operational capability, personnel, hardware and software systems as are capable of supporting the proper performance of its business as a Clearing Member, including such IT links to the Clearing House and software as in the judgment of the Clearing House are necessary or desirable;
  - (xiv) have in place business continuity procedures to enable it to meet its obligations as a Clearing Member;
  - (xv) have a sufficient level of knowledge about the types of Contracts that it intends to clear and any risks involved in relation to the same;
  - (xvi) have demonstrated its ability to make available to the Clearing House sufficient Margin and make Margin payments as required pursuant to these Rules;
  - (xvii) have made the required Guaranty Fund Contributions;
  - (xviii) not be subject to an Insolvency or Unprotected Resolution Step;

Part 2 – Clearing Membership

- (xix) demonstrate operational competence in respect of the classes of contracts that it proposes to clear;
- (xx) if it is to become a CDS Clearing Member or an FX Clearing Member, be an "eligible contract participant", as defined in Section 1a of the U.S. Commodity Exchange Act;
- (xxi) if it is not incorporated in England and Wales, have appointed an agent for the service of process pursuant to Rule 113(e);
- (xxii) if it is to provide a Controller Guarantee from a Controller that is not incorporated in England and Wales, have appointed an agent for the service of process in respect of the Controller following the same provisions as are applicable to Clearing Members pursuant to Rule 113(e);
- (xxiii) if it is to clear transactions on behalf of Customers, have the necessary additional financial resources and operational capacity to perform this activity;
- (xxiv) not be subject to any circumstances pursuant to which an Event of Default could be declared were the applicant to be a Clearing Member;
- (xxv) have provided details of an office which is staffed during normal business hours and sufficient for its proposed activities as a Clearing Member under the direct supervision and responsibility of an executive director or other executive officer of the Clearing Member (who need not be physically located at such office) to which all notices, orders and other communications from the Clearing House may be transmitted or delivered;
- (xxvi) satisfy the Clearing House that it, its officers, directors, relevant employees and Controllers are fit and proper and would each meet the requirements for an 'approved person' (for individuals) or 'controller' (for partnerships, companies and other bodies corporate) under applicable FCA Rules and PRA Rules;
- (xxvii) hold a Nominated Bank Account or Accounts (as necessary) at one or more Approved Financial Institution in relation to each of which a direct debit mandate has been established in favour of the Clearing House, and satisfy the Clearing House of the adequacy of its contingency banking arrangements in the event of an Insolvency or failure to pay or default of an Approved Financial Institution which affects the operation of a Nominated Bank Account or Accounts or a Clearing House Account;
- (xxviii) if non-cash assets are to be used as Permitted Cover, have executed all necessary documentation relating to the transfer of such assets and not be in dispute with the Clearing House in relation to the ownership over or rights relating to such non-cash assets;
- (xxix) ~~either (A) be a Person in respect of whom 'simplified due diligence' may be applied pursuant to the Money Laundering Regulations 2007; or (B) have been subject to~~

Part 2 – Clearing Membership

customer due diligence measures under the Money Laundering Regulations ~~2007~~ to the Clearing House's satisfaction;

- (xxx) not be prevented from entering into any Contract or using the Clearing House as a result of any Sanctions affecting the Clearing Member (except, if it is a CDS Clearing Member incorporated in Germany and solely in respect of CDS business, solely to the extent that any obligation, or undertaking, representation or statement contemplated by this Rule 201(a)(xxx) would be in conflict with any Applicable Laws purporting to nullify or restrict the effect of foreign Sanctions or preventing boycotts);
- (xxxi) be incorporated or registered in and access the Clearing House from only jurisdictions whose Applicable Laws relating to [anti-money laundering](#), Insolvency, Resolution Steps, the regulation of clearing houses, Markets or central counterparties, the enforceability of Contracts and the Rules and such other matters as the Clearing House specifies are acceptable to the Clearing House (and an applicant may be required to supply a legal opinion of external counsel, addressed to the Clearing House, addressing such issues, at its cost); and comply with any additional restrictions or requirements imposed by the Clearing House as a result of activities in any such jurisdictions; ~~and~~
- (xxxii) not be subject to statutory disqualification under Applicable Law; ~~and~~

(xxxiii) have policies, procedures, systems and controls which are adequate to ensure compliance with Applicable Laws relevant to its behaviour as a Clearing Member (including, but not limited to, Applicable Laws relating to anti-money laundering and financial crime) and appropriately mitigate the risks that the Clearing House's facilities could be used for any improper purpose, and, at the request of the Clearing House and/or the Exchange, promptly provide satisfactory evidence of such policies, procedures, systems and controls (including, without limitation, copies of all relevant documentation) and of the adequate implementation and maintenance of such policies, procedures, systems and controls.

- (b) The Clearing House may at its discretion attach further objective conditions to any application for Clearing Member status prior to such status being granted, provided that such additional conditions are proportional to the risk brought by the applicant. The Clearing House may grant approval to an applicant conditional upon satisfying certain requirements, provided that the applicant has expressed its intention to meet such requirements and provided evidence of its ability to do so.
- (c) Applicants for membership must provide information or documentation to the Clearing House evidencing compliance (or lack thereof) with each of the criteria set out in or required pursuant to Rule 201(a), and for CDS Clearing Member applicants only, Rule 201(i), and, in addition, for FX Clearing Member applicants only, Rule 201(j). Failure by an applicant to supply such information or documentation may result in an application being rejected or Clearing Member status or access to particular services being revoked.

Part 2 – Clearing Membership

- (d) All information supplied to the Clearing House in respect of an application for membership shall be deemed to have been provided by the Clearing Member to the Clearing House on the day on which that Clearing Member becomes a Clearing Member, save to the extent that such information has been amended or revoked at least two Business Days prior to membership being granted.
- (e) If the Clearing House determines that an application for membership should be denied, the applicant will be given notice of such denial, with the membership criterion or criteria that were not met being specified. In such an event, the applicant may request an opportunity to be heard by the Clearing House's Board (or an appropriately constituted sub-committee of the Board) in relation to the matter and to present evidence as to why its application should not be denied or may raise a complaint which the Clearing House will deal with in the same way as if Part 10 applied to such complaint (notwithstanding that the Rules do not apply to the complaint).
- (f) Membership of the Clearing House does not entitle any Clearing Member to any shareholding or other similar interest in the Clearing House or any of the Clearing House's Affiliates. Nothing in these Rules is intended to, or shall be deemed to, establish any partnership or joint venture between any Clearing Member, Sponsor, Sponsored Principal, the Clearing House or any other Person. Except for any provision relating to the relationships between a Clearing Member and Disclosed Principal Member, between a Clearing Member and its Representative or between a Sponsor and its Sponsored Principal, nothing in these Rules constitutes any Clearing Member, Sponsored Principal, Sponsor, Disclosed Principal Member, Customer or the Clearing House as the agent or principal of any other Person. Nothing in these Rules authorises any Person to make or enter into any commitments for or on behalf of any other Person (save in the case of a Clearing Member acting on behalf, or for the account, of and being liable for a Customer or as otherwise expressly provided herein).
- (g) Clearing Members shall be deemed to represent and warrant, upon their first date of membership and on each subsequent date that they are a Clearing Member, that they meet all of the membership criteria in Rule 201(a) (and, if they are a CDS Clearing Member, Rule 201(i) and, in addition, if they are an FX Clearing Member, Rule 201(j)) and are in compliance with all of their obligations under these Rules.
- (h) In order to attain and maintain membership as a Disclosed Principal Member, a Person must, at a minimum, as from the date on which it is proposed that it becomes a Disclosed Principal Member, meet all the requirements for membership as a Clearing Member. A Disclosed Principal Member shall be subject to and bound by all these Rules in every way as if it were a Clearing Member, subject to such modifications as are set out herein and acting at all times as disclosed principal for the Clearing Member that it has selected.
- (i) In order to attain and maintain membership as a CDS Clearing Member, a Person must, at a minimum, as from the date on which it is proposed that it becomes a CDS Clearing Member, meet such additional requirements applicable to CDS Clearing Members as are specified in the CDS Procedures.

## Part 2 – Clearing Membership

- (j) In order to attain and maintain membership as an FX Clearing Member, a Person must, at a minimum, as from the date on which it is proposed that it becomes an FX Clearing Member, meet such additional requirements applicable to FX Clearing Members as are specified in the Procedures.
- (k) The references in Rule 201(g), Rule 202(a)(iv) and Rule 209(a)(v) to satisfaction of the criteria for membership in or set out in Rule 201(a) include those criteria for membership which are required pursuant to (but not actually set out in) Rule 201(a).

### **Rule 202      *Obligations of Clearing Members***

- (a) In connection with these Rules, all and any Contracts, its membership of the Clearing House and its business and activities as a Clearing Member, each Clearing Member shall at all times:
  - (i) comply with: (A) these Rules and any agreement with the Clearing House; and (B) for F&O Contracts, comply with Market Rules and any rules of or agreement with a Delivery Facility, as applicable or relevant to the F&O Contract;
  - (ii) comply with all Applicable Laws relating to its status and performance as a Clearing Member;
  - (iii) act in good faith in its dealings with the Clearing House;
  - (iv) continually satisfy the criteria for membership set out in or required pursuant to Rule 201(a) and, in addition, if it is a CDS Clearing Member, Rule 201(i), and, in addition, if it is an FX Clearing Member, Rule 201(j);
  - (v) respond promptly to any direction by the Clearing House to provide information or documentation;
  - (vi) maintain at least the amount of Capital required pursuant to Rule 206 (and, where the Capital requirements would not be met without a Controller Guarantee being provided, procure that each of its Designated Controllers is party to a Controller Guarantee that remains in force and maintains such amount of Capital as is required pursuant to Rule 206);
  - (vii) pay all fees and other charges when due in accordance with Part 3;
  - (viii) provide Margin and make Margin payments to the Clearing House in accordance with Part 3 and Part 5;
  - (ix) make all such payments to such Guaranty Funds as are required pursuant to Part 11;
  - (x) respond promptly to all enquiries or requests for information made by the Clearing House;
  - (xi) maintain accounts at an Approved Financial Institution for the purposes of cash transfers to and from the Clearing House in Eligible Currencies pursuant to these



## Part 2 – Clearing Membership

Rules (whether by way of Margin, Guaranty Fund Contributions, fees, amounts due under Contracts or otherwise) and have arrangements with such Approved Financial Institutions satisfactory to the Clearing House for electronic transfer of funds into and out of such accounts as is required under the Rules and Procedures, on the order of the Clearing House and without the need to seek the consent of such Clearing Member or any of its Customers;

~~(xii) if it:~~

~~(A) has a place of business or establishment in any member state of the European Economic Area;~~

(xii) ~~(B) if it~~ is to have a Customer Account or act as a Sponsor in respect of an Individually Segregated Sponsored Account; ~~and:~~

(A) ~~(C) represent and warrant to the Clearing House that it~~ is a credit institution or financial institution (as defined in the Money Laundering Directive) or otherwise is a person falling under article ~~1739(23)~~ of the Money Laundering Regulations ~~2007 (or the equivalent provision implementing the Money Laundering Directive in a member state other than the UK);~~

(B) represent and warrant to the Clearing House that it has carried out, and consent to any Transferee Clearing Member and the Clearing House relying upon its customer due diligence in relation to all of its Customers, Disclosed Principal Members, Sponsored Principals and all other "beneficial owners" (within for the purposes of this Rule 202(a)(xii) having the meaning of given it it in article 3(6) of the Money Laundering Directive) to the extent required under the Money Laundering Directive or such other Applicable Laws as determined acceptable by the Clearing House at its discretion) in respect of any Contracts entered into in respect of Customer business, Margin and Contracts recorded in one of its Customer Accounts (or an Individually Segregated Sponsored Account for which it acts as Sponsor) or any other collateral subject to the Default Portability Rules, such consent only to be relied upon in the event of the Clearing Member becoming a Defaulter and the Default Portability Rules being applied;

(C) obtain the necessary authority from such Customers, Disclosed Principal Members, Sponsored Principals and beneficial owners to disclose relevant information and consent to the immediate provision of relevant information to any Transferee Clearing Member or the Clearing House about its Customers, Disclosed Principal Members, Sponsored Principals and beneficial owners needed to apply customer due diligence measures under the Money Laundering Directive or other Applicable Laws relating to anti-money laundering as determined acceptable by the Clearing House at its discretion, and immediately on request forward to any Transferee Clearing Member or the Clearing House copies of identification and verification data and other relevant documents on the identity of Customers, Disclosed

Part 2 – Clearing Membership

Principal Members, Sponsored Principals and beneficial owners obtained when applying those measures, such authority to be relied upon in the event of the Clearing Member becoming a Defaulter and the Default Portability Rules being applied; and

- (D) retain copies of any documents and information required to be retained under any Applicable Law relating to anti-money laundering (including the documents and information specified in article 40(2) of the Money Laundering Regulations (or the equivalent provision implementing the Money Laundering Directive in an EEA member state) or other Applicable Laws) For the applicable time periods specified under any Applicable Law relating to anti-money laundering (including the time periods specified in regulations 40(3)-(4) of the Money Laundering Regulations (or the equivalent provision implementing the Money Laundering Directive in an EEA member state) or other Applicable Laws).
- (xiii) if the Clearing House at its discretion so directs, allow formal audits or system tests of its operations related to its business with the Clearing House during reasonable business hours and on reasonable notice no more than twice annually, at the expense of the Clearing Member;
- (xiv) have adequate systems and controls in place in order to ensure that:
- (A) its internal affairs are organised and controlled in a responsible and effective manner, including having adequate separation policies to mitigate concentration risk of critical business functions and compliance oversight in place to enable it to meet its obligations as a Clearing Member, adequate segregation of front and back office functions and adequate back office and compliance support, as required under Applicable Laws;
  - (B) it has adequate risk management systems and internal audit processes that are applied appropriately;
  - (C) its internal record-keeping is adequate;
  - (D) all of its Representatives are fit and proper, suitable, adequately trained and properly supervised;
  - (E) all clearing business conducted by it, including in relation to individual Contracts, complies with the Clearing Member's obligations under the Rules and Applicable Laws;
  - (F) it only enters into Contracts or accesses the Clearing House (through actions of its Representatives or otherwise) in or from jurisdictions on a list of acceptable jurisdictions published by the Clearing House from time to time and in accordance with all conditions and requirements as are specified by

Part 2 – Clearing Membership

the Clearing House from time to time for entry into Contracts or access in or from that jurisdiction;

- (G) it is able continuously to monitor communication facilities for receipt of communications from the Clearing House; and
- (H) it is able promptly to review Circulars and other communications delivered or made available to the Clearing Member or its Representatives by the Clearing House;
- (xv) ensure that any power of attorney, appointment of any agent or Representative or other authorisation to transact business with the Clearing House given by a Clearing Member to any Person remains in effect on its original terms until not less than five Business Days after a written notice of change has been received by the Clearing House;
- (xvi) keep accurate records showing the details of each Transaction submitted for Clearing by or on behalf of such Clearing Member and such other information, in such form, as shall be required by the Clearing House from time to time and in accordance with Applicable Laws and Accounting Standards;
- (xvii) gather and make available to the Clearing House basic information to identify, monitor and manage relevant concentrations of risk relating to the provision of services to Customers;
- (xviii) upon request, inform the Clearing House about the criteria and arrangements adopted by it to allow clients access to Clearing with the Clearing House;
- (xix) participate in default management simulations, new technology testing and other exercises, as notified by the Clearing House from time to time;
- (xx) be responsible for ensuring that Customers comply with their obligations in the manner set forth in the Rules and Standard Terms; and
- (xxi) if it is subject to CASS 7.18 of the FCA ~~rules~~Rules, deliver to the Clearing House, in the format required under CASS 7.18, a letter in respect of each of its Segregated Customer Omnibus Accounts for CDS, Segregated Customer Omnibus Accounts for F&O, Segregated Customer Omnibus Accounts for FX, Standard Omnibus Indirect Accounts for CDS, Standard Omnibus Indirect Accounts for F&O and Standard Omnibus Indirect Accounts for FX, as well as each Individually Segregated Sponsored Account, Margin-flow Co-mingled Account and Segregated Gross Indirect Account which is treated by it as a client transaction account under CASS 7.18;
- (xxii) during ~~and~~, for two hours prior to the start of, and immediately after the end of, Opening Hours on every Business Day, be (and have sufficient persons competent to act on behalf of the Clearing Member) accessible to the Clearing House; and

Part 2 – Clearing Membership

- (xxiii) without prejudice to Rule 202(a)(xiii), give such other access to the Clearing House (or any Person appointed by it) to its premises, records and personnel (or those of its Affiliates or service providers) to conduct any inspection, investigation or audit and allow the Clearing House or such Person to take copies of the accounts, books, contracts and any other records or documents of the Clearing Member, in order to facilitate discharge of the Clearing House' regulatory obligations under Applicable Laws, in any case at the cost of the Clearing Member.
- (b) Prior to making available services relating to Clearing of CDS, F&O or FX to any Customer, a Non-FCM/BD Clearing Member is obliged to procure the agreement of such Customer to the CDS Standard Terms, F&O Standard Terms or FX Standard Terms respectively, in such a way that:
  - (i) the relevant Standard Terms and/or Rules are duly cross-referenced (as being applicable to Customer-CM Transactions between such Customer and such Non-FCM/BD Clearing Member) in an agreement between the Non-FCM/BD Clearing Member and its Customer that has been duly executed and duly authorised by both of them; and
  - (ii) subject to Rule 202(c), the obligations of the Customer to the Non-FCM/BD Clearing Member and the Clearing House under the relevant Standard Terms constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to applicable Insolvency laws and similar Applicable Laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application and to other matters which are standardly excluded, restricted or qualified in legal opinions (regardless of whether enforcement is sought in a proceeding in equity or at law)).

To the extent that it agrees to be bound by the Rules, a Customer of a Non-FCM/BD Clearing Member will be deemed to be bound by each set of relevant Standard Terms in such a manner. It is moreover intended that Customers and Non-FCM/BD Clearing Members each be bound to the Standard Terms (and any amendments to the Standard Terms) through acceptance by conduct as a result of their continued usage of the Clearing House. Neither a failure of documentary execution in accordance with this Rule 202 nor any breach of this Rule 202 is intended to preclude such acceptance by conduct.

- (c) Where:
  - (i) the governing law of the agreement between a Non-FCM/BD Clearing Member and its Customer incorporating the relevant Standard Terms and/or Rules is the law of any jurisdiction of incorporation of any Clearing Member; and
  - (ii) each of the place of incorporation and relevant place of business of the Customer is the same as any jurisdiction of incorporation of any Clearing Member or any other jurisdiction specified for this purpose by the Clearing House,

the obligation in Rule 202(b)(ii) to procure that the obligations of the Customer under the relevant Standard Terms are of a legal, valid and binding nature and enforceable will be

## Part 2 – Clearing Membership

deemed to be satisfied and there shall be no obligation on such Clearing Member to carry out any further enquiry as regards enforceability of the relevant Standard Terms under Applicable Laws.

- (d) If the Clearing House so requests in writing and there are reasonable grounds for it making such a request, a Non-FCM/BD Clearing Member will execute any documentation specified by the Clearing House which confirms its agreement to any Standard Terms relating to Contracts it clears for its Customer or any amendment to any such Standard Terms made in accordance with such Standard Terms (either generally or in respect of any particular Customer).
- (e) Where a Customer of a Non-FCM/BD Clearing Member has agreed or is deemed to have agreed to the application of any Standard Terms as set out in Rule 202(b)-(c), the requirements of clause 3.2 of the Clearing Membership Agreement shall be deemed to have been satisfied by the Non-FCM/BD Clearing Member in respect of such Customer.
- (f) If a Controller Guarantee has been provided in favour of a Clearing Member, the Clearing Member to which the Controller Guarantee relates shall procure that the Controller:
  - (i) at all times complies with the requirements of Rule 201(a)(viii), Rule 202(a)(ii), Rule 202(a)(iii), Rule 202(a)(v), Rule 202(a)(vi), Rule 202(a)(x) and Rule 202(a)(xiii) as if the Controller were a Clearing Member, *mutatis mutandis*, and such provisions applied to the Controller's business;
  - (ii) would not breach any of the requirements of Rule 203, were the Controller to be a Clearing Member subject to the requirements of Rule 203, *mutatis mutandis*, and such provisions applied to the Controller's business; and
  - (iii) makes all notifications that would be required under Rule 204 if the Controller were a Clearing Member, *mutatis mutandis*, and such provisions applied to the Controller's business.

### **Rule 203      *Prohibitions on Clearing Members***

- (a) In connection with these Rules, any Contracts, its membership of the Clearing House or its business and activities as a Clearing Member, no Clearing Member shall at any time:
  - (i) provide any information to the Clearing House (including information for the purpose of obtaining or reinstating membership) which is false, misleading or inaccurate in any material respect;
  - (ii) breach any Applicable Law relating to its status and performance as a Clearing Member;
  - (iii) commit any act of fraud;

Part 2 – Clearing Membership

- (iv) engage in any behaviour which amounts to market abuse, insider dealing, market manipulation, money laundering or which is in breach of any similar Applicable Laws;
- (v) except with the prior written consent of the Clearing House and otherwise than to terminate existing positions, continue to trade, enter into Contracts or provide or accept payments or transfers in respect of Margin when not in compliance with the Capital requirement then applicable;
- (vi) knowingly disseminate false, misleading or inaccurate reports concerning any Contract, product or market information or conditions that affect or tend to affect prices of Contracts;
- (vii) make or report a false or fictitious Transaction or Contract;
- (viii) knowingly, fraudulently, recklessly or negligently furnish any false, inaccurate or misleading information to the Clearing House;
- (ix) enter into any Contract or fail to close out the same either intending to default in performance of the same or having no reasonable grounds for believing that it would be able to avoid such default (provided that it shall not be sufficient to have intended to comply with any contractual or other provision governing the consequences of default);
- (x) use or reveal any information confidential to the Clearing House or any of its Representatives when under a legal or contractual obligation to the Clearing House or any Applicable Law not to do so;
- (xi) (A) use any information technology or any online services provided to it or made available to it pursuant to its membership of the Clearing House other than for the purposes of conducting its business and activities as a Clearing Member in accordance with these Rules; or (B) use any FX Data except for (1) internal purposes related directly to such Clearing Member's, its Affiliates' and Customers' and their clients' trading and clearing activity relating to FX Clearing at the Clearing House; or (2) licensing, sublicensing, transferring, transmitting, reproducing and/or distributing copies of FX Data to third parties in accordance with Rule 1708;
- (xii) engage in any other event or practice which has developed or is developing on the Clearing House and is reasonably considered by the Clearing House to be capable of impairing the orderly conduct of business of the Clearing House or affecting the timely delivery or settlement of Contracts;
- (xiii) represent or hold out to any Person that membership of the Clearing House brings with it any stamp of approval, special status, hallmark, regulatory supervision or approval or confers any rights or protections to Customers or any other Person in relation to the Clearing Member's business, policies, financial standing or otherwise (although Clearing Members may inform their Customers, potential Customers and



Part 2 – Clearing Membership

- other Persons that they are a member of the Clearing House and details of their privileges);
- (xiv) participate in, facilitate, procure, counsel, incite, encourage, aid or abet any conduct by a third party which would be a violation or attempted violation of these Rules regardless of whether that third party is subject to these Rules;
  - (xv) take any action or make any omission or knowingly or recklessly permit the use of its services, facilities or membership or clearing privileges by any Person in a manner which in the reasonable opinion of the Clearing House is liable to:
    - (A) bring the Clearing House or any of its Clearing Members into disrepute;
    - (B) impair the dignity or degrade the good name of the Clearing House;
    - (C) create or maintain or exacerbate actual or attempted breaches, infringements, manipulations or violations of the Rules (or arrangements, provisions or directions made or given thereunder) or market practice; or
    - (D) otherwise be substantially detrimental to the interests or welfare of the Clearing House;
  - (xvi) engage in conduct that would render it unable to satisfy the membership criteria in Rule 201(a), Rule 201(i) or Rule 201(j) (in the case of Rule 201(i), only if it is a CDS Clearing Member, and in the case of Rule 201(j), only if it is an FX Clearing Member) or obligations on Clearing Members under Rule 202(a) or otherwise;
  - (xvii) knowingly, negligently, recklessly or carelessly allow any Representative to engage in any conduct that might itself breach these Rules or render it unable to satisfy the membership criteria in Rule 201(a), Rule 201(i) or Rule 201(j) (in the case of Rule 201(i), only if it is a CDS Clearing Member and in the case of Rule 201(j), only if it is an FX Clearing Member);
  - (xviii) assign any of its rights or transfer by novation any of its rights and obligations under these Rules to a third party (or purport to do so) unless the Clearing House provides its prior written consent (which consent shall not unreasonably be withheld or delayed);
  - (xix) breach any Contract Terms;
  - (xx) if it is subject to CASS 7.18 of the FCA ~~rules~~Rules, deliver any letter to the Clearing House in the manner referred to in Rule 102(q)(viii) in respect of any Proprietary Account, Segregated TTFCA Customer Omnibus Account For CDS, Segregated TTFCA Customer Omnibus Account For F&O, Segregated TTFCA Customer Omnibus Account For FX, Standard TTFCA Omnibus Indirect Account For CDS, Standard TTFCA Omnibus Indirect Account For F&O or Standard TTFCA Omnibus Indirect Account For FX;

## Part 2 – Clearing Membership

- (xxi) if (A) it is a CDS Clearing Member incorporated in Germany; or (B) in relation to a Customer Account transaction of any CDS Clearing Member where the Customer is incorporated in Germany: submit any CDS Transaction Particulars for clearing or enter into any CDS Contract which would take place in circumstances where the CDS Clearing Member would be in breach of Rule 201(a)(xxx), Rule 405(a)(xi) or Rule 1901(d)(~~xi~~xii) but for the exceptions therein relating to Applicable Laws purporting to nullify or restrict the effect of foreign Sanctions or preventing boycotts, unless prior notice of at least 30 days has been provided by the CDS Clearing Member to the Clearing House in accordance with Rule 204(a)(xiv); or
- (xxii) if the Clearing Member or any of its Affiliates acts as an Approved Financial Institution, Concentration Bank, banker, Custodian or counterparty to the Clearing House, then it agrees that any bank account, custodian account or transactions shall not be subject to any Encumbrance, right of set-off or counterclaim in respect of any sum owed by the Clearing House to the Clearing Member in its capacity as a Clearing Member or arising under these Rules, the Clearing Membership Agreement or any Contract and nor shall any Account at the Clearing House subject to these Rules be subject to any right of set-off or counter-claim in respect of any obligation, sum, amount or asset owed by the Clearing House to the Clearing Member in its capacity as an Approved Financial Institution, Concentration Bank, banker, custodian or counterparty of the Clearing House.

### **Rule 204      *Notifications by Clearing Members***

- (a) Each Clearing Member shall notify the Clearing House in writing without delay providing full particulars known to it:
  - (i) in relation to any change of Control, as soon as it becomes aware of that change or proposed change of Control and it is not prevented from disclosing the change of Control by Applicable Laws;
  - (ii) if it breaches any applicable Position Limit that has been notified to it;
  - (iii) if it ceases to have sufficient Capital, as determined pursuant to Rule 206;
  - (iv) if its Capital for any reason is reduced by more than 10% from that shown on the latest financial statement filed by it with the Clearing House;
  - (v) prior to any payment, loan, distribution or redemption causing a reduction in Capital of the nature described in Rule 204(a)(iv), detailing the payment, loan, distribution or redemption involved and a description of the effect that the same will have on the Capital of the Clearing Member;
  - (vi) in the event that it fails to meet any obligation to transfer or pay any Margin when and as required by any Clearing Organisation of which it is a member (other than the Clearing House), excluding any matter subject to a dispute (where the Clearing Member is not in default) or resulting from manifest error;

Part 2 – Clearing Membership

- (vii) in the event that it fails to comply with any applicable financial requirements of any Governmental Authority, Regulatory Authority, Exchange, Clearing Organisation or Delivery Facility;
- (viii) of an Insolvency or Resolution Step affecting it or any of its Group Companies (and must provide a copy of such notice to the Bank of England pursuant to Part 12);
- (ix) of any Event of Default affecting it;
- (x) of any financial or commercial difficulty such as would give rise to a risk of an Event of Default occurring;
- (xi) of any "early warning" or similar matter required to be notified to the CFTC or SEC under Applicable Law, within the time and in the manner specified in Applicable Law for such notification to such Regulatory Authority;
- (xii) of any breach by it (or any non-frivolous or non-vexatious investigation or allegation of a breach by it) of any Applicable Law relating to its status and performance as a Clearing Member or of the Rules, including full particulars of the breach;
- (xiii) of anything relating to the Clearing Member of which the Clearing House would reasonably expect notice (including of any matter, circumstance, change or occurrence which would cause a statement previously furnished pursuant to this Rule 204, any information supplied in connection with the Clearing Member's application for membership or otherwise to be inaccurate, incomplete or superseded); or
- (xiv) if it is a CDS Clearing Member incorporated in Germany and solely in respect of CDS business, if any Sanctions of H.M.Treasury or the Office of Foreign Assets Control of the U.S. Department of the Treasury would, were they applicable, restrict or prevent the CDS Clearing Member from entering into a CDS Contract or using the Clearing House in circumstances in which neither the equivalent Sanctions of the European Union nor the United Nations Security Council imposed any such restriction or prevention; and in the case of the entry into of any CDS Contract, such notice shall be given 30 days in advance;
- (xv) if (A) it is a CDS Clearing Member incorporated in Germany; or (B) in relation to a Customer Account transaction of any CDS Clearing Member where the Customer is incorporated in Germany: if any Sanctions of H.M.Treasury or the Office of Foreign Assets Control of the U.S. Department of the Treasury would, were they applicable, restrict or prevent any derivatives or spot trading activities involving a Customer of the CDS Clearing Member in circumstances in which neither the equivalent Sanctions of the European Union nor the United Nations Security Council imposed any such restriction or prevention; and in the case of a Customer which has not previously transacted CDS through the CDS Clearing Member at the Clearing House, such notice shall be given at least 30 days in advance of submitting for Clearing any CDS Trade Particulars first identifying that Customer.

## Part 2 – Clearing Membership

- (b) Where a Clearing Member is regulated by the FCA or PRA:
- (i) Notifications under Rule 204(a)(i) shall only be required where a change of Control is notifiable to or subject to the approval of the FCA or PRA; and in such cases the Clearing Member should provide the Clearing House contemporaneously with a copy of all submissions sent to the FCA or PRA relating to the change of Control; and
  - (ii) Notifications under Rule 204(a)(xiii) (other than notifications of any matter, circumstance, change or occurrence which would cause a statement previously furnished pursuant to this Rule 204, any information supplied in connection with the Clearing Member's application for membership or otherwise to be inaccurate, incomplete or superseded) shall only be required if a notification is also required to the FCA or PRA under the Principles for Business in the FCA Rules or PRA Rules.

### **Rule 205      *Financial Reporting***

- (a) Each Clearing Member must file with the Clearing House in relation to the Clearing Member and, if so notified by the Clearing House at its discretion, any Controller:
- (i) an audited financial statement including profit and loss accounts and balance sheet, with the auditor's report, drawn up in accordance with Applicable Laws and Accounting Standards or otherwise following the requirements of the Clearing House within 90 days of the end of the Clearing Member's or relevant Controller's fiscal year;
  - (ii) (A) a quarterly financial statement including management profit and loss accounts and balance sheet, drawn up in accordance with Applicable Laws and Accounting Standards or otherwise following the requirements of the Clearing House, within 3045 days of the end of each quarter; and, or (B) where the Clearing Member or Controller does not produce a quarterly financial statement, an alternative financial statement drawn up in accordance with Applicable Laws and Accounting Standards or otherwise following the requirements of the Clearing House, that the Clearing House at its discretion has determined and confirmed to the Clearing Member may be treated as a suitable alternative; and
  - (iii) in the case of Clearing Members or their Controllers that are licensed, authorised or regulated by a Regulatory Authority, a copy of all financial returns, reports, statements and notices provided to the relevant Regulatory Authority as soon as so provided and, if any such material is other than a routine periodic financial return, statement or report required under Applicable Laws, a written statement setting out (to the extent known) the reasons why such Clearing Member or relevant Controller is filing it.
- (b) In the case of Clearing Members authorised and regulated by the FCA or PRA, the Clearing House shall be authorised, at its discretion but subject to the consent of the relevant Regulatory Authority, to obtain copies of financial filings, returns and reports directly from the FCA or PRA rather than from the Clearing Member. The Clearing Member will not be

## Part 2 – Clearing Membership

relieved of any of its obligations to the extent that the Clearing House does not obtain, or is unable to verify the accuracy of, any financial return or report obtained by it from the FCA or PRA.

- (c) Each Clearing Member shall file with the Clearing House such financial or other relevant information, in addition to what is explicitly required by this Rule 205, as may be requested by the Clearing House at its discretion from time to time.
- (d) All qualifications and reports of Clearing Members' auditors in any financial report must be satisfactory to the Clearing House.

### **Rule 206      *Minimum Capital***

- (a) Each Clearing Member shall maintain at all times the requisite types and amounts of Capital and financial resources as required pursuant to the CDS Procedures, Finance Procedures and Membership Procedures, or otherwise as specified in writing by the Clearing House from time to time. Eligible Capital of each Designated Controller, if any, of a Clearing Member will be taken into account by the Clearing House in determining whether the Clearing Member satisfies applicable Capital requirements.
- (b) A Clearing Member must, upon request of the Clearing House, provide financial statements and other documentation supporting calculations of Capital or other financial resources requirements and details of the terms and conditions of any documentation relating to any Capital or other financial resources requirements (including, without limitation, subordinated loan agreements, legal opinions, information provided to Governmental Authorities and accounts and including in relation to any Controller) to the Clearing House.

### **Rule 207      *Clearing Member Status***

- (a) Each Clearing Member shall be authorised to enter into Contracts and hold an Open Contract Position with the Clearing House. Clearing Members may, at the Clearing House's discretion, be subject to restrictions in their business with the Clearing House, for example by reference to certain Contracts, Markets or the clearing of Contracts for Customers or using Customer Accounts either generally or of a particular Customer Account Category or acting as a Sponsor either generally or for different cleared products. The Clearing House shall be entitled to publish lists of Clearing Members including details of their privileges and restrictions from time to time.
- (b) Each Clearing Member shall have the privileges, rights and obligations provided for in these Rules. Such privileges, rights and obligations may be terminated or altered in any respect at any time as provided in these Rules.
- (c) A Clearing Member may apply to clear additional categories of Contract by furnishing such information as is relevant to such request in accordance with Rule 201.
- (d) Each Clearing Member shall be liable to the Clearing House and responsible for all its obligations in respect of each of its Proprietary Accounts. Each Clearing Member shall be liable to the Clearing House and responsible for all its obligations in respect of each of its

## Part 2 – Clearing Membership

Customer Accounts as principal, except that an FCM/BD Clearing Member shall be liable to the Clearing House in respect of each of its Customer Accounts as set forth in Part 16 and a Sponsor shall be liable in respect of an Individually Segregated Sponsored Account as set out in Part 19. Any sub-accounts of a Customer Account are reported on by the Clearing House for administrative convenience of the Clearing Member only. Recognition by the Clearing House, and transfers between, to and from, a Clearing Member's Nominated Customer Bank Accounts and Nominated Proprietary Bank Accounts are for administrative convenience of the Clearing Member only. Subject only to the provisions of Part 16 (and, in the case of FCM/BD Clearing Members, any Pledged Collateral Addendum) neither any separate Customer Account or sub-accounts of a Customer Account recognised in the Clearing House's or any Clearing Member's books and records or those of any Approved Financial Institution nor any other Procedures or Rules of the Clearing House shall result in any obligation of the Clearing House towards any Customer of the Clearing Member, any other Person that is not a Clearing Member, whether under rules made under FSMA relating to client money, any other Applicable Laws or otherwise. It is the responsibility of the Clearing Member (and not the Clearing House) to ensure that its Nominated Proprietary Bank Accounts and Nominated Customer Bank Accounts are linked appropriately to each Proprietary Account and Customer Account and to ensure its own compliance with Applicable Laws relating to conduct of business, client money, segregation and use of client assets and segregation of Customer Transactions. Accordingly: (i) the Clearing House and each Clearing Member that has a Customer Account agree that there will be no setting off against each other of positions and assets recorded in any of the Clearing Member's Customer Accounts against any of the Clearing Member's Proprietary Accounts or any other Customer Account of that Clearing Member, in any circumstances which would contravene section 182A of the Companies Act 1989; (ii) the Clearing House and each Clearing Member with more than one Customer Account agree that there will be no setting off against each other of positions and assets recorded in each of the Clearing Member's different Customer Accounts against any of the Clearing Member's Proprietary Accounts or any other Customer Account of that Clearing Member, in any circumstances which would contravene section 182A of the Companies Act 1989; and (iii) the Clearing House and each Clearing Member with more than one Proprietary Account agree that there will be no setting off against each other of positions and assets recorded in each of the Clearing Member's different Proprietary Accounts, against any of the Clearing Member's Customer Accounts or any other Proprietary Account of the Clearing Member, in any circumstances which would contravene section 182A of the Companies Act 1989. An FCM/BD Clearing Member shall be eligible to have any number of Proprietary Accounts, DCM Customer Accounts, Non-DCM/Swap Customer Accounts, Swap Customer Accounts, General Customer Accounts and SBS Customer Accounts. A Non-FCM/BD Clearing Member shall be eligible to have any number of Proprietary Accounts and any number of Customer Accounts of any Customer Account Category that is available for Non-FCM/BD Clearing Members, as well as being able to act as Sponsor in respect of any number of Individually Segregated Sponsored Accounts.

- (e) A Disclosed Principal Member shall be liable as principal to the Clearing House and responsible for all obligations arising in respect of the Proprietary Account referable to the Clearing Member that has appointed it as a Disclosed Principal Member, instead of the Clearing Member. Where the Clearing Member appoints a Disclosed Principal Member,



## Part 2 – Clearing Membership

there shall be no Customer Account for either the Clearing Member or the Disclosed Principal Member and the only Proprietary Account shall be that of the Disclosed Principal Member.

- (f) Subject to Market requirements (if any), a Clearing Member may appoint another Clearing Member to perform specific functions, including deliveries, on the first Clearing Member's behalf. In order to do so, the relevant Clearing Members, the Market (if any) and the Clearing House must be party to an agreement pursuant to which the second Clearing Member agrees to perform specific functions detailed in the agreement on behalf of the first Clearing Member. A Clearing Member intending to perform functions for another Clearing Member will represent and warrant to the Clearing House that it has sufficient authorisation under the FSMA and other Applicable Laws to carry on such function.
- (g) The following categories of Clearing Members will not be permitted to clear Financials & Softs Contracts that are futures or options on underlying U.S. securities (other than futures contracts on broad-based security indices or exempted securities): (i) FCM/BD Clearing Members; (ii) other Clearing Members that are organised in the United States of America; and (iii) other Clearing Members having a U.S. residence, based upon the location of their executive office or principal place of business, including, without limitation, (a) a U.S. bank (as defined by Section 3(a)(6) of the Exchange Act), and (b) a foreign branch of a U.S. bank or U.S. registered broker-dealer.

### **Rule 208      *Suspension of Clearing Member***

- (a) A Clearing Member may be suspended:
  - (i) if one or more of the conditions set out in Rule 209(a)(i) to (v) is satisfied;
  - (ii) upon any breach by the Clearing Member of these Rules;
  - (iii) if a Market suspends the Clearing Member or any of its trading privileges;
  - (iv) if the Clearing House at its discretion considers that suspension is necessary to protect the interests of the Clearing House or its Clearing Members (excluding the Clearing Member concerned); or
  - (v) in the event of any Financial Emergency or Force Majeure Event affecting the Clearing Member.
- (b) Any suspension may occur in relation to the Clearing Member's status as a Clearing Member or in respect of certain classes of Contracts or rights of a Clearing Member only. A Clearing Member that has been suspended shall, during the term of such suspension and thereafter, remain and continue to be:
  - (i) subject to and bound by these Rules and any agreements between it and the Clearing House;

## Part 2 – Clearing Membership

- (ii) obliged to pay all fees, fines, assessments or other charges imposed by the Clearing House;
  - (iii) liable pursuant to these Rules for all other obligations arising under Contracts and all obligations incurred before, during or after such suspension including, but not limited to, obligations to transfer, maintain and pay Margin and make Guaranty Fund Contributions; and
  - (iv) able to undertake such activities of a Clearing Member as are expressly permitted by the Clearing House and required to undertake such activities of a Clearing Member as are required by the Clearing House, in each case subject to compliance with all reasonable instructions of the Clearing House in relation to those activities.
- (c) The Clearing House shall be entitled at its discretion to revoke the suspension of any suspended Clearing Member.
- (d) The Clearing House may publish details of any suspension or a copy of any suspension notice in or together with a Circular, at its discretion except to the extent that a notice is required by Rule 208(e).
- (e) The Clearing House will issue a Circular promptly following any suspension of a Clearing Member or the suspension of any Clearing Member's ability to clear Energy Contracts, Financials & Softs Contracts, F&O Contracts, CDS Contracts or FX Contracts specifying the name of the Clearing Member affected.

### **Rule 209      *Termination of Clearing Membership***

- (a) The Clearing House shall be entitled to terminate the membership of any Clearing Member, either generally or in respect of any Relevant Contract Category, upon written notice to the Clearing Member:
- (i) following the occurrence of any Event of Default affecting that Clearing Member;
  - (ii) as a result of disciplinary proceedings brought against that Clearing Member pursuant to Part 10;
  - (iii) following any material and unremedied breach by the Clearing Member of these Rules;
  - (iv) upon such Clearing Member ceasing to meet, or being unable to satisfy the Clearing House that it is able to meet, any of the membership criteria set out in or required pursuant to Rule 201(a) or, if it is a CDS Clearing Member, Rule 201(i), or, if it is an FX Clearing Member, Rule 201(j); or
  - (v) taking effect no less than 30 Business Days after the date of service of the notice.
- (b) Rule 918(a)(i), (ii), (iii), (v), (vi), ~~(vii)~~, ~~(viii)~~ and (b) shall apply, *mutatis mutandis*, following service of a notice of termination by the Clearing House, whether generally or in respect of a particular Contract Category, under Rule 209(a)(ii)-(v). For such purposes, the terms

Part 2 – Clearing Membership

Relevant Contract Category and Relevant Membership Category as used in Rule 918 refer to the Contract Category and Membership Category respectively to which the notice of termination relates and the terms Relevant Guaranty Fund Contributions and Relevant Assessment Contributions as used in Rule 918 shall be interpreted accordingly.

(c)

(i) A Clearing Member shall be entitled to terminate its membership of the Clearing House, either generally or in respect of any Relevant Contract Category, upon service of a Termination Notice to the Clearing House:

(A) taking effect no less than 30 Business Days after the date of the Termination Notice Time; or

(B) pursuant to Rule 917(c).

(ii) The membership of a Clearing Member shall terminate automatically upon the occurrence of an Insolvency in respect of the Clearing House. In any such circumstances, Rule 912 applies.

(iii) The membership of a Clearing Member in respect of a particular Membership Category shall terminate automatically upon the occurrence of a Failure To Pay in respect of the Clearing House relating to such Membership Category. In any such circumstances, Rule 912 applies.

(d) Rules 918(a)(ii), (iv), (v), (vi), ~~(vii), (viii)~~ and (b) shall apply, *mutatis mutandis*, following service of a Termination Notice, whether generally or in respect of a particular Contract Category, under Rule 209(c)(i)(A). For such purposes, the terms Relevant Contract Category and Relevant Membership Category as used in Rule 918 refer to the Contract Category and Membership Category respectively to which the Termination Notice relates and the terms Relevant Guaranty Fund Contributions and Relevant Assessment Contributions as used in Rule 918 shall be interpreted accordingly. Unless it served such notice during a Cooling-off Termination Period or the termination relates to a corporate group reorganisation where a new Clearing Member that is an Affiliate will receive the terminating Clearing Member's Open Contract Positions, a Clearing Member that serves a Termination Notice shall be liable immediately upon service of the Termination Notice to pay the Clearing House Assessment Contributions of an amount equal to three times its required Relevant Guaranty Fund Contribution ~~(as calculated prior to the~~ at that ~~time of the Cooling-off Trigger Event)~~ in respect of each Relevant Contract Category, such amounts to be held as ~~permitted~~ Permitted Cover until the Termination Date and applied only as permitted in accordance with Part 9 of the Rules. A Clearing Member that has served a Termination Notice and made such payments shall not be liable for any further replenishments of its Guaranty Fund Contribution or Assessment Contribution, regardless of how many Events of Default take place. Any reference in these Rules to Assessment Contributions being called or to Guaranty Fund Contributions being replenished or applied, in respect of a Clearing Member which has provided such Permitted Cover to the Clearing House (whether under this Rule 209(d) or prior to serving its termination notice or the Termination Date), shall be interpreted as a reference to the Permitted Cover in question

## Part 2 – Clearing Membership

being similarly applied. For the avoidance of doubt, a terminating Clearing Member shall therefore remain liable for application of its Guaranty Fund Contributions, application of Assessment Contributions (to the extent paid under this Rule 209(d) or otherwise prior to the Termination Date), position limits under Part 6, disciplinary actions under Part 10 and the declaration and consequences of an Event of Default under Part 9 of the Rules, in each case until such time as all of the following have taken place: (i) its Open Contract Positions have been closed; (ii) the Termination Date has passed; and (iii) all its Guaranty Fund Contributions have been returned under Rule 1102(g). The terminating Clearing Member shall be deemed to be a "Clearing Member" for all such purposes.

- (e) The Clearing House will issue a Circular promptly following any termination of membership of a Clearing Member or the termination of any Clearing Member's ability to clear a specified Contract Category, specifying the name of the Clearing Member affected. The Clearing House may at its discretion (but shall not be required to) publish a copy of any Termination Notice or other termination notice.

*Part 3 – Financial Requirements and Payments*

**Part 3**     *Financial Requirements and Payments*

**Rule 301**     *Fees, Margin, Contract and other payment obligations*

- (a) Clearing Members shall be liable to pay such fees and charges as are levied by the Clearing House in accordance with published rates from time to time. Unless otherwise provided and without limitation, fees shall be payable on each Contract cleared by the Clearing House and the Clearing House shall be entitled to levy fees in respect of Permitted Cover. The Clearing House may amend its fees and charges and the bases for its fees at any time and will notify Clearing Members of any such amendments by means of a Circular prior to the same taking effect.
- (b) Fees charged to Clearing Members by the Clearing House may include the fees of any one or more Markets. The Clearing House shall be entitled to collect fees due from Clearing Members on behalf of all Markets of which a Clearing Member is a member or participant.
- (c) Clearing Members shall be liable to make any payment to the Clearing House that is required pursuant to these Rules at the time and in the amount specified by the Rules or required in accordance with the Rules. In particular, Clearing Members shall be liable to make payment in respect of Margin and Guaranty Fund Contributions from time to time in accordance with Part 5, Part 6 and Part 11 of the Rules at the times and in the amounts that are required pursuant to the instructions of the Clearing House made pursuant to Rule 302.
- (d) Clearing Members shall be liable to pay all amounts due under the Contract Terms, upon entering into a Contract, as Margin and upon delivery or settlement, as further described in these Rules and the Contract Terms at the time and in such amounts as are required pursuant to the Contract Terms. Without prejudice to the generality of the foregoing:
  - (i) in relation to each F&O Contract that is a Future, the parties to such Contract shall be liable to make such payments upon settlement and delivery as are required pursuant to Part 7, the Contract Terms, the Delivery Procedures and the Finance Procedures;
  - (ii) in relation to each F&O Contract that is an Option, the parties to such Contract shall be liable to make such payments as are required pursuant to Part 8, the Contract Terms, the Delivery Procedures and the Finance Procedures;
  - (iii) in relation to each CDS Contract, the parties to such Contract shall be liable to make such payments as are required pursuant to Part 15 and the Procedures; and
  - (iv) in relation to each FX Contract, the parties to such Contract shall be liable to make such payments as are required pursuant to Part 17 and the Procedures.
- (e) Each Clearing Member will procure that the Clearing House has at all times the right to instruct that Clearing Member's Approved Financial Institution to debit its Nominated Proprietary Bank Accounts (if any) and Nominated Customer Bank Accounts (if any) and any other account designated by that Clearing Member for the purposes of this Rule 301, for payment in respect of fees, charges, fines, penalties, Margin, Guaranty Fund

[Part 3 – Financial Requirements and Payments](#)

Contributions, amounts due pursuant to Contracts (whether upon their formation, settlement or delivery) and any other amounts due to the Clearing House or due to any Market.

- (f) All amounts payable to the Clearing House shall be payable by electronic transfer from an account at an Approved Financial Institution only (except with the prior written consent of the Clearing House). The Clearing Member shall continue to be liable for any amount due under these Rules and no payment obligation of a Clearing Member shall be treated as having been satisfied or discharged unless and until all of the following steps have taken place in respect of any payment of such amount:
- (i) the relevant electronic transfer of funds is actually received by the Clearing House in unencumbered, fully cleared and fully available funds in a Clearing House Account, being an account at an Approved Financial Institution which is not subject to an Insolvency;
  - (ii) if the Approved Financial Institution used by the Clearing Member is not a Concentration Bank, such Approved Financial Institution has fully performed its concentration function in respect of the payment in question, by completing the transfer of funds from the Clearing House's account at such Approved Financial Institution to the Clearing House's concentration account at a Concentration Bank (which Concentration Bank is not subject to an Insolvency), in which account the Clearing House has received unencumbered, fully cleared and fully available funds, in respect of:
    - (A) in the case of a payment pursuant to the Standard Payments Mechanism under Rule 302(a), a net amount reflecting all payments processed through that Approved Financial Institution in respect of all calls on or payments to or from all Clearing Members using that Approved Financial Institution under the Standard Payments Mechanism in respect of the Business Day in question; or
    - (B) in the case of a payment other than a payment pursuant to the Standard Payments Mechanism under Rule 302(a) (such as a payment following an intra-day call for Margin, a payment under the Externalised Payments Mechanism or an *ad hoc* transfer of additional cash Permitted Cover to the Clearing House), the amount received from the Clearing Member that is seeking to make the payment in question; and
  - (iii) in the case of payments pursuant to the Standard Payments Mechanism under Rule 302(a) only, that Approved Financial Institution (including if it is a Concentration Bank) has made all relevant payments pursuant to the Standard Payments Mechanism due to the Clearing Member and other Clearing Members (in its capacity as an Approved Financial Institution or Concentration Bank) in respect of the Business Day in question.

Nothing in this Rule 301(f) shall restrict or prevent the Clearing House or any Clearing Member from making any claim against an Approved Financial Institution which has failed to make a payment referred to under this Rule 301(f). In particular: (I) the Clearing House



Part 3 – Financial Requirements and Payments

shall not be deemed to have had any loss, liability or shortfall made good or whole vis-à-vis an Approved Financial Institution by virtue of any further payment by a Clearing Member in addition to an attempted payment not credited to its account as a result of this Rule 301(f); and (II) an Approved Financial Institution which has failed to make any payment referred to in this Rule 301(f) shall remain fully liable to the Clearing House or relevant Clearing Member for any such failed payment or account balance notwithstanding a reimbursement or additional payment as between a Clearing Member and the Clearing House. In the event that:

- (x) a payment is received into a Clearing House Account at an Approved Financial Institution but the requirements of Rule 301(f)(ii) or Rule 301(f)(iii) are not satisfied;
- (y) an affected Clearing Member has satisfied its payment obligations through an additional payment which complies with the requirements of this Rule 301(f); and
- (z) the Clearing House makes a recovery or irrevocably receives any part or full payment from the Approved Financial Institution into one of its accounts at a Concentration Bank (which Concentration Bank is not subject to an Insolvency),

then the Clearing House will make payment to affected Clearing Members in respect of the recovery or receipt actually made by the Clearing House, net of the Clearing House's costs and expenses, *pro rata* in proportion to the amounts of the original missed payments of each affected Clearing Member.

No Clearing Member shall be declared subject to an Event of Default as a result of failing to make any payment due to the operation of either Rule 301(f)(ii) or Rule 301(f)(iii), unless and until the Clearing House has notified the Clearing Member of the failed payment in question and requested that the payment be made using alternative means and the Clearing Member has defaulted in making the latter payment (other than solely due to the operation of either Rule 301(f)(ii) or Rule 301(f)(iii)). Where the concentration function of an Approved Financial Institution that is not subject to an Insolvency is adversely affected by a non-payment (including by reason of an Event of Default, dispute or operational failure) of a particular Clearing Member, and the Clearing House is notified of such non-payment and the Clearing Member concerned, the Clearing House will re-issue new payment instructions for concentration payments excluding the non-payment of the relevant Clearing Member prior to requesting or requiring other Clearing Members to use a different Approved Financial Institution under this Rule 301(f).

- (g) Interest shall be paid by the Clearing Member to the Clearing House on any unpaid but due amount from the date on which the amount becomes due and payable until the date of payment at 1% above the rate per annum which is the cost (without proof or evidence of any actual cost) to the Clearing House if it were to fund the relevant amount, compounded daily.
- (h) In the event that the Clearing House determines that it will suffer or has suffered (directly or indirectly) any loss, liability or cost for or on account of any tax in connection with any Contract, any amount payable to the Clearing House or in respect of any future obligation, or these Rules, the Clearing Member counterparty to such Contract or the Clearing Member

Part 3 – Financial Requirements and Payments

by which such amount is payable shall be liable to pay to the Clearing House, pursuant to Rule 302, an amount equal to such loss, liability, or cost.

- (i) All amounts set out in or expressed to be payable to the Clearing House in connection with any Contract or these Rules or otherwise and which constitute the consideration for a supply made by the Clearing House for the purposes of value added tax, and the value of any supply made by the Clearing House for value added tax purposes, shall be deemed to be exclusive of any value added tax which is chargeable on that supply and accordingly if value added tax is chargeable on any supply made by the Clearing House the relevant Clearing Member shall pay to the Clearing House (in addition to and at the same time as the consideration is paid or provided, or if no consideration is due, at the time the supply is made or an appropriate value added tax invoice is issued, whichever is earlier) an amount equal to the amount of the value added tax and the Clearing House shall issue an appropriate value added tax invoice.
- (j) All amounts payable to the Clearing House or by the Clearing House in connection with any Contract or these Rules or otherwise shall be paid without any deduction or withholding for or on account of tax unless such deduction or withholding is required by Applicable Law. If a deduction or withholding for or on account of tax is required to be made in relation to an amount payable to the Clearing House, the amount of the payment due shall be increased to an amount which (after making the deduction or withholding) leaves an amount equal to the payment which would have been due if no such deduction or withholding had been required.
- (k) Where a Clearing Member has appointed a Disclosed Principal Member, any obligation of the Clearing Member to make payment to the Clearing House shall be construed as an obligation of the Disclosed Principal Member, any right to receive payment of the Clearing Member shall be construed as a right of the Disclosed Principal Member and all other provisions of these Rules relating to payment shall be construed accordingly.
- (l) Any payment due to a Clearing Member from the Clearing House will be recognised as having been duly made, and the Clearing House's obligations in respect thereof shall be treated as having been satisfied and discharged, at the time that the relevant Credit/Debit Payment Transfer Order arises relating to such payment (or, if the Clearing Member or Approved Financial Institution is not a Participant, would have arisen were the Clearing Member or Approved Financial Institution to have been a Participant), provided that the Clearing House has reason to believe that the Clearing House Account from which payment is to be made has sufficient funds or credit on account.
- (m) The Clearing House will maintain a list of Concentration Banks and Approved Financial Institutions and will issue a Circular upon any change to Concentration Banks or Approved Financial Institutions.
- (n) The Clearing House will ensure that at all times there is at least one Concentration Bank.
- (o) Each Clearing Member acknowledges and agrees that the Clearing House may request information from time to time on the account balance of any Nominated Bank Account of the Clearing Member from the Approved Financial Institution at which that Nominated Bank Account is held, including for the purposes of the Clearing House: (i) calling on all

### Part 3 – Financial Requirements and Payments

available cash in any such Nominated Bank Account in the event of a failure by the Clearing Member to meet a payment obligation arising under any Contract or these Rules; or (ii) determining whether or not there are, or are likely to be, circumstances arising which constitute an Event of Default of the Clearing Member or in which the default rules in Part 9 or any Default Arrangements (as defined in Rule 1201(e)) of the Clearing House would or could be activated. Each Clearing Member agrees to: (i) the disclosure by an Approved Financial Institution of information on the account balance of any Nominated Bank Account held by the Clearing Member at that Approved Financial Institution to the Clearing House for the purposes of this Rule 301(o); and (ii) promptly provide the necessary consent(s) required by the Approved Financial Institution in order to permit the Approved Financial Institution to disclose such information, and hereby waives any right to confidentiality or secrecy, whether contractual or arising under Applicable Laws, which might otherwise prevent, restrict or condition such disclosure.

#### **Rule 302      *Mechanics for Payments***

- (a) Amounts payable to or by the Clearing House in a particular currency (as determined in accordance with the Finance Procedures) will be calculated and settled for each Account based on the designation of the relevant Account, the applicable margin model (net or gross) and payment mechanics set forth in this Part 3, the Clearing Procedures, the Finance Procedures and Part 16. The standard mechanism for settling amounts payable to or by the Clearing House shall be to calculate a net amount in respect of each Account by offsetting amounts due against amounts payable on that Account (except as provided in Rule 1605 for the Swap Customer Account of FCM/BD Clearing Members) (the "**Standard Payments Mechanism**"). Unless the Clearing House has agreed that the Externalised Payments Mechanism described below in this Rule 302(a) shall apply to a particular kind of cash payment, Account and Clearing Member, the Standard Payments Mechanism will apply. Under the Standard Payments Mechanism, the Clearing House shall advise each Clearing Member of the net amounts due to or from the Clearing Member in respect of each of its Proprietary Accounts and each of its Customer Accounts (if any) on each Business Day (or more frequently if the Clearing House determines to make an intra-day call in accordance with the Finance Procedures) and:
- (i) if the net amount for a Proprietary Account is due to the Clearing House, the Clearing House shall instruct the Clearing Member's Approved Financial Institution to transfer funds from the relevant Nominated Proprietary Bank Account of the Clearing Member with the Approved Financial Institution to a Clearing House Account in an amount equal to the amount so due;
  - (ii) if the net amount for a Proprietary Account is due to the Clearing Member, the Clearing House shall instruct an Approved Financial Institution to transfer funds from a Clearing House Account to the relevant Nominated Proprietary Bank Account of the Clearing Member with the Approved Financial Institution in an amount equal to the amount so due;
  - (iii) if the net amount for a Customer Account (other than a Margin-flow Co-mingled Account, Segregated Gross Indirect Account or Swap Customer Account) is due to the Clearing House, the Clearing House shall instruct the Clearing Member's

*Part 3 – Financial Requirements and Payments*

Approved Financial Institution to transfer funds from the relevant Nominated Customer Bank Account of the Clearing Member with the Approved Financial Institution to a Clearing House Account in an amount equal to the amount so due;

- (iv) if the net amount for a Customer Account (other than a Margin-flow Co-mingled Account, Segregated Gross Indirect Account or Swap Customer Account) is due to the Clearing Member, the Clearing House shall instruct an Approved Financial Institution to transfer funds from a Clearing House Account to the relevant Nominated Customer Bank Account of the Clearing Member with the Approved Financial Institution in an amount equal to the amount so due;
- (v) if the net amount for a Margin-flow Co-mingled Account is due to the Clearing House, the Clearing House shall instruct the Clearing Member's Approved Financial Institution to transfer funds from the relevant Nominated Customer Bank Account of the Clearing Member with the Approved Financial Institution to a Clearing House Account either: (A) in an amount equal to the total of all net amounts due to the Clearing House across all Margin-flow Co-mingled Accounts of the Clearing Member that are recorded in the same position-keeping account (or in respect of all Margin-flow Co-mingled Accounts of the Clearing Member with respect to F&O Clearing, FX Clearing or CDS Clearing, as the case may be), regardless of whether any amount is due to the Clearing Member in respect of the same Margin-flow Co-mingled Accounts; or (B) separately in respect of the net amount for each Margin-flow Co-mingled Account, in which case the Clearing Member or its Approved Financial Institution shall be entitled to settle the net amounts across all the Clearing Member's Margin-flow Co-mingled Accounts on a net basis;
- (vi) if the net amount for a Margin-flow Co-mingled Account is due to the Clearing Member, the Clearing House shall instruct an Approved Financial Institution to transfer funds from a Clearing House Account to the relevant Nominated Customer Bank Account of the Clearing Member with the Approved Financial Institution either: (A) in an amount equal to the total of all net amounts due to the Clearing Member across all Margin-flow Co-mingled Accounts of the Clearing Member that are recorded in the same position-keeping account (or in respect of all Margin-flow Co-mingled Accounts of the Clearing Member with respect to F&O Clearing, FX Clearing or CDS Clearing, as the case may be), regardless of whether any amount is due to the Clearing House in respect of the same Margin-flow Co-mingled Accounts; or (B) separately in respect of the net amount for each Margin-flow Co-mingled Account, in which case the Clearing Member or its Approved Financial Institution shall be entitled to settle the net amounts across all the Clearing Member's Margin-flow Co-mingled Accounts on a net basis;
- (vii) if the net amount for a Segregated Gross Indirect Account is due to the Clearing House, the Clearing House shall instruct the Clearing Member's Approved Financial Institution to transfer funds from the relevant Nominated Customer Bank Account of the Clearing Member with the Approved Financial Institution to a Clearing House Account either: (A) in an amount equal to the total of all net amounts due to the Clearing House across all Segregated Gross Indirect Accounts of the Clearing Member that are recorded in the same position-keeping account (or in respect of all

Part 3 – Financial Requirements and Payments

Segregated Gross Indirect Accounts of the Clearing Member with respect to F&O Clearing, FX Clearing or CDS Clearing, as the case may be), regardless of whether any amount is due to the Clearing Member in respect of the same Segregated Gross Indirect Accounts; or (B) separately in respect of the net amount for each Segregated Gross Indirect Account, in which case the Clearing Member or its Approved Financial Institution shall be entitled to settle the net amounts across all the Clearing Member's Segregated Gross Indirect Accounts on a net basis;

- (viii) if the net amount for a Segregated Gross Indirect Account is due to the Clearing Member, the Clearing House shall instruct an Approved Financial Institution to transfer funds from a Clearing House Account to the relevant Nominated Customer Bank Account of the Clearing Member with the Approved Financial Institution either: (A) in an amount equal to the total of all net amounts due to the Clearing Member across all Segregated Gross Indirect Accounts of the Clearing Member that are recorded in the same position-keeping account (or in respect of all Segregated Gross Indirect Accounts of the Clearing Member with respect to F&O Clearing, FX Clearing or CDS Clearing, as the case may be), regardless of whether any amount is due to the Clearing House in respect of the same Segregated Gross Indirect Accounts; or (B) separately in respect of the net amount for each Segregated Gross Indirect Account, in which case the Clearing Member or its Approved Financial Institution shall be entitled to settle the net amounts across all the Clearing Member's Segregated Gross Indirect Accounts on a net basis; and
- (ix) Rule 1605(h) shall apply to determine the timing, nature and means of making payments in relation to any amount due to or from an FCM/BD Clearing Member in respect of its Swap Customer Account.

The Clearing House offers an alternative payments mechanism (the "**Externalised Payments Mechanism**") which, if a Clearing Member has elected it and this has been accepted by the Clearing House in writing, will apply to certain kinds of cash payments for particular specified Accounts. The Externalised Payments Mechanism may only apply to Variation Margin, Mark-to-Market Margin, FX Mark-to-Market Margin and such other kinds of cash payments as are specified in the Finance Procedures. The Externalised Payments Mechanism will only apply in respect of specified Accounts as requested by the Clearing Member and confirmed by the Clearing House in writing. Where the Externalised Payments Mechanism has been selected by a Clearing Member and this has been approved by the Clearing House for a particular Account and kind of payment, then the Standard Payments Mechanism as described above for such Account shall be modified so as not to include any netting or aggregation of any payments of the kind specified, which payments shall instead be settled separately through the Externalised Payments Mechanism. Under the Externalised Payments Mechanism, relevant payments shall be settled pursuant to a separate cash flow process at a separate time from that which would have applied under the Standard Payments Mechanism. Payments under the Externalised Payments Mechanism shall remain segregated from one another, by Account, in the same way as payments under the Standard Payments Mechanism and in accordance with Rule 102(q). The Clearing House may revoke applicability of the Externalised Payments Mechanism, in whole or in part, in respect of particular kinds of payments or particular Accounts (and instead subject



### Part 3 – Financial Requirements and Payments

- relevant payment obligations to the Standard Payments Mechanism) by notice at any time to the relevant Clearing Member.
- (b) Instructions made pursuant to this Rule 302 may be made by means of a SWIFT message (or, in the case of a contingency, such other electronic message, fax, telephone or other means as are allowed pursuant to the Finance Procedures) to the relevant Approved Financial Institution. Payments pursuant to this Rule 302 shall be made immediately at the time and on the date that the obligation to pay arises or at such other time as is specified by the Clearing House in writing.
  - (c) Upon notice from the Clearing House that a transfer of funds from a Clearing Member's Nominated Bank Account was not effected as instructed by the Clearing House for any reason, the Clearing Member shall deliver to the Clearing House the amount required at such time and in such form as the Clearing House may prescribe.
  - (d) Various authorities and powers are granted to the Clearing House pursuant to clause 5.2 of the Clearing Membership Agreement for purposes of supporting the payment arrangements set out in this Rule 302. For the avoidance of doubt, the reference in the fourth sentence of clause 5.2 of the Clearing Membership Agreement that the "Approved Financial Institutions will act upon any instructions received from the Clearing House" shall be understood to mean that the "Approved Financial Institutions shall be authorised and directed to act upon any instructions received from the Clearing House".
  - (e) Each Customer Account of a Clearing Member shall be treated separately for purposes of any payments under Rule 302(a). Where a Clearing Member has more than one Customer Account, there shall be separate payments in respect of each such Customer Account (except for Margin-flow Co-mingled Accounts and Segregated Gross Indirect Accounts, where payments to the Clearing House and payments from the Clearing House may each be separately aggregated across all Margin-flow Co-mingled Accounts or Segregated Gross Indirect Accounts using the same position-keeping account or separately instructed and mutually offset prior to settlement in accordance with Rule 302(a)(v)-(viii)).

#### **Rule 303      *Set Off***

- (a) Subject to Rule 102(q), the Clearing House may set off any obligation due to it from a Clearing Member against any obligation owed by the Clearing House to, or for the account of, the Clearing Member, regardless of whether payment is due under the Standard Payments Mechanism or the Externalised Payments Mechanism, the place of payment, account, branch or currency of either obligation. If the obligations referred to in this Rule 303(a) are in different currencies, the Clearing House may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set off.
- (b) Subject to Rule 102(q), the Clearing House shall be entitled to make any necessary adjustments to the Clearing Member's Proprietary Accounts and Customer Accounts resulting from exercise of its rights of set off.
- (c) The rights of the Clearing House in this Rule 303 are without prejudice to any rights of lien, set-off, netting, liquidation, combination of accounts or appropriation, or to instruct the same



### *Part 3 – Financial Requirements and Payments*

or any other rights or remedies of the Clearing House or any Approved Financial Institution, whether under these Rules or otherwise.

- (d) Without prejudice to Applicable Laws of mandatory application following an Insolvency, notwithstanding any existing or future agreement and except as expressly provided in these Rules, the Clearing Membership Agreement, any Sponsored Principal Clearing Agreement, any Sponsor Agreement, the Procedures or a Contract, each Clearing Member irrevocably waives any and all rights it may have to set off, net, recoup, combine accounts or otherwise withhold or suspend or condition payment or performance of any obligation between the Clearing House and such Clearing Member under these Rules or any Contract against any obligations between the Clearing House and such Clearing Member or any branch or Affiliate of the Clearing House or of such Clearing Member, under any other agreements.

#### ***Rule 304      Sponsored Principals and Sponsors***

- (a) This Part 3 applies to Sponsored Principals in the same way as it applies to Clearing Members, with the following modifications:
- (i) Rule 301(k) does not apply.
- (ii) Rule 302(a) does not apply, except for the first two sentences thereof. The Clearing House shall advise each Sponsored Principal (or, if the Sponsor acts as the Sponsored Principal's Representative for purposes of making payments, the Sponsor) of the net amount due to or from the Sponsored Principal in respect of its Individually Segregated Sponsored Account on each Business Day (or more frequently if the Clearing House determines to make an intra-day call in accordance with the Finance Procedures) and:
- (A) if the net amount is due to the Clearing House, the Clearing House shall instruct the Sponsored Principal's Approved Financial Institution to transfer funds from the relevant Nominated [Bank](#) Account with the Approved Financial Institution to a Clearing House Account in an amount equal to the amount so due; and
- (B) if the net amount is due to the Sponsored Principal, the Clearing House shall instruct the Sponsored Principal's Approved Financial Institution to transfer funds from a Clearing House Account to the relevant Nominated [Bank](#) Account with the Approved Financial Institution in an amount equal to the amount so due;
- (iii) Rule 302(d) does not apply. Various authorities and powers are granted to the Clearing House pursuant to clause 5.2 of the Sponsored Principal Clearing Agreement and clause 5.2 of the Sponsor Agreement for purposes of supporting the payment arrangements set out in this Part 3.
- (iv) Rule 302(e) does not apply.

**Part 3 – Financial Requirements and Payments**

- (v) Rule 303 does not permit the Clearing House to exercise rights of set off as between any obligation, right or liability arising in connection with an Individually Segregated Sponsored Account and any between any obligation, right or liability arising in connection with any Customer Account (not being an Individually Segregated Sponsored Account) in respect of which the Sponsored Principal is a Customer.
- (vi) If the Sponsor acts as the Sponsored Principal's Representative for purposes of making payments:
  - (A) any payment made by a Sponsor to the Clearing House in respect of an Individually Segregated Sponsored Account shall discharge by an equivalent amount the obligations of the Sponsored Principal to the Clearing House; and
  - (B) any payment made to a Sponsor by the Clearing House in respect of an Individually Segregated Sponsored Account shall discharge by an equivalent amount the obligations of the Clearing House to the Sponsored Principal.
- (vii) Nothing in this Part 3 requires a Sponsored Principal to transfer Guaranty Fund Contributions to the Clearing House.

***Rule 305 National Grid***

Solely in relation to ICE Endex UK Transactions:

- (a) the Clearing House may make payments from a Clearing House Account to the Clearing Member of National Grid and make an equivalent debit to a relevant Clearing Member's Nominated Bank Account in accordance with the provisions of TPD X.2.8 of the Network Code or, where it believes that a Cash Call (as defined in the Network Code) is imminently to be made by National Grid in accordance with TPD X of the Network Code, in anticipation of such Cash Call being made, in an amount equal to the amount for which the Clearing House reasonably believes such Cash Call is to be made.
- (b) For the avoidance of doubt, there shall be no double recovery as between the Clearing House and National Grid or its Clearing Member of amounts payable under the provisions of these Rules and the Network Code.

## Part 4 – Clearing Mechanism

### **Part 4      *Clearing Mechanism***

#### **Rule 401      *Formation of Contracts***

- (a) Subject to Rule 403 and Rule 404, two Contracts shall arise automatically, one between the Selling Counterparty and the Clearing House and the other between the Clearing House and the Buying Counterparty (or a single Contract shall arise between the Clearing House and a Buying Counterparty or Selling Counterparty where applicable in the case of Rule 401(a)(vi)), at the moment that:
- (i) in the case of any F&O Matched Transaction, the relevant orders are matched on the relevant Market;
  - (ii) [Not used.];
  - (iii) in the case of any F&O Block Transaction, the relevant Market receives and has recorded on its system complete data in respect of the Transaction;
  - (iv) [Not used.];
  - (v) in the case of Transactions generated by a Market as a result of the operation of its contra trade, error trade, invalid trade, cancelled trade, trade correction, error correction, manifest error or similar policies and rules or procedures relating thereto or otherwise, upon notice of the final terms of the Transaction being received by the Clearing House;
  - (vi) in the case of a Contract that is formed as a result of another Contract being Invoiced Back by the Clearing House, immediately upon notice of the existence and final terms of the new Contract being given by the Clearing House to the Clearing Member or Sponsored Principal affected;
  - (vii) in the case of a Contract (including a Contract of Sale) that forms as a result of an Option being exercised in accordance with Part 8, immediately upon such exercise taking effect pursuant to Part 8;
  - (viii) in the case of an F&O Contract that is allocated by one Clearing Member or a Sponsored Principal to a different Person (such Person receiving the allocation itself also being a Clearing Member or Sponsored Principal) by agreement of both parties subsequent to that F&O Contract arising but on the same day as that on which such Contract arose, upon both such parties having recorded their agreement to such allocation on the Clearing House's systems;
  - (ix) in the case of a CDS Contract (other than a CDS Contract arising pursuant to Rule 401(1)(xi), the time specified pursuant to the CDS Procedures occurs for the acceptance of CDS Contracts on any day, provided that no such CDS Contract shall arise unless the Clearing House has provided an Acceptance Notice to the Buying Counterparty and Selling Counterparty in accordance with the CDS Procedures in relation to the CDS Contract;

Part 4 – Clearing Mechanism

- (x) [Not used.];
  - (xi) in the case of a CDS Contract arising following the submission of end-of-day prices by a CDS Clearing Member pursuant to Rule 503(g), at the time specified by the Clearing House for the entry into of the relevant CDS Contract, provided that (A) the Clearing House has given notice to the relevant CDS Clearing Member of the particulars of the CDS Contract involved and the price or Initial Payment at which such CDS Contract will be recorded on the Clearing House's books and records in accordance with the CDS Procedures; and (B) no such CDS Contract shall arise unless the Clearing House has provided an Acceptance Notice to the Buying Counterparty and Selling Counterparty (each of which are CDS Clearing Members but not Sponsored Principals, acting for one of their Proprietary Accounts) in accordance with the CDS Procedures in relation to the CDS Contract;
  - (xii) in the case of an FX Contract (other than an FX Contract arising pursuant to Rule 401(a)(vi)), the time specified pursuant to the Procedures occurs for the acceptance of the FX Contract, provided that no such FX Contract shall arise unless the Clearing House has provided an FX Acceptance Notice to the Buying Counterparty and Selling Counterparty in accordance with the Procedures in relation to the FX Contract; and
  - (xiii) in the case of a Contract arising under Rule 404(c)(i), at the time of execution of relevant documentation or otherwise when a replacement Contract arises in accordance with that provision.
- (b) For F&O Contracts only, a Contract or Contracts reversing the existing Contract or Contracts shall arise between the Clearing House and the Buying Counterparty and/or the Clearing House and the Selling Counterparty at the moment that an alternative delivery is agreed in respect of a Contract where, pursuant to the Clearing Procedures and Market Rules, a new collateral contract arises as a result of the alternative delivery being agreed, at the time and subject to the conditions and effects on existing Contracts specified in the Clearing Procedures.
  - (c) Other than as specifically set out in the CDS Procedures or FX Procedures, the Clearing House shall be entitled to rely conclusively on the accuracy and authenticity of any and all information and data regarding any Transaction submitted to the Clearing House by or on behalf of a Market, Exchange, Repository, CDS Trade Execution/Processing Platform, FX Trade Execution/Processing Platform, Clearing Member, Sponsored Principal, Sponsor or Representative of a Clearing Member, Sponsored Principal or Sponsor or Deriv/SERV, whether or not a Clearing Member, Sponsored Principal, Sponsor or one of their Representatives in fact authorised the submission of such information or the details so submitted.
  - (d) In the case of a new Contract that forms as a result of another Contract being Invoiced Back pursuant to Rule 401(a)(vi), the new Contract shall be on the same terms as the original Contract, except that the roles of Buying Counterparty and the Clearing House or, as the case may be, the Selling Counterparty and the Clearing House shall be reversed and

Part 4 – Clearing Mechanism

the Clearing House shall be entitled, at its discretion, to determine the price or Initial Payment at which the Contract was bought or sold and any delivery or settlement price.

- (e) In the case of a Contract that forms as a result of another Contract being subject to allocation pursuant to Rule 401(a)(viii), the new Contract shall be on the same terms as the original Contract, except that the identity of the Clearing Member or Sponsored Principal being the Buying Counterparty or Selling Counterparty shall be different, in accordance with the allocation instructions received by the Clearing House. The Clearing Member that was party to the original Contract and the Clearing House shall each automatically and immediately be released and discharged from all their rights, liabilities and obligations in respect of the original Contract upon formation of the new Contract.
- (f) Upon request by the Clearing House, a Buying Counterparty or Selling Counterparty shall promptly confirm or otherwise notify the details of any Contract or Transaction to the Clearing House in such form and manner as the Clearing House requests. Any such confirmation or notification shall not of itself affect the status or terms of any Contract.
- (g) Each Clearing Member shall promptly and accurately designate each new Contract (in the case of CDS Contracts through the submission of CDS Trade Particulars, in the case of FX Contracts through the submission of FX Trade Particulars and in the case of F&O Contracts through the ICE Systems) in accordance with Applicable Laws as: (i) related either to one of its Proprietary Position AccountAccounts, one of its Customer Position Accounts (if any) or Position Account linked to an Individually Segregated Sponsored Account for which it acts as Sponsor; and (ii) in the case of CDS Contracts as related to a particular CDS Sub-Account or in the case of F&O Contracts or FX Contracts to any relevant sub-account in the ICE Systems. If a Clearing Member or Sponsored Principal becomes aware of any event or circumstance which results in any designation previously made by it under this Rule 401(g) having been incorrect or requiring amendment, it shall provide a further designation to the Clearing House, specifying any required transfers between accounts or sub-accounts which, if acted upon by the Clearing House, would result in any Contract affected by such event or circumstance being correctly designated as for the appropriate Position Account, CDS Sub-Account (if applicable) and sub-account in the ICE Systems (if applicable). Each Clearing Member having a Customer Account shall submit to the Clearing House on a daily basis (or more frequent basis, on request) accurate data on the breakdown of its entire Open Contract Position for each such Customer Account on a per Customer basis. The Clearing House shall be entitled to act and shall (subject, in the case of any transfers, to the requirements of Rule 408(a)) act upon all designations and information submitted by Clearing Members in recording Contracts in Position Accounts, CDS Sub-Accounts or other sub-accounts designated by the Clearing Member or otherwise provided under this Rule 401(g) from time to time, without the need for any further enquiry on the part of the Clearing House.
- (h) Where a Clearing Member has appointed a Disclosed Principal Member, the Disclosed Principal Member shall be the Buying Counterparty or the Selling Counterparty (as applicable) instead of the relevant Clearing Member in respect of all Contracts arising under this Rule 401 to which that Clearing Member would, but for the requirements of this

Part 4 – Clearing Mechanism

Rule 401(h), otherwise be party. All provisions of these Rules relating to Contracts and Clearing Members shall be construed accordingly.

(i) In order for a Contract to arise pursuant to:

- (i) Rule 401(a)(i), (iii), (v), (vii) or (viii); or
- (ii) Rule 401(a)(vi) in relation to an Energy Contract,

each Clearing Member that is a Buying Counterparty or Selling Counterparty must be an Energy Clearing Member and an F&O Clearing Member and each Sponsored Principal that is a Buying Counterparty or Selling Counterparty must be authorised to clear Energy and F&O.

(j) In order for a Contract to arise pursuant to:

- (i) Rule 401(a)(i), (iii), (v), (vii) or (viii); or
- (ii) Rule 401(a)(vi) in relation to a Financials & Softs Contract,

each Clearing Member that is a Buying Counterparty or Selling Counterparty must be a Financials & Softs Clearing Member and an F&O Clearing Member and each Sponsored Principal that is a Buying Counterparty or Selling Counterparty must be authorised to clear Financials & Softs and F&O.

(k) In order for a Contract to arise pursuant to:

- (i) Rule 401(a)(ix), (x) or (xi); or
- (ii) Rule 401(a)(vi) or 401(a)(xiii) in relation to a CDS Contract,

each Clearing Member that is a Buying Counterparty or Selling Counterparty must be an CDS Clearing Member and each Sponsored Principal that is a Buying Counterparty or Selling Counterparty must be authorised to clear CDS.

(l) In order for a Contract to arise pursuant to:

- (i) Rule 401(a)(xii); or
- (ii) Rule 401(a)(vi) or Rule 401(a)(xiii) in relation to an FX Contract,

each Clearing Member that is a Buying Counterparty or Selling Counterparty must be an FX Clearing Member and each Sponsored Principal that is a Buying Counterparty or Selling Counterparty must be authorised to clear FX.

(m)

- (i) On each occasion that a Contract arises under Rule 401(a), each affected Clearing Member, Sponsored Principal, Customer and the Clearing House, as applicable, shall



Part 4 – Clearing Mechanism

ensure that the details of such Contract and/or any related Customer-CM Transaction they have concluded, as the case may be, and any modification or termination of such Contract and/or Customer-CM Transaction, as applicable, is reported to a Repository, in accordance with Applicable Laws, no later than the working day following the conclusion, modification or termination of the Contract, as applicable, and in accordance with any applicable Procedures.

- (ii) In the case of an F&O Contract, the relevant Market shall be authorised to submit the terms of the F&O Contract (and any related Customer-CM Transaction) to any Repository as a delegate for the Clearing House, Clearing Member, Sponsored Principal and Customer, as applicable, save where the relevant Clearing Member notifies the Clearing House or Market in writing that it does not require the Market to act as such (whether generally or in respect of particular Customers, Sponsored Principals or kinds of Contract).
- (iii) In the case of an FX Contract a submission to a Repository shall include identical terms as the original submission for clearing of the FX Trade Particulars or the FX Contract arising under Rule 401(a)(xii), as applicable, adjusted to take into account any netting and aggregation of FX Contracts pursuant to Rule 406.
- (iv) In the case of a CDS Contract:
  - (A) each affected Clearing Member, Sponsored Principal, Customer and the Clearing House, as applicable, shall ensure that the details of any Transaction, Contract and/or Customer-CM Transaction, are also submitted to Deriv/SERV in accordance with the CDS Procedures;
  - (B) the submission referred to in (A) above shall include identical terms as the original submission for clearing of the CDS Trade Particulars or the CDS Contract arising under Rule 401(a)(xi), adjusted to take into account netting and aggregation of CDS Contracts pursuant to Rule 406; and
  - (C) the Clearing House shall be authorised to submit the terms of a Transaction or Contract to Deriv/SERV.
- (v) In the case of either a CDS Contract or an FX Contract, the Clearing House shall be authorised to submit the terms of such Contract (and any related Customer-CM Transaction) to any Repository as a delegate for the Clearing Member, Sponsored Principal and Customer, as applicable, save where the relevant Clearing Member notifies the Clearing House in writing that it does not require the Clearing House to act as such (whether generally or in respect of particular Customers, Sponsored Principals or kinds of Contract.)
- (n) Where an F&O Contract (other than an ICE Futures US Contract) arises pursuant to this Rule 401 as a result of trading, submission of trade data or other action by or relating to a Customer of a Non-FCM/BD Clearing Member, an opposite Customer-CM F&O Transaction shall arise between such Customer and Clearing Member at the same time as the Contract (and may be void or voided in the same manner as a Contract may be void or

#### Part 4 – Clearing Mechanism

voided pursuant to this Part 4 *mutatis mutandis*) and further corresponding transactions may arise between Customers, in the manner specified by and in accordance with the relevant Market Rules.

- (o) Where a CDS Contract arises pursuant to Rule 401 for the Customer Account of a Non-FCM/BD CDS Clearing Member, a Customer-CM CDS Transaction shall arise (or, any previously existing transaction shall be amended and restated in the form of a Customer-CM CDS Transaction) between the Customer and that Non-FCM/BD CDS Clearing Member at the same time as the Contract. Where an FX Contract arises pursuant to Rule 401 for the Customer Account of a Non-FCM/BD Clearing Member, a Customer-CM FX Transaction shall arise (or, any previously existing transaction shall be amended and restated in the form of a Customer-CM FX Transaction) between the Customer and that Non-FCM/BD Clearing Member at the same time as the Contract.
- (p) When a Clearing Member enters into any Contract, becomes subject to a guarantee in respect of a Contract, takes any action which results in a Contract arising for its own account, becomes bound joint and severally with a Sponsored Principal in respect of a Contract, or has a Contract recorded in a Proprietary Account or Customer Account in its name (or, in respect of an Individually Segregated Sponsored Account, the Sponsored Principal's name), it may do so in only one of the following capacities:
  - (i) if it is an FCM/BD Clearing Member, as a clearing member in relation to a transaction or transactions connected with the provision of services to one or more Non-DCM/Swap Customers, in which case the Contract shall be designated by the Clearing Member in accordance with Rule 401(g) as for a Non-DCM/Swap Customer Account and recorded by the Clearing House in accordance with such designation;
  - (ii) if it is an FCM/BD Clearing Member, as a clearing member in relation to a transaction or transactions connected with the provision of services to one or more DCM Customers, in which case the Contract shall be designated by the Clearing Member in accordance with Rule 401(g) as for a DCM Customer Account and recorded by the Clearing House in accordance with such designation;
  - (iii) if it is an FCM/BD Clearing Member, as a clearing member in relation to a transaction or transactions connected with the provision of services to one or more Swap Customers, in which case the Contract shall be designated by the Clearing Member in accordance with Rule 401(g) as for a Swap Customer Account and recorded by the Clearing House in accordance with such designation;
  - (iv) if it is an FCM/BD Clearing Member, as a clearing member in relation to a transaction or transactions connected with the provision of services to one or more SBS Customers, in which case the Contract shall be designated by the Clearing Member in accordance with Rule 401(g) as for an SBS Customer Account and recorded by the Clearing House in accordance with such designation;
  - (v) if it is an FCM/BD Clearing Member, as a clearing member in relation to a transaction or transactions connected with the provision of services to one or more

Part 4 – Clearing Mechanism

General Customers in respect of F&O Contracts in which case the Contract shall be designated by the Clearing Member in accordance with Rule 401(g) as for a General Customer Account and recorded by the Clearing House in accordance with such designation;

- (vi) [Not Used.]
- (vii) if it is a Non-FCM/BD Clearing Member, as a clearing member in relation to a transaction or transactions connected with the provision of services to one or more Segregated Customers acting for their own account in respect of F&O Contracts, in which case the Contract shall be designated by the Clearing Member in accordance with Rule 401(g) as for:
  - (A) a Segregated Customer Omnibus Account For F&O if the client chooses omnibus account segregation and has not requested use of an Omnibus Margin-flow Co-mingled Account;
  - (B) an Individually Segregated Sponsored Account if the client chooses individual client segregation and has been admitted to the Clearing House as a Sponsored Principal;
  - (C) an Individually Segregated Margin-flow Co-mingled Account if the client chooses individual client segregation and has not been admitted to the Clearing House as a Sponsored Principal; or
  - (D) an Omnibus Margin-flow Co-mingled Account if the client chooses omnibus client segregation but requests to do so only as part of a particular group of Customers,

and in either case the Contract shall be recorded by the Clearing House in accordance with such designation;

- (viii) if it is a Non-FCM/BD Clearing Member, as a clearing member in relation to a transaction or transactions connected with the provision of services to one or more Segregated TTFCA Customers acting for their own account in respect of F&O Contracts, in which case the Contract shall be designated by the Clearing Member in accordance with Rule 401(g) as for:
  - (A) a Segregated TTFCA Customer Omnibus Account For F&O if the client chooses omnibus account segregation and has not requested use of an Omnibus Margin-flow Co-mingled Account;
  - (B) an Individually Segregated Sponsored Account if the client chooses individual client segregation and has been admitted to the Clearing House as a Sponsored Principal;

Part 4 – Clearing Mechanism

- (C) an Individually Segregated Margin-flow Co-mingled Account if the client chooses individual client segregation and has not been admitted to the Clearing House as a Sponsored Principal; or
- (D) an Omnibus Margin-flow Co-mingled Account if the client chooses omnibus client segregation but requests to do so only as part of a particular group of Customers,

and in either case the Contract shall be recorded by the Clearing House in accordance with such designation;

- (ix) if it is a Non-FCM/BD Clearing Member, as a clearing member in relation to a transaction or transactions connected with the provision of services to one or more Segregated Customers acting for their own account in respect of CDS Contracts, in which case the Contract shall be designated by the Clearing Member in accordance with Rule 401(g) as for:

- (A) a Segregated Customer Omnibus Account For CDS if the client chooses omnibus account segregation and has not requested use of an Omnibus Margin-flow Co-mingled Account;
- (B) an Individually Segregated Sponsored Account if the client chooses individual client segregation and has been admitted to the Clearing House as a Sponsored Principal;
- (C) an Individually Segregated Margin-flow Co-mingled Account if the client chooses individual client segregation and has not been admitted to the Clearing House as a Sponsored Principal; or
- (D) an Omnibus Margin-flow Co-mingled Account if the client chooses omnibus client segregation but requests to do so only as part of a particular group of Customers,

and in either case the Contract shall be recorded by the Clearing House in accordance with such designation;

- (x) if it is a Non-FCM/BD Clearing Member, as a clearing member in relation to a transaction or transactions connected with the provision of services to one or more Segregated TTFCA Customers acting for their own account in respect of CDS Contracts, in which case the Contract shall be designated by the Clearing Member in accordance with Rule 401(g) as for:

- (A) a Segregated TTFCA Customer Omnibus Account For CDS if the client chooses omnibus account segregation and has not requested use of an Omnibus Margin-flow Co-mingled Account;

Part 4 – Clearing Mechanism

- (B) an Individually Segregated Sponsored Account if the client chooses individual client segregation and has been admitted to the Clearing House as a Sponsored Principal;
- (C) an Individually Segregated Margin-flow Co-mingled Account if the client chooses individual client segregation and has not been admitted to the Clearing House as a Sponsored Principal; or
- (D) an Omnibus Margin-flow Co-mingled Account if the client chooses omnibus client segregation but requests to do so only as part of a particular group of Customers,

and in either case the Contract shall be recorded by the Clearing House in accordance with such designation;

- (xi) if it is a Non-FCM/BD Clearing Member, as a clearing member in relation to a transaction or transactions connected with the provision of services to one or more Segregated Customers acting for their own account in respect of FX Contracts, in which case the Contract shall be designated by the Clearing Member in accordance with Rule 401(g) as for:
  - (A) a Segregated Customer Omnibus Account For FX if the client chooses omnibus account segregation and has not requested use of an Omnibus Margin-flow Co-mingled Account;
  - (B) an Individually Segregated Sponsored Account if the client chooses individual client segregation and has been admitted to the Clearing House as a Sponsored Principal;
  - (C) an Individually Segregated Margin-flow Co-mingled Account if the client chooses individual client segregation and has not been admitted to the Clearing House as a Sponsored Principal; or
  - (D) an Omnibus Margin-flow Co-mingled Account if the client chooses omnibus client segregation but requests to do so only as part of a particular group of Customers,

and in either case the Contract shall be recorded by the Clearing House in accordance with such designation;

- (xii) if it is a Non-FCM/BD Clearing Member, as a clearing member in relation to a transaction or transactions connected with the provision of services to one or more Segregated TTFCA Customers acting for their own account in respect of FX Contracts, in which case the Contract shall be designated by the Clearing Member in accordance with Rule 401(g) as for:

Part 4 – Clearing Mechanism

- (A) a Segregated TTFCA Customer Omnibus Account For FX if the client chooses omnibus account segregation and has not requested use of an Omnibus Margin-flow Co-mingled Account;
- (B) an Individually Segregated Sponsored Account if the client chooses individual client segregation and has been admitted to the Clearing House as a Sponsored Principal;
- (C) an Individually Segregated Margin-flow Co-mingled Account if the client chooses individual client segregation and has not been admitted to the Clearing House as a Sponsored Principal;
- (D) an Omnibus Margin-flow Co-mingled Account if the client chooses omnibus client segregation but requests to do so only as part of a particular group of Customers,

and in either case the Contract shall be recorded by the Clearing House in accordance with such designation;

- (xiii) if it is a Non-FCM/BD Clearing Member, as a clearing member in relation to a transaction or transactions connected with the provision of services to one or more Segregated Customers which is in turn providing services to one or more Indirect Clients in respect of F&O Contracts, in which case the Contract shall be designated by the Clearing Member in accordance with Rule 401(g) as for:
  - (A) a Segregated Gross Indirect Account, if the Customer has communicated to the Clearing Member that the Indirect Client has elected to use such an account; or
  - (B) otherwise, a Standard Omnibus Indirect Account For F&O,

and in either case the Contract shall be recorded by the Clearing House in accordance with such designation;

- (xiv) if it is a Non-FCM/BD Clearing Member, as a clearing member in relation to a transaction or transactions connected with the provision of services to one or more Segregated TTFCA Customers which is in turn providing services to one or more Indirect Clients in respect of F&O Contracts, in which case the Contract shall be designated by the Clearing Member in accordance with Rule 401(g) as for:
  - (A) a Segregated Gross Indirect Account, if the Customer has communicated to the Clearing Member that the Indirect Client has elected to use such an account; or
  - (B) otherwise, a Standard TTFCA Omnibus Indirect Account For F&O,

and in either case the Contract shall be recorded by the Clearing House in accordance with such designation;



Part 4 – Clearing Mechanism

(xv) if it is a Non-FCM/BD Clearing Member, as a clearing member in relation to a transaction or transactions connected with the provision of services to one or more Segregated Customers which is in turn providing services to one or more Indirect Clients in respect of CDS Contracts, in which case the Contract shall be designated by the Clearing Member in accordance with Rule 401(g) as for:

(A) a Segregated Gross Indirect Account, if the Customer has communicated to the Clearing Member that the Indirect Client has elected to use such an account; or

(B) otherwise, a Standard Omnibus Indirect Account For CDS,

and in either case the Contract shall be recorded by the Clearing House in accordance with such designation;

(xvi) if it is a Non-FCM/BD Clearing Member, as a clearing member in relation to a transaction or transactions connected with the provision of services to one or more Segregated TTFCA Customers which is in turn providing services to one or more Indirect Clients in respect of CDS Contracts, in which case the Contract shall be designated by the Clearing Member in accordance with Rule 401(g) as for:

(A) a Segregated Gross Indirect Account, if the Customer has communicated to the Clearing Member that the Indirect Client has elected to use such an account; or

(B) otherwise, a Standard TTFCA Omnibus Indirect Account For CDS,

and in either case the Contract shall be recorded by the Clearing House in accordance with such designation;

(xvii) if it is a Non-FCM/BD Clearing Member, as a clearing member in relation to a transaction or transactions connected with the provision of services to one or more Segregated Customers which is in turn providing services to one or more Indirect Clients in respect of FX Contracts, in which case the Contract shall be designated by the Clearing Member in accordance with Rule 401(g) as for:

(A) a Segregated Gross Indirect Account, if the Customer has communicated to the Clearing Member that the Indirect Client has elected to use such an account; or

(B) otherwise, a Standard Omnibus Indirect Account For FX,

and in either case the Contract shall be recorded by the Clearing House in accordance with such designation;

(xviii) if it is a Non-FCM/BD Clearing Member, as a clearing member in relation to a transaction or transactions connected with the provision of services to one or more Segregated TTFCA Customers which is in turn providing services to one or more

#### Part 4 – Clearing Mechanism

Indirect Clients in respect of FX Contracts, in which case the Contract shall be designated by the Clearing Member in accordance with Rule 401(g) as for:

- (A) a Segregated Gross Indirect Account, if the Customer has communicated to the Clearing Member that the Indirect Client has elected to use such an account; or
- (B) otherwise, a Standard TTFCOA Omnibus Indirect Account For FX,

and in either case the Contract shall be recorded by the Clearing House in accordance with such designation; or

- (xix) as a clearing member in any other capacity (including where the Clearing Member does not provide any services to any Customer) in which case the Contract shall be designated by the Clearing Member in accordance with Rule 401(g) as for a Proprietary Account of the Clearing Member and recorded by the Clearing House in accordance with such designation.
- (q) For the avoidance of doubt, for the purposes of section 187 of the Companies Act 1989, a Clearing Member with more than one Account enters into Contracts recorded in its each such Account in a different capacity to that in which it enters into Contracts recorded in any other Account.
- (r) A Contract shall only arise under Rule 401(a)(i) or Rule 401(a)(iii) in relation to an ICE Endex Spot Market Transaction where the relevant user or users elect to trade in a product which is designated by ICE Endex Spot Market as a cleared product.

#### ***Rule 402 Relationship between Buying Counterparties, Selling Counterparties and Clearing House***

- (a) Save to the extent provided in Part 16 for FCM/BD Clearing Members and Rule 401(h) each Clearing Member or Sponsored Principal that is party to a Contract shall act as principal and not as agent. In performing its obligations and exercising its rights under these Rules, the Clearing House shall treat the entitlement of Clearing Members and Sponsored Principals to rights pursuant to Contracts to be a full legal and beneficial entitlement and not subject to any Encumbrance in favour of any Person other than the Clearing House (other than pursuant to the Contract Terms).
- (b) Upon the formation of a Contract in accordance with Rule 401, any Clearing Member or Sponsored Principal that has any Transaction Rights or Obligations in relation to the original Transaction shall be automatically and immediately released and discharged from all and any such Transaction Rights or Obligations other than: (i) any Transaction Rights or Obligations falling due for performance before the formation of such Contract; and (ii) any Transaction Rights or Obligations relating to any Initial Payment under any Bilateral CDS Transaction recorded in Deriv/SERV before submission for Clearing.
- (c) The liabilities and obligations of the Clearing House pursuant to Contracts extend only to, and are enforceable only by, Clearing Members and Sponsored Principals. Without limiting

## Part 4 – Clearing Mechanism

the generality of the foregoing, the Clearing House shall have no liability or obligation whatsoever to any Customer (other than a Sponsored Principal) of a Clearing Member or any client of such a Customer.

- (d) The Clearing House shall have no liability or obligation in relation to any Transaction whatsoever, unless and until a Contract arises in accordance with Rule 401 and is not void; in which case its liabilities shall be pursuant to the Contract only. The Clearing House's obligations and liabilities under any Contract shall be limited to those pursuant to the Contract Terms and these Rules, and are subject to the Contract not being void pursuant to Rule 403 and to the Clearing House's rights in relation to voidable Contracts pursuant to Rule 404.
- (e) As between the Clearing House and each Clearing Member, all Contracts, these Rules and the relevant Clearing Membership Agreement (and any relevant Sponsor Agreement) are entered into in reliance on the fact that all such documents constitute a single agreement between the Clearing House and such Clearing Member. Were it not for these Rules, the Clearing Membership Agreement and other Contracts, neither the Clearing House nor such Clearing Member would enter into any Contracts with the other. As between the Clearing House and each Sponsored Principal, all Contracts, these Rules and the relevant Sponsored Principal Clearing Agreement are entered into in reliance on the fact that all such documents constitute a single agreement between the Clearing House and such Sponsored Principal. Were it not for these Rules, the Sponsored Principal Clearing Agreement and other Contracts (and the existence of the Sponsor Agreement and designation of the Sponsored Principal as being covered thereunder by the Sponsor) neither the Clearing House nor such Sponsored Principal would enter into any Contracts with the other.
- (f) In the case of a Contract between the Clearing House and an FCM/BD Clearing Member that is recorded in a Customer Account, the Contract will remain valid and binding on the FCM/BD Clearing Member, and the FCM/BD Clearing Member will be liable to perform under the Contract as set forth in Part 16, regardless of the validity of any obligations in respect of the Contract to which the Customer is or was intended to be bound.

### **Rule 403      *F&O Contracts that are Void from Inception***

- (a) No F&O Contract will arise (it being void *ab initio*) and the Clearing House shall have no obligation or liability to any Person in respect of a Transaction for which incomplete, erroneous or conflicting details are received by the relevant Market.
- (b) In the event of an F&O Contract being void:
  - (i) the Clearing House shall immediately notify the affected Buying Counterparty and Selling Counterparty and any relevant Market;
  - (ii) all amounts paid pursuant to the purported F&O Contract shall be returned by the affected Buying Counterparty and Selling Counterparty and the Clearing House to their respective contractual counterparties, in each case without interest; and

## Part 4 – Clearing Mechanism

- (iii) any Transaction Rights or Obligations shall be deemed never to have been affected by Rule 402(b).
- (c) Nothing in this Rule 403 of itself is intended to result in any Transaction or Transaction Rights or Obligations being void or voided as between the original parties thereto.

### **Rule 404      *Contracts that are Voidable***

- (a) In relation only to F&O Contracts, the Clearing House shall have the discretion to avoid any Contract (which is not void *ab initio* pursuant to Rule 403) if the relevant Contract or Transaction (or related information or data received by the Clearing House, as applicable) whether in whole or in part, as against any Clearing Member, Sponsored Principal or Sponsor that is or would be bound thereto:
  - (i) conflicts or appears to conflict with information received by the Clearing House in relation to such Contract or Transaction from another source, including (without limitation) information received from a Market, Exchange, any other Clearing Member, Sponsored Principal, Sponsor, Governmental Authority or any Representative of any such Person;
  - (ii) results or appears to result from a manifest error, or communications or information technology error or problem;
  - (iii) is or appears to be connected with fraud, illegality, insider dealing, market abuse, money laundering or any other breach of Applicable Laws;
  - (iv) is or appears to be a result of a Force Majeure Event;
  - (v) is one which any Governmental Authority or any Market requires or requests in writing that the Clearing House treat as void or voided;
  - (vi) is one which any Applicable Law provides is void or voided or which any Applicable Law requires the Clearing House to treat as void or voided;
  - (vii) is one in respect of which, at the time of the Transaction, the Clearing House has requested additional Margin or Permitted Cover from the Clearing Member or Sponsored Principal and no Margin or Permitted Cover is provided by the time required;
  - (viii) was entered into in breach of a representation by a Clearing Member or Sponsored Principal arising under the Rules or the Procedures;
  - (ix) is otherwise made or received in such circumstances or in such a manner that acceptance of the Contract or Transaction would be inadvisable, in the opinion of the Clearing House, for the Clearing House's own protection, the protection of Clearing Members generally, Energy Clearing Members generally, Financials & Softs Clearing Members generally, F&O Clearing Members generally, Sponsored Principals or the protection of a Market or marketplace in any class of Contracts; or

*Part 4 – Clearing Mechanism*

- (x) solely in respect of ICE Endex UK Transactions, ICE Endex UK Contracts, ICE Endex Spot Market Transactions and ICE Endex Spot Market Contracts, is one in relation to which any corresponding Trade Nomination has been rejected by the relevant Delivery Facility.
- (b) If any CDS Contract or FX Contract, as against any Clearing Member, Sponsored Principal or Sponsor that is or would be bound thereto:
  - (i) is one which any Governmental Authority requires or requests in writing that the Clearing House treat as void or voided;
  - (ii) is one which any Applicable Law provides is void or voided, or requires the Clearing House to treat as void or voided;
  - (iii) is one which, whether in whole or in part, pursuant to any Applicable Law is voidable; or
  - (iv) is unenforceable by the Clearing House,

then the Clearing House shall act in accordance with Rule 404(c). A Contract shall not be subject to Rule 404(b)(iii) or (iv) if a Buying Counterparty or Selling Counterparty is subject to fraud, illegality, insider dealing, market abuse, money laundering, breach of Applicable Laws or other grounds for the Contract being void, voidable or unenforceable solely as a result of it having submitted a Transaction in circumstances in which the simultaneously arising Contract to which another Buying Counterparty or Selling Counterparty is subject to Rule 404(b)(iii) or (iv).

- (c) If any of the circumstances set out in Rule 404(b)(i) and (ii) arises, the Clearing House shall comply with any relevant request, requirement or provision, and, if Rule 404(b)(iii) or (iv) applies, it may at its discretion avoid the relevant Contract. If the Clearing House exercises its discretion to avoid a Contract or any Contract is otherwise void or voided, the Clearing House may, at its discretion, take action in accordance with this Rule 404(c). Where it does take action under this Rule 404(c), it may take the steps set out in paragraph (i) below or, if that is not reasonably practicable, it may take the steps set out in paragraph (ii) below, in relation to the affected Contract(s):
  - (i) direct the Buying Counterparty or Selling Counterparty who was counterparty to the void or voided Contract to enter into a replacement Contract of equal economic terms to the void or voided Contract or sign documentation confirming the validity of an existing Contract, in which case the Buying Counterparty or Selling Counterparty in question (and, if it is a Sponsored Principal, its Sponsor) shall forthwith execute or sign such documentation as is directed by the Clearing House, which documentation may contain any terms specified by the Clearing House, in order to establish a replacement Contract as near as possible of equal terms to the Contract that is void or voided or confirm the validity of an existing Contract (and in the case of a CDS Contract recorded in a Customer Account, the CDS Contract will then stand regardless of whether or not the Customer is bound by any related Customer-CM Transaction or, in the case of an FCM/BD Clearing Member of the existence of any

Part 4 – Clearing Mechanism

agency or other relationship between the Customer and the Clearing Member in respect of the CDS Contract); or

- (ii) enter into such contracts for its own account as it considers necessary for the Clearing House to achieve a balanced book of Contracts, in which case:
  - (A) the Buying Counterparty or Selling Counterparty who was counterparty to the void or voided Contract shall be liable to pay the Clearing House for all of the Clearing House's costs, expenses and losses incurred in establishing such contracts;
  - (B) the Clearing House shall be entitled to retain all Margin and Guaranty Fund Contributions of the Buying Counterparty or Selling Counterparty (or, if it is a Sponsored Principal, its Sponsor) in question that would otherwise be returned or returnable to such Buying Counterparty or Selling Counterparty (or, if it is a Sponsored Principal, its Sponsor) as a result of the Contract being voided and apply the same as against any amount due to the Clearing House under Rule 404(c)(ii)(A); and
  - (C) the Clearing House shall be entitled to call additional Margin from the Buying Counterparty or Selling Counterparty in question from the time at which the Contract is void until the time that the Clearing House has achieved a balanced book and has been reimbursed in respect of all its costs, expenses and losses incurred in establishing such contracts,

provided that, for the avoidance of doubt, any amounts received by the Clearing House in the process of achieving a balanced book which are in excess of its costs, expenses and losses incurred in establishing such contracts will be repayable to the affected Buying Counterparty or Selling Counterparty.

- (d) If the Clearing House directs a Buying Counterparty or Selling Counterparty (and, if it is a Sponsored Principal, its Sponsor) to enter into a replacement Contract or sign documentation confirming the validity of an existing Contract under Rule 404(c)(i), any failure by the Buying Counterparty or Selling Counterparty (or, if it is a Sponsored Principal, its Sponsor) to do so or to take the steps set out in Rule 404(e) at or before the time reasonably specified by the Clearing House shall constitute grounds for the Clearing House declaring an Event of Default in respect of the Buying Counterparty or Selling Counterparty (and, if it is a Sponsored Principal, its Sponsor), regardless of any event or circumstance which might (but for this provision) constitute a Force Majeure Event. If a Buying Counterparty or Selling Counterparty (or, if it is a Sponsored Principal, its Sponsor) is restricted or prevented by Applicable Law from entering into or signing a valid replacement Contract or signing documentation confirming the validity of an existing Contract, such restriction or prevention (in conjunction with the failure of the Buying Counterparty or Selling Counterparty (or, if it is a Sponsored Principal, its Sponsor) to enter into a replacement Contract or sign effective documentation confirming the validity of an existing Contract where directed to do so by the Clearing House pursuant to Rule 404(c)(i) or to take the steps set out in Rule 404(e)) shall of itself constitute grounds for the Clearing House declaring an Event of Default in respect of the Buying Counterparty or Selling Counterparty (or, in the case of a Sponsor which has



*Part 4 – Clearing Mechanism*

so failed to perform, such Sponsor), regardless of any event or circumstance which might (but for this provision) constitute a Force Majeure Event.

- (e) If, in relation to an F&O Contract, any of the circumstances in Rule 404(a) arises or if, in the case of a CDS Contract or FX Contract only, any of the circumstances set out in Rule 404(b) arises and no replacement Contract is established and the position is not otherwise dealt with pursuant to Rule 404(c), the Clearing House shall immediately notify the affected Buying Counterparty and Selling Counterparty and any relevant Market. Upon such notification:
- (i) the Clearing House, Buying Counterparty and Selling Counterparty shall each immediately be released from all rights, liabilities and obligations under any affected Contract;
  - (ii) the affected Contract shall become null and void;
  - (iii) all amounts paid pursuant to the Contract shall immediately be returned by the Buying Counterparty, Selling Counterparty and Clearing House to their respective contractual counterparties, in each case without interest;
  - (iv) in the case of an F&O Contract;
    - (A) any Transaction Rights or Obligations shall be deemed never to have been affected by Rule 402(b);
    - (B) each affected Buying Counterparty and Selling Counterparty shall submit, or, as the case may be, resubmit the terms of the Transaction to the relevant Repository (if any); and
    - (C) each affected Buying Counterparty and Selling Counterparty or the Clearing House, as the case may be, shall cancel any submission to any Repository relating to the voided F&O Contracts made pursuant to Rule 401(m).
  - (v) in the case of two CDS Contracts (resulting from the same CDS Trade Particulars) being voided in circumstances in which the CDS Trade Particulars reflect a transaction (including any Bilateral CDS Transaction) that is not void or would itself not have been void:
    - (A) if the CDS Trade Particulars represent a Bilateral CDS Transaction or other transaction that was contractually binding prior to being submitted for Clearing:
      - (1) the Bilateral CDS Transaction shall be deemed never to have been terminated; and
      - (2) each affected Buying Counterparty and Selling Counterparty shall submit, or, as the case may be, resubmit the terms of the Bilateral

Part 4 – Clearing Mechanism

CDS Transaction or other transaction to Deriv/SERV and the relevant Repository;

- (B) each affected Buying Counterparty and Selling Counterparty or the Clearing House, as the case may be, shall cancel any submission to Deriv/SERV and the relevant Repository relating to the voided CDS Contracts made pursuant to Rule 401(m); and
  - (C) any Transaction Rights or Obligations shall be deemed never to have been affected by Rule 402(b), except to the extent that any equivalent obligation under a CDS Contract corresponding to a Transaction Right or Obligation has been performed or part-performed; and
- (vi) in the case of two FX Contracts (resulting from the same FX Trade Particulars) being voided in circumstances in which the FX Trade Particulars reflect an FX transaction that is not void or would itself not have been void:
- (A) if the FX Trade Particulars represent an FX transaction that was contractually binding prior to being submitted for Clearing:
    - (1) any such FX transaction shall be deemed never to have been terminated; and
    - (2) each affected Buying Counterparty and Selling Counterparty shall submit, or, as the case may be, resubmit the terms of such FX transaction to the relevant Repository;
  - (B) each affected Buying Counterparty and Selling Counterparty or the Clearing House, as the case may be, shall cancel any submission to any Repository relating to the voided FX Contracts made pursuant to Rule 401(m); and
  - (C) any Transaction Rights or Obligations shall be deemed never to have been affected by Rule 402(b).
- (f) Nothing in this Rule 404 of itself is intended to result in any Transaction or Transaction Rights or Obligations being void or voided as between the original parties thereto, except to the extent that any equivalent obligation under a Contract corresponding to a Transaction Right or Obligation has been performed or part-performed.
- (g) For the avoidance of doubt, Rules 404(b), (c) and (d) shall only apply to CDS Contracts and FX Contracts and shall not apply to F&O Contracts.
- (h) The Clearing House will notify any relevant Market when it avoids a Contract under this Rule 404.

**Rule 405      *Representations and Warranties on Contract Formation***

- (a) In relation to each Contract, the Clearing House will, and will be entitled to, rely on representations and warranties, deemed automatically to arise pursuant to these Rules from

Part 4 – Clearing Mechanism

each Buying Counterparty and Selling Counterparty proposing to become or becoming party to any Contract, that:

- (i) it is in full compliance with the Rules;
- (ii) its obligations under the Clearing Membership Agreement and any Sponsor Agreement (or, in the case of a Sponsored Principal, its obligations under the Sponsored Principal Clearing Agreement), any Contract and Credit Support Document to which it is a party constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to applicable Insolvency laws or similar Applicable Laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law));
- (iii) no Event of Default or Potential Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under the Clearing Membership Agreement (or, in the case of a Sponsored Principal, the Sponsored Principal Clearing Agreement), any Contract or any Credit Support Document to which it is a party;
- (iv) there is not pending or, to its knowledge, threatened against it or any of its Credit Support Providers any action, suit or proceeding at law or in equity or before any court, tribunal, governmental body, agency or official or any arbitrator that is likely to affect the legality, validity or enforceability against it of the Clearing Membership Agreement (or, in the case of a Sponsored Principal, the Sponsored Principal Clearing Agreement), any Contract or any Credit Support Document to which it is a party or its ability to perform its obligations under the Clearing Membership Agreement, any Sponsor Agreement (or, in the case of a Sponsored Principal, the Sponsored Principal Clearing Agreement), any Contract or such Credit Support Document;
- (v) except as expressly provided in Part 16 of the Rules in respect of FCM/BD Clearing Members and Rule 401(h) in respect of Disclosed Principal Members, it is acting for its own account and as principal and not as agent;
- (vi) it has made its own independent decisions to enter cleared Contracts and as to whether the entry into of cleared Contracts is appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary;
- (vii) it is not relying on any communication (written or oral) of the Clearing House as investment advice or as a recommendation to enter into the Contract, it being understood that information and explanations related to the terms and conditions of a Contract will not be considered investment advice or a recommendation to enter into a Contract;

Part 4 – Clearing Mechanism

- (viii) no communication (written or oral) received from the Clearing House will be deemed to be an assurance or guarantee as to the expected results of that Contract;
  - (ix) it is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks of the Contract and it is also capable of assuming, and assumes, the risks of the Contract;
  - (x) the Clearing House is not acting as a fiduciary for or an adviser to it in respect of the Contract; and
  - (xi) if it is a Clearing Member, where the Contract is to be recorded in one of its Customer Accounts or is otherwise related to a Customer-CM Transaction, it acknowledges its obligation in Rule 202(a)(ii) and that compliance with Applicable Laws in the context of entering into Customer transactions includes compliance with Applicable Laws relating to customer due diligence in respect of its Customer and Applicable Laws relating to Sanctions affecting the Customer or any of its Customer's assets (except, if it is a CDS Clearing Member incorporated in Germany or in relation to the Customer Account of any CDS Clearing Member where the Customer is incorporated in Germany, solely to the extent that any obligation, or undertaking, representation or statement contemplated by this Rule 405(a)(xi) would be in conflict with any Applicable Laws purporting to nullify or restrict the effect of foreign Sanctions or preventing boycotts).
- (b) In relation to each Contract (other than a Contract arising pursuant to Rule 401(a)(v), Rule 401(a)(vi), Rule 401(a)(xi) or Rule 401(a)(xiii)), the Clearing House will, and will be entitled to, rely on representations and warranties, deemed automatically to arise pursuant to these Rules from each Buying Counterparty and Selling Counterparty proposing to become or becoming party to any Contract, that:
- (i) the data submitted to the relevant Market, CDS Trade Execution Processing Platform or FX Trade Execution Processing Platform (if applicable) or the Clearing House:
    - (A) is complete and correct in all respects; and
    - (B) has been duly authorised by it (including, in connection with a CDS Contract, that any CDS Trade Execution/Processing Platform used by it for the submission of CDS Trade Particulars has been duly authorised by it for the submission of data relating to CDS Trade Particulars in accordance with the CDS Procedures; and, in connection with an FX Contract, that any FX Trade Execution/Processing Platform used by it for the submission of FX Trade Particulars has been duly authorised by it for the submission of data relating to FX Trade Particulars in accordance with the FX Procedures); and
  - (ii) Market Rules (if applicable), the CDS Trade Execution/Processing Platform's procedures (if applicable), the FX Trade Execution/Processing Platform's procedures (if applicable) and all Applicable Laws have been complied with by it

Part 4 – Clearing Mechanism

and any relevant Customer in respect of the Transaction or Participating Exchange Transaction.

- (c) In relation to each Contract that arises pursuant to Rule 401(a)(iii), Rule 401(a)(viii), Rule 401(a)(ix) and Rule 401(a)(xii), the Clearing House will, and will be entitled to, rely on representations and warranties deemed automatically to arise pursuant to these Rules from each Buying Counterparty and Selling Counterparty proposing to become or becoming party to any Contract, that:
- (i) all and any previously subsisting contracts, rights, obligations or liabilities in connection with the subject matter of the Transaction or proposed Contract are on equal terms to that of the relevant Contract Terms (save as to the parties) and, in the case of rights, are free from all Encumbrances (excluding liabilities and obligations arising pursuant to the Contract Terms); and
  - (ii) any Person other than the Buying Counterparty and Selling Counterparty to whom any contracts, rights, obligations or liabilities referred to in Rule 405(c)(i) pertain has agreed with it, or such other Person as is relevant, to be released from all of its rights, obligations and liabilities as a result of Contracts arising pursuant to Rule 401(a) (save for any contracts, rights, obligations or liabilities as between the Clearing Member and its Customer (under a Customer-CM Transaction or otherwise) or between any Customer and its customers and so on, in relation to the subject matter of the Contract on a back-to-back basis with a Contract, and further except as provided in Part 16).
- (d) Clearing Members will become party to, and liable under, Contracts each and every time a Contract arises from a Transaction as a result of the action or omission of its Representatives, regardless of any circumstance in relation to such Transaction, including without limitation whether the person submitting the Transaction was authorised to do so by the Clearing Member or its Representative or whether the Transaction caused a Representative to exceed the Clearing House's credit or other parameters set for such Representative, a Market's or Exchange's position limits or the Clearing House's Position Limits or otherwise was in breach of the Rules or any of the Clearing Member's or Clearing House's policies, procedures or controls.
- (e) When a CDS Contract arises, the Clearing House shall make the warranties and the Buying Counterparty and Selling Counterparty shall make the additional representations and warranties as in each case are set out in the CDS Procedures.
- (f) The Clearing House shall be entitled to assume, without enquiry, that at each time at which a Customer-CM Transaction arises, the respective obligations of the Clearing Member and Customer under such Customer-CM Transaction constitute its legal, valid and binding obligations enforceable in accordance with its terms, subject to applicable Insolvency laws and similar Applicable Laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles in general application (regardless of whether enforcement is sought in a proceeding in equity or at law).

Part 4 – Clearing Mechanism**Rule 406      *Open Contract Positions***

- (a) At the end of each Business Day or at such other frequency as the Clearing House determines at its discretion either generally or in respect of any Clearing Member or Sponsored Principal, the Clearing House will calculate Open Contract Positions in its books and records. Settlement or revaluation of Open Contract Positions and Contracts will take place pursuant to the applicable Contract Terms and, for F&O Contracts, through the ~~Clearing Processing~~ ICE System. The Clearing House shall have no obligation to notify any Clearing Member, Sponsored Principal or any other Person of Open Contract Positions or Contracts other than through the Clearing Processing System or otherwise than in accordance with the Rules and the Clearing Procedures.
- (b) If an F&O Clearing Member so instructs the Clearing House in accordance with the Clearing Procedures, the Clearing House will aggregate and/or net particular buy and sell positions (for a Set of Contracts that are Futures), or Long and Short positions (for a Set of Contracts that are Options), within the Clearing Member's Open Contract Position in respect of one of a Clearing Member's Customer Position Accounts, provided that no buy or sell positions or Long or Short positions in respect of one Customer are to be netted against or aggregated with buy or sell positions or Long or Short positions in respect of another Customer. Any aggregation and netting of F&O Contracts pursuant to this Rule 406(b) shall take place pursuant to a novation, through termination of the relevant existing F&O Contract of the same Set or some or all of the relevant existing F&O Contracts of the same Set in the same Customer Position Account in consideration for the entry into of a new replacement single F&O Contract replacing those F&O Contracts so being aggregated and/or netted. The Clearing House and relevant Clearing Member will reflect each aggregation and netting under this Rule 406(b) in the records of the relevant Repository (if any) used by each of them.
- (c) Subject to its obligations under Rule 406(b), the Clearing House may at its discretion treat any F&O Contract pursuant to which a Clearing Member or Sponsored Principal is the Buying Counterparty and another F&O Contract of the same Set pursuant to which the same Clearing Member or Sponsored Principal is the Selling Counterparty simultaneously as being netted, ~~set-off and mutually closed-out and terminated~~ or two or more F&O Contracts of the same Set pursuant to which the same Clearing Member or Sponsored Principal is a Buying Counterparty or Selling Counterparty simultaneously as being aggregated, each pursuant to a novation, through termination of the relevant existing F&O Contract of the same Set or some or all of the relevant existing F&O Contracts of the same Set in consideration for the entry into of a new replacement single F&O Contract replacing those F&O Contracts so being aggregated and/or netted, upon calculation of the Open Contract Position in respect of such F&O Contracts, subject to the Clearing Member or Sponsored Principal having made all then due payments pursuant to the Contract Terms in respect of such F&O Contracts and to separate treatment of Open Contract Positions in each Proprietary Account and each Customer Account. Where the position as Buying Counterparty is not of the same size as a position a Selling Counterparty, the Contracts in question shall be closed out and terminated in part. For the avoidance of doubt, any contractual netting of F&O Contracts is subject to Rule 102(q) and there shall be separate treatment (and no offsetting and close-out or resulting termination nor any aggregation or consolidation) as between any of: (A) any F&O Contract recorded in a particular



Part 4 – Clearing Mechanism

Proprietary Account; (B) any F&O Contract recorded in a particular Customer Account or Individually Segregated Sponsored Account; or (C) any two F&O Contracts that are recorded in different Customer Accounts or Individually Segregated Sponsored Accounts. The Clearing House and relevant Clearing Member will reflect each aggregation and netting under this Rule 406(c) in the records of the relevant Repository (if any) used by each of them.

- (d) CDS Clearing Members and Sponsored Principals that clear CDS shall elect in accordance with the CDS Procedures between one of three different methods for the aggregation and netting of CDS Contracts (listed in paragraphs (i) to (iii) below), separately in respect of each of its CDS Sub-Accounts. If a CDS Clearing Member or Sponsored Principal has only one CDS Sub-Account, then only one election under this Rule 406(d) is required. Any aggregation and netting of CDS Contracts pursuant to this Rule 406(d) shall take place pursuant to a novation, through termination of the relevant existing CDS Contract of the same Set or some or all of the relevant existing CDS Contracts of the same Set in the same CDS Sub-Account in consideration for the entry into of a new replacement single CDS Contract replacing those CDS Contracts so being aggregated and/or netted. Such aggregation and netting will take place at the times, and will affect those CDS Contracts, set out in or determined in accordance with the CDS Procedures, which will provide for aggregation and netting in relation to each CDS Sub-Account at least weekly. The Clearing House and relevant CDS Clearing Member or Sponsored Principal will reflect each aggregation and netting under this Rule 406(d) in the records of Deriv/SERV in accordance with the CDS Procedures. Subject to Rule 406(e):
- (i) where a CDS Clearing Member or Sponsored Principal elects to manage a CDS Sub-Account on a 'trade by trade' basis, there will be no netting, offsetting, consolidation, aggregation, novation, termination or replacement of CDS Contracts recorded in that CDS Sub-Account;
  - (ii) where a CDS Clearing Member or Sponsored Principal elects to manage a CDS Sub-Account on a 'gross' basis:
    - (A) there shall be no regular netting or offsetting of CDS Contracts recorded in that CDS Sub-Account;
    - (B) CDS Contracts recorded in that CDS Sub-Account, to the extent they are in the same Set and where the CDS Clearing Member or Sponsored Principal acts as Buying Counterparty, will, by operation of this provision, be aggregated, terminated and replaced by a single CDS Contract at the relevant times specified in this Rule 406(d), with a Floating Rate Payer Calculation Amount equal to the total of the Floating Rate Payer Calculation Amounts of those CDS Contracts; and
    - (C) CDS Contracts recorded in that CDS Sub-Account, to the extent they are in the same Set and where the CDS Clearing Member or Sponsored Principal acts as Selling Counterparty, will, by operation of this provision, be aggregated, terminated and replaced by a single CDS Contract, being a different CDS Contract to the CDS Contract referred to in

Part 4 – Clearing Mechanism

Rule 406(d)(ii)(B), at the relevant times specified in this Rule 406(d), with a Floating Rate Payer Calculation Amount equal to the total of the Floating Rate Payer Calculation Amounts of those CDS Contracts;

- (iii) where a CDS Clearing Member or Sponsored Principal elects to manage a CDS Sub-Account on a 'net' basis, CDS Contracts recorded in that CDS Sub-Account, to the extent they are in the same Set, will, by operation of this provision, be terminated and replaced by a single CDS Contract, at the relevant times specified in this Rule 406(d), with a Floating Rate Payer Calculation Amount equal to the net of the Floating Rate Payer Calculation Amounts of those CDS Contracts;
  - (iv) where a CDS Clearing Member or Sponsored Principal makes no election in respect of a CDS Sub-Account linked to one of its Proprietary Accounts, it shall be deemed to have elected to manage that CDS Sub-Account on a 'net' basis and Rule 406(d)(iii) shall apply; and
  - (v) where there is no election made in respect of a CDS Sub-Account linked to a Customer Account or an Individually Segregated Sponsored Account, the CDS Clearing Member or Sponsored Principal shall be deemed to have elected that such CDS Sub-Account will be managed on a 'trade by trade' basis and Rule 406(d)(i) shall apply.
- (e) Notwithstanding Rule 406(d), but without prejudice to Rule 102(q):
- (i) following an Applicable Credit Event, the Clearing House shall be entitled to aggregate, consolidate, set off, close out and terminate CDS Contracts (as applicable) to result in one or more CDS Contracts per Set regardless of the election in Rule 406(d), to the extent permitted under these Rules and the CDS Procedures;
  - (ii) if a CDS Contract becomes a self-referencing CDS Contract (in the circumstances further detailed in the Procedures), the Clearing House shall be entitled to set off, close out and terminate CDS Contracts (as applicable) to result in one or more CDS Contracts per Set regardless of the election in Rule 406(d), to the extent permitted under the Rules and CDS Procedures;
  - (iii) following an Event of Default, Part 9 of the Rules shall prevail and apply in relation to all matters concerning aggregation, consolidation, set off, closing out and termination of Contracts;
  - (iv) for the avoidance of doubt, Rule 406(d) is subject to Rule 102(q) and there shall be separate treatment (and no offsetting and close-out or resulting termination nor any aggregation or consolidation) as between any of: (A) any CDS Contract recorded in a Proprietary Account; (B) any CDS Contract recorded in a particular Customer Account or Individually Segregated Sponsored Account; or (C) any CDS Contract recorded in a different Customer Account or Individually Segregated Sponsored Account;

Part 4 – Clearing Mechanism

- (v) an election under Rule 406(d)(i) or Rule 406(d)(ii) shall not prevent a CDS Clearing Member or Sponsored Principal from requesting on an *ad hoc* basis that the Clearing House net, set off, consolidate or aggregate any particular CDS Contracts (or parts of any CDS Contracts) in a manner that would be permitted under Rule 406(d)(iii) (if that Rule were applicable to the relevant CDS Sub-Account) nor shall it prevent the Clearing House from accepting any such request (and the Clearing House shall not unreasonably withhold or delay its consent to any such *ad hoc* netting, set off, consolidation or aggregation);
  - (vi) Rule 406(d) does not affect the definition or calculation of the Open Contract Position of a CDS Clearing Member or Sponsored Principal, nor does it affect any Margin or Guaranty Fund Contribution requirements applicable to a CDS Clearing Member, Sponsor or Sponsored Principal which shall at all times to the extent that the same are based upon parameters relating to Contracts be based upon the Open Contract Position in each Set, notwithstanding the gross CDS Contracts to which a CDS Clearing Member or Sponsored Principal is party or elections in relation to CDS Sub-Accounts;
  - (vii) if the records of trades in Deriv/SERV or a Repository do not reflect the CDS Contracts to which a CDS Clearing Member or Sponsored Principal and the Clearing House are party, then the CDS Clearing Member or Sponsored Principal and the Clearing House will together correct the records of Deriv/SERV or the relevant Repository accordingly; and
  - (viii) where Rule 406(d)(ii) or Rule 406(d)(iii) applies to a CDS Sub-Account, Fixed Amounts for the CDS Contracts recorded in that CDS Sub-Account shall be calculated on the basis of the average Floating Rate Payer Calculation Amounts for the affected period.
- (f) There shall be no regular contractual netting or aggregation of FX Contracts. FX Contracts will be recorded separately and on a gross basis in all Accounts. Notwithstanding this Rule 406(f):
- (i) following an Event of Default, Part 9 of the Rules shall prevail and apply in relation to all matters concerning aggregation, consolidation, set off, closing out and termination of Contracts;
  - (ii) Rule 406(f) does not affect the definition or calculation of any Margin or Guaranty Fund Contribution requirements applicable to an FX Clearing Member or Sponsored Principal that clears FX;
  - (iii) Rule 406(f) does not prevent the netting and offset of an FX Contract against another FX Contract, if the second FX Contract arose as a result of the Invoicing Back of the first FX Contract by the Clearing House under Rule 104;
  - (iv) for the avoidance of doubt, any contractual netting of FX Contracts is subject to Rule 102(q) and there shall be separate treatment (and no offsetting and close-out or resulting termination nor any aggregation or consolidation) as between any of: (A)

Part 4 – Clearing Mechanism

any FX Contract recorded in a particular Proprietary Account of the Clearing Member; (B) any FX Contract recorded in a particular Customer Account or Individually Segregated Sponsored Account; or (C) any FX Contract recorded in a different Customer Account or Individually Segregated Sponsored Account;

- (v) if the Clearing House nets and offsets or combines and replaces any opposite FX Contracts (or any part of an FX Contract) of a Defaulter pursuant to Rule 902 to Rule 907, then the Clearing House shall be entitled to net and offset or combine and replace up to an equal amount of FX Contracts (or any part of an FX Contract) of other Clearing Members or Sponsored Principals (which are not Defaulters) of the same Set as those FX Contracts of the Defaulter that were netted and offset or combined and replaced, and upon any such netting and offsetting or combination and replacement being notified by the Clearing House to a Clearing Member or Sponsored Principal, the FX Contracts to which the netting and offsetting or combination and replacement applies shall automatically be terminated (and, in the case of a combination or partial offset, replaced with a new FX Contract) without need for any further action on the part of any Person, provided that:
- (A) the Clearing House shall only net or offset two or more Financially-Settled FX Contracts of a Clearing Member or Sponsored Principal that is not a Defaulter, in whole or in part, where such Financially-Settled FX Contracts are in the same Set and the Clearing Member or Sponsored Principal in question is Reference Currency Buyer under one of the Financially-Settled FX Contracts and Reference Currency Seller under the other Financially-Settled FX Contract;
- (B) the Clearing House shall only combine and replace two or more Financially-Settled FX Contracts (or parts thereof) of a Clearing Member or Sponsored Principal that is not a Defaulter:
- (1) if the Clearing Member or Sponsored Principal is Reference Currency Buyer under one of the Financially-Settled FX Contracts in respect of a particular currency and Reference Currency Seller under the other Financially-Settled FX Contract in respect of the same currency, and those two Financially-Settled FX Contracts have the same FX Settlement Date; and
- (2) if the replacement FX Contract is also a Financially-Settled FX Contract, with the obligations and rights of the Clearing Member or Sponsored Principal referring to the two currencies of the original FX Contracts (which were not the same), but with the same FX Settlement Date as the original FX Contracts and based on obligations with reference to the two remaining currencies as stood under the original FX Contracts; and

## Part 4 – Clearing Mechanism

- (C) the Clearing Members or Sponsored Principals to which any netting, offsetting, combination or replacement applies shall be selected by the Clearing House based on an objective, automated selection process; and
- (vi) the Clearing House and relevant FX Clearing Member or Sponsored Principal will reflect each aggregation and netting in the records of the Repository in which the FX Contract is recorded.
- (g) All Intellectual Property in data relating to Transactions, Contracts and Open Contract Positions provided to the Clearing House under these Rules or generated by the Clearing House shall be the property of the Clearing House (except as otherwise agreed with a Market and that, in relation to CDS Contracts or FX Contracts, this shall be subject to any provision to the contrary in any agreement in writing between the Clearing House and a CDS Clearing Member or FX Clearing Member, respectively). Such data may be provided by the Clearing House to Deriv/SERV and any Market, Exchange, CDS Trade Execution/Processing Platform, FX Trade Execution/Processing Platform, Repository or any member of the ICE Group and used by the Clearing House or such other Persons for any commercial or other purpose, subject in each case to the restrictions in Rule 106. Each Clearing Member's, Sponsor's, Sponsored Principal's and Customer's rights in such Intellectual Property shall be automatically assigned to the Clearing House by virtue of this provision as such rights arise. This Rule 406(g) is subject, in relation to CDS Clearing and FX Clearing, to any further restrictions in any agreement in writing between the Clearing House and a CDS Clearing Member or FX Clearing Member, as the case may be.

### ***Rule 407 Reporting of Open Contract Positions Carried by Other Clearing Members***

If an F&O Clearing Member or Sponsored Principal (for the purposes of this Rule 407 only, the "**Position Giver**") has Customer or proprietary positions in respect of any Contract carried for it in a Customer Account of another F&O Clearing Member (for the purposes of this Rule 407 only, the "**Position Holder**"), the Position Giver shall give written notice to the Clearing House of the name of the Position Holder and the extent of its position on the Business Day following the Business Day on which a position was carried by the Position Holder.

### ***Rule 408 Transfer of Contracts***

- (a) No Person other than the Clearing House shall be entitled to assign, allocate or transfer, or create any Encumbrance whatsoever in relation to, any of its rights, liabilities or obligations under a Contract or the Rules except:
  - (i) that all rights and obligations of a Clearing Member or Sponsored Principal pursuant to a Contract may be transferred, novated or terminated and replaced from one Clearing Member or Sponsored Principal to another Clearing Member or Sponsored Principal with the agreement of each of the two Clearing Members (or any Sponsored Principal taking the place of any Clearing Member) involved (and, if required under Applicable Law for Open Contract Positions in a Customer Account, the consent of the relevant Customers), and the consent of the Clearing House and relevant Market (if any), subject to such conditions as the Clearing House at its

## Part 4 – Clearing Mechanism

discretion stipulates and, in relation to CDS Contracts, subject to the requirements set out in the CDS Procedures;

- (ii) as a result of an allocation resulting in a Clearing Member or Sponsored Principal being the 'Buying Counterparty' or 'Selling Counterparty' as such terms are defined in Rule 101;
  - (iii) as a result of an allocation pursuant to Rule 401(a)(viii);
  - (iv) [Not used.]; or
  - (v) as a result of a Transfer of Contracts pursuant to Rule 904.
- (b) Any purported transfer of any rights, liabilities or obligations under a Contract or the Rules other than in accordance with Rule 408(a) shall be null and void.

### ***Rule 409      Amendment of Contract Terms***

- (a) The terms of any Contract may only be amended, waived or varied with the prior written consent of the Clearing House. [The Clearing House's consent may be evidenced by Circular, including those issued under Rule 109.](#)

### ***Rule 410      [Not used]***

### ***Rule 411      Swap Data Repository ("SDR") Reporting***

For all swaps cleared by the Clearing House and resulting positions, the Clearing House will report creation and continuation data to the ICE Trade Vault swap data repository for purposes of complying with applicable CFTC rules governing the regulatory reporting of swaps. Upon the request of a counterparty to a swap cleared at the Clearing House, the Clearing House will provide the same creation and continuation data to a swap data repository selected by the counterparty as the Clearing House provided to the ICE Trade Vault swap data repository under the preceding sentence.



## Part 5 – Margin

### **Part 5 Margin**

#### **Rule 501 Approved Financial Institutions**

- (a) The Clearing House will maintain a list of Approved Financial Institutions. Only Approved Financial Institutions shall be permitted by the Clearing House to open and operate, on behalf of Clearing Members, accounts from which the Clearing House can draw amounts pursuant to a direct debit mandate, for the collection of amounts due to the Clearing House from time to time. Approved Financial Institutions may also act in such other capacity as the Clearing House may approve in writing from time to time.
- (b) All cash transfers made by Clearing Members to or to the order of the Clearing House must be made from an account at an Approved Financial Institution, unless the Clearing House gives its prior written consent to another method being used.
- (c) Clearing Members are given notice that the Clearing House may suspend or terminate the status of an Approved Financial Institution or attach, amend or revoke conditions to the continued status of an Approved Financial Institution. The Clearing House may take such steps if an institution no longer meets all of the requirements of the Clearing House or if the Clearing House determines that it would be advisable for the Clearing House's own protection, the protection of Clearing Members or the protection of a Market to do so.

#### **Rule 502 Margin**

- (a) Each Clearing Member shall transfer Permitted Cover to the Clearing House in respect of Margin in such amounts, in such forms and at such times as are required pursuant to this Part 5 and otherwise as may be prescribed by the Clearing House and notified to Clearing Members, in each case in accordance with these Rules and the Finance Procedures, from time to time.
- (b) At any time on which a requirement for Original Margin, FX Original Margin, Initial Margin or Margin under Rule 502(g) falls due and insufficient Permitted Cover is held, the Clearing Member must initially transfer cash in an Eligible Currency. Thereafter a Clearing Member may [in accordance with the Finance Procedures](#) substitute such cash Margin with other Permitted Cover by delivery of the replacement Permitted Cover to the Clearing House. The amount of Original Margin or Margin under Rule 502(g) for any Business Day shall be calculated (and, if necessary, called) separately in respect of each Proprietary Account and each Customer Account for each Clearing Member in accordance with the Finance Procedures.
- (c) Variation Margin, FX Mark-to-Market Margin and Mark-to-Market Margin payments may be made by the Clearing House or a Clearing Member only in cash in the Eligible Currency in which the Contract in question is to be or can be settled (for F&O Contracts), which is the settlement currency (for CDS Contracts) pursuant to the Contract Terms or which is specified as the FX Mark-to-Market Margin currency for the relevant Set (for FX Contracts) (save where the Finance Procedures require otherwise).

Part 5 – Margin

- (d) Details of Eligible Currencies and other Permitted Cover that may be used to satisfy Margin obligations will be notified to Clearing Members from time to time by a Circular. The Clearing House may, at its discretion, vary or alter the standard Margin requirements, nature or types of acceptable Eligible Currencies and Permitted Cover, specify proportions or maximum proportions of cash or asset classes to be provided as Margin or modify any valuation procedures or haircuts set out in or established pursuant to the Finance Procedures, Circulars or any risk policies. Any general changes to requirements for Margin or Permitted Cover will be notified to Clearing Members by a Circular.
- (e) Certain classes of Permitted Cover may be subject to haircuts in accordance with the Finance Procedures (as specified from time to time by Circular) pursuant to which certain classes of Permitted Cover do not count for their full face or market value in the determination of Margin for the account of a Clearing Member. For the avoidance of doubt, this Rule 502(e) shall apply to any haircuts imposed pursuant to clause 2.9 of the Pledged Collateral Addendum.
- (f) The Clearing House may require a Clearing Member or Clearing Members to transfer cash in other Eligible Currencies or Permitted Cover with the Clearing House in substitution for any Permitted Cover already transferred to the Clearing House.
- (g) The Clearing House may impose, amend or withdraw additional Margin requirements in respect of any Clearing Member at any time and at its discretion.
- (h) The Clearing House may designate by Circular or Rule that a Proprietary Margin Account or Customer Margin Account or any sub-account of such an account of a Clearing Member shall be a Pledged Collateral Account and consequently that all or any part of the Margin (or Permitted Cover in respect thereof) to be provided to the Clearing House with respect to such account may be provided by way of Pledged Collateral. In the absence of such express designation, a Proprietary Margin Account or Customer Margin Account will not be a Pledged Collateral Account. The Clearing House undertakes in favour of each Clearing Member that has executed a Pledged Collateral Addendum (which remains valid and effective and which has not been terminated or rescinded) that the Clearing House will not redesignate any of such Clearing Member's Accounts or any sub-account thereof which is a Pledged Collateral Account as not being a Pledged Collateral Account (without the consent of the Clearing Member) or otherwise in such a way as would cause the Clearing Member to breach any Applicable Law or would affect the characterisation of the Margin in such Account as being provided by the relevant Clearing Member by way of pledge (in the case of a Pledged Collateral Addendum governed by New York and U.S. law) or security financial collateral arrangement (in the case of a Pledged Collateral Addendum governed by English law) pursuant to the Pledged Collateral Addendum.
- (i) Any Pledged Collateral recorded in a Pledged Collateral Account is transferred to the Clearing House as contingent cover for Margin on the basis that it may only be applied by the Clearing House in accordance with the terms of the Pledged Collateral Addendum:
  - (i)(A) following an Event of Default pursuant to Rule 905 and Rule 906 as cover for Margin against a liability of the Clearing Member relating to the relevant Account of the Pledged Collateral Account (provided that the value of any Pledged Collateral returned directly to a Clearing Member or any Person on such Clearing Member's behalf will be excluded from

*Part 5 – Margin*

the calculation of any relevant net sum); and (B) only to the extent that such applied amount is required to be included in the net sum calculation to ensure that the net sum for the relevant Account of the Pledged Collateral Account would not represent an amount payable by the Defaulter to the Clearing House; or (ii) pursuant to the Default Portability Rules. In any such circumstances, it will be applied by virtue of amounts representing the proceeds of Pledged Collateral being included in amount *M* of the relevant net sum pursuant to Rule 906(a). Any Pledged Collateral not applied in accordance with this provision and which is not transferred to a Transferee Clearing Member in accordance with Part 9 of the Rules shall be returned to the relevant Clearing Member or other payee as permitted under Part 9 of the Rules, as a result of such Clearing Member's, or other payee's entitlements to such Pledged Collateral and not as part of the net sum process arising pursuant to Part 9 of the Rules. Any such return by the Clearing House of Pledged Collateral outside of the net sum calculation shall discharge and satisfy in full the Clearing House's obligations to return such Pledged Collateral to the Clearing Member by the payee and all of their Customers and no Person shall have any further claim against the Clearing House in respect of such Pledged Collateral. To the extent any Pledged Collateral is, or is required under Applicable Law to be, returned to a Defaulter, it shall be returned separately from any net sum certified by the Clearing House pursuant to Rule 906.

- (j) Without limiting Rule 111, but subject to any contrary requirements of law: the Clearing House shall not be liable to any Clearing Member's Customer or other Person for any losses, liabilities, damages, costs, claims, shortfalls or expenses arising out of or relating to the holding of any Pledged Collateral or the assets in any Pledged Collateral Account ("**Custodial Losses**"), except to the extent such Custodial Losses result from the gross negligence or wilful misconduct of the Clearing House. The Clearing House shall have no responsibility for any investment decisions made or directed by a Clearing Member (or any Representative thereof) with respect to assets representing Pledged Collateral or for the results of any such investments. The Clearing House shall be under no obligation to inquire into, and shall be fully protected in relying on, any requests, instructions or directions with respect to Pledged Collateral or the assets in any Pledged Collateral Account under these Rules received from a Person the Clearing House believes to be authorised to act on behalf of the appropriate Clearing Member.
- (k) Changes to the matters described in Rules 502(d) and (e) above, including assets eligible as Margin or Permitted Cover and the haircuts established with respect thereto, will be based on an analysis of appropriate factors as determined by the Clearing House, including historical and implied price volatility of such assets, current and anticipated conditions in the market for those assets, spreads and correlations between relevant assets, liquidity in the trading market for those assets, composition of the relevant market, default risk (including sovereign risk) with respect to those assets, relevant foreign exchange market conditions and other relevant information.

**Rule 503**      *Margin Calls and Return of Surplus Collateral*

- (a) Margin shall be and become due and payable at the times specified by the Clearing House pursuant to Rule 302.

Part 5 – Margin

- (b) Regular Margin calculations will be made by the Clearing House on each Business Day. Any such calculation may result in a call for additional Permitted Cover pursuant to Part 3.
- (c) The Clearing House shall be entitled, at its discretion, to make an intra-day call for Margin or any other amount payable to it. In the event of such a call being made, the Clearing House will:
  - (i) give notice to each Clearing Member which is required to make payment to the Clearing House of the amount payable by such Clearing Member and time by which payment must be made; and
  - (ii) immediately after giving or making reasonable efforts to give the notice described in Rule 503(c)(i), instruct the relevant Approved Financial Institution to transfer funds equal to the amount due to the Clearing House from the account of such Clearing Member to an account of the Clearing House.
- (d) For regular calls relating to F&O Contracts, Margin shall be calculated with reference to a Clearing Member's Open Contract Position in accordance with the Finance Procedures. For any intra-day Margin call relating to F&O Contracts, Margin shall be calculated with reference to a Clearing Member's Open Contract Position (which includes in relation to the Customer Account where positions are held in gross in accordance with the Clearing Procedures, the net additional exposure relating to any Contracts held gross which have not been contractually netted or aggregated in accordance with Rule 406) in accordance with the Finance Procedures.
- (e) The amount of Variation Margin for any Business Day shall be calculated (and, if necessary, called) separately in respect of each Proprietary Account and each Customer Account for each Clearing Member in accordance with the Finance Procedures. Each such Variation Margin call shall be:
  - (i) in the case of F&O Contracts reflected in a net or aggregated Open Contract Position, based on the Exchange Delivery Settlement Prices at which Open Contract Positions in F&O Contracts are recorded on the Clearing House's books; and
  - (ii) in the case of F&O Contracts not yet reflected in a net or aggregated Open Contract Position, represented by the difference between the Exchange Delivery Settlement Price and the price at which each such F&O Contract was bought or sold; provided, however, that in the case of any F&O Contract based on an index, the amount of the final Variation Margin payment shall be determined as specified in the rules of the Exchange on which the index is based.
- (f) Regular calls for Margin in respect of CDS Contracts will be made following the close of business on each Business Day as follows and in accordance with the Finance Procedures:
  - (i) For Initial Margin (including Physical Settlement Margin) calls, the Clearing House shall calculate net amounts as due to or from the Clearing House from or to each CDS Clearing Member separately in respect of its Proprietary Margin Account and relevant Customer Margin Account (if any). Such amounts shall in each case be

Part 5 – Margin

calculated in accordance with the risk policies of the Clearing House based on the difference between the CDS Clearing Member's requirement for Initial Margin and Physical Settlement Margin and the value attributed by the Clearing House to assets accounted for by the Clearing House as Margin of that category, in accordance with the Finance Procedures. Additional amounts in respect of Physical Settlement Margin may also be required pursuant to the CDS Procedures or Rule 502(g).

- (ii) For Mark-to-Market Margin calls, each currency in which a CDS Contract is denominated is treated as a separate category (each, a "**Mark-to-Market Margin Category**"). For each Mark-to-Market Margin Category of a CDS Clearing Member, the Clearing House shall calculate net amounts as due to or from the Clearing House from or to each CDS Clearing Member separately in respect of its Proprietary Margin Account and Customer Margin Account (if any) based on the change in Mark-to-Market Price from the last time at which a Mark-to-Market Margin call was made, in accordance with the Finance Procedures.
- (g) The "**Mark-to-Market Price**", for CDS Contracts of a Set at any time is the price, determined by the Clearing House in accordance with the Finance Procedures and calculated in accordance with its risk policies. To aid in the establishment of Mark-to-Market Prices, Clearing Members are required to submit end-of-day prices relating to Sets of CDS Contracts. In connection with the Clearing services provided by the Clearing House and as detailed in the CDS Procedures, the submission of end-of-day prices relating to CDS Contracts may, on the day of price submission only, result in a CDS Contract arising pursuant to Rule 401(a)(xi).
- (h) For regular and intra-day Margin calls relating to FX Contracts, Margin shall be calculated with reference to the FX Contracts to which the Clearing Member is party, in accordance with the Procedures.
- (i) The amount of FX Mark-to-Market Margin for any Business Day shall be calculated (and, if necessary, called) separately in respect of each Proprietary Account and Customer Account in accordance with the Procedures. Each such FX Mark-to-Market Margin call shall be based on changes to the mark-to-market values for FX Contracts and exchange rates from the last time at which a call for FX Mark-to-Market Margin was made in accordance with Part 17 of the Rules and the Procedures.
- (j) The Clearing House shall return to a Clearing Member or Sponsored Principal the amount of any Surplus Collateral, provided that the Clearing House receives a request for such a release from such Clearing Member or Sponsored Principal prior to such time as may be specified by the Clearing House for the day on which such release is to be made or pursuant to standing instructions for the return of Surplus Collateral, as the same may be established or amended in accordance with the Finance Procedures, such returns to be made in accordance with Rule 302 and the Finance Procedures.
- (k) To the extent that the Clearing House permits the usage of more than one class of Permitted Cover in respect of Margin-flow Co-mingled Accounts or Segregated Gross Indirect Accounts, each Non-FCM/BD Clearing Member with more than one Margin-flow Co-mingled Account or Segregated Gross Indirect Account using the same position-keeping



## Part 5 – Margin

account will report to the Clearing House immediately on each occasion that there is a transfer of any Permitted Cover to or from the Clearing House in respect of such Margin-flow Co-mingled Accounts or Segregated Gross Indirect Accounts, other than in connection with a call or return of cash Margin under Rule 303, in the form and manner required by the Clearing House from time to time. Each such Permitted Cover report shall specify the exact total amount of cash of each Eligible Currency and notional amounts of Permitted Cover in the form of securities of each ISIN transferred to or withdrawn from each Margin-flow Co-mingled Account or Segregated Gross Indirect Account. The total nominal amounts of assets in such Permitted Cover reports, in order to be valid, must completely reconcile with Clearing House records of the total nominal amounts of Permitted Cover transferred to or withdrawn from the Clearing House in respect of all relevant Margin-flow Co-mingled Accounts or Segregated Gross Indirect Accounts of the Clearing Member, but the Clearing House shall be under no obligation to check or verify any such report. Valid Permitted Cover reports under this Rule 503(k) may be definitively relied upon by the Clearing House. If at any time the Clearing House is not in receipt of a valid Permitted Cover report required under this Rule 503(k), each Margin-flow Co-mingled Account or Segregated Gross Indirect Account, in respect of which the Clearing Member has failed to provide a valid Permitted Cover report, shall be deemed to have recorded in it a *pro rata* share of each class of Permitted Cover transferred to the Clearing House, or have withdrawn from it a *pro rata* share of each class of Permitted Cover withdrawn from the Clearing House, with *pro rata* shares based upon the Margin requirements for each Margin-flow Co-mingled Account or Segregated Gross Indirect Account as determined based on the Clearing House's Position Accounts.

### **Rule 504      *Rights relating to Margin and Representations of Clearing Members***

- (a) The rights and liabilities of the Clearing House and each Clearing Member in relation to Permitted Cover are set out in the Clearing Membership Agreement and these Rules.
- (b) Each Clearing Member will act as principal and not as agent in providing Margin to the Clearing House. The Clearing House will take no account of any right or interest which any Person other than the Clearing Member may have in any Margin furnished by such Clearing Member to the Clearing House.
- (c) Each Clearing Member will be deemed to represent and warrant to the Clearing House on each date on which such Clearing Member transfers Permitted Cover to the Clearing House that:
  - (i) immediately prior to any such Permitted Cover being transferred to the Clearing House, the Clearing Member is or was the sole legal and beneficial owner of all such assets (or such assets are provided with all legal and beneficial owners' unconditional consent for their use and application pursuant to these Rules);
  - (ii) the Clearing House is not subject to any obligation to perform directly to any of a Clearing Member's Customers, Affiliates or Representatives or any third party as a result of the Clearing Member granting any interest in any receivable from the Clearing House resulting from the Clearing House's receipt or use of such Permitted



Part 5 – Margin

Cover, except as expressly provided pursuant to these Rules or any Pledged Collateral Addendum or as mandated pursuant to Applicable Law;

- (iii) such Permitted Cover is provided on the basis that it may be used by the Clearing House and applied in accordance with these Rules;
- (iv) the Clearing Member will not claim that any transfer of Permitted Cover to or use of Permitted Cover by the Clearing House in accordance with the Rules or the relevant Clearing Membership Agreement is contrary to or in breach of any requirement of Applicable Law, third party right or other contractual obligation (provided that the Clearing House does not cause such breach by amending these Rules);
- (v) the Clearing Member is not in breach of any of its contractual obligations or regulatory requirements under MiFID II or other Applicable Laws towards any third party as a result of the transfer of Permitted Cover to the Clearing House (provided that the Clearing House does not cause such breach by amending these Rules) or its collection from or receipt of any assets from its clients; and
- (vi) if it is subject to CASS 7.18 of the FCA ~~rules~~Rules:
  - (A) its Segregated Customer Omnibus Accounts For CDS, Segregated Customer Omnibus Accounts For F&O, Segregated Customer Omnibus Accounts For FX, Standard Omnibus Indirect Accounts for CDS, Standard Omnibus Indirect Accounts for F&O and Standard Omnibus Indirect Accounts for FX only contain cash where the corresponding cash claim or receivable in the hands of the Clearing Member is treated by the Clearing Member as a client money claim or receivable and only contain non-cash assets (resulting from a transfer into the account by the Clearing Member) which the Clearing Member was entitled to treat as client assets prior to their transfer to the Clearing House;
  - (B) each of its Individually Segregated Sponsored Accounts, Margin-flow Comingled Accounts and Segregated Gross Indirect Accounts in respect of which a letter has been delivered to the Clearing House pursuant to Rule 102(q)(viii) only contain cash where the corresponding cash claim or receivable in the hands of the Clearing Member is treated by the Clearing Member as a client money claim or receivable and only contain non-cash assets (resulting from a transfer into the account by the Clearing Member) which the Clearing Member was entitled to treat as client assets prior to their transfer to the Clearing House; and
  - (C) none of its Customer Accounts or Proprietary Accounts other than such Accounts as are mentioned in paragraphs (A) or (B) contain any cash where the corresponding cash claim or receivable in the hands of the Clearing Member is required to be treated by the Clearing Member as a client money claim or receivable nor contain any non-cash assets (resulting from a transfer into the account by the Clearing Member) which the

Part 5 – Margin

Clearing Member was required to treat as client assets prior to their transfer to the Clearing House.

- (d) The Clearing Member shall be liable to the Clearing House for any cost or liability incurred by the Clearing House as a result of the Clearing House possessing, holding, perfecting the title (or, in the case of Pledged Collateral, perfecting its security interest) to or otherwise being associated with, any asset provided to it by that Clearing Member by way of Margin.
- (e) Where a Clearing Member has appointed a Disclosed Principal Member, any obligation to transfer Margin (or any other amount, payment or performance) of a Clearing Member to the Clearing House shall be construed as an obligation of the Disclosed Principal Member and any right to receive Margin (or any other amount, payment or performance) from the Clearing House shall be construed as a right of the Disclosed Principal Member and all other provisions of these Rules relating to Margin, payments and performance shall be construed accordingly.
- (f) Each Non-FCM/BD Clearing Member shall require and receive Customer-CM Collateral from its Customers or fund such Permitted Cover only in such a manner as is consistent with these Rules and the relevant Standard Terms and in a manner which allows the Clearing Member to transfer Permitted Cover to the Clearing House in accordance with its obligations under the Clearing Membership Agreement and these Rules.
- (g) Any amount or asset recorded in a particular Account may be applied by the Clearing House to the extent permitted under Part 9 of the Rules as against the net sum for such Account or transferred to the extent permitted under Rule 906 regardless of the origin or status of such amount or assets at the time of transfer or prior to the time of transfer as Customer-CM Collateral, title transfer collateral, security interest collateral, Pledged Collateral or otherwise.
- (h) The Clearing House has acknowledged in Rule 102(q), Rule 906(b), letters countersigned and returned by the Clearing House in accordance with Rule 102(q), Clearing Membership Agreements, Sponsor Agreements and Sponsored Principal Clearing Agreements that:
  - (i) no Customer Account of a Clearing Member or Individually Segregated Sponsored Account (or any money, asset or contract recorded in such a Customer Account or Individually Segregated Sponsored Account) is to be combined or co-mingled with a Proprietary Account of the same or same sponsoring Clearing Member (or any money, asset or contract recorded in such a Proprietary Account);
  - (ii) no Customer Account of a Clearing Member or Individually Segregated Sponsored Account (or any money, asset or contract recorded in such a Customer Account or Individually Segregated Sponsored Account) is to be combined or co-mingled with a different Customer Account or Individually Segregated Sponsored Account of the same or same sponsoring Clearing Member (or any money, asset or contract recorded in such a Customer Account or Individually Segregated Sponsored Account); and

## Part 5 – Margin

- (iii) no right of set-off shall be exercised by the Clearing House against money, asset or contract credited to a Customer Account in respect of any sum or obligation owed to the Clearing House on any other account.
- (i) A Clearing Member shall take any action reasonably requested by the Clearing House that may be necessary or desirable to create, preserve, perfect or validate the right, title or interests of the Clearing House in Margin or Guaranty Fund Contributions intended to be created under these Rules, the relevant Clearing Membership Agreement, any Sponsor Agreement, any Sponsored Principal Clearing Agreement or any Pledged Collateral Addendum or to enable the Clearing House to exercise or enforce any of its rights with respect thereto.

### **Rule 505      *Financial Collateral Regulations***

Clearing Members, Sponsored Principals, Customers and the Clearing House acknowledge that, except where a payment of Variation Margin, Mark-to-Market Margin, or FX Mark-to-Market Margin or a settlement or delivery payment occurs, the Financial Collateral Regulations apply in relation to all Permitted Cover, Margin and Guaranty Fund Contributions transferred to the Clearing House in the form of "cash" or "financial instruments" (in either case, as defined in the Financial Collateral Regulations). Each Clearing Member, Sponsored Principal, Sponsor and Customer agrees that it will not dispute the construction of the arrangements regarding the provision of such assets under these Rules as "financial collateral arrangements" within the meaning of the Directive 2002/47/EC of the European Parliament and of the Council of 6 June 2002 on Financial Collateral Arrangements.

### **Rule 506      *Sponsored Principals***

- (a) This Part 5 applies to Sponsored Principals in the same way as it applies to Clearing Members except:
  - (i) The last two sentences of Rule 503(g) do not apply.
  - (ii) Rule 504(a) does not apply. The rights and liabilities of the Clearing House, Sponsored Principal and Sponsor in relation to Permitted Cover are set out in the Sponsored Principal Clearing Agreement and Sponsor Agreement and these Rules.
  - (iii) Rule 504(c)(v) does not apply. Each Sponsored Principal and Sponsor will be deemed to represent and warrant to the Clearing House on each date on which there is a transfer of Permitted Cover to the Clearing House in respect of an Individually Segregated Sponsored Account that neither the Sponsor nor the Sponsored Principal will claim that any use of Permitted Cover by the Clearing House in accordance with the Rules or the relevant Sponsor Agreement or Sponsored Principal Clearing Agreement is contrary to or in breach of any requirement of Applicable Law, third party right or other contractual obligation (provided that the Clearing House does not cause such breach by amending these Rules).

Part 5 – Margin

- (iv) Rule 504(f) does not apply. Each Sponsored Principal will transfer Permitted Cover to the Clearing House only in such a manner as is consistent with these Rules and in accordance with its obligations under the Sponsored Principal Clearing Agreement and these Rules. If the Sponsor is operationally responsible for meeting calls for Permitted Cover on behalf of the Sponsored Principal, the Sponsor shall require and receive collateral from the Sponsored Principal or fund such Permitted Cover only in such a manner as is consistent with these Rules and in a manner which allows the Sponsored Principal to transfer Permitted Cover to the Clearing House in accordance with its obligations under the Sponsored Principal Clearing Agreement and these Rules.
- (v) Rule 504(h) and (i) apply to Individually Segregated Sponsored Accounts in the manner expressly set out therein.
- (vi) Nothing in this Part 5 requires a Sponsored Principal to transfer Guaranty Fund Contributions to the Clearing House.

**Part 6 – Position Limits****Part 6 Position Limits****Rule 601 Establishment of Position Limits**

- (a) The Clearing House will be entitled at its discretion to establish, amend or revoke Position Limits for Clearing Members or in respect of particular Accounts. The Clearing House may or may not inform Clearing Members of their Position Limits.
- (b) The Position Limit for each Clearing Member and Account will be determined at the Clearing House's discretion and may take into account the Clearing House's evaluation of the financial and operational capacity of the Clearing Member and such other factors as the Clearing House at its discretion deems appropriate.
- (c) If a Clearing Member is not notified of a Position Limit for an Account, particular Set of Contracts or broader group of Contracts, it may assume that there is no such Position Limit in place (and shall not be treated as having breached any Position Limit) until such time as the Clearing House notifies it of the Position Limit. Any finding of breach of a Position Limit by the Clearing House may only be prospective and not retrospective with respect to the time of notification to the Clearing Member of the Position Limit.

**Rule 602 Breach of Position Limit**

- (a) If a Clearing Member exceeds its Position Limit, the Clearing House may, at its discretion:
  - (i) require a Clearing Member to provide information to the Clearing House in respect of any of its positions;
  - (ii) require a Clearing Member to allocate, transfer or terminate such Contracts or close out its Open Contract Position in any affected Account to the extent necessary to reduce its Open Contract Position so as to meet its Position Limit within such time as the Clearing House may prescribe;
  - (iii) communicate with a Market to request that any orders on that Market may be withdrawn;
  - (iv) make an additional call for such Margin as the Clearing House in its discretion determines; and/or
  - (v) impose such additional Capital requirements on the Clearing Member as the Clearing House in its discretion determines.
- (b) If the Clearing Member fails to comply with any requirement imposed on it pursuant to Rule 602(a), the Clearing Member shall be in breach of these Rules and, without limitation, the Clearing House may, at its discretion, in respect of the Clearing Member concerned:
  - (i) declare an Event of Default;
  - (ii) terminate or suspend membership of the Clearing Member;

Part 6 – Position Limits

- (iii) terminate such Contracts as the Clearing House at its discretion selects on behalf of the Clearing Member;
  - (iv) instigate an investigation or disciplinary proceedings under Part 10 of the Rules; and/or
  - (v) impose such other requirements on the Clearing Member as it sees fit.
- (c)
- (i) A Clearing Member shall be deemed not to have exceeded a Position Limit (for purposes of Rules 602(a)(ii) and (v) and Rule 204(a)(ii) only) to the extent that such Position Limit is exceeded as a result of it being party to any Contract arising pursuant to any of Rule 401(a)(v), (vi), (xi) or (xiii) which was entered into: (A) 5 or fewer Business Days prior to the date of determination by the Clearing House that a Position Limit has been exceeded; or (B) 5 or fewer Business Days prior to the relevant Set becoming ineligible for Clearing (provided that if the relevant Set later becomes eligible for Clearing again, this paragraph (B) shall cease to apply 5 Business Days after the Set has so become eligible for Clearing) (or, in either case (A) or (B), as a result of any Open Contract Position or Contract reflecting any such Contract). Consequently, where a Clearing Member is party to any such Contract, the existence of the Contract will be disregarded in calculating the position of the Clearing Member that is used for purposes of determining the availability of the Clearing House's powers under Rule 602(a)(ii) or (v) or the applicability of a notification requirement under Rule 204(a)(ii) and instead the position of the Clearing Member excluding each disregarded Contract will be used for the purposes of such determinations.
  - (ii) A Clearing Member shall be deemed not to have breached a requirement imposed on it pursuant to Rule 602(a)(ii) to the extent that such a requirement is breached as a result of it being party to any Contract arising pursuant to any of Rule 401(a)(v), (vi), (x), (xi) or (xiii) which was entered into: (A) at any time after the requirement was imposed; (B) 5 or fewer Business Days prior to the requirement being imposed; or (C) 5 or fewer Business Days prior to the Set becoming ineligible for Clearing (provided that if the relevant Set later becomes eligible for Clearing again, this paragraph (C) shall cease to apply 5 Business Days after the Set has so become eligible for Clearing) (or, in any such case (A), (B), or (C), as a result of any Open Contract Position or Contract reflecting any such Contract). Consequently, where a Clearing Member is party to any such Contract, the existence of the Contract will be disregarded for purposes of determining any breach of a requirement under Rule 602(a)(ii) and instead the position of the Clearing Member excluding each disregarded Contract will be used for the purposes of any such determination.
  - (iii) Nothing in this Rule 602(c) shall restrict the taking by the Clearing House of any action under Rule 602(a)(i) or (iv), which it may do without regard to the nature of Contracts making up any Open Contract Position.



[Part 6 – Position Limits](#)

**Rule 603**      *Sponsored Principals*

- (a) This Part 6 applies to Sponsored Principals in the same way as it applies to Clearing Members.

## *Part 7 – Settlement and Delivery of Futures*

### ***Part 7 Settlement and Delivery of Futures***

Part 7 of the Rules does not apply to CDS Contracts or FX Contracts. References to Contracts in this section are to F&O Contracts. References to any Account in this section are references only to an Account in which F&O Contracts may be recorded and the terms 'Customer Margin Account', 'Customer Position Account', 'Proprietary Margin Account' and 'Proprietary Position Account' shall be construed accordingly. References to Customers in this section are solely to Customers of F&O Clearing Members in relation to F&O Contracts. This Part 7 applies to Sponsored Principals in the same way as it applies to Clearing Members.

#### ***Rule 701 Determination of Exchange Delivery Settlement Price for Futures***

- (a) The Clearing House will specify the Exchange Delivery Settlement Price for any Future Set.
- (b) The Exchange Delivery Settlement Price will generally be determined on the basis of data provided and published by the Market on which the Contract in question is traded and in accordance with applicable Market Rules, subject to Rule 701(c).
- (c) The Clearing House shall be entitled to determine the Exchange Delivery Settlement Price itself, at its discretion, if:
  - (i) a Market fails on any day to determine an Exchange Delivery Settlement Price;
  - (ii) a Market fails to provide the Clearing House with necessary data for determination of an Exchange Delivery Settlement Price;
  - (iii) there is an error in data provided by a Market; or
  - (iv) the Clearing House at its discretion otherwise considers it appropriate to do so.

Any Exchange Delivery Settlement Price determined by the Clearing House under this Rule 701(c) will be communicated to Clearing Members.

#### ***Rule 702 Cash Settlement***

- (a) A Futures Contract shall be settled in cash if:
  - (i) pursuant to the applicable Contract Terms it can be settled only in cash; or
  - (ii) pursuant to the applicable Contract Terms it may be settled in cash and the Clearing Member opts to settle the Contract(s) in cash.
- (b) Without prejudice to any contractual netting under Rule 406 or the Clearing Procedures, cash settlement for a Set of Futures Contracts shall occur separately, and separate payment obligations shall accrue, in respect of a Clearing Member's:
  - (i) net position in the relevant Set in respect of each of its Proprietary Accounts;

**Part 7 – Settlement and Delivery of Futures**

- (ii) gross buy positions in the relevant Set in respect of each of its Customer Accounts (if applicable);
  - (iii) gross sell positions in the relevant Set in respect of each of its Customer Accounts (if applicable);
  - (iv) net position in the relevant Set in respect of each Individually Segregated Sponsored Account for which it acts as a Sponsor (if applicable).
- (c) Provided that all Margin payments in respect of the Set have been paid by the Clearing Member to the Clearing House or repaid by the Clearing House, the amount payable for cash settlement of any Future shall be the net gain or loss, as the case may be, based on the price at which Open Contract Positions were last recorded on the Clearing House's books and the Exchange Delivery Settlement Price or, in relation to Contracts entered into on the same day as the day of settlement, the difference between the Exchange Delivery Settlement Price and the price at which the relevant Contract was bought or sold. Each cash settlement shall occur in accordance with the Contract Terms.
- (d) Neither the Delivery Procedures nor the requirements of Rule 703 shall apply to any Contract which is settled in cash in accordance with this Rule 702.

**Rule 703      *Delivery***

- (a) In relation only to Futures which are not settled in cash pursuant to Rule 702, the Delivery Procedures and the requirements of this Rule 703 shall apply. The relevant Market may, on the Clearing House's behalf, administer any matter or exercise any right granted to the Clearing House under this Rule 703 or the Delivery Procedures.
- (b) The Buyer and Seller shall each make such payments and deliveries and deliver such tenders, notices and invoices as are required pursuant to the Delivery Procedures and Market Rules. In the event that the Exchange Delivery Settlement Price for a Contract subject to delivery is set at a negative price, the roles of the Buyer and the Seller as set forth in the Rules, Delivery Procedures, Contract Terms and Market Rules shall be reversed solely in respect of the payment obligation related to that Exchange Delivery Settlement Price.
- (c) The passing on by the Clearing House of such tenders or such other documents shall not constitute acceptance by the Clearing House of such tenders or such documents if the Clearing Member to which the Clearing House passed on such tender or documents rejects the same where permitted to do so. In the event of such rejection, the Clearing House shall also be entitled to reject the tenders or other documents. Similarly, where a Clearing Member who is a Buyer under a Contract rejects a Deliverable delivered to it, the Clearing House as Buyer under the corresponding back to back Contract shall be entitled, if to do so would be in accordance with the applicable Contract Terms, to take the same action as against the Seller under that Contract and the Clearing House shall not be deemed to have accepted such delivery until the relevant Buyer has accepted delivery under the first Contract.

Part 7 – Settlement and Delivery of Futures

- (d) Subject to Rule 703(c), no tender received by the Buyer may be withdrawn or substituted by the Seller except with the consent of the Buyer or otherwise in accordance with the Contract Terms and Procedures.
- (e) Full compliance with the Delivery Procedures applicable to the Contract in question and, where applicable, Market Rules shall amount to a good discharge of the rights, liabilities and obligations of the parties under such Contract (but shall be without prejudice to any rights, liabilities or obligations of any party to a Contract in relation to breach of warranty, representation, damaged goods, under-delivery, over-delivery or otherwise).
- (f) The Clearing House may, at its discretion, direct a Clearing Member who is a Seller under a Contract subject to delivery to deliver the Deliverable that is the subject matter of such Contract to another Clearing Member that is a Buyer. The Seller and Buyer shall each be bound by any such direction. Delivery in accordance with any such direction shall be deemed to constitute delivery by the Seller to the Clearing House and from the Clearing House to the Buyer for the purposes of the Contract or Contracts in question (but title shall not pass unless and until the time specified in the Delivery Procedures). All payments in relation to such Contracts shall nonetheless be made only to and from the Clearing House by the Clearing Members concerned (except with the prior written consent of the Clearing House).
- (g) If an invoice has not been prepared or delivered when payment becomes due pursuant to a Contract, payment shall be made and received on account, pending the issue of that invoice.
- (h) Where a Clearing Member that is a Buyer or Seller under a Contract subject to delivery is subject to grounds for declaring an Event of Default or Force Majeure Event, the rights, liabilities and obligations of the Defaulter and any Clearing Member that is not a Defaulter with delivery positions in the same Set in respect of such performance may at the option of the Clearing House, or shall in accordance with the Delivery Procedures, be discharged and there shall arise in place of the same an obligation to account as between the Clearing Member and the Clearing House for a settlement amount. The Clearing House shall be entitled to substitute an obligation to account for such settlement amount, or a proportion thereof, for the Clearing House's rights, liabilities and obligations in respect of performance of delivery obligations under other Contracts subject to tender with other Clearing Members (such Contracts and Clearing Members selected by the Clearing House at its discretion) of the same Set.
- (i) Where a Clearing Member has appointed a Disclosed Principal Member, any delivery, payment or related obligation of the Clearing Member to the Clearing House shall be construed as an obligation of the Disclosed Principal Member and any right to take delivery or receive payment as a right of the Disclosed Principal Member, and terms 'Buyer,' 'Seller' and all other provisions of these Rules relating to deliveries shall be construed accordingly.
- (j) Each Seller shall be deemed to represent and warrant that deliveries to Buyers of Deliverables that are the subject matter of any Contract subject to this Rule are made free of any Encumbrance of or relating to the Seller (or any of its Transferors or Representatives). Sellers shall not be discharged of their delivery obligations in relation to

**Part 7 – Settlement and Delivery of Futures**

any Contract subject to this Rule unless the Buyer has taken delivery of the Deliverable that is the subject matter of the Contract free of any such Encumbrances.

**Rule 704      *Credit and Debit of Accounts***

- (a) The Clearing House shall make any necessary credits or debits to or from Clearing Members' Proprietary Margin Account and Customer Margin Accounts, as appropriate, arising as a result of each cash settlement and delivery in accordance with Part 3.
- (b) Subject to the Contract Terms and Procedures, any compensation, adjusting payment or other allowance payable by or to either the Buyer or the Seller under the terms of the Contract shall be paid by or to the Clearing House for onward payment to the Buyer or the Seller as the case may be.

**Rule 705      *Settlement and Delivery Obligations only in respect of Open Contract Position and Termination of other Contracts***

- (a) Without prejudice to any contractual netting under Rule 406 or the Clearing Procedures, the Clearing House and each Clearing Member shall make cash settlement and delivery only for such number of Contracts as are reflected in the Clearing Member's Open Contract Position separately for the Clearing Member's:
  - (i) net position in the relevant Set in respect of each of its Proprietary Accounts;
  - (ii) gross buy positions in the relevant Set in respect of each of its Customer Accounts (if applicable);
  - (iii) gross sell positions in the relevant Set in respect of each of its Customer Accounts (if applicable);
  - (iv) net position in the relevant Set in respect of each Individually Segregated Sponsored Account for which it acts as a Sponsor (if applicable).

No such Open Contract Position (or additional Contracts) may be netted against another Open Contract Position on cash settlement or delivery without the prior written consent of the Clearing House, and subject always to Rule 102(q).

~~(b)~~ Upon each of the parties to a Contract having made all necessary payments and deliveries in accordance with these Rules in respect of all Futures Contracts in a Set in relation to which a cash settlement or delivery obligation exists for any account or positions specified in Rule 705(a), the Clearing Member and the Clearing House shall each be discharged and released from all rights, liabilities and obligations to one another arising pursuant to Futures Contracts belonging to such Set in respect of such account or position.

## [Part 8 – Options](#)

### **Part 8 Options**

Part 8 of the Rules does not apply to CDS Contracts or FX Contracts. References to Contracts in this section are to F&O Contracts. References to any Account in this section are references only to an Account in which F&O Contracts may be recorded and the terms 'Customer Margin Account', 'Customer Position Account', 'Proprietary Margin Account' and 'Proprietary Position Account' shall be construed accordingly. References to Customers in this section are solely to Customers of F&O Clearing Members in relation to F&O Contracts that are Options. This Part 8 applies to Sponsored Principals in the same way as it applies to Clearing Members.

#### **Rule 801 Payment of Premium**

- (a) A Buying Counterparty that becomes party to an Option shall be obliged to pay to the Clearing House the premium for the Option at the time specified in the Contract Terms.
- (b) A Selling Counterparty that becomes party to an Option will be credited by the Clearing House with an amount equal to the premium for the Option at the time specified in the Contract Terms.

#### **Rule 802 Determination of Exchange Delivery Settlement Price for Options**

- (a) The Clearing House will specify the Exchange Delivery Settlement Price for any Option Set.
- (b) The Exchange Delivery Settlement Price will generally be determined on the basis of data provided or published by the Market on which the Contract in question is traded, and in accordance with applicable Market Rules.
- (c) The Clearing House shall be entitled to determine the Exchange Delivery Settlement Price itself, at its discretion, if:
  - (i) a Market fails on any day to determine an Exchange Delivery Settlement Price;
  - (ii) a Market fails to provide the Clearing House with necessary data for determination of an Exchange Delivery Settlement Price;
  - (iii) there is an error in data provided by a Market; or
  - (iv) the Clearing House at its discretion otherwise considers it appropriate to do so.

Any Exchange Delivery Settlement Price determined by the Clearing House under this Rule 802(c) will be communicated to Clearing Members.

#### **Rule 803 Exercise of Options**

- (a) An Option Contract may be exercised only if permitted by the applicable Contract Terms. An Option Contract may be exercised only by a Clearing Member with a Long Open Contract Position or by the Clearing House in respect of a Contract in which it is Long. Option Contracts may only be exercised by a Clearing Member for any Option Set for such



Part 8 – Options

- number of Contracts as are reflected in the Clearing Member's Open Contract Position, plus any other Option Contracts entered into on the same day as the exercise date, separately for each of the positions on the Clearing Member's:
- (i) net position in the relevant Set in respect of each of its Proprietary Accounts;
  - (ii) gross buy positions in the relevant Set in respect of each of its Customer Accounts (if applicable);
  - (iii) gross sell positions in the relevant Set in respect of each of its Customer Accounts (if applicable);
  - (iv) net position in the relevant Set in respect of each Individually Segregated Sponsored Account for which it acts as a Sponsor (if applicable).
- (b) Any exercise of an Option Contract shall be in accordance with the applicable Contract Terms. In particular, an Option Contract shall only be exercised:
- (i) if it is an Option Contract which in accordance with the applicable Contract Terms is automatically exercised, in which case it will be automatically exercised at the time and in the manner specified in the Contract Terms; or
  - (ii) if it is an Option Contract not falling in Rule 803(b)(i), at such time as is permitted pursuant to the applicable Contract Terms (whether on the day and by the time prescribed by the applicable Contract Terms or in such period as is prescribed by the applicable Contract Terms) and in such form and manner as is permitted pursuant to the Contract Terms and the Clearing Procedures (including, where permitted, by manual exercise or the establishment of settings in the Clearing House's systems for the exercise of Options).
- (c) A Long Option Contract may be abandoned by notice to the Clearing House in writing or such other form as is permitted pursuant to the Clearing Procedures or Contract Terms.
- (d) The Clearing House shall be entitled to rely upon any form or electronic communication purporting to give notice of exercise or abandonment of an Option made in accordance with these Rules without any enquiry as to:
- (i) whether such form or electronic communication complies with the Contract Terms or the requirements of the Clearing Procedures; or
  - (ii) as to the authority of any Representative purporting to exercise an Option on behalf of a Clearing Member or due execution of the relevant form.
- (e) The Clearing House may reject any notice of exercise or abandonment of an Option if such notice does not, or appears not to, comply with the Contract Terms or the Clearing Procedures, notwithstanding any equivalent notice or other prescribed form of exercise that has been provided by the Clearing House to any Clearing Member in respect of the exercise of an Option Contract.

## *Part 8 – Options*

- (f) No notice or other form of exercise or abandonment of an Option received by the Clearing House may be cancelled or withdrawn once the deadline for exercise has passed.
- (g) Part 7 of these Rules shall not apply in relation to Options.

### ***Rule 804 Exercise Notices***

The Clearing House will allocate exercise notices to Clearing Members which have or carry Short Open Contract Positions (and Short Contracts not in their Open Contract Position) in the Option Set being exercised, in accordance with the Clearing Procedures.

### ***Rule 805 Options with Deliverables which are Futures***

- (a) Upon exercise of any Option with a Future as the Deliverable under the Option, one or more Futures Contracts at the Strike Price (or such other price as is required pursuant to the Contract Terms) shall arise pursuant to Rule 401 and in accordance with the Contract Terms for the Option and applicable Market Rules.
- (b) Upon such Futures Contract or Contracts having arisen and all necessary payments having been made by the Clearing Member and Clearing House pursuant to the Clearing Procedures, the rights, obligations and liabilities of the Clearing House and the relevant Clearing Member in respect of the Option shall be satisfied and the Option shall be terminated.

### ***Rule 806 Options with Deliverables other than Futures***

- (a) Upon exercise of any Option with a Deliverable which is not a Future, a Contract for the sale and purchase of the relevant Deliverable (a "**Contract of Sale**") at the Strike Price (or such other price as is required pursuant to the Contract Terms) shall arise pursuant to Rule 401 and in accordance with the Contract Terms for the Option and applicable Market Rules.
- (b) Upon such Contract of Sale or Contracts of Sale having arisen and all necessary payments having been made by the Clearing Member and Clearing House pursuant to the Clearing Procedures, the rights, obligations and liabilities of the Clearing House and the relevant Clearing Member in respect of the Option shall be satisfied and the Option shall be terminated.

### ***Rule 807 Termination of other Contracts***

Upon each of the parties to a Contract having made all necessary payments and becoming party to all resulting Futures Contracts and Contracts of Sale in accordance with these Rules in respect of all Option Contracts in a Set in relation to an account or position specified in Rule 803(a), the Clearing Member and the Clearing House shall each be discharged and released from all rights, liabilities and obligations to one another arising pursuant to Option Contracts belonging to such Set in respect of such account or position.

**Part 8 – Options****Rule 808      *Expiry and Abandonment***

- (a) If an Option Contract is not automatically exercised in accordance with Rule 803(b)(i) or exercised by the Clearing Member by the day and time referred to in Rule 803(b)(ii), all the rights, liabilities and obligations of each of the Clearing House and the relevant Clearing Member in respect of any Option shall lapse and the Option shall be terminated and be deemed to be abandoned.
- (b) If notice of abandonment of an Option Contract is given pursuant to Rule 803(c), all the rights, liabilities and obligations of each of the Clearing House and the relevant Clearing Member in respect of any the Option shall lapse and the Option shall be terminated and be deemed to be abandoned upon the Clearing House updating its books and records in respect of such abandonment.

**Rule 809      *Deliveries under Contracts of Sale***

- (a) The Delivery Procedures and the requirements of this Rule 809 shall apply to Contracts of Sale.
- (b) The Buyer and Seller under each Contract of Sale shall each make such payments and deliveries and deliver such tenders, notices and invoices as are required pursuant to the Delivery Procedures and Market Rules.
- (c) Full compliance with the Delivery Procedures applicable to the Contract of Sale in question and, where applicable, Market Rules shall amount to a good discharge of the rights, liabilities and obligations of the parties under such Contract (but shall be without prejudice to any rights, liabilities or obligations of any party to a Contract in relation to breach of warranty, representation, damaged goods, under-delivery, over-delivery or otherwise).
- (d) The Clearing House may, at its discretion, direct a Clearing Member who is a Seller under a Contract of Sale subject to delivery to deliver the Deliverable that is the subject matter of such Contract to another Clearing Member that is a Buyer. The Seller and Buyer shall each be bound by any such direction. Delivery in accordance with any such direction shall be deemed to constitute delivery by the Seller to the Clearing House and from the Clearing House to the Buyer for the purposes of the Contract of Sale or Contracts of Sale in question (but title shall not pass unless and until the time specified in the Delivery Procedures). All payments in relation to such Contracts shall nonetheless be made only to and from the Clearing House by the Clearing Members concerned (except with the prior written consent of the Clearing House).
- (e) If a Buyer under a Contract of Sale rejects a Deliverable delivered to it, the Clearing House as Buyer under the similar (effectively, back to back) Contract shall be entitled, if to do so would be in accordance with the applicable Contract Terms, to take the same action as against the Seller under the equivalent Contract and the Clearing House shall not be deemed to have accepted such delivery until the relevant Buyer has accepted delivery under the first Contract.

**Part 8 – Options**

- (f) Where payment is subject to an invoice under the Contract Terms, if an invoice has not been prepared or delivered when payment becomes due pursuant to a Contract, payment shall be made and received on account, pending the issue of that invoice.
- (g) Where a Clearing Member that is a Buyer or Seller under a Contract of Sale is subject to an Event of Default or Force Majeure Event, the rights, liabilities and obligations of any Clearing Member that is not a Defaulter in respect of such performance shall be discharged and there shall arise in place of the same an obligation to account as between the Clearing Member and the Clearing House for a settlement amount. The Clearing House shall be entitled to substitute an obligation to account for such settlement amount, or a proportion thereof, for the Clearing House's rights, liabilities and obligations in respect of performance of delivery obligations under other Contracts subject to tender with other Clearing Members (such Contracts and Clearing Members selected by the Clearing House at its discretion) of the same Set.
- (h) Upon each of the parties to a Contract having made all necessary payments and deliveries in accordance with these Rules in respect of all Contracts of Sale relating to Options in a Set in relation to which a delivery obligation exists for any account or positions specified in Rule 803(a), the Clearing Member and the Clearing House shall each be discharged and released from all rights, liabilities and obligations to one another arising pursuant to such Contracts of Sale in respect of such account or position.

***Rule 810 Cash Settlement***

- (a) Neither the Delivery Procedures nor Rules 803 to 809 apply to Option Contracts which are, according to their applicable Contract Terms, capable of cash-settlement only or which, being Contracts that may be cash-settled at the option of either party, have been designated for cash-settlement by either party.
- (b) An Option Contract shall be settled in cash if:
  - (i) pursuant to the applicable Contract Terms it can be settled only in cash; or
  - (ii) pursuant to the applicable Contract Terms it may be settled in cash and the Clearing Member opts to settle the Contract(s) in cash.
- (c) Cash settlement for a Set of Option Contracts shall occur separately, and separate payment obligations shall accrue, in respect of a Clearing Member's:
  - (i) net position in the relevant Set in respect of each of its Proprietary Accounts;
  - (ii) gross buy positions in the relevant Set in respect of each of its Customer Accounts (if applicable);
  - (iii) gross sell positions in the relevant Set in respect of each of its Customer Accounts (if applicable);

**Part 8 – Options**

- (iv) net position in the relevant Set in respect of each Individually Segregated Sponsored Account for which it acts as a Sponsor (if applicable).
- (d) Provided that all Margin payments (and any outstanding premium payments) in respect of the Set have been paid by the Clearing Member to the Clearing House or repaid by the Clearing House, the amount payable for cash settlement of any Option shall be the net gain or loss, as the case may be, based on the difference between the price at which Open Contract Positions are recorded on the Clearing House's books and the Exchange Delivery Settlement Price on the day of settlement or exercise (or, for Contracts entered into on the same day as the day of exercise, the difference between the Exchange Delivery Settlement Price and the price at which the relevant Contract was bought or sold). Each cash settlement shall occur in accordance with the Contract Terms.
- (e) Upon each of the parties to a Contract having made all necessary payments in accordance with these Rules in respect of all Option Contracts in a Set in relation to which a cash settlement obligation exists for any account or positions specified in Rule 810(c), the Clearing Member and the Clearing House shall each be discharged and released from all rights, liabilities and obligations to one another arising pursuant to Option Contracts belonging to such Set in respect of such account or position.

***Rule 811 Credit and Debit of Accounts***

The Clearing House shall make any necessary credits or debits to or from Clearing Members' Proprietary Margin Account and Customer Margin Accounts, as appropriate, arising as a result of each cash settlement and delivery in accordance with Part 3.

**Part 9 – Default Rules****Rule 901 – Rule 901 Events of Default affecting Clearing Members or Sponsored Principals****Part 9      Default Rules**

*Without prejudice to the status of any other provision of these Rules, all the provisions of this Part 9 are intended to constitute 'default rules' for purposes of the Companies Act 1989, include a "default waterfall" for purposes of article 45 of EMIR and constitute "default procedures" for purposes of article 48 of EMIR, "default rules and procedures" for purposes of section 5b(c)(2)(G) of the CEA, "default arrangements" for the purposes of the Settlement Finality Regulations and "default procedures" for purposes of SEC Rule 17Ad-22. These rules are intended to comply with provisions of the Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges, Clearing Houses and Central Securities Depositories) Regulations 2001 (SI 2001/995) in addition to other Applicable Laws. In addition to these Rules, the Clearing House relies on its legal rights under Applicable Laws in handling Events of Default, including under EMIR, FSMA, the Companies Act 1989, the Settlement Finality Directive, the Settlement Finality Regulations, the Financial Collateral Directive, the Financial Collateral Regulations, the U.S. Bankruptcy Code and the FSMR, as applicable.*

**Rule 901      Events of Default affecting Clearing Members or Sponsored Principals**

- (a) If any of the following events should occur with respect to any Clearing Member (regardless of whether it is cured by the Clearing Member, a guarantor or other third party on behalf of the Clearing Member or otherwise), such event shall, if so declared by the Clearing House, constitute an **"Event of Default"**:
- (i) any breach by that Clearing Member of these Rules, the Procedures, the Clearing Membership Agreement, any Sponsor Agreement (or, in the case of a Sponsored Principal where this Rule is applicable pursuant to Rule 901(d), the Sponsored Principal Clearing Agreement) any other agreement with the Clearing House or Market Rules;
  - (ii) that Clearing Member being unable, or likely to be unable, to meet its obligations under these Rules or in respect of any Contract;
  - (iii) a Monetary Default or Delivery Default occurring with respect to that Clearing Member;
  - (iv) any Financial Indebtedness of that Clearing Member or any of its Group Companies: (A) not being paid when due or within any originally applicable grace period; or (B) being declared to be or otherwise becoming due and payable prior to its specified maturity as a result of an event of default (however described) (including any declaration by the Clearing House of an Event of Default in relation to any such Group Company);
  - (v) any commitment for any Financial Indebtedness of that Clearing Member or any of its Group Companies being cancelled or suspended by a creditor as a result of an event of default (however described);



**Part 9 – Default Rules**

**Rule 901 – Rule 901 Events of Default affecting Clearing Members or Sponsored Principals**

- (vi) any creditor of that Clearing Member or any of its Group Companies becoming entitled to declare any Financial Indebtedness due and payable prior to its specified maturity as a result of an event of default (however described);
  - (vii) an Insolvency or Unprotected Resolution Step in relation to that Clearing Member or any of its Group Companies;
  - (viii) any material action being taken against that Clearing Member (including, without limitation, any declaration of default, material adverse notice or finding, material fine, suspension or expulsion or withdrawal of, revocation of or failure to renew any permission, exemption, licence or authorisation) by any Governmental Authority, Regulatory Authority, Exchange, Clearing Organisation or Delivery Facility;
  - (ix) breach by that Clearing Member of any Applicable Law relevant to its business as a Clearing Member;
  - (x) (A) failure by the Clearing Member or its Credit Support Provider to comply with or perform any agreement or obligation to be complied with or performed by it in accordance with any Credit Support Document if such failure is continuing after any applicable grace period has elapsed; (B) the expiration or termination of such Credit Support Document or the failing or ceasing of such Credit Support Document, or any security interest granted by such Clearing Member or its Credit Support Provider to the Clearing House pursuant to any such Credit Support Document, to be in full force and effect for the purpose of any Contract (in each case other than in accordance with its terms) prior to the satisfaction of all obligations of such party under each Contract to which such Credit Support Document relates in each case without the written consent of the Clearing House; or (C) such Clearing Member or its Credit Support Provider disaffirms, disclaims, repudiates or rejects, in whole or in part, or challenges the validity of, such Credit Support Document (or such action is taken by any person or entity appointed or empowered to operate it or act on its behalf); or
  - (xi) the Clearing Member or its Credit Support Provider consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to, or reorganises, reincorporates or reconstitutes into or as, another entity and, at the time of such consolidation, amalgamation, merger, transfer, reorganisation, reincorporation or reconstitution: (A) the resulting, surviving or transferee entity fails to assume all the obligations of such Clearing Member or its Credit Support Provider under any Contract or any Credit Support Document to which it or its predecessor was a party; or (B) the benefits of any Credit Support Document fail to extend (without the consent of the Clearing House) to the performance by such resulting, surviving or transferee entity of its obligations under any Contract.
- (b) The Clearing House may assume that the occurrence of any Event of Default means that a Clearing Member is unable, or likely to be unable, to meet its obligations under these Rules or in respect of any Contract.

Part 9 – Default RulesRule 901 – Rule 901 Events of Default affecting Clearing Members or Sponsored Principals

- (c) The Clearing House may exercise rights under the power of attorney granted under clause 5.1 and 5.2 of the Clearing Membership Agreement, Sponsored Principal Clearing Agreement and/or Sponsor Agreement (including with respect to the Pledged Collateral Addendum) if there has been an Event of Default. If, following an Event of Default, the Clearing House exercises rights under the power of attorney in clause 5.1 and 5.2 of the Clearing Membership Agreement, Sponsored Principal Clearing Agreement or Sponsor Agreement for purposes of enforcement to exercise any of its rights under this Part 9 or under the Pledged Collateral Addendum and a Circular has not been issued in respect of the Event of Default, the Clearing House will notify the Clearing Member or Sponsor and Sponsored Principal concerned as soon as is reasonably practicable of such exercise.
- (d) A Sponsored Principal may be declared a Defaulter by the Clearing House if any of the events or circumstances specified in Rule 901(a) occurs in relation to a Sponsored Principal (in place of the Clearing Member) (except, in the case of circumstances falling under Rule 901(a)(i) to (iii), to the extent that the Sponsor cures the Event of Default in question, where the same is permitted under this Rule 901(d)). A Sponsored Principal may further be declared a Defaulter pursuant to Rule 904(q). A Sponsor must notify the Clearing House in writing and without delay if it serves any notice or exercises any right under the Customer-Clearing Member Agreement between the Sponsored Principal and the Sponsor under which the Sponsored Principal is treated as a defaulter, in default or subject to any event of default in circumstances where the same would be grounds for the Clearing House declaring an Event of Default in respect of the Sponsored Principal. The Clearing House may declare the Sponsored Principal to be the subject of an Event of Default as soon as reasonably practicable following receipt of any such notice from a Sponsor, provided that the Clearing House is satisfied that the Sponsored Principal is capable of being declared a Defaulter under this Part 9 (notwithstanding if the relevant event or circumstances have been cured by the Sponsor). The Clearing House may publish a copy of any such notice from a Sponsor together with the Default Notice or may specify in the Default Notice that the Event of Default is declared due to notice being received by the Clearing House from a named Sponsor. In any circumstances in which a Sponsored Principal is declared a Defaulter, this Part 9 will apply in full to all Individually Segregated Sponsored Accounts of the Sponsored Principal, *mutatis mutandis* as if the Sponsored Principal were a Clearing Member and Defaulter, but the Sponsor shall not be treated as a Defaulter unless a separate Default Notice is issued in respect of the Sponsor as a result of an Event of Default affecting the Sponsor. If the Clearing House becomes aware of grounds for declaring a Sponsored Principal to be a Defaulter under Rule 901(a)(i) to (iii) but no Event of Default is declared, the Clearing House will notify the Sponsor of details of such grounds without delay and direct all liabilities on the Individually Segregated Sponsored Account to be met from the Nominated Proprietary Bank Account used by the Sponsor for its own Proprietary Account transactions, and any such Sponsor shall be liable to make such payments in full and on time from such Nominated Proprietary Bank Account.
- (e) The Clearing House may inform any relevant Regulatory Authority of an Event of Default prior to declaring an Event of Default and disclose such information to such Regulatory Authority as it sees fit.

Part 9 – Default RulesRule 902 – Actions to be taken following declaration of a Clearing Member Event of Default**Rule 902      *Actions to be taken following declaration of a Clearing Member Event of Default***

- (a) If an Event of Default has been declared, the Clearing House may immediately suspend or terminate the Defaulter's membership as a Clearing Member, status as a Sponsored Principal or Sponsor and any other entitlements under these Rules, take any action to close out the Defaulter's positions under this Part 9 and take such action as is necessary to control or reduce losses or liquidity pressures resulting from the Event of Default. Any such suspension or termination may be temporarily postponed or may not be enforced if the Clearing House in its discretion determines that any such suspension or termination would either (i) not be in the best interests of the Clearing House; or (ii) be likely adversely to affect the operation of any market.
- (b) As soon as practicable after the Clearing House has declared that a Clearing Member is subject to an Event of Default, the Clearing House shall ~~issue~~serve a Default Notice ~~to~~on the Defaulter. The Clearing House will issue a Circular in respect of any Default Notice specifying the name of the Defaulter. The Clearing House may at its discretion publish a copy of the relevant Default Notice in or together with a Circular. The Clearing House shall, as soon as reasonably practicable after issuing a Default Notice, appoint a day on which any net sums certified under Rule 906 are to be paid.
- (c) The Clearing House may take such steps pursuant to this Part 9 as appear in the circumstances to be necessary or expedient to discharge all the Defaulter's rights and liabilities under or in respect of Contracts to which it is party, to protect the Clearing House, its non-defaulting Clearing Members, Sponsored Principals or Markets or to complete the process described in this Part 9.
- (d) Transfer Orders shall be legally enforceable, irrevocable and binding on third parties in accordance with Part 12, even on the occurrence of an Event of Default.

Part 9 – Default RulesRule 903 – Treatment of Contracts following a Clearing Member Event of Default and Hedging**Rule 903**      ***Treatment of Contracts following a Clearing Member Event of Default and Hedging***

- (a) The Clearing House shall be entitled to take any of the following steps at its discretion following the occurrence of an Event of Default with respect to a Clearing Member or Sponsored Principal:
- (i) to arrange for Contracts to be subject to a Transfer to a Transferee Clearing Member in accordance with Rule 904 and effect the same;
  - (ii) if it determines at its discretion that the protection of the financial integrity of the Clearing House so requires, or because of the cessation or curtailment of trading on a Market where contracts may be traded, to delay a close out or termination of some or all Contracts of the Defaulter;
  - (iii) subject always to Rule 102(q), if the Defaulter acts as Buying Counterparty and Selling Counterparty in respect of Contracts of the same Set, to net, offset, mutually close out or terminate such Contracts (or any part thereof) provided that, following such netting, offsetting, closing out or termination, Contracts representing in aggregate the Open Contract Position of the Defaulter in the relevant Set are recognised; and the Clearing House shall be entitled to and shall amend the records of Contracts recorded in Deriv/SERV or any relevant Repository accordingly, provided that the Clearing House shall not be obliged to amend such Deriv/SERV or Repository records if it no longer has the necessary authority or access to do so or is otherwise prevented or restricted from doing so by an Insolvency Practitioner; and
  - (iv) to combine and replace two or more FX Contracts of a Defaulter (or any part of an FX Contract) with a single FX Contract, which may occur where the Defaulter is Reference Currency Seller under one of the FX Contracts in respect of a particular currency and Reference Currency Buyer under the other FX Contract in respect of the same currency, and those two FX Contracts have the same FX Settlement Date.
- (b) All Contracts to which a Defaulter is party (which are not voidable and voided by the Clearing House pursuant to Part 4) shall be closed out in the manner set out in Rule 905 except to the extent that Rule 903(a) applies to such Contracts.
- (c) To the extent that any Contracts to which a Defaulter is party remain open from time to time (whether pursuant to Rule 903(a)(ii), pending Transfers, terminations or otherwise) or if the Clearing House is otherwise unable for any reason to liquidate Contracts in a prompt and orderly fashion, the Clearing House may authorise the execution from time to time for the account of the Clearing House, for the purpose of an orderly unwind of any Contracts to which a Defaulter is party or reducing the risk to the Clearing House and the risk to Clearing Members (in the case of Clearing Members, except to the extent that reducing any risk to Clearing Members creates or increases any risk for the Clearing House) resulting from the continued maintenance of such Contracts, of hedging transactions including, without limitation, the purchase, exercise, sale or grant of Contracts. ~~—Any or other~~ transactions on a Market, any other Exchange or over the counter. Unless requested or

Part 9 – Default RulesRule 903 – Treatment of Contracts following a Clearing Member Event of Default and Hedging

directed otherwise by the Clearing House or taking place on an Exchange which is not a Market, any such hedging transactions that are executed in the form of a Contract shall be submitted by Clearing Members with whom they are executed to the Clearing House for Clearing on a daily basis. Any costs, expenses or losses sustained by the Clearing House in connection with transactions effected pursuant to this Rule 903(c) shall be charged to the Defaulter and any gains shall be credited to the Defaulter in the relevant net sum calculation under Rule 906 for the Account in respect of which exposures were hedged.

- (d) If a Contract is terminated pursuant to an automatic early termination provision or under Applicable Law as a result of an Event of Default, Insolvency, Unprotected Resolution Step or related event affecting the Defaulter, or if Rule 912 applies, this Part 9 shall apply *mutatis mutandis* in relation to such terminated Contract and the rights, obligations and liabilities relating thereto. For the avoidance of doubt, in any case where this Rule 903(d) applies as a result of Rule 912 applying, Rule 905(f) shall not apply to the extent that the same is disapplied by Rule 912.
- (e) Upon an Event of Default being declared with respect to a Clearing Member, any accrued or invoiced amounts shall be immediately due and payable by the Defaulter to the Clearing House.

Part 9 – Default RulesRule 904 – Transfer of Contracts and Margin on a Clearing Member Event of Default**Rule 904**      *Transfer of Contracts and Margin on a Clearing Member Event of Default***Provisions applicable to all Defaulters and all Contracts**

- (a) The Clearing House may arrange for any of the following steps (any such step, a "**Transfer**" and the term "**Transferred**" shall be interpreted accordingly) to take place in respect of the Contracts of a Defaulter as part of its default proceedings:
- (i) a transfer, sale, assignment or novation of Contracts (and related Customer-CM Transactions) of a Defaulter to a Transferee Clearing Member; or
  - (ii) the termination of Contracts between the Clearing House and a Defaulter (and related Customer-CM Transactions, where applicable) and the entry into of new replacement Contracts (and related Customer-CM Transactions, where applicable) between the Clearing House and the Transferee Clearing Member or between such Customer and such Transferee Clearing Member, as applicable (by way of novation and amendment or otherwise).

Unless the Clearing House specifies otherwise in writing, all Transfers shall occur pursuant to the process described in Rule 904(a)(ii).

- (b) The Clearing House shall, at its discretion, determine the price that any Contract subject to a Transfer shall be Transferred, which may be determined on the basis of the applicable Exchange Delivery Settlement Price (for F&O Contracts) or as zero (for certain Options), the ~~Market-to-Market Value~~ Mark-to-Market Price (for CDS Contracts) or the FX Market Price (for FX Contracts), in either case as at the time specified by the Clearing House. Such price may be calculated with reference to any time determined at the Clearing House's discretion, which may be the time of the Transfer, the time an Event of Default, Insolvency or Unprotected Resolution Step occurs or is declared, or the time of calculation of any such price as at the end of the Business Day prior to the Transfer, Event of Default, Insolvency or Unprotected Resolution Step. Transferee Clearing Members will be notified of applicable prices determined pursuant to this provision prior to the Transfer.
- (c) For the avoidance of doubt, the Clearing House shall have no obligation to enter into or effect any Transfer if to do so (i) would result in or risk an Account being under-collateralised with respect to any remaining Contracts; (ii) would result in or risk an Event of Default or a Failure To Pay in respect of the Clearing House, the application of Guaranty Fund Contributions of non-Defaulters, a call for Assessment Contributions or invocation of any of the procedures in Rules 912 to 918; (iii) would result in or risk a breach of Applicable Laws; or (iv) lacks any Governmental Authority, Customer or other consent or approval that is required or desirable in the circumstances, in each case as determined by the Clearing House at its discretion. Any Transfers shall be fair to clients and indirect clients of the Defaulter.
- (d) If any Contracts recorded in a Defaulter's Customer Account are subject to any Transfer pursuant to Rule 904(a)(i):



Part 9 – Default RulesRule 904 – Transfer of Contracts and Margin on a Clearing Member Event of Default

- (i) any related Margin recorded in the relevant Customer Account may, at the discretion of the Clearing House also be transferred from that Customer Account to the Transferee Clearing Member's Customer Account (in the case of CDS Contracts, provided that such transfer occurs in accordance with the remainder of this Rule 904);
- (ii) to the extent that any transfer of Margin takes place in accordance with Rule 904(d)(i), the Defaulter shall have no claim against the Clearing House or any Transferee Clearing Member for return of such Margin and the Clearing House shall be released from any liability or obligation to return such Margin (or any property in substitution thereof) to the Defaulter;
- (iii) as between the Transferee Clearing Member and the Clearing House, the Clearing House shall have all rights in relation to any Margin transferred pursuant to Rule 904(d)(i) as if the same were Margin transferred to the Clearing House directly from the Transferee Clearing Member;
- (iv) where the Defaulter has or had a Pledged Collateral Account, the Clearing House shall be entitled, in addition to the rights and remedies referred to in Rule 902, to exercise the rights of a secured party, collateral taker, market chargee and collateral security chargee under Applicable Law, including rights of appropriation, with respect to any Pledged Collateral and the rights set forth in the Pledged Collateral Addendum in order to facilitate any such transfer of Margin; and
- (v) where:
  - (A) the Clearing House has elected to exercise its rights to transfer Margin of a Defaulter pursuant to Rule 904(j)(iii);
  - (B) such Defaulter has a Pledged Collateral Account; and
  - (C) the Clearing House exercises the right of appropriation pursuant to the relevant Pledged Collateral Addendum as contemplated by Rule 904(d)(iv) so as to give effect to a transfer of Margin,

then the Clearing Member that is the Defaulter will be obliged to pay to the Clearing House an amount equal to the value of Pledged Collateral so appropriated, such value having been calculated in accordance with Rule 905(b)(ix).

- (e) The Clearing House may rely upon any information relating to the positions, assets or identities of individual Customers provided to it by an Exchange, CDS Trade Execution/Processing Platform, FX Trade Execution/Processing Platform or Clearing Member, without need for further enquiry by the Clearing House with respect thereto. The books and records of the Clearing House may be treated as definitive evidence of the positions and Customers which correspond to Contracts recorded in one of the Defaulter's Customer Accounts.

Part 9 – Default RulesRule 904 – Transfer of Contracts and Margin on a Clearing Member Event of Default

- (f) The Clearing House shall be entitled to make partial or full transfers of available Margin at any time from the relevant account of a Defaulter in respect of Contracts subject to a Transfer, provided that in any case the total amount of Margin transferred in respect of any Contracts relating to a particular Customer remains commensurate to the Margin that was provided in respect of such transferred Contracts and held by the Clearing House immediately prior to the Event of Default.
- (g) Nothing in these Rules shall require a Clearing Member to accept any Transfer of Contracts as a Transferee Clearing Member, without the prior consent of that Clearing Member (and for these purposes no such consent shall have been provided as a result of a Clearing Member being named as a potential Transferee Clearing Member in a ~~Default Portability Preference~~ Porting Notice unless that Clearing Member has countersigned the Porting Notice or otherwise indicated its agreement in writing). Including as a result of the consents in Section 6(b) of the Standard Terms, the Clearing House shall be entitled (but not required) to Transfer any Contract to any consenting Transferee Clearing Member, regardless of whether the relevant Customer has designated the Transferee Clearing Member ~~as a permitted transferee or has~~ in a Porting Notice or has otherwise consented to such Transfer.
- (h) If the Clearing House determines that any Contracts of the Defaulter are to be Transferred pursuant to this Rule 904, the Clearing House may estimate the loss or gain that it would incur in respect of the relevant Customer Account Positions (i.e. the amount *L-A* in Rule 906 as calculated in respect of those Customer Account Positions) and the extent, if any, to which any Margin would be applied to any such loss and may (but shall not be required) to prioritise and give effect first to any Transfers on the basis of the extent of any potential resulting loss or gain to a Customer Account notwithstanding the time at which any Transfer instructions are submitted or confirmed.
- (i) The Clearing House may take into consideration such factors as the Clearing House determines to be relevant in accepting or effecting any Transfer. Without limiting the foregoing, any Transfer or transfer of Margin shall be subject to any requirements or limitations under Applicable Law, and any approvals or consents that the Clearing House may determine to be required or desirable under the circumstances.
- (j) ~~The Subject to Rule 904(g), the~~ Clearing House will have regard to any ~~Default Portability Preference~~ Porting Notice in determining whether or not to give effect to any Transfer. ~~Nonetheless, and without prejudice to the generality of Rule 904(g), the Clearing House shall be entitled to Transfer any Contract recorded in a Customer Account of a Clearing Member regardless of whether the relevant Customer has designated the Transferee Clearing Member as a permitted transferee pursuant to a Default Portability Preference or has made any Default Portability Preference, in reliance upon the consents of Customers to a Transfer of Contracts or Margin to any Transferee Clearing Member provided pursuant to the Standard Terms.~~ If, pursuant to a Transfer, the Clearing House becomes party to a Contract with a Transferee Clearing Member (that is a Non-FCM/BD Clearing Member) as replacement for any Customer Account Contract of a Defaulter (that is or was a Non-FCM/BD Clearing Member), the Clearing House and (to the extent necessary) the Defaulter shall contemporaneously cause the Transfer of the related Customer-CM

**Part 9 – Default Rules****Rule 904 – Transfer of Contracts and Margin on a Clearing Member Event of Default**

Transactions between each affected Customer and the Defaulter, such that Customer-CM Transactions are established between each relevant Customer and the Transferee Clearing Member and such Transferred Customer-CM Transactions between the Defaulter and each relevant Customer are terminated (or otherwise subject to a Transfer) as follows:

- (i) If a Contract recorded in the Defaulter's Customer Account is Transferred, the Transferee Clearing Member shall enter into a Customer-CM Transaction with each affected Customer (to replace the terminated Customer-CM Transaction with the Defaulter) on such terms as are specified in Rule 904(j)(ii). Upon such Transfer, the Transferee Clearing Member shall assume and undertake in favour of the Customer the obligations of (or obligations similar to those of) the Defaulter under the Transferred Contract(s) and the Transferred Customer-CM Transaction(s). Any termination payments due or payable in respect of the termination of the Contracts and related Customer-CM Transactions to which the Defaulter was party and any amounts due or payable in respect of the establishment of the replacement Contracts or Customer-CM Transactions to which the Transferee Clearing Member is party shall be equal (in each case based on the amount determined by the Clearing House for purposes of close out of the Contract in accordance with these Rules, and not taking into account any clearing fees or similar amounts agreed to by the relevant parties or affecting any other amount mentioned in Rule 906) and all obligations to make such termination payments shall be deemed to have been paid, netted and satisfied among the relevant parties beneficially entitled to such payments.
- (ii) If the Transferee Clearing Member and a relevant Customer have previously entered into a Customer-Clearing Member Agreement, any Customer-CM Transactions between the Transferee Clearing Member and Customer Transferred to the Transferee Clearing Member in accordance with this Rule 904 shall be subject to such Customer-Clearing Member Agreement. If the Transferee Clearing Member and Customer have not entered into a Customer-Clearing Member Agreement, the Transferred Customer-CM Transactions shall be deemed subject to an agreement in such form as is specified by the Transferee Clearing Member.
- (iii) Following any Transfer of Contracts and, where applicable, Customer-CM Transactions, pursuant to this Rule 904, the Clearing House may transfer, and if such transfer occurs, will record the transfer, of any available Margin recorded in the corresponding Customer Margin Account of the Defaulter for each affected Customer the Customer-CM Transactions of which are to be Transferred (to the extent that the same has not been subject to netting under Rule 904(j)) to the applicable Customer Margin Account of the Transferee Clearing Member, to be treated in the same way as if such assets had been transferred by the Transferee Clearing Member direct to the Clearing House pursuant to the Clearing Membership Agreement (or, for an Individually Segregated Sponsored Account for which a Transferee Clearing Member is the Sponsor, by the Sponsored Principal direct to the Clearing House pursuant to the Sponsored Principal Clearing Agreement) and these Rules. In relation to any such transfer, the Defaulter shall be deemed to agree and consent to any such transfer and shall take any necessary action to facilitate such

**Part 9 – Default Rules****Rule 904 – Transfer of Contracts and Margin on a Clearing Member Event of Default**

transfer (and the Clearing House may take any action on the Defaulter's behalf in connection therewith). Notwithstanding the foregoing, the Transferee Clearing Member shall remain obliged to satisfy any Margin requirements resulting from its entry into of, or becoming party to, Contracts for each of its affected Customer Accounts pursuant to this Rule 904 which may be calculated without taking into account any amount that may be transferred by or due from the Defaulter to the Clearing House pursuant to the foregoing requirement but which has not been transferred.

- (k) The Clearing House may recalculate the balance between Margin and Surplus Collateral for a Customer Account of a Defaulter to reflect any increase in the Margin requirement for such Customer Account as a result of the Transfer of fewer than all of the relevant Customer Account Contracts and related Customer Account Positions.
- (l) Following any Transfer of Contracts pursuant to this Rule 904, the Clearing House may submit appropriate data to Deriv/SERV or a Repository to reflect such Transfer. The Clearing House shall be authorised and entitled to take similar action on the Defaulter's and any of its Customers' behalves (including in respect of records in the Tripartite Representation referring to any Customer and any Customer-CM CDS Transactions to which the Defaulter and Customer were party) which have been Transferred in accordance with this Rule 904.
- (m) Upon an Event of Default being declared in respect of a Clearing Member, the Clearing House commits to triggering the procedures for the Transfer process set out in this Rule 904 for both Margin and Open Contract Positions recorded in a Customer Account (that is not an Individually Segregated Sponsored Account, Individually Segregated Margin-Flow Comingled Account or Segregated Gross Indirect Account) provided that the Clearing House shall not be obliged to effect any Transfer unless: (i) each Customer is not itself also a Defaulter or subject to an Insolvency or Unprotected Resolution Step; (ii) the conditions precedent set out in Rule 904(c) are satisfied in respect of each Customer; and (iii) a single Transferee Clearing Member accepts all the Transfers relating to all Customers in writing.  
~~A Transferee Clearing Member shall be deemed to have accepted the Transfer if it has previously entered into a contractual relationship with a Customer by which it has committed itself to do so and the same has been notified to the Clearing House pursuant to a Default Portability Preference.~~

***Provisions applicable only to default of a Sponsor of an Individually Segregated Sponsored Account***

- (n) If an Event of Default is declared in respect of a Sponsor, notwithstanding any payment or banking arrangement existing prior to the Event of Default, the Sponsored Principal must meet all Margin and other calls for payment made by the Clearing House on time itself from a Nominated Bank Account in the Sponsored Principal's name. The Sponsored Principal may be required to pay additional amounts by way of Margin (including an additional stress-loss Margin charge covering at least such portion of the defaulting Sponsor's required Guaranty Fund Contribution as is referable to the Sponsored Principal or otherwise as is required to ensure that the Clearing House has additional Margin from Sponsored Principals

Part 9 – Default RulesRule 904 – Transfer of Contracts and Margin on a Clearing Member Event of Default

of the defaulting Sponsor in excess of any shortfall in a Guaranty Fund prior to its replenishment or re-balancing) if its Sponsor is declared a Defaulter.

- (o) As from the time of declaration of the Event of Default in respect of the Sponsor until such time as the Sponsored Principal takes one of the three steps set out in this Rule 904(o), the Sponsored Principal shall only be entitled to submit Transactions for clearing or become party to Contracts which it can demonstrate have the overall effect of reducing Open Contract Positions in any Set of Contracts or risks to the Clearing House associated with Contracts, whether by hedging, novating, Transferring, terminating, liquidating or otherwise closing out such Contracts. Within 10 days of the Event of Default of the Sponsor (or such other longer time as the Clearing House at its discretion allows), provided that the Sponsored Principal is not itself a Defaulter and in order to avoid itself becoming a Defaulter, the Sponsored Principal must take one of the following three steps:
- (i) notify the Clearing House of a new Sponsor and if such Sponsor is approved by the Clearing House as the new Sponsor and has executed a Sponsor Agreement under which the Sponsored Principal is duly nominated:
- (A) the new Sponsor shall become the new Sponsor for the Sponsored Principal (and shall be treated as the Transferee Clearing Member) for an Individually Segregated Sponsored Account in which equal positions and Margin are recorded to those of the Sponsored Principal prior to the Event of Default; and
  - (B) the new Sponsor shall take the benefit of the right to provide operational services and to enjoy rights under the new Sponsor Agreement in relation to the Individually Segregated Sponsored Account which were previously enjoyed by the Sponsor that is a Defaulter;
  - (C) pursuant to the Default Portability Rules, the new Sponsor will become liable under Contracts recorded in the Individually Segregated Sponsored Account in place of the Defaulter as set forth in Part 19; and
  - (D) the old Sponsor will become released from any further liability in respect of its joint and several liability under Contracts recorded in the Individually Segregated Sponsored Account;
  - (E) pursuant to the Default Portability Rules, Customer-CM Transactions (if any) between the Defaulter and the Sponsored Principal will be Transferred to the Sponsor; and
  - (F) all outstanding Margin and other payments due in respect of the Contracts and Individually Segregated Account must be paid by the Sponsored Principal or Sponsor;

**Part 9 – Default Rules****Rule 904 – Transfer of Contracts and Margin on a Clearing Member Event of Default**

- (ii) itself become a full Clearing Member not accessing the Clearing House with a Sponsor, pursuant to the process set out in Part 2 and the Membership Procedures, in which case:
  - (A) it will become liable to pay Guaranty Fund Contributions itself;
  - (B) the positions and assets recorded in the Individually Segregated Sponsored Account will be Transferred to a Proprietary Account of the Sponsored Principal acting itself in its capacity as Transferee Clearing Member without a Sponsor;
  - (C) in the same way as Contracts are terminated pursuant to the Default Portability Rules, the old Sponsor will become released from any further liability in respect of Contracts recorded in the Individually Segregated Sponsored Account;
  - (D) all Customer-CM Transactions between the Defaulter and the Sponsored Principal will be terminated at the same time and prices as liabilities under Contracts are so released; and
  - (E) all outstanding Margin and other payments due in respect of the Contracts and Individually Segregated Account must be paid by the Sponsored Principal that has become a Clearing Member; or
- (iii) arrange for the Transfer of the positions and margin in the Individually Segregated Sponsored Account to a Customer Account (not being an Individually Segregated Sponsored Account) of a Transferee Clearing Member pursuant to the Default Portability Rules,
- (p) Upon an Event of Default being declared in respect of a Sponsor, the Clearing House commits to triggering the procedures for the Transfer process set out in this Rule 904 for both Margin and Open Contract Positions recorded in an Individually Segregated Sponsored Account, provided that the Clearing House shall not be obliged to effect any Transfer unless: (i) the Sponsored Principal is not itself also a Defaulter or subject to an Insolvency or Unprotected Resolution Step; (ii) the conditions precedent set out in Rule 904(c) are satisfied; and (iii) the Transferee Clearing Member accepts the Transfers in writing. ~~A Transferee Clearing Member shall be deemed to have accepted the Transfer if it has previously entered into a contractual relationship with the Sponsored Principal by which it has committed itself to do so and the same has been notified to the Clearing House pursuant to a Default Portability Preference.~~

***Provisions applicable only to default of a Sponsored Principal***

- (q) If, following an Event of Default in respect of the Sponsor, one of the steps set out in Rule 904(o) does not take place by the end of the 10 day or longer period as is referred to in Rule 904(o), then the Sponsored Principal may itself be declared a Defaulter. A Sponsored Principal may also be declared a Defaulter pursuant to Rule 901(d).



Part 9 – Default RulesRule 904 – Transfer of Contracts and Margin on a Clearing Member Event of Default

- (r) If a Clearing House declares the Sponsored Principal a Defaulter in circumstances in which the Sponsor is not a Defaulter, then the Clearing House, following issuance of the Default Notice will inform the Sponsor of the Event of Default, which may be by telephone. Then:
- (i) provided that the Sponsor is not itself also a Defaulter, to the extent this has not already occurred under Rule 901(d), the Clearing House will direct all liabilities on the Individually Segregated Sponsored Account to be met from the Nominated Proprietary Bank Account used by the Sponsor for its own Proprietary Account transactions;
  - (ii) the Sponsor shall be liable to pay in full and on time an amount equal to any loss or shortfall on the Individually Segregated Sponsored Account, including: (A) in respect of unsatisfied Margin requirements to the extent that any open Contracts exist in the Individually Segregated Sponsored Account (or have been subjected to automatic early termination but not replaced); and (B) of such amounts as the Clearing House notifies the Sponsor are necessary to prevent any net sum on the Individually Segregated Sponsored Account representing an amount payable to the Clearing House;
  - (iii) provided that the Sponsor is not itself also a Defaulter, the Sponsor shall be entitled to exercise its rights under Rule 907(m) or take any other action in relation to Contracts recorded in the Individually Segregated Sponsored Account as it would have been entitled under Part 19 of the Rules to take, but for the Event of Default (including to Transfer Contracts recorded in the Individually Segregated Sponsored Account to a Proprietary Account of the Sponsor, terminate Contracts by contractual netting through submission of offsetting Contracts; and taking equivalent steps in relation to Customer-CM Transactions and Contracts that have been subjected to automatic early termination but not been replaced); and in taking any such action it may act as agent for the Clearing House, subject to obtaining the Clearing House's prior written consent to act in such capacity; but for the avoidance of doubt: (A) nothing in this Rule 904(r) shall entitle the Sponsor to direct the payee of any Margin or assets recorded in the Individually Segregated Sponsored Account, declare a net sum, run a Default Auction or exercise other powers of the Clearing House under this Part 9; (B) the Sponsor shall be liable to the Clearing House and its officers and employees for any loss, liability, damage, injury, cost or expense pursuant to Rule 111(a)(ii), for which purposes any actions taken by the Sponsor as agent for the Clearing House shall be deemed to constitute "conduct" and Rule 111(i) shall not apply; and (C) where the Sponsor acts as agent for the Clearing House and in such capacity determines a close-out value for a Customer-CM Transaction (or a close-out value for a Contract which automatically results in a close-out value for a Customer-CM Transaction being determined) that close-out value shall be determined, calculated, established or priced in accordance with the applicable Customer-Clearing Member Agreement and Applicable Laws;
  - (iv) the Clearing House shall be fully entitled to manage any Event of Default affecting a Sponsored Principal under this Part 9, provided that to the extent that the Sponsor manages the Event of Default under Rule 904(r)(iii), the Clearing House will allow

**Part 9 – Default Rules****Rule 904 – Transfer of Contracts and Margin on a Clearing Member Event of Default**

the Sponsor such time as the Clearing House considers to be reasonable for the Sponsor to terminate the Contracts recorded in the Individually Segregated Sponsored Account before itself doing so;

- (v) if the Sponsor is not itself also a Defaulter, the Clearing House will (to the extent this is not prohibited under any Applicable Laws) transfer any Margin or balance on the Individually Segregated Sponsored Account to the Sponsor in the event that the Sponsor transfers the Contracts from the Individually Segregated Sponsored Account to one of its Proprietary Accounts (or establishes replacement positions for such Contracts in one of its Proprietary Accounts as a result of entering into offsetting Contracts for the Individually Segregated Sponsored Account or otherwise) following an Event of Default affecting the Sponsored Principal; and
- (vi) subject to paragraph (v), the Clearing House shall be entitled to discharge its obligations to the Sponsored Principal and the Sponsor in respect of an Individually Segregated Sponsored Account in full by transferring any Margin or balance on the Individually Segregated Sponsored Account to either the Sponsor or Sponsored Principal.
- (s) The Guaranty Fund Contributions and Surplus Collateral recorded in all Proprietary Accounts of the Sponsor may be applied in amount *GFC* or *SC* respectively in the net sum on an Individually Segregated Sponsored Account, to the extent necessary to prevent any net sum on the Individually Segregated Sponsored Account representing an amount payable to the Clearing House. To the extent that the Sponsor has made any payment under Rule 901(d) or 904(r)(i) or (ii) and the net sum on an Individually Segregated Sponsored Account would represent an amount payable by the Clearing House (but for this provision), the Clearing House shall pay to the Sponsor, (subject to Rules 904(c) and (i)), for its own account as principal, an amount equal to the difference between such amount otherwise payable by the Clearing House and zero, less a deduction for any of its related costs. Any amounts paid to a Sponsor pursuant to this Rule 904(s) shall be included in amount *OL* in Rule 906 in the calculation of the net sum on the Individually Segregated Sponsored Account.

***Provisions applicable only to Margin-flow Co-mingled Accounts***

- (t) The following principles shall apply when the Clearing House is calculating the net sums on Margin-flow Co-mingled Accounts of a Defaulter or determining the amounts which are available to be transferred to a Transferee Clearing Member in respect of such an Account pursuant to the Default Portability Rules:
  - (i) sums payable by the Defaulter or to the Defaulter in respect of Contracts falling under any of amounts *L*, *A*, *D* or *C* in Rule 906(a) shall be allocated for each Margin-flow Co-mingled Account based on the extent to which such sums arise from the termination or close out of Contracts recorded in the Position Account linked to the Margin-flow Co-mingled Account;
  - (ii) costs and expenses of the Clearing House falling under amount *L* in Rule 906(a) and amounts falling under *OL* in Rule 906(a), to the extent not charged to or included in

Part 9 – Default RulesRule 904 – Transfer of Contracts and Margin on a Clearing Member Event of Default

the net sum for a Proprietary Account of the Defaulter or another Customer Account, shall be allocated among Margin-flow Co-mingled Accounts on a *pro rata* basis with respect to the Margin requirement on each Margin-flow Co-mingled Account immediately prior to the Event of Default, provided that if the Clearing House incurs a particular cost or expense in respect of a particular Margin-flow Co-mingled Account, then that amount shall be allocated solely to that Margin-flow Co-mingled Account and the amounts to be allocated among other Margin-flow Co-mingled Accounts shall be reduced accordingly;

- (iii) amounts falling under *M* in Rule 906(a) (which do not relate to Permitted Cover previously recorded in a Proprietary Account of the Defaulter) will be allocated among Margin-flow Co-mingled Accounts in the manner set out below and in the following order of precedence:
  - (A) based on the ICE Clear System's records of Permitted Cover provided in respect of each Margin-flow Co-mingled Account (if any); or
  - (B) based on the last valid Permitted Cover report provided by the Defaulter under Rule 503(k) immediately prior to the Event of Default (if any); or
  - (C) on a *pro rata* basis with respect to the Margin requirement on each Margin-flow Co-mingled Account of the Defaulter immediately prior to the Event of Default;
- (iv) if Surplus Collateral may be posted on a Margin-flow Co-mingled Account, amounts falling under *SC* in Rule 906(a) (which do not relate to Permitted Cover previously recorded in a Proprietary Account of the Defaulter) will be allocated among Margin-flow Co-mingled Accounts in the manner set out below and in the following order of precedence:
  - (A) based on the ICE Clear System's records of Permitted Cover provided in respect of each Margin-flow Co-mingled Account (if any); or
  - (B) based on the last valid Permitted Cover report provided by the Defaulter under Rule 503(k) immediately prior to the Event of Default (if any); or
  - (C) if not so allocated to any Margin-flow Co-mingled Account will be returned separately to the Defaulter, who will be responsible for handling any claims of Customers in respect of such amounts;
- (v) amounts falling under *GFC* or *OA* in Rule 906(a) or representing Margin or other assets relating to a Proprietary Account which are available to be applied to Margin-flow Co-mingled Accounts, to the extent that they are available to reduce a loss on Margin-flow Co-mingled Accounts, shall first be allocated *pro rata* as to losses among Margin-flow Co-mingled Accounts;

**Part 9 – Default Rules****Rule 904 – Transfer of Contracts and Margin on a Clearing Member Event of Default**

- (vi) the effect on the net sum of any Transfer of positions or Margin to a Transferee Clearing Member shall be the same as for any other Customer Account of a Defaulter; and
  - (vii) any funding of any assets in, or credit line or loan to a Customer interested in, a Margin-flow Co-mingled Account by the Defaulter shall be disregarded.
- (u) Upon an Event of Default being declared in respect of a Clearing Member, the Clearing House commits to triggering the procedures for the Transfer process set out in this Rule 904 for both Margin and Open Contract Positions recorded in Individually Segregated Margin-flow Co-mingled Accounts, provided that the Clearing House shall not be obliged to effect any Transfer unless: (i) the relevant Customer is not itself also a Defaulter or subject to an Insolvency or Unprotected Resolution Step; (ii) the conditions precedent set out in Rule 904(c) are satisfied; and (iii) the Transferee Clearing Member accepts the Transfers in writing. ~~A Transferee Clearing Member shall be deemed to have accepted the Transfer if it has previously entered into a contractual relationship with the Customer by which it has committed itself to do so and the same has been notified to the Clearing House pursuant to a Default Portability Preference.~~

***Provisions applicable only to Segregated Gross Indirect Accounts***

- (v) The following principles shall apply when the Clearing House is calculating the net sums on Segregated Gross Indirect Accounts of a Defaulter or determining the amounts which are available to be transferred to a Transferee Clearing Member in respect of such an Account pursuant to the Default Portability Rules:
  - (i) sums payable by the Defaulter or to the Defaulter in respect of Contracts falling under any of amounts *L*, *A*, *D* or *C* in Rule 906(a) shall be allocated for each Segregated Gross Indirect Account based on the extent to which such sums arise from the termination or close out of Contracts recorded in the Position Account linked to the Segregated Gross Indirect Account;
  - (ii) costs and expenses of the Clearing House falling under amount *L* in Rule 906(a) and amounts falling under *OL* in Rule 906(a), to the extent not charged to or included in the net sum for a Proprietary Account of the Defaulter or another Customer Account, shall be allocated among Segregated Gross Indirect Accounts on a *pro rata* basis with respect to the Margin requirement on each Segregated Gross Indirect Account immediately prior to the Event of Default, provided that if the Clearing House incurs a particular cost or expense in respect of a particular Segregated Gross Indirect Account, then that amount shall be allocated solely to that Segregated Gross Indirect Account and the amounts to be allocated among other Segregated Gross Indirect Accounts shall be reduced accordingly;
  - (iii) amounts falling under *M* in Rule 906(a) (which do not relate to Permitted Cover previously recorded in a Proprietary Account of the Defaulter) will be allocated among Segregated Gross Indirect Accounts in the manner set out below and in the following order of precedence:

Part 9 – Default RulesRule 904 – Transfer of Contracts and Margin on a Clearing Member Event of Default

- (A) based on the ICE Clear System's records of Permitted Cover provided in respect of each Segregated Gross Indirect Account (if any); or
  - (B) based on the last valid Permitted Cover report provided by the Defaulter under Rule 503(k) immediately prior to the Event of Default (if any); or
  - (C) on a *pro rata* basis with respect to the Margin requirement on each Segregated Gross Indirect Account of the Defaulter immediately prior to the Event of Default;
- (iv) if Surplus Collateral may be posted on a Segregated Gross Indirect Account, amounts falling under *SC* in Rule 906(a) (which do not relate to Permitted Cover previously recorded in a Proprietary Account of the Defaulter) will be allocated among Segregated Gross Indirect Accounts in the manner set out below and in the following order of precedence:
- (A) based on the ICE Clear System's records of Permitted Cover provided in respect of each Margin-flow Co-mingled Account (if any); or
  - (B) based on the last valid Permitted Cover report provided by the Defaulter under Rule 503(k) immediately prior to the Event of Default (if any); or
  - (C) if not so allocated to any Segregated Gross Indirect Account will be returned separately to the Defaulter, who will be responsible for handling any claims of Customers in respect of such amounts;
- (v) amounts falling under *GFC* or *OA* in Rule 906(a) or representing Margin or other assets relating to a Proprietary Account which are available to be applied to Segregated Gross Indirect Accounts, to the extent that they are available to reduce a loss on Segregated Gross Indirect Accounts, shall first be allocated *pro rata* as to losses among Segregated Gross Indirect Accounts;
- (vi) the effect on the net sum of any Transfer of positions or Margin to a Transferee Clearing Member shall be the same as for any other Customer Account of a Defaulter; and
- (vii) any funding of any assets in, or credit line or loan to a Customer interested in, a Segregated Gross Indirect Account by the Defaulter shall be disregarded.
- (w) Upon an Event of Default being declared in respect of a Clearing Member, the Clearing House commits to triggering the procedures for the Transfer process set out in this Rule 904 for both Margin and Open Contract Positions recorded in Segregated Gross Indirect Accounts, provided that the Clearing House shall not be obliged to effect any Transfer unless: (i) the relevant Customer is not itself also a Defaulter or subject to an Insolvency or Unprotected Resolution Step; (ii) the conditions precedent set out in Rule 904(c) are satisfied; and (iii) the Transferee Clearing Member accepts the Transfers in writing. ~~A Transferee Clearing Member shall be deemed to have accepted the Transfer if it has previously entered into a contractual relationship with the Customer by which it has~~

*Part 9 – Default Rules*

*Rule 904 – Transfer of Contracts and Margin on a Clearing Member Event of Default*

~~committed itself to do so and the same has been notified to the Clearing House pursuant to a Default Portability Preference.~~



**Part 9 – Default Rules****Rule 905 – Termination and close out of Contracts on a Clearing Member Event of Default****Rule 905**      *Termination and close out of Contracts on a Clearing Member Event of Default*

- (a) The following contracts shall be terminated or closed out in such manner as the Clearing House in its discretion may direct for the purposes of discharging all the rights, obligations and liabilities of the Defaulter:
- (i) Contracts to which a Defaulter is party, which are not voidable and voided by the Clearing House pursuant to Part 4, and which are required to be terminated or closed out pursuant to Rule 903(b);
  - (ii) contracts arising from hedging transactions made pursuant to Rule 903(c), which shall be treated as if they were "Contracts" for purposes of this Rule 905 and Rule 906.

The Clearing House shall not be entitled to terminate or close out any rights or liabilities attributable to the Defaulter arising out of the relationship of principal and agent, where a Defaulter has entered into a contract as agent, but for the avoidance of doubt this requirement shall not restrict the Clearing House from closing out any Contract recorded in a Customer Account of an FCM/BD Clearing Member or an Individually Segregated Sponsored Account. To the extent necessary, the Clearing House may take such steps pursuant to such powers as are granted pursuant to the Clearing Membership Agreement and any applicable Sponsored Principal Clearing Agreement, Sponsor Agreement or Pledged Collateral Addendum.

- (b) Without prejudice to the generality of Rule 905(a), at the Clearing House's discretion, any of the following steps may be taken in respect of contracts to which Rule 905(a) applies:
- (i) The Clearing House may place, with one or more members of an Exchange, Clearing Organisation or over-the-counter marketplace upon which the relevant category of Contract is traded, orders for the purchase, grant, exercise or sale of Contracts. The Clearing House may designate and authorise an individual to be responsible for the placement of such orders or may enter into Contracts with non-defaulting Clearing Members or (providing that the relevant Clearing Member or Sponsor, respectively, has consented to the order) Customers or Sponsored Principals, by way of Default Auction, which, for the CDS Contract Category, shall be an Initial CDS Auction, and in the event of a failed Initial CDS Auction, run additional Initial CDS Auctions as provided in the CDS Default Auction Procedures.
  - (ii) For purposes of liquidation of Contracts, hedging market risks of the Defaulter or otherwise, Contracts (or any part thereof) may be terminated or closed out by the Clearing House pursuant to the submission of any Transactions, Invoicing Back or the creation of new Contracts to which the Defaulter is party at the Clearing House's discretion (regardless of whether they are held for different accounts or different beneficial owners), but subject always to, and accounting for the close-out amounts under, Rule 906: (i) Contracts (or any part thereof) to which the Defaulter is party on opposite sides of the market of the same Set; (ii) F&O Contracts having different expiration dates or exercise dates; (iii) CDS Contracts having different

**Part 9 – Default Rules****Rule 905 – Termination and close out of Contracts on a Clearing Member Event of Default**

series or version numbers or scheduled termination dates or Applicable Credit Derivatives Definitions; and (iv) FX Contracts on opposite sides of the market of the same Set or having different FX Settlement Dates. For the avoidance of doubt, this Rule 905(b)(ii) does not empower the Clearing House to oblige non-defaulting Clearing Members to become party to any Contracts.

- (iii) FX Contracts of a Defaulter having different FX Settlement Dates may be combined, terminated and replaced by any transactions, Invoicing Back or the creation of new FX Contracts at the Clearing House's discretion, for purposes of liquidation of Contracts, hedging market risks of the Defaulter or otherwise, if the Defaulter is Reference Currency Buyer under one of the FX Contracts in respect of a particular currency and Reference Currency Seller under the other FX Contract in respect of the same currency.
- (iv) Any Contracts (including those recorded in one of the Defaulter's Customer Position Accounts) which are sale and purchase Contracts in the same Set may be closed out and terminated (in whole or in part), together with any termination payments settled by way of off-set.
- (v) An Option may be terminated, exercised or abandoned, at the discretion of the Clearing House, and in any case where an Option is exercised, the Clearing House may terminate or close out the Future or Contract of Sale, if any, arising as a result of such exercise in accordance with the provisions of this Rule 905.
- (vi) Notwithstanding any other provision of this Rule 905, the Clearing House may pair and cancel offsetting buy and sell or Long and Short positions in the same Future or Option Set or 'Selling Counterparty' and 'Buying Counterparty' positions in any Set of CDS Contracts or FX Contracts; and where it is necessary or desirable for there to be a price (for example, in the case of a liquidation of offsetting Customer Account and Proprietary Account Contracts or the liquidation of offsetting Contracts recorded in different Customer Accounts, where in each case, the close-out values of the offsetting Contracts are required to be taken into account for the calculation of different net sums pursuant to Rule 102(q) and Rule 906(c)), the price for a Future or Option Contract will be determined by the Clearing House pursuant to Rule 905(g).
- (vii) The Clearing House shall be entitled (without the prior or subsequent consent or agreement of the Defaulter or any court order) to sell, transfer, value (subject to Rule 905(b)(ix)) or create any interest in any Permitted Cover, Margin, Guaranty Fund Contributions or other assets that are credited to the Defaulter's Proprietary Margin Account, any of its Customer Margin Accounts (subject to Rule 502(i)) or any of its accounts used for Guaranty Fund Contributions or any other asset of the Defaulter that is otherwise in the Clearing House's possession (subject always to Rule 102(q)), subject to an obligation to account for the net proceeds of such actions after having deducted the Clearing House's reasonable and properly incurred expenses and costs in doing so in accordance with Part 1.

Part 9 – Default RulesRule 905 – Termination and close out of Contracts on a Clearing Member Event of Default

- (viii) Without prejudice to Rule 905(b)(xvii) where a Pledged Collateral Account is held by a Clearing Member who is a Defaulter or is capable of being declared a Defaulter, the Clearing House shall be entitled, in addition to its other rights and remedies under Part 9 but subject to Rule 502(i), to exercise the rights of a secured party, collateral taker, market chargee and collateral security chargee under Applicable Law with respect to any Pledged Collateral and pursuant to the Pledged Collateral Addendum to appropriate, exercise rights of use and appropriation over and liquidate such Pledged Collateral, and, once such exercise of rights of use, appropriation or liquidation results in a realised value for such Pledged Collateral that is to be taken account of in a relevant net sum calculated under Rule 906, shall thereupon apply the proceeds thereof to the applicable obligations of such Clearing Member in respect of the relevant Customer Account or Proprietary Account and in determining the net sum under Rule 906 if the Clearing Member has then been declared a Defaulter. For the avoidance of doubt, rights of use or appropriation shall not be exercised in respect of a Pledged Collateral Account of a Clearing Member or Sponsored Principal that is not a Defaulter or capable of being declared a Defaulter.
- (ix) When either:
- (A) following the exercise of a right of use in respect of Pledged Collateral of a Defaulter, the Clearing House exercises its right to set-off the value of the relevant Pledged Collateral in discharge of the obligations of the Defaulter due to the Clearing House; or
- (B) appropriating Pledged Collateral,
- the Clearing House shall value such Pledged Collateral in the case of (A) at the time that the obligation to redeliver equivalent Pledged Collateral would arise but for such set-off or, in the case of (B), at the time of such appropriation. For this purpose, the value of such Pledged Collateral shall be the market price of the relevant Permitted Cover determined by the Clearing House by reference to a published pricing information source or by such other process as the Clearing House may at its discretion select. The Clearing House shall be entitled (without the prior or subsequent consent or agreement of the Defaulter or any court order) to sell, transfer, value or create any interest in any Permitted Cover, Margin, Guaranty Fund Contributions or other assets that are credited to ~~the~~a Defaulter's Proprietary Margin Account, any of its Customer Margin Accounts (subject to Rule 502(i)) or any of its accounts used for Guaranty Fund Contributions or any other asset of the Defaulter that is otherwise in the Clearing House's possession (subject always to Rule 102(q)), subject to an obligation to account for the net proceeds of such actions after having deducted the Clearing House's reasonable and properly incurred expenses and costs in doing so in accordance with this Part 9.
- (x) The Clearing House shall be entitled to take such actions, take or make delivery and give such notices on behalf of the Defaulter in respect of a Contract under delivery as it determines; or to make or receive a tender in the Defaulter's name.

**Part 9 – Default Rules****Rule 905 – Termination and close out of Contracts on a Clearing Member Event of Default**

- (xi) The Clearing House shall be entitled to determine an amount due from the Defaulter in substitution for delivery obligations.
- (xii) The Clearing House shall be entitled to take any other action with respect to the Event of Default or the Defaulter as it deems to be necessary or prudent.
- (xiii) The Clearing House's powers to convert currency under Rule 107 may be applied.
- (xiv) The Clearing House shall be entitled to Transfer Contracts to which a Defaulter is party to one or more other Transferee Clearing Members at a price determined by the Clearing House pursuant to this Part 9.
- (xv) Subject to Rule 904(g), the Clearing House shall be entitled to effect the Transfer of the Defaulter's rights, title and interest to Contracts, any related Margin or other assets of the Defaulter and any related Customer-CM Transaction(s) or other transactions between a Customer and a Defaulter to a Transferee Clearing Member, without any further action being required on the part of any Person. This may be done through the Clearing House's exercise of rights pursuant to its power of attorney in the relevant Clearing Membership Agreement, Sponsored Principal Clearing Agreement or Sponsor Agreement with the Defaulter or on the basis of this default rule, as opposed to pursuant to the process and legal entitlements described further in Rule 904.
- (xvi) The Clearing House may take action so as to terminate or replace Customer-CM Transactions or other transactions between a Customer and a Defaulter which are consequential on it taking actions in relation to Contracts in accordance with Rule 904.
- (xvii) The Clearing House shall be entitled to take any other action with respect to the Defaulter, the Contracts to which the Defaulter is party or any Margin, Guaranty Fund Contribution or Surplus Collateral provided by the Defaulter as the Clearing House at its discretion considers to be necessary or prudent in the circumstances.
- (xviii) The Clearing House may make appropriate entries on the records of the Clearing House and submit appropriate data to Deriv/SERV, Repositories and Delivery Facilities to give effect to any action taken in accordance with this Part 9.
- (xix) Subject to Rules 102(q) and 906(a), the Clearing House may conduct one or more Default Auctions in accordance with the Default Auction Procedures. For the purposes of establishing lots for such Default Auctions, the Clearing House shall be entitled at its discretion to determine which particular Contracts or packages of Contracts are to be the subject of a particular auction lot. In doing so, it may establish auction lots that include: (i) a mixture of Contracts recorded in different Accounts of a Non-FCM/BD Clearing Member (provided that a single auction lot shall not include both Proprietary Account Positions and Customer Account Positions); and (ii) in respect of a particular Account, some, but not all, of the Contracts recorded in that Account (for example, a lot may contain only Energy Contracts but not Financials & Softs Contracts), which lot may then also be mixed

Part 9 – Default RulesRule 905 – Termination and close out of Contracts on a Clearing Member Event of Default

to the extent permitted under (i). An auction lot relating to Contracts of an FCM/BD Clearing Member may only contain Contracts recorded in a single Account. Where positions relating to more than one Account of a Non-FCM/BD Clearing Member are included in a single auction lot, for the purpose of calculating the net sums under Rule 906, the Clearing House shall apportion the overall bid price received for an auction lot, and the costs associated with auctioning the relevant lot, across the various Accounts in which the Contracts in the auction lot are recorded based on Margin requirements, latest Mark-to-Market Prices, Contract valuation information provided by the winning bidder or such other methodology as it may at its discretion determine.

- (c) If, as a result of the rules of an Exchange which limit fluctuations in price or other circumstances, it is not possible to close out or terminate all Contracts to which the Defaulter is party pursuant to Rule 905(b), the Clearing House may close out or terminate such Contracts by taking opposite positions for F&O Contracts in Contracts in the current expiration period, for CDS Contracts in Contracts of a different series or version number or scheduled termination date or, for FX Contracts in Contracts of a different FX Settlement Date, and terminating the resultant offsetting positions.
- (d)
  - (i) To the extent that the Clearing House does not terminate, transfer or close out all of the CDS Contracts of a Defaulter pursuant to Rule 905(a)-(c), the Clearing House may at its discretion, in respect of any open CDS Contracts of the Defaulter:
    - (A) as and to the extent permitted under Rule 914, engage in Reduced Gains Distribution for each relevant CDS Contract Category under such Rule;
    - (B) enter into Transactions with CDS Clearing Members, Customers and Sponsored Principals authorised to clear CDS Contracts to replace all of such remaining Positions and Transactions (upon which such remaining Positions and Transactions shall terminate (to the extent not previously terminated), pursuant to a Secondary CDS Auction, and in the event of a failed Secondary CDS Auction, run additional Secondary CDS Auctions as provided in the CDS Default Auction Procedures;
    - (C) in the event of the failure of one or more Secondary CDS Auctions to eliminate or replace all remaining risk of the Open Contract Positions of a Defaulter and any Transactions entered into pursuant to Rule 905(b), terminate such Open Contract Positions and Transactions with other CDS Clearing Members through Partial Tear-Up in accordance with Rule 915, upon which such remaining Open Contract Positions and Transactions shall terminate (to the extent not previously terminated); and
    - (D) to take any other action not inconsistent with these Rules as the Clearing House may deem necessary or appropriate for its protection (it being understood that the Clearing House will not be entitled to conduct a forced allocation of Contracts to Clearing Members or require Assessment

Part 9 – Default RulesRule 905 – Termination and close out of Contracts on a Clearing Member Event of Default

Contributions or similar contributions in excess of the maximum amounts permitted under Rules 909(c) and (d) and 917.

- (ii) To the extent that the Clearing House does not terminate, transfer or close out all of the F&O Contracts or FX Contracts of a Defaulter, the Clearing House may at its discretion in respect of any open F&O Contracts or FX Contracts of the Defaulter:
  - (A) as and to the extent permitted under Rule 914, engage in Reduced Gains Distribution for the F&O or FX Contract Category, as applicable, under such Rule;
  - (B) eliminate or replace all remaining risk of the Open Contract Positions of a Defaulter and any Transactions entered into pursuant to Rule 905(b), terminate such Open Contract Positions and Transactions with other Clearing Members through Partial Tear-Up in accordance with Rule 915, upon which such remaining Open Contract Positions and Transactions shall terminate (to the extent not previously terminated); and
  - (C) take any other action not inconsistent with these Rules as the Clearing House may deem necessary or appropriate for its protection (it being understood that the Clearing House will not be entitled to conduct a forced allocation of Contracts to Clearing Members or require Assessment Contributions or similar contributions in excess of the maximum amounts permitted under Rules 909 and 917.
- (e) All terminations and closing out of Contracts pursuant to this Rule 905 shall be for the account and cost of the Defaulter.
- (f) Without prejudice to the generality of the indemnities in Rules 111 and 301, but without duplication of any other obligation under these Rules, the Defaulter, acting for its own account as principal, shall indemnify, hold harmless and be liable to the Clearing House in respect of all the losses, unpaid fees, liabilities, damages, injuries, taxes, costs, claims, shortfalls and expenses (including, without limitation, legal, accountancy or other professional services expenses and disbursements, the costs of close-out, termination or Transfer of Contracts or Margin, amounts payable by the Clearing House to Approved Financial Institutions or custodians and any amount payable by the Clearing House to any Person in respect of tax in connection with the Defaulter or its Contracts, Margin, obligations or the Event of Default), in the case of any such item whether relating to a Proprietary Account or Customer Account of the Defaulter or an Individually Segregated Sponsored Account for which it is the Sponsor, incurred or suffered by any of the Clearing House, any Market or any of their Directors or directors (as the case may be), officers, employees, committees (or any individual committee member) or those of their Affiliates arising out of the Defaulter's conduct (whether such conduct took place prior to or after declaration of the Event of Default) or in connection with the Event of Default. Rule 111(b) shall apply in respect of this Rule 905(f) in the same way as it applies to Rule 111(a).
- (g) For all liquidations, terminations and close outs of Contracts pursuant to this Rule 905, the Clearing House shall, at its discretion, determine the price of the Contract, which may be on



*Part 9 – Default Rules**Rule 905 – Termination and close out of Contracts on a Clearing Member Event of Default*

the basis of the Exchange Delivery Settlement Price, the Mark-to-Market Price, the FX Market Price, ~~Reference Price, Market-to-Market Value,~~ current market value or any other price specified by it. Any such price may be calculated with reference to any time determined at the Clearing House's discretion, which may be at the time such cancellation is ordered, the time an Event of Default, Insolvency, Unprotected Resolution Step occurs or is declared, or the time of calculation of any price as at the end of the Business Day prior to the Transfer, Event of Default, Insolvency or Unprotected Resolution Step.

**Part 9 – Default Rules**  
**Rule 906 – Net Sums Payable**

**Rule 906**      ***Net Sums Payable***

- (a) Following discharge of a Defaulter's rights, obligations and liabilities under Contracts pursuant to this Part 9, the Clearing House shall carry out the following calculation separately in respect of each different Proprietary Account and each different Customer Account of the Defaulter. Upon termination of all Contracts following an Event of Default, the only obligation of the Clearing House or Defaulter, except for any obligation which had already fallen due for performance but at the time had not been performed (which obligations would be taken into account in the calculation of the net sum, save to the extent that any party has become subject to an irrevocable Transfer Order under Part 12 or the Settlement Finality Regulations) shall be limited to calculation and payment of the net sum and such other obligations as are expressed to apply in Rule 209 or this Part 9. Following an Event of Default, there shall be no requirement for future payments or deliveries to be made in respect of any terminated Contracts (including in each case no requirement to pay or deliver any related Margin that has not at the time fallen due for payment, except as part of the net sum). The calculation set out below follows the requirements relating to "requirements of the EMIR Regulation" as set out at section 29, Part 5 of the Financial Services and Markets Act 2000 (Recognition Requirements for Investment Exchanges, Clearing Houses and Central Securities Depositories) Regulations 2001 (SI 2001/995), the requirements for a 'Default waterfall' in EMIR, and other requirements of Applicable Law. The methodology involves aggregating or setting off various amounts (as applicable) so as to produce separate net sums for each different Proprietary Account and each different Customer Account of the Defaulter (each such net sum, *N*) in each case defined by the formula:

$$N = L - A - D - C - M - GFC - SC - OA + OL$$

where such letters have the meanings set out below in this Rule 906(a):

*L* = the aggregate amount, expressed as a positive number, of all sums payable by the Defaulter in respect of Contracts recorded in the relevant Account (which are not voidable and voided by the Clearing House pursuant to Part 4) taking into account any of the following actions under Rule 903, 904 or 905:

- (i) termination, liquidation or close out in relation to Contracts to which the Defaulter is or was party;
- (ii) the Transfer of any of the Defaulter's Contracts to a Transferee Clearing Member (not being the Defaulter) or acceptance or entry into by a Clearing Member of any of the Defaulter's Contracts or contracts similar to any of the Defaulter's Contracts; and
- (iii) the exercise or abandonment of any Option,

plus all amounts that were payable but remain unpaid by the Defaulter under the terms of Contracts, plus any costs and expenses of the Clearing House in any way relating to any Contract to which the Defaulter was party, including, without limitation, legal, accountancy or other professional services expenses and disbursements, the costs of close-out,

**Part 9 – Default Rules**  
**Rule 906 – Net Sums Payable**

termination or Transfer of Contracts and any amount payable by the Clearing House to any Person in respect of tax in connection with the Defaulter or its Contracts, Margin, obligations or the Event of Default; but excluding, in respect of a Contract where the Defaulter acts as agent (if any), any liabilities attributable to the Defaulter arising out of the relationship of principal and agent; and the Clearing House may assess any one or more elements of such amount *L* in its discretion, provided that any costs, expenses, taxes or other amounts falling within the scope of the indemnity in Rule 905(f) (not being amounts payable in respect of Contracts falling under *L*(i) to (iii) above) shall be allocated to the Proprietary Account regardless of the Contracts or Account to which they relate.

*A* = the aggregate amount, expressed as a positive number, of all sums payable to the Defaulter in respect of Contracts recorded in the relevant Account (which are not voidable and voided by the Clearing House pursuant to Part 4), taking into account any of the actions referred to under *L* (i), (ii) or (iii) above, plus all amounts that were payable but remain unpaid by the Clearing House under the terms of Contracts, excluding, in respect of a Contract where the Defaulter acts as agent (if any), any rights attributable to the Defaulter arising out of the relationship of principal and agent and further excluding any amount included under *D*, *C*, *M*, *GFC* or *SC*; and the Clearing House may assess any one or more elements of such amount *A* in its discretion.

*Note on calculation of the amounts L and A:* For the purposes of calculating amounts *L* and *A*, the amount payable by or to the Defaulter in respect of any Contract or Open Contract Position is the difference between:

(x) the price of the Contract or Open Contract Position recorded in the Clearing House's books for the later of: (A) the last date on which a payment in respect of Variation Margin, FX Mark-to-Market Margin or Mark-to-Market Margin was successfully and fully made by the Clearing Member to or to the account of the Clearing House; or (B) the last date on which a return of amounts following a Variation Margin, FX Mark-to-Market Margin or Mark-to-Market Margin call was successfully and fully made by the Clearing House to the Clearing Member or to the account of the Clearing Member; and

(y) the price at which the Contract or Open Contract Position was Transferred, terminated or closed out pursuant to Rules 903 to 905.

For such purposes, payment or return of Variation Margin, FX Mark-to-Market Margin or Mark-to-Market Margin will be treated as having been successfully and fully made even if Cash Gainer Adjustments and Cash Loser Adjustments are made pursuant to Rule 914 and no additional credit or debit shall be applied in the net sum calculation for any Cash Gainer Adjustments or Cash Loser Adjustments applied to any Account of the Clearing Member prior to the time of declaration of the Event of Default.

*D* = if the Clearing House so determines at its discretion, the aggregate amount of any sums in respect of a Deliverable delivered, physically settled, to be delivered or to be physically settled under a Contract with the Defaulter or in respect of which cash settlement is to be made as calculated by the Clearing House at its discretion relating to the relevant Account

**Part 9 – Default Rules**  
**Rule 906 – Net Sums Payable**

(if payable to the Clearing Member being a positive number and hence set off in the calculation under this Rule 906(a) against any amount  $L-A$  if that amount is also a positive number or if payable to the Clearing House being a negative number and aggregated in the calculation under this Rule 906(a) with any amount  $L-A$  if that amount is a positive number), in any case excluding any amount included under  $C$ ,  $M$ ,  $GFC$  or  $SC$ .

$C$  = if relevant, any sum owed by or to the Clearing House to or from a recognised investment exchange or another recognised clearing house of which the Defaulter is or was a member, under an indemnity given or reimbursement or similar obligation in respect of a margin set off agreement in which the Defaulter chose to participate (if payable to the Clearing Member being a positive number and set off in the calculation under this Rule 906(a) against any amount  $L-A-D$  if that amount is also a positive number or if payable to the Clearing House being a negative number and aggregated in the calculation under this Rule 906(a) with any amount  $L-A-D$  if that amount is a positive number).

$M$  = means the following, expressed as a positive number:

- (i) in relation to a net sum calculation for the Proprietary Account of the Defaulter, the value of any property provided by or on behalf of the Defaulter in respect of its Proprietary Account as Margin under Rule 502(g), Original Margin, FX Original Margin, Initial Margin, buyer's security or seller's security (without any double counting) or in satisfaction of such Margin requirements and recorded in the Proprietary Margin Account of the Defaulter;
- (ii) in relation to a net sum calculation for any Customer Account of the Defaulter (other than a Swap Customer Account of an FCM/BD Clearing Member), the value of any property provided by or on behalf of the Defaulter as margin under Rule 502(g), Original Margin, FX Original Margin, Initial Margin, buyer's security or seller's security (without any double counting) in respect of such Customer Account or in satisfaction of such Margin requirements and that is recorded in the related Customer Margin Account of the Defaulter, excluding any Margin that would otherwise fall under amount  $M$  but that is transferred to a Transferee Clearing Member pursuant to this Part 9; or
- (iii) in relation to a net sum calculation for a Swap Customer Account of an FCM/BD Clearing Member, the value of any property provided by or on behalf of the Defaulter in respect of such Swap Customer Account as margin under Rule 502(g) (other than as Mark-to-Market Margin), Original Margin, Initial Margin, buyer's security or seller's security (without any double counting) (collectively, "**FCM Swap Customer IM**") or in satisfaction of such Margin requirements and that is recorded in the related Customer Margin Account of the Defaulter, excluding any Margin that would otherwise fall under amount  $M$  but that is transferred to a Transferee Clearing Member pursuant to this Part 9 and further excluding, for the avoidance of doubt, any Surplus Collateral, provided that such assets allocated to a particular Customer Swap Portfolio and proceeds thereof shall only be included in  $M$  to the extent of obligations to the Clearing House in respect of Open Contract Positions in such Customer Swap Portfolio in accordance with CFTC Rule 22.15, and provided, further, that where an amount payable by the Defaulter as determined in  $L(i)$ -(iii)

**Part 9 – Default Rules**  
**Rule 906 – Net Sums Payable**

includes a net obligation (after taking into account Variation Margin or Mark-to-Market Margin in accordance with the 'Note on calculation of the amounts in L and A') in respect of Open Contract Positions of the Defaulter in relation to multiple Customer Swap Portfolios, *M* shall include the FCM Swap Customer IM allocated to each Customer Swap Portfolio to which a corresponding payment or margin obligation to the Clearing House is referable up to the amount of such payment or obligation, excluding Surplus Collateral but including in any such case under *M*(i), (ii) or (iii) any such Margin transferred to the Clearing House by the Defaulter relating to the relevant Account and any amounts received by the Clearing House pursuant to a letter of credit or Controller Guarantee entered into in favour of the Clearing House in satisfaction of such applicable Margin requirements on the relevant Account that would, if the Margin was funded, fall under *M*.

*GFC* = the value, expressed as a positive number, of any property provided by or on behalf of the Defaulter as Guaranty Fund Contributions, which may be applied in connection with the net sum for any Customer Account or the Proprietary Account of the Defaulter in accordance with Rules 906(b) and (c) at the discretion of the Clearing House regardless of the basis under which any Guaranty Fund Contribution was calculated under Rule 1101(e), provided that the total applied to the Customer Accounts and Proprietary Account of a Defaulter under *GFC* shall not exceed the total Guaranty Fund Contributions of the Defaulter.

*SC* = the value, expressed as a positive number, of any property provided by or on behalf of the Defaulter in respect of the relevant Account that constitutes Surplus Collateral, including, where applicable, any such amounts received by the Clearing House pursuant to a letter of credit or Controller Guarantee in favour of the Clearing House not falling under *M*, but excluding any Pledged Collateral returned to a Clearing Member or any of its Customers pursuant to Rule 502(i) or amounts not needed that are returned to the letter of credit issuer.

*OA* = the aggregate of any amounts, expressed as a positive number, not falling under *A*, *D*, *C*, *M*, *GFC* or *SC* standing to the credit of the Defaulter or payable to the Defaulter or any right or claim of the Defaulter against the Clearing House relating to the relevant Account, in any case whether pursuant to these Rules, any Contract or otherwise, including without limitation:

- (i) any available assets that would be recorded in the Proprietary Account but for Rule 906(c);
- (ii) any amount due from the Clearing House to the Defaulter following the exercise of rights of use and/or appropriation in respect of Pledged Collateral pursuant to Rule 905(b) and the relevant Pledged Collateral Addendum;
- (iii) an amount in respect of any Guaranty Fund Contribution that has been applied to a loss, shortfall or otherwise but is due back to the Clearing Member under Rule 1102(k), 1103(a) or 1103(b);

**Part 9 – Default Rules**  
**Rule 906 – Net Sums Payable**

- (iv) an amount in respect of any Assessment Contribution that has been called and paid but is due back to the Clearing Member under Rule 909(j); and
- (v) any amounts due to the Clearing Member under Rule 914(j), 916(n) or 919(h),

but excluding in any case: (A) any Pledged Collateral returned to a Clearing Member or any of its Customers pursuant to Rule 502(i); and (B) any Surplus Collateral.

*OL* = the aggregate of any other amounts, expressed as a positive number, not falling under *L* payable by the Defaulter to the Clearing House or any right or claim of the Clearing House against the Defaulter relating to the relevant Account, in any case whether pursuant to these Rules, any Contract or otherwise (including without limitation any fines payable pursuant to Part 10 and any other amounts payable in respect of any breach by the Defaulter of these Rules in either case not falling under *L*), in any case at the discretion of the Clearing House, including without limitation the Defaulter's obligation to pay any amount in respect of a transfer in relation to all or any of the Pledged Collateral pursuant to Rule 904(d)(v), provided that any amounts falling within the scope of the indemnity in Rule 905(f) but not falling under *L* shall be allocated to the Proprietary Account regardless of the Contracts or Account to which they relate.

All such amounts specified above must be aggregated, set off and applied in the order set out in the calculation above and in such order as is further required, restricted or limited by Rules 102(q), 906(b) and 908 and provided further that any amount is only included in respect of the relevant net sum to the extent allowed pursuant to Rule 906(b).

- (b) Where the Defaulter has one or more Customer Accounts or was Sponsor in respect of one or more Individually Segregated Sponsored Accounts, the process set out in Rule 906(a) shall be completed separately, and separate net sums shall be determined, in respect of:
  - (i) each of the Defaulter's Non-DCM/Swap Customer Accounts, including, in respect of each such Account, the Contracts, rights, obligations and liabilities relating to each such Account;
  - (ii) each of the Defaulter's Swap Customer Accounts, including, in respect of each such Account, the Contracts, rights, obligations and liabilities relating to each such Account;
  - (iii) each of the Defaulter's DCM Customer Accounts, including, in respect of each such Account, the Contracts, rights, obligations and liabilities relating to each such Account;
  - (iv) each of the Defaulter's SBS Customer Accounts, including, in respect of each such Account, the Contracts, rights, obligations and liabilities relating to each such Account;



**Part 9 – Default Rules**  
**Rule 906 – Net Sums Payable**

- (v) each of the Defaulter's General Customer Accounts, including, in respect of each such Account, the Contracts, rights, obligations and liabilities relating to each such Account in respect of F&O Contracts;
- (vi) each of the Defaulter's Segregated Customer Omnibus Accounts For F&O, including, in respect of each such Account, the Contracts, rights, obligations and liabilities relating to each such Account;
- (vii) each of the Defaulter's Segregated TTFCFA Customer Omnibus Accounts For F&O, including, in respect of each such Account, the Contracts, rights, obligations and liabilities relating to each such Account;
- (viii) each of the Defaulter's Segregated Customer Omnibus Accounts For CDS, including, in respect of each such Account, the Contracts, rights, obligations and liabilities relating to each such Account;
- (ix) each of the Defaulter's Segregated TTFCFA Customer Omnibus Accounts For CDS, including, in respect of each such Account, the Contracts, rights, obligations and liabilities relating to each such Account;
- (x) each of the Defaulter's Segregated Customer Omnibus Account For FX, including in respect of each such Account, the Contracts, rights, obligations and liabilities relating to each such Account;
- (xi) each of the Defaulter's Segregated TTFCFA Customer Omnibus Accounts For FX, including, in respect of each such Account, the Contracts, rights, obligations and liabilities relating to each such Account;
- (xii) each of the Defaulter's Margin-flow Co-mingled Accounts, including, in respect of each such Account, the Contracts, rights, obligations and liabilities relating to each such Account;
- (xiii) each of the Defaulter's Standard Omnibus Indirect Accounts For F&O, including, in respect of each such Account, the Contracts, rights, obligations and liabilities relating to each such Account;
- (xiv) each of the Defaulter's Standard TTFCFA Omnibus Indirect Accounts For F&O, including, in respect of each such Account, the Contracts, rights, obligations and liabilities relating to each such Account;
- (xv) each of the Defaulter's Standard Omnibus Indirect Accounts For CDS, including, in respect of each such Account, the Contracts, rights, obligations and liabilities relating to each such Account;
- (xvi) each of the Defaulter's Standard TTFCFA Omnibus Indirect Accounts For CDS, including, in respect of each such Account, the Contracts, rights, obligations and liabilities relating to each such Account;

**Part 9 – Default Rules**  
**Rule 906 – Net Sums Payable**

- (xvii) each of the Defaulter's Standard Omnibus Indirect Accounts For FX, including, in respect of each such Account, the Contracts, rights, obligations and liabilities relating to each such Account;
- (xviii) each of the Defaulter's Standard TTFCOA Omnibus Indirect Accounts For FX, including, in respect of each such Account, the Contracts, rights, obligations and liabilities relating to each such Account;
- (xix) each of the Defaulter's Segregated Gross Indirect Accounts, including, in respect of each such Account, the Contracts, rights, obligations and liabilities relating to each such Account; and
- (xx) each Individually Segregated Sponsored Account of the Defaulter or for which the Defaulter acted as Sponsor, including, and in respect of each such Account, the Contracts, rights, obligations and liabilities relating to each such Account;
- (xxi) each of the Defaulter's Proprietary Accounts, including, in respect of each such Account, the Contracts, rights, obligations and liabilities relating to each such Account not falling under Rule 906(b)(i) to (xx).

Each Clearing Member shall be deemed to represent, warrant and agree on an ongoing basis that, if it were to become a Defaulter, any net sums to be determined in accordance with paragraphs (i) to (xxi) above do not: (aa) (in relation to a Defaulter that has a Customer Account) involve any setting off against each other of positions and assets recorded in any of the Defaulter's Customer Accounts against any of the Defaulter's Proprietary Accounts or any other Customer Account of that Defaulter, in any circumstances which would contravene section 182A of the Companies Act 1989; (bb) (in relation to a Defaulter with more than one Customer Account) involve setting off against each other of positions and assets recorded in each of the Defaulter's different Customer Accounts against any of the Defaulter's Proprietary Accounts or any other Customer Account of that Defaulter, in any circumstances which would contravene section 182A of the Companies Act 1989; and (cc) (in relation to a Defaulter with more than one Proprietary Account) involve any setting off against each other of positions and assets recorded in each of the Defaulter's different Proprietary Accounts, against any of the Defaulter's Customer Accounts or any other Proprietary Account of the Defaulter, in any circumstances which would contravene section 182A of the Companies Act 1989.

The Defaulter's Guaranty Fund Contributions and amounts received by the Clearing House under a Controller Guarantee or standby letter of credit of a Defaulter may be used for the purpose of calculating any net sum on any Account relating to that Defaulter (provided that any such amounts are not double counted), in accordance with Rule 906(a) and subject to the restrictions in Rule 906(c), Rule 908, Rule 102(q) and this Rule 906(b) as determined by the Clearing House. The aggregate sums finally payable shall be separately certified under Rule 906(e). Where and to the extent that the Clearing House determines to apply Guaranty Fund Contributions or amounts received by the Clearing House under a Controller Guarantee or standby letter of credit to any Customer Account, such amounts must first be

**Part 9 – Default Rules**  
**Rule 906 – Net Sums Payable**

applied to reduce any losses on Customer Accounts, on a *pro rata* basis among Customer Accounts which would otherwise have a net sum representing a shortfall or loss.

- (c) The Clearing House shall aggregate, set off or apply any Margin, Surplus Collateral or other surplus assets available to it in relation to a Defaulter's Proprietary Account to meet a shortfall on any one or more of that Defaulter's Customer Accounts or Individually Segregated Sponsored Accounts for which the Defaulter acted as Sponsor (and, if it does so, shall include any such amounts within the net sum to be calculated in relation to such Customer Account), provided that if any amounts are so aggregated, set off or applied, the amount *A, D, C, M, SC* or *OA* (as applicable) and consequently the net sum payable by the Clearing House in relation to the Defaulter's Proprietary Account shall be reduced by the same amount as is so included within the net sum for the relevant Customer Account. The Clearing House may not aggregate, set off or apply any Margin, Surplus Collateral or other surplus available to it in relation to one of the Defaulter's Customer Accounts (or any Individually Segregated Sponsored Account of the Defaulter or for which the Defaulter acted as Sponsor) to meet a shortfall on another of that Defaulter's Customer Accounts (or an Individually Segregated Sponsored Account of the Defaulter or for which the Defaulter acted as Sponsor). The Clearing House may not aggregate, set off or apply any Margin, Surplus Collateral or other surplus available to it in relation to one of the Defaulter's Customer Accounts or any Individually Segregated Sponsored Account to meet a shortfall on the Defaulter's Proprietary Account. Where and to the extent that the Clearing House determines to apply Proprietary Account assets of a Defaulter to any Customer Account, such amounts must first be applied to reduce any losses on Customer Accounts, on a *pro rata* basis among Customer Accounts which would otherwise have a net sum representing a shortfall or loss.
- (d) Where *N* is a positive number, the net sum equal to *N* shall be payable by the Defaulter to the Clearing House. Where *N* is a negative number, the net sum equal to the absolute value of *N* shall be payable by the Clearing House:
- (i) in the case of an FCM/BD Clearing Member, to the Defaulter; or
  - (ii) in the case of a Non-FCM/BD Clearing Member, to the Defaulter or as required pursuant to article 48(7) of EMIR, or otherwise at the Clearing House's election and discretion (as permitted by Applicable Law):
    - (A) in respect of a Customer Account, directly to a Customer;
    - (B) in respect of a Customer Account used for indirect clearing under EMIR, directly to an indirect client of a Customer; or
    - (C) in respect of an Individually Segregated Sponsored Account of a Sponsored Principal, to the Sponsored Principal or Sponsor as permitted pursuant to Rule 904(r)(vi),

**Part 9 – Default Rules**  
**Rule 906 – Net Sums Payable**

in the case of (A) or (B) above only if the Clearing House is aware of the identity of the Customer or indirect client in question, and in all cases where the Clearing House is aware of an appropriate account to receive transfer of such net sum.

If the Clearing House makes payment in respect of amounts which would have otherwise been included any net sum to or to the account of a Person other than the Defaulter in accordance with these Rules or any Pledged Collateral Addendum, the Defaulter's claim against the Clearing House shall be accordingly reduced by the amount paid to such Person and the amount of any net sum  $N$  payable to the Defaulter shall be accordingly reduced. Where  $N$  is equal to zero, no amount shall be payable as between the Clearing House and the Defaulter pursuant to this Rule 906. Where there is more than one separately certified amount  $N$  certified under Rule 906(e) as a result of Rule 906(b), each amount so certified shall be treated as a separate obligation which cannot be netted off against another certified amount  $N$  in respect of a different account of the Defaulter.

- (e) Each amount  $N$  shall be certified by the Clearing House promptly upon its determination. Such determination may be delayed or withheld until such time as all relevant sums and components have been evaluated, all Transfers have been completed and the value or sale proceeds of any non-cash Margin, Surplus Collateral, Guaranty Fund Contributions or other assets are determined, received or available. A certificate of the Clearing House made pursuant to this Rule 906(e) shall be conclusive as to the amount required to be paid by or to any Defaulter or other Person in discharge of rights and liabilities in respect of the Contracts, property and Account to which such certificate relates.
- (f) If a Disclosed Principal Member and the Clearing Member that appointed the Disclosed Principal Member are both Defaulters, the Clearing House shall be entitled to set-off any amount or asset to the credit of either Defaulter against any liability or obligation of the other Defaulter for the purposes of calculating any net sum under this Rule 906 and may exercise any of its powers under this Part 9 accordingly.
- (g) The Clearing House and each Clearing Member or Sponsored Principal with a Pledged Collateral Account acknowledge and agree that Pledged Collateral: (i) is provided pursuant to a charge over property provided as margin in respect of market contracts entered into by the Clearing House; and (ii) is provided to secure the obligation to pay the Clearing House any sum due to the Clearing House in respect of unsettled market contracts to which the Clearing Member or Sponsored Principal is party as set forth in these Rules, in respect of the account that is or relates to a Pledged Collateral Account. Accordingly, the Clearing House and each such Clearing Member intend and agree that all Pledged Collateral provided to the Clearing House is provided pursuant to a "market charge" for purposes of the Companies Act 1989.
- (h) Any amounts received from a letter of credit issuer in respect of Margin, Surplus Collateral or Guaranty Fund Contributions may at the discretion of the Clearing House be returned to the letter of credit issuer and not included in any net sum calculation relating to an Account of a Defaulter, to the extent that such amounts are not needed to cover a loss or shortfall, to the extent that the same is permitted pursuant to the terms of the letter of credit in question.

**Part 9 – Default Rules****Rule 907 – Administrative matters concerning an Event of Default****Rule 907**      *Administrative matters concerning an Event of Default*

- (a) The Clearing House may co-operate, by the sharing of information and otherwise, with any Governmental Authority, Clearing Organisation, Exchange or Insolvency Practitioner having responsibility for any matter arising out of, or connected with, an Event of Default or the default of a recognised investment exchange or another recognised clearing house.
- (b) The Clearing House will report to the Defaulter or any relevant Insolvency Practitioner, on steps taken pursuant to this Part 9.
- (c) In accordance with Rule 905(f), any failure to meet any of its obligations under these Rules or in respect of any Contract remains a liability of the Defaulter to the Clearing House regardless of any steps taken by the Clearing House under these Rules. The Clearing House may recover such sums due by exercising its right of set off (to the extent permitted to be used under these Rules) or by legal process.

To the extent that the Event of Default in question has resulted in application of any Guaranty Fund Contributions of Clearing Members that are not Defaulters:

- (i) to the extent necessary for this purpose, each Clearing Member authorises and appoints the Clearing House to pursue any such collections or recoveries on behalf of the Clearing House and Clearing Members; and
- (ii) without prejudice to Rule 111 or 905(f), the Clearing House shall be obliged to such Clearing Members to exercise the same degree of care in the administration, enforcement and collection of any claims against a Defaulter or its insolvency estate with respect to any remaining liability of a Defaulter to the Clearing House as it exercises with respect to its own assets that are not subject to allocation pursuant to Rule 914(j), Rule 916(n) or Rule 1102(k). The Clearing House may determine, in its reasonable discretion, whether or not to commence, continue, maintain, sell, dispose of or settle or compromise any litigation, arbitration or other action with respect to any liability of a Defaulter, without the consent of any Clearing Member or other Person. The Clearing House may, in its discretion, assign to Clearing Members any claims relating to collections or recoveries from Defaulters, in whole or in part, and such assignment shall satisfy in full the Clearing House's obligations under Rule 914(j), Rule 916(n) and Rule 1102(k) with respect to any such claim (or portion thereof) or recoveries therefrom.

For the avoidance of doubt, nothing in these Rules shall otherwise oblige the Clearing House to take any step to recover any asset or amount in the possession of a Defaulter or one of its Customers in connection with an Event of Default.

- (d) Without prejudice to the Clearing House relying on any other information provided to it by a Clearing Member or any other Person, the Clearing House shall be entitled to rely on the most recent information provided to it (including in relation to ~~Default-Portability Preferences and Non-Transfer Positions and Margin provided to the Clearing House~~ Contracts, Customer-CM Transactions, Margin and the Accounts in which Contracts and Margin were recorded or which relate to particular Customers or particular groups of

Part 9 – Default RulesRule 907 – Administrative matters concerning an Event of Default

Customers) by a Defaulter prior to declaration of an Event of Default, notwithstanding any notice or purported notice to the contrary from a Defaulter, its Insolvency Practitioner or any other Person received by the Clearing House after declaration of an Event of Default. The Clearing House shall have no obligation to enquire of any Customer, Sponsored Principal or other Person as to any ~~Default-Portability-Preference-or-Non-Transfer Positions~~Porting Notice. The rights of the Clearing House to deal with Margin and other Permitted Cover under the default rules shall not be restricted as a consequence of a Defaulter having either entered into any indebtedness with a Customer or having provided different forms of collateral to the Clearing House from that which it had received from its Customer, in either case in order to facilitate the provision of Permitted Cover to the Clearing House.

- (e) A Defaulter shall immediately disclose the names, addresses and contact details of each of its Customers or any Customer upon receiving notice to do so from the Clearing House.
- (f) Rule 202(a)(xii) shall apply in respect of the Defaulter for the benefit of the Clearing House and any Transferee Clearing Member in respect of each Transfer of Contracts (and any related Customer-CM Transactions) and any related transfer of Margin or other assets taking place pursuant to this Part 9.
- (g) The Clearing House (including any Insolvency Practitioner with powers over the Clearing House or other Representative) and all Clearing Members, Sponsored Principals and Customers and their Representatives (including any Insolvency Practitioner with powers over any Clearing Member, Sponsored Principal, Customer or other Representative) shall, to the extent permitted by Applicable Laws:
  - (i) refrain from taking any action or seeking any order of any Governmental Authority that would result in or facilitate any asset or liability being applied contrary to the requirements of this Part 9; and
  - (ii) take all reasonable steps possible including, without limitation, the application for and procurement of such orders from such Governmental Authorities as are necessary, to ensure that assets of the Clearing House are applied only pursuant to this Part 9.
- (h) Notwithstanding any other provision of these Rules or the Finance Procedures concerning the use of Nominated Bank Accounts or Approved Financial Institutions, any amount payable to or from the Clearing House following the declaration of a net sum in accordance with this Part 9 may be paid to or from an account other than a Nominated Bank Account and/or to or from an account other than with an Approved Financial Institution that has previously been designated as such by the Clearing House, provided that:
  - (i) the account is an account of the Defaulter or an account operated by an Insolvency Practitioner on behalf of the Defaulter;
  - (ii) in the case of payments to the Defaulter, details of the account to be used and such other information relating to the account as is reasonably requested by the Clearing



*Part 9 – Default Rules**Rule 907 – Administrative matters concerning an Event of Default*

House are provided in writing to the Clearing House by the Defaulter or its Insolvency Practitioner; and

- (iii) the bank of the account to which such payment is made shall be treated as if it were an Approved Financial Institution for purposes of any payments referred to in this Rule 907(h) and Part 12 without the need for any further action on the part of the Clearing House.
- (i) If an Event of Default occurs affecting a CDS Clearing Member or Sponsored Principal with open CDS Contracts, the Clearing House shall convene the CDS Default Committee. The CDS Default Committee shall have the competences specified in the CDS Procedures.
- (j) Without prejudice to the status of any other provision of the Rules that is potentially applicable following an Event of Default as a default rule or similar concept for purposes of the Companies Act 1989 or similar concept under any of the Applicable Laws referred to in the opening paragraph of this Part 9:
  - (i) the provisions of the CDS Procedures relevant to a default shall apply if the Defaulter is or was a CDS Clearing Member and shall amount to default rules for the purposes of these Rules and Applicable Laws;
  - (ii) Part 12 and Rule 1604 contain additional default rules; and
  - (iii) where any defined term is used in a default rule or any general interpretative provision of these Rules is relevant to the interpretation of a default rule, the definition of that term or that interpretative provision is itself also a default rule.
- (k) If an FX Clearing Member or Sponsored Principal with open FX Contracts is declared to be a Defaulter, the Clearing House shall convene the FX Default Committee. The FX Default Committee shall have the competences specified in the Procedures.
- (l) The provisions of the FX Procedures relevant to a default shall apply if the Defaulter is or was an FX Clearing Member and shall amount to default rules for the purposes of the Rules and Applicable Laws.
- (m)
  - (i) If an event has occurred with respect to a Customer, with respect to a Customer-Clearing Member Agreement, Customer-CM Transaction or otherwise, which would constitute any Event of Default hereunder (if it had occurred with respect to a Clearing Member), then:
    - (A) the Clearing Member may, through the ICE Systems or otherwise, request that the Clearing House take such steps as are necessary to Transfer any Contracts, Margin or other Permitted Cover recorded in a Customer Account of that Clearing Member, to the extent relating to such Customer, to a Proprietary Account of the same Clearing Member (or a different

Part 9 – Default RulesRule 907 – Administrative matters concerning an Event of Default

- Customer Account of the same Clearing Member in which the Customer is interested);
- (B) the Clearing House may as a result of such request assume that such event means that the Customer is unable, or likely to be unable, to meet its obligations in respect of one or more 'market contracts' (as defined in the Companies Act 1989) and may therefore further assume that the Sponsored Principal (if applicable) is capable of being declared a Defaulter, or the Customer (were it to be a Clearing Member) would be capable of being declared a Defaulter, under this Part 9, and act upon any such request, through the ICE Systems or otherwise; and
- (C) the Clearing House will: (1) to the extent permissible under Applicable Laws; (2) if so requested by a Clearing Member that is not a Defaulter; and (3) where such request contains a confirmation from the Clearing Member that such an event exists (upon which the Clearing House may rely, without enquiry, including for the purposes of Rule 111), act upon any such request, through the ICE Systems or otherwise.
- (ii) If an event has occurred with respect to a Customer or an Indirect Client of a Customer or a Clearing Member, with respect to a Customer-Clearing Member Agreement, Customer-CM Transaction or otherwise, which would constitute any Event of Default hereunder (if it had occurred with respect to a Clearing Member), then:
- (A) the Clearing Member may, through the ICE Systems or otherwise request that the Clearing House take such necessary steps to Transfer any Contracts, Margin or other Permitted Cover recorded in or related to a Standard Omnibus Indirect Account or Segregated Gross Indirect Account of that Clearing Member, or in the case of an FCM/BD Clearing Member, an indirect clearing position keeping subaccount linked to a Customer Account, to the extent relating to such Customer or Indirect Client, to a different Account or subaccount of the same Clearing Member or will update the records relating to such an Account or subaccount, in which the Customer is interested;
- (B) the Clearing House may as a result of such request assume that such event means that the Customer or Indirect Client of a Customer or a Clearing Member is unable, or likely to be unable, to meet its obligations in respect of one or more 'market contracts' (as defined in the Companies Act 1989) and may therefore further assume that the Sponsored Principal (if applicable) is capable of being declared a Defaulter, or the Customer or Indirect Client of a Customer or Clearing Member (were such Customer or Indirect Client to be a Clearing Member) would be capable of being declared a Defaulter, under this Part 9, and act upon any such request, through the ICE Systems or otherwise; and

**Part 9 – Default Rules**

**Rule 907 – Administrative matters concerning an Event of Default**

- (C) the Clearing House will: (1) to the extent permissible under Applicable Laws; (2) if so requested by a Clearing Member that is not a Defaulter; and (3) where such request contains a confirmation from the Clearing Member that such an event exists (upon which the Clearing House may rely, without enquiry, including for the purposes of Rule 111), act upon any such request, through the ICE Systems or otherwise.

For the avoidance of doubt, this Rule 907(m) applies equally to a request by a Sponsor following an Event of Default (whether or not declared) in respect of a Sponsored Principal or a breach by a Sponsored Principal of, or a default of a Sponsored Principal under, a Customer-Clearing Member Agreement. Nothing in this Rule 907(m) shall limit any of the Clearing House's rights to declare a Sponsored Principal to be a Defaulter or to exercise any of its rights resulting from such a declaration under this Part 9.

**Part 9 – Default Rules****Rule 908 – Application of Assets upon an Event of Default****Rule 908      *Application of Assets upon an Event of Default***

- (a) Notwithstanding any other provision of these Rules:
- (i) if a Defaulter was only liable to make a Guaranty Fund Contribution relating to a single Membership Category, no Guaranty Fund Contributions, Assessment Contributions, or Clearing House Contributions relating to a different Membership Category shall be applied by the Clearing House to meet any obligations or liabilities of the Defaulter or any shortfall, loss or liability to the Clearing House arising from the Event of Default;
  - (ii) if a Defaulter was only liable to make Guaranty Fund Contributions relating to two Membership Categories, no Guaranty Fund Contributions, Assessment Contributions or Clearing House Contributions relating to a different Membership Category shall be applied by the Clearing House to meet any obligations or liabilities of the Defaulter or any shortfall, loss or liability to the Clearing House arising from the Event of Default;
  - (iii) any Guaranty Fund Contributions (including additional Guaranty Fund Contributions) invoiced to or transferred by Clearing Members that are not Defaulters or accrued in each case after the declaration of an Event of Default but prior to the completion of the relevant default proceedings for the Event of Default shall not be applied to meet any obligations or liabilities of the Defaulter or any shortfall, loss or liability to the Clearing House arising in connection with that prior Event of Default;
  - (iv) if a Defaulter was a CDS Clearing Member and had one or more other Membership Categories and any CDS Guaranty Fund Contribution of the Defaulter is applied other than as described in Rule 908(g)(ii)(B), no non-defaulting CDS Clearing Member shall be required to make any payment to replenish the CDS Guaranty Fund under Rule 1102(i) or (j) in respect of the resulting incremental shortfall to the CDS Guaranty Fund caused by such application of assets prior to the date which is the first day of the next following Guaranty Fund Period for the CDS Guaranty Fund (other than pursuant to Rule 903(e), if the non-defaulting CDS Clearing Member becomes a Defaulter);
  - (v) without limitation to the generality of Rule 102(q), this Rule 908 is subject to Rule 102(q);
  - (vi) where the loss or shortfall relates to Energy Contracts: (A) the Clearing House F&O Initial (Energy) Contribution shall be applied and exhausted prior to applying the Clearing House F&O Initial (Financials & Softs) Contribution; (B) the F&O Guaranty Fund Contributions relating to Energy Contracts shall be applied and exhausted prior to applying the F&O Guaranty Fund Contributions relating to Financials & Softs Contracts; (C) the Clearing House F&O GF (Energy) Contribution shall be applied and exhausted prior to applying the Clearing House F&O GF (Financials & Softs) Contribution; and (D) F&O Assessment Contributions

Part 9 – Default RulesRule 908 – Application of Assets upon an Event of Default

relating to Energy Contracts shall be applied and exhausted prior to applying F&O Assessment Contributions relating to Financials & Softs Contracts;

- (vii) where the loss or shortfall relates to Financials & Softs Contracts: (A) the Clearing House F&O Initial (Financials & Softs) Contribution shall be applied and exhausted prior to applying the Clearing House F&O Initial (Energy) Contribution; (B) the F&O Guaranty Fund Contributions relating to Financials & Softs Contracts shall be applied and exhausted prior to applying the F&O Guaranty Fund Contributions relating to Energy Contracts; (C) the Clearing House F&O GF (Financials & Softs) Contribution shall be applied and exhausted prior to applying the Clearing House F&O GF (Energy) Contribution; and (D) F&O Assessment Contributions relating to Financials & Softs Contracts shall be applied and exhausted prior to applying F&O Assessment Contributions relating to Energy Contracts;
  - (viii) in determining whether a loss or shortfall relates to Energy Contracts or to Financials & Softs Contracts for the purposes of Rule 908(a)(vi) or (vii), the principles set out in Rule 908(e) for the attribution of liabilities to particular Contract Categories shall be applied as if Energy Contracts and Financials & Softs Contracts were two separate Contract Categories, *mutatis mutandis*; and
  - (ix) in relation to an Event of Default declared in respect of a Sponsored Principal, the Clearing House will not apply any Guaranty Fund Contributions, Assessment Contributions or other assets of Clearing Members other than the Sponsor to meet any loss or shortfall, unless the Sponsor has itself also been declared subject to an Event of Default.
- (b) In the case of a Defaulter that was an F&O Clearing Member or a Sponsored Principal that was authorised to clear F&O (but neither a CDS Clearing Member nor an FX Clearing Member, nor authorised to clear CDS or FX), the Clearing House shall be entitled to apply assets to meet the obligations and liabilities of the Defaulter and any shortfall, loss or liability to the Clearing House upon or following any Event of Default of that Defaulter (including in connection with any net sum calculated under Rule 906), by applying the following assets in the order of recourse set out below:
- (i) first, any amounts falling under *N* in Rule 906(a) in the order and in respect of the Accounts specified in Rule 906(a) subject to the restrictions set out in Rule 906(c) (provided that the Clearing House shall not be required to assert or pursue any such claim or bring any such action as a precondition to applying assets referred to in Rule 908(b)(ii) to (v) but shall be required to account for any subsequent proceeds not included in the amount determined, less the costs of realising any such claim or action or obtaining such amount or asset);
  - (ii) second, the Clearing House F&O Initial Contribution;
  - (iii) third, subject to Rules 908(i) and 1103(e), any claims under any default insurance policies (including the proceeds of any claim) of which the Clearing House is the beneficiary that have been received by the Clearing House in cleared funds as a result of the Event of Default (it being understood that the Clearing House shall not

Part 9 – Default RulesRule 908 – Application of Assets upon an Event of Default

be obliged to obtain or maintain any default insurance policy or make, or receive the proceeds under, any claim prior to processing to the next levels of assets specified in this Rule 908(b), subject to Rule 1102(k));

- (iv) fourth (subject to Rule 908(i)):
    - (A) F&O Guaranty Fund Contributions of Clearing Members other than the Defaulter in question or its Sponsor (including, where relevant, any surplus F&O Guaranty Fund Contributions of other Defaulters, if two or more Default proceedings take place concurrently and any such surplus is available); and
    - (B) the Clearing House F&O GF Contribution,
 

on a basis *pro rata* (subject to Rule 908(i)) to the sum of the total of all F&O Guaranty Fund Contributions (excluding F&O Guaranty Fund Contributions of the Defaulter and F&O Guaranty Fund Contributions of other Defaulters that have been or are to be applied in connection with separate Default proceedings) and the Clearing House F&O GF Contribution at the time of the Event of Default; and
  - (v) fifth (subject to Rule 908(i)), F&O Assessment Contributions received by the Clearing House pursuant to Rule 909.
- (c) In the case of a Defaulter that was a CDS Clearing Member or a Sponsored Principal that was authorised to clear CDS (but neither an F&O Clearing Member nor an FX Clearing Member nor authorised to clear F&O or FX), the Clearing House shall be entitled to apply assets to meet the obligations and liabilities of the Defaulter and any shortfall, loss or liability to the Clearing House upon or following any Event of Default of that Defaulter (including in connection with any net sum calculated under Rule 906), by applying the following assets in the order of recourse set out below:
- (i) first, any amounts falling under *N* in Rule 906(a) in the order and in respect of the Accounts specified in Rule 906(a) subject to the restrictions set out in Rule 906(c) (provided that the Clearing House shall not be required to assert or pursue any such claim or bring any such action as a precondition to applying assets referred to in Rule 908(c)(ii) to (v) but shall be required to account for any subsequent proceeds not included in the amount determined, less the costs of realising any such claim or action or obtaining such amount or asset);
  - (ii) second, the Clearing House CDS Initial Contribution;
  - (iii) third, subject to Rules 908(i) and 1103(e), any claims under any default insurance policies (including the proceeds of any claim) of which the Clearing House is the beneficiary that have been received by the Clearing House in cleared funds as a result of the Event of Default (it being understood that the Clearing House shall not be obliged to obtain or maintain any default insurance policy or make, or receive the



**Part 9 – Default Rules**

**Rule 908 – Application of Assets upon an Event of Default**

proceeds under, any claim prior to processing to the next levels of assets specified in this Rule 908(c), subject to Rule 1102(k));

- (iv) fourth (subject to Rule 908(i)):
    - (A) CDS Guaranty Fund Contributions of Clearing Members other than the Defaulter in question or its Sponsor (including, where relevant, any surplus CDS Guaranty Fund Contributions of other Defaulters, if two or more Default proceedings take place concurrently and any such surplus is available); and
    - (B) the Clearing House CDS GF Contribution,
 

on a basis *pro rata* (subject to Rule 908(i)) to the sum of the total of all CDS Guaranty Fund Contributions (excluding CDS Guaranty Fund Contributions of the Defaulter and CDS Guaranty Fund Contributions of other Defaulters that have been or are to be applied in connection with separate Default proceedings) and the Clearing House CDS GF Contribution at the time of the Event of Default; and
  - (v) fifth (subject to Rule 908(i)), CDS Assessment Contributions received by the Clearing House pursuant to Rule 909.
- (d) In the case of a Defaulter that was an FX Clearing Member or a Sponsored Principal that was authorised to clear FX (but neither an F&O Clearing Member nor a CDS Clearing Member nor authorised to clear F&O or CDS), the Clearing House shall be entitled to apply assets to meet the obligations and liabilities of the Defaulter and any shortfall, loss or liability to the Clearing House upon or following any Event of Default of that Defaulter (including in connection with any net sum calculated under Rule 906), by applying the following assets in the order of recourse set out below:
- (i) first, any amounts falling under *N* in Rule 906(a), in the order and in respect of the Accounts specified in Rule 906(a) subject to the restrictions set out in Rule 906(c) (provided that the Clearing House shall not be required to assert or pursue any such claim or bring any such action as a precondition to applying assets referred to in paragraphs Rule 908(d)(ii) to (v) below but shall be required to account for any subsequent proceeds not included in the amount determined, less the costs of realising any such claim or action or obtaining such amount or asset);
  - (ii) second, the Clearing House FX Initial Contribution;
  - (iii) third, subject to Rules 908(i) and 1103(e), any claims under any default insurance policies (including the proceeds of any claim) of which the Clearing House is the beneficiary that have been received by the Clearing House in cleared funds as a result of the Event of Default (it being understood that the Clearing House shall not be obliged to obtain or maintain any default insurance policy or make, or receive the proceeds under, any claim prior to processing to the next levels of assets specified in this Rule 908(d), subject to Rule 1102(k));

Part 9 – Default RulesRule 908 – Application of Assets upon an Event of Default

- (iv) fourth (subject to Rule 908(i)):
    - (A) FX Guaranty Fund Contributions of Clearing Members other than the Defaulter in question or its Sponsor (including, where relevant, any surplus FX Guaranty Fund Contributions of other Defaulters, if two or more Default proceedings take place concurrently and any such surplus is available); and
    - (B) the Clearing House FX GF Contribution,
      - on a basis *pro rata* (subject to Rule 908(i)), to the sum of the total of all FX Guaranty Fund Contributions (excluding FX Guaranty Fund Contributions of the Defaulter and FX Guaranty Fund Contributions of other Defaulters that have been or are to be applied in connection with separate Default proceedings) and the Clearing House FX GF Contribution at the time of the Event of Default; and
  - (v) fifth, (subject to Rule 908(i)), FX Assessment Contributions received by the Clearing House pursuant to Rule 909.
- (e) In the case of a Defaulter which held multiple Membership Categories, separate amounts shall be calculated in accordance with Rule 906(a) to (c) as if they were "net sums", *mutatis mutandis* in respect of assets and liabilities relating to the Clearing of F&O Contracts ("**F&O Default Amount**"), the Clearing of CDS Contracts ("**CDS Default Amount**") and the Clearing of FX Contracts ("**FX Default Amount**"), as follows:
- (i) if an Account in respect of which a positive net sum was produced was used solely for the Clearing of F&O Contracts, then the net sum declared in respect of such account shall be the sole element of the F&O Default Amount in respect of such Account;
  - (ii) if an Account in respect of which a positive net sum was produced was used solely for the Clearing of CDS Contracts, then the net sum declared in respect of such account shall be the sole element of the CDS Default Amount in respect of such Account;
  - (iii) if an Account in respect of which a positive net sum was produced was used solely for the Clearing of FX Contracts, then the net sum declared in respect of such account shall be the sole element of the FX Default Amount in respect of such Account;
  - (iv) if an Account in respect of which a positive net sum was produced was used for the Clearing of Contracts consisting of more than one Contract Category then:
    - (A) the CDS Default Amount shall include an amount in respect of such Account calculated by taking into account: any amounts, assets or liabilities included or to be included within the calculation of the amount *N* in Rule 906(a) in respect of CDS Contracts, Margin or Surplus Collateral in respect of positions in CDS Contracts and any other amounts, assets or liabilities relating in any case exclusively to CDS Contracts of the Defaulter,

Part 9 – Default RulesRule 908 – Application of Assets upon an Event of Default

together with such Guaranty Fund Contributions, Non-Exclusive Assets and Non-Exclusive Liabilities as are included as set out below;

- (B) the F&O Default Amount shall include an amount in respect of such Account calculated by taking into account: any amounts, assets or liabilities included or to be included within the calculation of the amount *N* in Rule 906(a) in respect of F&O Contracts, Margin or Surplus Collateral in respect of F&O Contracts and any other amounts, assets or liabilities relating in any case exclusively to F&O Contracts of the Defaulter, together with such Guaranty Fund Contributions, Non-Exclusive Assets and Non-Exclusive Liabilities as are included as set out below;
- (C) the FX Default Amount shall include an amount in respect of such Account calculated by taking into account: any amounts, assets or liabilities included or to be included within the calculation of the amount *N* in Rule 906(a) in respect of FX Contracts, Margin or Surplus Collateral in respect of positions in FX Contracts and any other amounts, assets or liabilities relating in any case exclusively to FX Contracts of the Defaulter, together with such Guaranty Fund Contributions, Non-Exclusive Assets and Non-Exclusive Liabilities as are included as set out below; and
- (v) notwithstanding Rule 908(e)(i), (ii), (iii) or (iv), Guaranty Fund Contributions of any kind shall be applied as follows as between Default Amounts:
  - (A) in the case of F&O Guaranty Fund Contributions, first to meeting any loss, shortfall or liability that would otherwise be represented in the F&O Default Amount;
  - (B) in the case of CDS Guaranty Fund Contributions, first to meeting any loss, shortfall or liability that would otherwise be represented in the CDS Default Amount;
  - (C) in the case of FX Guaranty Fund Contributions, first to meeting any loss, shortfall or liability that would otherwise be represented in the FX Default Amount;
  - (D) in the case of any remaining Guaranty Fund Contributions, next towards eliminating any loss, shortfall or liability that would otherwise be represented in any Default Amount;
  - (E) to the extent that there is no further loss, shortfall or liability reflected in any Default Amount following application of Guaranty Fund Contributions under (A) to (D), F&O Guaranty Fund Contributions shall be included in the F&O Default Amount, CDS Guaranty Fund Contributions shall be included in the CDS Default Amount and FX Guaranty Fund Contributions shall be included in the FX Default Amount.

Part 9 – Default RulesRule 908 – Application of Assets upon an Event of Default

- (vi) "**Non-Exclusive Assets**" constitute any amounts or assets included or to be included within the calculation of the amount *N* in Rule 906(a) not relating exclusively to any one Contract Category, but excluding Guaranty Fund Contributions. Non-Exclusive Assets may be included in the calculation of any of the Default Amounts in question or split between such calculations at the Clearing House's discretion, provided that:
- (A) to the extent that two or more of the Default Amounts represent or would (but for this provision) represent a shortfall, loss or liability (in this Rule 908(e)(ii), "**Shortfall Default Amounts**"), the Non-Exclusive Assets must be included in the calculation of the Shortfall Default Amounts in proportion to the Margin requirements of the Defaulter for each Contract Category corresponding to each Shortfall Default Amount immediately prior to the Event of Default until one of the Shortfall Default Amounts would represent zero; and
  - (B) subject to the process in paragraph (A) above first being completed if applicable, to the extent that one or two of the Default Amounts in question represent(s) or would (but for this provision) represent a surplus to the Clearing House and the other or others represent or would (but for this provision) represent a shortfall, loss or liability to the Clearing House, the Non-Exclusive Assets must be included in the relevant calculation so as to eliminate or reduce the shortfall, loss or liability *pro rata* as to the losses.
- (vii) "**Non-Exclusive Liabilities**" constitute any liabilities included or to be included within the calculation of the amount *N* in Rule 906(a) not relating exclusively to any one Contract Category. Non-Exclusive Liabilities may be included in the calculation of any of the Default Amounts in question or split between such calculations at the Clearing House's discretion, provided that:
- (A) to the extent that two or more of the Default Amounts (after the adjustment for Non-Exclusive Assets in Rule 908(e)(vi)) represent or would (but for this provision) represent a surplus (in this Rule 908(e)(vii), "**Surplus Default Amounts**"), the Non-Exclusive Liabilities must be included in the calculation of the Surplus Default Amounts in proportion to the Margin requirements of the Defaulter for each Contract Category corresponding to each Surplus Default Amount immediately prior to the Event of Default until one of the Surplus Default Amounts would represent zero; and
  - (B) subject to the process in paragraph (A) above first being completed if applicable, to the extent that one or two of the Default Amounts in question represent(s) or would (but for this provision) represent a surplus to the Clearing House and the other or others represent or would (but for this provision) represent a shortfall, loss or liability to the Clearing House, Non-Exclusive Liabilities must first be included in the relevant calculation against the surplus *pro rata* as to the surpluses.

**Part 9 – Default Rules**

**Rule 908 – Application of Assets upon an Event of Default**

- (f) In any instance in which assets are to be applied pursuant to Rule 908(g)(ii)(A) to (C), the Clearing House shall notify affected Clearing Members of the amount of any F&O Default Amount, CDS Default Amount and/or FX Default Amount that is required to be calculated under Rule 908(e). For the avoidance of doubt, any F&O Default Amount, CDS Default Amount and/or FX Default Amount so published shall not constitute a "net sum" for purposes of Rule 906, the Companies Act 1989 or the Settlement Finality Regulations.
- (g) In the case of a Defaulter which held multiple Membership Categories, the Clearing House shall be entitled to apply assets to meet the obligations and liabilities of the Defaulter and any shortfall, loss or liability to the Clearing House upon or following any Event of Default of that Defaulter (including in connection with any net sum calculated under Rule 906), in the following order of recourse:
- (i) first, any amounts falling under *N* in Rule 906(a), in the order and in respect of the Accounts specified in Rule 906(a) provided that:
- (A) if a Defaulter was an F&O Clearing Member or a Sponsored Principal that was authorised to clear F&O, F&O Guaranty Fund Contributions of the Defaulter in question or its Sponsor must first be applied by the Clearing House against any shortfall, loss or liability relevant to the F&O Default Amount;
- (B) if a Defaulter was a CDS Clearing Member or a Sponsored Principal that was authorised to clear CDS, CDS Guaranty Fund Contributions of the Defaulter in question or its Sponsor must first be applied by the Clearing House against any shortfall, loss or liability relevant to the CDS Default Amount;
- (C) if a Defaulter was an FX Clearing Member or a Sponsored Principal that was authorised to clear FX, FX Guaranty Fund Contributions of the Defaulter in question or its Sponsor must first be applied by the Clearing House against any liabilities relevant to the FX Default Amount;
- (D) if a Defaulter was an F&O Clearing Member or a Sponsored Principal that was authorised to clear F&O, subject to paragraphs (A), (B) and (C) above, any F&O Guaranty Fund Contributions of the Defaulter in question or its Sponsor may be applied against any other shortfall, loss or liability but only to the extent that such assets have not been applied in respect of any subsequent Event of Default affecting an F&O Clearing Member or a Sponsored Principal that was authorised to clear F&O;
- (E) if a Defaulter was a CDS Clearing Member or a Sponsored Principal that was authorised to clear CDS, subject to paragraphs (A), (B) and (C) above, any CDS Guaranty Fund Contributions of the Defaulter or its Sponsor may be applied against any other shortfall, loss or liability but only after the earliest date on which non-defaulting CDS Clearing Members are required to replenish the CDS Guaranty Fund pursuant to Rule 908(a)(iv) and only to the extent that such assets have not been applied in respect of any

Part 9 – Default RulesRule 908 – Application of Assets upon an Event of Default

subsequent Event of Default affecting a CDS Clearing Member or a Sponsored Principal that was authorised to clear CDS; and

- (F) if a Defaulter was an FX Clearing Member or a Sponsored Principal that was authorised to clear FX, subject to paragraphs (A), (B) and (C) above, any FX Guaranty Fund Contributions of the Defaulter or its Sponsor may be applied against any other shortfall, loss or liability but only to the extent that such assets have not been applied in respect of any subsequent Event of Default affecting an FX Clearing Member or a Sponsored Principal that was authorised to clear FX;
  - (G) the Clearing House shall not be required to assert or pursue any such claim or bring any such action as a precondition to applying assets referred to in Rule 908(g)(ii) to (v) but shall be required to account for any subsequent proceeds not included in the amount determined, less the costs of realising any such claim or action or obtaining such amount or asset);
- (ii) second:
- (A) if a Defaulter was an F&O Clearing Member or a Sponsored Principal that was authorised to clear F&O, the Clearing House F&O Initial Contribution, provided that it shall only be applied up to the extent of any F&O Default Amount notified to Clearing Members in accordance with Rule 908(f) and in circumstances in which the F&O Default Amount represents a shortfall, loss or liability;
  - (B) if a Defaulter was a CDS Clearing Member or a Sponsored Principal that was authorised to clear CDS, the Clearing House CDS Initial Contribution, provided that it shall only be applied up to the extent of any CDS Default Amount notified to Clearing Members in accordance with Rule 908(f) and in circumstances in which the CDS Default Amount represents a shortfall, loss or liability; and
  - (C) if a Defaulter was an FX Clearing Member or a Sponsored Principal that was authorised to clear FX, the Clearing House FX Initial Contribution, provided that it shall only be applied up to the extent of any FX Default Amount notified to Clearing Members in accordance with Rule 908(f) and in circumstances in which the FX Default Amount represents a shortfall, loss or liability;
- (iii) third, subject to Rules 908(i) and 1103(e), any claims under any default insurance policies (including the proceeds of any claim) of which the Clearing House is the beneficiary that are available to the Clearing House as a result of the Event of Default (it being understood that the Clearing House shall not be obliged to obtain or maintain any default insurance policy or make, or receive the proceeds under, any claim prior to processing to the next levels of assets specified in this Rule 908(g), subject to Rule 1102(k)), provided that any proceeds of any such claim shall be applied to each Default Amount on a basis pro rata to the shortfall, loss or liability of



Part 9 – Default RulesRule 908 – Application of Assets upon an Event of Default

each Default Amount (less any amounts applied to such Default Amounts pursuant to 908(g)(ii));

- (iv) fourth (subject to Rule 908(i)):
  - (A) Guaranty Fund Contributions of Clearing Members other than the Defaulter in question or its Sponsor (including, where relevant, any surplus Guaranty Fund Contributions of other Defaulters and proceeds of the realisation thereof, if two or more Default proceedings take place concurrently and any such surplus is available);
  - (B) if a Defaulter was an F&O Clearing Member or a Sponsored Principal that was authorised to clear F&O, the Clearing House F&O GF Contribution;
  - (C) if a Defaulter was a CDS Clearing Member or a Sponsored Principal that was authorised to clear CDS, the Clearing House CDS GF Contribution in the order of priority set forth in the CDS Default Auction Procedures; and
  - (D) if a Defaulter was an FX Clearing Member or a Sponsored Principal that was authorised to clear FX, the Clearing House FX GF Contribution;

provided that:

- (1) if a Defaulter was an F&O Clearing Member or a Sponsored Principal that was authorised to clear F&O, F&O Guaranty Fund Contributions of Clearing Members other than the Defaulter in question or its Sponsor, the Clearing House F&O GF Contribution shall only be applied towards and up to the extent of any F&O Default Amount notified to Clearing Members in accordance with Rule 908(f) and in circumstances in which the F&O Default Amount less any Clearing House F&O Initial Contribution applied in accordance with Rule 908(g)(ii)(A) represents a shortfall, loss or liability;
- (2) if a Defaulter was a CDS Clearing Member or a Sponsored Principal authorised to clear CDS, CDS Guaranty Fund Contributions of Clearing Members other than the Defaulter in question or its Sponsor, the Clearing House CDS GF Contribution shall only be applied towards and up to the extent of any CDS Default Amount notified to Clearing Members in accordance with Rule 908(f) and in circumstances in which the CDS Default Amount less any Clearing House CDS Initial Contribution applied in accordance with Rule 908(g)(ii)(B) represents a shortfall, loss or liability; and
- (3) if a Defaulter was an FX Clearing Member or a Sponsored Principal that was authorised to clear FX, FX Guaranty Fund Contributions of Clearing Members other than the Defaulter in question or its Sponsor, the Clearing House FX GF Contribution shall only be applied towards and up to the extent of any FX Default Amount notified to Clearing Members in accordance with Rule 908(f) and in circumstances in which the FX Default Amount less any

Part 9 – Default RulesRule 908 – Application of Assets upon an Event of Default

Clearing House FX Initial Contribution applied in accordance with Rule 908(g)(ii)(C) represents a shortfall, loss or liability;

and provided further that:

- (X) in the case of a Defaulter who was an F&O Clearing Member or a Sponsored Principal that was authorised to clear F&O, F&O Guaranty Fund Contributions and the Clearing House F&O GF Contribution are applied on a basis *pro rata* (subject to Rule 908(i)) to the sum of the total of all F&O Guaranty Fund Contributions (excluding F&O Guaranty Fund Contributions of the Defaulter in question or its Sponsor and F&O Guaranty Fund Contributions of other Defaulters that have been or are to be applied in connection with separate Default proceedings) and the Clearing House F&O GF Contribution at the time of the Event of Default;
  - (Y) in the case of a Defaulter who was a CDS Clearing Member or a Sponsored Principal that was authorised to clear CDS, CDS Guaranty Fund Contributions and the Clearing House CDS GF Contribution are applied on a basis *pro rata* (subject to Rule 908(i)) to the sum of the total of all CDS Guaranty Fund Contributions (excluding CDS Guaranty Fund Contributions of the Defaulter in question or its Sponsor and CDS Guaranty Fund Contributions of other Defaulters that have been or are to be applied in connection with separate Default proceedings) and the Clearing House CDS GF Contribution at the time of the Event of Default; and
  - (Z) in the case of a Defaulter who was an FX Clearing Member or a Sponsored Principal that was authorised to clear FX, FX Guaranty Fund Contributions and the Clearing House FX GF Contribution are applied on a basis *pro rata* (subject to Rule 908(i)) to the sum of the total of all FX Guaranty Fund Contributions (excluding FX Guaranty Fund Contributions of the Defaulter in question or its Sponsor and FX Guaranty Fund Contributions of other Defaulters that have been or are to be applied in connection with separate Default proceedings) and the Clearing House FX GF Contribution at the time of the Event of Default; and
- (v) fifth (subject to Rule 908(i)), Assessment Contributions received by the Clearing House pursuant to Rule 909, provided that:
- (1) if a Defaulter was an F&O Clearing Member or a Sponsored Principal that was authorised to clear F&O, F&O Assessment Contributions of Clearing Members other than the Defaulter shall only be applied towards and up to the extent of any F&O Default Amount notified to Clearing Members in accordance with Rule 908(f) and in circumstances in which the F&O Default Amount less any Clearing House F&O Initial Contribution applied in accordance with Rule 908(g)(ii)(A), F&O Guaranty Fund Contributions applied in accordance with Rule 908(g)(iii)(A) and Clearing House F&O GF

Part 9 – Default RulesRule 908 – Application of Assets upon an Event of Default

Contribution applied in accordance with Rule 908(g)(iii)(B) represents a shortfall, loss or liability;

- (2) if a Defaulter was a CDS Clearing Member or a Sponsored Principal that was authorised to clear CDS, CDS Assessment Contributions of Clearing Members other than the Defaulter in question shall only be applied towards and up to the extent of any CDS Default Amount notified to Clearing Members in accordance with Rule 908(f) and in circumstances in which the CDS Default Amount less any Clearing House CDS Initial Contribution applied in accordance with Rule 908(g)(ii)(B), CDS Guaranty Fund Contributions applied in accordance with Rule 908(g)(iv)(A) and Clearing House CDS GF Contribution applied in accordance with Rule 908(g)(iv)(C) represents a shortfall, loss or liability; and
- (3) if a Defaulter was an FX Clearing Member or a Sponsored Principal that was authorised to clear FX, FX Assessment Contributions of Clearing Members other than the Defaulter in question shall only be applied towards and up to the extent of any FX Default Amount notified to Clearing Members in accordance with Rule 908(f) and in circumstances in which the FX Default Amount less any Clearing House FX Initial Contribution applied in accordance with Rule 908(g)(ii)(C), FX Guaranty Fund Contributions applied in accordance with Rule 908(g)(iv)(A) and Clearing House FX GF Contribution applied in accordance with Rule 908(g)(iv)(D) represents a shortfall, loss or liability;

and provided further that:

- (X) in the case of a Defaulter who was an F&O Clearing Member or a Sponsored Principal that was authorised to clear F&O, F&O Assessment Contributions are applied on a basis *pro rata* (subject to Rule 908(i)) to the sum of the total of all F&O Assessment Contributions received by the Clearing House;
  - (Y) in the case of a Defaulter who was a CDS Clearing Member or a Sponsored Principal that was authorised to clear CDS, CDS Assessment Contributions are applied on a basis *pro rata* (subject to Rule 908(i)) to the sum of the total of all CDS Assessment Contributions received by the Clearing House; and
  - (Z) in the case of a Defaulter who was an FX Clearing Member or a Sponsored Principal that was authorised to clear FX, FX Assessment Contributions are applied on a basis *pro rata* (subject to Rule 908(i)) to the sum of the total of all FX Assessment Contributions received by the Clearing House.
- (h) The requirements of this Rule 908 shall apply and be binding upon the Clearing House and all Clearing Members and Sponsored Principals including upon the event of any Insolvency affecting the Clearing House or any Clearing Member or Sponsored Principal. The Clearing House (including any Insolvency Practitioner with powers over the Clearing House

**Part 9 – Default Rules****Rule 908 – Application of Assets upon an Event of Default**

or other Representative) and all Clearing Members and Sponsored Principals (including any Insolvency Practitioner with powers over any Clearing Member or Sponsored Principal or their Representatives) shall, to the extent permitted by Applicable Laws:

- (i) refrain from taking any action or seeking any order of any Governmental Authority that would result in or facilitate any asset or liability being applied contrary to the requirements of this Part 9; and
  - (ii) take all reasonable steps possible including, without limitation, the application for and procurement of such orders from such Governmental Authorities as are necessary, to ensure that assets of the Clearing House are applied only pursuant to this Part 9.
- (i) Notwithstanding Rule 908(b)(iv)-(v), (c)(iv)-(v), (d)(iv)-(v), (g)(iv) and Rules (g)(v) and Rule 909, if a Default Auction is held, the Guaranty Fund Contributions of particular non-defaulting Clearing Members (or other funds transferred to the Clearing House by other Default Auction participants) may be applied in different orders or sequences, and Assessment Contributions may be called in different orders or sequences, rather than being applied or called *pro rata* for all Clearing Members, with reference to the bids made or other behaviours in the Default Auction, in accordance with the applicable provisions of the Default Auction Procedures. Any capitalised terms used in this Rule 908(i) but not defined in Rule 101 shall have the meaning set out in the CDS Default Auction Procedures.
- (i) Where a CDS Default Auction is held the following modifications shall be made:
    - (A) Rule 908(c)(iv)-(v) shall be modified to read as follows in relation to all Lots comprising an Initial CDS Auction:
      - (iii) *fourth:*
        - (A) *CDS Guaranty Fund Contributions of Clearing Members other than the Defaulter in question or its Sponsor (including, where relevant, any surplus CDS Guaranty Fund Contributions of other Defaulters, if two or more Default proceedings take place concurrently and any such surplus is available), **Direct Auction Participant Contributions and any Replenishment Amounts shall be applied based on the CDS Auction Priority GF Sequence;***
        - (B) *the Clearing House CDS GF Contribution,*
          - ~~on a basis pro rata (subject to Rule 908(i)) to the sum of the total of all CDS Guaranty Fund Contributions (excluding CDS Guaranty Fund Contributions of the Defaulter and CDS Guaranty Fund Contributions of other Defaulters that have been or are to be applied in connection with separate Default proceedings) and the~~*

**Part 9 – Default Rules**  
**Rule 908 – Application of Assets upon an Event of Default**

**~~Clearing House CDS GF Contribution at the time of the Event of Default; and~~**

(v) *fifth, CDS Assessment Contributions received by the Clearing House pursuant to Rule 909 **shall be applied based on the CDS Auction Priority AC Sequence.***

(B) Rule 908(g) shall be modified to read as follows in relation to all Lots comprising an Initial CDS Auction:

“(iv) *fourth:*

[...]

(C) *if a Defaulter was a CDS Clearing Member or a Sponsored Principal that was authorised to clear CDS, the Clearing House CDS GF Contribution ~~in the order of priority set forth in the CDS Default Auction Terms and any Replenishment Amounts;~~ and*

[...]

*provided that:*

[...]

~~(32)~~ *if a Defaulter was a CDS Clearing Member or a Sponsored Principal authorised to clear CDS, CDS Guaranty Fund Contributions of Clearing Members other than the Defaulter in question or its Sponsor, the Clearing House CDS GF Contribution **and any Replenishment Amounts shall be applied in accordance with the CDS Auction Priority GF Sequence and** shall only be applied towards and up to the extent of any CDS Default Amount notified to Clearing Members in accordance with Rule 908(f) and in circumstances in which the CDS Default Amount less any Clearing House CDS Initial Contribution applied in accordance with Rule 908(g)(ii)(B) represents a shortfall, loss or liability; and*

[...]

*and provided further that:*

[...]

(Y) ~~*in the case of a Defaulter who was a CDS Clearing Member or a Sponsored Principal that was authorised to*~~

**Part 9 – Default Rules**  
**Rule 908 – Application of Assets upon an Event of Default**

~~clear CDS, CDS Guaranty Fund Contributions and the Clearing House CDS GF Contribution are applied on a basis pro rata (subject to Rule 908(i)) to the sum of the total of all CDS Guaranty Fund Contributions (excluding CDS Guaranty Fund Contributions of the Defaulter in question or its Sponsor and CDS Guaranty Fund Contributions of other Defaulters that have been or are to be applied in connection with separate Default proceedings) and the Clearing House CDS GF Contribution at the time of the Event of Default[Intentionally omitted]; and~~

[...]

(v) fifth, Assessment Contributions received by the Clearing House pursuant to Rule 909, provided that:

[...]

- (2) if a Defaulter was a CDS Clearing Member or a Sponsored Principal that was authorised to clear CDS, CDS Assessment Contributions of Clearing Members other than the Defaulter in question **and any Replenishment Amounts shall be applied in accordance with the CDS Auction Priority AC Sequence and shall** only be applied towards and up to the extent of any CDS Default Amount notified to Clearing Members in accordance with Rule 908(f) and in circumstances in which the CDS Default Amount less any Clearing House CDS Initial Contribution applied in accordance with Rule 908(g)(ii)(B), CDS Guaranty Fund Contributions applied in accordance with Rule 908(g)(iv)(A) and Clearing House CDS GF Contribution applied in accordance with Rule 908(g)(iv)(C) represents a shortfall, loss or liability; and

[...]

and provided further that:

[...]

- (Y) ~~in the case of a Defaulter who was a CDS Clearing Member or a Sponsored Principal that was authorised to clear CDS, CDS Assessment Contributions are applied on a basis pro rata (subject to Rule 908(i)) to the sum of the total of all CDS Assessment Contributions received by the Clearing House[Intentionally omitted]; and~~



**Part 9 – Default Rules****Rule 908 – Application of Assets upon an Event of Default**

- (C) Rule 908(c)(iv)-(v) shall be modified as follows in relation to all Lots comprising a Secondary CDS Auction (other than Failed Lots):

*(iv) fourth:*

*(A) CDS Guaranty Fund Contributions of Clearing Members other than the Defaulter in question or its Sponsor (including, where relevant, any surplus CDS Guaranty Fund Contributions of other Defaulters, if two or more Default proceedings take place concurrently and any such surplus is available) **and the Clearing House Contributions Tranche shall be applied based on the Secondary CDS Auction Priority GF Sequence;** and*

*(B) the Clearing House CDS GF Contribution,*

***on a basis pro rata (subject to Rule 908(i)) to the sum of the total of all CDS Guaranty Fund Contributions (excluding CDS Guaranty Fund Contributions of the Defaulter and CDS Guaranty Fund Contributions of other Defaulters that have been or are to be applied in connection with separate Default proceedings) and the Clearing House CDS GF Contribution at the time of the Event of Default; and***

*(v) fifth, CDS Assessment Contributions received by the Clearing House pursuant to Rule 909 and any Replenishment Amounts shall be applied based on the Secondary CDS Auction Priority AC Sequence.”*

- (D) Rule 908(g) shall be modified as follows in relation to all Lots comprising a Secondary CDS Auction (other than Failed Lots):

*"(iv) fourth:*

*[...]*

- (C) if a Defaulter was a CDS Clearing Member or a Sponsored Principal that was authorised to clear CDS, the Clearing House CDS GF Contribution and the **Clearing House CDS Contributions Tranche** ~~in the order of priority set forth in the CDS Default Auction Terms;~~ and*

*[...]*

*provided that:*

*[...]*

Part 9 – Default RulesRule 908 – Application of Assets upon an Event of Default

(2) ~~(3)~~ if a Defaulter was a CDS Clearing Member or a Sponsored Principal authorised to clear CDS, CDS Guaranty Fund Contributions of Clearing Members other than the Defaulter in question or its Sponsor, **and the Clearing House CDS Contributions Tranche GF Contribution shall be applied in accordance with the Secondary CDS Default Auction Priority and, together with the Clearing House CDS GF Contribution**, shall only be applied towards and up to the extent of any CDS Default Amount notified to Clearing Members in accordance with Rule 908(f) and in circumstances in which the CDS Default Amount less any Clearing House CDS Initial Contribution applied in accordance with Rule 908(g)(ii)(B) represents a shortfall, loss or liability; and

[...]

and provided further that:

[...]

(Y) ~~in the case of a Defaulter who was a CDS Clearing Member or a Sponsored Principal that was authorised to clear CDS, CDS Guaranty Fund Contributions and the Clearing House CDS GF Contribution are applied on a basis pro rata (subject to Rule 908(i)) to the sum of the total of all CDS Guaranty Fund Contributions (excluding CDS Guaranty Fund Contributions of the Defaulter in question or its Sponsor and CDS Guaranty Fund Contributions of other Defaulters that have been or are to be applied in connection with separate Default proceedings) and the Clearing House CDS GF Contribution at the time of the Event of Default~~[Intentionally omitted]; and

[...]

(v) fifth, Assessment Contributions received by the Clearing House pursuant to Rule 909 **and any Replenishment Amounts**, provided that:

(2) if a Defaulter was a CDS Clearing Member or a Sponsored Principal that was authorised to clear CDS, CDS Assessment Contributions of Clearing Members other than the Defaulter in question **and any Replenishment Amounts shall be applied in accordance with the Secondary CDS Default Auction Priority AC Sequence and** shall only be applied towards and up to the extent of any CDS Default Amount notified to Clearing Members

**Part 9 – Default Rules****Rule 908 – Application of Assets upon an Event of Default**

*in accordance with Rule 908(f) and in circumstances in which the CDS Default Amount less any Clearing House CDS Initial Contribution applied in accordance with Rule 908(g)(ii)(B), CDS Guaranty Fund Contributions applied in accordance with Rule 908(g)(iv)(A) and Clearing House CDS GF Contribution applied in accordance with Rule 908(g)(iv)(C) represents a shortfall, loss or liability; and*

[...]

*and provided further that:*

[...]

(Y) ~~*in the case of a Defaulter who was a CDS Clearing Member or a Sponsored Principal that was authorised to clear CDS, CDS Assessment Contributions are applied on a basis pro rata (subject to Rule 908(i)) to the sum of the total of all CDS Assessment Contributions received by the Clearing House[Intentionally omitted]; and*~~

[...]"

- (ii) ~~(ii)~~ Where a Default Auction is held in respect of the F&O or FX Contract Categories, the applicable modifications to Rule 908 shall be as set out ~~by~~in the ~~Clearing House by Circular~~relevant Default Auction Procedures.

**Part 9 – Default Rules**  
**Rule 909 – Powers of Assessment**

**Rule 909 Powers of Assessment**

- (a) Powers of assessment under this Rule 909 may be exercised by the Clearing House following an Event of Default occurring in respect of a Clearing Member if a shortfall, loss or liability to the Clearing House has arisen, or is considered by the Clearing House to be likely to arise, as a result of a shortfall, loss or liability relating to any Proprietary Account or Customer Account of a Defaulter authorised to clear Contracts of the Relevant Contract Category where such shortfall, loss or liability is not met pursuant to the application of the following rules as applicable to the Relevant Contract Category:
- (i) Rule 908(b)(i) to (iv) (for the F&O Contract Category);
  - (ii) Rule 908(c)(i) to (iv) (for the CDS Contract Category);
  - (iii) Rule 908(d)(i) to (iv) (for the FX Contract Category); or
  - (iv) Rule 908(g)(i) to (iv), only to the extent that:
    - (A) For the F&O Contract Category, the F&O Default Amount, less any assets applied in accordance with Rules 908(g)(ii)(A), 908(g)(iv)(B) and 908(g)(iv) represents, or is considered by the Clearing House at its discretion likely to represent, a shortfall, loss or a liability;
    - (B) For the CDS Contract Category, the CDS Default Amount, less any assets applied in accordance with Rules 908(g)(ii)(B) and 908(g)(iv)(C), represents, or is considered by the Clearing House at its discretion likely to represent, a shortfall, loss or a liability; or
    - (C) For the FX Contract Category, the FX Default Amount, less any assets applied in accordance with Rules 908(g)(ii)(C) and 908(g)(iv)(D) represents, or is considered by the Clearing House at its discretion likely to represent, a shortfall, loss or a liability.

Immediately upon the Clearing House certifying the Assessment Amount in respect of a Relevant Contract Category in a Circular, all Clearing Members (other than Defaulters) that are Clearing Members in that Relevant Contract Category shall indemnify the Clearing House and become liable to pay Assessment Contributions for the Relevant Contract Category to the Clearing House in accordance with Rule 909(b), 909(c) or 909(e), as applicable. The exercise of any right to call Assessment Contributions under this Rule 909 is subject to any contrary requirement arising pursuant to Rule 917 or Rule 918(a)(ii).

- (b) The F&O Assessment Contribution payable by each F&O Clearing Member shall be the amount:

$$FOAA \times \frac{FOGF(CM)}{FOGF(all)}$$

**Part 9 – Default Rules**  
**Rule 909 – Powers of Assessment**

where:

*FOAA* is the F&O Assessment Amount certified by the Clearing House in a Circular, provided that the total F&O Assessment Amount shall be no greater than the amount equal to twice the total required F&O Guaranty Fund Contributions of all F&O Clearing Members immediately prior to the relevant Event of Default (less F&O Guaranty Fund Contributions of Defaulters);

*FOGF(CM)* is the required F&O Guaranty Fund Contribution of the relevant F&O Clearing Member immediately preceding the relevant Event of Default; and

*FOGF(all)* is the total required F&O Guaranty Fund Contributions of all F&O Clearing Members immediately preceding the relevant Event of Default (less F&O Guaranty Fund Contributions of Defaulters and excluding the Clearing House F&O Contributions).

F&O Assessment Contributions will be designated as relating primarily to Energy Contracts or Financials & Softs Contracts based on the designation of Guaranty Fund Contributions to Energy Contracts or Financials & Softs Contracts under Rule 1101(a).

- (c) The CDS Assessment Contribution payable by each CDS Clearing Member shall be the amount:

$$CAA \times \frac{CGF(CM)}{CGF(all)}$$

where:

*CAA* is the CDS Assessment Amount certified by the Clearing House in a Circular, provided that the total CDS Assessment Amount shall be no greater than the amount equal to the total required CDS Guaranty Fund Contributions of all CDS Clearing Members immediately prior to the relevant Event of Default (less CDS Guaranty Fund Contributions of Defaulters);

*CGF(CM)* is the required CDS Guaranty Fund Contribution of the relevant CDS Clearing Member immediately preceding the relevant Event of Default; and

*CGF(all)* is the total required CDS Guaranty Fund Contributions of all CDS Clearing Members immediately preceding the relevant Event of Default (less CDS Guaranty Fund Contributions of Defaulters and excluding the Clearing House CDS Contributions).

- (d) A Person that ceases to be a CDS Clearing Member shall be subject to obligations to pay CDS Assessment Contributions only in respect of:
- (i) Events of Default declared in relation to Clearing Members that are CDS Clearing Members occurring prior to the Termination Date (whether or not declared prior to the Termination Date); and

**Part 9 – Default Rules**  
**Rule 909 – Powers of Assessment**

- (ii) any Events of Default declared in relation to Clearing Members that are CDS Clearing Members occurring after the Termination Date but whilst it still has a CDS Guaranty Fund Contribution with the Clearing House,

provided that the aggregate amount of all CDS Assessment Contributions in respect of all Events of Default for any such Person shall be capped at: (I) in the case of a Person terminating its membership of the Clearing House following an Event of Default or Events of Default where CDS Guaranty Fund Contributions have been applied, an amount equal to that Person's CDS Guaranty Fund Contribution immediately prior to the first Event of Default being declared which led to the relevant application of CDS Guaranty Fund Contributions; or (II) in the case of a Person otherwise terminating its membership of the Clearing House, an amount equal to that Person's CDS Guaranty Fund Contribution on the date of service of the relevant notice of termination;

- (e) The FX Assessment Contribution payable by each FX Clearing Member shall be the amount:

$$FAA \times \frac{FGF(CM)}{FGF(all)}$$

where:

*FAA* is the FX Assessment Amount certified by the Clearing House in a Circular, provided that the total FX Assessment Amount shall be no greater than the amount equal to twice the total required FX Guaranty Fund Contributions of all FX Clearing Members immediately prior to the relevant Event of Default (less FX Guaranty Fund Contributions of Defaulters);

*FGF(CM)* is the required FX Guaranty Fund Contribution of the relevant FX Clearing Member immediately preceding the relevant Event of Default; and

*FGF(all)* is the total required FX Guaranty Fund Contributions of all FX Clearing Members immediately preceding the relevant Event of Default (less FX Guaranty Fund Contributions of Defaulters).

- (f) No F&O Clearing Member shall be liable for more than an amount equal to twice their required Guaranty Fund Contributions immediately preceding the relevant Event of Default in total F&O Assessment Contributions in respect of a single Event of Default. A Person that is or was an F&O Clearing Member and that has served a Termination Notice shall be subject to obligations to pay F&O Assessment Contributions only in respect of Events of Default declared in relation to Clearing Members that are F&O Clearing Members occurring prior to the Termination Date.
- (g) No FX Clearing Member shall be liable for more than an amount equal to twice their required Guaranty Fund Contributions immediately preceding the relevant Event of Default in total FX Assessment Contributions, as applicable, in respect of a single Event of Default. A Person that is or was an FX Clearing Member and that has served a Termination Notice shall be subject to obligations to pay FX Assessment Contributions only in respect of Events



**Part 9 – Default Rules**  
**Rule 909 – Powers of Assessment**

of Default declared in relation to Clearing Members that are FX Clearing Members occurring prior to the Termination Date.

- (h) If the Assessment Amount is not met by Assessment Contribution receipts from Clearing Members in the Relevant Contract Category due to non-payment by a Clearing Member or Clearing Members in the Relevant Contract Category, Default of a Clearing Member or Clearing Members in the Relevant Contract Category or otherwise, the Clearing House shall at its discretion determine what, if any, further action to take. Unless, or unless to the extent that, the Clearing House directs otherwise in a Circular, any shortfall in Assessment Contribution receipts shall be re-assessed against all Clearing Members in the Relevant Contract Category (other than Defaulters and Persons that have defaulted in making an Assessment Contribution) in accordance with Rule 909(a), as if such shortfall were the Assessment Amount, provided that: (i) no F&O Clearing Member shall be liable to pay F&O Assessment Contributions in respect of a single Default for an amount greater than twice its F&O Guaranty Fund Contribution immediately prior to the relevant Default; (ii) and no CDS Clearing Member shall be liable to pay CDS Assessment Contributions in respect of a single Default for an amount greater than its CDS Guaranty Fund Contribution immediately prior to the relevant Default; and (iii) no FX Clearing Member shall be liable to pay FX Assessment Contributions in respect of a single Default for an amount greater than twice its FX Guaranty Fund Contribution immediately prior to the relevant Default. Subject to Rule 909(c), (d), (f) and (g), as applicable, further Assessment Contributions may be levied and repeated in this manner at the discretion of the Clearing House until the entire Assessment Amount has been met in full by Assessment Contributions.
- (i) All Assessment Contributions shall become due and payable at such time as the Clearing House notifies to Clearing Members (which may be by Circular) and may be collected by the Clearing House pursuant to Part 3.
- (j) If, after any Assessment Contribution has been paid in relation to an Event of Default, the Clearing House collects amounts in respect of a defaulted obligation, loss, shortfall or unpaid Assessment Contribution relating to the Relevant Contract Category in whole or in part from the Defaulter in question, an insurer or a Person liable to pay an unpaid Assessment Contribution for the Relevant Contract Category, the Clearing House shall refund the amount so collected (less any expenses of the Clearing House, including without limitation any legal fees and expenses incurred in connection therewith) to other Clearing Members in the Relevant Contract Category (excluding any Defaulter) *pro-rata* (subject to Rule 908(i)) in respect of paid Assessment Contributions relating to the Relevant Contract Category and the Event of Default in question, subject to the Clearing House: (i) first retaining or repaying amounts up to the amount of any assets of the Clearing House or other third parties applied to meet any shortfall, loss or liability following exhaustion of the assets specified in Rule 908 or in substitution of any such assets; and (ii) if applicable, meeting any repayment obligations arising pursuant to 909(j), 914(j) or 916(n).
- (k) Amounts transferred to the Clearing House by Clearing Members in respect of Guaranty Fund Contributions, including without limitation amounts transferred to restore a deficiency in any Guaranty Fund following an Event of Default, do not constitute Assessment Contributions. Neither the exercise of powers of assessment by the Clearing House nor the

**Part 9 – Default Rules**  
**Rule 909 – Powers of Assessment**

payment of Assessment Contributions shall reduce or otherwise affect the liability of a Clearing Member to make Guaranty Fund Contributions pursuant to Rule 1101 *et seq.* or to replenish any Guaranty Fund Contribution pursuant to Rule 1102(i). Assessment Contributions do not constitute Guaranty Fund Contributions.

- (1) Where the Clearing House calls Assessment Contributions in excess of that required or actually applied against a loss, shortfall or liability, it shall treat any such excess provided by a particular Clearing Member as special Surplus Collateral on the relevant Proprietary Account of such Clearing Member. Such special Surplus Collateral shall be available to be applied at any time as an Assessment Contribution for the Relevant Contract Category, but unavailable for withdrawal under Part 3 or the Finance Procedures, until such time as any such amount of Assessment Contributions are determined by the Clearing House not to be required, at which point the Surplus Collateral shall become available for withdrawal in the same way as other Surplus Collateral.

*Part 9 – Default Rules*  
*Rule 910*

*Rule 910*     *[Not used]*

**Part 9 – Default Rules**  
**Rule 911**

**Rule 911**     *[Not used]*

Part 9 – Default RulesRule 912 – Default Procedure for Certain Termination Events**Rule 912**      *Default procedure for certain termination events*

- (a) In the event of any termination pursuant to Rule 209(c)(ii)-(iii), the rights and liabilities of each Clearing Member and Sponsored Principal under all Contracts will be deemed to be terminated without need for any further step on the part of any party and discharged for the purposes of Rule 906 and a net sum or net sums payable by or to the Clearing Member or Sponsored Principal to or from the Clearing House shall be determined as if each Clearing Member or Sponsored Principal were a Defaulter, in accordance with Rule 906 *mutatis mutandis* and without need for the prior occurrence or declaration of an Event of Default in relation to such Clearing Member or Sponsored Principal.
- (b) In circumstances in which this Rule 912 applies:
- (i) Rule 909 shall only apply where necessary to meet a shortfall resulting from an Event of Default or Events of Default actually declared by the Clearing House pursuant to Rule 901 (rather than any Event of Default effectively deemed to occur pursuant to this Rule 912);
  - (ii) Rules 901, 902, 903, 904 and Rule 905 shall apply only to Clearing Members or Sponsored Principals that are actually declared subject to an Event of Default (rather than effectively deemed subject to an Event of Default pursuant to this Rule 912);
  - (iii) in the case of this Rule 912 applying solely due to a Failure to Pay which does not affect all Contract Categories, the net sum or net sums required to be determined in these circumstances pursuant to Rule 906 in respect of a Clearing Member or Sponsored Principal that has multiple Membership Categories will be made separately in relation to the rights and liabilities of that Clearing Member or Sponsored Principal for each applicable Membership Category to which the Failure to Pay relates, and Rule 906 shall be interpreted accordingly;
  - (iv) in relation to an Individually Segregated Sponsored Account:
    - (A) both the Sponsor and Sponsored Principal will remain jointly entitled to bring any claim against the Clearing House and jointly and severally liable in respect of any liability on an Individually Segregated Sponsored Account, pursuant to Part 19;
    - (B) in discharge of its obligations in respect of an Individually Segregated Sponsored Account, the Clearing House may pay any net sum due from it in respect of the Account to or to the account of either the Sponsor or Sponsored Principal;
    - (C) in the event of any conflict between any instructions from the Sponsor and Sponsored Principal in relation to the payment of any net sum due to or from the Clearing House on the Individually Segregated Sponsored Account, the Clearing House shall make or first demand payment (as applicable) to or from the Person who, immediately prior to the Insolvency or Failure To Pay,

Part 9 – Default Rules

Rule 912 – Default Procedure for Certain Termination Events

was operationally responsible for meeting and receiving Margin in respect of the Account pursuant to Rule 1902 or 1905, without prejudice to the Clearing House's right to pursue either the Sponsor or Sponsored Principal for any amounts due to the Clearing House; and

- (D) the identity of the payee or payer of any net sum from or to the Clearing House in respect of an Individually Segregated Sponsored Account shall not affect any obligation to account between a Sponsor and Sponsored Principal in respect of such amounts pursuant to the applicable Customer-Clearing Member Agreement or Standard Terms; and
- (v) otherwise, this Part 9 shall apply *mutatis mutandis* in relation to terminated Contracts and rights, obligations and liabilities relating thereto.
- (c) If the Clearing House becomes aware of there being or occurring an Insolvency or Failure To Pay in respect of the Clearing House, the Clearing House will promptly issue a Circular specifying that the same has occurred.



[Part 9 – Default Rules](#)[Rule 913 – Definitions used in the Remainder of this Part 9](#)**Rule 913**      *Definitions used in the remainder of this Part 9*

- (a) The following additional definitions apply to the following sections of this Part 9:
- (i) The term "**Adjustment Amount**" means, in respect of all the Margin Account(s) of any Contributor and any Loss Distribution Day, an amount equal to the sum of the Cumulative Unadjusted Gains, Losses and Realised Cash Flows in respect of such Margin Account(s) of such Contributor less the sum of the Cumulative Actual Gains, Losses and Realised Cash Flows in respect of such Margin Account(s) of such Contributor, in each case in respect of the Loss Distribution Period in which such Loss Distribution Day falls.
  - (ii) The term "**Aggregate Cash Gains**" or "**ACG**" means, in respect of any Business Day, the sum of the Cash Gain in respect of all Cash Gainers on such Business Day.
  - (iii) The term "**Available Defaulter Resources**" means, following a particular Event of Default, all the quantifiable and certain resources on any particular date to the extent that the same: (A) are available to the Clearing House to meet losses and liabilities resulting from the Event of Default; (B) were posted as collateral in respect of an Account referred to in Rule 914(a)(ii)(B) or are otherwise available to be applied by the Clearing House in accordance with the Rules against losses or liabilities resulting from the Event of Default on such an Account; and (C) represent the cash proceeds or equivalent cash value (as calculated by the Clearing House) of Permitted Cover provided to the Clearing House by the Defaulter or other amounts, credits or assets that would otherwise be due to the Defaulter in the calculation of a net sum under Rule 906 and which have been evaluated as cash obligations (as calculated by the Clearing House). Available Defaulter Resources exclude for the avoidance of doubt all Available Non-Defaulter Resources, the Clearing House's own assets and capital, Clearing House Contributions and any assets or rights representing the proceeds of Permitted Cover, Margin, cover for Margin or Guaranty Fund Contributions provided by Clearing Members, Sponsors or Sponsored Principals that are not Defaulters. The principles in Rule 908 used for the calculation of relevant Default Amounts shall be applied in considering whether any particular amount relates to any particular Contract Category for purposes of determining the Available Defaulter Resources.
  - (iv) The term "**Available Non-Defaulter Resources**" means, following a particular Event of Default, the cash proceeds or equivalent cash value (as calculated by the Clearing House) of those Guaranty Fund Contributions, Clearing House Contributions, Assessment Contributions and any claims under any default insurance policies which are available to be applied pursuant to Rule 908, provided that Assessment Contributions and any claims under any default insurance policies shall only count as Available Non-Defaulter Resources if they have been received by the Clearing House in cleared funds at the time the Clearing House performs a calculation of Available Non-Defaulter Resources. The principles in Rule 908 shall be applied in considering whether any particular amount relates to any particular

**Part 9 – Default Rules****Rule 913 – Definitions used in the Remainder of this Part 9**

Contract Category for purposes of determining the Available Non-Defaulter Resources.

- (v) The term "**Available Product Funds**" means the amount of resources available to the Clearing House in respect of a Relevant Contract Category, as calculated in accordance with Rule 916(f).
- (vi) The term "**Available Resources**" or "**AR**" means the Available Defaulter Resources plus the Available Non-Defaulter Resources.
- (vii) The term "**Cash Gain**" means, in respect of any Cash Gainer and any Loss Distribution Day, the amount of Cumulative Unadjusted Gains, Losses and Realised Cash Flows in respect of such Cash Gainer in respect of such Loss Distribution Day, if positive.
- (viii) The term "**Cash Gainer**" means, in respect of each Contributor and any Loss Distribution Date, each Margin Account in respect of which the Cumulative Unadjusted Gains, Losses and Realised Cash Flows in respect of such Loss Distribution Day is greater than zero.
- (ix) The term "**Cash Gainer Adjustment**" has the meaning set out in Rule 914(c).
- (x) The term "**Cash Loser**" means, in respect of each Contributor and any Loss Distribution Date, each Margin Account in respect of which the Cumulative Unadjusted Gains, Losses and Realised Cash Flows in respect of such Loss Distribution Day is equal to or less than zero.
- (xi) The term "**Cash Loser Adjustment**" has the meaning set out in Rule 914(d).
- (xii) The term "**Clearing House Event**" means a Failure To Pay or Insolvency occurring in respect of the Clearing House.
- (xiii) The term "**Contract Category**" means any of the three categories of Contract cleared by the Clearing House, namely F&O Contracts, CDS Contracts and FX Contracts.
- (xiv) The term "**Contractual Payments**" means, in respect of each Margin Account and any Business Day, any of the following connected to such Margin Account on such Business Day: for CDS Contracts: any Fixed Amounts, Initial Payment, Physical Settlement Amount, Auction Settlement Amount or any Cash Settlement Amount; and for F&O Contracts any Exchange Delivery Settlement Price, Option premium, other settlement amount, Strike Price, settlement price or delivery price, exercise price or any other payment pursuant to the terms of a Contract. Where physical delivery or physical settlement of any Deliverable is due to be made by way of final settlement under a Contract of a Relevant Contract Category from the Clearing House to any Clearing Member or Sponsored Principal, and the Clearing House (including any non-defaulting Clearing Member or Sponsored Principal or its Transferee acting as agent for the Clearing House) has not received delivery of an

**Part 9 – Default Rules****Rule 913 – Definitions used in the Remainder of this Part 9**

equivalent Deliverable from the Defaulter, the Clearing House may attribute a reasonable value to its delivery obligations and treat such amount as a Contractual Payment for purposes of this definition.

- (xv) The term "**Contributor**" means a Clearing Member or Sponsored Principal that is not a Defaulter in respect of a Contract Category for which Rule 914 applies.
- (xvi) The term "**Cooling-off Period**" means the period commencing on and including the date of the Cooling-off Period Trigger Event and terminating 30 calendar days thereafter. A Cooling-off Period shall be automatically extended if a subsequent Cooling-off Period Trigger Event occurs 30 or fewer calendar days after the previous Cooling-off Period Trigger Event, in which case the Cooling-off Period will be extended until the date falling 30 calendar days after the second such Cooling-off Period Trigger Event.
- (xvii) The term "**Cooling-off Period Trigger Event**" in respect of a particular Contract Category, means: (i) any call for Assessment Contributions being made; (ii) the occurrence of a Sequential Guaranty Fund Depletion.
- (xviii) The term "**Cooling-off Termination Period**" means the period commencing on the date of each Cooling-off Period Trigger Event and terminating 10 calendar days thereafter. A Cooling-off Termination Period shall be automatically extended if a subsequent Cooling-off Period Trigger Event occurs 10 or fewer calendar days since the previous Cooling-off Period Trigger Event, until the date falling 10 calendar days after the second such Cooling-off Period Trigger Event.
- (xix) The term "**Cumulative Actual Gains, Losses and Realised Cash Flows**" means, in respect of each Margin Account of each Contributor and any Business Day, the aggregate amount, if any, actually paid by the Clearing House to such Contributor (expressed as a positive number) or by such Contributor to the Clearing House (expressed as a negative number) (including, in respect of an Individually Segregated Sponsored Account, amounts paid by or to a Sponsor) in respect of such Margin Account by way of Contractual Payments and MTM/VM, taking into account each Margin Account Adjustment from but excluding the relevant Last Call Prior To Default to and including such Business Day such that, to the extent that any payment of MTM/VM or Contractual Payment is netted or offset against any Margin Account Adjustment on any Loss Distribution Day, the amount actually paid for the purposes of this definition shall be used in calculating such aggregated amount.
- (xx) The term "**Cumulative Transfer Cost**" means, on any Business Day during any Loss Distribution Period, the sum of any Transfer Cost for each Business Day from but excluding the relevant Last Call Prior To Default to and including such Business Day.
- (xxi) The term "**Cumulative Unadjusted Gains, Losses and Realised Cash Flows**" means, in respect of each Margin Account of each Contributor and any Business Day, the sum of the Pre-Haircut Gains, Losses and Realised Cash Flows for such

Part 9 – Default RulesRule 913 – Definitions used in the Remainder of this Part 9

Margin Account for each Business Day from but excluding the relevant Last Call Prior To Default to and including such Business Day.

(xxii) [Not used]

(xxiii) [Not used]

(xxiv) The term "**Distribution Haircut**" or "**DH**" means, on each Loss Distribution Day, the fraction determined by the Clearing House in accordance with the following formula:

$$DH_{(t)} = UL_{(t)} / ACG_{(t)}$$

where:

*UL* means the Uncovered Loss; and

*ACG* means the Aggregate Cash Gains,

(xxv) The term "**Estimated Payable Net Sum**" means, following a particular Event of Default, an estimate by the Clearing House of the total of those net sums calculated using the methodology set out in Rule 906 which represent an amount payable by a Defaulter in respect of a particular Account, based on the cash or estimated value of items considered by the Clearing House to be sufficiently certain to be estimated as at the date of the estimation (including, in respect of Contracts, latest available MTM/VM Prices), without any netting or offsetting in respect of any other Estimated Payable Net Sum or actual net sum payable to a Defaulter in respect of a different Account of a Defaulter.

(xxvi) The term "**Last Call Prior To Default**" means the most recent Business Day on which payments of MTM/VM required to be made by Clearing Members and Sponsored Principals were paid in full.

(xxvii) The term "**Loss Distribution Day**" means a Business Day in the Loss Distribution Period.

(xxviii) The term "**Loss Distribution Period**" means, in relation to a Relevant Contract Category, the period commencing from and including the date specified by the Clearing House in a Circular following an RGD Determination and ending on a date specified by the Clearing House in the same or any subsequent Circular, as the same may be extended under Rule 914. A Loss Distribution Period shall end with immediate effect and without the need for any action on the part of any Clearing Member, Sponsor, Sponsored Principal or the Clearing House upon any Clearing House Event.

(xxix) The term "**Margin Account**" means each Proprietary Margin Account and Customer Margin Account of a Contributor (including any Individually Segregated

**Part 9 – Default Rules****Rule 913 – Definitions used in the Remainder of this Part 9**

Sponsored Account), related to the Proprietary Position Account or Customer Position Account in which Contracts of a Relevant Contract Category are recorded.

- (xxx) The term "**Margin Account Adjustment**" means, in respect of each Margin Account and any Business Day, any Cash Gainer Adjustment or Cash Loser Adjustment as the case may be payable in connection with such Margin Account on such Business Day.
- (xxxi) The term "**MTM/VM**" stands for mark-to-market/variation margin and means: (i) in relation to F&O Contracts, Variation Margin; (ii) in relation to CDS Contracts, Mark-to-Market Margin; and (iii) in relation to FX Contracts, FX Mark-to-Market Margin. ReferencesFor the avoidance of doubt, references to the payment of MTM/VM shall be construed as including obligations to transfer cash or other Permitted Cover as a result of changes to MTM/VM Prices (as the difference between MTM/VM Prices on different Business Days) following a recalculation of MTM/VM Price and not to the total amount of MTM/VM ~~held by~~that has been transferred to any Clearing Member or Sponsored Principal or the Clearing House at any time.
- (xxxii) The term "**MTM/VM Price**" means: (i) in relation to F&O Contracts, Exchange Delivery Settlement Price; (ii) in relation to CDS Contracts, Mark-to-Market Price; and (iii) in relation to FX Contracts, FX Mark-to-Market Price.
- (xxxiii) The term "**Negative Product Repayment Amounts**" means the negative single net sum determined in respect of a Clearing Member's or Sponsored Principal's Margin Account in respect of a Relevant Contract Category that is subject to a termination in accordance with Rule 916(e).
- (xxxiv) The term "**Original/Initial Margin**" means: (i) in relation to F&O Contracts, Original Margin (including buyer's security and seller's security); (ii) in relation to CDS Contracts, Initial Margin; and (iii) in relation to FX Contracts, FX Original Margin and, in any case (i), (ii) or (iii) includes Margin under Rule 502(g).
- (xxxv) The term "**Outward MTM/VM Payments**", on any Business Day, means amounts in respect of MTM/VM that the Clearing House has calculated which would, but for Rule 914, be paid in full by the Clearing House to Contributors (whether relating to any Proprietary Account or any Customer Account) in respect of a particular Relevant Contract Category following the determination of MTM/VM Prices for Contracts of that Contract Category.
- (xxxvi) The term "**Positive Product Repayment Amounts**" means the positive single net sum determined in respect of a Clearing Member's or Sponsored Principal's Margin Account in respect of a Relevant Contract Category that is subject to a termination accordance with Rule 916(e).
- (xxxvii) The term "**Pre-Haircut Gains, Losses and Realised Cash Flows**" means, in respect of each Margin Account of each Contributor and any Business Day, the amount which would be paid by the Clearing House to such Contributor (expressed

**Part 9 – Default Rules****Rule 913 – Definitions used in the Remainder of this Part 9**

as a positive number) or by such Contributor to the Clearing House (expressed as a negative number) by way of Contractual Payments or MTM/VM in respect of such Margin Account on such Business Day in the absence of the application of the Distribution Haircut. For the avoidance of doubt, the Pre-Haircut Gains, Losses and Realised Cash Flows are calculated taking into account MTM/VM that is paid by the Clearing House to the Contributor (or would have been payable to the Contributor but for Rule 914) and Mark-to-Market Margin payable and paid by the Contributor to the Clearing House (without taking into account any reductions to such payments made pursuant to this Rule 914).

- (xxxviii) ~~The term "**Product Termination Amount**" means the Negative CDS Repayment Amounts and the Positive CDS Repayment Amounts in respect of Contracts of a Set subject to termination under Rule 916.~~ [\[Not used\]](#)
- (xxxix) The term "**Received MTM/VM**", on a particular Business Day following an Event of Default, means the amount (expressed as a positive number) that the Clearing House has actually received in cleared funds from Clearing Members and Sponsored Principals who were party to Contracts in a Relevant Contract Category in respect of MTM/VM for such day.
- (xl) The term "**Relevant Assessment Contributions**" means those Assessment Contributions (being F&O Assessment Contributions, CDS Assessment Contributions or FX Assessment Contributions) which may be applied to losses relating to a Relevant Contract Category.
- (xli) [\[Not used\]](#)
- (xlii) The term "**Relevant Guaranty Fund**" means a Guaranty Fund (being the F&O Guaranty Fund, the CDS Guaranty Fund or the FX Guaranty Fund) in respect of which Guaranty Fund Contributions may be applied to losses relating to a Relevant Contract Category.
- (xliii) The term "**Relevant Guaranty Fund Contributions**" means those Guaranty Fund Contributions (being F&O Guaranty Fund Contributions, CDS Guaranty Fund Contributions or FX Guaranty Fund Contributions) which may be applied to losses relating to a Relevant Contract Category.
- (xliv) The term "**Relevant Membership Category**" means one of the three categories of membership (F&O, CDS or FX) to which an RGD Determination or Termination Circular relates (as applicable in Rules 914 or 916 respectively), as designated by the Clearing House in the relevant Circular.
- (xlv) The term "**Relevant Post Default Period**" means the period starting at the time of declaration of an Event of Default of a Clearing Member or Sponsored Principal which is party to Contracts of a particular Contract Category and ending at the time of declaration of net sums in respect of any Proprietary Account and each Customer Account of the Defaulter.



**Part 9 – Default Rules****Rule 913 – Definitions used in the Remainder of this Part 9**

- (xlvi) The term "**RGD Determination**" has the meaning set out in Rule 914(a).
- (xlvii) The term "**Sequential CDS Guaranty Fund Depletion**" in respect of a particular CDS Clearing Member that is not a Defaulter, means circumstances in which: (i) there have been two or more Events of Default relating to different CDS Clearing Members (or Sponsored Principals which clear CDS) within a period of 30 or fewer calendar days; (ii) CDS Guaranty Fund Contributions have been applied in respect of at least two such Events of Default; and (iii) the total amount that the CDS Clearing Member has as a result paid to the Clearing House to replenish its CDS Guaranty Fund Contributions exceeds the total amount of CDS Guaranty Fund Contributions standing to the credit of that CDS Clearing Member in the Clearing House's accounts prior to the first Event of Default.
- (xlviii) The term "**Sequential F&O Guaranty Fund Depletion**" in respect of a particular F&O Clearing Member that is not a Defaulter, means circumstances in which: (i) there have been two or more Events of Default relating to different F&O Clearing Members (or Sponsored Principals which clear F&O) within a period of 30 or fewer calendar days; (ii) F&O Guaranty Fund Contributions have been applied in respect of at least two such Events of Default; and (iii) the total amount that the F&O Clearing Member has as a result paid to the Clearing House to replenish its F&O Guaranty Fund Contributions exceeds the total amount of F&O Guaranty Fund Contributions standing to the credit of that F&O Clearing Member in the Clearing House's accounts prior to the first Event of Default.
- (xlix) The term "**Sequential FX Guaranty Fund Depletion**" in respect of a particular FX Clearing Member that is not a Defaulter, means circumstances in which: (i) there have been two or more Events of Default relating to different FX Clearing Members (or Sponsored Principals which clear FX) within a period of 30 or fewer calendar days; (ii) FX Guaranty Fund Contributions have been applied in respect of at least two such Events of Default; and (iii) the total amount that the FX Clearing Member has as a result paid to the Clearing House to replenish its FX Guaranty Fund Contributions exceeds the total amount of FX Guaranty Fund Contributions standing to the credit of that FX Clearing Member in the Clearing House's accounts prior to the first Event of Default.
- (l) The term "**Sequential Guaranty Fund Depletion**" means a Sequential CDS Guaranty Fund Depletion, a Sequential F&O Guaranty Fund Depletion, or a Sequential FX Guaranty Fund Depletion.
- (li) The term "**t**" means, in respect of any determination made in relation to a Business Day, such Business Day.
- (lii) The term "**t-1**" means, in respect of any determination made in relation to a Business Day, the Business Day immediately prior to such Business Day.
- (liii) The term "**Termination**" in respect of a Contract means termination, close-out, exercise, abandonment, or expiry pursuant to its terms and under the Rules.

**Part 9 – Default Rules****Rule 913 – Definitions used in the Remainder of this Part 9**

- (liv) The term "**Termination Circular**" has the meaning set out in Rule 916(a).
- (lv) The term "**Termination Price**" in respect of a Contract means the price determined by the Clearing House, which shall be applicable upon the termination, close-out, exercise, abandonment, or expiry of the Contract upon any termination pursuant to Rule 916.
- (lvi) The term "**Total Cumulative Pre-Haircut Amount**" means, in respect of any Business Day, the sum of the Total Pre-Haircut Amount for each Business Day from but excluding the relevant Last Call Prior To Default to and including such Business Day.
- (lvii) The term "**Total Pre-Haircut Amount**" or "**TPHA**" means, in respect of any Business Day, the sum of the Pre-Haircut Gains, Losses and Realised Cash Flows in respect of all Margin Accounts of all Contributors on such Business Day.
- (lviii) The term "**Transfer Cost**", on any Business Day, means the total amount payable by the Clearing House to Clearing Members or Sponsored Principals that are not Defaulters as consideration for the entry into of replacement Contracts in a Relevant Contract Category to those to which a Defaulter was party (or otherwise Transferred Contracts), whether as a result of an auction, sale, [transfer](#) or otherwise pursuant to Part 9 plus any associated costs or expenses of the Clearing House.
- (lix) The term "**Uncovered Loss**" or "**UL**" means in respect of the Clearing House on any Loss Distribution Day:

- (A) where Rule 914(a)(ii)(A) applies, an amount calculated in accordance with the following formula:

$$Uncovered\ Loss_{(t)} = TPHA_{(t)} + CTC_{(t)} - AR$$

where:

*TPHA* means the Total Pre-Haircut Amount;

*CTC* means the Cumulative Transfer Cost;

*AR* means the Available Resources; and

the Uncovered Loss as at the Last Call prior to Default shall be zero,

provided that if the Uncovered Loss would be greater than zero, it shall be deemed to be equal to be zero.

- (B) where Rule 914(a)(ii)(B)(1) applies, the Estimated Payable Net Sum minus Available Non-Defaulter Resources; or

**Part 9 – Default Rules**

**Rule 913 – Definitions used in the Remainder of this Part 9**

- (C) where Rule 914(a)(ii)(B)(2) applies, the total of relevant net sums payable by but not received from the Defaulter minus Available Non-Defaulter Resources;

provided that, where there is more than one Event of Default with overlapping Relevant Post Default Periods, the Uncovered Loss may be calculated with regard to Cumulative Transfer Cost and Available Resources for all relevant Defaulters and Events of Default at that time.

*Part 9 – Default Rules*  
*Rule 914 – Reduced Gains Distribution*

***Rule 914***      ***Reduced Gains Distribution***

- (a) This Rule 914 shall only apply if the Clearing House has published its determination (any such determination, an "**RGD Determination**") that the following four (or, for the CDS Contract Category, five) conditions are all satisfied:
- (i) an Event of Default has been declared and the Clearing House has not yet declared (and either paid or submitted a claim in respect of) all net sums due to or from the Defaulter in respect of all of its different Proprietary Accounts and all of its different Customer Accounts, including, for Sponsored Principals, Individually Segregated Sponsored Accounts;
  - (ii) the Clearing House determines (whether in reliance on Rule 907(d) or otherwise) that one or more of the following circumstances has arisen:
    - (A) the sum of Outward MTM/VM Payments (and, for the FX and F&O Contract Categories only, Transfer Cost, if any) in respect of a particular Contract Category would, in its view, exceed Available Resources plus Received MTM/VM for the same Contract Category;
    - (B) Available Resources are insufficient to meet the shortfalls, losses or liabilities of the Clearing House on relevant Accounts of the Defaulter, which may be determined if, in its view:
      - (1) any Estimated Payable Net Sum would exceed the Available Non-Defaulter Resources which, pursuant to Rule 908, would be available to meet the losses of the Clearing House represented by any net sum payable by the Defaulter were such net sum to be of an amount equal to the Estimated Payable Net Sum; or
      - (2) any net sums payable by the Defaulter that are calculated and declared by the Clearing House under Rule 906 (to the extent that the same have not been received by the Clearing House in cleared funds from the Defaulter) in total would exceed the Available Non-Defaulter Resources which, pursuant to Rule 908, are to be applied to meet the losses of the Clearing House represented by such net sums;
- provided that, where there is more than one Event of Default with overlapping Relevant Post Default Periods, such determinations may be made with regard to the Transfer Costs, for the FX and F&O Contract Categories only, Available Resources, Estimated Payable Net Sums and net sums relating to all relevant Defaulters and Events of Default at that time;
- (iii) no Termination Circular has been issued in respect of the Relevant Contract Category;

**Part 9 – Default Rules**  
**Rule 914 – Reduced Gains Distribution**

- (iv) there has been no Clearing House Event; and
- (v) if the Relevant Contract Category is CDS, the additional conditions set out in Rule 914(n) have been satisfied.

The Clearing House may make such currency conversions at its discretion and as it sees fit for purposes of making any of such determinations listed in paragraphs (A) or (B), based on the rates of exchange that would be applicable in respect of amounts due to or from a Defaulter.

- (b) If there is an RGD Determination, the Clearing House shall issue a Circular to that effect specifying:
  - (i) the Relevant Contract Category or Relevant Contract Categories that is or are affected (or, if Rule 914(f) applies, the affected Contract Set or Sets);
  - (ii) the date of commencement of any Loss Distribution Period; and
  - (iii) such other matters as the Clearing House considers are relevant, which may (but are not required to) include a date on which the Loss Distribution Period is expected to end.

If any expected end date for the Loss Distribution Period is specified in the Circular, the Loss Distribution Period may nonetheless be extended by the publication of a further Circular and any expiry of a Loss Distribution Period arising as a result of a particular Event of Default shall not preclude there being any additional Loss Distribution Period at a later stage arising as a result of the same Event of Default. At the close of business on each Business Day following a Loss Distribution Day the Clearing House shall determine in accordance with Rule 914(a) whether any of the situations under which an RGD Determination could be made persists.

***Reduced Gains Distribution for F&O and FX Contract Categories***

- (c) *Adjustment of MTM/NM payments for Cash Gainers.* On each Loss Distribution Day for each Margin Account of each Contributor that is deemed to be a Cash Gainer, the relevant Contributor shall be required to pay the Clearing House an amount equal to any positive amount determined in accordance with the following formula separately for each of its Accounts holding F&O Contracts or FX Contracts or, as applicable, the Clearing House shall be required to pay the relevant Contributor the absolute value of any negative amount determined in accordance with the following formula (in each case, such amount the "**Cash Gainer Adjustment**"):
 

*Cash Gainer Adjustment*<sub>(t)</sub> = *PHG*<sub>(t)</sub> – ((*CUG*<sub>(t)</sub> x (1 - *DH*<sub>(t)</sub>)) – *CAG*<sub>(t-1)</sub>)

where:

*PHG* means the Pre-Haircut Gains, Losses and Realised Cash Flows;

**Part 9 – Default Rules**  
**Rule 914 – Reduced Gains Distribution**

*CUG* means the Cumulative Unadjusted Gains, Losses and Realised Cash Flows;

*DH* means the Distribution Haircut, expressed as a decimal provided that it shall be no greater than 1; and

*CAG* means the Cumulative Actual Gains, Losses and Realised Cash Flows and where *CAG* as at the Last Call prior to Default shall be zero.

Any Transfer Cost due to any Contributor that has won a Default Auction shall be paid in full and not be subject to any Cash Gainer Adjustment nor included in amounts *PHG*, *CUG* or *CAG*.

- (d) *Adjustment of MTM/VM Payments for Cash Losers.* On each Loss Distribution Day for each Margin Account of each Contributor that is deemed to be a Cash Loser, the Clearing House shall be required to pay the absolute value of an amount (the "**Cash Loser Adjustment**") determined in accordance with the following formula separately for each of its Accounts holding F&O Contracts or FX Contracts:

$$\text{Cash Loser Adjustment}_{(t)} = \text{PHG}_{(t)} - (\text{CHG}_{(t)} - \text{CAG}_{(t-1)})$$

where:

*PHG* means the Pre-Haircut Gains, Losses and Realised Cash Flows;

*CHG* means the Cumulative Unadjusted Gains, Losses and Realised Cash Flows; and

*CAG* means the Cumulative Actual Gains, Losses and Realised Cash Flows and where *CAG* as at the Last Call prior to Default shall be zero.

Nothing in this Rule 914 shall reduce or offset the obligation of a Cash Loser to pay any MTM/VM or Contractual Payments owed by it in respect of a Loss Distribution Day.

- (e) On each Loss Distribution Day, the Clearing House shall apply the payment or receipt of any Margin Account Adjustment as an offset against any payments from or receivable by the relevant Contributor or aggregate it with any required payment to the Clearing House, in accordance with Part 3 or the Finance Procedures. MTM/VM obligations and related adjustments pursuant to this Rule 914 of Contributors that are not Defaulters shall then be paid and collected following such netting with other payment obligations as are provided for in Part 3 and the Finance Procedures.
- (f) Where obligations relating to physical delivery in respect of any F&O Contract or FX Contract are to be performed following expiry or the end of trading in the relevant Set, on any Business Day during a Loss Distribution Period, the Clearing House may make such adjustments as are necessary to the calculation of Cash Gainer Adjustment or Cash Loser Adjustment to reflect the payment flows arising from such delivery, based on the principle that the calculation of Cash Gainer Adjustment and Cash Loser Adjustment is designed to



**Part 9 – Default Rules**  
**Rule 914 – Reduced Gains Distribution**

capture all profits and/or losses on Open Contract Positions during the relevant Loss Distribution Period.

- (g) Notwithstanding the effects of this Rule 914 during a Loss Distribution Period:
- (i) Clearing Members and Sponsored Principals shall remain liable to pay, and shall continue to make timely payment of, all amounts falling due to, and shall remain liable to deliver, and shall continue to make timely delivery of, all property falling due for delivery to, the Clearing House in accordance with the Rules and Procedures, including obligations to pay Original/Initial Margin, Guaranty Fund Contributions and Assessment Contributions (in the latter case, subject always to the relevant caps set out in Rule 909);
  - (ii) the Clearing House will remain liable to pay or release Margin and Permitted Cover to Clearing Members and Sponsored Principals in the usual way, subject to netting to take account of any Cash Loser /Gainer Adjustment; and
  - (iii) the Clearing House's obligation to pay or release Original/Initial Margin shall not be subject to reduction under this Rule 914 as a result of any Distribution Haircut;

All such payments shall be made without regard to whether any payment which would have fallen due (were it not for the RGD Determination) has been made and without any offsetting or withholding of amounts under any other right of or to netting, set-off, lien, recouping, property, combination of accounts or other basis.

- (h) Any rebate, incentive scheme or fee discount arrangements that would otherwise result in amounts being payable by the Clearing House (whether for itself or on behalf of any Market) in respect of Contracts affected by the arrangements during the Loss Distribution Period shall not be applicable during any Loss Distribution Period. Action by the Clearing House under this Rule 914 shall not constitute any kind of Clearing House Event.
- (i) Where the Clearing House determines that none of the situations under which an RGD Determination could be made persists or is likely to persist that Business Day shall not be a Loss Distribution Day and the Loss Distribution Period shall have terminated as of the last Loss Distribution Day. In this circumstance or where the Clearing House otherwise wishes to end any Loss Distribution Period, it shall issue a Circular specifying the final date of the Loss Distribution Period. After the end of the Loss Distribution Period, the adjustments, modifications and limited recourse provisions specified in this Rule 914 shall no longer apply and the Clearing House shall resume calculating, collecting and paying MTM/VM payments in the ordinary course, without adjustment to take into account any Cash Gainer/Loser adjustments during the Loss Distribution Period except as provided in Rule 914(j). The end of the Loss Distribution Period shall not preclude the Clearing House from making a further RGD Determination in respect of the same Event of Default to the extent that any open Contracts of the Defaulter have not been closed out, sold or liquidated and the other conditions of the RGD Determination are satisfied.
- (j) Notwithstanding Rule 1102(k), this Rule 914(j) shall apply where the Clearing House (1) receives amounts from a Defaulter (as a result of its being a creditor of the Defaulter in the

**Part 9 – Default Rules**  
**Rule 914 – Reduced Gains Distribution**

Defaulter's Insolvency or otherwise) or another Clearing Member or Sponsored Principal or any insurer that would, had it been paid on time, have increased the Clearing House's Available Resources or Received MTM/VM on a Business Day on which any Margin Account Adjustment was made pursuant to this Rule 914 during a Loss Distribution Period; (2) recalculates any Estimated Payable Net Sum in circumstances in which the previously Estimated Payable Net Sum was higher; or (3) declares an actual net sum under Rule 906 in circumstances in which an Estimated Payable Net Sum had previously been used as a basis for invoking its rights under this Rule 914 where the actual net sum is greater than the last Estimated Payable Net Sum. Where this Rule 914(j) applies, the Clearing House shall distribute such amounts as it has received or estimates are now available (as applicable) (after deducting any administration and other costs of the Clearing House, including, without limitation, the costs of recovering or recalculating any such amounts):

- (i) first to Contributors who are not then Defaulters (irrespective of whether they remain Clearing Members or Sponsored Principals at the time of the recovery) who became liable to pay Cash Gainer Adjustments during the Loss Distribution Period for the Contract Category to which the receipts relate, with the payments determined on a *pro rata* basis based on each Contributor's Adjustment Amount in respect of the Relevant Contract Category;
  - (ii) secondly, in accordance with Rule 1102(k).
- (k) Payments of Cash Gainer Adjustments and Cash Loser Adjustments may be made pursuant to Part 3 of the Rules and the Finance Procedures. Except as expressly provided in this Rule 914, this Rule 914 is without prejudice to the Clearing House's rights to set off or net any sum owed by a Clearing Member, Sponsor or Sponsored Principal to the Clearing House against any sum payable by the Clearing House to a Clearing Member, Sponsor or Sponsored Principal or to any other powers of the Clearing House under Parts 3, 9 or 11 or the Procedures.
- (l) In carrying out any calculations or making any determinations pursuant to this Rule 914, the Clearing House may convert any amounts denominated in one currency into another currency chosen by the Clearing House in its discretion and at a rate of exchange chosen by the Clearing House in its discretion, provided the Clearing House shall act in a commercially reasonable manner when choosing a currency or a rate of exchange for the aforesaid purposes.
- (m) The Clearing House shall apply all Received MTM/VM and Available Resources solely to meet Outward MTM/VM Payments and Transfer Costs as envisaged under Parts 9 and 11 of the Rules and the Default Auction Procedures, to make reimbursement to Clearing Members and Sponsored Principals under Rule 914(j) and to fund its obligations to meet any shortfall, loss or liability incurred by it under Contracts or these Rules as permitted under the Rules.

***Reduced Gains Distribution for the CDS Contract Category***

- (n) Rule 914(n) to (t) shall only apply to the CDS Contract Category where the Clearing House has published an RGD Determination (whether in reliance on Rule 907(d) or otherwise) that

**Part 9 – Default Rules**  
**Rule 914 – Reduced Gains Distribution**

the conditions in Rule 914(a) and also the additional conditions in this Rule 914(n) are satisfied:

- (i) there has been an Under-Priced Auction in respect of the CDS Contract Category;
  - (ii) the Clearing House has exhausted all Available Resources in respect of the relevant Default, with the exception of Assessment Contributions; and
  - (iii) the Clearing House has given advice that CDS Assessment Contributions to the value of the maximum CDS Assessment Amount are due to be paid by all non-defaulting CDS Clearing Members and such CDS Assessment Contributions are due and payable.
- (o) Notwithstanding anything to the contrary herein, for the CDS Contract Category, the Loss Distribution Period for any Default (or series of Defaults subject to a Cooling-off Period) should not extend more than five consecutive Business Days. If the Clearing House conducts a successful Secondary CDS Auction on any day within the Loss Distribution Period, that day, or if the Clearing House so determines, the preceding Business Day shall be the final Loss Distribution Day. If the Clearing House has not conducted a successful Secondary CDS Auction on the fifth consecutive Loss Distribution Day, the Clearing House will conduct a Partial Tear-Up as of the close of business on such day in accordance with Rule 915.
- (p) *Adjustment of MTM/VM payments for Cash Gainers.* On each Loss Distribution Day for each Margin Account of each Contributor that is deemed to be a Cash Gainer, the relevant Contributor shall be required to pay the Clearing House an amount equal to any positive amount determined in accordance with the following formula separately for each of its Accounts determined in accordance with the following formula (in each case, such amount the "**Cash Gainer Adjustment**"):

$$\text{Cash Gainer Adjustment}_{(t)} [= PHG_{(t)} \times DH_{(t)}]$$

where:

*PHG* means the Pre-Haircut Gains, Losses and Realised Cash Flows;

*DH* means the Distribution Haircut, expressed as a decimal provided that it shall be no greater than 1; and

- (q) On each Loss Distribution Day, the Clearing House shall apply the payment or receipt of any Cash Gainer Adjustment as an offset against any payments receivable by the relevant Contributor or aggregate it with any required payment to the Clearing House, in accordance with Part 3 or the Finance Procedures. MTM/VM obligations and related adjustments pursuant to this Rule 914 of Contributors shall then be paid and collected following such netting with other payment obligations as are provided for in Part 3 and the Finance Procedures.

**Part 9 – Default Rules**  
**Rule 914 – Reduced Gains Distribution**

- (r) Where Physical Settlement is applicable to any CDS Contract, on any Business Day during a Loss Distribution Period, the Clearing House may make such adjustments as are necessary to the calculation of Cash Gainer Adjustment to reflect the payment flows arising from such Physical Settlement, based on the principle that the calculation of Cash Gainer Adjustment is designed to capture all profits and/or losses on Open Contract Positions during the relevant Loss Distribution Period.
- (s) Notwithstanding the effects of this Rule 914 during a Loss Distribution Period:
- (i) Clearing Members and Sponsored Principals shall remain liable to pay, and shall continue to make timely payment of, all amounts falling due to, and shall remain liable to deliver, and shall continue to make timely delivery of, all property falling due for delivery to, the Clearing House in accordance with the Rules and Procedures, including obligations to pay Initial Margin, Mark-to-Market Margin Guaranty Fund Contributions and Assessment Contributions (in the latter case, subject always to the relevant caps set out in Rule 909(c) and (d));
  - (ii) the Clearing House will remain liable to pay or release Initial Margin to Clearing Members and Sponsored Principals in the usual way, subject to netting to take account of any Cash Gainer Adjustment; and
  - (iii) the Clearing House's obligation to pay or release Initial Margin shall not be subject to reduction under this Rule 914 as a result of any Distribution Haircut.

All such payments shall be made without regard to whether any payment which would have fallen due (were it not for the RGD Determination) has been made and without any offsetting or withholding of amounts under any other right of or to netting, set-off, lien, recouping, property, combination of accounts or other basis.

- (t) Rules 914 (h), (j) (k) and (l) shall apply to the CDS Contract Category, *mutatis mutandis*.

**Part 9 – Default Rules**  
**Rule 915 – Partial Tear-Up**

**Rule 915 Partial Tear-Up**

- (a) This Rule 915 shall apply if:
- (i) in relation to the CDS Contract Category, one or more Secondary CDS Auctions has failed to eliminate or replace all remaining risk of the Open Contract Positions of a Defaulter and any hedging transactions entered into by the Clearing House in accordance with Rule 903(c), determined in accordance with the Default Auction Procedures, Rule 914(o) and, to the extent relevant Rule 907(d);
  - (ii) [intentionally omitted]
  - (iii) in relation to the F&O or FX Contract Categories, an auction has taken place pursuant to the applicable Default Auction Procedures and this has failed to eliminate or replace all remaining risk of the Open Contract Positions of a Defaulter and any hedging transactions entered into by the Clearing House in accordance with Rule 903(c); and
  - (iv) the Clearing House has issued a Partial Tear-Up Circular.
- (b) Where this Rule 915 applies, the Clearing House may terminate Open Contract Positions held by non-defaulting Clearing Members and Sponsored Principals which offset Open Contract Positions of the Defaulter and any Open Contract Positions of the Defaulter and any such hedging transactions shall terminate (to the extent not previously terminated) ("**Partial Tear-Up**").
- (c) If it determines that Partial Tear-Up should apply to any Contract Category or Set, the Clearing House will issue a Circular (a "**Partial Tear-Up Circular**") stating:
- (i) the remaining Open Contract Positions of the Defaulter that have not otherwise been replaced or terminated through the close out process under Rule 905 (the "**Remaining Defaulted Positions**");
  - (ii) the affected Contract Category, Sets and termination prices (each, a "**Partial Tear-Up Price**") for each Tear-Up Position; and
  - (iii) the date and time as of which Partial Tear-Up will occur, which for the CDS Contract Category will be 5 p.m. on the Business Day on which the Clearing House has determined that a Loss Distribution Period will not continue (the "**Partial Tear-Up Time**").
- The Clearing House will then give notice to each non-defaulting Clearing Member or Sponsored Principal of the Open Contract Positions of such Clearing Member or Sponsored Principal that will be subject to Partial Tear-Up (the "**Tear-Up Positions**").
- (d) The Clearing House will determine and designate the Tear-Up Positions of Clearing Members and Sponsored Principals pursuant to the following methodology:

**Part 9 – Default Rules**  
**Rule 915 – Partial Tear-Up**

- (i) the Clearing House will only designate Tear-Up Positions in the identical Contracts (on the opposite side of the market) and in an aggregate amount equal to that of the Remaining Defaulted Positions;
  - (ii) the Clearing House will designate Tear-Up Positions in a particular Contract only for Clearing Members and Sponsored Principals that have an Open Contract Position in such Contract, whether for their Proprietary Account and/or any Customer Account, as follows: the Clearing House shall designate Tear-Up Positions in the Proprietary and Customer Accounts of all Clearing Members and Sponsored Principals with Open Contract Positions in the relevant Contracts in such Accounts, on a *pro rata* basis (provided that solely to the extent such pro rata determination would result in creation of a Tear-Up Position with a notional amount that includes a fraction of 0.01 in the relevant currency, the Clearing House will reallocate such fractional position among Clearing Members and Sponsored Principals on a random basis to avoid such result);
  - (iii) with respect to a Tear-Up Position designated in a Customer Account of a Clearing Member, the Tear-Up Position shall be allocated on a *pro rata* basis across any Customers (excluding Affiliates of the relevant Clearing Member) that have Open Contract Positions in such Contract in such account; and
  - (iv) where the Clearing House has in effect one or more hedging transactions related to the Remaining Default Positions which hedging transactions will not themselves be subject to Partial Tear-Up, the Clearing House may offer to assign or transfer such hedging transactions to Clearing Members with related Tear-Up Positions, on such basis as the Clearing House may reasonably determine.
- (e) Upon and with effect from the Partial Tear-Up Time, every Tear-Up Position shall be automatically terminated at the Partial Tear-Up Price, without the need for any further step by any party to such Contract. Upon such termination, either the Clearing House or the relevant Clearing Member or Sponsored Principal, as the case may be, shall be obliged to pay to the other the applicable Partial Tear-Up Price (which, in either case, shall be satisfied only through application of any applicable [FX Mark-to-Market Margin or Mark-to-Market Margin](#) or Variation Margin for such Tear-Up Position, determined for this purpose as though all ~~Mark-to-Market Margin~~[MTM/VM](#) payments had been made in any relevant Loss Distribution Period without regard to any Cash Gainer / Loser Adjustments). Upon the termination of a Tear-Up Position, the corresponding Open Contract Position of the Defaulter shall be deemed terminated at the Partial Tear-Up Price.
- (f) For a CDS Contract the Partial Tear-Up Price for each Tear-Up Position shall equal the Mark-to-Market Price, for a Future or Option Contract the Partial Tear-Up Price shall equal the Exchange Delivery Settlement Price, and for an FX Contract the Partial Tear-Up Price shall equal the FX Market Price, in each case as established for such position as of the Partial Tear-Up Time, determined using the methodology customarily applicable for determining Mark-to-Market Prices. Such Partial Tear-Up Price shall be determined without reference to the Loss Distribution Process in Rule 914. If no Mark-to-Market Price, Exchange Delivery Settlement Price or FX Market Price exists or is determined, the Partial Tear-Up Price shall be as determined under Rule 916(d)(ii). If no price described in



**Part 9 – Default Rules**  
**Rule 915 – Partial Tear-Up**

Rule 916(d)(ii) exists or is determined, the Partial Tear-Up Price shall be as described in Rule 916(d)(iii) or, alternatively, the Partial Tear-Up Price shall be such other price as the Clearing House may establish in accordance with the Procedures and its risk policies.

- (g) No action or omission by the Clearing House pursuant to and in accordance with this Rule 915 shall constitute a Clearing House Event.

Part 9 – Default RulesRule 916 – Contract Termination following Certain Conditions or Under-priced Auction**Rule 916**      ***Contract Termination following Certain Conditions or Under-priced Auction***

- (a) If:
- (i) [Not used.]
  - (ii) the following conditions are satisfied:
    - (A) an Event of Default has been declared but the Clearing House has not yet declared (and either paid or submitted a claim in respect of) all net sums due to or from the Defaulter in respect of its Proprietary Account and all of its different Customer Accounts;
    - (B) the Clearing House determines that one or more of the following circumstances has arisen:
      - (1) its obligations to meet Outward MTM/VM Payments or the Transfer Cost, in its view, may not to be satisfied by applying Available Resources and the provisions set out in Rule 914;
      - (2) following either the declaration of all net sums in respect of a particular Event of Default or, where any net sum has not been declared, based on the calculation of an Estimated Payable Net Sum, the Clearing House, in its view, may either:
        - (a) become unable to pay its debts as they fall due; or
        - (b) have total liabilities which exceed its total assets,
 in either case if it does not invoke the provisions set out in this Rule 916; or
      - (3) there has been a Under-priced Auction in respect of the Relevant Contract Category;
 

The Clearing House may make such currency conversions at its discretion and as it seems fit for purposes of making any of such determinations listed in paragraphs (1) or (2), based on the rates of exchange that would be applicable in respect of amounts due to or from a Defaulter;
    - (C) either (x) all of the Contracts of the Defaulter have been terminated; or (y) there has been a Default Auction or attempted Default Auction; and
    - (D) there has been no Clearing House Event; or
  - (iii) following the service of notices by Clearing Members and Sponsored Principals under Rule 917, the Clearing House determines that there are insufficient Clearing Members and Sponsored Principals interested in continuing to clear Contracts of a

Part 9 – Default RulesRule 916 – Contract Termination following Certain Conditions or Under-priced Auction

Relevant Contract Category for clearing of such Relevant Contract Category to remain viable,

and there has been no Clearing House Event, then the Clearing House may issue a Termination Circular.

- (b) If the Clearing House is to terminate Contracts under this Rule 916, it must issue a Circular (a "**Termination Circular**") stating:
- (i) the Relevant Contract Category or Relevant Contract Categories in respect of which Contracts are to be terminated;
  - (ii) the Clearing House's intention to rely upon and apply Rule 916;
  - (iii) the applicable Termination Price for each Contract Set of the Relevant Contract Category or Relevant Contract Categories that are to be terminated;
  - (iv) the date and time on which termination will take place "**Termination Time**"; and
  - (v) such other matters as the Clearing House considers are relevant.
- (c) Upon and with effect immediately as from the Termination Time, every open Contract in the Relevant Contract Category shall be automatically terminated at the Termination Price, without the need for any further step by any party to such Contract. Neither the Clearing House nor any Clearing Member or Sponsored Principal that is not a Defaulter shall be obliged to make any further payments, physical settlement or deliveries under any Contract which would, but for this Rule 916(c), have fallen due for performance on or after the Termination Time, and any obligations to make further payments or deliveries which would otherwise have fallen due shall be satisfied by settlement (whether by payment, set off or otherwise) of the Termination Amount and other payment and delivery obligations in relation to any Contracts and any other obligations pursuant to the Rules (including the repayment or redelivery of any Original/Initial Margin or Guaranty Fund Contribution) that is relevant solely to the Relevant Contract Category that is subject to a termination shall be payable or deliverable on the Business Day after the Termination Time and in accordance with the provisions of this Rule 916 in full discharge of the Clearing House's obligations in respect of Contracts of the Relevant Contract Category.
- (d) The Termination Price for Contracts in the same Set shall be the equal for all such Contracts and shall be the same for all Clearing Members and Sponsored Principals that are party to Contracts of the same Set. Termination Prices shall be based upon the value of Contracts as at the Termination Time in accordance with the principles set out in this Rule 916(d) but without reference to the Loss Distribution Process in Rule 914. Such Termination Prices shall be calculated as the relevant loss or gain that would be calculated for purposes of items *L* and *A* in Rule 905(a) were a net sum to be required to be calculated, but based on:
- (i) for a Set:

Part 9 – Default RulesRule 916 – Contract Termination following Certain Conditions or Under-priced Auction

- (A) of F&O Contracts, the Exchange Delivery Settlement Price (excluding any such price determined or over-ridden by the Clearing House) or any other exchange delivery settlement price or other settlement price or market quotation established or published by a Market for which the Clearing House provided Clearing services for the relevant Contract Set prior to the Termination Date (or, if the Termination Date is not a business day for the relevant Market, the business day for the relevant Market immediately preceding the Termination Date);
- (B) of CDS Contracts, the latest established Mark-to-Market Price for each relevant Set as at the Termination Time, determined using the methodology standardly applicable for determining Mark-to-Market Prices; or
- (C) of FX Contracts, the latest established FX Market Price for each relevant Set as at the Termination Time, determined using the methodology standardly applicable for determining FX Market Prices,

provided that, prior to or around the time of giving effect to the termination, the Clearing House may, following consultation with the ~~Risk Committee~~[relevant product risk committee](#), determine that it should conduct a final price submission and price determination process to determine a Mark-to-Market Price or FX Market Price for purposes of termination in which it shall use its standard processes and procedures to determine the price and which Clearing Members shall participate in fully, in good faith, using their standard processes and procedures and in accordance with Applicable Laws.

- (ii) if no price described in Rule 916(d)(i) exists or is determined, the last market quotation or settlement price established or published by another Exchange or Clearing Organisation (that is not subject to an Insolvency) selected by the Clearing House for an economically similar contract to the Set immediately prior to the Termination Time; or
  - (iii) if no price described in Rule 916(d)(i) or (ii) exists or is determined, at a commercially reasonable price as reasonably determined by the Clearing House by reference to objective and observable market prices at the relevant Termination Time, the mean settlement price for the Termination Time based on a survey of market participants active in Contracts similar to the Set or otherwise on such basis as the Clearing House determines with a view to obtaining a fair valuation.
- (e) The maximum amount that may be paid or repaid in respect of the Relevant Contract Category and related liabilities and rights shall be calculated separately in respect of each Margin Account for each Clearing Member and Sponsored Principal with a Relevant Membership Category that is not a Defaulter, by way of a net sum calculation using the calculation under Rule 906 *mutatis mutandis*, as if the Clearing Member or Sponsored Principal were a Defaulter, bringing into account the Termination Price for purposes of calculating amounts *L* and *A* and all net Cash Gainer Adjustments relating to the Relevant Contract Category but otherwise solely bringing into account any amount for purposes of such calculation inasmuch as it relates to the Relevant Contract Category ("**Product**

**Part 9 – Default Rules****Rule 916 – Contract Termination following Certain Conditions or Under-priced Auction**

**Termination Amount**"). To the extent that any Original/Initial Margin, Surplus Collateral or other assets are held by the Clearing House for the account of a Clearing Member or Sponsored Principal in respect of any Contract of a Relevant Contract Category (or any such asset becomes Surplus Collateral as a result of Termination), the amount of such Original/Initial Margin, assets or Surplus Collateral shall be included in the Product Termination Amount.

- (f) Following its determination of the Product Termination Amount in relation to each Margin Account for each Clearing Member or Sponsored Principal that is not a Defaulter, the Clearing House shall calculate the Available Product Funds as the sum equal to the aggregate of the Negative Product Repayment Amounts in respect of each affected Clearing Member and Sponsored Principal. Where the Available Product Funds are less than the aggregate amount of Positive Product Repayment Amounts, the Clearing House shall calculate the Discounted Product Repayment Amount for each Positive Product Repayment Amount payable to the Clearing Member or Sponsored Principal by multiplying each such Positive Product Repayment Amount by the fraction determined by dividing  $A$  by  $B$ , where  $A$  is the Available Product Funds and  $B$  is the aggregate amount of Positive Product Repayment Amounts.
- (g) Prior to any amount being paid or collected pursuant to Rule 916(h), the Clearing House shall notify each Clearing Member and Sponsored Principal that is due to receive a Positive Product Repayment Amount of such amount and any Discounted Product Repayment Amount and the extent to which this differs from the Product Termination Amount. This notification shall show in reasonable detail how any Discounted Product Repayment Amount has been calculated by the Clearing House. Where a Discounted Product Repayment Amount is notified to a Clearing Member or Sponsored Principal, such amount shall be payable by the Clearing House and the Clearing House shall have no obligation (other than pursuant to Rule 916(i)) to pay either the Product Termination Amount or the Termination Price or any difference between any such amount or price and the Discounted Product Repayment Amount.
- (h) The Clearing House will issue payment instructions to collect (and each Clearing Member and Sponsored Principal shall, immediately upon receipt of any such instructions, pay) each Negative Product Repayment Amount in respect of the Relevant Contract Category, prior to the Clearing House making payment to Clearing Members and Sponsored Principals of Positive Product Repayment Amounts or Discounted Product Repayment Amounts. All payments in respect of Negative Product Repayment Amounts shall be made by Clearing Members and Sponsored Principals without any offsetting or withholding of amounts under any other right of or to netting, set-off, lien, recouping, property, combination of accounts or other basis. If any Clearing Member or Sponsored Principal fails to pay any Negative Product Repayment Amount due to the Clearing House, the Discounted Product Repayment Amount may be recalculated for each Margin Account and Contributing Clearing Member and, if so recalculated, will be notified to affected Contributing Clearing Members. Payment of any Discounted Product Repayment Amount shall constitute full satisfaction of the Clearing House's obligations and liabilities relating to the Relevant Contract Category.

**Part 9 – Default Rules****Rule 916 – Contract Termination following Certain Conditions or Under-priced Auction**

- (i) Notwithstanding the termination process under this Rule 916, Clearing Members and Sponsored Principals, (including each Defaulter) and the Clearing House, shall each remain liable to pay, and shall continue to make timely payment of, all amounts falling due, and shall remain liable to deliver, and shall continue to make timely delivery of, all property falling due for delivery, in accordance with the Rules and Procedures, including: (A) pursuant to Contracts which are not terminated; (B) Original/Initial Margin in relation to Contracts that are not terminated; (C) replenishments of and returns in respect of Guaranty Fund Contributions in respect of any Guaranty Fund that is not a Relevant Guaranty Fund, [subject to Rule 917](#); and (D) Assessment Contributions, [subject always to the relevant caps set out in Rule 909 and Rule 917](#).
- (j) Any rebate, incentive scheme or fee discount arrangements that would otherwise result in amounts being payable by the Clearing House (whether for itself or on behalf of any Market) in respect of Contracts to be terminated under this Rule 916 shall not be applicable in respect of such Contracts.
- (k) No action or omission by the Clearing House pursuant to this Rule 916 shall constitute any kind of Clearing House Event.
- (l) If the Clearing House terminates Contracts of a particular Set, this shall not preclude it from terminating Contracts of a different Set of the same Relevant Contract Category in respect of the same Event of Default.
- (m) In carrying out any calculations or making any determinations pursuant to this Rule 916, the Clearing House may convert any amounts denominated in one currency into another currency chosen by the Clearing House in its discretion and at a rate of exchange chosen by the Clearing House in its discretion, provided the Clearing House shall act in a commercially reasonable manner when choosing a currency or a rate of exchange for the aforesaid purposes.
- (n) Notwithstanding Rule 1102(k) and Rule 914(j), this Rule 916(n) shall apply where the Clearing House (1) receives amounts from a Defaulter or another Clearing Member or Sponsored Principal or any insurer that would, had it been paid on time, have meant that a Negative Product Termination Amount being lower or eliminated or a Positive Product Termination Amount being higher; (2) recalculates any Estimated Payable Net Sum in circumstances in which the previously Estimated Payable Net Sum was higher in circumstances in which any resulting Negative Product Termination Amount would have been lower or eliminated or a Positive Product Termination Amount would have been higher based on the later Estimated Payable Net Sum; or (3) an actual net sum is declared by the Clearing House under Rule 906 in circumstances in which any resulting Negative Product Termination Amount would have been lower or eliminated or a Positive Product Termination Amount would have been higher based on the actual net sum. Where this Rule 916(n) applies, the Clearing House shall distribute such amounts as it has received or estimates are now available (as applicable) (after deducting any administration and other costs of the Clearing House, including, without limitation, the costs of recovering or recalculating any such amounts):



Part 9 – Default RulesRule 916 – Contract Termination following Certain Conditions or Under-priced Auction

- (i) first to Clearing Members and Sponsored Principals that are not Defaulters who would, but for this Rule 916, have received a Termination Price in full, with the payments determined on a *pro rata* basis based on the difference between the Discounted Product Repayment Amount and the Product Repayment Amount in respect of each Clearing Member or Sponsored Principal;
  - (ii) secondly, in accordance with Rule 914(j); and
  - (iii) for the avoidance of doubt, thirdly, under Rule 1102(k) (as modified by Rule 914(j)).
- (o) Nothing in this Rule 916 shall require the Clearing House to pursue any litigation, claim or other action against a Clearing Member, Sponsored Principal, Sponsor or Defaulter in respect of any amount, obligation or asset (not being Available Resources or Available Defaulter Resources) which is owed or due but unpaid or unsatisfied by such Clearing Member, Sponsored Principal, Sponsor or Defaulter.
- (p) Payments of Negative Product Repayment Amounts, Positive Product Repayment Amounts and Discounted Product Repayment Amounts may be made following such netting with other payment obligations as are provided for in Part 3 and the Finance Procedures.

**Part 9 – Default Rules****Rule 917 – Cooling-off Period and Clearing Member Termination Rights*****Rule 917 Cooling-off period and Clearing Member termination rights***

- (a) Upon the occurrence of any Cooling-off Period Trigger Event, the Clearing House shall issue a Circular notifying Clearing Members and Sponsored Principals of the commencement of the Cooling-off Period, setting out the date on which such period is scheduled to end (and the date on which the Cooling-off Termination Period is scheduled to end), and specifying the Relevant Contract Category.
- (b) From the commencement of, and solely for the duration of, the Cooling-off Period:
- (i) neither Rule 909(d) nor the second sentence of any of Rule 909(f) shall apply to a Clearing Member with the Membership Category of the Relevant Contract Category, until the end of the Cooling-off Period;
  - (ii) the aggregate of all Relevant Assessment Contributions of Clearing Members under Rule 909 and all amounts payable to replenish Guaranty Fund Contributions due under Rule 1102(i) or 1102(j) in respect of all Events of Default occurring or declared during the Cooling-off Period in relation to the Relevant Contract Category shall not exceed three times the amount of the Clearing Member's required Relevant Guaranty Fund Contribution immediately prior to the commencement of the Cooling-off Period (with any Assessment Contributions payable in respect of the Event of Default which occurred prior to the start of the Cooling-Off Period being counted towards reducing such maximum amount); and a Clearing Member in a Cooling-off Period that has made a total of three Relevant Assessment Contributions shall not be liable for any further replenishments of its Relevant Guaranty Fund Contribution or Relevant Assessment Contributions, regardless of how many additional Events of Default take place;
  - (iii) for the avoidance of doubt, the required Guaranty Fund Contribution-based caps on the amount of Assessment Contributions for a Clearing Member in respect of each particular Relevant Contract Category shall apply on a per Event of Default basis, in the same way as set out in the paragraph beginning "CAA" in Rule 909(c) and the first sentence of Rule 909(f), in respect of each Event of Default occurring or declared during the Cooling-off Period;
  - (iv) Clearing Members remain liable to make Relevant Guaranty Fund Contributions under Rule 1102(i) or Rule 1102(j), subject to Rule 917(b)(ii); and
  - (v) the Clearing House may rebalance, re-set or recalculate the Relevant Guaranty Fund Contribution requirements or the total required amount in any Relevant Guaranty Fund for purposes of determining liability for replenishment of Relevant Guaranty Fund Contributions or Relevant Assessment Contributions, but such adjustments will not affect the limits provided in Rule 917(b)(ii);

provided that the limits set out in this Rule 917(b) shall only apply if the Clearing Member continues during the Cooling-off Period to pay the Clearing House all amounts when due (subject to the caps and limits set out in this Rule 917(b)).

Part 9 – Default RulesRule 917 – Cooling-off Period and Clearing Member Termination Rights

- (c) At any time during the Cooling-off Termination Period, a Clearing Member or Sponsored Principal with the Relevant Membership Category may give written notice of termination of that Membership Category or of its membership of the Clearing House to the Clearing House.
- (d) At the end of the Cooling-off Period, the restrictions and requirements of Rule 917(b) shall cease to apply, subject to Rule 918(a)(ii), going forwards, to each Clearing Member that has not served a Termination Notice during the Cooling-off Termination Period.
- (e)
  - (i) Nothing in this Rule 917 shall limit the Clearing House's right to call for Margin from any Clearing Member pursuant to Rule 502.
  - (ii) In addition to any Margin otherwise required by the Clearing House under the Rules, if:
    - (A) during the Cooling-off Period a Clearing Member has provided Relevant Guaranty Fund Contributions and/or Assessment Contribution in the aggregate equal to the maximum amount specified under Rule 917(b)(ii); and
    - (B) if such Clearing Member would, but for the provisions of this Rule 917, at any time be required to provide a Relevant Guaranty Fund Contribution,

such Clearing Member shall transfer to the Clearing House, by the open of business on the Business Day following request by the Clearing House and maintain with the Clearing House during the Cooling-off Period, additional Initial/Original Margin needed for the Clearing House to maintain compliance with applicable minimum regulatory financial resources requirements during the remainder of the Cooling-off Period. Such additional Initial/Original Margin may be calculated separately with respect to each Proprietary Account and Customer Account, on a net basis in each case, but in both cases shall be charged to one of the Clearing Member's Proprietary Accounts.

**Part 9 – Default Rules**  
**Rule 918 – Termination of Membership**

**Rule 918**      ***Termination of membership***

- (a) A Clearing Member or Sponsored Principal that has served a Termination Notice, under Rule 917(c) is subject to the following requirements, obligations and provisions (and certain of these provisions are also applicable pursuant to other sorts of termination or withdrawal, pursuant to Rule 105(c), Rule 209(b) and Rule 209(d)) (in the case of a Sponsored Principal, solely in respect of the relevant Individually Segregated Sponsored Account):
- (i) it must use all reasonable endeavours, until such time (if any) as there is a subsequent Clearing House Event, to close out all of its open Contracts of the Relevant Contract Category prior to the Termination Close-Out Deadline Date;
  - (ii) if it closes out all of its open Contracts in respect of the Relevant Contract Category prior to the Termination Close-Out Deadline Date and complies with the other requirements of this Rule 918, it shall maintain the benefit of the protections set out in Rule 917(b) and such provision shall not apply solely during the Cooling-off Period;
  - (iii) after the Termination Notice Time, it shall only be entitled to submit Transactions relating to the Relevant Contract Category for clearing or become party to Contracts of the Relevant Contract Category which it can demonstrate have the overall effect of reducing Open Contract Positions in any Set of Contracts of a Relevant Contract Category or risks to the Clearing House associated with Contracts of a Relevant Contract Category, whether by hedging, novating, Transferring, terminating, liquidating or otherwise closing out such Contracts;
  - (iv) if it is a Clearing Member and has any open Contracts of the Relevant Contract Category with the Clearing House (whether recorded in a Proprietary Account or Customer Account) after the Termination Close-Out Deadline Date (and notwithstanding any provision of Rule 909 to the contrary) the Clearing Member shall as from the Termination Close-Out Deadline Date:
    - (A) become liable to replenish any Relevant Guaranty Fund Contribution that would have fallen due for replenishment but has not been paid, become liable to have applied any Relevant Guaranty Fund Contribution that would have been applied but was not so applied and become liable to pay any Relevant Assessment Contribution that would have fallen due but has not been paid, in each case to the extent that the same would have been payable or applied but for its service of a Termination Notice and in each case in respect of any Event of Default affecting a Clearing Member with a Relevant Membership Category that has occurred subsequent to the Termination Notice Time;
    - (B) become liable for further obligations to replenish any Relevant Guaranty Fund Contribution, have any Relevant Guaranty Fund Contribution applied or pay Relevant Assessment Contributions in the same way as any other Clearing Member with its Membership Categories in respect of any Event of Default occurring prior to the Termination Date; and

**Part 9 – Default Rules**  
**Rule 918 – Termination of Membership**

- (C) be subject to the Clearing House exercising rights in Part 9 to liquidate or Transfer the Open Contract Positions of the Clearing Member of the Relevant Contract Category (insofar as they relate to clearing of Contracts relating to a Relevant Contract Category) and otherwise deal with the Clearing Member's Contracts and property in the same way as if the Clearing Member were a Defaulter.
- (v) the Clearing House may call for additional Original/Initial Margin until such time as all of its open Contracts of the Relevant Contract Category have been terminated, and such Clearing Member or Sponsored Principal shall pay such additional Original/Initial Margin to the Clearing House as is requested on time;
- (vi) if it is a Clearing Member, it shall be obliged to participate in Default Auctions pursuant to the Default Auction Procedures in the same way as any other non-defaulting Clearing Member and subject to the provisions of Rule 908(h) in respect of all Events of Default occurring prior to the Cooling-off Period Trigger Event which gave rise to or extended the Cooling-off Termination Period during which the Clearing Member served its Termination Notice (or, if Rule 917(c) does not apply, the Termination Notice Time);
- (vii) [not used];
- (viii) following termination of all open Contracts of the Relevant Contract Category to which a terminating Clearing Member or Sponsored Principal (the "**Terminating Participant**") was party in relation to a particular Customer Account or Proprietary Account, the Clearing House shall then declare a net sum (which may be declared in parts, as envisaged below) as due to or from the Terminating Participant in accordance with Rules 904 and 906, in the same way as if the Terminating Participant were a Defaulter but with the following modifications:
  - (A) references in Part 9 to "Default" or an "Event of Default" shall be read as references to a Terminating Participant terminating its membership of the Relevant Membership Category and, in the case of a failure to close out Contracts of the Relevant Contract Category only in respect of a particular Customer Account or Proprietary Account, shall be construed as applying only in respect of such account;
  - (B) any net sum calculated in relation to the Terminating Participant under Rule 906 will be calculated only with regard to rights, obligations and liabilities relating to the Relevant Contract Category and any such net sum which is payable to the Terminating Participant shall not be paid by the Clearing House to such Terminating Participant until the later of:
    - (1) ten Business Days after the date on which the termination of the Terminating Participant's open Contracts of the Relevant Contract Category and the realisation or return of any Original/Initial Margin provided in respect of such Contracts, Relevant Guaranty Fund Contributions or other assets

*Part 9 – Default Rules*  
*Rule 918 – Termination of Membership*

remaining credited to the Terminating Participant's relevant Proprietary Account or Customer Account in respect of clearing of the Relevant Contract Category or otherwise in the Clearing House's possession in respect of clearing of the Relevant Contract Category is completed (subject always to Rule 102(q)); or

- (2) if the Terminating Participant has any unapplied Relevant Guaranty Fund Contributions, the date of expiry of the Guaranty Fund Period for the Relevant Guaranty Fund immediately following the Guaranty Fund Period current on the Termination Date;

(C) notwithstanding anything in Part 9 or elsewhere in these Rules:

- (1) the Clearing House may at its discretion return amounts due to the Terminating Participant in different currencies or by way of transfer or return of non-cash Permitted Cover to the Terminating Participant;
- (2) the Clearing House may further pay any net sum calculated under Rule 906 and payable to the Terminating Participant in different amounts denominated in different currencies and is not required to pay a single sum in one currency; and
- (3) the Clearing House may make part payment of any amounts due excluding the Relevant Guaranty Fund Contribution prior to the time specified in Rule 918(a)(viii)(B).

(D) it is acknowledged that any 'net sum' declared in accordance with this Rule 918(a)(viii) is not formally a 'net sum' for purposes of the Companies Act 1989 or Settlement Finality Regulations;

(E) a Clearing Member or Sponsored Principal subject to these provisions is not a Defaulter and no Default Notice will be issued or required to be issued in respect of such Clearing Member, Sponsor or Sponsored Principal in order for the Clearing House to exercise its rights under this provision or for the Clearing Member, Sponsor or Sponsored Principal in question to receive any payment or return of assets; and

(F) references to Part 9 in any other Rules or in the Procedures, Circulars or Guidance shall be construed in accordance with this Rule 918 when they fall to be applied in relation to the termination of a Clearing Member's membership or Sponsored Principal's status under this Rule 918 and any action taken by the Clearing House following such termination taking effect.

(b) If:



**Part 9 – Default Rules**

**Rule 918 – Termination of Membership**

- (i) a Clearing Member has served a Termination Notice under Rule 917(c);
- (ii) there is an Event of Default or are Events of Default before the relevant Termination Date,

then the Clearing Member in question shall remain liable for the application of any then unapplied Relevant Guaranty Fund Contributions and unapplied Relevant Assessment Contributions (including those paid or which the Clearing Member is liable to pay under Rule 209(d)) for all such Events of Default (as if all such Events of Default had been declared by the Clearing House prior to the Termination Notice Time), subject to the general limits relating to particular Events of Default and all Events of Default referred to in this Rule 918.

- (c) Any Termination Notice issued by a Clearing Member or Sponsored Principal shall be irrevocable by the Clearing Member or Sponsored Principal and membership may only be reinstated pursuant to a new application for membership following the close-out of all its open Contracts of the Relevant Contract Category.
- (d) A Clearing Member whose membership in respect of the Relevant Membership Category has terminated shall, following the Termination Date, cease to be liable for Guaranty Fund Contribution replenishments under Rule 1102 in respect of ~~Events~~any Event of Default relating to the Relevant Contract Category or affected Membership Category that occurs after the Termination Date.

**Part 9 – Default Rules**  
**Rule 919 – Non-Default Losses and Investment Losses**

**Rule 919      *Non-Default Losses and Investment Losses***

- (a) This Rule 919 shall only apply if:
- (i) there has been a Non-Default Loss or Investment Loss; and
  - (ii) there has been no Clearing House Event.
- (b) Any Non-Default Loss will first be met by the Clearing House applying any Loss Assets that were available at the time of the event giving rise to the Non-Default Loss and after that, only by applying any other available capital or assets of the Clearing House. The first portion of any Investment Loss will also be met by the Clearing House first applying any Loss Assets that were available at the time of the event giving rise to the Investment Loss prior to taking any action under Rule 919(c).
- (c) Upon the Clearing House certifying an Investment Loss Amount in a Circular of an amount greater than the Loss Assets that were available at the time of the event giving rise to the Investment Loss, all Clearing Members shall indemnify the Clearing House and become liable to pay Collateral Offset Obligations to the Clearing House in accordance with the formula set out in Rule 919(d). Any Circular under this Rule 919(c) shall specify:
- (i) the nature and extent of the Investment Loss
  - (ii) the date on which Collateral Offset Obligations will become due; and
  - (iii) such other matters as the Clearing House considers are relevant.
- (d) The Collateral Offset Obligation payable by each Clearing Member shall be the amount:

$$(ILA - LA) \quad \times \quad \frac{GF\&M(CM)}{GF\&M(all)}$$

subject to the caps in Rules 919(d)-(e).

where:

*ILA* is the Investment Loss Amount certified by the Clearing House in a Circular;

*LA* is the total amount of available Loss Assets at the time of the event giving rise to the Investment Loss and have been or are to be attributed to meet the Investment Loss Amount;

*GF&M(CM)* is the total of all Original/Initial Margin, Guaranty Fund Contributions and Permitted Cover in respect thereof for all Contract Categories across all Accounts of the relevant Clearing Member at the time of the event giving rise to the Investment Loss (provided that for a Defaulter, *GF&M(CM)* shall only equal the amount of such Original/Initial Margin and Permitted Cover that is not otherwise used to offset amounts representing losses in the net sum calculation as a result of the Default); and

Part 9 – Default RulesRule 919 – Non-Default Losses and Investment Losses

*GF&M(all)* is the total of all Original/Initial Margin, Guaranty Fund Contributions and Permitted Cover in respect thereof for all Contract Categories across all Accounts of all Clearing Members at the time of the event giving rise to the Investment Loss (less Original/Initial Margin, Guaranty Fund Contributions and Permitted Cover in respect thereof provided by Defaulters that is used to offset amounts representing losses in the net sum calculation pursuant to these Rules as a result of the Default and excluding the Clearing House Contributions and Loss Assets).

- (e) The Collateral Offset Obligation of any Clearing Member shall at no time exceed the total of the Original/Initial Margin, Guaranty Fund Contributions and Permitted Cover in respect thereof that it has transferred to the Clearing House at the time of the event giving rise to the Investment Loss across all its Accounts.
- (f) All Collateral Offset Obligations shall arise on the date specified in the Circular under Rule 919(c). Any Collateral Offset Obligations falling due may, at the election of the Clearing House, be offset against the obligation of the Clearing House to return or pay any Original/Initial Margin, Guaranty Fund Contributions or other Permitted Cover to a Clearing Member and will be collected pursuant to a call for additional cash Margin or cash Guaranty Fund Contributions from a Proprietary Account of the Clearing Member in accordance with Rule 302 and the Finance Procedures. In the case of a Defaulter, Collateral Offset Obligations may, at the election of the Clearing House, be included in any net sum calculation or offset against any obligation to return or pay outside of the net sum calculation any Original/Initial Margin, Guaranty Fund Contributions or other Permitted Cover that has not been included in the net sum calculation pursuant to these Rules as a result of the Default. Collection from a Proprietary Account is not intended to prevent the Clearing Member from passing on the cost of a Collateral Offset Obligation to any of its Customers under the relevant Customer-Clearing Member Agreement or Standard Terms, to the extent that the Collateral Offset Obligation relates to Margin on a Customer Account or is otherwise attributable to a Customer and to the extent permitted by Applicable Laws.
- (g) The Clearing House shall apply Collateral Offset Obligations solely to meet Investment Losses referred to in a Circular under Rule 919(c).
- (h) If, after any Collateral Offset Obligations have fallen due, the Clearing House collects amounts from an issuer, counterparty or otherwise so as to reduce an Investment Loss, in either case in cleared funds, the Clearing House shall be obliged to pay the amount or value of Permitted Cover so collected (less any expenses of the Clearing House, including without limitation any expenses incurred in connection with recovery) to the Clearing Members that provided such Collateral Offset Obligations *pro rata* in respect of satisfied Collateral Offset Obligations relating to the event in question, subject to the Clearing House first retaining or repaying amounts up to the amount of any assets of the Clearing House (not being Loss Assets) or other Persons applied to meet the Investment Loss following exhaustion of the assets specified in this Rule 919 or in substitution of any such assets.
- (i) No Collateral Offset Obligation shall reduce or otherwise affect the liability of a Clearing Member to make Guaranty Fund Contributions pursuant to Rule 1101 *et seq.*, to replenish any Guaranty Fund Contribution pursuant to Rule 1102(i) or to pay Assessment Contributions. Notwithstanding any Collateral Offset Obligations, Clearing Members shall

**Part 9 – Default Rules****Rule 919 – Non-Default Losses and Investment Losses**

remain liable to pay, and shall continue to make timely payment of, all amounts falling due to, and shall remain liable to deliver, and shall continue to make timely delivery of, all property falling due for delivery to, the Clearing House in accordance with the Rules and Procedures, including obligations to pay Original/Initial Margin, Guaranty Fund Contributions and Assessment Contributions and the Clearing House will remain liable to pay or release Margin and Permitted Cover to Clearing Members in the usual way, subject to netting under Part 3 and the Finance Procedures to take into account the effect of any Collateral Offset Obligation. All such payments shall be made without regard to whether any payment which would have fallen due (were it not for the Collateral Offset Obligations) and without any offsetting or withholding of amounts under any other right of or to netting, set-off, lien, recouping, property, combination of accounts or other basis.

- (j) If the Clearing House determines that it has provided for Collateral Offset Obligations in excess of that required or actually applied against an Investment Loss (less Loss Assets applied) or makes a recovery that is due to Clearing Members under Rule 909(l), it shall credit any excess or recovered amounts due to the Clearing Member's Proprietary Account. Credit to a Proprietary Account is not intended to prevent the Clearing Member from passing on the credit related to a Collateral Offset Obligation to any of its Customers under the relevant Customer-Clearing Member Agreement and Standard Terms, to the extent that the Collateral Offset Obligation relates to Margin or Permitted Cover on a Customer Account or is otherwise attributable to a Customer. If a Proprietary Account becomes over-collateralised as a result of any such credit, any resulting Surplus Collateral will be available for withdrawal under Part 3 and the Finance Procedures in the normal way.
- (k) Liabilities of Clearing Members in respect of Collateral Offset Obligations under this Rule 919 shall apply independently from any powers of assessment under Rule 909 and give rise to a separate and additional payment obligation for Clearing Members. For the avoidance of doubt, none of the caps on powers of assessment liabilities arising pursuant to Rule 917 or 918 shall restrict or limit any liability of a Clearing Member in respect of Collateral Offset Obligations under this Rule 919. The conditions in Rule 916(a)(ii)(B)(2) shall not be considered satisfied to the extent that they are only satisfied as a result of any Non-Default Loss or Investment Loss.
- (l) Any right being exercised or circumstances occurring that are governed by this Rule 919 shall not constitute any kind of Clearing House Event.
- (m) Payments of Collateral Offset Obligations may be made pursuant to Part 3 of the Rules and the Finance Procedures. This Rule 919 is without prejudice to the Clearing House's rights to set off or net any sum owed by a Clearing Member to the Clearing House against any sum payable by the Clearing House to a Clearing Member or to any other powers of the Clearing House under Parts 3, 9 or 11 or the Procedures, but the Clearing House may not take any action under those provisions to the extent inconsistent with the provisions of this Rule 919.
- (n) Nothing in this Rule 919 shall require the Clearing House to pursue any litigation, claim or other action against a Clearing Member, Defaulter, Custodian or any other Person in

*Part 9 – Default Rules**Rule 919 – Non-Default Losses and Investment Losses*

respect of any amount, obligation or asset which is owed or due but unpaid or unsatisfied by such Clearing Member, Defaulter, Custodian or other Person.

- (o) In carrying out any calculations or making any determinations pursuant to this Rule 919, the Clearing House may convert any amounts denominated in one currency into another currency chosen by the Clearing House in its discretion and at a rate of exchange chosen by the Clearing House in its discretion, provided the Clearing House shall act in a commercially reasonable manner when choosing a currency or a rate of exchange for the aforesaid purposes.
- (p) The Clearing House will notify Clearing Members from time to time, by Circular of the total amount of Loss Assets, which will be set at a level of USD 90 million as at the date of introduction of this Rule.
- (q) The total amount of Loss Assets applied in connection with any Investment Loss shall be notified to Clearing Members in a Circular prior to or promptly after the same being applied or replenished. The Clearing House may also replenish any regulatory capital, using its or its Affiliates' resources or otherwise, as is required to bring it in compliance with Applicable Laws at any time including following an Investment Loss or Non-Default Loss. However, no such recapitalisation shall result in any obligation of any Clearing Member to pay Collateral Offset Obligations being reduced nor the size of any Investment Loss being reduced. The Clearing House may replenish Loss Assets through re-applying retained earnings, where these are available. To the extent that the Clearing House replenishes Loss Assets or its capital in such or other circumstances, its liability for any further Non-Default Losses or Investment Losses shall not exceed the amount specified in Rule 919(p) or such other amount as is notified by Circular.
- (r) Without limiting Rule 111 or Rule 502, but subject to any contrary requirements of Applicable Laws or this Rule 919, the Clearing House shall not be liable to any Clearing Member, Customer or other Person for any losses, liabilities, damages, costs, claims, shortfalls or expenses arising out of or relating to any failure, in whole or in part, of any payment or securities services provider, including without limitation any Custodian, Approved Financial Institution, central securities depository or central bank.

## Part 10 – Disciplinary Proceedings

### **Part 10 Disciplinary Proceedings**

#### **Rule 1001 Complaints**

- (a) The Clearing House shall consider all complaints made to it in writing by a Clearing Member and may consider any complaints made to it by any other person. If the Clearing House, in its discretion, considers it appropriate or if it is otherwise compelled to do so under any Applicable Law, the Clearing House may refer the matter or make a report on the matter to a Market, Regulatory Authority or Governmental Authority.
- (b) In the case of a complaint which alleges a breach of these Rules, the Clearing House may authorise an investigation or commence disciplinary proceedings under this Part 10 or take no further action if it considers it disproportionate or otherwise, in its discretion.
- (c) The Clearing House shall inform the complainant in writing of any steps taken as a result of the complaint and of the result thereof.
- (d) In the event of a complaint against the Clearing House or any of its Directors, officers, employees or committees (or any individual committee member) (or agents in their capacity as such), such complaint shall be investigated in accordance with the Complaint Resolution Procedures and shall not otherwise be subject to this Part 10.

#### **Rule 1002 Investigations**

- (a) Investigations into breaches or alleged breaches of the Rules may be authorised and conducted by the Clearing House.
- (b) Upon determining that a complaint, matter or concern requires investigation, the Clearing House shall issue a Notice of Investigation ("NoI") notifying the Clearing Member concerned that an investigation has been commenced. The NoI shall be sent to the Clearing Member or the person concerned and shall contain a brief description of the issue under investigation.
- (c) In the course of conducting an investigation, the Clearing House may obtain the assistance of such professional, legal or accounting advisers, Clearing Organisations, Exchanges, Regulatory Authorities and advisers or other Persons as it thinks fit. Any external adviser appointed by the Clearing House shall be required to treat all information obtained as well as any information he has been given access to in the course of the investigation as confidential and to disclose it only to the Clearing House, save where compelled to disclose such documents to a third party under any Applicable Law.
- (d) Clearing Members shall co-operate fully with all investigations (whether or not such Clearing Member or person is the direct subject of such investigation). Without limitation, each Clearing Member shall:
  - (i) promptly furnish to the Clearing House, or, if the Clearing House so directs, provide the Clearing House with access to, such information and documentary and other material (including any information in electronic form) as may reasonably be



*Part 10 – Disciplinary Proceedings*

requested (including without limitation in the case of Clearing Members, details of the Clearing Member's Customers' accounts);

- (ii) permit those persons appointed to carry out or assist in carrying out the investigation on reasonable notice, such notice being commensurate with the seriousness of the potential or alleged breach of the Rules and to enter any premises in any part of the world where the Clearing Member carries on its business or maintains its records during normal business hours for the purpose of carrying out such investigation. Each Clearing Member hereby irrevocably grants the Clearing House a licence for this purpose and shall procure a licence to the Clearing House from any Affiliated Person, agent or third party under its control that is necessary for this purpose;
  - (iii) use its best endeavours to make available for interview such of the Clearing Member's Representatives as may reasonably be requested and use its best endeavours to ensure that such persons answer truthfully and fully any question put to him or them by or on behalf of the Clearing House. A Clearing Member who fails to procure that any of its Representatives attend an interview or hearing with the Clearing House and who fails in the reasonable opinion of the Clearing House to demonstrate good cause for such failure may be fined £1000 per day of non-attendance, such fine representing a genuine pre-estimate of the likely cost to the Clearing Houses attributable to such non-attendance, and in addition the Clearing Member may be suspended by the Clearing House until the Clearing Member takes reasonable steps to make its Representatives available on an alternative date;
  - (iv) make available for inspection, or, if the Clearing House so directs, provide the Clearing House with access to, such documents, records or other material in its possession, power or control as may reasonably be required and, upon request, provide copies of the same; and
  - (v) use its best endeavours to ensure that so far as possible its Representatives give similar co-operation.
- (e) Failure to co-operate with an investigation by the Clearing House, failure to provide information requested on a timely basis and concealment or destruction of evidence are each, for the avoidance of doubt, a breach of these Rules and can give rise to further disciplinary action being taken against the Clearing Member.
- (f) Once the Clearing House has concluded its investigation into an alleged breach of the Rules, it shall send to the relevant Clearing Member a letter of mindedness ("**Letter of Mindedness**") setting out its preliminary factual conclusions and its intended course of action in relation to the alleged breach.
- (g) Following its service of the Letter of Mindedness, the Clearing House shall invite the Clearing Member to either attend an initial meeting ("**IM**") or alternatively send the Clearing House written comments. The purpose of the IM or the written comments shall be to afford the Clearing Member an opportunity to correct any factual error(s) or inaccuracy it considers to be contained in the Letter of Mindedness. The IM is not intended to be a hearing. The IM will take place in private on a confidential basis, subject, in the case of the

Part 10 – Disciplinary Proceedings

Clearing House, to Rule 106. The Clearing House and Clearing Member shall each be entitled to nominate up to four attendees, who may include lawyers or legal advisers.

- (h) Following the IM or the receipt of written comments from the Clearing Member (if received within a reasonable time) the Clearing House shall finalise its initial findings and communicate these and any of the steps it proposes taking under Rule 1002(i) in writing to the Clearing Member. The Clearing House will notify the Clearing Member of: (i) any act or practice which the Clearing Member has been found to have carried out or omitted; (ii) a citation of the relevant provisions which are considered to have breached; and (iii) the proposed sanction to be imposed and the reasons therefor.
- (i) Without prejudice to any other powers following the completion of its investigation the Clearing House may:
- (i) decide that no further action should be taken and notify any Clearing Member or other Person concerned in writing accordingly;
  - (ii) ~~in the event of a minor breach,~~ to issue a written warning (which shall be private save as provided for in Rule 1002(i)(vii) below) to the Clearing Member concerned (or, in the case of such a breach by some other Person, that Person with a copy to any Clearing Member with whom he was associated at the time of such breach);
  - (iii) ~~order that the Clearing Member concerned pay a fine which the Clearing House in its discretion regards as commensurate with a breach of the Rules, the amount of such fine to be appealable to the Appeal Panel directly without reference first to~~ impose sanctions pursuant to the Summary Disciplinary Panel Process under Rule 1008;
  - (iv) commence disciplinary proceedings under Rule 1003 *et seq.*;
  - (v) refer the matter for further enquiry by the Clearing House, a Market or a Governmental Authority where the Clearing House considers it necessary to investigate further;
  - (vi) report the findings of the investigation and hand over any documents or communicate any information it has acquired whether during the course of its investigation or otherwise, to other Clearing Organisations, Exchanges, Regulatory Authorities or Governmental Authorities;
  - (vii) publish such findings as it has made following the IM or after having received written comments and in such detail as the Clearing House deems appropriate where the matter under investigation is considered of relevance to the market in general or in the public interest, save that the Clearing Member shall be afforded an opportunity to comment on the text of such an announcement during a period of no less than 48 hours prior to publication, such period commencing on a Business Day; or

## Part 10 – Disciplinary Proceedings

(viii) any combination of the foregoing,

provided that the Clearing House may, in an appropriate case, take more than one of the above actions in relation to any one Clearing Member and/or different actions in relation to different Clearing Members concerned in the same investigation or on similar facts.

### **Rule 1003 Disciplinary Proceedings**

- (a) Disciplinary proceedings may be commenced by the Clearing House only when the Clearing House is satisfied that there is *prima facie* evidence of a breach of the Rules by a Clearing Member.
- (b) Upon determining that disciplinary proceedings should be commenced, the Clearing House must notify the Clearing Member in writing that disciplinary proceedings are to be commenced and establish a Disciplinary Panel. [The Clearing House must also establish a Disciplinary Panel where so required by an Appeal Panel pursuant to Rule 1005\(a\)\(iii\) or Rule 1008\(h\).](#) Each Disciplinary Panel shall consist of a chairman sitting with two other persons. Such persons, including the chairman, who are appointed to the Disciplinary Panel may be drawn from market practitioners, experts, lawyers or other suitable persons at the discretion of the Clearing House. The Clearing House shall appoint the chairman and members of the Disciplinary Panel. Neither employees nor directors of the Clearing House or Clearing Member subject to disciplinary proceedings nor any of their Affiliated Persons, Representatives or Customers shall be appointed to a Disciplinary Panel. Expert assessors may be appointed, at the discretion of the Disciplinary Panel itself, to sit with and advise the Disciplinary Panel but such persons shall not be entitled to vote. No person shall be appointed to a Disciplinary Panel or be eligible as an expert assessor if he has any personal or financial interest in the investigation which has led to the current disciplinary proceedings or has been involved in any investigation into or previous Disciplinary Panel dealing with or relating to the matter which is the subject of the current disciplinary proceedings.
- (c) The Clearing Member in respect of whom the disciplinary proceedings are to be brought shall be notified of the composition of the Disciplinary Panel within seven calendar days of it having been established. The said member will then have a further ten calendar days to object to any particular appointment to the Disciplinary Panel. Such objection which must be in writing will be sent to the Clearing House and its validity will be determined in the first instance by the chairman of the Disciplinary Panel and, in the event that the objection related to the appointment of the chairman of the Disciplinary Panel, the Chairman of the Clearing House.
- (d) In the event that any member of the Disciplinary Panel having or acquiring a personal or financial interest in the subject matter of the disciplinary proceedings or in any other way being or becoming incapacitated or permanently unavailable, the chairman of the Disciplinary Panel (or in the case of the chairman of the Disciplinary Panel, the Chairman of the Clearing House) may direct that the Disciplinary Panel shall either continue to act with a reduced number or appoint another person to take the place of the retiring member of the Disciplinary Panel (and the disciplinary proceedings shall then proceed as if such person had

[Part 10 – Disciplinary Proceedings](#)

been originally appointed in lieu of the first person) or may direct that a new Disciplinary Panel should be appointed to hear the matter.

- (e) In the event of an equality of votes in relation to any matter before the Disciplinary Panel, the chairman shall have a second or casting vote in reaching any determination.
- (f) The Clearing House may discontinue disciplinary proceedings or reach a settlement with the Clearing Member on such terms as it sees fit at any stage during the course of the disciplinary proceedings (including any Summary Procedure pursuant to Rule 1004 or any appeal).
- (g) After the appointment of a Disciplinary Panel, the Clearing House shall serve a formal written notice ("**Notice**") on the Clearing Member, setting out the alleged breach of the Rules, including a summary of the facts relied upon in sufficient detail to enable a party in the Clearing Member's position properly to understand and respond to the allegations made against it.
- (h) The Clearing Member shall have 20 calendar days (or such further time as either the Clearing House or Disciplinary Panel may in their discretion allow) from the date of service of the Notice in which to serve a statement of defence (the "**Defence**"). The Defence shall state whether the Clearing Member the subject of a Notice accepts the allegations in the Notice and what admissions of fact, if any, it makes. If no Defence has been served within 20 calendar days of service of the Notice or such extended period as has been agreed, the Disciplinary Panel may in its discretion deem the Clearing Member to have agreed to and accepted the facts and matters specified in the Notice.
- (i) The Clearing House may at any time amend a Notice by a change to the breach alleged in the Notice, addition of another breach to that specified in the Notice, or any other deletion, alteration or addition, provided that:
  - (i) the deletion, alteration, addition, change, amendment or variation arises out of or in connection with the conduct which is the subject of the Disciplinary Proceedings;
  - (ii) the essential character of the nature of the breach has not been changed even though further evidence may have become available;
  - (iii) the Clearing Member or other respondent would not be substantially prejudiced in any defence he might wish to put before the Disciplinary Panel; and
  - (iv) the Disciplinary Panel has not previously and does not subsequently make a procedural ruling adverse to the Clearing House in connection with such deletion, alteration, addition, change, amendment or variation.

Following any such deletion, alteration, addition, change, amendment or variation of a Notice, the Clearing House shall serve an amended Notice on the Clearing Member.

- (j) For the avoidance of doubt, the power of the Clearing House to amend a Notice exists where the Clearing House has in its discretion determined that a separate or unrelated

## Part 10 – Disciplinary Proceedings

*prima facie* breach of the Rules has been revealed during the course of the disciplinary proceedings. The Disciplinary Panel may order an adjournment of the disciplinary proceedings at any stage upon an application by the Clearing House to enable such an alleged separate or unrelated *prima facie* breach to be investigated further. The Clearing House is not required to hold a further IM or otherwise consult with the Clearing Member in respect of additional or new alleged breaches which come to its attention during the disciplinary proceedings whether or not any further investigations are carried out by the Clearing House.

- (k) Following service of any amended Notice, the Clearing Member shall have 14 calendar days or such extended period as may be agreed with the Clearing House or as directed by the Disciplinary Panel to make any consequential amendment of its Defence. If no amended Defence is served within 14 calendar days of service of the amended Notice on the Clearing Member, the Disciplinary Panel may in its discretion deem the Clearing Member to have accepted the facts and matters alleged in the Notice as amended.
- (l) The Disciplinary Panel shall hear submissions on the matter of the alleged breach of the Rules and shall determine whether there has been a violation of the Rules and, if so, the appropriate sanction (if any) to be imposed. In carrying out this function, the Disciplinary Panel acting as a whole or through the chairman may adopt such procedure as it thinks fit to deal with disciplinary proceedings, including any hearing as well as the holding of a pre-hearing review to hear procedural applications by the Clearing House or Clearing Member at any stage following its composition or in order to set a procedural timetable. Without limitation, the Disciplinary Panel may:
  - (i) order the disclosure by the Clearing House or Clearing Member of such further statements, information, documents or other evidence as may be necessary;
  - (ii) allow either party to the disciplinary proceedings to serve further evidence within time limits ordered by the Disciplinary Panel;
  - (iii) issue directions and take such other steps as it considers appropriate for the clarification of the facts and issues and for the just and expeditious determination of the case;
  - (iv) balancing the need for cases to be dealt with expeditiously and the need for affected Persons to have sufficient opportunity to prepare and present their case: specify deadlines for the production of documents or dates for hearings, which shall be binding on the parties;
  - (v) if it considers appropriate, but only with the express written agreement of the Clearing House and the Clearing Member concerned (or the Person concerned and any associated Clearing Member), decide to determine the case upon written submissions and evidence placed before it;
  - (vi) in all other cases, give the opportunity to, or require, the Clearing House and the Clearing Member to attend hearings before the Disciplinary Panel and the Clearing

Part 10 – Disciplinary Proceedings

- House and the Clearing Member may call witnesses to give evidence and be questioned;
- (vii) allow the Clearing Member and the Clearing House to be assisted or represented by any person, who may or may not be legally qualified;
  - (viii) call for any person to attend its hearings;
  - (ix) require hearings to be held in private unless the Clearing Member or Clearing House requests otherwise and the other consents; and
  - (x) appoint its own legal advisers.
- (m) The Disciplinary Panel shall apply the civil standard of proof on the balance of probabilities, with the cogency of evidence required being commensurate with the seriousness of the alleged breach.
  - (n) The Disciplinary Panel shall not be bound by any rule of law or court procedure concerning admissibility of evidence and may accept as conclusive any finding of fact made by any legally constituted court, tribunal, arbitrator, expert or any other Governmental Authority.
  - (o) If the Clearing House or Clearing Member should fail to meet a time limit imposed by the Disciplinary Panel or fail to attend a hearing, the Disciplinary Panel may in its discretion allow an extension of time, or adjourn its proceedings or proceed, if necessary in the absence of the Clearing Member.
  - (p) Following a hearing and having reached a decision as to whether a breach of the Rules has been proven in accordance with the standard of proof set out in Rule 1003(m), the Disciplinary Panel shall communicate in writing to the Clearing House and to the Clearing Member concerned its decision with reasons including, where appropriate, details of the breach and particulars of any sanction determined. For the avoidance of doubt, the Disciplinary Panel will notify the Clearing Member of: (i) any act or practice which the Clearing Member has been found to have carried out or omitted; (ii) a citation of the relevant provisions which are considered to have breached; and (iii) the proposed sanction to be imposed and the reasons therefor. Such decisions shall be deemed conclusive and binding upon expiry of the time permitted for the service of a notice of appeal or receipt by the Clearing House of any earlier written notice from the Clearing Member that such right of appeal will not be exercised. If a notice of appeal is served by the Clearing Member then any sanction shall be suspended until determination of the Appeal unless the Clearing House considers that in its absolute discretion any order for suspension of the Clearing Member should be enforced during the period prior to the determination of the Appeal. The Disciplinary Panel, where there is a finding that there has been a disciplinary breach, may in its absolute discretion communicate that finding to the parties and give them the opportunity to make representations as to the appropriate sanction(s) before deciding on the sanction(s) as well as any costs issues.



Part 10 – Disciplinary Proceedings

- (q) Subject to Rule 1003(t), the sanctions which may be imposed on a person subject to the Rules by a Disciplinary Panel shall not exceed the following:
- (i) the issue of a private warning or reprimand;
  - (ii) the issue of a public notice of censure;
  - (iii) in the case of a Representative, a finding that any Clearing Member for which such Representative is a director, controller, officer or employee would not meet the Clearing House's membership criteria for any period or indefinitely;
  - (iv) in the case of a Clearing Member, disqualification (either indefinitely or for a fixed term) of any of its Representatives from being a Director or member of a committee or any panel of the Clearing House;
  - (v) a fine of any amount, to be paid on such terms as may be prescribed;
  - (vi) the disgorgement of any gain made by the Clearing Member or its Representatives in connection with the breach of the Rules;
  - (vii) a recommendation to the relevant Market and/or Clearing House to suspend membership for a period of time or terminate the membership of the Clearing Member;
  - (viii) an order requiring the Clearing Member or Representative found to have committed the breach to take such steps including making an order for compensation, as the Disciplinary Panel may direct, to remedy the situation including, without limitation, making an order for restitution to any affected person when the Clearing Member (or person concerned) has profited (or avoided a loss) from a breach at that person's expense;
  - (ix) in an appropriate case, more than one of the above actions in relation to any one Clearing Member and/or different actions in relation to different Clearing Members concerned in the same investigation or on similar facts; and
  - (x) any combination of the foregoing.
- (r) Following any order by a Disciplinary Panel for the suspension or expulsion of a Clearing Member, the Clearing House may make such directions as it thinks fit in respect of Contracts to which that Clearing Member is a party (including, without limitation, directions for the reduction, transfer or liquidation of any of them).
- (s)
- (i) The contravention by a Clearing Member of any sanction imposed or direction made under or pursuant to Rule 1003(p) may be treated for all purposes as a breach of the Rules.

Part 10 – Disciplinary Proceedings

- (ii) A Disciplinary Panel may order any party to the proceedings to pay costs as it considers appropriate, including, but not limited to the costs of running the Disciplinary Panel, including the fees and expenses of the members of the Disciplinary Panel, any further administration costs directly attributable to the disciplinary proceedings, costs incurred in the investigation, preparation and presentation of the case, including the costs of the Clearing House's and Disciplinary Panel's external advisers. Any order in relation to payment of costs may also specify the manner of assessment to be used as well as a timetable for payment.
- (t) The following sanctions may be imposed by a Disciplinary Panel where the conduct in question is found by the Disciplinary Panel to result in whole or in part from the conduct of a Customer or client of a Customer of a Clearing Member:
  - (i) the issue of a private warning or reprimand naming the Customer or client of a Customer or any of their Representatives;
  - (ii) the issue of a public notice of censure naming the Customer or client of a Customer or any of their Representatives;
  - (iii) a recommendation to the Clearing House to suspend the Customer or client of a Customer (either indefinitely or for a fixed term) or any of their Representatives from being a Director or member of a committee of the Board or any panel established under the Rules or from being a Customer or client of a Customer of any Clearing Member of the Clearing House for purposes of Clearing or the Clearing of any particular product at the Clearing House;
  - (iv) a fine of any amount, to be paid by such Person as is specified by the Disciplinary Panel to the Clearing House (which shall be binding on the Customer or client of a Customer or any of their Representatives if so specified by the Disciplinary Panel), on such terms as may be prescribed;
  - (v) the disgorgement of any gain made by the Customer or client of a Customer or any of their Representatives in connection with the breach of the Rules payable by such Person as is specified by the Disciplinary Panel to the Clearing House (which shall be binding on the Customer or client of a Customer or any of their Representatives if so specified by the Disciplinary Panel), on such terms as may be prescribed;
  - (vi) in an appropriate case, more than one of the above actions in relation to any one Customer or client of a Customer or any of their Representatives and/or different actions in relation to different Customers or clients of Customers or any of their Representatives concerned in the same investigation or on similar facts; and
  - (vii) any combination of the foregoing.

The Disciplinary Panel shall only impose any sanction on a Person that it determines is or was responsible (whether solely, jointly or by way of contribution) for the relevant conduct. If sanctions are to be imposed as a result of any conduct of a Customer or client of a Customer, the relevant Clearing Member may present information or evidence to the

## Part 10 – Disciplinary Proceedings

relevant Disciplinary Panel as to whether any sanctions should be limited to those set out in this Rule 1003(t). If any pecuniary sanction imposed by a Disciplinary Panel is expressed to be payable by a Customer or any of its clients or their Representatives but not to be payable by the Clearing Member, the Clearing Member shall not be liable for payment of, or to collect, any such amount.

### **Rule 1004    *Summary Procedure***

- (a) A Clearing Member may submit in writing a request that the Clearing House adopt a summary procedure under this Rule 1004 ("**Summary Procedure**") for disposing of the matter within 14 days of a Notice being served. Such notice may be served by the Clearing Member at any time prior to the formation of the Disciplinary Panel.
- (b) The Clearing House may in its discretion agree to refer the matter to the Summary Procedure and shall notify the Clearing Member of any such determination. The Clearing House may refuse its agreement to use of a Summary Procedure where a Disciplinary Panel would in its view be a better forum to deal with the matter, which may (without limitation) be the case if the allegations are particularly serious or if the subject matter is considered of particular significance or relevance to the market in general or in the public interest.
- (c) Upon agreement to refer the matter to the Summary Procedure the Clearing House in its absolute discretion shall appoint three Directors or employees of the Clearing House or of any Clearing Member other than the Clearing Member subject to the Summary Procedure, who shall form a Summary Disciplinary Committee. The Clearing House shall appoint one such member of the Summary Disciplinary Committee to act as chairman.
- (d) The Summary Disciplinary Committee shall make such directions as to the conduct of the case as well as the hearing as it sees fit.
- (e) The Summary Disciplinary Committee shall apply the civil standard of proof on the balance of probabilities, with the cogency of evidence required being commensurate with the seriousness of the alleged breach. The Summary Disciplinary Committee shall not be bound by any rule of law or court procedure concerning admissibility of evidence and may accept as conclusive any finding of fact by a legally appointed court, tribunal, expert, arbitrator or Governmental Authority.
- (f) All hearings before the Summary Disciplinary Committee shall be held in private unless the Clearing House and the Clearing Member agree otherwise.
- (g) None of the Clearing House, the Clearing Member or the Summary Disciplinary Committee shall be represented by legal advisors at a hearing except with the prior express agreement of the Summary Disciplinary Committee.
- (h) Save as provided in Rule 1005, a Clearing Member that chooses to submit itself to the Summary Procedure expressly waives any right of appeal or review by any body including

## Part 10 – Disciplinary Proceedings

any court of law against any determination or ruling of the Summary Disciplinary Committee.

- (i) The Summary Disciplinary Committee shall, following the hearing, determine whether a Clearing Member has breached the Rules and shall determine what sanction or sanctions are to be imposed on the Clearing Member or Representative. Upon having determined in its absolute discretion whether a breach of the Rules has occurred, the Summary Disciplinary Committee shall communicate its findings and particulars of any sanction to the Clearing Member and the Clearing House. For the avoidance of doubt, the Summary Disciplinary Committee will notify the Clearing Member of: (i) any act or practice which the Clearing Member has been found to have carried out or omitted; (ii) a citation of the relevant provisions which are considered to have been breached; and (iii) the proposed sanction to be imposed and the reasons therefor. The Summary Disciplinary Committee has the same full range of powers of sanction which are open to a Disciplinary Panel and may impose a combination of any such sanctions as it sees fit, provided that the sanctions are limited to those set out in the Notice and any additional sanctions arising out of the conduct of the proceedings.
- (j) A determination or sanction imposed by the Summary Disciplinary Committee may be appealed under Rule 1005 to an Appeal Panel and shall not be referred to a Disciplinary Panel.

### **Rule 1005 Appeals**

- (a)
  - (i) Within 14 days of receiving notice in writing of a decision of a Disciplinary Panel, a determination in writing of a Summary Disciplinary Committee or a notice of sanction following the procedure referred to in Rule 1003(g) (whichever is the later), or such longer period as the chairman of the Disciplinary Panel or the Summary Disciplinary Committee may in his discretion direct at the conclusion of the disciplinary proceedings, a Clearing Member (whether current or former in the case of expulsion) or the Clearing House, or both, may appeal to an Appeal Panel by lodging with the Clearing House a notice of appeal in writing and by delivering a copy thereof to any other party to the disciplinary proceedings.
  - (ii) A notice of appeal shall set out the grounds of the appeal and shall contain a brief statement of all matters relied on by the appellant. The only grounds of the appeal may be any one or more of the following:
    - (A) the Disciplinary Panel or Summary Disciplinary Committee misdirected itself; or
    - (B) the Disciplinary Panel's or Summary Disciplinary Committee's decision was:
      - (1) one which no reasonable tribunal could have reached; or

Part 10 – Disciplinary Proceedings

- (2) unsupported by the evidence or was against the weight of the evidence; or
- (3) in the case of the Disciplinary Panel only, based on an error of law, or a misinterpretation of the Rules; or
- (C) the sanction imposed by the Disciplinary Panel, Clearing House or Summary Disciplinary Committee was excessive or, in the case of an appeal by the Clearing House, was insufficient or inappropriate; or
- (D) new evidence is available and that, had it been made available, the Disciplinary Panel, Clearing House or Summary Disciplinary Committee could reasonably have come to a different decision. This will not apply, in the case of the Disciplinary Panel only, if the evidence could have been adduced before the Disciplinary Panel by the exercise of reasonable diligence;

but no party may otherwise appeal on any other grounds.

- (iii) In the case of appeal against a sanction, the Appeal Panel may affirm, vary or revoke the sanction. The Appeal Panel may make such order or give such direction as it considers fit, including, in the case of an appeal from the Disciplinary Panel, a direction for a rehearing of the case by another newly constituted Disciplinary Panel.
- (b) Upon receipt of such a notice of appeal, the Clearing House shall appoint an Appeal Panel.
- (c) The Clearing House shall have 14 working days or such other period as the chairman of the Disciplinary Panel or the Summary Disciplinary Committee, as the case may be (or the Appeal Panel in its ~~exclusive~~ discretion should it be constituted at such time), may allow from the service of the notice of appeal to serve notice of any grounds on which it objects to such appeal.
- (d) The Appeal Panel shall consist of a lawyer sitting alone who shall be either a solicitor admitted in England and Wales or a member of the Bar of England and Wales in either case who has been in practice for over ten years and who shall be appointed at the discretion of the Clearing House. No members of any disciplinary panel, serving members of the Clearing House's committees dealing with any disciplinary or summary disciplinary proceedings, employees of the Clearing House or Clearing Member subject to disciplinary proceedings or any of their Affiliated Persons, Representatives or Customers shall be appointed to an Appeal Panel. Expert assessors may be appointed, at the discretion of the chairman of the Appeal Panel, to sit with and advise the Appeal Panel but not to vote. No Person shall serve on or sit with an Appeal Panel or act as an expert assessor if he has a personal or financial interest in or has been involved in any investigation into or previous disciplinary panel or Summary Disciplinary Committee hearing (including that which is the subject of the appeal itself) on the matter under consideration.

## Part 10 – Disciplinary Proceedings

- (e) The Appeal Panel may adopt such procedure as it thinks fit and just, including, without limitation, all or any of the procedures described in Rule 1003(l) and shall be bound by Rule 1003(m) and (n). The Appeal Panel shall have all the powers which are vested in Disciplinary Panels, whether procedural or otherwise. The appellant and the respondent may appear, make representations and (subject to any restriction on adducing new evidence), call witnesses, who may be examined and cross-examined.
- (f) The decision of an Appeal Panel shall be final and binding and there shall be no further appeal. The decision with reasons shall be notified to the appellant and respondent in writing without undue delay.
- (g) This Rule 1005 shall also apply to an appeal in respect of a sanction imposed pursuant to a Summary Disciplinary Process (to the extent and subject to modifications as set forth in Rule 1008).

### **Rule 1006     *Interaction with Market Rules and other processes under Procedures***

- (a) The existence of any disciplinary or other dispute resolution processes under any relevant Market Rules shall not preclude any process under this Part 10.
- (b) Where there are disciplinary processes of any Market under the relevant rules of any Market and disciplinary processes under this Part 10, and both the panel appointed under this Part 10 and any panel appointed under the relevant rules of any Market (who are composed of the same panel members) consider that the disciplinary processes involve at least one common Member of that Market or Clearing Member and substantially the same subject matter, the disciplinary processes under this Part 10 may be consolidated with the disciplinary processes under that Market's rules. In such circumstances, the same procedures, documents, notices, evidence and panel members may be used in both sets of disciplinary processes, as directed by the panel.
- (c) Disciplinary and other processes under this Part 10 shall not preclude the operation, competence or activities of any other committee, panel, court, expert or tribunal that is given powers or competences pursuant to this Part 10.

### **Rule 1007     *Sponsored Principals***

- (a) This Part 10 applies to Sponsored Principals in the same way as it applies to Clearing Members with no Customers.

### **Rule 1008     *Summary Disciplinary Process***

- (a) Without prejudice to any other powers of investigation and discipline in this Part 10 and subject at all times to Rule 1008(e), the Clearing House shall be entitled to adopt a summary disciplinary process (governed by this Rule 1008, "Summary Disciplinary Process") against a Clearing Member.
- (b) The Summary Disciplinary Process may be adopted and related sanctions may be imposed by the Clearing House pursuant to such process in relation to:



## Part 10 – Disciplinary Proceedings

- (i) the late filing or submission of any document, notice or information, including as required under Parts 2, 7, 10 or 19 of the Rules, the Membership Procedures or the Delivery Procedures;
  - (ii) the late making of any payment, including as required under Parts 3, 5, 9 or 11 of the Rules or the Finance Procedures;
  - (iii) any failure to record a Contract in the correct Account, including as required under Part 4 of the Rules or the Clearing Procedures;
  - (iv) the late making or taking of any delivery, including as required under Parts 7, 8 or 15 of the Rules, the Delivery Procedures or the CDS Procedures;
  - (v) any breach of Rule 202(a)(xix);
  - (vi) any breach of Rule 503(g);
  - (vii) any breach of a position limit under Part 6 of the Rules;
  - (viii) any breach of any provision of the Rules or Procedures that is considered by the Clearing House to be of a factual nature where the Clearing House holds sufficient evidence of such facts;
  - (ix) any breach of any provision of the Rules or Procedures that is considered by the Clearing House to be minor in nature; or
  - (x) any breach of the Rules or Procedures which the Clearing House considers would appropriately be addressed via the Summary Disciplinary Process.
- (c) In any Summary Disciplinary Process, relevant sanctions shall be limited to the following, as regards the Clearing Member or any Representative or Customer of the Clearing Member:
- (i) the issue of a private warning or reprimand naming the Clearing Member;
  - (ii) the issue of a private warning or reprimand naming a Customer or client of the Clearing Member or any Representative of the Clearing Member;
  - (iii) a fine of up to £50,000, to be paid on such terms and by such Person or Persons as may be prescribed; or
  - (iv) any combination of the foregoing.
- (d) If it wishes to impose a sanction pursuant to a Summary Disciplinary Process, the Clearing House shall first give notice in writing to the affected Clearing Member, specifying the provision(s) of the Rules or Procedures to which the alleged breach relates, the evidence upon which the alleged breach is based and the proposed sanction. The sanction shall not take effect until 14 days after the date of such notice or such later date as is specified in the notice.

Part 10 – Disciplinary Proceedings

- (e) A Clearing Member against whom sanctions pursuant to a Summary Disciplinary Process have been notified under Rule 1108(d) may, prior to the 14 day (or such later) period as is referred to under Rule 1008(d), give notice in writing that it wishes the matter to be heard by an Appeal Panel, in which case the sanction shall not take effect unless and until such time the Appeal Panel makes a decision affirming it. Any such notice must set out the grounds of the appeal and shall contain a brief statement of all matters relied on by the Clearing Member. The only grounds of the appeal may be any one or more of the following:
- (i) the facts relied on by the Clearing House as part of the Summary Disciplinary Process were incorrect;
  - (ii) the Clearing House's decision was unsupported by the evidence or was against the weight of the evidence; or
  - (iii) new evidence is available and that, had it been made available, the Clearing House reasonably have come to a different decision,
- and a Clearing Member may not otherwise appeal on any other grounds.
- (f) Upon receipt of such a notice of appeal, the Clearing House shall constitute an Appeal Panel in accordance with Rules 1005(b) and (d). Rules 1005(e) and (f) shall apply in relation to the powers of and procedures adopted by any such Appeal Panel.
- (g) The Clearing House shall have 14 working days, or such other period as the Appeal Panel in its discretion (should it be constituted at such time) may allow from the service of the notice of appeal, to serve notice of any grounds on which it objects to such appeal.
- (h) The Appeal Panel may affirm, vary or revoke the sanction imposed as part of a Summary Disciplinary Process taken by the Clearing House. The sanctions available to the Appeal Panel in respect of a matter which was originally subject to a Summary Disciplinary Process shall not be limited to those under Rule 1008(c). The Appeal Panel may make such order or give such direction as it considers fit, including a direction for a rehearing of the case by a Disciplinary Panel pursuant to Rule 1003 (in which case the Clearing Member may request for the Summary Procedures to apply instead in accordance with Rule 1004).
- (i) The Clearing House may give further guidance or information by way of Circular in relation to the operation of or procedures for the Summary Disciplinary Process, fining ranges for particular breaches of the Rules or Procedures or further information on the kinds of Rules or Procedures breaches that are likely to fall under Rule 1008(b).

## [Part 11 – Guaranty Funds](#)

### **Part 11 Guaranty Funds**

#### **Rule 1101 Establishment and parameters of the Guaranty Funds**

- (a) There shall be three separate Guaranty Funds operated by the Clearing House: the F&O Guaranty Fund, the CDS Guaranty Fund and the FX Guaranty Fund. F&O Clearing Members shall be liable to make and maintain F&O Guaranty Fund Contributions. CDS Clearing Members shall be liable to make and maintain CDS Guaranty Fund Contributions. FX Clearing Members shall be liable to make and maintain FX Guaranty Fund Contributions. The total amount required in each Guaranty Fund will be established by the Clearing House in accordance with the Finance Procedures. F&O Guaranty Fund Contributions will be designated for each Guaranty Fund Period and F&O Clearing Member as relating primarily to either Energy or Financials & Softs Clearing, based on the Margin requirements for such Contracts for the purposes of Rule 908(a)(v) to (vii). The total amounts of each Guaranty Fund will be expressed (and Guaranty Fund Contributions will be called) in the currency or currencies set out in the Finance Procedures and will be reviewed periodically by the Clearing House in advance of the end of each Guaranty Fund Period for each of those Guaranty Funds. If the Clearing House determines that the total amount in any Guaranty Fund is to change, Clearing Members will be given notice by Circular and will be informed of their new Guaranty Fund Contribution requirements prior to the start of the Guaranty Fund Period when the change becomes effective.
- (b) The Clearing House will communicate to Clearing Members by Circular the basis on which their Guaranty Fund Contributions are calculated.
- (c) The Clearing House may vary the parameters by reference to which Guaranty Fund Contributions are calculated from time to time and at any time upon issuing a Circular to Clearing Members. Any new parameters will come into effect on the date of the next applicable re-calculation of Guaranty Fund Contributions, unless Clearing Members are otherwise notified of a different effective date. Parameters for Guaranty Funds will be established on the basis that the Guaranty Fund Contributions of each Clearing Member for F&O, CDS or FX will be proportional to the exposures of each Clearing Member in F&O, CDS or FX and that each Guaranty Fund shall enable the Clearing House to withstand, under extreme but plausible market conditions, (i) at least the largest default of the Clearing Member to which it has the largest exposures or the second and third largest Clearing Members, if the sum of their exposures is larger or (ii) such other higher default parameters required by other Applicable Laws with respect to financial resource requirements. The Clearing House may add further parameters to define the size of any Guaranty Fund.
- (d) Clearing Members shall be required and liable to make Guaranty Fund Contributions in the amounts and at the times specified in accordance with Rule 1102 and Rule 1101(a), such that the Guaranty Funds are always at least of the size required pursuant to this Rule 1101, except in circumstances in which amounts are drawn down from any Guaranty Fund in order to meet liabilities resulting from an Event of Default and such amounts have not been replenished in accordance with this Part 11. For the avoidance of doubt, a Clearing Member will not be in breach of the Rules nor capable of being declared a Defaulter solely as a result of any of its Guaranty Fund Contributions being applied and its Guaranty Fund Contributions with the Clearing House not being the total required amount (unless and until

## Part 11 – Guaranty Funds

such time as the Clearing House issues a call for further Guaranty Fund Contributions and the amount called is not paid when due, in which case such Clearing Member may be declared a Defaulter).

- (e) Separate amounts of Guaranty Fund Contribution may be calculated based on the Proprietary Account Positions and Customer Account Positions (if any) of a Clearing Member, but this shall not result in any restriction on the use of any Guaranty Fund Contribution as between losses on such Accounts or any Account of a Defaulter following an Event of Default.

### **Rule 1102    *Clearing Members' Contributions***

- (a) Clearing Members' required Guaranty Fund Contributions at the start of each Guaranty Fund Period (or otherwise when a payment to a Guaranty Fund is due) will be calculated with reference to the total amount of the relevant Guaranty Fund established pursuant to Rule 1101.
- (b) F&O Guaranty Fund Contributions, CDS Guaranty Fund Contributions and FX Guaranty Fund Contributions, for each Clearing Member, will be calculated for each Guaranty Fund Period based on criteria set out in the Finance Procedures, risk policies and Circulars, in accordance with the requirements of EMIR and other Applicable Laws.
- (c) Required Guaranty Fund Contributions will be calculated or re-calculated, as the case may be, by the Clearing House for each Clearing Member and notified in advance of each Guaranty Fund Period.
- (d) Guaranty Fund Contributions must be in the form of cash or other Permitted Cover, subject to such limits as are specified in the Finance Procedures and Circulars.
- (e) In the event of any change in the value of non-cash Guaranty Fund Contributions, the Clearing Member may be required by the Clearing House to make an additional Guaranty Fund Contribution. Clearing Members will be permitted (and may be required) at any time to make additional Guaranty Fund Contributions (beyond the required Guaranty Fund Contributions) in order to reduce the risk that revaluations of non-cash Permitted Cover result in such additional Guaranty Fund Contributions falling due.
- (f) New Clearing Members admitted to membership of the Clearing House shall make the required minimum Guaranty Fund Contributions plus such other amount as the Clearing House at its discretion determines is necessary based on projected clearing activity. Any such Guaranty Fund Contributions by a new Clearing Member or Clearing Members shall not result in any obligation on the Clearing House to repay any Guaranty Fund Contributions to other Clearing Members and the size of the relevant Guaranty Funds shall be increased accordingly until the end of the relevant Guaranty Fund Period.
- (g) Guaranty Fund Contributions of a Clearing Member following termination of its membership of the Clearing House will be returned to the Clearing Member on the first date of the first new Guaranty Fund Period beginning after the Transfer, close out or termination of all of its positions at the Clearing House and the payment of all other amounts due to the Clearing

Part 11 – Guaranty Funds

House (subject to Guaranty Fund Contributions being applied under Part 9 or this Part 11 and further subject to any extension to the relevant Guaranty Fund Period pursuant to Rule 1102(l)). Guaranty Fund Contributions of a Clearing Member that clears more than one Contract Category following termination of its clearing privileges in relation to one Contract Category will be returned to the Clearing Member on the first date of the first new Guaranty Fund Period for the relevant Contract Category beginning after the Transfer, close out or termination of all of its Contracts of that relevant Contract Category at the Clearing House and the payment of all other amounts due to the Clearing House in respect of such Contracts (subject to Guaranty Fund Contributions being applied under Part 9 or this Part 11 and further subject to any extension to the Guaranty Fund Period pursuant to Rule 1102(l)). The obligation of the Clearing House to return to any Clearing Member any remaining portion of its Guaranty Fund Contributions following an Event of Default or Clearing House Event will be satisfied by accounting for the amount of that obligation in the determination of a net sum under Rule 906 or Rule 912(a) or Rule 916 or Rule 918 (whichever is applicable) and payment of such net sum.

- (h) Each Clearing Member will be entitled to receive interest payments on its cash Guaranty Fund Contributions each quarter through the banking arrangements detailed in Part 3 and no accommodation charges will apply to any non-cash Guaranty Fund Contributions.
- (i) In the event of application of any Guaranty Fund Contributions taking place pursuant to Rule 908 or Rule 1103, the Clearing House shall:
  - (i) give notice by Circular of the amount by which each relevant Guaranty Fund has been reduced;
  - (ii) notify each Clearing Member and any relevant former Clearing Member of the amount for which it is liable to make additional Guaranty Fund Contributions in order to replenish the relevant Guaranty Funds;
  - (iii) in the case of any F&O Guaranty Fund Contributions being applied, specify the new amount of each of the Clearing House F&O Contributions by Circular;
  - (iv) in the case of any CDS Guaranty Fund Contributions being applied, specify the new amount of each of the Clearing House CDS Contributions by Circular; and
  - (v) in the case of any FX Guaranty Fund Contributions being applied, specify the new amount of each of the Clearing House FX Contributions by Circular.

Clearing Members must make required replenishment Guaranty Fund Contributions upon demand (subject to Rule 917 and Rule 918). The Clearing House shall ensure that any specified new Clearing House Contributions are held by it in accordance with Rule 1103(f) at the same date as Guaranty Fund Contributions for the relevant Guaranty Fund are so due. Any obligation on a Clearing Member to make payments pursuant to this Rule 1102(i) is separate from, and shall apply in addition to, any obligation to make payment in respect of Assessment Contributions pursuant to Rule 909.

Part 11 – Guaranty Funds

- (j) If:
- (i) an Event of Default is declared in relation to more than one Defaulter contemporaneously (excluding an Event of Default declared in respect of a Disclosed Principal Member or Sponsored Principal when an Event of Default is declared contemporaneously in respect of its Clearing Member or Sponsor, respectively) (the defaulter in respect of whom default proceedings are first completed being the "**First Defaulter**" and any other defaulter being an "**Additional Defaulter**" or, if default proceedings are completed at the same time, the Defaulter whose name would appear first alphabetically being the "**First Defaulter**" and any other Defaulter or Defaulters being an "**Additional Defaulter**"); or
  - (ii) a separate Event of Default is declared in relation to a Defaulter or Defaulters that has or have made a Guaranty Fund Contribution or Guaranty Fund Contributions to the same Guaranty Fund (any, an "**Additional Defaulter**") prior to the termination of default proceedings in relation to an existing Defaulter ("**First Defaulter**"),

and recourse is made to Guaranty Fund Contributions in respect of the First Defaulter (or any Additional Defaulter), then (subject to Rule 917 and Rule 918(a)(ii)) Clearing Members shall be required to replenish the relevant Guaranty Fund pursuant to Rule 1102(i) separately in respect of each Defaulter causing a reduction in the Guaranty Fund. The Clearing House may apply Guaranty Fund Contributions and Clearing House Contributions resulting from replenishment following default proceedings in relation to the First Defaulter to meet the liabilities of an Additional Defaulter and may apply Guaranty Fund Contributions and Clearing House Contributions resulting from replenishment following default proceedings in relation to an Additional Defaulter to meet the liabilities of another Additional Defaulter. Other than as set out in this Rule 1102(j), amounts transferred by Clearing Members or former Clearing Members in order to replenish Guaranty Fund Contributions under Rule 1102(i) or amounts designated as Clearing House Contributions may not be applied to meet liabilities arising in connection with any Event of Default occurring prior to the time at which the relevant replenishment or designation is required under these Rules.

- (k) In the event of the Clearing House applying any Guaranty Fund Contributions of non-defaulting Clearing Members, Clearing House Contributions or insurance proceeds and then receiving any amounts from the Defaulter as a result of its being a creditor of the Defaulter in the Defaulter's Insolvency or otherwise (net of the Clearing House's costs of recovery), the Clearing House will make payment to relevant Persons whose Guaranty Fund Contributions have been applied, retain assets in respect of Clearing House Contributions or repay the relevant insurer, as applicable, in the reverse order to that specified in Rule 908 (subject to Rule 1103(e)) and in the case of payments to Clearing Members (and Clearing House Contributions that are not Clearing House Initial Contributions) on a pro rata basis (subject to Rule 908(i)), up to the amount by which the relevant Guaranty Fund was reduced (excluding the Guaranty Fund Contribution of the Defaulter) but without counting for interest, the amount of Clearing House Contributions that were applied or the amount of insurance proceeds that were applied, subject in either case to the Clearing House first:
- (i) retaining or repaying amounts up to the amount of any other assets of the Clearing House or other third parties applied to meet any shortfall or loss following exhaustion of the assets



## Part 11 – Guaranty Funds

specified in Rule 908 or in substitution of any such assets; (ii) if applicable, making reimbursement payments to Persons that have made Assessment Contributions (in the reverse order to that specified in Rule 908), in accordance with Rule 909(j); and (iii) if applicable, meeting any repayment obligations arising pursuant to 909(j), 914(j) or 916(n).

- (l) If an Event of Default occurs prior to the end of a Guaranty Fund Period where the total amount of Guaranty Fund Contributions or the Guaranty Fund Contribution of any particular Clearing Member would otherwise subsequently be reduced in the next Guaranty Fund Period, the Clearing House shall at its discretion be entitled to defer the end of the current Guaranty Fund Period and start of the next Guaranty Fund Period until the completion of default proceedings or retain all then held Guaranty Fund Contributions made to any potentially affected Guaranty Fund. In either such circumstance, the Clearing House shall not be obliged to make any repayment to Clearing Members in respect of Guaranty Fund Contributions to any such Guaranty Fund until and subject to completion of the relevant Default proceedings pursuant to Part 9 and this Part 11. For the avoidance of doubt: in such circumstances, the Clearing House shall nonetheless be entitled to make periodic adjustments to Guaranty Fund Contributions as otherwise set out in these Rules at its discretion; and this Rule 1102(l) is without prejudice to Rule 1102(m) and Rule 1102(n).
- (m) If a Clearing Member's business changes in a material way, a Clearing Member's anticipated clearing volume of Contracts indicates a potential increase in risk to the Clearing House at any time during a Guaranty Fund Period or as otherwise required by the Finance Procedures, which determinations shall be made and conducted at the Clearing House's discretion, then the Clearing House may require the Clearing Member to increase the amount of its Guaranty Fund Contribution at the time specified by the Clearing House. Any such Guaranty Fund Contributions shall not result in any obligation on the Clearing House to repay any Guaranty Fund Contributions to other Clearing Members and the size of the relevant Guaranty Funds shall be increased accordingly until the end of the relevant Guaranty Fund Period.

### ***Rule 1103 Use of Guaranty Fund Contributions***

- (a) Following an Event of Default, the Clearing House shall apply the Guaranty Fund Contribution of a Defaulter or its Sponsor only pursuant to Rules 906 and Rule 908. Otherwise, Guaranty Fund Contributions of a Clearing Member or proceeds thereof may be applied or used by the Clearing House at its discretion in any of the following manners to the extent of the relevant Clearing Member's Guaranty Fund Contribution:
- (i) against any amount that becomes due to the Clearing House by that Clearing Member for any reason (including but not limited to Margin, amounts due pursuant to Contract Terms, fees, dues, assessments and fines);
- (ii) in managing an Event of Default or an event which could be declared by the Clearing House as an Event of Default, including:
- (A) where necessary, to meet the Clearing House's costs involved in facilitating the transfer of Contracts recorded in a Clearing Member's Customer

Part 11 – Guaranty Funds

Position Account, if that Clearing Member is experiencing financial difficulty or during a termination of membership to another Clearing Member;

- (B) provisionally, in respect of any actual or potential shortfall, loss, obligation or liability if the Clearing House at its discretion determines that Guaranty Fund Contributions are likely to be applied pursuant to Rule 908 or Rule 1103(a)(i), provided that to the extent that any Guaranty Fund Contributions are not applied pursuant to Rule 908 or Rule 1103(a)(i) within a reasonable period of time, the Clearing House shall account to the relevant Clearing Member for the difference between the amount by which any Guaranty Fund Contributions were actually applied and the amount by which the same were provisionally applied under this Rule 1103(a)(ii)(B); or
- (iii) for making payments, including for liquidity or to raise liquidity for liabilities to make payments in respect of obligations incurred by the Clearing House in its capacity as a clearing house and central counterparty,

provided that: (1) F&O Guaranty Fund Contributions may only be used to meet actual or prospective liabilities or obligations relating to F&O Clearing, CDS Guaranty Fund Contributions may only be used to meet actual or prospective liabilities or obligations relating to CDS Clearing and FX Guaranty Fund Contributions may only be used to meet actual or prospective liabilities or obligations relating to FX Clearing; (2) nothing in this Rule 1103(a) shall affect the order of application of assets following a declared Event of Default pursuant to Rule 908; (3) any Guaranty Fund Contributions used or applied under this Rule 1103(a) (but not actually applied under Rule 908) shall be returned or reallocated by the Clearing House to the relevant Guaranty Fund; and (4) following an Event of Default declared by the Clearing House, Guaranty Fund Contributions may only be used or applied under this Rule 1103(a) after available resources of the Defaulter have been exhausted.

- (b) The Clearing House may at any time and from time to time sell, substitute, set off, transfer, assign, mortgage, pledge, repledge or otherwise create or grant a lien, interest, charge or other security interest on or use as collateral by way of title transfer arrangement, any proceeds of Guaranty Fund Contributions for any of the purposes set out in Rule 1103(a). Any borrowings using proceeds of Guaranty Fund Contributions as collateral shall be on terms and conditions deemed necessary or advisable by the Clearing House in its sole discretion, and may be in amounts greater, and extend for periods of time longer, than the obligations, if any, of any Clearing Member to the Clearing House for which such cash, securities or other property was transferred to the Clearing House. Any amounts so borrowed shall be used and applied by the Clearing House solely for the purposes set out in Rule 1103(a); provided that the failure of the Clearing House to comply with Rule 1103(a) in respect of any borrowings, facility or agreement shall not impair any of the rights or remedies of any transferee, assignee, mortgagee, pledgee, collateral taker or holder of any lien or security interest.
- (c) Any expense (including, without limitation, legal fees and expenses) incurred by the Clearing House in connection with the use, application or transfer of Guaranty Fund Contributions, or

Part 11 – Guaranty Funds

the return of equivalent assets to a Clearing Member, may, at the option and discretion of the Clearing House, be charged to the account of such Clearing Member.

- (d) A Clearing Member's entitlement to repayment of any Guaranty Fund Contribution or any part of it or interest thereon shall not be capable of assignment or transfer by the Clearing Member or being made subject to any Encumbrance whatsoever purporting to rank in priority over, *pari passu* with, or subsequent to, the rights of the Clearing House or in conflict with Rule 908. Any purported Encumbrance of a Clearing Member in respect of any Guaranty Fund Contribution shall be null and void.
- (e) It being understood that the Clearing House shall not be obliged to obtain or keep in place or make any claim under any default insurance policy or make, or receive the proceeds under, any claim prior to processing to the next levels of assets specified in Rule 908, subject to the payment order specified in Rule 1102(k), any claims under default insurance policies of which the Clearing House is the beneficiary may be subject to limits on claims applicable in respect of particular time periods (each such period, a "**Relevant Period**"). Furthermore, pursuant to the terms of any such insurance obtained by the Clearing House, it is possible that (i) insurance claims may be payable in excess of losses resulting from a Default or Defaults above a certain amount ("**Loss Threshold**") occurring within a Relevant Period as opposed to following the application of particular assets in respect of particular Defaults in the order set out in Rule 908; or (ii) default insurance policies may apply only in relation to losses occurring in relation to certain Sets of Contracts cleared by the Clearing House or particular Guaranty Funds. Moreover, the Clearing House shall not be obliged to obtain or keep in place or make any claim under any default insurance policy or make, or receive the proceeds under, any claim prior to processing to the next levels of assets specified in Rule 908, subject to the payment order specified in Rule 1102(k). As a result, it is possible that:
- (A) there may be a delay in any insurance proceeds being received, meaning that in practice other assets applicable under Rule 908 may be called prior to insurance proceeds being received, subject to Rule 1102(k);
  - (B) insurance receipts may be available to (and applied by) the Clearing House at an earlier order to that specified in Rule 908 if the total available Guaranty Fund Contributions exceed the Loss Threshold or in respect of a second or subsequent Default where the limit on claims for the Relevant Period has not been exhausted;
  - (C) no or reduced insurance may be available in the case of a second or subsequent Default occurring in a Relevant Period;
  - (D) proceeds of any claim under default insurance may need to be applied to meet losses across more than one Event of Default, if there is a First Defaulter and one or more Additional Defaulters in a Relevant Period;
  - (E) the insurance policies (if any) may not provide cover in respect of certain Events of Default; or

Part 11 – Guaranty Funds

- (F) there may be no default insurance either generally or in respect of any particular products cleared by the Clearing House.

If there is a First Defaulter and there are one or more Additional Defaulters during a Relevant Period, the proceeds of any claim under default insurance shall be applied as between the losses, shortfalls or liabilities relating to each Defaulter at the relevant point in the waterfall in Rule 908 on the following basis: (i) first, a Defaulter shall be excluded from any application of such assets if, prior to or after application of Clearing House Contributions, there is no further loss, liability or shortfall; (ii) secondly, such assets shall be applied to reduce the losses, shortfalls or liabilities relating to a Defaulter whose Event of Default was first in time to be declared by the Clearing House, provided that any Events of Default occurring on the same day shall be treated as occurring simultaneously for purposes of this Rule 1103(e); and (iii) where there are simultaneous Events of Default, such assets shall be applied so as to reduce the losses, shortfalls or liabilities relating to each Defaulter on a pro-rata basis, based on the total of all unsatisfied Default Amounts relating to each such Defaulter (after applying Clearing House Contributions).

The Clearing House will issue a Circular to Clearing Members specifying the amount of insurance, Loss Threshold, Relevant Period and any restrictions by Set of Contract or Guaranty Fund applicable to any default insurance obtained by the Clearing House. Neither this Rule 1103(e) nor any Circular issued by the Clearing House shall affect the liability of Clearing Members in respect of Guaranty Fund Contributions under these Rules.

- (f) The Clearing House will notify Clearing Members from time to time, by Circular and in accordance with the Finance Procedures, of each of the Clearing House Contributions. The Clearing House undertakes to all non-defaulting Clearing Members from time to time to maintain amounts equal to the total of the Clearing House Contributions in a separate account from its other assets (other than Loss Assets) and to use such amounts only for the purposes of meeting shortfalls arising directly or indirectly from Defaults in accordance with Part 9 and this Part 11. This Rule 1103(f) shall not restrict the Clearing House from investing such amounts in any way that it is able to invest Guaranty Fund Contributions made by Clearing Members. Clearing House Contributions may be used by the Clearing House in the same way as Guaranty Fund Contributions may be used pursuant to Rule 1103(a). For the avoidance of doubt, there shall not be any breach by the Clearing House of its obligations under this Rule 1103(f) solely as a result of any temporary reduction to any Clearing House Contributions as a result of the application of any amount of Clearing House Contributions pursuant to this Rule 1103.
- (g) The total amount of Guaranty Fund Contributions for each Guaranty Fund and any Clearing House Contributions applied in connection with any Event of Default shall be notified to Clearing Members in a Circular prior to the same being applied.

## [Part 12 – Settlement Finality Regulations and Companies Act 1989](#)

### **Part 12 Settlement Finality Regulations and Companies Act 1989**

*Without prejudice to the status of any other provision of these Rules, including Part 9, the provisions of this Part 12 are intended to also constitute 'default rules' for purposes of the Companies Act 1989 and constitute "default procedures" for purposes of article 48 of EMIR, "default rules and procedures" for purposes of section 5b(c)(2)(G) of the CEA, "rules on the moment of entry and irrevocability" of a system as referred to in Article 22a of the Settlement Finality Directive, "default arrangements" for the purposes of the Settlement Finality Regulations and "default procedures" for purposes of SEC Rule 17Ad-22. These rules are intended to comply with provisions of the Settlement Finality Regulations in addition to other Applicable Laws. In addition to these Rules, the Clearing House relies on its legal rights under Applicable Laws in handling Events of Default, including under EMIR, FSMA, the Companies Act 1989, the Settlement Finality Directive, the Settlement Finality Regulations, the Financial Collateral Directive, the Financial Collateral Regulations, the U.S. Bankruptcy Code and the FSMR, as applicable.*

#### **Rule 1201 Introduction and Interpretation**

- (a) The Clearing House is the system operator of a Designated System for the purposes of the Settlement Finality Regulations in respect of Transfer Orders. In addition, Part VII of the Companies Act 1989 applies in respect of Contracts, the 'default rules' and 'default proceedings' of the Clearing House and certain other matters related to the Clearing House.
- (b) Clearing Members and other Participants are subject to various obligations and requirements as a result of the Settlement Finality Regulations and Companies Act 1989. Clearing Members and other Participants must comply with, facilitate compliance by the Clearing House with, and comply with any action taken by the Clearing House pursuant to, the Settlement Finality Regulations or the Companies Act 1989. Furthermore, various modifications to Applicable Laws relating to Insolvency affecting Clearing Members and other Participants apply pursuant to the Settlement Finality Regulations and Companies Act 1989.
- (c) Each Participant in the Designated System is on notice of the provisions of this Part 12. Each Participant shall, by participating in the Designated System, be deemed to have agreed that:
  - (i) (without prejudice to the generality of the provisions of any Clearing Membership Agreement), the provisions set out in this Part 12 apply to and shall bind such Participant (and to any Insolvency Practitioner appointed for, or with powers in respect of, it) in connection with such Participant's participation in the Designated System; and
  - (ii) (without prejudice to the generality of Rule 102(f)), to the extent that there is any conflict between any provision of this Part 12 and any provision of any agreement (including any AFI Agreement) or any contractual or non-contractual obligation which may arise or exist from time between any Participant and the Clearing House, the relevant provision of this Part 12 shall prevail, control, govern and be

[Part 12 – Settlement Finality Regulations and Companies Act 1989](#)

binding upon the parties (regardless of the date of entry into or amendment of any such agreement or obligation).

- (d) The term "**AFI Agreement**" means a payment services agreement between the Clearing House and an Approved Financial Institution.
- (e) The term "**Default Arrangements**" means the Rules and Procedures relating to, or that can be exercised upon, an Event of Default including, without limitation, all of Part 9 and Part 11 and this Part 12 of the Rules and Procedures relating thereto and any and all actions, omissions, powers and arrangements of the Clearing House pursuant to such Rules or Procedures.
- (f) The term "**Designated System**" means the system operated by the Clearing House consisting of the formal arrangements, between the Clearing House and Participants including the common rules (including the Rules and the Procedures) and the standardised arrangements (including the AFI Agreements, Investment Agency Agreements, Clearing Membership Agreements, Sponsored Principal Clearing Agreements, Sponsor Agreements and other agreements involving the Clearing House, Clearing Members, Sponsored Principals, Sponsors, Approved Financial Institutions, Concentration Banks, Investment Agent Banks and Emissions Registries, provided that in the event of any conflict between any provision of the Rules or Procedures and any provision of any such agreement or arrangements, the provision of the Rules or Procedures shall prevail, control, govern and be binding on the parties) and related functionality for the effecting of Transfer Orders between the Clearing House and Participants which, *inter alia*:
  - (i) enable the Clearing House to give instructions and to place at the disposal of Clearing Members amounts of money on the account of Approved Financial Institutions;
  - (ii) enable Clearing Members to give instructions and to place at the disposal of the Clearing House amounts of money on the accounts of Approved Financial Institutions;
  - (iii) enables the Clearing House to give instructions and make transfers between its accounts at Approved Financial Institutions, Concentration Banks and Investment Agent Banks;
  - (iv) enables the Clearing House to give instructions and make transfers between Individually Segregated Margin-flow Co-mingled Accounts and between Segregated Gross Indirect Accounts by way of book entry through its own systems;
  - (v) enable the Clearing House and Clearing Members to fulfil the obligations they incur in respect of Contracts and otherwise to one another pursuant to the Rules;
  - (vi) enable transfers, assignments and novations of Contracts between Clearing Members or following a Default;



*Part 12 – Settlement Finality Regulations and Companies Act 1989*

- (vii) enable transfers of Non-Cash Collateral to or to the order of the Clearing House and Clearing Members;
  - (viii) enable Bilateral CDS Transactions and CDS Trade Particulars to give rise to CDS Contracts;
  - (ix) enable FX Trade Particulars to give rise to FX Contracts;
  - (x) enable F&O Block Transactions to give rise to Contracts;
  - (xi) facilitate physical settlement obligations under CDS Contracts and obligations for the delivery of Deliverables that are SFD Securities or Emission Allowances under F&O Contracts; and
  - (xii) facilitate supplementary and incidental matters to the satisfaction of obligations pursuant to Contracts and the collection and payment of amounts due in respect of Contracts or Permitted Cover.
- (g) The term "**Indirect Participant**" means any Disclosed Principal Member or Customer, provided that: (i) it is an 'indirect participant', within the meaning of the Settlement Finality Regulations, in the Designated System; (ii) the identity of that Disclosed Principal Member or Customer has been notified to the Clearing House in writing by the Clearing Member; (iii) the Clearing House has accepted such notification and treatment as an indirect participant in writing (and this Part 12 shall apply equally to any Insolvency Practitioner appointed for, or with powers in respect of, an Indirect Participant); and (iv) such Disclosed Principal Member or Customer has executed such agreement as is prescribed by the Clearing House from time to time in order for it to become contractually bound by these Rules and this Part 12 in particular.
- (h) The term "**Intermediary Financial Institution**" means any bank or branch used by a System Bank, whether as banker, corresponding banker, intermediary or agent, for the fulfilment of a Payment Transfer Order, that is a 'participant' (as defined in the Settlement Finality Regulations) in the Designated System (and this Part 12 shall apply equally to any Insolvency Practitioner appointed for, or with powers in respect of, such a person).
- (i) The term "**Investment Agent Bank**" means a bank used by the Clearing House for the deposit of cash prior to such cash being invested. An Investment Agent Bank may also be an Approved Financial Institution or Concentration Bank.
- (j) The term "**Investment Agency Agreement**" means an agreement between an Investment Agent Bank and the Clearing House, including in respect of the deposit of cash prior to such cash being invested.
- (k) The term "**Non-Cash Collateral**" means any Permitted Cover that is in the form of an SFD Security.
- (l) The term "**Participant**" means the Clearing House, each Clearing Member, each Sponsored Principal, each Approved Financial Institution, each Concentration Bank, each Investment

*Part 12 – Settlement Finality Regulations and Companies Act 1989*

Agent Bank, each Intermediary Financial Institution, each Custodian and each Emissions Registry, in the case of any such Person (other than the Clearing House) to the extent that it is a 'participant' (as defined in the Settlement Finality Regulations) in the Designated System (and this Part 12 shall apply equally to any Insolvency Practitioner appointed for, or with powers in respect of, a Participant).

- (m) The term "**Payment Transfer Order**" means a payment transfer order (as defined in the Settlement Finality Regulations) that is a New Contract Payment Transfer Order, Credit/Debit Payment Transfer Order, ISOC Credit/Debit Payment Transfer Order, CH Account Payment Transfer Order or TARGET2 Payment Transfer Order subject to this Part 12.
- (n) The term "**Securities Transfer Order**" means a securities transfer order (as defined in the Settlement Finality Regulations) that is a Position Transfer Order, Collateral Transfer Order, F&O Block Clearing Order, Transaction Clearing Order, CDS Physical Settlement Order, Security Derivative Delivery Order or Emission Allowance Delivery Order subject to this Part 12.
- (o) The term "**SFD Custodian**" means any Custodian used by a Clearing Member or the Clearing House for the holding or transfer of Non-Cash Collateral that is subject of a Collateral Transfer Order provided that such person is a 'participant' (as defined in the Settlement Finality Regulations) in the Designated System (and this Part 12 shall apply equally to any Insolvency Practitioner appointed for, or with powers in respect of, such a person).
- (p) The term "**SFD Security**" means a 'security', as defined in the Settlement Finality Regulations, but excluding any Emission Allowances.
- (q) The term "**System Bank**" means an Approved Financial Institution, Concentration Bank or Investment Agent Bank.
- (r) The term "**Transfer Order**" means a Payment Transfer Order or a Securities Transfer Order.
- (s) The term "**TARGET2**" means the real-time gross settlement system owned and operated by the Eurosystem.
- (t) The term "**TARGET2 Component System**" means the real-time gross settlement system of any Eurosystem central bank that forms part of TARGET2, or the real-time gross settlement system of a non-Eurosystem central bank connected to TARGET2 pursuant to a specific agreement, where the operator of any such system is a Concentration Bank.
- (u) The term "**TARGET2 Concentration Bank**" means a Concentration Bank which is the operator of a TARGET2 Component System.
- (v) The term "**TARGET2 PM Account**" refers to a cash account of the Clearing House in TARGET2 and has the same meaning as "PM account" set out in the applicable TARGET2

**Part 12 – Settlement Finality Regulations and Companies Act 1989**

Terms and Conditions, where the Clearing House is the account holder and a TARGET2 Concentration Bank is the banker of that PM account.

- (w) The term "**TARGET2 Terms and Conditions**" means the terms and conditions that apply in respect of participation in the relevant TARGET2 Component System.
- (x) The term "**ICE Post Trade and Clearing Systems**" or the "**ICE Systems**" means the trade registration, clearing processing and finance hardware and software used by the Clearing House and Clearing Members from time to time, as further described in the Procedures.
- (y) No transfer orders (as defined in the Settlement Finality Regulations) shall arise, enter the Designated System or become irrevocable under these Rules except as set out in this Part 12.
- (z) The Clearing House and each Clearing Member with a Pledged Collateral Account that is a Participant in the Designated System acknowledge and agree that: (i) all forms of Permitted Cover provided as Pledged Collateral constitute "realisable assets"; and (ii) Pledged Collateral is provided under a "charge or a repurchase or similar agreement" which has been entered into "for the purpose of securing rights and obligations potentially arising in connection with a designated system", for purposes of the Settlement Finality Regulations. Accordingly, the Clearing House and each such Clearing Member that is a Participant in the Designated System intend and agree that: (a) Pledged Collateral constitutes both "collateral security" and "collateral security in connection with participation in a designated system" for purposes of the Settlement Finality Regulations; and (b) the Clearing Membership Agreement, any Sponsored Principal Clearing Agreement, any Sponsor Agreement, any Pledged Collateral Addendum, Rules and Contracts insofar applicable to Pledged Collateral constitute a "collateral security charge" in respect of the Pledged Collateral, for purposes of the Settlement Finality Regulations.
- (aa) In relation to an Individually Segregated Sponsored Account, any reference to a Clearing Member in this Part 12 shall be interpreted as a reference to the Sponsored Principal, provided that where a Transfer Order applies to, is binding on or is irrevocable with respect to a Sponsored Principal, it shall also apply to, be binding on or be irrevocable with respect to the Sponsor.

***Rule 1202 Transfer Orders Arising***

- (a) Subject to regulation 20 of the Settlement Finality Regulations, a Payment Transfer Order shall arise and shall enter the Designated System immediately and automatically upon:
  - (i) in relation to a Contract that forms in accordance with Rule 401(a) (excluding any F&O Contract arising under Rule 401(a)(vii)) at the time that a Contract arises under Rule 401 (such Payment Transfer Order, a "**New Contract Payment Transfer Order**");

*Part 12 – Settlement Finality Regulations and Companies Act 1989*

- (ii) the Clearing House sending an instruction for payment to or from the Clearing House pursuant to Rule 302, Rule 502 to Rule 503 and/or the Finance Procedures (such Payment Transfer Order, a "**Credit/Debit Payment Transfer Order**");
  - (iii) the Clearing House making an instruction for the transfer of an amount standing to the credit of one Individually Segregated Margin-flow Co-mingled Account to another Individually Segregated Margin-flow Co-mingled Account using the same position-keeping account or for the transfer of an amount standing to the credit of one Segregated Gross Indirect Account to another Segregated Gross Indirect Account using the same position-keeping account, pursuant to Rule 503(k) and the Finance Procedures (such Payment Transfer Order, an "**ISOC Credit/Debit Payment Transfer Order**");
  - (iv) the Clearing House sending an instruction by means of a SWIFT message, other electronic message, fax, telephone or other means to a System Bank (excluding a TARGET2 Concentration Bank) to transfer a sum of money from an account of the Clearing House at such System Bank (excluding a TARGET2 Concentration Bank) to an account of the Clearing House at the same or a different System Bank (such Payment Transfer Order, a "**CH Account Payment Transfer Order**"); or
  - (v) the moment the Clearing House's TARGET2 PM Account is debited with funds, or the Clearing House's TARGET2 PM Account is credited with funds, pursuant in either case to the Clearing House sending an instruction by means of a SWIFT message to the applicable TARGET2 Concentration Bank in compliance with the TARGET2 Terms and Conditions ("**TARGET2 Payment Transfer Order**").
- (b) Subject to regulation 20 of the Settlement Finality Regulations, a Securities Transfer Order shall arise and shall enter the Designated System immediately and automatically upon:
- (i) if either:
    - (A) the Clearing House, the relevant Market (if any) and the two Clearing Members involved (both being Participants) have already agreed to a transfer, assignment or novation of Contracts from one Clearing Member to another Clearing Member pursuant to Rule 408(a)(i);
    - (B) a request is accepted by the relevant Market (if any) or the Clearing House in respect of an allocation from one Clearing Member to another Clearing Member for purposes of Rules 401(a)(viii) and 401(e); or
    - (C) the Clearing House has declared an Event of Default under Rule 901 and any Contracts to which a Defaulter is party are proposed to be transferred from the Defaulter to another Clearing Member (being a Participant) pursuant to the Clearing House's powers under Rule 903, Rule 904, Rule 905 or otherwise,

in either case, instructions for settlement of the transfer, assignment, novation or allocation in question being effected through the ICE Systems at the relevant

*Part 12 – Settlement Finality Regulations and Companies Act 1989*

settlement transfer deadline for the relevant Contract (such Securities Transfer Order, a "**Position Transfer Order**");

- (ii) the Clearing House accepts, through the ICE Systems, that a Clearing Member has validly requested either:
  - (A) the transfer of Non-Cash Collateral to or to the order of the Clearing House; or
  - (B) a transfer to that Clearing Member or to its order of Non-Cash Collateral (such Securities Transfer Order, in either case, a "**Collateral Transfer Order**");
- (iii) in respect of an F&O Block Transaction at the point at which the relevant details of the relevant Transaction have passed through the credit filter and risk controls of both relevant Clearing Members in the ICE Systems (such Securities Transfer Order, a "**F&O Block Clearing Order**");
- (iv) in respect of CDS Trade Particulars or FX Trade Particulars submitted for Clearing in relation to a Bilateral CDS Transaction or FX transaction already recorded in Deriv/SERV or a Repository, as the case may be, the Clearing House providing a report to a Clearing Member after it has checked whether CDS Trade Particulars or FX Trade Particulars submitted for Clearing are consistent with the records submitted by another Clearing Member and, where applicable, with the records in Deriv/SERV or a Repository (such Securities Transfer Order, a "**Subsisting Transaction Clearing Order**");
- (v) in respect of CDS Trade Particulars or FX Trade Particulars other than as referred to in (iv) above submitted for Clearing, the Clearing House issuing an Acceptance Notice or FX Acceptance Notice in accordance with Rule 401(a)(ix) or (xii) to a Clearing Member through the ICE Systems (such Securities Transfer Order, a "**New Transaction Clearing Order**" and, together with a Subsisting Transaction Clearing Order, "**Transaction Clearing Order**");
- (vi) (A) the Clearing House being provided with a copy of a notice delivered by a Matched CDS Buyer to a Matched CDS Seller in a Matched Pair of a Notice of Physical Settlement in respect of Matched CDS Contracts, where the Notice of Physical Settlement specifies an instrument to be delivered that is an SFD Security; or (B) the Clearing House being provided with a copy of a notice delivered by a Matched CDS Buyer to a Matched CDS Seller in a Matched Pair of a NOPS Amendment Notice in respect of Matched CDS Contracts, where the NOPS Amendment Notice specifies an instrument to be delivered that is an SFD Security but where the Notice of Physical Settlement (including, as amended by any previous NOPS Amendment Notice) had specified an instrument that is not an SFD Security as the instrument that was to be delivered (either such Securities Transfer Order, a "**CDS Physical Settlement Order**");

*Part 12 – Settlement Finality Regulations and Companies Act 1989*

- (vii) delivery of an SFD Security as a Deliverable is required following expiry of a relevant Future or following exercise of a relevant Financials & Softs Contract that is an Option (such Securities Transfer Order, a "**Security Derivative Delivery Order**");
- (viii) delivery of one or more Emission Allowances as a Deliverable is required following expiry or completion of the running of an auction in respect of a relevant F&O Contract (such Securities Transfer Order, an "**Emission Allowance Delivery Order**").
- (c) If two or more Transfer Orders exist in respect of the same obligation prior to becoming irrevocable, all such Transfer Orders shall be valid. No duplication of an obligation to pay shall arise as a result of two or more Transfer Orders existing in respect of the same obligation.
- (d) The status of a Transfer Order shall not be affected by any calculation of Open Contract Position, netting, set off or closing out of a Contract to which it relates.
- (e) Each Payment Transfer Order shall apply and have effect in respect of the following amounts:
  - (i) in the case of a New Contract Payment Transfer Order, the amount due to or from the Clearing House pursuant to the Contract Terms as a result of the Contract referred to in Rule 1202(a)(i) arising; or
  - (ii) in the case of a Credit/Debit Payment Transfer Order, ISOC Credit/Debit Payment Transfer Order, CH Account Payment Transfer Order or TARGET2 Payment Transfer Order, the amount specified in the relevant instruction referred to in Rule 1202(a);
- (f) Each Position Transfer Order shall apply and have effect in respect of the Contracts to be transferred, assigned, novated or allocated.
- (g) Each Collateral Transfer Order shall apply and have effect in respect of the Non-Cash Collateral to be transferred to or to the order of the Clearing House or Clearing Member.
- (h) Each F&O Block Clearing Order shall apply and have effect in respect of the F&O Block Transaction in question and any resulting F&O Contract.
- (i) Each Transaction Clearing Order shall apply and have effect, for CDS in respect of the CDS Trade Particulars and any Bilateral CDS Transaction in question and any resulting CDS Contract or for FX in respect of the FX Trade Particulars and any FX transaction in question and any resulting FX Contract.
- (j) Two separate CDS Physical Settlement Orders shall apply and shall have effect separately in respect of each of the CDS Contracts in the Matched Pair that are subject to a physical settlement obligation, and the instrument to be delivered pursuant thereto.



*Part 12 – Settlement Finality Regulations and Companies Act 1989*

- (k) Two separate Security Derivative Delivery Orders shall apply and shall have effect separately in respect of each of the Contracts that are subject to an obligation to make delivery of an SFD Security, and the SFD Security to be delivered pursuant thereto.
- (l) Two separate Emission Allowance Delivery Orders shall apply and shall have effect separately in respect of each F&O Contract that is subject to an obligation to make delivery of an Emission Allowance, and the Emission Allowance to be delivered pursuant thereto.
- (m) Transfer Orders shall apply to, and have effect as against and between each of the following Persons, in respect of any particular Person only to the extent that such Person is a Participant or an Indirect Participant:
  - (i) in the case of a New Contract Payment Transfer Order, the affected Clearing Member (if it is a Participant) and the Clearing House and, as from and after the time of irrevocability only, the affected Approved Financial Institution;
  - (ii) in the case of a Credit/Debit Payment Transfer Order or ISOC Credit/Debit Payment Transfer Order, the affected Clearing Member (if it is a Participant), the affected Approved Financial Institutions and the Clearing House;
  - (iii) in the case of a CH Account Payment Transfer Order, the affected System Bank or System Banks and the Clearing House;
  - (iv) in the case of a TARGET2 Payment Transfer Order, the relevant TARGET2 Concentration Bank and the Clearing House;
  - (v) in the case of a Position Transfer Order:
    - (A) the Clearing Members (that are the transferor, assignor or person whose rights, liabilities and obligations are transferred, assigned or novated and the transferee, assignee or person that assumes rights, liabilities and obligations pursuant to a transfer, assignment or novation);
    - (B) each Customer and Disclosed Principal Member affected by the Position Transfer Order which is an Indirect Participant (if any); and
    - (C) the Clearing House.
  - (vi) in the case of a Collateral Transfer Order:
    - (A) the Clearing Member that is the transferor of the Non-Cash Collateral in question;
    - (B) any SFD Custodian of the Clearing Member or the Clearing House; and
    - (C) the Clearing House;
  - (vii) in the case of an F&O Block Clearing Order:

*Part 12 – Settlement Finality Regulations and Companies Act 1989*

- (A) each Clearing Member that has submitted or confirmed details of the F&O Transaction;
  - (B) any Affiliate or Customer of the Clearing Member that was party to an F&O Block Transaction and which is an Indirect Participant (if any); and
  - (C) the Clearing House;
- (viii) in the case of a Transaction Clearing Order:
- (A) each Clearing Member that has submitted or confirmed details of the Transaction;
  - (B) any Affiliate of a Clearing Member that is or was party to a Bilateral CDS Transaction or FX transaction and which is an Indirect Participant (if any); and
  - (C) the Clearing House;
- (ix) in the case of a CDS Physical Settlement Order:
- (A) each Clearing Member in the Matched Pair; and
  - (B) the Clearing House;
- (x) in the case of a Security Derivative Delivery Order:
- (A) each Clearing Member that is party to a relevant Financials & Softs Contract under delivery;
  - (B) any SFD Custodian of the Clearing Member or the Clearing House; and
  - (C) the Clearing House;
- (xi) in the case of an Emission Allowance Delivery Order:
- (A) each Clearing Member that is party to a relevant F&O Contract under delivery;
  - (B) the Emissions Registry holding the account of the Clearing Member from or to which the delivery of the Emission Allowance will take place;
  - (C) the Emissions Registry holding the account of the Clearing House from or to which the delivery of the Emission Allowance will take place; and
  - (D) the Clearing House.
- (n) Where a Transfer Order applies to a System Bank, it shall also apply to and be effective against any Intermediary Financial Institution used by that System Bank.

*Part 12 – Settlement Finality Regulations and Companies Act 1989*

- (o) Where a Transfer Order applies additionally to an Indirect Participant, the liability of any Participant pursuant to the same Transfer Order shall not be affected.

***Rule 1203 Transfer Orders Becoming Irrevocable***

- (a) A Credit/Debit Payment Transfer Order shall become irrevocable at the time when the Approved Financial Institution sends a SWIFT confirmation message, other electronic message, fax, telephone or other message confirming that the relevant payment will be or has been made. An ISOC Credit/Debit Payment Transfer Order shall become irrevocable at the time when the Clearing House updates its records to reflect the transfer.
- (b) A CH Account Payment Transfer Order shall become irrevocable at the time when the System Bank of the account from which payment is to be made sends a SWIFT confirmation message, other electronic message, fax, telephone or other message confirming that the relevant payment will be or has been made.
- (c) A TARGET2 Payment Transfer Order shall become irrevocable at the earlier of: (i) the moment the Clearing House's TARGET2 PM Account is debited or the moment the Clearing House's TARGET2 PM Account is credited; or (ii) when or during the period in which any algorithm referred to in Appendix I of the TARGET2 Terms and Conditions commences or is running (if applicable).
- (d) Without prejudice to Rule 1205(h) and Rule 1205(i), a New Contract Payment Transfer Order shall become irrevocable upon an Approved Financial Institution sending a SWIFT confirmation message, other electronic message, fax, telephone or other message confirming that amount to which the New Contract Payment Transfer Order relates (as specified in Rule 1202(e)(i)) will be or has been made.
- (e) A Position Transfer Order shall become irrevocable at the time when the definitive record of the Open Contract Position of the Clearing Member (that is the assignee, transferee or person that assumes rights, liabilities and obligations pursuant to a novation) is updated as a result of a successful position transfer clearing run in the ICE Systems to reflect the transfer, assignment or novation of Contracts which are given effect pursuant to the Position Transfer Order.
- (f) A Collateral Transfer Order shall become irrevocable at the earlier of the time when: (i) the Clearing House receives the Non-Cash Collateral; or (ii) any related securities transfer order (which relates to the same subject matter as the Collateral Transfer Order but which a securities transfer order in a designated system for purposes of Directive 98/26/EC which is not the Designated System) becomes irrevocable.
- (g) An F&O Block Clearing Order shall become irrevocable at the time that the Clearing House becomes party to resulting Contracts with the Clearing Members in question, pursuant to Rule 401(a)(iii).
- (h) A Transaction Clearing Order shall become irrevocable, for CDS when the time specified pursuant to the CDS Procedures occurs for the acceptance of the resulting CDS Contracts

**Part 12 – Settlement Finality Regulations and Companies Act 1989**

in question or for FX when the time specified pursuant to the FX Procedures occurs for the acceptance of the resulting FX Contracts in question, pursuant to Rule 401(a)(xii).

- (i) A CDS Physical Settlement Order shall become irrevocable at the earliest of: (i) the time when the Matched CDS Buyer in the Matched Pair has submitted irrevocable instructions to a Custodian for the transfer of securities to or to the account of the Matched CDS Seller; (ii) the time at which the instrument subject to physical settlement is delivered or assigned or at which physical settlement obligations are otherwise discharged; or (iii) if the Matched CDS Buyer or Matched CDS Seller has (in the absence of any Matching Reversal Notice or not later than one Business Day after any Matching Reversal Notice) given notice to the Clearing House in accordance with Rule 1511 or the CDS Procedures (as applicable) that the relevant Matched Pair have settled the relevant Matched CDS Contracts, at the time of such notice.
- (j) A Security Derivative Delivery Order shall become irrevocable at the earlier of the time when: (i) the Clearing House (or a Clearing Member that is due to receive delivery directly from another Clearing Member under Part 7) receives the SFD Security into its account; or (ii) any related securities transfer order (which relates to the same subject matter as the Security Derivative Delivery Order but which is a securities transfer order in a designated system for purposes of Directive 98/26/EC which is not the Designated System) becomes irrevocable within that other designated system.
- (k) An Emission Allowance Delivery Order shall become irrevocable at the earlier of the time when: (i) the Clearing House or Clearing Member (whichever is due to receive delivery pursuant to the F&O Contract in question) receives all the Emission Allowances that are subject to the Emission Allowance Delivery Order into its account at the Emissions Registry; or (ii) any related order (which relates to the same subject matter as the Emission Allowance Delivery Order but which is either (A) a securities transfer order in a designated system for purposes of Directive 98/26/EC which is not the Designated System or (B) an order or transaction arising pursuant to the rules or terms of a relevant Emissions Registry) becomes irrevocable within that other designated system or Emissions Registry.
- (l) As from the time when a Transfer Order becomes irrevocable, it shall not be revoked or purported to be revoked by any Participant or the Clearing House and shall be binding upon all Participants.
- (m) Transfer Orders shall be legally enforceable, irrevocable and binding on parties in accordance with this Part 12 including on the occurrence of an Event of Default.

***Rule 1204 Variations to or Cancellation of Transfer Orders***

- (a) This Rule 1204 applies only to a Transfer Order that is not irrevocable and:
  - (i) in the case of any Transfer Order, it is affected by manifest or proven error or an error that is agreed so to be by all affected Participants;
  - (ii) in the case of a New Contract Payment Transfer Order, Credit/Debit Payment Transfer Order, ISOC Credit/Debit Payment Transfer Order, Position Transfer

[Part 12 – Settlement Finality Regulations and Companies Act 1989](#)

Order, Security Derivative Delivery Order or Emission Allowance Delivery Order, it relates to a Contract which is (or a Transaction or CDS Trade Particulars which, if accepted, would be):

- (A) void *ab initio* pursuant to Rule 403;
  - (B) avoided pursuant to Rule 404; or
  - (C) amended as a result of the Clearing House exercising its discretion pursuant to Rule 104 or otherwise pursuant to these Rules; or
- (iii) without prejudice to the generality of Rule 1204(a)(i), in the case of a Subsisting Transaction Clearing Order, if an error or omission is noted by or notified to the Clearing House prior to the Acceptance Time or the data in the CDS Trade Particulars or FX Trade Particulars to which the Subsisting Transaction Clearing Order relates is otherwise capable of being amended in accordance with the CDS Procedures or FX Procedures (as applicable);
  - (iv) in the case of a CDS Physical Settlement Order, if a NOPS Amendment Notice is validly delivered by the Matched CDS Buyer in accordance with Rule 1505 and Rule 1509; or
  - (v) without prejudice to the generality of Rule 1204(a)(i), (ii) or (iii), in the case of an F&O Block Clearing Order or Transaction Clearing Order, it relates to a Transaction which is, or CDS Trade Particulars which are, not eligible for Clearing or which is or are not accepted for Clearing by the Clearing House.
- (b) Subject to Rule 1204(d), (e), (f) and (g), neither the validity nor the irrevocability of any Transfer Order shall of itself be affected by any event described in Rule 1204(a) occurring.
  - (c) The terms of all Transfer Orders that have not become irrevocable shall each be subject to a condition (which, if not satisfied, shall enable the Clearing House to exercise its rights under this Rule 1204) that the circumstances described in Rule 1204(a) have not occurred.
  - (d) If any of the circumstances described in Rule 1204(a) has occurred, the amount payable, Contracts to be transferred or to arise or SFD Securities, Emission Allowances or Non-Cash Collateral to be delivered pursuant to the affected Transfer Order may at the discretion of the Clearing House be increased, decreased or otherwise varied, as necessary, to reflect the payments, transfers, Contracts, assignments, novations, SFD Securities, Emission Allowances, Non-Cash Collateral or deliveries that would have been required:
    - (i) in the case of Rule 1204(a)(i) applying, had there been no error;
    - (ii) in the case of Rule 1204(a)(ii)(A), Rule 1204(a)(ii)(B) or Rule 1204(a)(v) applying, had no Contract, Transaction or CDS Trade Particulars ever arisen, occurred or been submitted;

*Part 12 – Settlement Finality Regulations and Companies Act 1989*

- (iii) in the case of Rule 1204(a)(ii)(C) applying, had the Contract always been subject to such amended terms as are agreed or determined;
  - (iv) in the case of Rule 1204(a)(iii) applying, had the details of the CDS Trade Particulars always been corrected or amended as permitted in accordance with the CDS Procedures; or
  - (v) in the case of Rule 1204(a)(iv) applying and the NOPS Amendment Notice specifies an instrument to be delivered that is an SFD Security, had the Notice of Physical Settlement been originally issued as amended pursuant to the NOPS Amendment Notice
- (any such variation, a "Transfer Order Variation").
- (e) A Transfer Order Variation may be effected only by the Clearing House delivering a notice of amendment of an existing Transfer Order to all affected Participants. Valid delivery of a NOPS Amendment Notice in accordance with Rules 1505 and 1509 by a Matched CDS Buyer in a Matched Pair shall be deemed to constitute notice by the Clearing House for purposes of this Rule 1204(e) in respect of a Transfer Order Variation to a CDS Physical Settlement Order, if the NOPS Amendment Notice specifies an instrument to be delivered that is an SFD Security.
  - (f) If any of the circumstances described in Rule 1204(a) has occurred, the Transfer Order in question may at the discretion of the Clearing House alternatively be cancelled. Any such cancellation may be effected by the Clearing House serving a notice of cancellation on all affected Participants. In respect of an F&O Block Clearing Order or Transaction Clearing Order, such notice shall be deemed to have been given if the Clearing House (or, in the case of an F&O Block Clearing Order, any Market) rejects a Transaction or CDS Trade Particulars for Clearing.
  - (g) A CDS Physical Settlement Order shall be cancelled immediately and automatically if and when a copy is provided to the Clearing House of a validly delivered NOPS Amendment Notice specifying an instrument for delivery which is not an SFD Security.
  - (h) A Security Derivative Delivery Order shall be cancelled immediately and automatically if, prior to it becoming irrevocable, the issuer of the SFD Security that is the Deliverable becomes subject to an Insolvency, redeems all its SFD Securities of a kind which would have been the Deliverables for the delivery or another event occurs under which delivery obligations are substituted for cash settlement obligations under the Contract Terms.
  - (i) An Emission Allowance Delivery Order shall be cancelled immediately and automatically if, prior to it becoming irrevocable, an Emissions Registry that is used by the Clearing House or the Clearing Member becomes subject to an Insolvency or otherwise permanently ceases operations.
  - (j) This Rule 1204 does not affect the ability of the Clearing House to take steps giving rise to a new Transfer Order of opposite effect to an existing Transfer Order or part thereof if any of the events described in Rule 1204(a) occur. No Transfer Order Variation shall preclude



*Part 12 – Settlement Finality Regulations and Companies Act 1989*

the cancellation of a Transfer Order in any circumstances in which a Transfer Order may alternatively be cancelled by the Clearing House. The ability of the Clearing House to cancel or vary a Transfer Order shall not preclude a Transfer Order Variation from taking effect.

***Rule 1205 Termination of Transfer Orders***

- (a) Each Payment Transfer Order shall be satisfied immediately and automatically upon all payments required pursuant to the Payment Transfer Order being received in cleared funds or full satisfaction of the relevant underlying obligations is otherwise made and recorded in the Clearing House's systems, in either case not subject to any Encumbrances (except as envisaged under a Pledged Collateral Addendum).
- (b) Each Position Transfer Order shall be satisfied immediately and automatically at the same time that it becomes irrevocable under Rule 1203(d) (whereupon all Contracts to which the Transfer Order in question relates will have been transferred, assigned or novated pursuant to the Rules).
- (c) Each Collateral Transfer Order shall be satisfied immediately and automatically at the later of the time when: (i) the Clearing House receives the Non-Cash Collateral in its account; or (ii) the definitive record of the Permitted Cover transferred by the Clearing Member that is the transferor is updated in the ICE Systems to reflect the successful transfer of Non-Cash Collateral to or to the order of the Clearing House pursuant to the Collateral Transfer Order.
- (d) A Transaction Clearing Order or F&O Block Clearing Order shall be satisfied immediately and automatically at the same time that the relevant resulting Contracts arise under Rule 401(a).
- (e) A CDS Physical Settlement Order shall be satisfied immediately and automatically at the time when the Clearing House updates its records of the relevant CDS Contracts in the ICE Systems to reflect that either physical delivery of the security in question has been completed or the delivery obligations of the parties under the relevant CDS Contracts have otherwise been discharged or settled.
- (f) A Security Derivative Delivery Order shall be satisfied immediately and automatically at the time when the Clearing House (or a Clearing Member to whom delivery is to be made directly from another Clearing Member under Part 7) receives the SFD Security that is the Deliverable, unencumbered in its account.
- (g) An Emission Allowance Delivery Order shall be satisfied immediately and automatically at the time when the Clearing House or Clearing Member that is to receive delivery of the Emission Allowance receives the Emission Allowance that is the Deliverable, unencumbered in its account at the relevant Emissions Registry.
- (h) If a Credit/Debit Payment Transfer Order or ISOC Credit/Debit Payment Transfer Order becomes irrevocable in respect of the same obligation to which a New Contract Payment Transfer Order relates, the New Contract Payment Transfer Order shall automatically be

**Part 12 – Settlement Finality Regulations and Companies Act 1989**

satisfied and shall not become irrevocable. It is acknowledged that New Contract Payment Transfer Orders will generally terminate in accordance with this Rule 1205(h) when standard Clearing and payment processes apply.

- (i) A New Contract Payment Transfer Order relating to an F&O Contract shall be satisfied immediately and automatically if and at the point that the relevant F&O Transaction or Contract is transferred or allocated to another Clearing Member pursuant to Rule 401(a)(viii) or Rule 408(a)(ii) or has become subject to a Position Transfer Order that has itself become satisfied under Rule 1205(b).

***Rule 1206 Provision of Information by the Clearing House and Participants***

- (a) The Clearing House and any Participant must provide, upon payment of a reasonable charge, the following information to any person who requests it, save where the request is frivolous or vexatious, within 14 days of a request being made:
  - (i) details of the Designated System; and
  - (ii) information about the Rules relevant to the functioning of the Designated System.
- (b) The Clearing House will provide a copy of information referred to in Rule 1206(a) to any Clearing Member upon request.

***Rule 1207 Notice to the Bank of England***

- (a) Any notice which under Rule 204(a)(viii) must be copied to the Bank of England, shall be sent to the following addresses:
- (b) Bank of England:
 

The Senior Manager, Payment Systems Oversight  
Financial Resilience Division, HO-3  
Bank of England  
Threadneedle Street  
London EC2R 8AH  
Fax: 020 7601 3217
- (c) Any such notice will only be effectively served, filed, made or provided and delivered to the Bank of England:
  - (i) if sent by post, on the fifth Business Day (or tenth Business Day in the case of airmail) after the day on which it was deposited in the post, full postage prepaid, in a correctly addressed envelope;
  - (ii) if delivered in person to the officer or department specified, at the time of delivery or, if not delivered during business hours on a Business Day, on the following Business Day.

*Part 12 – Settlement Finality Regulations and Companies Act 1989*

- (d) Any notice by fax shall not be effective until hard copy confirmation is served pursuant to Rule 1207(c).

***Rule 1208 Settlement Finality under Abu Dhabi Global Market Laws***

Clearing Members and other Participants acknowledge that various modifications to Applicable Laws in the Abu Dhabi Global Market relating to Insolvency, which may affect Clearing Members, the Clearing House and other Participants, apply pursuant to the FSMR. Clearing Members and other Participants are hereby given notice that such modifications apply in relation to a broader range of circumstances than those defined in this Part 12, for example as regards the settlement and delivery of any product or security that is subject of a Contract or Customer-CM Transaction following expiry or close-out of the Contract or Customer-CM Transaction pursuant to these Rules. As a result, and for example, the FSMR confers settlement finality protections as a matter of the laws of the Abu Dhabi Global Market not merely as regards delivery of an SFD Security that is a Deliverable pursuant to a Security Derivative Delivery Order, but in respect of the delivery of all Deliverables pursuant to Contracts or Customer-CM Transactions upon expiry or close-out of such Contracts or Customer-CM Transactions.

| [Part 13](#)

**Part 13** [Not used]

*Part 14 – Transition Rules for ICE Energy Markets in 2008 [No longer applicable:  
available on request.]*

*Part 14 Transition Rules for ICE Energy Markets in 2008 [No longer applicable:  
available on request.]*

Part 15 – Credit Default Swaps**Part 15 Credit Default Swaps**

Part 15 of the Rules does not apply to F&O Contracts or FX Contracts. References to Contracts in this section are to CDS Contracts. References to any Account in this section are references only to an Account in which CDS Contracts may be recorded and the terms 'Customer Margin Account', 'Customer Position Account', 'Proprietary Margin Account' and 'Proprietary Position Account' shall be construed accordingly. References to Customers in this section are solely to Customers of CDS Clearing Members in relation to CDS Contracts. In this Part 15, all references to time are references to Greenwich Mean Time (GMT) (without taking into account British Summer Time (BST)).

**Rule 1501 Definitions**

~~(a) The term "**2010 PD Amending Directive**" means Directive 2010/73/EU, and includes any national implementing measures in any member state.~~

(a) ~~(b)~~ The term "**Applicable Close-out Rate**" means:

- (i) in respect of obligations which would have been payable but for paragraph 8.2(a)(i)(B) or (C) of the CDS Procedures, as the case may be, by a Defaulting Party, the Late Payment Rate; and
- (ii) in respect of obligations which would have been payable but for paragraphs 8.2(a)(i)(B) or (C) of the CDS Procedures, as the case may be, by a Non-defaulting Party, the Non-default Rate.

(b) ~~(e)~~ The term "**Applicable Credit Event**", in relation to a CDS Contract, means any of the Credit Events specified in that CDS Contract as being applicable.

(c) ~~(d)~~ The term "**Asset Package Delivery Notice**" means the notification required to be given by a protection buyer to a protection seller pursuant to section 8.2 of the 2014 Credit Derivatives Definitions of the detailed description of the Asset Package, if any, that it intends to Deliver to the protection seller in lieu of the Prior Deliverable Obligation or Package Observable Bond, if any, specified in the Notice of Physical Settlement or NOPS Amendment Notice, as applicable.

(d) ~~(e)~~ The term "**CADP**" or "**CDS Alternative Delivery or Settlement Procedure**" has the meaning set out in Rule 1514.

(e) ~~(f)~~ The term "**CADP Notice**" means a notice delivered to the Clearing House and issued jointly by a Matched CDS Buyer and Matched CDS Seller concerning CADP in respect of a Matched Pair and related Matched CDS Contracts, in the form specified in the CDS Procedures.

(f) ~~(g)~~ The term "**CDS Buyer**" means a CDS Clearing Member (or, in respect of an Individually Segregated Sponsored Account, the Sponsored Principal or, in the circumstances set out in the definition of "Matched Pair", the Clearing House) that is party to a CDS Contract as protection buyer.



Part 15 – Credit Default Swaps

- (g) ~~(h)~~ The term "**CDS Price Alignment Amount**" has the meaning given to that term in the CDS Procedures.
- (h) ~~(i)~~ The term "**CDS Seller**" means a CDS Clearing Member (or, in respect of an Individually Segregated Sponsored Account, the Sponsored Principal or, in the circumstances set out in the definition of "Matched Pair", the Clearing House) that is party to a CDS Contract as protection seller.
- (i) ~~(j)~~ The term "**Component Transaction**", in relation to any CDS Contract, has the meaning given to that term in the relevant Contract Terms.
- (j) ~~(k)~~ The term "**Deemed Discharge**" has the meaning set out in Rule 1519.
- (k) ~~(l)~~ The term "**Defaulter Close-Out**" has the meaning set out in Rule 1519.
- (l) ~~(m)~~ The term "**Defaulting Party**" means with respect to (i) a Defaulter Close-Out, the relevant CDS Clearing Member or Sponsored Principal and (ii) a Deemed Discharge, the Clearing House.
- (m) ~~(n)~~ The term "**Deferral Rate**" means a rate certified by the relevant payer to be a rate offered to the payer by a major bank in a relevant interbank market for overnight deposits in the applicable currency, such bank to be selected in good faith by the payer for the purpose of obtaining a representative rate that will reasonably reflect conditions prevailing at the time in the relevant market.
- (n) ~~(o)~~ The term "**Determining Body**" means the Credit Derivatives Determinations Committee or any other relevant body or person that is expressed to have jurisdiction to make the relevant determination under the Applicable Credit Derivatives Definitions or the CDS Procedures. Neither the Credit Derivatives Determinations Committee (or any such other body or Person) nor a secretary of the Credit Derivatives Determinations Committee (or any such other body or Person) is a Representative or committee of the Clearing House.
- (o) ~~(p)~~ The term "**Failed Amount**" has the meaning given to that term in Rule 1512.
- (p) ~~(q)~~ The term "**Late Payment Rate**" means a rate per annum equal to the cost (without proof or evidence of any actual cost) to the relevant payee (as certified by it) if it were to fund or of funding the relevant amount, plus 1% per annum.
- (q) ~~(r)~~ The term "**Matched CDS Buyer Contract**" means a CDS Contract (or part thereof) between a Matched CDS Buyer and the Clearing House which is the subject of a Matched Pair having a Floating Rate Payer Calculation Amount equal to the MP Amount relating to that Matched Pair.
- (r) ~~(s)~~ The term "**Matched CDS Contract**" means a Matched CDS Seller Contract or a Matched CDS Buyer Contract.
- (s) ~~(t)~~ The term "**Matched CDS Seller Contract**" means a CDS Contract (or part thereof) between a Matched CDS Seller and the Clearing House which is the subject of a Matched

Part 15 – Credit Default Swaps

Pair having a Floating Rate Payer Calculation Amount equal to the MP Amount relating to that Matched Pair.

- (t) ~~(tt)~~ The term "**Matched Pair**" means a CDS Buyer and CDS Seller matched by the Clearing House pursuant to Rule 1507 or Rule 1508, as applicable, where the CDS Buyer in such Matched Pair is the "**Matched CDS Buyer**" and the CDS Seller in such Matched Pair is the "**Matched CDS Seller**", provided that the Clearing House shall take the position of CDS Buyer or CDS Seller in any Matched Pair in order to create a Matched Pair for any CDS Seller or CDS Buyer which it is unable to match to another CDS Buyer or CDS Seller (other than the Clearing House), as the case may be.
- (u) ~~(uv)~~ The term "**Matched Pair Notice**" has the meaning set out in Rule 1507(b) or Rule 1508(a), as the case may be.
- (v) ~~(vw)~~ The term "**MP Amount**" means an amount equal to the portion of a Floating Rate Payer Calculation Amount in respect of which the Clearing House matches a Matched Pair for the purposes of Rule 1507(b) or Rule 1508(a), as applicable.
- (w) ~~(wx)~~ The term "**MP Notice**" means a notice provided under Rule 1509(b) or Rule 1509(c) or an Electronic Notice.
- (x) ~~(xy)~~ The term "**Non-default Rate**" means the rate certified by the Non-defaulting Party to be a rate offered to the Non-defaulting Party by a major bank in a relevant interbank market for overnight deposits in the applicable currency, such bank to be selected in good faith by the Non-defaulting Party for the purpose of obtaining a representative rate that will reasonably reflect conditions prevailing at the time in that relevant market.
- (y) ~~(yz)~~ The term "**Non-defaulting Party**" means with respect to (i) a Defaulter Close-Out, the Clearing House and (ii) a Deemed Discharge, the Clearing Member or Sponsored Principal.
- (z) ~~(zza)~~ The term "**Offer to the Public**" in relation to any Securities in any Relevant ~~Member~~ State means the communication in any form and by any means of sufficient information on the terms of the offer and any Securities to be offered so as to enable an investor to decide to purchase or subscribe for those Securities, as the same may be varied in that Relevant ~~Member~~ State by any measure implementing the Prospectus ~~Directive~~ [Regulation](#) in that Relevant ~~Member~~ State.
- (aa) ~~(abb)~~ The term "**PD Contract**" means a CDS that is a Security (if any) and which is:
- (i) a CDS Contract cleared or proposed to be cleared by the Clearing House;
  - (ii) a Customer-CM CDS Transaction; or
  - (iii) a CDS on terms identical or similar to a CDS Contract falling under Rule 1501(aa)(i).
- (bb) ~~(cee)~~ The term "**Prospectus Directive**" ~~means Directive 2003/71/EC (and amendments thereto, including the 2010 PD Amending Directive, to the extent implemented in the Relevant Member State in question)~~ [Regulation](#) means [Regulation \(EU\) 2017/1129](#) and

Part 15 – Credit Default Swaps

includes any European Commission regulations thereunder ~~and relevant implementing measures in each Relevant Member State. Any reference to a particular article of the Prospectus Directive shall be deemed to also be a reference to the relevant provision of the relevant implementing measure in each Relevant Member State.~~

(cc) ~~(dd)~~ The term "**Relevant Member State**" means any member state of the European Economic Area ~~which has implemented the Prospectus Directive~~ or the United Kingdom.

(dd) ~~(ee)~~ The term "**Restructuring CDS Contract**" means a CDS Contract (or in respect of a CDS Contract relating to an index, a CDS Contract which is a Component Transaction) in respect of a Reference Entity in relation to which a Restructuring Credit Event Announcement has been made (and no DC Credit Event Announcement has been made in respect of any other Applicable Credit Event) in relation to that Reference Entity and where relevant, the requirement for Publicly Available Information has been satisfied as determined by the Determining Body provided that if, after such Restructuring Credit Event Announcement has been made, a further DC Credit Event Announcement is made of the occurrence of an Applicable Credit Event other than a Relevant Restructuring Credit Event in relation to that Reference Entity, such CDS Contract, to the extent that it has not become a Triggered Restructuring CDS Contract Portion, will cease to be a Restructuring CDS Contract and provided further that any Restructuring CDS Contract, to the extent that it is not a Triggered Restructuring CDS Contract Portion, in respect of which an effective Restructuring Credit Event Notice can no longer be delivered (including, at the times and in the circumstances specified in the CDS Procedures, copied to the Clearing House) will cease to be a Restructuring CDS Contract and will thereafter be a CDS Contract subject to the provisions of these Rules.

(ee) ~~(ff)~~ The term "**Restructuring Credit Event Announcement**" means a DC Credit Event Announcement of the occurrence of a Relevant Restructuring Credit Event.

(ff) ~~(gg)~~ The term "**Restructuring Credit Event Notice**" means a Credit Event Notice in respect of a Relevant Restructuring Credit Event, relating to all or, where permitted under Section 3.9 of the 2003 Credit Derivatives Definitions or Section 1.33 of the 2014 Credit Derivatives Definitions, as applicable, part of the Floating Rate Payer Calculation Amount of a Restructuring CDS Contract to be delivered in accordance with the Contract Terms by a Matched CDS Buyer or Matched CDS Seller (as applicable) to the Matched CDS Buyer or Matched CDS Seller (as applicable) in the Matched Pair and copied to the Clearing House where required in accordance with Rule 1509(d).

(gg) ~~(hh)~~ The term "**Restructuring Reference Entity**" means the Reference Entity in respect of which a DC Credit Event Announcement has been made in respect of a Relevant Restructuring Credit Event.

(hh) ~~(ii)~~ The term "**Securities**" means 'securities' within the meaning of article 2(1)(a) of the Prospectus Directive ~~as the same may be varied in any Relevant Member State by any measure implementing the Prospectus Directive in that Relevant Member State~~ Regulation; and the term "**Security**" shall be construed accordingly.

Part 15 – Credit Default Swaps

- (ii) ~~(ii)~~ The term "**Settlement Notice**" means any notice under a CDS Contract that is not an MP Notice which is delivered pursuant to the Settlement and Notices Terms.
- (jj) ~~(kk)~~ The term "**Triggered Restructuring CDS Contract Portion**" means a Restructuring CDS Contract in respect of which a Restructuring Credit Event Notice has been delivered in accordance with the Contract Terms, these Rules and the CDS Procedures, provided that, where permitted under Section 3.9 of the 2003 Credit Derivatives Definitions or Section 1.33 of the 2014 Credit Derivatives Definitions, as applicable, if such Restructuring Credit Event Notice specifies an Exercise Amount that is less than the Floating Rate Payer Calculation Amount of the Restructuring CDS Contract, such Restructuring CDS Contract shall be construed, pursuant to Section 3.9 of the 2003 Credit Derivatives Definitions or Section 1.33 of the 2014 Credit Derivatives Definitions, as applicable, as if the parties had entered into two Restructuring CDS Contracts, one of which will constitute the Triggered Restructuring CDS Contract Portion and has a Floating Rate Payer Calculation Amount equal to the Exercise Amount and the other of which has a Floating Rate Payer Calculation Amount equal to the Floating Rate Payer Calculation Amount outstanding immediately prior to the delivery of the Restructuring Credit Event Notice minus the Exercise Amount.
- (kk) ~~(kk)~~ The term "**Tripartite Representation**" means the record relating to a CDS Contract in Deriv/SERV. In relation to each CDS Contract recorded in Deriv/SERV, it is acknowledged that Deriv/SERV will create a record as follows:
- (i) Where the CDS Contract is recorded in a Customer Account (other than an Individually Segregated Sponsored Account):
    - (A) The record will identify three entities, namely the Clearing House, the CDS Clearing Member and the relevant Customer and will identify whether the Customer is a protection buyer or a protection seller.
    - (B) Where the CDS Clearing Member is an FCM/BD Clearing Member, unless the CDS Contract is recorded in an Individually Segregated Sponsored Account, such record will represent a CDS Contract between the Clearing House and such FCM/BD Clearing Member acting on behalf of or for the account of such Customer and such FCM/BD Clearing Member will be a CDS Buyer if such record identifies such Customer as a protection buyer and a CDS Seller if such record identifies such Customer as a protection seller.
    - (C) Where the CDS Clearing Member is a Non-FCM/BD CDS Clearing Member, unless the CDS Contract is recorded in an Individually Segregated Sponsored Account, such record will represent two contracts:
      - (1) a CDS Contract between the Clearing House and such Non-FCM/BD CDS Clearing Member; and
      - (2) a Customer-CM CDS Transaction between such Non-FCM/BD CDS Clearing Member and such Customer,

Part 15 – Credit Default Swaps

and where such record identifies such Customer as a protection buyer, the Non-FCM/BD CDS Clearing Member will be a CDS Buyer in respect of the CDS Contract and a protection seller in respect of the Customer-CM CDS Transaction; and where such record identifies such Customer as a protection seller, such Non-FCM/BD CDS Clearing Member will be a CDS Seller in respect of the CDS Contract and a protection buyer in respect of the Customer-CM CDS Transaction. Where, in these Rules or the CDS Procedures, a Customer-CM CDS Transaction is described as "related" or "connected" in the context of a CDS Contract, or a CDS Contract is described as "related" or "connected" in the context of a Customer-CM CDS Transaction, that is a reference to the CDS Contract and the Customer-CM CDS Transaction which are related or connected by virtue of being recorded in a single Tripartite Representation.

- (ii) Where the CDS Contract is recorded in a Proprietary Account (excluding any Individually Segregated Sponsored Account), the record will have two entries and identify the Clearing House and the CDS Clearing Member in the same manner as set out under Rule 1501(kk)(i)(A) and will in addition identify the CDS Clearing Member where, under Rule 1501(kk)(i)(A), it would have identified the Customer, identifying whether the CDS Clearing Member is a protection buyer (in which case the CDS Clearing Member will be a CDS Buyer in respect of the CDS Contract) or a protection seller (in which case the CDS Clearing Member will be a CDS Seller in respect of the CDS contract).
- (iii) Where the CDS Contract is recorded in an Individually Segregated Sponsored Account and the Sponsor is a Non-FCM/BD Clearing Member:
  - (A) The record will identify three entities, namely the Clearing House, the Sponsor and the Sponsored Principal and will identify whether the Sponsored Principal is a protection buyer or a protection seller.
  - (B) Such record will represent the rights and liabilities of the parties in respect of a CDS Contract recorded in an Individually Segregated Sponsored Account as set forth in Part 19 and the Sponsored Principal will be a CDS Buyer if such record identifies it as a protection buyer and a CDS Seller if such record identifies such Sponsored Principal as a protection seller.
  - (C) Such record will represent two contracts:
    - (1) a CDS Contract between the Clearing House and the Sponsored Principal, for which the Sponsor is jointly and severally liable as set forth in Part 19; and
    - (2) a Customer-CM CDS Transaction between the Sponsor and Sponsored Principal on the terms set forth in Part 19,

and where such record identifies such Sponsored Principal as a protection buyer, the Sponsor will also be a CDS Buyer in respect of its obligations

Part 15 – Credit Default Swaps

under the CDS Contract and a protection seller in respect of its obligations under the Customer-CM CDS Transaction; and where such record identifies the Sponsored Principal as a protection seller, such Sponsor will be a CDS Seller in respect of its obligations under the CDS Contract and a protection buyer in respect of its obligations under the Customer-CM CDS Transaction. Where, in these Rules or the CDS Procedures, a Customer-CM CDS Transaction is described as "related" or "connected" in the context of a CDS Contract, or a CDS Contract is described as "related" or "connected" in the context of a Customer-CM CDS Transaction, that is a reference to the CDS Contract and the Customer-CM CDS Transaction which are related or connected by virtue of being recorded in a single Tripartite Representation.

- (iv) Where the CDS Contract is recorded in an Individually Segregated Sponsored Account and the Sponsor is an FCM/BD Clearing Member, the record will have two entries and identify only the Clearing House and the Sponsored Principal (in the latter case, in the same way as the CDS Clearing Member would be identified as set out under Rule 1501(kk)(ii)), identifying whether the Sponsored Principal is a protection buyer (in which case the Sponsored Principal will be a CDS Buyer in respect of the CDS Contract) or a protection seller (in which case the Sponsored Principal will be a CDS Seller in respect of the CDS Contract).

(ll) ~~(mm)~~ The term "**Unpaid Amounts**" owing to a party pursuant to a CDS Contract means:

- (i) with respect to the CDS Clearing Member or Sponsored Principal, the amounts that would have become payable but for paragraph 8.2(a)(i)(B) of the CDS Procedures to the Clearing Member or Sponsored Principal under paragraph 8.2(a)(i)(A) of the CDS Procedures on or prior to the date of the Defaulter Close-Out or Deemed Discharge, as the case may be, and which remain unpaid at the date of the Defaulter Close-Out or Deemed Discharge, as the case may be; and
- (ii) with respect to the Clearing House, the amounts that would have become payable but for paragraph 8.2(a)(i)(C) of the CDS Procedures to the Clearing House under paragraph 8.2(a)(i)(A) of the CDS Procedures on or prior to the date of the Defaulter Close-Out or Deemed Discharge, as the case may be, and which remain unpaid at the date of the Defaulter Close-Out or Deemed Discharge, as the case may be.

(mm) ~~(nn)~~ The terms "**Auction Settlement**", "**Auction Final Price Determination Date**", "**Cash Settlement Amount**", "**Credit Derivatives Determinations Committee**", "**Credit Event**", "**Credit Event Notice**", "**DC Credit Event Announcement**", "**DC Secretary**", "**Deliverable Obligation**", "**Deliver**", "**Delivery**", "**Exercise Amount**", "**Fallback Settlement Method**", "**Floating Rate Payer Calculation Amount**", "**Indicative Quotation**", "**Latest Permissible Physical Settlement Date**", "**NOPS Amendment Notice**", "**Notice of Physical Settlement**", "**Notice to Exercise Movement Option**", "**Obligation**", "**Physical Settlement Amount**", "**Publicly Available Information**", "**Reference Entity**", "**Restructuring**", "**Settlement Method**" and



*Part 15 – Credit Default Swaps*

"**Undeliverable Obligations**" each have the meaning given to those terms in the Applicable Credit Derivatives Definitions.

(nn) ~~(oo)~~ The terms "**Asset Package Delivery**", "**Asset Package**" and "**Prior Deliverable Obligation**", each have the meaning given to those terms in the 2014 Credit Derivatives Definitions.

(oo) ~~(pp)~~ The terms "**CDS Default Committee**", "**Electronic Notice**", "**Electronic Notice Process**", "**Manual Notice Process**", "**Manual MP Notice**", "**NEMO Triggering Period**" and "**Relevant Restructuring Credit Event**" each have the meaning given to those terms in the CDS Procedures.

(pp) ~~(qq)~~ Any term used but not defined in this Part 15 or elsewhere in the Rules shall have the meaning given to that term in the CDS Procedures.

**Rule 1502 Terms of CDS Contracts and Initial Payments**

- (a) The terms of each CDS Contract shall be as follows:
- (i) such quantity, notional and other economic terms (as determined pursuant to the CDS Procedures) as were submitted to the Clearing House in respect of the CDS Trade Particulars that gave rise to the CDS Contract, subject, in the case of a Restructuring CDS Contract, to such changes to such terms as result from the operation of these Rules and the CDS Procedures, subject to the provisions of Rule 401(a)(vi), (ix), (x) or (xi), as applicable;
  - (ii) the applicable terms set out in the Rules (including, without limitation, the CDS Procedures, the Settlement and Notices Terms and those provisions of the Contract Terms Procedures as are specified in the CDS Procedures);
  - (iii) the Applicable Credit Derivatives Definitions, as amended pursuant to these Rules (including, without limitation, pursuant to the CDS Procedures); and
  - (iv) the Settlement and Notices Terms.
- (b) No CDS Contract arising pursuant to the Clearing of CDS Trade Particulars in respect of a Bilateral CDS Transaction already recorded in Deriv/SERV shall contain any rights or obligations in respect of any Initial Payment. If any CDS Trade Particulars submitted for Clearing relate to a Bilateral CDS Transaction which includes any binding obligation for payment or performance falling due before a CDS Contract arises pursuant to Rule 401(a)(ix), the obligation for such payment or performance shall remain a direct obligation of the relevant CDS Buyer or CDS Seller (as applicable) to the other party to the relevant Bilateral CDS Transaction. The Clearing House shall have no obligation to make or guarantee any Initial Payment in respect of a Bilateral CDS Transaction or any CDS Trade Particulars (but this shall not affect the Clearing House's obligations under CDS Contracts, including any obligation to make an Initial Payment under a CDS Contract in accordance with the Contract Terms) or to make or guarantee any payment or performance reflecting any payment or performance in respect of a Bilateral CDS Transaction or any

Part 15 – Credit Default Swaps

CDS Trade Particulars falling due for payment or performance before a CDS Contract arises pursuant to Rule 401(a)(ix). For the avoidance of doubt: (i) each CDS Contract arising from the submission for Clearing of CDS Trade Particulars for which no Bilateral CDS Transaction is already recorded in Deriv/SERV will include an obligation to pay an Initial Payment constituting a payment obligation of the relevant party thereto reflecting the Initial Payment, if any, reflected in the CDS Trade Particulars submitted for Clearing; and (ii) CDS Contracts arising in other circumstances (other than pursuant to Clearing of CDS Trade Particulars in respect of a Bilateral CDS Transaction already recorded in Deriv/SERV, but including, without limitation, CDS Contracts arising pursuant to Rule 401(a)(vi), (ix), (x) or (xi)) may include an obligation to pay an Initial Payment constituting a payment obligation of the relevant party thereto.

**Rule 1503** *Prospectus ~~Directive~~ Regulation*

- (a) The Clearing House has not authorised, nor does it authorise, the making of any Offer to the Public by any Person of any PD Contract in circumstances in which: (i) an obligation arises for the Clearing House to publish or supplement a prospectus for any such offer; (ii) an obligation arises for the Clearing House to make any other public disclosure or filing required under the Prospectus ~~Directive~~ Regulation; or (iii) a "home member state" is determined in respect of the Clearing House for purposes of article 2(~~4~~)m) of the Prospectus ~~Directive~~ Regulation. Accordingly, Clearing Members shall not make any such Offer to the Public in relation to PD Contracts.
- (b) Without prejudice to the generality of Rule 1503(a), no Clearing Member shall enter into a PD Contract:
- (i) with the Clearing House;
  - (ii) with another Clearing Member or Sponsored Principal pursuant to CADP; or
  - (iii) with any of its Customers on a back-to-back or agency basis with a contract falling under (i) or (ii),

unless one or more of the following conditions is satisfied:

- (A) in the case of any PD Contract to which the Clearing House is a party, the Clearing Member is a "qualified investor" (as defined in article 2(~~4~~)e) of the Prospectus ~~Directive~~ Regulation);
  - (B) in the case of any PD Contract relating to a Customer, the Clearing Member and its Customer are both "qualified investors" (as defined in article 2(~~4~~)e) of the Prospectus ~~Directive~~ Regulation);
  - (C) the minimum total consideration is at least: €100,000; or
- (~~1~~) ~~€50,000, in relation to any Offer to the Public made in a Relevant Member State that has not implemented the 2010 PD Amending Directive; or~~

Part 15 – Credit Default Swaps

~~(2) €100,000, in relation to any Offer to the Public made in a Relevant Member State that has implemented the 2010 PD Amending Directive; or~~

- (D) the requirement to publish or supplement a prospectus under the Prospectus ~~Directive~~Regulation otherwise does not apply.
- (c) Notwithstanding any other provision of these Rules, no Clearing Member shall be declared subject to an Event of Default or have its membership terminated or suspended under Rules 208 or 209 for breach of any provision of this Rule 1503 unless:
- (i) a Governmental Authority has determined or published a determination, rule or guidance to the effect that any CDS is or may be characterised as a Security, in which case any breach of this Rule 1503 following such determination or publication shall be actionable as an Event of Default and constitute grounds for termination or suspension of membership under Rules 208 or 209; or
  - (ii) the Clearing House has suffered a loss or is subject to any investigation or proceeding by a Governmental Authority in relation to the Prospectus ~~Directive~~Regulation caused by the Clearing Member's breach of this Rule 1503.
- (d) Neither Rule 1501(aa) nor this Rule 1503 constitutes any agreement, admission or acknowledgement on the part of any Customer, Clearing Member or the Clearing House that any CDS is or could be characterised as a Security. Rule 1501(aa) and this Rule 1503 are without prejudice to any right of any Customer, Clearing Member or the Clearing House to assert, argue or provide evidence that any CDS is not a Security in any arbitration, disciplinary or other legal proceedings or to any Governmental Authority or to publish any view that the Prospectus ~~Directive~~Regulation does or does not apply in relation to any such contract.

***Rule 1504 Separate treatment of CDS Contracts for Proprietary Account and Customer Account***

Further to Rule 102(q), CDS Contracts (and consequently Open Contract Positions including any Restructuring CDS Contracts, Matched CDS Contracts and Triggered Restructuring CDS Contract Portions) will be separately subject to the application of these Rules in respect of the following accounts of a CDS Clearing Member: each of its Proprietary Accounts, each of its Customer Accounts, and each Individually Segregated Sponsored Account for which it acts as Sponsor, in either case in which CDS Contracts of the relevant Set are recorded (if any).

***Rule 1505 Credit Event Notices, Notices of Physical Settlement, NOPS Amendment Notices, Notices to Exercise Movement Option and Asset Package Delivery Notice***

- (a) None of the Clearing House, any CDS Clearing Member or any Customer will be entitled to deliver a Credit Event Notice under a CDS Contract or any Customer-CM CDS

**Part 15 – Credit Default Swaps**

Transaction, as the case may be, in relation to any Applicable Credit Event other than a Relevant Restructuring Credit Event.

- (b) None of the Clearing House, any CDS Clearing Member or any Customer will deliver any of the following notices in respect of any CDS Contract or any Customer-CM CDS Transaction (as the case may be) unless and until the Clearing House has (or, pursuant to Rule 1507 or Rule 1508, should have) notified CDS Buyers and CDS Sellers of their Matched Pairs and associated MP Amounts and any such notices delivered before that time shall be void and of no effect:
- (i) a Notice of Physical Settlement, NOPS Amendment Notice or, where applicable, Asset Package Delivery Notice in respect of a CDS Contract of a Set (or any related Customer-CM CDS Transaction) in respect of which an Applicable Credit Event other than a Relevant Restructuring Credit Event has occurred; or
  - (ii) a Credit Event Notice, Notice of Physical Settlement, NOPS Amendment Notice or, where applicable, Asset Package Delivery Notice or Notice to Exercise Movement Option in respect of a CDS Contract of a Set (or any related Customer-CM CDS Transaction) in respect of which a Relevant Restructuring Credit Event has occurred.
- (c) If a CDS Clearing Member delivers (or, by virtue of a Customer delivering a Credit Event Notice in respect of a CDS Contract recorded in the Tripartite Representation, is deemed to have delivered) a Credit Event Notice, Notice to Exercise Movement Option, Notice of Physical Settlement or NOPS Amendment Notice in relation to a Matched CDS Contract in respect of a Floating Rate Payer Calculation Amount exceeding the MP Amount in respect of which it is matched in the relevant Matched Pair then such notice will be effective only in respect of a Floating Rate Payer Calculation Amount equal to the relevant MP Amount. This requirement will apply separately in relation to each Matched Pair in respect of which the CDS Clearing Member is matched.
- (d) Nothing in this Rule 1505 shall restrict or prevent any deemed delivery of a Credit Event Notice pursuant to the CDS Procedures or Contract Terms.
- (e) Any purported delivery of a Notice to Exercise Movement Option outside the NEMO Triggering Period shall not amount to valid delivery of that notice and shall be disregarded by the Clearing House and Clearing Members in relation to any CDS Contracts and any related Customer-CM CDS Transactions.

**Rule 1506    *Auction Settlement and Physical Settlement***

Auction Settlement will be specified as the Settlement Method and "Physical Settlement" will be specified as the Fallback Settlement Method for all CDS Contracts.

Part 15 – Credit Default Swaps**Rule 1507 Physical Settlement Allocation of Buyers and Sellers: Applicable Credit Events other than Restructuring**

- (a) Following the occurrence of a DC Credit Event Announcement relating to an Applicable Credit Event other than a Relevant Restructuring Credit Event in respect of a CDS Contract, the Clearing House will be obliged, where the Fallback Settlement Method applies to the CDS Contract, to carry out the steps in Rule 1507(b) in accordance with the CDS Procedures.
- (b) If Rule 1507(a) applies:
- (i) the Clearing House shall match each CDS Seller in respect of a CDS Contract of the relevant Set with one or more CDS Buyers under CDS Contract(s) of the same Set in accordance with the CDS Procedures (such CDS Contracts thereby becoming Matched CDS Contracts and each matched CDS Seller and CDS Buyer becoming a Matched Pair), such that the Floating Rate Payer Calculation Amount related to each CDS Seller under each Matched CDS Seller Contract is fully allocated to one or more CDS Buyers under Matched CDS Buyer Contracts of the same Set as such Matched CDS Seller Contract; and
  - (ii) the Clearing House will, in accordance with the CDS Procedures, notify each CDS Buyer and CDS Seller of the details of the Matched CDS Contracts, Matched CDS Buyer and Matched CDS Seller (such notice, for purposes of this Rule 1507, the "**Matched Pair Notice**") and the associated MP Amount.
- (c) If the Clearing House has delivered a Matched Pair Notice that specifies a MP Amount that is less than the outstanding Floating Rate Payer Calculation Amount applicable to a Matched CDS Contract to which such Matched Pair Notice relates, the relevant rights and obligations of the Clearing House and the Matched CDS Buyer or Matched CDS Seller pursuant to the Matched CDS Contract shall, with effect from the date such Matched Pair Notice is effective, be construed as if the Clearing House and such Matched CDS Buyer or Matched CDS Seller had entered into two CDS Contracts, one of which has a Floating Rate Payer Calculation Amount equal to the MP Amount and the other of which has a Floating Rate Payer Calculation Amount equal to the Floating Rate Payer Calculation Amount outstanding immediately prior to delivery of such Matched Pair Notice minus the MP Amount. Where this paragraph applies to a Matched CDS Contract recorded in a Customer Account of a Non-FCM/BD CDS Clearing Member, the related Customer-CM CDS Transaction will be treated as identically separated and as two Customer-CM CDS Transactions.
- (d) The provisions of this Rule 1507 are subject to Rule 1515.

**Rule 1508 Settlement Allocation of Buyers and Sellers: Relevant Restructuring Credit Event**

- (a) Following the occurrence of a Restructuring Credit Event Announcement, in accordance with the CDS Procedures:

Part 15 – Credit Default Swaps

- (i) the Clearing House will match each CDS Seller with one or more CDS Buyers each of which is party to a Restructuring CDS Contract of the same Set in accordance with the CDS Procedures (such Restructuring CDS Contracts thereby becoming Matched CDS Contracts and each matched CDS Seller and CDS Buyer becoming a Matched Pair), such that the Floating Rate Payer Calculation Amount related to each Matched CDS Seller under each Matched CDS Contract is fully allocated to one or more CDS Buyers under Matched CDS Contracts of the same Set as such Matched CDS Seller Contract; and
  - (ii) the Clearing House will notify each CDS Buyer and CDS Seller of the Matched CDS Contracts, Matched CDS Buyer and Matched CDS Seller (such notice, for purposes of this Rule 1508, the "**Matched Pair Notice**") and the associated MP Amount (but the Clearing House shall not be obliged to provide any Matched Pair Notice to any Customer).
- (b) If the Clearing House has delivered a Matched Pair Notice that specifies a MP Amount that is less than the outstanding Floating Rate Payer Calculation Amount applicable to a Matched CDS Contract to which such Matched Pair Notice relates, the relevant rights and obligations of the Clearing House and the relevant Matched CDS Buyer or Matched CDS Seller pursuant to the Matched CDS Contract shall, with effect from the date such Matched Pair Notice is effective, be construed as if the Clearing House has entered into two Restructuring CDS Contracts, one of which has a Floating Rate Payer Calculation Amount equal to the MP Amount and the other of which has a Floating Rate Payer Calculation Amount equal to the Floating Rate Payer Calculation Amount outstanding immediately prior to delivery of such Matched Pair Notice minus the MP Amount. Where this paragraph applies to a Matched CDS Contract recorded in a Customer Account of a Non-FCM/BD CDS Clearing Member, the related Customer-CM CDS Transaction will be treated as identically separated into two Customer-CM CDS Transactions.
- (c) The provisions of this Rule 1508 are subject to Rule 1515.

**Rule 1509** *Matched Pairs: Designations and Notices*

- (a) In respect of each Matched CDS Buyer Contract and each Matched CDS Seller Contract which is the subject of a Matched Pair, Restructuring Credit Event Notices and Notices to Exercise Movement Option shall, save in the limited circumstances provided for in the CDS Procedures when the Manual Notice Process applies, be given in accordance with the Electronic Notice Process and will have the effect set out in that process.
- (b) For the purposes of the Manual Notice Process, in respect of each Matched CDS Buyer Contract which is the subject of a Matched Pair, the Clearing House, pursuant to Section 9.2(c)(iv) of the 2003 Credit Derivatives Definitions or Section 11.2(c)(iv) of the 2014 Credit Derivatives Definitions, as applicable (each of which is amended for these purposes in the CDS Procedures), as designator, shall be deemed to have designated the Matched CDS Seller in such Matched Pair as its designee:
  - (i) to receive on its behalf from the Matched CDS Buyer in the Matched Pair:



Part 15 – Credit Default Swaps

- (A) Notices of Physical Settlement (and any NOPS Amendment Notices or in Asset Package Delivery Notice), in each case, that are Manual MP Notices in relation to any CDS Contract in respect of which a DC Credit Event Announcement has been made in respect of an Applicable Credit Event other than a Relevant Restructuring Credit Event;
  - (B) Restructuring Credit Event Notices, Notices of Physical Settlement (and any NOPS Amendment Notices or Asset Package Delivery Notice) and, where applicable, Notices to Exercise Movement Option, in each case, that are Manual MP Notices in relation to any Restructuring CDS Contract or Triggered Restructuring CDS Contract Portion, as the case may be; and
  - (C) any Settlement Notices.
- (ii) to deliver on its behalf to the Matched CDS Buyer in the Matched Pair Restructuring Credit Event Notices and, where applicable, Notices to Exercise Movement Option, in each case, that are Manual MP Notices in relation to any Restructuring CDS Contract or Triggered Restructuring CDS Contract Portion, as the case may be, and any Settlement Notices; other than in respect of the Physical Settlement Amount relating to the settlement of Non DVP Obligations as referred to in Rule 1510, to pay, on behalf of the Clearing House, the applicable Physical Settlement Amount in respect of any Matched CDS Contract to be settled in accordance with the Fallback Settlement Method to the Matched CDS Buyer in the Matched Pair;
  - (iii) to pay to the Matched CDS Buyer in the Matched Pair and receive from the Matched CDS Buyer in the Matched Pair, in either case on behalf of the Clearing House, any amounts in respect of the costs and expenses of settlement due under the Matched CDS Buyer Contract; and
  - (iv) to take Delivery, on behalf of the Clearing House, of Deliverable Obligations from the Matched CDS Buyer in the Matched Pair,

and each Matched CDS Seller is hereby notified of the same accordingly. The Matched CDS Seller shall assume such obligations as designee upon notification of any Matched Pair.

- (c) For the purposes of the Manual Notice Process, in respect of each Matched CDS Seller Contract which is the subject of a Matched Pair, the Clearing House, pursuant to Section 9.2(c)(iv) of the 2003 Credit Derivatives Definitions or Section 11.2(c)(iv) of the 2014 Credit Derivatives Definitions, as applicable (each of which is amended for these purposes in the CDS Procedures), as designator, shall be deemed to have designated the Matched CDS Buyer in such Matched Pair as its designee:
  - (i) to deliver on its behalf to the Matched CDS Seller in the Matched Pair:
    - (A) Notices of Physical Settlement (and any NOPS Amendment Notices or Asset Package Delivery Notice), in each case, that are Manual MP Notices

Part 15 – Credit Default Swaps

in relation to any CDS Contract in respect of which a DC Credit Event Announcement has been made in respect of an Applicable Credit Event other than a Relevant Restructuring Credit Event;

- (B) Restructuring Credit Event Notices, Notices of Physical Settlement (and any NOPS Amendment Notices or Asset Package Delivery Notice) and, where applicable, Notices to Exercise Movement Option, in each case, that are Manual MP Notices in relation to any Restructuring CDS Contract or Triggered Restructuring CDS Contract Portion, as the case may be; and
  - (C) any Settlement Notices.
- (ii) to receive on its behalf from the Matched CDS Seller in the Matched Pair Restructuring Credit Event Notices and, where applicable, Notices to Exercise Movement Option, in each case, that are Manual MP Notices in relation to any Restructuring CDS Contract or Triggered Restructuring CDS Contract Portion, as the case may be, and any Settlement Notices;
  - (iii) other than in respect of the Physical Settlement Amount relating to the settlement of Non DVP Obligations as referred to in Rule 1510, to receive payment, on behalf of the Clearing House, of the applicable Physical Settlement Amount from the Matched CDS Seller in the Matched Pair;
  - (iv) to pay to the Matched CDS Seller in the Matched Pair and receive from the Matched CDS Seller in the Matched Pair, in either case on behalf of the Clearing House, any amounts in respect of the costs and expenses of settlement due under the Matched CDS Seller Contract; and
  - (v) to Deliver, on behalf of the Clearing House, the relevant Deliverable Obligations to the Matched CDS Seller in the Matched Pair,

and each Matched CDS Buyer is hereby notified of the same accordingly. The Matched CDS Buyer shall assume such obligations as designee upon notification of any Matched Pair.

- (d) With respect to any rights exercised as a result of or pursuant to the delivery of Manual MP Notices or Settlement Notices, in relation to each Matched Pair:
  - (i) the exercise of any rights by the Matched CDS Buyer against the Clearing House under a Matched CDS Buyer Contract shall be deemed to constitute the exercise of equal and simultaneous rights by the Clearing House against the Matched CDS Seller under the Matched CDS Seller Contract in the relevant Matched Pair;
  - (ii) the exercise of any rights of the Matched CDS Seller against the Clearing House under a Matched CDS Seller Contract shall be deemed to constitute the exercise of equal and simultaneous rights by the Clearing House against the Matched CDS Buyer under the Matched CDS Buyer Contract in the relevant Matched Pair;

Part 15 – Credit Default Swaps

- (iii) where the Matched CDS Buyer validly delivers or serves any Manual MP Notice or Settlement Notice to or on the Matched CDS Seller in accordance with the Contract Terms and Rule 1509(c), such Manual MP Notice or Settlement Notice shall be effective with respect to both the Matched CDS Buyer Contract and the Matched CDS Seller Contract; and
  - (iv) where the Matched CDS Seller validly delivers or serves any Manual MP Notice or any Settlement Notices to or on the Matched CDS Buyer in accordance with the Contract Terms and Rule 1509(b), such Manual MP Notice or Settlement Notice shall be effective with respect to both the Matched CDS Buyer Contract and the Matched CDS Seller Contract.
- (e) Following delivery by a Matched CDS Buyer or Matched CDS Seller of any Manual MP Notice or Settlement Notice, the Matched CDS Buyer or Matched CDS Seller that delivered such Manual MP Notice or Settlement Notice shall, at the times and in the circumstances specified in the CDS Procedures, deliver a written copy of such Manual MP Notice or Settlement Notice to the Clearing House, in the case of Manual MP Notices in accordance with the CDS Procedures. Where required by the CDS Procedures, the Clearing House will provide a copy of the copy of each Manual MP Notice so received by it to both the Matched CDS Buyer and Matched CDS Seller in each Matched Pair under which a Manual MP Notice has been served or appears to have been served, in accordance with the CDS Procedures.
- (f) Any Matched CDS Buyer or Matched CDS Seller in a Matched Pair which disputes any MP Notice or Settlement Notice, or which considers that an MP Notice or Settlement Notice additional to those copied to it by the Clearing House has been served, must inform the Clearing House, in the case of MP Notices in accordance with the CDS Procedures. Unless the Clearing House receives any notice disputing an MP Notice, the Clearing House will update its and Deriv/SERV's records on the basis of the MP Notices (or, at the times and in the circumstances specified in the CDS Procedures, on the basis of equivalent information) notified by the Clearing House to the Matched CDS Buyer and Matched CDS Seller in the Matched Pair. The Clearing House shall not be obliged to act upon any disputed MP Notice or Settlement Notice until the relevant dispute has been resolved.
- (g) The Matched CDS Buyer and Matched CDS Seller in each Matched Pair shall each make such payments and deliveries and deliver such tenders, notices and invoices in relation to settlement to one another and to the Clearing House as are required pursuant to a Matched CDS Contract, these Rules, the CDS Procedures or Applicable Laws, provided that if Asset Package Delivery is applicable in respect of a Prior Deliverable Obligation specified in the relevant Notice of Physical Settlement or NOPS Amendment Notice (as the case may be) and the Matched CDS Buyer has complied with its obligations to give an Asset Package Delivery Notice, then in circumstances where the Asset Package is deemed to be zero, settlement shall be deemed to settle on a delivery-versus-payment basis in accordance with the timetable set out in Section 8.12(b)(iii) of the 2014 Credit Derivatives Definitions.

Part 15 – Credit Default Swaps**Rule 1510 Physical Settlement of Matched Pairs for Non DVP Obligations**

- (a) In respect of any Matched Pair and the associated MP Amount, if any Deliverable Obligations to be Delivered by the Matched CDS Buyer to the Matched CDS Seller are reasonably believed by the Matched CDS Buyer not to settle standardly on a delivery-versus-payment basis (such Deliverable Obligations, "**Non DVP Obligations**") (as notified by the Matched CDS Buyer to the Matched CDS Seller and to the Clearing House upon delivering any Notice of Physical Settlement or NOPS Amendment Notice or Asset Package Delivery Notice), Delivery of such Non DVP Obligations and payment of the related Physical Settlement Amount, each relating to the relevant portion of the MP Amount (the "**Non DVP MP Amount**") shall take place as follows and in accordance with the CDS Procedures:
- (i) the Matched CDS Buyer shall notify the Clearing House that it is ready to Deliver to the Matched CDS Seller the Non DVP Obligations in an amount at least equal to the Non DVP MP Amount;
  - (ii) following receipt of a valid notification under Rule 1510(a)(i), the Clearing House shall request that the Matched CDS Seller pays the full Physical Settlement Amount relating to such Non DVP MP Amount to the Clearing House;
  - (iii) following receipt of a request under Rule 1510(a)(ii), the Matched CDS Seller shall transfer the full Physical Settlement Amount relating to the Non DVP MP Amount to the Clearing House;
  - (iv) following receipt of the full Physical Settlement Amount relating to the Non DVP MP Amount in accordance with Rule 301(f), the Clearing House shall notify the Matched CDS Buyer that it is holding the full Physical Settlement Amount relating to such Non DVP MP Amount from the Matched CDS Seller;
  - (v) following receipt of the notice under Rule 1510(a)(iv), the Matched CDS Buyer shall Deliver the relevant Non DVP Obligations to the Matched CDS Seller in an amount at least equal to the relevant Non DVP MP Amount;
  - (vi) following its receipt of Delivery of the relevant Deliverable Obligations, the Matched CDS Seller shall deliver a Notice to the Clearing House in the form required by the Clearing House from time to time specifying that the Delivery has occurred, in full or, if in part, the percentage of the Non DVP MP Amount (the "**Delivered Percentage**") in respect of which Delivery has occurred;
  - (vii) following its receipt of a valid notice under Rule 1510(a)(vi), the Clearing House shall pay an amount equal to the Physical Settlement Amount (or, where the Matched CDS Seller notified the Clearing House of Delivery in part only, an amount equal to the Delivered Percentage of the Physical Settlement Amount) received from the Matched CDS Seller in respect of the relevant Non DVP MP Amount to the Matched CDS Buyer; and

*Part 15 – Credit Default Swaps*

- (viii) if the Matched CDS Buyer does not Deliver the Non DVP Obligations in an amount at least equal to the relevant Non DVP MP Amount to the Matched CDS Seller within the required period under the CDS Procedures for compliance with Rule 1510(a)(v) ("**Delivery Period**"), the Matched CDS Seller may request that the Clearing House repay to the Matched CDS Seller the Physical Settlement Amount in respect of the relevant Non DVP MP Amount, less the Delivered Percentage of the Physical Settlement Amount, if any, together with accrued interest on such amount for the period it has been held by the Clearing House calculated by reference to the Clearing House's rate for overnight deposits in the currency of the Physical Settlement Amount.

The process set out in this Rule 1510 may, subject to the relevant Contract Terms, be repeated in relation to any Non DVP Obligations not in fact delivered during a relevant Delivery Period.

***Rule 1511 Notice that Physical Settlement is complete***

Where, pursuant to their rights and obligations under Matched CDS Contracts, the Matched CDS Seller and Matched CDS Buyer in any Matched Pair settle any Matched CDS Contract which is to be settled in accordance with the Fallback Settlement Method, the relevant Matched CDS Seller and Matched CDS Buyer shall each deliver a notice to the Clearing House in the form required by the Clearing House from time to time specifying the payment and Delivery that have occurred in respect of such Matched CDS Contracts. Any such notice shall constitute a representation by the CDS Clearing Member or Sponsored Principal delivering the notice to the Clearing House that, so far as it is aware, physical settlement has occurred successfully and that there are no outstanding claims known to him in respect of the Matched CDS Contract (save as is disclosed in the notice) but is otherwise without prejudice to the rights of any party to a Matched CDS Contract in respect of settlement.

***Rule 1512 Failure to pay Physical Settlement Amount; Cash Settlement***

If, in relation to any Matched Pair, a Matched CDS Seller fails to pay all or part of the Physical Settlement Amount either to the Matched CDS Buyer or (where Rule 1510 applies) to the Clearing House when, in accordance with the Contract Terms, it was obliged to pay such amount (the amount not paid being the "**Failed Amount**"):

- (a) the Matched CDS Buyer may and the Matched CDS Seller in the Matched Pair shall, as soon as practicable, give notice in writing to the Clearing House, giving all material details of the Matched CDS Contracts involved, of the failure to pay and the Failed Amount and any material details of the amount of any Physical Settlement Amount paid in part;
- (b) such failure to pay shall not constitute or be deemed to constitute a breach of contract by, Insolvency of or Failure To Pay by the Clearing House under these Rules, the applicable Contract Terms or any Matched CDS Buyer Contract or give rise to any termination rights under Rule 209(c)(ii) or (iii) or Rule 912;
- (c) if the Matched CDS Buyer elects to notify the Clearing House of such failure to pay in accordance with Rule 1512(a), the Matched CDS Buyer may give any such notice as soon

Part 15 – Credit Default Swaps

as reasonably practicable after the occurrence of such failure to pay by the Matched CDS Seller;

- (d) the Matched CDS Seller will be deemed to have failed to pay an amount equal to the Failed Amount to the Clearing House under the relevant Matched CDS Seller Contract;
- (e) upon notice being given to the Clearing House by the Matched CDS Buyer in accordance with Rule 1512(c), "Cash Settlement" between the Matched CDS Buyer and the Clearing House pursuant to the Partial Cash Settlement Terms (set out in Section 9.8 of the 2003 Credit Derivatives Definitions or Section 9.6 of the 2014 Credit Derivatives Definitions, as applicable, each of which is amended for these purposes in the CDS Procedures) shall be deemed to apply to the Matched CDS Buyer Contract with respect to the Deliverable Obligations corresponding to the Failed Amount as though:
  - (i) the Deliverable Obligations not Delivered were Undeliverable Obligations;
  - (ii) the Latest Permissible Physical Settlement Date were the date on which the Matched CDS Buyer gave the relevant notice to the Clearing House as referred to in Rule 1512(c);
  - (iii) Indicative Quotations were not applicable; and
  - (iv) the Matched CDS Buyer were the Calculation Agent,

and the Clearing House and the Matched CDS Buyer will settle the Matched Buyer CDS Contract accordingly and Rule 1509 will not apply.

**Rule 1513 Fallback to Cash Settlement in respect of Non-Deliverable Obligations**

- (a) If a Matched CDS Buyer is not permitted to Deliver one or more Deliverable Obligations (such Deliverable Obligations, the "**Non-Deliverable Obligations**") specified in the relevant Notice of Physical Settlement or NOPS Amendment Notice or Asset Package Delivery Notice to its Matched CDS Seller in the relevant Matched Pair because:
  - (i) the amount of such Deliverable Obligation is less than the relevant minimum denomination of such Deliverable Obligation; or
  - (ii) such Matched CDS Seller is not a permitted transferee under such Deliverable Obligation or the Matched CDS Buyer does not obtain any requisite consent with respect to delivery of loans,

such occurrence shall be treated, in relation to both Matched CDS Contracts, as an illegality or impossibility outside the parties' control for the purpose of Section 9.3 of the 2003 Credit Derivatives Definitions or Section 9.1 of the 2014 Credit Derivatives Definitions, as applicable. The Matched CDS Buyer shall deliver a notice describing in reasonable detail the facts giving rise to such deemed illegality or impossibility to its Matched CDS Seller and the Clearing House.



*Part 15 – Credit Default Swaps*

- (b) Upon notice being given to the Clearing House by the Matched CDS Buyer under Rule 1513(a), "Cash Settlement" pursuant to the Partial Cash Settlement Terms (set out in Section 9.8 of the 2003 Credit Derivatives Definitions or Section 9.6 of the 2014 Credit Derivatives Definitions, as applicable, each of which is amended for these purposes in the CDS Procedures) shall be deemed to apply to the Matched CDS Contracts in respect of the relevant Matched Pair with respect to the Non-Deliverable Obligations as though:
- (i) the Non-Deliverable Obligations were Undeliverable Obligations;
  - (ii) the Latest Permissible Physical Settlement Date were the date on which the Matched CDS Buyer gave the relevant notice to the Clearing House as referred to in Rule 1513(a);
  - (iii) in the case of Rule 1513(a)(ii), Indicative Quotations were not applicable; and
  - (iv) the Matched CDS Buyer were the Calculation Agent.

The Clearing House and the Matched CDS Buyer will settle the Matched CDS Buyer Contract and the Clearing House and the Matched CDS Seller will settle the Matched Seller CDS Contract accordingly as though references to the Physical Settlement Amount in Rule 1509(b) and (c) were references to the Cash Settlement Amount.

***Rule 1514 CDS Alternative Delivery or Settlement Procedure***

- (a) A Matched CDS Buyer and Matched CDS Seller in any Matched Pair for which the Settlement Method is other than Auction Settlement may, in accordance with the CDS Procedures, elect to settle their rights and obligations in relation to such Matched CDS Contracts between each other outside the Clearing House and other than pursuant to Rule 1507 to Rule 1511 ("**CDS Alternative Delivery or Settlement Procedure**" or "**CADP**"). For CADP to be effective, the Matched CDS Buyer and Matched CDS Seller must jointly provide the Clearing House with a CADP Notice specifying the Matched CDS Contracts and the quantity of the related MP Amount intended to be the subject of CADP (which quantity, if the CDS Contracts are ones to which Section 3.9 (*Credit Event Notice after Restructuring*) of the 2003 Credit Derivatives Definitions or Section 1.33 (*Credit Event Notice after M(M)R Restructuring*) of the 2014 Credit Derivatives Definitions, as applicable, applies, shall be an amount that would be permitted as an Exercise Amount in relation to such Matched CDS Contracts under such section and, otherwise, shall be the entire MP Amount) and obtain the consent of the Clearing House to CADP, which consent will not be unreasonably withheld or delayed. The Clearing House shall respond to any CADP Notice (including its consent to CADP or otherwise) within one Business Day of receipt thereof.
- (b) With effect from the time that the Clearing House confirms its consent to CADP, the Floating Rate Payer Calculation Amount of the relevant Matched CDS Contracts will be deemed to be reduced by an amount equal to the quantity of the MP Amount specified in the CADP Notice, as referred to in (a) above. In such circumstances, Rules 1507 to 1511 (inclusive) shall not apply to such Matched CDS Buyer and Matched CDS Seller in respect

Part 15 – Credit Default Swaps

of the notified reduced amount related to such Matched Pair or the relevant Matched CDS Contracts.

- (c) In such circumstances, the Matched CDS Buyer and Matched CDS Seller shall be liable to satisfy their obligations to each other in respect of such CADP bilaterally pursuant to such arrangements or agreements as they may establish or agree between them.

***Rule 1515 Separation of Matched Pairs***

(a) If: -

- (i) a DC Credit Event Announcement has been made in respect of an Applicable Credit Event other than a Relevant Restructuring Credit Event; and
- (ii) settlement of the relevant CDS Contracts is to be made pursuant to the Fallback Settlement Method; and
- (iii) a subsequent resolution of a Determining Body results in settlement of the relevant CDS Contracts no longer being required to be made pursuant to the Fallback Settlement Method,

then:

- (iv) to the extent that the Clearing House has not by then matched CDS Sellers with CDS Buyers to form Matched Pairs in relation to the relevant CDS Contracts, pursuant to Rule 1507, it shall not do so; and
  - (v) to the extent that the Clearing House has by then matched CDS Sellers with CDS Buyers to form Matched Pairs in relation to the relevant CDS Contracts pursuant to Rule 1507, the Clearing House shall, as soon as reasonably practicable, give notice (the "**Matching Reversal Notice**") to the CDS Seller and CDS Buyer forming each affected Matched Pair of the proposal to reverse such matching and shall thereafter reverse such matching, provided that the Clearing House will not reverse any matching to the extent that the Matched CDS Buyer or Matched CDS Seller has, not later than one Business Day after the Matching Reversal Notice, given notice to the Clearing House in accordance with Rule 1511 or the CDS Procedures (as applicable) that the relevant Matched Pair have settled the relevant Matched CDS Contracts (or part thereof).
- (b) If: -
- (i) a Restructuring Credit Event Announcement has been made; and
  - (ii) a subsequent resolution of a Determining Body determines that the Relevant Restructuring Credit Event did not in fact occur,

Part 15 – Credit Default Swaps

then:

- (iii) to the extent that the Clearing House has not by then matched CDS Sellers with CDS Buyers to form Matched Pairs in relation to the relevant CDS Contracts, pursuant to Rule 1508, it shall not do so; and
- (iv) to the extent that the Clearing House has by then matched CDS Sellers with CDS Buyers to form Matched Pairs in relation to the relevant CDS Contracts pursuant to Rule 1508, the Clearing House shall:
  - (A) with respect to relevant CDS Contracts to which Auction Settlement is applicable and where the subsequent resolution of the Determining Body in (ii) above occurs prior to the Auction Final Price Determination Date, reverse such matching; and
  - (B) with respect to relevant CDS Contracts to which the Fallback Settlement Method is applicable, to the extent that the Clearing House has by then matched CDS Sellers with CDS Buyers to form Matched Pairs in relation to the relevant CDS Contracts pursuant to Rule 1508, the Clearing House shall, as soon as reasonably practicable, give a Matching Reversal Notice to the CDS Seller and CDS Buyer forming each affected Matched Pair of the proposal to reverse such matching and shall thereafter reverse such matching, provided that the Clearing House will not reverse any matching to the extent that the Matched CDS Buyer or Matched CDS Seller has, not later than one Business Day after the Matching Reversal Notice, given notice to the Clearing House in accordance with Rule 1511 or the CDS Procedures (as applicable) that the relevant Matched Pair have settled the relevant Matched CDS Contracts (or part thereof).
- (c) In relation to any Matched CDS Contract for which the matching of the related Matched Pair is reversed pursuant to (a) or (b) of this Rule 1515, the Clearing House will recalculate Margin on the basis that such CDS Contract is no longer a Matched CDS Contract and will adjust the Margin required by it accordingly.
- (d) In relation to any Matched CDS Contract for which the matching of the related Matched Pair is reversed pursuant to (a) or (b) of this Rule 1515, any notices sent by the Matched CDS Buyer or the Matched CDS Seller to the other for the purposes or in connection with the settlement of the relevant Matched CDS Contracts will be deemed not to have been delivered and will be ineffective.
- (e) For the avoidance of doubt, reversal of a Matched CDS Contract means that the Clearing House will restore the CDS Contracts (and any related Customer-CM CDS Transactions) that existed before the initial Credit Event determination occurred including by amending records in Deriv/SERV and the relevant Clearing Members and Customers will make or confirm any required matching amendments to reflect such reversed positions.

Part 15 – Credit Default Swaps**Rule 1516**     *Customer Accounts*

- (a) CDS Clearing Members must make designations to the Clearing House pursuant to Rule 401(g) and Rule 406(d) which, if acted upon by the Clearing House in accordance with such provisions, would result in:
- (i) no CDS Sub-Account being used for more than one Customer for which such CDS Clearing Member provides clearing services;
  - (ii) no CDS Sub-Account linked to a Segregated Customer Omnibus Account For CDS or Standard Omnibus Indirect Account For CDS including any CDS Contract entered into in respect of Segregated TTFCA Customer business or the CDS Clearing Member's own account business;
  - (iii) no CDS Sub-Account linked to a Segregated TTFCA Customer Omnibus Account For CDS or Standard TTFCA Omnibus Indirect Account For CDS including any CDS Contract entered into in respect of Segregated Customer business or the CDS Clearing Member's own account business;
  - (iv) no CDS Sub-Account linked to a Proprietary Account (other than, in the case of an FCM/BD Clearing Member, an Individually Segregated Sponsored Account) including any CDS Contracts entered into for or in connection with Segregated Customer or Segregated TTFCA Customer business; and
  - (v) the only Segregated TTFCA Customers where related CDS Contracts are eligible for recording in a CDS Sub-Account linked to a Proprietary Account being Segregated TTFCA Customers that are Affiliates of the CDS Clearing Member which is an FCM/BD Clearing Member.
- (b) It is acknowledged by the Clearing House that presently, in respect of the Clearing of CDS Contracts, neither Customers nor clients of Customers are capable of being provided with any of the access referred to in Rule 102(j) (except in connection with Individually Segregated Sponsored Accounts) and that, accordingly in such circumstances:
- (i) Rule 102(j) does not apply in respect of the Clearing of CDS Contracts unless: (A) a Customer or its client is duly appointed as a Clearing Member's agent; or (B) in respect of an Individually Segregated Sponsored Account where the Sponsor will act as the Sponsored Principal's Representative in any instance in which it exercises any right or is subject to any obligation or liability in respect of the Individually Segregated Sponsored Account, regardless of whether such right, obligation or liability arises under these Rules or pursuant to an agreement between the Sponsor and Sponsored Principal; and
  - (ii) neither a Customer nor client of a Customer of a CDS Clearing Member acting in such capacity is a Representative of that CDS Clearing Member in respect of the Clearing of CDS Contracts solely as a result of it being a Customer or client of such a Customer.

## Part 15 – Credit Default Swaps

This Rule 1516(b) does not affect the validity or effects of any notice delivered in Deriv/SERV by a Customer which results in a notice being delivered between a CDS Clearing Member and the Clearing House. If the Customer would have breached the Rules in connection with any conduct relating to any notice relating to a CDS Contract or Customer-CM CDS Transactions in Deriv/SERV if it were a Clearing Member, then its Clearing Member may be subject to disciplinary proceedings where sanctions are limited to those in Rule 1003(t) in respect of conduct relating to such notices.

- (c) The Settlement and Notices Terms published by the Clearing House will apply to all CDS Clearing Members and their Customers, save to the extent that the relevant Clearing Member and Customer agree to vary such terms.

**Rule 1517** [Not used]

### **Rule 1518** *CDS Committees and Dispute Panels*

Rule 117 and Part 10 (and equivalent provisions of any Clearing Membership Agreement, Sponsored Principal Clearing Agreement and Sponsor Agreement) are hereby disappplied only to the extent that any matter is eligible for determination by a CDS Default Committee in accordance with the CDS Procedures or the Credit Derivatives Determinations Committee in accordance with the Contract Terms. This Rule applies in respect of a Person mentioned in the foregoing sentence unless and until any such Person resolves not to determine the matter concerned.

### **Rule 1519** *Interest*

- (a) Prior to the occurrence of (A) the completion of a close out of a CDS Clearing Member's or Sponsored Principal's positions under Part 9 upon the declaration of an Event of Default in respect of such CDS Clearing Member or Sponsored Principal (a "**Defaulter Close-Out**") or (B) a deemed discharge of the rights and liabilities of a CDS Clearing Member or Sponsored Principal under CDS Contracts upon the occurrence of an Insolvency in respect of the Clearing House or a Failure To Pay in respect of the Clearing House (a "**Deemed Discharge**"):

- (i) *Interest payable by the Clearing House:*

- (A) *Interest on Late Payments.* If the Clearing House is late in the performance of any payment obligation pursuant to a CDS Contract (including but not limited to pursuant to Rule 110) that has become due and payable, it will, to the extent permitted by Applicable Laws, pay interest (before as well as after judgment) on the overdue amount in respect of the relevant Account on demand in the same currency as the overdue amount, for the period from (and including) the original due date for payment to (but excluding) the date of actual payment at the Late Payment Rate.
- (B) *Interest on Deferred Payments.* If the Clearing House does not pay any amount that, but for paragraph 8.2(a)(i)(B) of the CDS Procedures, would have been payable pursuant to a CDS Contract in respect of the relevant Account, it will, to the extent permitted by Applicable Laws, pay interest

Part 15 – Credit Default Swaps

(before as well as after judgment) on that amount in respect of the relevant Account on demand (after such amount becomes payable) in the same currency as that amount, for the period from (and including) the date the amount would, but for paragraph 8.2(a)(i)(B) of the CDS Procedures, have been payable to (but excluding) the date the amount actually becomes payable, at the Deferral Rate.

(ii) *Interest payable by the CDS Clearing Member or Sponsored Principals:*

(A) *Interest on Late Payments.* If the relevant CDS Clearing Member or Sponsored Principal is late in the performance of any payment obligation pursuant to a CDS Contract that has become due and payable, it will pay interest to the Clearing House in accordance with Rule 301(f).

(B) *Interest on Deferred Payments.* If the relevant CDS Clearing Member or Sponsored Principal does not pay any amount that, but for paragraph 8.2(a)(i)(C) of the CDS Procedures, would have been payable pursuant to a CDS Contract with that CDS Clearing Member or Sponsored Principal, it will, to the extent permitted by Applicable Law, pay interest (before as well as after judgment) on that amount to the Clearing House on demand (after such amount becomes payable) in the same currency as that amount, for the period from (and including) the date the amount would, but for paragraph 8.2(a)(i)(C) of the CDS Procedures, have been payable to (but excluding) the date the amount actually becomes payable, at the Deferral Rate.

(b) Upon the occurrence of:

(i) a Defaulter Close-Out with respect to a CDS Clearing Member or Sponsored Principal, interest will accrue and be payable on any Unpaid Amount under a CDS Contract with such CDS Clearing Member or Sponsored Principal for the period from (and including) the date the relevant obligation would, but for paragraph 8.2(a)(i)(B) or (C) of the CDS Procedures, as the case may be, have been required to be performed to (but excluding) the date of the Defaulter Close-Out, at the Applicable Close-out Rate; and

(ii) a Deemed Discharge with respect to a CDS Clearing Member or Sponsored Principal, interest will accrue and be payable on any Unpaid Amount under a CDS Contract with such CDS Clearing Member or Sponsored Principal for the period from (and including) the date the relevant obligation would, but for paragraph 8.2(a)(i)(B) or paragraph 8.2(a)(i)(C) of the CDS Procedures, as the case may be, have been required to be performed to (but excluding) the date of the Deemed Discharge, at the Applicable Close-out Rate.

(c) Any interest pursuant to this Rule 1519 will be calculated on the basis of daily compounding and the actual number of days elapsed.



**Part 15 – Credit Default Swaps**

- (d) No interest or income shall accrue for the benefit of any CDS Clearing Member or Sponsored Principal:
  - (i) on any Permitted Cover provided to the Clearing House; or
  - (ii) on any other obligation of the Clearing House whether pursuant to the Clearing Membership Agreement, any Sponsored Principal Clearing Agreement, any Sponsor Agreement, any Pledged Collateral Addendum or any other provision of the Rules or the Procedures for such time and in respect of any such amounts on which any interest accrues pursuant to this Rule 1519.
- (e) In relation to each CDS Contract, the CDS Clearing Member or Sponsored Principal party thereto will pay to the Clearing House or the Clearing House will pay to such CDS Clearing Member or Sponsored Principal the CDS Price Alignment Amount on each Business Day in accordance with the CDS Procedures.

***Rule 1520 Unpaid Amounts***

On the occurrence of a Defaulter Close-Out or a Deemed Discharge, Unpaid Amounts under a CDS Contract with a CDS Clearing Member or Sponsored Principal subject to the Defaulter Close-Out or affected by the Deemed Discharge, as the case may be, together with any amount of interest accrued in respect of those amounts pursuant to Rule 1519(b), are deemed immediately payable, including for purposes of Rule 906.

[Part 16 – FCM/BD Clearing Member Provisions](#)

**Part 16 FCM/BD Clearing Member Provisions**

**Rule 1601 Scope**

This Part 16 of the Rules shall apply solely to FCM/BD Clearing Members. Except as provided in this Part 16 or to the extent inconsistent with this Part 16, all other provisions of the Rules applicable to Clearing Members shall apply to FCM/BD Clearing Members, and FCM/BD Clearing Members shall constitute Clearing Members for all purposes of the Rules.

**Rule 1602 Definitions**

- (a) The term "**Clearing House DCM Segregated Account**" means an omnibus account located in the United States maintained by the Clearing House with respect to DCM Customers of an FCM/BD Clearing Member, which is segregated in accordance with Applicable Law and contains Margin (or the Permitted Cover in respect thereof) or proceeds thereof transferred by such FCM/BD Clearing Member on behalf of its DCM Customers in connection with Contracts that are U.S. Futures. The Clearing House DCM Segregated Account will consist of one or more accounts at one or more depositories which may be co-mingled to the extent permitted by the applicable provisions of the CEA and CFTC regulations.
- (b) The term "**Clearing House Non-DCM/Swap Account**" means an omnibus account maintained by the Clearing House with respect to Non-DCM/Swap Customers of an FCM/BD Clearing Member, which is maintained in accordance with Applicable Law and contains Margin (or Permitted Cover in respect thereof) or the proceeds thereof transferred by such FCM/BD Clearing Member on behalf of its Non-DCM/Swap Customers in connection with Non-DCM/ Swaps. The Clearing House Non-DCM/Swap Account will consist of one or more accounts at one or more depositories which may be co-mingled to the extent permitted by the applicable provisions of the CEA and CFTC regulations.
- (c) The term "**Clearing House Swap Segregated Account**" means an omnibus account located in the United States maintained by the Clearing House with respect to Swap Customers of an FCM/BD Clearing Member, which is segregated in accordance with Applicable Law and contains Margin (or Permitted Cover in respect thereof) or proceeds thereof transferred by such FCM/BD Clearing Member on behalf of its Swap Customers in connection with Contracts that are Swaps. The Clearing House Swap Segregated Account will consist of one or more accounts at one or more depositories which may be co-mingled to the extent permitted by the applicable provisions of the CEA and CFTC regulations.
- (d) The term "**Clearing House SBS Segregated Account**" means an omnibus account located in the United States maintained by the Clearing House with respect to SBS Customers of an FCM/BD Clearing Member, which is segregated in accordance with Applicable Law and contains Margin (or the Permitted Cover in respect thereof) or proceeds thereof transferred by such FCM/BD Clearing Member on behalf of its SBS Customers in connection with Contracts that are SBS. The Clearing House SBS Segregated Account will consist of one or more accounts at one or more depositories which

*Part 16 – FCM/BD Clearing Member Provisions*

may be co-mingled to the extent permitted by the applicable provisions of the Exchange Act and SEC rules and regulations.

- (e) The term "**Clearing House FCM/BD Segregated Account**" means the Clearing House Swap Segregated Account, the Clearing House DCM Segregated Account, the Clearing House SBS Segregated Account or the Clearing House Non-DCM/Swap Account, as the case may be.
- (f) The term "**Customer Swap Portfolio**" means the portfolio of rights and obligations under Contracts that are registered in a Swap Customer Account of an FCM/BD Clearing Member and that are allocated to a particular Swap Customer in the books and records of the Clearing House in accordance with the Swap Customer Segregation Requirements.

**Rule 1603**     *FCM/BD Contracts*

- (a) A Contract that arises under Rule 401 between the Clearing House and an FCM/BD Clearing Member shall be subject to this Part 16, regardless of whether any offsetting Contract between the Clearing House and another Clearing Member is subject to this Part 16. In respect of any Contract between the Clearing House and an FCM/BD Clearing Member, and in respect of other matters relating to such FCM/BD Clearing Member and/or FCM/BD Customer under the Rules, this Part 16 shall govern in the event of any conflict with any other provision of the Rules, and, for the avoidance of doubt, the Procedures, Clearing Membership Agreement or Pledged Collateral Addendum. With respect to an FCM/BD Clearing Member, references in these Rules to such Clearing Member in respect of a Contract recorded in a Customer Account shall be deemed to refer to such FCM/BD Clearing Member acting for the account of and on behalf of one or more FCM/BD Customers in respect of such Contract under the terms of these Rules as set forth in Rule 1603(d).
- (b) Each FCM/BD Clearing Member shall have at least one Proprietary Account and one or more Customer Accounts in which its Contracts shall be registered. Except as provided herein, references in the Rules to a Customer Account of an FCM/BD Clearing Member or to a "class" of Customer Account shall refer to one or more DCM Customer Accounts, Swap Customer Accounts, Non-DCM/Swap Customer Accounts, SBS Customer Accounts or General Customer Accounts, as applicable, each such account being of a different "class". Notwithstanding anything to the contrary herein, to the extent that pursuant to a CFTC rule, order or exemption (or a Rule of the Clearing House approved thereunder) it is permissible under Applicable Law for Contracts in U.S. Futures, Swaps and/or Non-DCM/Swaps (and related Margin or Permitted Cover) to be co-mingled in a single class of Customer Account, the Clearing House may permit such co-mingling in such class of Customer Account, and references herein to the relevant Customer Account and FCM/BD Customer shall thereupon be construed accordingly. Without limiting the foregoing, Permitted Co-mingled Contracts shall be treated as Swaps or U.S. Futures, as the case may be, and not as Non-DCM/Swaps, and the appropriate classes of Customer Account shall be construed accordingly.
- (c) Each Customer Account of an FCM/BD Clearing Member that has executed a Pledged Collateral Addendum shall be a Pledged Collateral Account. Margin (or Permitted Cover in

Part 16 – FCM/BD Clearing Member Provisions

respect thereof, but excluding Variation Margin, Mark-to-Market Margin and FX Mark-to-Market Margin which is provided to or by the Clearing House by outright transfer of cash as a settlement payment) to be provided by an FCM/BD Clearing Member in respect of a Customer Account shall be provided in the form of Pledged Collateral, but in all other respects shall be provided in the forms, amounts, times and manners required under Rule 502 and Rule 503.

- (d) Where an FCM/BD Clearing Member clears a Contract for FCM/BD Customers, (i) such FCM/BD Clearing Member becomes liable to the Clearing House in respect of such Contract to no less an extent than if such Contract were for the FCM/BD Clearing Member's own account (and without prejudice to the obligations of the FCM/BD Customers to the FCM/BD Clearing Member in respect of such Contract, including without limitation pursuant to any agreement between an FCM/BD Customer and the FCM/BD Clearing Member); (ii) the Clearing House becomes liable and is obligated to perform to the FCM/BD Clearing Member, which in turn it is acknowledged will be acting for the account of and on behalf of such FCM/BD Customers, in respect of such Contract; (iii) the Clearing House shall be deemed to have discharged such obligations by performing to such FCM/BD Clearing Member for credit to the relevant Customer Account in respect of all payments and other obligations owed by the Clearing House under and in respect of such Contract as otherwise set forth in and subject to these Rules, without having any obligation to perform directly to the FCM/BD Customers; and (iv) without prejudice to any agreement between an FCM/BD Customer and the FCM/BD Clearing Member, such FCM/BD Customers become liable to reimburse and indemnify such FCM/BD Clearing Member in respect of performance by the FCM/BD Clearing Member under such Contract, subject, in the case of each of paragraphs (i) through (iv) of this subsection, to the provisions of this Part 16. Nothing in this Rule 1603(d) (I) shall be deemed to affect the rights or obligations of an FCM/BD Customer as against such FCM/BD Clearing Member with respect to such a Contract under Applicable Law or the terms of any agreement between the FCM/BD Clearing Member and such FCM/BD Customer; (II) shall require the Clearing House to carry out any enquiry as to the identity or existence of any FCM/BD Customer or FCM/BD Customers, except as required by Applicable Law; or (III) shall be deemed to limit the right or ability of the Clearing House to net or offset Open Contract Positions or obligations within a particular class of Customer Account of an FCM/BD Clearing Member to the extent otherwise permitted by these Rules and Applicable Law.
- (e) Rule 402(a) and clause 3.2 of the Clearing Membership Agreement shall not apply to an FCM/BD Clearing Member in respect of a Contract with respect to which it is acting for an FCM/BD Customer. None of Rule 405(d), Rule 408, or clause 3.4 of a Clearing Membership Agreement shall be deemed to preclude an FCM/BD Clearing Member from acting for an FCM/BD Customer in connection with a Contract.
- (f) Where the FCM/BD Clearing Member acts for a Customer, Rule 405(c)(ii) shall not apply to any contracts, rights, obligations or liabilities as between that Customer and the FCM/BD Clearing Member.
- (g) For purposes of Rule 303 and Rule 406(c) and for the avoidance of doubt: (i) Rule 905, Contracts and other obligations in any class of Customer Account of an FCM/BD Clearing Member shall not be netted or offset against Open Contract Positions or other obligations in

*Part 16 – FCM/BD Clearing Member Provisions*

- any Proprietary Account of that Clearing Member; and (ii) Open Contracts or other obligations in any class of Customer Account of any FCM/BD Clearing Member may not be netted or offset against Open Contract Positions or other obligations in any other class of Customer Account of that FCM/BD Clearing Member.
- (h) Notwithstanding anything to the contrary in Rule 502 and Rule 503, for each Customer Account if required by Applicable Law or otherwise if so specified in the relevant Procedures or by Circular, Margin shall be calculated and called for on a "gross" basis across all positions of the FCM/BD Customers of a particular FCM/BD Clearing Member.
- (i) The first sentence of Rule 504(b) is not applicable. The second sentence of Rule 504(b) is amended to read as follows: Except as provided by Applicable Law and Rule 1605 with respect to a Customer Account, the Clearing House will take no account of any right or interest which any Person other than the Clearing Member may have in any Margin furnished by such Clearing Member to the Clearing House. Nothing in the Rules nor any Pledged Collateral Addendum (including without limitation section 2.7 thereof as modified pursuant to Rule 1609) shall preclude an FCM/BD Clearing Member from providing Pledged Collateral to the Clearing House that was provided to the FCM/BD Clearing Member by an FCM/BD Customer and in which the FCM/BD Customer has granted the FCM/BD Clearing Member a security interest to secure the FCM/BD Customer's obligations; or preclude an FCM/BD Clearing Member from having a security interest granted by the FCM/BD Customer in such FCM/BD Customer's rights in respect of any Contracts cleared through such FCM/BD Clearing Member; provided that FCM/BD Clearing Member hereby agrees that any such security interest in favour of FCM/BD Clearing Member is in all respects subject to the rights of the Clearing House in respect of such Pledged Collateral or Contracts hereunder and under the Pledged Collateral Addendum and FCM/BD Clearing Member shall not, and shall not attempt to (i) exercise any rights or remedies or bring any proceeding or action with respect to such Pledged Collateral until such Pledged Collateral is released from the lien and security interest of the Clearing House hereunder and under the Pledged Collateral Addendum or (ii) otherwise interfere with, delay the exercise of or take any action to affect the Clearing House's rights hereunder or under the Pledged Collateral Addendum with respect to such Pledged Collateral or Contracts.
- (j) Without limiting Rule 111, save for any liability which it cannot exclude pursuant to Applicable Laws, the Clearing House shall have no obligation or liability in respect of an Open Contract Position in a Customer Account of an FCM/BD Clearing Member other than to the FCM/BD Clearing Member (acting as set forth in Rule 1603(d)) and no Person (including an FCM/BD Customer) other than an FCM/BD Clearing Member shall be entitled to enforce or exercise any rights or remedies with respect to such Open Contract Position as against the Clearing House. The Clearing House shall have no obligation or liability in respect of any transaction, agreement or arrangement between an FCM/BD Clearing Member and an FCM/BD Customer. This Rule 1603(j) shall not be deemed to limit the rights, if any, of an FCM/BD Customer as against such FCM/BD Clearing Member in respect of such Open Contract Positions, and payments or other performance thereunder, under Applicable Law or the terms of any agreement between the FCM/BD Clearing Member and such FCM/BD Customer.

**Part 16 – FCM/BD Clearing Member Provisions**

- (k) With respect to any Open Contract Position carried by an FCM/BD Clearing Member for a Customer Account, all terms of the position, as carried in the customer account on the books of the FCM/BD Clearing Member, must conform to the terms of the Open Contract Position under the Rules as in effect from time to time (including any changes therein or actions by the Clearing House in relation thereto).
- (l) This Rule 1603 is without prejudice to and shall not restrict or exclude any of the other obligations of Clearing Members under the Rules.
- (m) The Standard Terms shall not apply to FCM/BD Clearing Members.

***Rule 1604 Additional default rules for FCM/BD Clearing Members***

The following provisions constitute default rules for purposes of the Companies Act 1989.

- (a) Any right of the Clearing House pursuant to Rule 902 or Rule 903 to transfer Open Contracts and related Margin (or Permitted Cover in respect thereof) of an FCM/BD Clearing Member that is a Defaulter will be subject to Applicable Law, including without limitation Part 190 of the CFTC Regulations.
- (b) Where an FCM/BD Clearing Member wishes to terminate or close out an Open Contract Position in any class of Customer Account with respect to an FCM/BD Customer because of a default or similar event with respect to that FCM/BD Customer, the relevant FCM/BD Clearing Member must, in accordance with Rule 406 and the Clearing Procedures, either:
  - (i) offset such Open Contract Position against a Contract or Contracts entered into by such FCM/BD Clearing Member for such Customer Account (which may be entered into contemporaneously with a separate Contract or Contracts entered into at the same time for one of its Proprietary Accounts) for the specific purpose of liquidating such Customer Account position; or
  - (ii) to the extent permitted by Applicable Law, Transfer such Open Contract Position from such Customer Account to one of its Proprietary Accounts, whereupon it shall be treated as an Open Contract Position in the relevant Proprietary Account for all purposes under these Rules. Nothing in this Rule 1604(b) is intended to create a condition precedent to any step being taken under any agreement between a Clearing Member and its Customer. However, a Clearing Member shall continue to be liable to the Clearing House in respect of any Contracts until such time as they are offset in accordance with this Rule 1604(b) or otherwise terminated in accordance with the Rules and the Clearing Procedures. For the avoidance of doubt, any Open Contract Position and any such offsetting Contract or Contracts entered into by an FCM/BD Clearing Member for a Customer Account for the specific purpose of liquidating such Open Contract Positions pursuant to this Rule 1604(b) may be aggregated and/or netted pursuant to Rule 406.
- (c) Each FCM/BD Customer whose transactions are cleared through an FCM/BD Clearing Member with the Clearing House will be deemed to have consented to the actions taken in accordance with the following provisions if an Event of Default has occurred with respect to its FCM/BD Clearing Member:



Part 16 – FCM/BD Clearing Member Provisions

- (i) the FCM/BD Clearing Member (or its Insolvency Practitioner) and/or the Clearing House shall be entitled to transfer Open Contract Positions recorded in a Customer Account in accordance with Applicable Law and the Procedures;
- (ii) such FCM/BD Customer appoints the Clearing House as its lawful agent and attorney-in-fact to take such actions on behalf of the FCM/BD Customer as the Clearing House determines necessary or appropriate in order to effectuate such transfer with respect to the Open Contract Positions carried by the FCM/BD Clearing Member for such FCM/BD Customer, including executing any document or instrument with respect to the transfer of the Open Contract Positions and/or exercising rights and remedies to transfer such positions;
- (iii) the FCM/BD Customer shall take no action, including but not limited to attempting to obtain a court order, that could interfere with the ability of the FCM/BD Clearing Member, any Insolvency Practitioner for such FCM/BD Clearing Member, or the Clearing House to take action contemplated by these Rules, including, without limitation, the transfer or close-out of positions and the transfer or application of related Margin or Permitted Cover in respect thereof;
- (iv) any determination made by the Clearing House with respect to the termination value of a Contract under the Rules or the value of any other asset or liability under Rule 905 shall be conclusive and binding;
- (v) any amount payable by such FCM/BD Customer in respect of the termination of a Contract of a Defaulter in respect of its Customer Account shall not be netted or offset against any amount owed by such FCM/BD Clearing Member to such FCM/BD Customer under any other agreement or instrument and shall be paid directly to or as directed by the Clearing House; and
- (vi) the Clearing House applying the Default Portability Rules with respect to Open Contract Positions relating to such FCM/BD Customer, including by taking any of the following steps:
  - (A) Transferring Contract Positions to a Transferee Clearing Member;
  - (B) terminating Open Contract Positions and arranging for the entry into of new replacement Open Contract Positions with a Transferee Clearing Member (by way of novation or otherwise); and/or
  - (C) transferring Margin (in such amount as the Clearing House may determine) credited to the Customer Margin Account of its FCM/BD Clearing Member to the Customer Margin Account of the Transferee Clearing Member (and, if such a transfer occurs, the Defaulter's obligations to the FCM/BD Customer in respect of such transferred Margin shall be fully discharged).

If possible under the Default Portability Rules and any requirements of Applicable Law, the Clearing House will seek to dispose of Open Contract Positions in a Customer Account of an FCM/BD Clearing Member that is a Defaulter (by

Part 16 – FCM/BD Clearing Member Provisions

termination, liquidation or Transfer in accordance with Part 9 of the Rules) in accordance with the instructions of the relevant FCM/BD Customers or the bankruptcy trustee, as applicable, within seven calendar days of the date that the FCM/BD Clearing Member is declared a Defaulter. In the event a Transfer of Open Contract Positions to a Transferee Clearing Member has not been effected within such period, or the Clearing House for any reason deems it necessary or appropriate for its protection or the protection of market participants, the Clearing House will, subject to Applicable Laws, terminate or liquidate the Contracts pursuant to Part 9.

- (d) In respect of any Contract to which a Defaulter that is or was an FCM/BD Clearing Member and the Clearing House is or was a party, any net sum certified by the Clearing House pursuant to Rule 905(b) as payable by the Clearing House to the Defaulter in respect of any class of Customer Account of the Defaulter is intended to be treated in accordance with Applicable Laws of the United States of America, including the U.S. Bankruptcy Code and the CEA. With respect to any FCM/BD Clearing Member, the Clearing House and such FCM/BD Clearing Member intend that:
- (i) for purposes of the relevant provisions of the Federal Deposit Insurance Corporation Improvement Act of 1991:
    - (A) the Clearing House is a 'clearing organization';
    - (B) the Clearing House and each Clearing Member is a 'member';
    - (C) the Rules, Procedures, Clearing Membership Agreement, Contracts, Pledged Collateral Addendum and any other agreement between a Clearing Member and the Clearing House relating to Clearing of Contracts together constitute a 'netting contract' between those parties and include 'security agreements or arrangements or other credit enhancements related to such netting contract';
    - (D) an obligation of a Clearing Member to make a payment to the Clearing House, or of the Clearing House to make a payment to a Clearing Member, subject to a netting agreement, is a 'covered clearing obligation' and a 'covered contractual payment obligation';
    - (E) an entitlement of a Clearing Member to receive a payment from the Clearing House, or of the Clearing House to receive a payment from a Clearing Member, subject to a netting contract, is a 'covered contractual payment entitlement';
    - (F) the amount by which the covered contractual payment entitlements of a Clearing Member or the Clearing House exceed the covered contractual payment obligations of such Clearing Member or the Clearing House after netting under a netting contract is its 'net entitlement'; and

Part 16 – FCM/BD Clearing Member Provisions

- (G) the amount by which the covered contractual payment obligations of a Clearing Member or the Clearing House exceed the covered contractual payment entitlements of such Clearing Member or the Clearing House after netting under a netting contract is its 'net obligation';
  - (ii) for purposes of the Title 11 of the United States Code (the "U.S. Bankruptcy Code"), each Contract or Open Contract Position is a 'commodity contract' or 'securities contract', as applicable and the Rules, Procedures, Clearing Membership Agreement, Contracts, Pledged Collateral Addendum and any other agreement between a Clearing Member and the Clearing House relating to Clearing of Contracts constitute a 'master agreement' and include a 'security agreement or arrangement or other credit enhancement' related to a 'commodity contract' or 'securities contract', as applicable; and
  - (iii) for purposes of Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act, each Open Contract Position is a 'swap agreement' and the Rules, Procedures, Clearing Membership Agreement, Contracts, Pledged Collateral Addendum and any other agreement between a Clearing Member and the Clearing House relating to Clearing of Contracts constitute a 'master agreement' and include a 'security agreement or arrangement or other credit enhancement' related to a 'swap agreement'.
- (e) Without limiting Rule 904(d)(v), for purposes of calculating  $M$  in Rule 906(a) and applying assets to meet the obligations and liabilities of a Defaulter that is an FCM/BD Clearing Member in respect of a Swap Customer Account, and determining any loss or shortfall to the Clearing House upon or following any Event of Default of that Clearing Member under Rule 1103, the Clearing House shall be entitled to rely conclusively on the allocation of Open Contract Positions to Customer Swap Portfolios and the allocation of the value of Margin to such Customer Swap Portfolios, as set forth in the books and records of the Clearing House from time to time in accordance with CFTC Rule 22.15 (absent manifest error by the Clearing House in making such allocation based on accurate information provided to the Clearing House), without need for further enquiry by the Clearing House as to the origin, source or ownership of any such Margin. Without limiting the Clearing House's rights under the preceding sentence, if the Clearing House applies FCM Swap Customer IM allocated to a particular Customer Swap Portfolio as permitted hereunder and subsequently determines that such asset was not the property of the relevant Swap Customer of the Defaulter (a "**Reviewed Application**"), the Clearing House shall be entitled, to the extent permitted by Applicable Law, to apply any Guaranty Fund Contribution of the Defaulter remaining after satisfaction of the obligations and liabilities of the Defaulter to reimburse the Clearing House Swap Segregated Account up to the amount of the Reviewed Application. The Clearing House shall have no obligation to rescind or otherwise refund any Reviewed Application or to apply any other assets (including, without limitation, any other assets in the Guaranty Fund, Clearing House Contributions or Assessment Contributions) to any reimbursement pursuant to the immediately preceding sentence.

[Part 16 – FCM/BD Clearing Member Provisions](#)

**Rule 1605 Margin and Segregation Rules**

- (a) An FCM/BD Clearing Member shall require each FCM/BD Customer to provide margin (or permitted cover in respect thereof) (such assets, "**FCM/BD Customer Collateral**") in an amount commensurate with the risk presented by each Customer Account. Such amount shall be at least equal to (or, if and to the extent so specified by Circular, greater than) the amount of Margin of each relevant type required on a gross basis by the Clearing House with respect to the relevant Open Contract Position(s), separately for each relevant class of Customer Account (regardless of whether the FCM/BD Clearing Member is required to provide such Margin to the Clearing House on a gross basis pursuant to Rule 503). Any additional required amount may be specified by the Clearing House in a Circular with reference to a percentage of required Customer Account Margin. For this purpose, "gross basis" shall mean that the margin requirement will be determined giving effect to any offset permitted under the Rules of such Open Contract Positions against Open Contract Positions relating to the same Set and same FCM/BD Customer in the same class of Customer Account, but without giving effect to any offset or permitted offset of such Open Contract Positions against Open Contract Positions relating to a different FCM/BD Customer.
- (b) With respect to FCM/BD Customer Collateral transferred to the Clearing House in respect of Contracts registered in a DCM Customer Account arising from U.S. Futures (including for the avoidance of doubt Permitted Co-mingled Contracts recorded in such DCM Customer Account) ("**FCM/BD U.S. Futures Customer Collateral**"), the Clearing House shall receive and hold such collateral in the Clearing House DCM Segregated Account and shall hold, use and segregate such collateral as customer property in accordance with Section 4d(a) and (b) of the CEA and the regulations of the CFTC thereunder. By means of this Rule, the FCM/BD Clearing Member shall have satisfied the requirement to obtain a segregation acknowledgement letter from the Clearing House under CFTC regulations.
- (c) With respect to FCM/BD Customer Collateral transferred to the Clearing House in respect of Contracts registered in an SBS Customer Account arising from SBS ("**FCM/BD SBS Customer Collateral**"), the Clearing House shall receive and hold such collateral in the Clearing House SBS Segregated Account and shall hold, use and segregate such collateral as customer property in accordance with Sections 3E(b) and/or 15(c)(3) of the Exchange Act and the applicable rules and regulations of the SEC.
- (d) With respect to FCM/BD Customer Collateral in respect of Contracts registered in a Swap Customer Account arising from Swaps (including for the avoidance of doubt Permitted Co-mingled Contracts recorded in such Swap Customer Account) ("**FCM/BD Swap Customer Collateral**"):
- (i) An FCM/BD Clearing Member shall receive, hold and use all FCM/BD Swap Customer Collateral only as permitted under CEA Section 4d(f) and the regulations of the CFTC thereunder, including but not limited to Part 22 of the CFTC Regulations and any interpretations thereof by the CFTC or its staff (and, to the extent applicable, Securities Exchange Act Sections 3E(b) and/or 15(c)(3) and the regulations or any orders of the SEC thereunder) and as further set forth in these Rules and the Procedures (the "**Swap Customer Segregation Requirements**").

Part 16 – FCM/BD Clearing Member Provisions

The Clearing House shall receive and hold such collateral transferred to the Clearing House in the Clearing House Swap Segregated Account and shall segregate, hold and use all such FCM/BD Swap Customer Collateral as "cleared swaps customer collateral" in accordance with the Swap Customer Segregation Requirements. By means of this Rule, FCM/BD Clearing Member shall have satisfied the requirement to obtain a segregation acknowledgement letter from the Clearing House under the Swap Customer Segregation Requirements.

- (ii) Without prejudice to paragraph (i), Open Contract Positions in any Swap Customer Account and related FCM/BD Swap Customer Collateral (and, solely to the extent permitted by applicable rules, orders or exemptions of the CFTC and the SEC, Contracts or Open Contract Positions that are security-based swaps) shall be part of the cleared swaps account class for purposes of Part 190 of the CFTC regulations.
  - (iii) Property credited to or recorded in the Clearing House Swap Segregated Account may only be applied in respect of Contracts or Open Contract Positions in a Swap Customer Account as provided in these Rules and only to the extent permitted by the Swap Customer Segregation Requirements (including CFTC Rule 22.15). For the avoidance of doubt, following an Event of Default with respect to an FCM/BD Clearing Member, property credited to or recorded in the Clearing House Swap Segregated Account that is not eligible to be applied pursuant to the preceding sentence will be returned to the FCM/BD Clearing Member (or its trustee or representative) pursuant to the Pledged Collateral Addendum and Rule 502(i).
- (e) With respect to FCM/BD Customer Collateral transferred to the Clearing House in respect of Contracts registered in a Non-DCM/Swap Customer Account arising from Non-DCM/Swap Transactions (other than Permitted Co-mingled Contracts) ("**FCM/BD Other Transaction Collateral**"), the Clearing House shall hold such FCM/BD Customer Collateral as constituting the foreign futures or foreign options secured amount subject to the requirements of CFTC Rule 30.7. By means of this Rule, the FCM/BD Clearing Member shall have satisfied the requirement to obtain an acknowledgement letter of such status from the Clearing House under CFTC regulations.
- (f) In connection with any Open Contract Position and related FCM/BD U.S. Futures Customer Collateral, FCM/BD SBS Customer Collateral, FCM/BD Swap Customer Collateral or FCM/BD Other Transaction Collateral provided to the Clearing House, the FCM/BD Clearing Member shall keep and maintain written records with respect thereto as required under Applicable Law. Each FCM/BD Clearing Member shall provide such records to the Clearing House upon request and upon such other basis, if any, as may be provided in the Procedures.
- (g) For the avoidance of doubt, the acknowledgement in the first sentence of Rule 505 and the first sentence of clause 2.11 of a Pledged Collateral Addendum are intended to apply in relation to Pledged Collateral to the extent that the characterisation of any Pledged Collateral or the terms of a Pledged Collateral Addendum fall to be considered under the laws of any member state of the European Economic Area that has implemented Directive 2002/47/EC. For the avoidance of doubt, neither Rule 505 nor clause 2.11 of a Pledged Collateral Addendum are intended to affect any of: (i) the choice of law of the parties to



Part 16 – FCM/BD Clearing Member Provisions

any Pledged Collateral Addendum in respect of such addendum; (ii) the choice of law under Rule 1608; (iii) the location or governing law of any account in which Pledged Collateral is held by the Clearing House; (iv) the location or governing law of any account from or to which assets intended to become or which were previously Pledged Collateral are transferred to or from the Clearing House; (v) the existence or nature of any place of business, establishment or office in any jurisdiction of any Person; or (vi) the principal place of business or centre of main interests of any FCM/BD Clearing Member or any of its Customers or Affiliates.

- (h) Notwithstanding anything to the contrary in Parts 3 or 5 of these Rules, Margin shall be calculated, called and returned in respect of Contracts recorded in a Swap Customer Account of an FCM/BD Clearing Member as follows:
- (i) The Clearing House shall calculate the amount of required FCM Swap Customer IM separately for each Customer Swap Portfolio. The Clearing House shall determine an amount for each Customer Swap Portfolio at the time of each FCM Swap Customer IM calculation equal to the amount of required FCM Swap Customer IM for such Customer Swap Portfolio minus the value of the Margin then standing to the credit of the relevant Swap Customer Account that is allocated by the Clearing House to such Customer Swap Portfolio as FCM Swap Customer IM (a "**Customer Swap Portfolio Initial Margin Call/Return Amount**"):
- (A) with respect to each Customer Swap Portfolio Initial Margin Call/Return Amount applicable to a Swap Customer Account of the Clearing Member that is a positive number, the Clearing House shall call such Clearing Member for an amount of FCM Swap Customer IM, such amount to be transferred otherwise using the same procedures as are applicable for transfers of Margin from the Clearing Member on other Customer Accounts under Parts 3 and 5 of the Rules and the Finance Procedures, equal to such Customer Swap Portfolio Initial Margin Call/Return Amount;
- (B) following the settlement in full of all Margin due to be transferred to the Clearing House pursuant to Rule 1605(h)(i)(A) above, the Clearing House will make available for return to the Clearing Member, for each Customer Swap Portfolio with a Customer Swap Portfolio Initial Margin Call/Return Amount that is a negative number, Permitted Cover in an amount as close as reasonably practicable to (but not to exceed) the absolute value of such Customer Swap Portfolio Initial Margin Call/Return Amount, such amount to be transferred otherwise using the same procedures as are applicable for transfers of Margin to the Clearing Member on other Customer Accounts under Parts 3 and 5 of the Rules and the Finance Procedures; and
- (C) if the Customer Swap Portfolio Initial Margin Call/Return Amount is zero, no FCM Customer Swap IM will be required to be transferred in respect thereof.
- (ii) The Clearing House shall calculate and collect Mark-to-Market Margin requirements for a Swap Customer Account of an FCM/BD Clearing Member on a



**Part 16 – FCM/BD Clearing Member Provisions**

net basis across all Customer Swap Portfolios in the same Swap Customer Account (but separately from any other amount due on the Swap Customer Account), such amount to be transferred otherwise using the same procedures as are applicable for transfers of Margin to or from the Clearing Member on other Customer Accounts under Parts 3 and 5 of the Rules and the Finance Procedures.

- (iii) Notwithstanding anything to the contrary in the Rules, amounts required to be transferred between an FCM/BD Clearing Member and the Clearing House in respect of Margin pursuant to any of Rules 1605(h)(i)(A)-(B) and/or (ii) above shall not be netted or offset, except to the extent such netting or offset may be permitted by Applicable Law (including CFTC regulation or interpretation thereof).
- (i) The Clearing House will not accept transfers of FCM/BD Swap Customer Collateral from an FCM/BD Clearing Member in respect of Contracts or Open Contract Positions recorded in a Swap Customer Account in excess of the amount required by the Clearing House, within the meaning of CFTC Rule 22.13(c). For the avoidance of doubt, any FCM/BD Swap Customer Collateral of an FCM/BD Clearing Member transferred to the Clearing House that subsequently exceeds the amount required by the Clearing House as a result of a change in the amount required or change in the market value of such FCM/BD Swap Customer Collateral will become available for withdrawal in accordance with Rules 302, 503 and 1605(h).
- (j) Notwithstanding anything to the contrary in the Rules, if the Clearing House determines to call for Margin pursuant to Rule 1605(h) in respect of one or more Customer Swap Portfolio Initial Margin Call/Return Amounts or Mark-to-Market Margin requirements for a Swap Customer Account of an FCM/BD Clearing Member on an intra-day basis, the Clearing House may in lieu thereof increase the applicable Margin requirement for one or more Proprietary Accounts of such FCM/BD Clearing Member.

***Rule 1606 Additional FCM/BD Clearing Membership Requirements***

- (a) Each FCM/BD Clearing Member that has a Customer Account shall execute and deliver to the Clearing House a Pledged Collateral Addendum to its Clearing Membership Agreement, in the form specified by the Clearing House.
- (b) FCM/BD Customer Collateral in the form of USD cash that is transferred by an FCM/BD Clearing Member to the Clearing House pursuant to the Rules shall be invested by the Clearing House only in U.S. Treasury securities constituting permitted investments under Applicable Law in accordance with the Procedures (including through direct purchases or repurchase or reverse repurchase transactions). Each FCM/BD Clearing Member that has a Customer Account shall instruct the Clearing House, in a manner to be specified by the Clearing House, whether or not such FCM/BD Customer Collateral transferred by it to the Clearing House should be so invested, and if it so instructs (or is deemed to so instruct), then by its transfer to the Clearing House of any such FCM/BD Customer Collateral in the form of USD cash, the FCM/BD Clearing Member hereby acknowledges and consents to such investment. If the FCM/BD Clearing Member fails to provide any such instruction, it will be deemed to have instructed the Clearing House to so invest such FCM/BD Customer Collateral. If an FCM/BD Clearing Member instructs the Clearing House not to so invest,

*Part 16 – FCM/BD Clearing Member Provisions*

the FCM/BD Clearing Member acknowledges and agrees that any such FCM/BD Customer Collateral in the form of USD cash will not be invested by the Clearing House, to the extent permitted by Applicable Law, and may therefore be held in a bank deposit selected by the Clearing House, and may be subject to a cash management fee determined by the Clearing House from time to time.

***Rule 1607 Additional FCM/BD Requirements for Customer Transactions***

- (a) The relationship between an FCM/BD Customer and an FCM/BD Clearing Member in respect of Open Contract Positions for that FCM/BD Customer shall be documented pursuant to and governed by a futures account agreement or clearing agreement (or equivalent document) agreed between such parties, subject to the applicable provisions of these Rules and provided that no such agreement may be inconsistent with these Rules or the Clearing Membership Agreement.
- (b) The Clearing House shall have no duties or responsibilities with respect to any Clearing House FCM/BD Segregated Account except as expressly set forth in these Rules and Applicable Law. The Clearing House shall have no obligation to monitor any requirements set forth in any agreement between an FCM/BD Clearing Member and an FCM/BD Customer. The Clearing House shall have no responsibility for the compliance by any FCM/BD Clearing Member or FCM/BD Customer with its obligations under any such agreement.
- (c) Each FCM/BD Customer for which an FCM/BD Clearing Member clears a Swap must be an "eligible contract participant" as defined in the CEA.
- (d) Each FCM/BD Customer whose transactions are cleared by an FCM/BD Clearing Member with the Clearing House will be deemed to have consented to:
  - (i) the Clearing House having the right to obtain information in relation to transactions from any Market, CDS Trade Execution/Processing Platform, FX Trade Execution/Processing Platform or Repository or Deriv/SERV so as to enable the Clearing House to identify which Contracts and Margin or Permitted Cover between the Clearing House and FCM/BD Clearing Member relate to such transactions;
  - (ii) the FCM/BD Clearing Member making any disclosures in connection with FCM/BD Customer and transactions as are required by the Rules or CDS Procedures or as required by Applicable Law;
  - (iii) disclosures to, use by and disclosures by the Clearing House of information relating to the FCM/BD Customer (including ~~the Personal Data of its Data Subjects~~) pursuant to Rule 106;
  - (iv) submissions of and other actions relating to data concerning such transactions by the Clearing House pursuant to the Rules and the Procedures; and
  - (v) the operation of Rule 1605(d)(ii).

*Part 16 – FCM/BD Clearing Member Provisions*

- (e) Each FCM/BD Customer whose transactions are cleared by an FCM/BD Clearing Member with the Clearing House will be deemed to have consented to its FCM/BD Clearing Member entering into Contracts arising under Rule 404(c)(i) on its behalf.
- (f) Each FCM/BD Clearing Member shall be required to obtain the agreement of each FCM/BD Customer to the provisions of the Rules applicable to or otherwise referring to FCM/BD Customers (including Rule 111, Rule 1603(j), Rule 1604(c) and this Rule 1607) (which agreement may be obtained through a general obligation in a customer agreement to comply with applicable clearing organisation rules) and hereby represents and warrants to the Clearing House that it has obtained such agreement.
- (g) Each FCM/BD Customer shall obtain the necessary authority from its "beneficial owners" (having the meaning given to it in article 3(6) of the Money Laundering Directive) for the immediate disclosure of relevant information to the Clearing Member or the Clearing House and, in the circumstances described in Rule 202(a)(xii), shall immediately provide to the Clearing Member or the Clearing House on request relevant information about itself and its beneficial owners as are needed by the Clearing Member or the Clearing House to apply customer due diligence measures under the Money Laundering Directive or other Applicable Laws relating to anti-money laundering and immediately forward to the Clearing Member or the Clearing House on request copies of identification and verification data and other relevant documents on itself and its beneficial owners obtained when applying those measures.

***Rule 1608 Governing Law and Dispute Resolution***

- (a) Solely as between an FCM/BD Clearing Member and the Clearing House, those provisions of Parts 3, 5 and 16 of the Rules inasmuch as they relate solely to an issue or matter concerning:
  - (i) the pledging, transfer, holding, use and segregation of Pledged Collateral provided by an FCM/BD Clearing Member (or other property, excluding for the avoidance of doubt the Contracts themselves recorded in such an Account, recorded in a Customer Account or Proprietary Account that is designated as an account in respect of which Pledged Collateral may be provided by an FCM/BD Clearing Member); and/or
  - (ii) the application of any net sum owed in favour of the FCM/BD Clearing Member in respect of a Customer Account or Proprietary Account that is designated as an account in respect of which Pledged Collateral may be provided,

and, solely to the extent relevant to interpreting the foregoing provisions in such circumstances, relevant definitions and interpretative provisions in Part 1 of the Rules (such provisions, together or separately "**Pledged Collateral Matters**") shall be governed by and construed in accordance with the laws of the State of New York and, as applicable, the federal law of the United States of America.

- (b) For the avoidance of doubt, Rule 1608(a) is an exception to Rule 102(s) which provides that the Rules and Contracts shall be governed by and construed in accordance with the laws of

*Part 16 – FCM/BD Clearing Member Provisions*

England and Wales. For the avoidance of doubt, without limitation and notwithstanding Rule 1608(a), the following are governed by and shall be construed in accordance with the laws of England and Wales in their entirety without any exception and shall in no circumstances constitute a Pledged Collateral Matter:

- (i) all of the provisions of the Rules concerning the calculation and determination of any net sum (except to the extent expressly provided in Rule 1604(d)) and the other default rules of the Clearing House, including all the provisions of Parts 9 and 11 of the Rules;
  - (ii) all of the provisions of the Rules relating to the Designated System, including all the provisions of Part 12 of the Rules;
  - (iii) any Dispute or issue arising as between a Non-FCM/BD Clearing Member or Sponsored Principal on the one hand and the Clearing House on the other hand;
  - (iv) any Dispute or issue arising in respect of a Customer Account or Proprietary Account that is not designated as an account in respect of which Pledged Collateral may be provided;
  - (v) any matter relating to Pledged Collateral of a Non-FCM/BD Clearing Member or a Sponsored Principal;
  - (vi) any Pledged Collateral provided by an FCM/BD Clearing Member or Sponsored Principal pursuant to an English law Pledged Collateral Addendum; and
  - (vii) the Contract Terms of all Contracts.
- (c) Where a dispute between an FCM/BD Clearing Member and the Clearing House relates to one or more Pledged Collateral Matters, notwithstanding the provisions of Rule 117, solely the allegations or claims relating to the Pledged Collateral Matters in such dispute shall be heard and determined exclusively in any New York federal court sitting in the Borough of Manhattan of the City of New York, provided, however, that if such federal court does not have jurisdiction over such allegations or claims, such allegations or claims shall be heard and determined exclusively in any New York state court sitting in the Borough of Manhattan of the City of New York (such Courts, together, "New York Courts"). Consistent with the preceding sentence, the Clearing House and each FCM/BD Clearing Member hereby:
- (i) submits to the exclusive jurisdiction of the New York Courts solely in respect of allegations or claims relating to Pledged Collateral Matters; and
  - (ii) agrees that service of process will be validly effected by sending notice in accordance with Rule 113.
- (d) All allegations or claims other than those over which the New York Courts have exclusive jurisdiction pursuant to Rule 1608(c) shall be finally and exclusively determined by way of arbitration pursuant to Rule 117. It is expressly recognised that for Disputes between an

**Part 16 – FCM/BD Clearing Member Provisions**

FCM/BD Clearing Member and the Clearing House containing both allegations or claims over which the New York Courts have exclusive jurisdiction pursuant to Rule 1608(c) and other allegations or claims, it may be necessary to have both New York Court proceedings and arbitral proceedings. The submission of a party to the jurisdiction of a New York Court and/or the taking of a step by a party in proceedings before a New York Court, where in any such instance the New York Court has exclusive jurisdiction pursuant to Rule 1608(c), does not amount to a waiver by that party of its right to commence or participate in arbitral proceedings in accordance with Rule 117. The submission of a party to arbitration under Rule 117 or in respect of any Dispute does not amount to a waiver by that party of its right to have allegations or claims in relation to which the New York Courts have exclusive jurisdiction pursuant to Rule 1608(c) heard in the New York Courts.

- (e) Nothing in this Rule 1608 precludes the Clearing House from bringing an action to enforce a judgment from any New York Court or award of any arbitral tribunal in any court of competent jurisdiction.
- (f) EACH CLEARING MEMBER AND THE CLEARING HOUSE HEREBY IRREVOCABLY WAIVES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY DISPUTE ARISING OUT OF, UNDER OR IN CONNECTION WITH THESE RULES OR ANY CONTRACT OR ANY MATTER CONTEMPLATED BY THEM. EACH CLEARING MEMBER AND THE CLEARING HOUSE HEREBY:
  - (i) CERTIFIES THAT NO REPRESENTATIVE OF ANY OTHER PERSON BOUND BY THESE RULES HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF ANY SUCH DISPUTE, SEEK TO ENFORCE THE FOREGOING WAIVER; AND
  - (ii) ACKNOWLEDGES THAT IT HAS BEEN INDUCED TO ENTER INTO THESE RULES, ALL CONTRACTS AND ALL OTHER TRANSACTIONS CONTEMPLATED BY THESE RULES, AS APPLICABLE, BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS Rule 1608(f).

**Rule 1609**     *Modifications to Pledged Collateral Addendum*

- (a) The following provisions of each Pledged Collateral Addendum governed by New York and U.S. law have been amended pursuant to clause 4.2 thereof by virtue of the adoption of these provisions of the Rules:
  - (i) In clause 2.8, the deletion of the words: "(and to procure that any third party takes any action reasonably requested by the Clearing House)".
  - (ii) Clause 2.11, to the extent that any amendment may be regarded as necessary to give effect to Rule 1605(g).

*Part 16 – FCM/BD Clearing Member Provisions*

- (iii) In clause 3.5, the replacement of the words "the Clearing House" with the words "either party".
- (iv) In clause 2.7, the definition of the term "Encumbrances" does not include retention of title.
- (v) Any other provision of the Pledged Collateral Addendum to the extent that any amendment may be regarded as necessary to give effect to Rule 1603(i).



## Part 17 – Foreign Exchange

### **Part 17 Foreign Exchange**

Part 17 of the Rules does not apply to F&O Contracts or CDS Contracts. References to any Account in this section are references only to an Account in which FX Contracts may be recorded and the terms 'Customer Margin Account', 'Customer Position Account', 'Proprietary Margin Account' and 'Proprietary Position Account' shall be construed accordingly.

#### **Rule 1701 Definitions**

- (a) The term "**Currency Pair**" means, in relation to an FX Contract or FX Trade Particulars submitted for Clearing, the Reference Currency and the Settlement Currency.
- (b) The term "**FX Default Committee**" shall have the meaning given to that term in the FX Procedures.
- (c) The term "**FX Default Management Policy**" means the FX default management policy in the form approved by the Clearing House, as amended pursuant to processes established pursuant to documents governing the internal governance of the Clearing House and its committees.
- (d) The term "**FX Market Price**" means, in relation to any Financially-Settled FX Contract, on any day, the price which the Clearing House determines is to be treated, for the purposes of these Rules and the Procedures as the value of such Financially-Settled FX Contract at the closing of such day, calculated in the FX MTM Currency for that Financially-Settled FX Contract.
- (e) The term "**FX MTM Currency**" means, in relation to any FX Contract, the currency in which FX Mark-to-Market Margin will be payable in respect of that FX Contract.
- (f) The term "**FX Procedures**" means the section of the Procedures of that name, which is relevant only to the Clearing of FX Contracts.
- (g) The term "**Reference Currency**" means (a) in relation to a Financially-Settled FX Contract, the currency specified as the reference currency in the Clearing House's records, being the currency other than that in which cash settlement is to be made and (b) in relation to FX Trade Particulars submitted for Clearing, the currency specified as such in the relevant FX Confirmation.
- (h) The term "**Settlement Currency**" means (a) in relation to a Financially-Settled FX Contract, the currency specified as such in the Clearing House's records, being the currency in which cash settlement is to be made on the FX Settlement Date and (b) in relation to FX Trade Particulars submitted for Clearing, the currency specified as such in the relevant FX Confirmation.
- (i) The term "**Settlement Rate**" means in relation to a Financially-Settled FX Contract, for the relevant FX Settlement Date, the currency exchange rate, expressed as the amount of Reference Currency per one unit of Settlement Currency, determined by the Clearing House in accordance with the Rules and the Procedures as the settlement rate for the

Part 17 – Foreign Exchange

relevant Set of Financially-Settled FX Contracts which includes that Financially-Settled FX Contract.

- (j) The term "**Spot Price**" means, for a Currency Pair, the notional foreign exchange rate between the two currencies in the Currency Pair for "spot" delivery having a cash settlement value of zero, as determined by the Clearing House by reference to the terms of the relevant Financially-Settled FX Contract.
- (k) The term "**Standard Maturities**" means the specified standard maturities for the provision of pricing data relating to FX Contracts by Clearing Members, as specified by the Clearing House in a Circular, either in respect of particular Currency Pairs or generally.
- (l) Any term used but not defined in this Part 17 or elsewhere in the Rules shall have the meaning given to that term in the FX Procedures.

**Rule 1702 Financially-Settled FX Contracts**

- (a) Each Business Day, the Clearing House will determine or amend the FX Market Price for all Financially-Settled FX Contracts, per Currency Pair, for each maturity in respect of which it is party to one or more Financially-Settled FX Contracts in accordance with the Procedures. The Clearing House will also determine Settlement Rates for Financially-Settled FX Contracts in accordance with the Contract Terms and the Procedures.
- (b) Each FX Clearing Member shall be obliged to provide, to the Clearing House on each Business Day, for all Currency Pairs, Spot Prices and forward points for all the Standard Maturities in respect of Financially-Settled FX Contracts. The Clearing House may consolidate price data from these and other sources to determine FX Market Prices for Financially-Settled FX Contracts and will determine such prices for Financially-Settled FX Contracts that do not then match a Standard Maturity by such interpolation methodology as the Clearing House shall consider appropriate.
- (c) The Clearing House shall be entitled in certain circumstances to amend or to postpone, defer, cancel, bring forward or suspend publication of any FX Market Price or Settlement Rate as set out in the Procedures.

**Rule 1703 FX Price Alignment Amounts**

- (a) In relation to each Financially-Settled FX Contract, the FX Clearing Member party thereto will pay to the Clearing House or the Clearing House will pay to such FX Clearing Member the FX Price Alignment Amount on each Business Day in accordance with the FX Procedures.

**Rule 1704 Separate treatment of FX Contracts for Proprietary Account and Customer Account**

Settlement for a Set of FX Contracts shall occur separately, and separate payment and record-keeping obligations shall accrue, in respect of a Clearing Member's:

**Part 17 – Foreign Exchange**

- (a) net positions in the relevant Set in respect of each of its Proprietary Accounts;
- (b) Reference Currency Buyer positions in the relevant Set in respect of each of its Customer Accounts (if applicable);
- (c) Reference Currency Seller positions in the relevant Set in respect of each of its Customer Accounts (if applicable);
- (d) net position in the relevant Set in respect of each Individually Segregated Sponsored Account for which it acts as a Sponsor (if applicable).

**Rule 1705    *Settlement of Financially-Settled FX Contracts***

- (a) Either:
  - (i) the Reference Currency Buyer shall be liable to pay the amount due under any Financially-Settled FX Contract to the Reference Currency Seller; or
  - (ii) the Reference Currency Seller shall be liable to pay the amount due under the Financially-Settled FX Contract to the Reference Currency Buyer,

as required under the Contract Terms, on the FX Settlement Date, in accordance with Parts 3 and 5 of the Rules and the Finance Procedures.

- (b) Upon payment by the relevant party of the amount due in respect of a Financially-Settled FX Contract on the FX Settlement Date as referred to in (a) above, neither party to such Financially-Settled FX Contract shall have any further liability or obligation to the other party under such Financially-Settled FX Contract.

**Rule 1706**    [Not used.]

**Rule 1707    *FX Default Committee and FX Default Management Policy***

- (a) Rule 117 and Part 10 (and equivalent provisions of any Clearing Membership Agreement, Sponsored Principal Clearing Agreement or Sponsor Agreement) are hereby disapplied only to the extent that any matter is eligible for determination by an FX Default Committee in accordance with the FX Procedures. This Rule applies in respect of an FX Default Committee unless and until such committee resolves not to determine the matter concerned.
- (b) Notwithstanding its rights set out in Part 9, or any other analogous Rule, following an Event of Default of a Person other than the Clearing House, the Clearing House shall follow the arrangements as set out in the FX Default Management Policy and the exercise of its rights pursuant to Part 9 shall be consistent with and in support of the FX Default Management Policy, except as set out in this provision. The Clearing House's rights under Part 9 of the Rules shall not be restricted by virtue of this provision to the extent that any action other than pursuant to the FX Default Management Policy is taken in accordance with Rule 1707(c).

Part 17 – Foreign Exchange

- (c) The Clearing House may from time to time override the implementation or application of the FX Default Management Policy to the Clearing House or as against some or all of the FX Clearing Members or in respect of one or more Defaulters, subject to prior consultation with the FX Default Committee unless Rule 109(b)(i) or (ii) would apply were the FX Default Management Policy to be Rules and were such overriding to have been effected pursuant to an amendment to the FX Default Management Policy. The override of the implementation or application of the FX Default Management Policy may only be brought into effect where the Clearing House deems it necessary to manage material risks of the Clearing House or the Clearing Members or any Market (where material risks are those which could materially adversely impact the ongoing financial soundness or the proper performance of the Clearing House or the Clearing Members or the proper functioning of any Market) or is otherwise required to meet the Clearing House's continuing legal or regulatory obligations under Applicable Law. Any determination by the Clearing House to override the implementation or application of the FX Default Management Policy shall be notified to FX Clearing Members.

**Rule 1708** *Clearing data relating to FX Contracts*

- (a) Notwithstanding Rule 102(j) or anything else to the contrary in the Rules, in no event will a Clearing Member be liable for any conduct of a Customer of such Clearing Member or such Customer's clients with respect to the use of, or other actions taken with respect to, clearing data in respect of FX Clearing at the Clearing House ("**FX Data**") by such Customer or such Customer's clients if, prior to sharing such FX Data with such Customer, the Customer has agreed that it:
- (i) may reproduce, transmit, distribute or use FX Data (to the extent generated whilst the Clearing Member which has (or whose Affiliate has) ultimately provided it with FX Data remains an FX Clearing Member) solely and exclusively for internal purposes related directly to such Customer's, its Affiliates' and their clients', trading and clearing activity relating to FX Clearing at the Clearing House;
  - (ii) may license, sublicense, transfer, transmit, reproduce and/or distribute copies of the FX Data (to the extent generated whilst the Clearing Member which has (or whose Affiliate has) ultimately provided it with FX Data remains an FX Clearing Member) to its Affiliates and clients, which may in turn license, sublicense, transfer, transmit, reproduce and/or distribute such FX Data only to their direct and indirect clients (each Affiliate, client or client's direct or indirect client that receives such FX Data, a "**Data Recipient**", each client or client's direct or indirect client that distributes such FX Data, a "**Data Distributer Client**," and each Affiliate that distributes such FX Data, a "**Data Distributer Affiliate**"), solely and exclusively to the extent such FX Data is related directly to such Data Recipient's trading and clearing activity relating to FX Clearing at the Clearing House and provided that such Data Recipient has agreed that it may:
    - (A) license, sublicense, transfer, transmit, reproduce and/or distribute such FX Data solely to (x) an Affiliate of such Data Recipient or (y) a different Data Recipient (other than an Affiliate of such Data Recipient) that in either case has agreed with such Customer to comply with restrictions on similar terms

Part 17 – Foreign Exchange

to those set out in this Rule 1708 applying to it as such restrictions would apply to the Customer (including the Data Obligations) *mutatis mutandis*; or

- (B) reproduce, transmit, distribute or use such FX Data only for its own internal use,

in either case solely for purposes related directly to trading and clearing activity relating to FX Clearing at the Clearing House;

- (iii) shall satisfy its Data Obligations as and to the extent provided in this Rule 1708 (which shall be interpreted in the case of a licensor that is not a Customer as if such licensor were a Customer) (the "**Permitted Use Agreement**"), which Permitted Use Agreement may be in any form, including such Data Recipient's agreement to comply with these Rules, so long as such Permitted Use Agreement is legally binding; and
- (iv) in each case that it becomes aware (from the Clearing House, a Clearing Member, one of their Affiliates, a client or otherwise) that any Data Recipient to which it has directly distributed FX Data is, or is reasonably suspected (as determined in its sole discretion) of being, in violation of the Permitted Use Agreement (or would be in breach of a Permitted Use Agreement, should such agreement have been in place), shall, to the extent permitted by Applicable Law (the following obligations in (A) to (C) below being the "**Data Obligations**"):
  - (A) promptly notify the Clearing House and the Person that provided it with the FX Data (if different) in writing of the name of such Data Recipient and provide a reasonably detailed explanation of the nature of such Data Recipient's violation, or the circumstances giving rise to the suspicion of a violation or would-be violation, of the Permitted Use Agreement;
  - (B) take such actions as the Clearing House, the Person that provided it with the FX Data (if different) or any of their Affiliates may reasonably request to cause such Data Recipient to cease violating the terms of the Permitted Use Agreement (or, if no Permitted Use Agreement is in place, to cease violating the terms of a Permitted Use Agreement should such agreement have been in place) including, among other things, ceasing the provision of FX Data to any Data Recipient with which it or one of its Affiliates has a direct relationship by which it provides FX Data or suspending such Data Recipient's direct or indirect use of FX Clearing at the Clearing House through such Customer, until the time as such Data Recipient is in compliance with the Permitted Use Agreement (or, if no Permitted Use Agreement is in place, in compliance with the terms of a Permitted Use Agreement should such agreement have been in place); and
  - (C) when requested by the Clearing House, the Person that provided it with the FX Data (if different) or any of their Affiliates pursuant to its other Data Obligations, cease the provision of FX Data to a Data Recipient if and when the Clearing House, the Person that provided it with the FX Data (if

Part 17 – Foreign Exchange

different) or any of their Affiliates reasonably suspects (as determined by the Clearing House, such Person or such Affiliate, as applicable, in its sole discretion) that such Data Recipient is in violation of the Permitted Use Agreement (or would be in violation of a Permitted Use Agreement, should such agreement have been in place).

- (b) Nothing in this Rule 1708 shall impose any obligation on any Clearing Member, Customer or any of their Affiliates to monitor their Customers' or clients' use of FX Data or to independently investigate actual or suspected breaches of the Permitted Use Agreement, subject as set out in Rule 1708(a)(iv)(C).
- (c) Nothing in this Rule 1708 shall prevent or restrict any Person from:
  - (i) using its own data relating to its own trading developed by such Person independently of, and without reference to, any FX Data; or
  - (ii) providing any FX Data to any Governmental Authority as necessary to comply with any Applicable Law (including, for the avoidance of doubt, any request of a Governmental Authority).
- (d) It is intended that a Customer or any other Person may agree to the application of the restrictions and obligations set out in this Rule 1708 by agreeing with a Person that provides FX Data to such Customer or Person that the Rules are applicable to or contractually bind such Customer or Person (and, for the avoidance of doubt, it is intended that by so agreeing, the Customer or such Person thereby affirmatively agrees to comply with subsections (i) through (iv) of paragraph (a) hereof).



[Part 18 – Transition Rules for LIFFE in 2013](#)

**Part 18 Transition Rules for LIFFE in 2013**

**Rule 1801 Introduction**

- (a) These Transitional Rules deal with certain matters occurring at and around the Novation Time. These Transitional Rules form part of the Rules and are intended to be interpreted together with the Rules. All terms used but not defined in these Transitional Rules have the meaning given to them elsewhere in the Rules. In the event of any conflict between the Rules and these Transitional Rules in relation to any matter to which these Transitional Rules relate, these Transitional Rules shall prevail.
- (b) These Transitional Rules will cease to apply on a date notified by the Clearing House to Clearing Members in a Circular, following such consultation with LIFFE and LCH as has been agreed to take place as between the Clearing House, LIFFE and LCH.

**Rule 1802 Additional Definitions**

- (a) The term "**Cash Collateral Transfer Form**" means a form provided by a Cash Transferring Member to the Clearing House and accepted by the Clearing House, the form of which is set out in the annex to Clearing Member Cash Instructions, including details of the amounts of Transferring Cash for that Cash Transferring Member.
- (b) The term "**Cash Transferring Member**" means a LIFFE Clearing Member that has duly executed Clearing Member Cash Instructions, has provided the Clearing House with a Cash Collateral Transfer Form and has duly executed and delivered a Deed of Novation.
- (c) The term "**Clearing Member Cash Instructions**" means an agreement duly executed by a Cash Transferring Member, LCH, LIFFE and the Clearing House relating to Transferring Cash, in the form specified by the Clearing House.
- (d) The term "**Clearing Member Instructions**" means Clearing Member Cash Instructions or Clearing Member Securities Instructions.
- (e) The term "**Clearing Member Securities Instructions**" means an agreement in the form of a deed duly executed and delivered by a Securities Transferring Member, LCH, LIFFE and the Clearing House relating to Transferring Securities, in the form specified by the Clearing House.
- (f) The term "**Collateral Transfer Form**" means a Cash Collateral Transfer Form or a Securities Collateral Transfer Form.
- (g) The term "**Deed of Novation**" means a deed duly executed and delivered by a LIFFE Clearing Member, LIFFE, LCH and the Clearing House in respect of the Novation.
- (h) The term "**Delivery Contract**" means, in respect of any 'Registered Exchange Contract' (as the same is defined in the LIFFE Clearing Membership Agreement), the set of payment and delivery rights and obligations arising as between a LIFFE Clearing Member and LCH pursuant to clause 6.7 of a LIFFE Clearing Membership Agreement which, at the Novation Time, has not been cash settled or otherwise performed, discharged or closed out, void,

[Part 18 – Transition Rules for LIFFE in 2013](#)

voided, terminated or rescinded in full, and includes any such Delivery Contract to the extent the same has, as at the Novation Time, been novated from LCH to ICE Clear pursuant to a Deed of Novation; and for the avoidance of doubt, Delivery Contracts include such rights, liabilities and obligations as exist between a LIFFE Clearing Member and LCH in respect of the Northern Rock Contracts at the Novation Time.

- (i) The term "**LCH**" means LCH.Clearnet Limited, whose registered office is at Aldgate House, 33 Aldgate High Street, London EC3N 1EA.
- (j) The term "**LCH Delivery Procedures**" means those published procedures governing the performance of delivery obligations, and in relation to deliveries of securities, payment obligations, in relation to Delivery Contracts, being LCH's NYSE Liffe Clearing Procedures (section 2H of the LCH procedures) as published by LCH on its website as at the Novation Time, which in turn reference LIFFE Rules.
- (k) The term "**LCH Regulations**" means the rules, regulations, default rules and published procedures of LCH relating to the clearing of LIFFE, as amended from time to time.
- (l) The term "**LIFFE Clearing Membership Agreement**" means a clearing membership agreement between a LIFFE Clearing Member, LCH and LIFFE (including, after the Novation Time, such agreement to the extent still applicable as between a LIFFE Clearing Member and LIFFE).
- (m) The term "**LIFFE Rules**" means the rules, regulations, default rules and procedures for trading and related clearing on the LIFFE Markets, including, without limitation, book I (Harmonised Rules) (to the extent applicable to LIFFE) and book II (Rules Specific to LIFFE) in each case as amended or supplemented from time to time
- (n) The term "**Lodgement Instructions**" means instructions of that name provided by a LIFFE Clearing Member to the Clearing House, the form of which is established pursuant to the Rules.
- (o) The term "**Northern Rock Contracts**" means the rights, obligations and liabilities arising out of the LIFFE Northern Rock individual equity options contracts where LIFFE Clearing Members hold positions under such contracts as a 'Registered Exchange Contract' (as defined in the LIFFE Clearing Membership Agreement) immediately prior to the Novation Time.
- (p) The term "**Novating Contract**" means an Open Contract or a Delivery Contract.
- (q) The term "**Novation**" means the novation of Novating Contracts pursuant to the Deeds of Novation and these Transitional Rules and other matters that occur at the Novation Time pursuant to the Deeds of Novation, Clearing Member Instructions and Collateral Transfer Forms.

Part 18 – Transition Rules for LIFFE in 2013

- (r) The term "**Novation Time**" means the novation time that is determined in accordance with the Deeds of Novation, which will be communicated to LIFFE Clearing Members by the Clearing House.
- (s) The term "**Open Contract**" means a contract between a LIFFE Clearing Member and LIFFE made in accordance with the LIFFE Rules as a result of trading or otherwise, which is open immediately prior to the Novation Time and which has not, as at the Novation Time, been cash settled or otherwise performed, discharged or closed out, void, voided, terminated or rescinded in full, and includes all obligations, rights and liabilities as between LIFFE Clearing Members and LIFFE under contracts which have given rise to settlement obligations to the extent that such obligations, rights and liabilities have not been modified and discharged pursuant to clause 6.7 of a LIFFE Clearing Membership Agreement; and for the avoidance of doubt, Open Contracts include such rights, liabilities and obligations as exist between LIFFE and a LIFFE Clearing Member in respect of the Northern Rock Contracts at the Novation Time.
- (t) The term "**Securities Collateral Transfer Form**" means a form provided by a Securities Transferring Member to the Clearing House and accepted by the Clearing House, the form of which is set out in the annex to Clearing Member Securities Instructions, including details of the Transferring Securities for that Securities Transferring Member.
- (u) The term "**Securities Transferring Member**" means a LIFFE Clearing Member that has duly executed and delivered Clearing Member Securities Instructions and a Deed of Novation and has provided the Clearing House with a Securities Collateral Transfer Form and Lodgement Instructions.
- (v) The term "**Transitional Cash Collateral Deadline**" means 11:00 a.m. on the Friday immediately following the Novation Time.
- (w) The term "**Transitional Rules**" means these transitional rules.
- (x) The term "**Transitional Securities Collateral Deadline**" means 11:00 a.m. on the Tuesday immediately following the Novation Time.
- (y) The term "**Transferring Cash**" means all cash in the form of Permitted Cover identified in Cash Collateral Transfer Forms in accordance with Clearing Member Cash Instructions, including all rights, interests and titles in, to, or under the same.
- (z) The term "**Transferring Securities**" means all Permitted Cover other than cash identified in Securities Collateral Transfer Forms in accordance with Clearing Member Securities Instructions, including all rights, interests and titles in, to, or under the same.

**Rule 1803    Contracts**

- (a) Notwithstanding Rule 401(a) and Rule 401(b), any Contract that would otherwise arise pursuant to Rule 401(a) or Rule 401(b) prior to the Novation Time due to trading on or reporting to LIFFE prior to the Novation Time shall not arise unless it is subject to the

**Part 18 – Transition Rules for LIFFE in 2013**

Novation, in which case it shall arise at the Novation Time in accordance with Rule 1803(b), subject to Rule 1806.

- (b) At the Novation Time, pursuant to and in the manner specified in the Deeds of Novation: (i) the Clearing House (in place of LIFFE) and each LIFFE Clearing Member that has executed and delivered a Deed of Novation will become party to a replacement LIFFE Contract on the terms set out in these Rules in respect of each Open Contract to which that LIFFE Clearing Member is a party; and (ii) the Clearing House (in place of LCH) and each LIFFE Clearing Member that has executed a Deed of Novation will become party to a replacement LIFFE Contract that is subject to delivery obligations on the terms set out in these Rules in respect of each Delivery Contract to which that LIFFE Clearing Member is a party.
- (c) The status of a Transaction or Contract as void *ab initio* under Rule 403 shall apply equally to any Novating Contract in respect of which incomplete or conflicting details are received by the Clearing House from LCH, LIFFE and/or the relevant LIFFE Clearing Member.

**Rule 1804    *Margin***

- (a) Each LIFFE Clearing Member shall have satisfied applicable Original Margin obligations at, immediately prior to, and after the Novation Time in respect of Novating Contracts to which it is a party.
- (b) To the extent that any cash is received in cleared funds into an account at a Concentration Bank by the Clearing House from LCH in respect of a LIFFE Clearing Member (which extent, in respect of any LIFFE Clearing Member, is determined in accordance with the Cash Collateral Transfer Form), the LIFFE Clearing Member will be deemed to have transferred Permitted Cover in the form of cash to the Clearing House in accordance with the applicable Clearing Membership Agreement (regardless of the status of Transferring Cash prior to such time). To the extent that any securities equivalent to Transferring Securities are received by the Clearing House free from all Encumbrances from LCH in respect of a LIFFE Clearing Member, the LIFFE Clearing Member will be deemed to have transferred Permitted Cover in the form of securities fungible with the Transferring Securities with the Clearing House in accordance with the applicable Clearing Membership Agreement (regardless of the status of Transferring Securities prior to such time).
  - (i) Subject to Rule 1804(d), the following shall also amount to Permitted Cover:
    - (A) for Cash Transferring Members only: from the Novation Time until the Transitional Cash Collateral Deadline, the amount of Transferring Cash identified in Cash Collateral Transfer Forms to the extent that the same is not received by the Clearing House in cleared funds into its account at a Concentration Bank and LCH holds equivalent assets on trust for the benefit of the Clearing House in accordance with the Clearing Member Cash Instructions; and
    - (B) for Securities Transferring Members only: from the Novation Time until the Transitional Securities Collateral Deadline, securities fungible with the

Part 18 – Transition Rules for LIFFE in 2013

Transferring Securities identified in Securities Collateral Transfer Forms to the extent that the same are held in accounts of LCH for the benefit of the Clearing House in accordance with the Clearing Member Securities Instructions.

- (c) The first sentence of Rule 502(b) shall not apply in relation to Transferring Securities described in Rule 1804(b).
- (d) If the Clearing House:
  - (i) does not receive, in cleared funds into its account at a Concentration Bank, all the Transferring Cash from LCH at or prior to the Transitional Cash Collateral Deadline;
  - (ii) does not receive Permitted Cover fungible with all the Transferring Securities in respect of any Securities Transferring Member at or prior to the Transitional Securities Collateral Deadline in its normal custody accounts as specified pursuant to the Finance Procedures; or
  - (iii) determines at its discretion (which determination may be made prior to the Transitional Cash Collateral Deadline or Transitional Securities Collateral Deadline, as applicable) that it is unlikely to receive cash equal to any amount of Transferring Cash or Permitted Cover fungible with any Transferring Securities at or prior to the Transitional Cash Collateral Deadline or the Transitional Securities Collateral Deadline respectively,

the Clearing House shall be entitled to disapply Rule 1804(b)(i) in respect of a particular LIFFE Clearing Member or particular Permitted Cover or all or some LIFFE Clearing Members or Permitted Cover, as applicable. In such circumstances, any affected LIFFE Clearing Member shall be liable to pay the Clearing House such amounts in respect of Margin and other liabilities as are due pursuant to the Rules without taking into account any value attributed to Transferring Cash or Transferring Securities held in the manner described in Rule 1804(b)(i). The Clearing House will either issue a Circular whenever this Rule 1804(d) applies, if a number of LIFFE Clearing Members are affected, or otherwise shall notify any LIFFE Clearing Member affected, LIFFE and LCH.

- (e) In the event of any conflict, the provisions of the Rules and Procedures relating to interest or collateral charges do not apply to the extent that the same are inconsistent with the provisions of the Deed of Novation, Clearing Member Cash Instructions or Clearing Member Securities Instructions.
- (f) Interest or collateral charges due to or from a Clearing Member on Transferring Cash in respect of the period until close of business on the day of the Novation Time will be payable to or by such Clearing Member by or to LCH (in relation to any transferred Transferring Cash and any interest payable by LCH only to the extent that LCH receives interest payments from the Clearing House). Interest or collateral charges due to or from a Clearing Member on Transferring Cash in respect of the period after close of business on the day of the Novation Time will be payable to or by a Clearing Member by or to the

*Part 18 – Transition Rules for LIFFE in 2013*

Clearing House (in relation to any interest payable by the Clearing House or any untransferred Transferring Cash only to the extent that the Clearing House receives interest payments from LCH). Any interest or collateral charges in respect of Transferring Cash which is held by LCH shall be due or charged at LCH's published rates. Any interest or collateral charges in respect of Transferring Cash which has been received by the Clearing House shall be due or charged at the Clearing House's published rates. Clearing Members shall pay the Clearing House or LCH interest or collateral charges on Transferring Cash as notified by either the Clearing House or LCH or may be paid interest on Transferring Cash by either the Clearing House or LCH, including in respect of amounts which pursuant to Clearing Member Cash Instructions would be payable by or to the other clearing house, where, for reasons of administrative convenience, the Clearing House or LCH agree to act as collection or paying agent on behalf of the other.

- (g) In relation to securities representing the Transferring Securities only:
- (i) any income or redemption amounts due to LIFFE Clearing Members on securities representing Transferring Securities received by LCH after the Novation Time shall be payable by LCH to LIFFE Clearing Members:
    - (A) to the extent the same relates to the period prior to the Novation Time, calculated on the basis of the rates, fee schedules, charges and arrangements for the passing-on of income or redemption amounts of LCH for its clearing members in respect of the LIFFE Markets on securities provided as 'cover' (as that term is used in the LCH Regulations) as at the Novation Time; and
    - (B) to the extent that LCH receives an equivalent amount from the issuer or its agent after the Novation Time but such amount relates in whole or in part to a payment that relates to the period after the Novation Time, as agent for the Clearing House, and calculated on the basis of the rates, fee schedules, charges and arrangements for the passing-on of income or redemption amounts of the Clearing House for LIFFE Clearing Members on securities provided as Permitted Cover as at Novation Time and such payment shall discharge any liability of the Clearing House and LCH to pay such income or redemption amounts to LIFFE Clearing Members; and
  - (ii) any income or redemption amounts due to LIFFE Clearing Members on securities representing Transferring Securities received by the Clearing House, regardless of the time of receipt, shall be payable by the Clearing House to LIFFE Clearing Members in accordance with the Rules calculated on the basis of the rates, fee schedules and charges levied by the Clearing House on LIFFE Clearing Members for income or redemption amounts on securities provided as Permitted Cover as at Novation Time. To the extent any such income or redemption amount relates to the time prior to the Novation Time, such payment shall discharge any liability of LCH to pay such income or redemption amounts to LIFFE Clearing Members.



**Part 18 – Transition Rules for LIFFE in 2013**

- (h) In relation to securities representing the Transferring Securities and cash, to the extent these:
  - (i) are not transferred to the account of the Clearing House, LIFFE Clearing Members shall to pay to LCH any fees and charges levied by LCH calculated on the basis of the fees and charges levied by LCH to its clearing members in respect of the LIFFE Markets as at the Novation Time; and
  - (ii) are transferred to the account of the Clearing House, LIFFE Clearing Members shall pay to the Clearing House any fees and charges levied by the Clearing House calculated on the basis of the fees and charges levied by the Clearing House to LIFFE Clearing Members as at the Novation Time.
- (i) For FCM Clearing Members that have executed Clearing Member Cash Instructions, cash margin will not be treated as subject to the Pledged Collateral Addendum until such time as cash is actually received in the Clearing House's Concentration Account from LCH and credited in the name of the relevant FCM Clearing Member, and the representation and warranty provided by such FCM Clearing Member pursuant to Clause 2.2(vi) of the applicable Clearing Member Cash Instructions shall cease to have effect at such time. For FCM Clearing Members that have executed Clearing Member Securities Instructions, securities will not be treated as subject to the Pledged Collateral Addendum until such time as relevant securities are received in the Clearing House's account (other than at LCH) and credited in the name of the relevant FCM Clearing Member, and the representation and warranty provided by such FCM Clearing Member pursuant to Clause 2.2(viii) of the applicable Clearing Member Securities Instructions shall cease to have effect at such time. Prior to such time, such securities shall be treated as if provided under a title transfer arrangement, pursuant to the Clearing Member Securities Instructions.

***Rule 1805 Delivery Contracts***

- (a) LCH and LIFFE have each agreed to administer certain deliveries of Deliverables pursuant to Delivery Contracts as agent for the Clearing House.
- (b) Satisfaction of the relevant provisions of the Delivery Procedures, LCH Regulations and LIFFE Rules applicable to: (i) the making and taking of physical deliveries; (ii) the delivery and receipt of notices and forms in respect of deliveries; (iii) in respect of securities deliveries, making and receiving corresponding cash payments; and (iv) in respect of deliveries other than securities deliveries, the making of cash payments to a LIFFE Clearing Member acting as Seller to a relevant Delivery Contract where, prior to the Novation Time payment was due or has been received by LCH from the LIFFE Clearing Member that is the Buyer in the corresponding Delivery Contract, in all cases at the times and in the manners required pursuant to the Delivery Procedures, LCH Regulations and LIFFE Rules, shall constitute due performance for the purposes of the Rules in relation to Delivery Contracts and performance in such circumstances by the LIFFE Clearing Member to LCH or by LCH to the LIFFE Clearing Member shall constitute good performance to or by the Clearing House respectively.

**Part 18 – Transition Rules for LIFFE in 2013**

- (c) Subject to Rule 1805(d) below, any arbitration, dispute or alternative delivery procedure arising in connection with a Delivery Contract (other than in relation to any payment) shall be governed by and subject to the terms of the LCH Regulations and LIFFE Rules. The relevant provisions of the LCH Regulations and LIFFE Rules, as the LCH Regulations and LIFFE Rules apply to LCH and LIFFE respectively, will apply equally to the Clearing House solely for such purposes. All the provisions of the LCH Regulations and LIFFE Rules relating to deliveries (and definitions used therein, which shall prevail over any definitions in the Rules for the purposes of this Rule 1805 only) shall be deemed to be set out herein in full for the purposes of this Rule 1805 only.
- (d) The Clearing House shall have the same right as LIFFE and/or LCH to take such action against a LIFFE Clearing Member under the Rules in relation to obligations which are not fully performed or completed or which are only partially performed or completed at the Novation Time, regardless of whether any matter or event occurred or circumstance arose or relevant action or omission took place prior to the Novation Time.
- (e) Rule 1805(b) does not affect the applicability of the Rules or Procedures relating to original or variation margin, interim variation margin, contingent variation margin, settlement amounts, delivery value or any similar payments under a Delivery Contract (except for the payments set out in Rule 1805(b)), howsoever described arising in connection with Delivery Contracts. For the avoidance of doubt, all payments and transfers of or in respect of Margin or Guaranty Fund Contributions relating to Delivery Contracts must be made to the Clearing House in the normal way, in accordance with the Rules and Procedures.

***Rule 1806 Guaranty Fund Contributions***

- (a) Each LIFFE Clearing Member shall have transferred the required F&O Guaranty Fund Contributions (including any increase to previous F&O Guaranty Fund Contributions) to the Clearing House at least five Business Days prior to the scheduled Novation Time.

## Part 19 – Sponsored Principals

### **Part 19 Sponsored Principals**

#### **Rule 1901 Attaining status of a Sponsored Principal**

- (a) Sponsors must be Clearing Members and must meet the Clearing House's membership criteria and other obligations in relation to Customers as set out in Part 2 of the Rules in the same way as a Clearing Member would be required to do so in relation to a Customer that is not a Sponsored Principal.
- (b) In order to attain and maintain the status of a Sponsored Principal, a Person must, at a minimum, as from the date on which it is proposed that it become a Sponsored Principal:
  - (i) have paid the Clearing House's (non-refundable) application fee for Sponsored Principals and provided completed application forms;
  - (ii) be a user of or otherwise have access to at least one Repository (if any) for the Contracts it proposes to clear;
  - (iii) (if proposing to become a Sponsored Principal in relation to CDS Contracts), if any CDS Trade Particulars are submitted for Clearing which relate to a Bilateral CDS Transaction registered at Deriv/SERV in the name of an Affiliate of the Sponsored Principal, have provided an executed authority, in a form acceptable to the Clearing House, from the relevant Affiliate, pursuant to which the Clearing House is authorised to terminate the records in Deriv/SERV in respect of Bilateral CDS Transactions to which the Affiliate is party;
  - (iv) (if proposing to become a Sponsored Principal in relation to FX Contracts) be a settlement member of, or have an Affiliate (through which it can settle FX transactions) which is a settlement member of, an FX Settlement Facility;
  - (v) have nominated a Person, satisfactory to the Clearing House, who is (A) a director, general partner, trustee or officer of the applicant (or Person occupying a similar status or performing similar functions), (B) responsible for the clearing operations of the applicant and (C) authorised to act on behalf of the applicant in all transactions with or involving the Clearing House, and, unless the Sponsored Principal is an individual or a sole trader, have nominated a second Person who meets the requirements of (A) above and is authorised to act on behalf of the applicant in the event of the death, incapacity or other inability of the first Person to so act;
  - (vi) unless it is an individual or sole trader, maintain and, where applicable, procure that all of its Designated Controllers maintain, the minimum amount of Capital required by the Clearing House or (if it is a collective investment scheme, individual or sole trader) assets or net assets (as defined in article 49(2)(A), article 49(6) or schedule 5 of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005, as applicable) of the same amount;

*Part 19 – Sponsored Principals*

- (vii) where a Controller Guarantee is or is to be provided by a Designated Controller, procure that the Controller Guarantee is executed in such form and delivered in such manner as the Clearing House may prescribe from time to time;
  - (viii) be party to a Sponsored Principal Clearing Agreement;
  - (ix) have been designated as a Sponsored Principal in writing to the Clearing House by a Sponsor that is not a Defaulter, pursuant to a Sponsor Agreement;
  - (x) not be subject to an Insolvency or Unprotected Resolution Step;
  - (xi) hold a Nominated Bank Account or Accounts in its name (or, in the alternative, the Sponsor's name) at an Approved Financial Institution or Institutions in relation to each of which a direct debit mandate has been established in favour of the Clearing House;
  - (xii) have pre-funded a minimum amount of Margin specified by the Clearing House to a Nominated Bank Account, which amount will be transferred to a Clearing House Account prior to the date of attaining Sponsored Principal status;
  - (xiii) if non-cash assets are to be used as Permitted Cover, have executed all necessary documentation relating to the transfer of such assets and not be in dispute with the Clearing House in relation to the ownership over or rights relating to such non-cash assets;
  - (xiv) be incorporated or registered in and access the Clearing House from only jurisdictions whose Applicable Laws relating to Insolvency, the regulation of clearing houses, Markets or central counterparties, the enforceability of Contracts and the Rules and such other matters as the Clearing House specifies are acceptable to the Clearing House (and an applicant may be required to supply a legal opinion of external counsel, addressed to the Clearing House, addressing such issues, at its cost); and comply with any additional restrictions or requirements imposed by the Clearing House as a result of activities in any such jurisdictions;
  - (xv) (if proposing to become a Sponsored Principal in relation to CDS Contracts or FX Contracts) be an "eligible contract participant", as defined in Section 1a of the U.S. Commodity Exchange Act;
  - (xvi) if it is not incorporated in England and Wales, have appointed an agent for the service of process pursuant to Rule 1901(n); and
  - (xvii) not be subject to statutory disqualification under Applicable Law.
- (c) Where a Sponsored Principal is a fund, some or all of the criteria in Rule 1901(b) may, at the discretion of the Clearing House, be met by the fund manager.
- (d) A Sponsored Principal must at the time of application and on a continuing basis thereafter, comply with the following further requirements (and a Sponsored Principal shall verify to its

Part 19 – Sponsored Principals

Sponsor's satisfaction at the time of application or any transfer to a new Sponsor that such Sponsored Principal):

- (i) has in place all necessary regulatory authorisations, licences, permissions and approvals in its country of origin, the UK and any other jurisdiction in which it conducts business;
- (ii) is fit and proper, has sufficient qualities of financial responsibility, operational capacity, business integrity, reputation and competence;
- (iii) has such facilities, equipment, operational capability, personnel, hardware and software systems as are capable of supporting the proper performance of its business as a Sponsored Principal, including such IT links to the Clearing House and Sponsor and software as are necessary;
- (iv) has in place business continuity procedures that satisfy the Clearing House's minimum requirements applicable to Clearing Members;
- (v) has a sufficient level of knowledge about the types of Contracts that it intends to clear and any risks involved in relation to the same;
- ~~(vi) is either a Person that is not a natural person or a Person that is subject to business taxation for the purposes of Council Directive 2003/48/EC on the taxation of savings income in the form of interest payments;~~
- (vi) ~~(vii)~~ is not subject to any circumstances pursuant to which an Event of Default could be declared were the Sponsored Principal to be a Clearing Member;
- (vii) ~~(viii)~~ has provided details of an office which is staffed during normal business hours and sufficient for its proposed activities as a Sponsored Principal under the direct supervision and responsibility of an executive officer of the Sponsored Principal (who need not be physically located at such office) to which all notices, orders and other communications from the Clearing House may be transmitted or delivered;
- (viii) ~~(ix)~~ if it is to clear CDS, is a member of, or has access to, at least one physical settlement system that is customary for the settlement of all potentially applicable Deliverable Obligations under all CDS Contracts of all Sets which it is authorised to enter into, where such a physical settlement system exists;
- (ix) ~~(x)~~ if it is to clear CDS or FX, is an eligible contract participant, as defined in Section 1a of the Commodity Exchange Act;
- (x) ~~(xi)~~ has officers, directors and Controllers that would each meet the requirements for an 'approved person' (for individuals) or 'controller' (for partnerships, companies and other bodies corporate) under applicable FCA Rules and PRA Rules;
- (xi) ~~(xii) either (A) is a Person in respect of whom 'simplified due diligence' may be applied pursuant to the Money Laundering Regulations 2007; or (B) has been~~

Part 19 – Sponsored Principals

subject to customer due diligence measures by the Sponsor under the Money Laundering Regulations ~~2007~~; and

- (xii) (~~xiii~~) is not prevented from entering into any Contract or using the Clearing House (nor is the Sponsor prevented from servicing the Individually Segregated Sponsored Account) as a result of any Sanctions affecting the Sponsored Principal, Sponsor or any of their assets (except, solely in respect of CDS clearing, if the Sponsor or Sponsored Principal is incorporated in Germany, solely to the extent that any obligation, or undertaking, representation or statement contemplated by this Rule 1901(d)(~~xiii~~xii) would be in conflict with any Applicable Laws purporting to nullify or restrict the effect of foreign Sanctions or preventing boycotts).
- (e) Some or all of the criteria in Rule 1901(b) (except those set out in paragraphs (v), (vi), (x), (xi), (xii) or (xiii)) shall, at the discretion of the Sponsor, be deemed to be met on the part of the Sponsored Principal by the Sponsor, to the extent that the Sponsor takes on responsibility for servicing the Individually Segregated Sponsored Account or related Nominated Bank Account. If the Sponsored Principal is a fund, some or all of the criteria in Rule 1901(b) (except those set out in paragraphs (v), (vi), (x), (xi), (xii) or (xiii)) may, at the discretion of the Sponsor, be deemed to be met on the part of the Sponsored Principal by the fund manager to the extent that the fund manager takes on responsibility for servicing the Individually Segregated Sponsored Account or related Nominated Bank Account.
- (f) The Clearing House may at its discretion attach further objective conditions to any application for Sponsored Principal status prior to such status being granted. The Clearing House may grant approval to an applicant conditional upon satisfying certain requirements, provided that the applicant has expressed its intention to meet such requirements and provided evidence of its ability to do so.
- (g) Applicants for Sponsored Principal status must provide information or documentation to the Clearing House evidencing compliance (or lack thereof) with each of the criteria set out in or required pursuant to Rule 1901(b). Applicants for Sponsored Principal status must provide information or documentation to their Sponsor (who shall, on request, be obliged to transfer on any of the same to the Clearing House) evidencing compliance (or lack thereof) with each of the criteria set out in or required pursuant to Rule 1901(d). Failure to supply such information or documentation to the Clearing House may result in an application being rejected or Sponsored Principal status being revoked.
- (h) If the Clearing House determines that an application for Sponsored Principal status should be denied, the applicant will be given notice of such denial. In such an event, the applicant may request an opportunity to be heard by the Clearing House's Board (or an appropriately constituted sub-committee of the Board) in relation to the matter and to present evidence as to why its application should not be denied or may raise a complaint which the Clearing House will deal with in the same way as if Part 10 applied to such complaint (notwithstanding that the Rules do not apply to the complaint).
- (i) Sponsored Principal status does not entitle any Sponsored Principal to any shareholding or other similar interest in the Clearing House or any of the Clearing House's Affiliates.



Part 19 – Sponsored Principals

- (j) Sponsored Principals shall be deemed to represent and warrant to the Clearing House, upon their first date of holding such status and on each subsequent date that they are a Sponsored Principal, that they meet all of the criteria set out in Rule 1901(b) and (d) and are in compliance with all of their obligations under these Rules.
- (k) Part 2 does not apply to Sponsored Principals except for Rule 202(a)(i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (x), (xi), (xiii), (xiv), (xv), (xvi), (xix), (xxii) and (xxiii), Rule 203, Rule 204, Rule 206, Rule 207(a) to (d), 207(f), 208, 209 (a) to (c) and the first sentence of Rule 209(d), which apply to Sponsored Principals in the same way as they apply to Clearing Members *mutatis mutandis*, except that: (i) for purposes of Rule 202(a)(xi) and Rule 207(d), Sponsored Principals shall only be entitled to have a single Account at the Clearing House and are therefore required only to have a single Nominated Bank Account for each Eligible Currency; (ii) for purposes of Rule 202(a)(iv) and 202(a)(vi) the relevant standards are the criteria for Sponsored Principal status and the Capital or net asset requirements applicable to Sponsored Principals; and (iii) references to obligations with respect to Guaranty Fund Contributions and Assessment Contributions (as incorporated by reference in Rule 209) shall not apply. The Membership Procedures shall be construed accordingly.
- (l) A Clearing Member that has been authorised by the Clearing House to be a Sponsor may act in such capacity for any number of Sponsored Principals, subject to execution of a Sponsor Agreement and nomination of each such Sponsored Principal in accordance with the Sponsor Agreement and to meeting any additional Margin and Guaranty Fund Contribution requirements resulting from so acting. No Sponsored Principal may have more than one Individually Segregated Sponsored Account. An Individually Segregated Sponsored Account can only have one Sponsor at any given time.

(m) The Sponsor:

- (i) represents and warrants to the Clearing House that it is a credit institution or financial institution (as defined in the Money Laundering Directive) or otherwise is a person falling under article 39(3) of the Money Laundering Regulations (or the equivalent provision implementing the Money Laundering Directive in a member state);
- (ii) ~~(m) The Sponsor must be a Clearing Member that is a credit institution or financial institution (as defined in the Money Laundering Directive) or otherwise be a person falling under article 17(2) of the Money Laundering Regulations 2007 (or the equivalent provision implementing the Money Laundering Directive in a member state other than the UK). In addition to the consent and reliance agreed to~~ in addition to the representations and warranties provided by the Sponsor pursuant to Rule 202(a)(xii), ~~the Sponsor consents~~ represents and warrants to the Clearing House ~~continually relying in respect of each open Individually Segregated Sponsored Account for which it acts as Sponsor upon the Sponsor's~~ that it has carried out customer due diligence in relation to each of its Sponsored Principals and all "beneficial owners" (for the purposes of this Rule 1901(m), within the meaning of article 3(6) of the Money Laundering Directive) ~~of such Sponsored Principals. The Sponsor will provide any supporting documentation relating to such due diligence to~~

Part 19 – Sponsored Principals

~~the Clearing House immediately on request and may be subject to audit requests to the extent required under the Money Laundering Directive or such other Applicable Laws as determined acceptable by the Clearing House or requests for documentation from~~ at its discretion of such Sponsored Principals, and consents to the Clearing House continually relying, in respect of any Contracts entered into in respect of Sponsored Principal business, Margin and Contracts recorded in each open Individually Segregated Sponsored Account for which it acts as Sponsor, upon the Sponsor's customer due diligence relating to Sponsored Principals, with which it must comply;

- (iii) must obtain the necessary authority from Sponsored Principals and all beneficial owners of such Sponsored Principals to disclose relevant information and consent to the immediate provision to the Clearing House of any relevant information related to the application of customer due diligence measures under the Money Laundering Directive or other Applicable Laws as determined acceptable by the Clearing House at its discretion relating to anti-money laundering and immediately on request forward to the Clearing House copies of identification and verification data and other relevant documents on the identity of Sponsored Principals and beneficial owners of such Sponsored Principals obtained when applying those measures and may be subject to audit requests by the Clearing House or requests for documentation from the Clearing House in respect of customer due diligence relating to Sponsored Principals and the beneficial owners of such Sponsored Principals, with which it must comply; and
- (iv) must retain copies of any documents and information relating to its Sponsored Principals and the beneficial owners of such Sponsored Principals required to be retained under any Applicable Law relating to anti-money laundering (including the documents and information specified in article 40(2) of the Money Laundering Regulations (or the equivalent provision implementing the Money Laundering Directive in an EEA member state) or other Applicable Laws) for the applicable time periods specified under any Applicable Law relating to anti-money laundering (including the time periods specified in regulations 40(3)-(4) of the Money Laundering Regulations (or the equivalent provision implementing the Money Laundering Directive in an EEA member state) or other Applicable Laws).
- (n) Each Sponsored Principal that is not incorporated or registered in England and Wales shall appoint and maintain an agent in England and Wales to act as its agent to accept service of process issued out of the courts of England and Wales in relation to any arbitration commenced pursuant to Rule 117 or the Sponsored Principal Clearing Agreement, as well as any notice, order or other communication under these Rules or the Sponsored Principal Clearing Agreement, and shall deliver to the Clearing House an agreement substantially in the form specified by the Clearing House relating to such appointment countersigned by such agent. No Sponsored Principal shall give any notice of revocation to, or otherwise terminate the appointment of, any such agent unless prior to such termination it has validly appointed a replacement agent in England and Wales reasonably acceptable to the Clearing House to accept service of process issued out of the courts of England and Wales in relation to any arbitration commenced pursuant to Rule 117 or the Sponsored Principal Clearing Agreement as well as any notice, order or other communication under these Rules

## Part 19 – Sponsored Principals

or the Sponsored Principal Clearing Agreement, and has delivered to the Clearing House a copy of that agent's acceptance of that appointment substantially in the form specified by the Clearing House countersigned by such agent. If for any reason any agent appointed under Rule 113(e) ceases to be such an agent, the Sponsored Principal shall forthwith appoint a replacement agent in England and Wales and deliver to the Clearing House a copy of the new agent's acceptance of that appointment substantially in the form specified by the Clearing House countersigned by such agent within 10 Business Days of such appointment. Nothing in these Rules, the Procedures, a Sponsored Principal Clearing Agreement or any Contract shall affect the right of the Clearing House to serve process in any other manner permitted by law.

- (o) Sponsors are responsible for ensuring satisfaction by Sponsored Principals of the requirements of Rule 1901(b) and (d) and for ensuring that Sponsored Principals comply with their obligations with respect to clearing at the Clearing House.

### ***Rule 1902 Rights and liabilities of Sponsored Principals and Sponsors***

- (a) The relevant Sponsored Principal and Sponsor shall each be jointly and severally liable, with one another, in each case as principal and without limitation, to the Clearing House in respect of all obligations and liabilities arising in connection with the Individually Segregated Sponsored Account and all Contracts recorded in it.
- (b) A Sponsor may be subject to increased Guaranty Fund Contribution requirements as a result of acting as Sponsor for Individually Segregated Sponsored Accounts, and the amount by which its Guaranty Fund is increased as a result of acting as Sponsor for each of its Individually Segregated Sponsored Accounts will be reported upon by the Clearing House to the Sponsor. This calculation shall not restrict the liability of the Sponsor in respect of its entire Guaranty Fund Contributions (and not solely any increase related to a particular Account) in respect of each and every Individually Segregated Sponsored Account. (This Rule 1902(b) is without prejudice to the rights of the Clearing House under Rule 901(d), Rule 904, Rule 906, Rule 1902(a) and otherwise to apply other assets to an Individually Segregated Sponsored Account following an Event of Default affecting the Sponsor.) For the avoidance of doubt, there will be no call of Assessment Contributions from the Sponsor following an Event of Default of a Sponsored Principal, unless Assessment Contributions are called from other Clearing Members contributing relevant Guaranty Funds under Part 9 and 11 of the Rules, in which case the Sponsor shall be liable on a similar basis to other Clearing Members. The absence of any status of "Representative" of the Sponsored Principal for the Sponsor in any circumstances shall not affect the liability of the Sponsor under these Rules, the Individually Segregated Sponsored Account or any Contract.
- (c) The Clearing House will make payments and performance to the Sponsored Principal (and the Sponsored Principal shall be solely entitled itself to receive all performance from the Clearing House) in respect of an Individually Segregated Sponsored Account except to the extent that any different arrangements for a Sponsor are established in accordance with Part 9, this Rule 1902(c) or Rule 1902(e) with the consent of or on the initiative of the Clearing House, in which case the relevant payment or performance will be made to the Sponsor or such other Person to whom payment is due under Part 9. In the absence of any arrangements with the Clearing House to the contrary, the Sponsored Principal must

Part 19 – Sponsored Principals

therefore establish an account in its own name at an Approved Financial Institution (which Approved Financial Institution may be, or may be an Affiliate of, its Sponsor) for the making of payments to and receiving of payments from, the Clearing House. The Sponsored Principal and Sponsor may arrange for the Sponsor instead to be operationally responsible for meeting Margin and other calls relating to an Individually Segregated Sponsored Account from one of the Sponsor's own accounts at an Approved Financial Institution.

- (d) To the extent permitted by Applicable Laws, the Clearing House will make any payment or perform any other obligation to the Sponsor (or another Person nominated by the Sponsored Principal for purposes of receiving performance to the account or to the order of the Sponsor or Sponsored Principal) in respect of an Individually Segregated Sponsored Account, if the Sponsored Principal and Sponsor so request jointly in writing and this request is accepted by the Clearing House or as permitted under Part 9. This may occur, for example, where delivery obligations under an F&O Contract are performed to a Transferee (which may be the Sponsor) or, in respect of payments, if the Sponsor is the account holder of the Nominated Bank Account linked to the Individually Segregated Sponsored Account. In such circumstances, the Sponsor or other Person will act as the Sponsored Principal's Representative. Whether the Clearing House makes any payment or performs any other obligation in connection with an Individually Segregated Sponsored Account or Contract to the Sponsor or the Sponsored Principal or otherwise to the account or to the order of the Sponsored Principal in accordance with Rule 1902(c) and this Rule 1902(d): (i) such payment or performance to the extent made shall satisfy and discharge the obligations of the Clearing House to the Sponsored Principal and any obligations of the Clearing House to the Sponsor; and (ii) where payment or performance is made to the Sponsored Principal (or to its account or order, other than to the account of the Sponsor), such payment or performance to the extent made shall be deemed to be in satisfaction and discharge of any related payment or performance obligation of the Sponsor pursuant to the related Customer-CM Transaction.
- (e) To the extent permitted by Applicable Laws, a Sponsored Principal may (provided that it requests to do so in writing and this request is accepted by the Clearing House), outsource performance of any of its obligations under the Rules to a Sponsor or other Person who agrees to such arrangements, but will remain fully liable to the Clearing House for such performance notwithstanding the outsourcing. This may occur, for example, where delivery obligations under an F&O Contract are performed by a Transferor (which may be the Sponsor) or, in respect of payments, if the Sponsor is the account holder of the Nominated Bank Account linked to the Individually Segregated Sponsored Account. In such circumstances, the Sponsor or other Person will act as the Sponsored Principal's Representative. Whether the Sponsor or Sponsored Principal makes any payment or performs any other obligation in connection with an Individually Segregated Sponsored Account or Contract to the Clearing House: (i) such payment or performance to the extent made shall satisfy and discharge the obligations of both the Sponsor and the Sponsored Principal to the Clearing House; and (ii) where payment or performance is made by the Sponsored Principal, such payment or performance to the extent made shall be deemed to be in satisfaction and discharge of any related payment or performance obligation of the Sponsored Principal pursuant to the related Customer-CM Transaction.

Part 19 – Sponsored Principals

- (f) The Clearing House shall be entitled to receive and act upon instructions, notifications, notices and forms (whether in electronic or paper format) in respect of an Individually Segregated Sponsored Account from either the Sponsor or the Sponsored Principal without further reference to any other party, including in relation to the entry into, modification, exercise, netting and termination of Contracts, the making and receipt of payments and other transfers of Permitted Cover and the giving and receipt of notices under Contracts or the Rules. Each of the Sponsor and Sponsored Principal shall be entitled as joint holders of the Individually Segregated Sponsored Account to give such instructions, notifications, notices and forms and hereby shall be deemed to authorise the other to give such instructions, notifications and notices and forms in respect of the Individually Segregated Sponsored Account for such purposes, subject to Rule 901(d) and 904(q)-(s). A Sponsor and a Sponsored Principal may agree among themselves how such rights may be exercised in practice. No arrangement between a Sponsor and Sponsored Principal established under Rule 1902(d) or Rule 1902(e) may be revoked or cancelled without the prior written consent of each of the Clearing House, Sponsor and Sponsored Principal concerned, unless it takes place pursuant to Rule 901(d) or 904(q)-(s). Notwithstanding the foregoing provisions of this Rule 1902(f), the Clearing House will not act on any instruction, notification, notice or form from a Sponsored Principal (and a Sponsored Principal shall not be entitled to deliver the same to the Clearing House): (i) if and as from the time that the Sponsor makes a notification to the Clearing House of a default under an agreement between the Sponsored Principal and the Sponsor under Rule 901(d), until any such time as the Sponsor notifies the Clearing House in writing that the default in question has been cured; or (ii) if any instruction, notification, notice or form delivered by a Sponsored Principal conflicts with any instruction, notification, notice or form delivered by a Sponsor. For the avoidance of doubt, nothing in this Rule 1902(f) is intended to over-ride or disapply the requirements of Rule 401(g), Rule 504, Part 9, any other default rule or any other provision of these Rules or the Procedures prescribing any operational or legal process or requirement relating to any instruction, notification, notice, form, Contract, modification, exercise, netting, termination, payment transfer or other matter, which shall apply in addition to the requirements of this Rule 1902(f).
- (g) A Customer-CM Transaction shall arise between each Sponsor (acting for such purposes as if it were the Clearing Member) and the Sponsored Principal (acting for such purposes as if it were the Customer) in respect of each Contract recorded in an Individually Segregated Sponsored Account, at the same times and in the same manner as Customer-CM Transactions would arise pursuant to Rule 401 (n)-(o) and the applicable Standard Terms in respect of a Contract recorded in any other Customer Account. Notwithstanding the Standard Terms, the terms of each Customer-CM Transaction relating to a Contract recorded in an Individually Segregated Sponsored Account shall be construed such that:
- (i) the Sponsor is obliged and liable to perform to the Sponsored Principal under the Customer-CM Transaction, subject to terms of the Cleared Transactions Master Agreement, solely to the extent that the Clearing House performs to the Sponsor in respect of the Individually Segregated Sponsored Account (including if the Nominated Bank Account linked to the Individually Segregated Sponsored Account is in the name of the Sponsor, the Sponsor is appointed as the Sponsored Principal's Transferee or the Sponsored Principal otherwise specifies that performance of any



Part 19 – Sponsored Principals

of the Clearing House's obligations should be made instead to the Sponsor pursuant to Rule 1902(d));

- (ii) the Sponsored Principal is obliged and liable to perform to the Sponsor (and the Sponsor is obliged and liable to perform to the Sponsored Principal) under the Customer-CM Transaction solely to the extent that: (A) the Sponsor is approved as being operationally responsible for meeting or receiving Margin calls and other transfers of Permitted Cover relating to an Individually Segregated Sponsored Account in accordance with Rule 1902(c) (and in such circumstances, the Sponsor will not act as agent of the Sponsored Principal in receiving or paying any amounts but instead shall act for its own account as principal with an obligation pursuant to the Customer-CM Transaction to account to the Sponsored Principal for a similar amount or asset to each amount or asset received from the Clearing House and with rights pursuant to the Customer-CM Transaction to receive from the Sponsored Principal similar amounts to those paid to the Clearing House or similar assets to those transferred to the Clearing House, in each case subject to the terms of the applicable Customer-Clearing Member Agreement); (B) the Sponsor performs to the Clearing House in respect of the Individually Segregated Sponsored Account (including if the Nominated Bank Account linked to the Individually Segregated Sponsored Account is in the name of the Sponsor, the Sponsor is appointed as the Sponsored Principal's Transferor, performance of any of the Sponsored Principal's obligations is outsourced pursuant to Rule 1902(e) or pursuant to Part 9); (C) the Sponsor's Guaranty Fund Contributions, Surplus Collateral or other assets are applied by the Clearing House to meet a loss or shortfall on the Individually Segregated Sponsored Account upon an Event of Default occurring with respect to the Sponsor or Sponsored Principal, in which case the Sponsored Principal shall be liable to the Sponsor to pay an amount equal to the amount of so applied Guaranty Fund Contributions, Surplus Collateral or other assets; or (D) there is an Event of Default in relation to a Sponsored Principal, in which case: (1) the Sponsored Principal will be liable in full to the Sponsor for the close-out value of replacement Contracts and such other amounts as fall due under the Standard Terms and Customer-Clearing Member Agreement as if the Customer-CM Transaction had been originally recorded in a Customer Account other than an Individually Segregated Sponsored Account; and (2) without prejudice to the generality of the indemnities in Rule 111 and 301, but without duplication of any other obligation under these Rules, the Sponsored Principal, acting solely for its own account as principal, shall indemnify, hold harmless and be liable to the Sponsor and the Clearing House in respect of all of their losses, unpaid fees, liabilities, damages, injuries, taxes, costs and expenses (including, without limitation, legal, accountancy or other professional services expenses and disbursements, the costs of close-out, termination or Transfer of Contracts or Margin, amounts payable by such Persons to Approved Financial Institutions or custodians and any amount payable by such Persons to any other Person in respect of tax in connection with the Sponsored Principal or its Contracts, Margin, obligations or the Event of Default), incurred or suffered by such Person or any of their officers or employees or those of their Affiliates arising out of the



Part 19 – Sponsored Principals

Defaulter's conduct (whether such conduct took place prior to or after declaration of the Event of Default) or in connection with the Event of Default;

- (iii) the Sponsor may set, change and enforce such position limits and other risk controls in respect of the Individually Segregated Sponsored Account as apply pursuant to the relevant Customer-Clearing Member Agreement;
  - (iv) nothing in the Rules precludes a Sponsor and Sponsored Principal from agreeing contractually to any event of default or breach or similar event affecting the Sponsored Principal nor precludes the Sponsor from itself declaring a Sponsored Principal to be in default or breach of contract or taking any action consequent on the same, pursuant to Rule 1902(f) or otherwise (subject, if the Clearing House has declared an Event of Default in respect of the Sponsored Principal, to Part 9 of the Rules);
  - (v) pursuant to the applicable Standard Terms, the terms of the Customer-CM Transaction correspond to and shall be identical (save as expressly provided in this Part 19) to the terms of the equivalent Contract and the terms of the Customer-CM Transaction may be modified only pursuant to or in accordance with the Standard Terms;
  - (vi) each Customer-CM Transaction gives rise to contractually binding rights and obligations *ab initio*, which rights and obligations are not contingent upon any circumstances, event, contract, obligation or performance (except as set out in Rule 401(n) or (o), as applicable); and
  - (vii) nothing in these Rules shall restrict any right of the Sponsor in a Cleared Transactions Master Agreement to call the Sponsored Principal for Customer-CM Collateral or to apply such Customer-CM Collateral against liabilities of the Sponsored Principal, nor any right of the Sponsored Principal under a Cleared Transactions Master Agreement to the return of any collateral.
- (h) Unless the Clearing House agrees otherwise in respect of any particular Account, only a single Person may act as a Sponsored Principal in respect of an Individually Segregated Sponsored Account. A Sponsored Principal may only clear for its own account and may not carry out clearing for any Customer or Affiliate, but nothing in these Rules shall prevent a Sponsor and Sponsored Principal from being Affiliates of one another. Notwithstanding the foregoing, where the same fund manager or fund managers that are Affiliates act for multiple funds, all such funds may to the extent permitted under Applicable Laws have positions and Margin recorded in the same Individually Segregated Sponsored Account and use the same Nominated Bank Account at the choice of the fund manager. In addition, other multiple Persons (including groups of indirect clients of the same client of a Clearing Member) may to the extent permitted under Applicable Laws apply all to become Sponsored Principals in respect of the same Individually Segregated Sponsored Account in which positions and Margin relating to all such Persons are recorded and the same Nominated Bank Account is used. In any circumstances in which there is more than one Sponsored Principal in respect of the same Individually Segregated Sponsored Account:

Part 19 – Sponsored Principals

- (i) Open Contract Positions will be held on a net basis in respect of each Sponsored Principal but gross basis as between Sponsored Principals, but only a single aggregated payment to the Clearing House and a single aggregated payment from the Clearing House will be made on the Individually Segregated Sponsored Account across all Sponsored Principals at each time when payments are instructed pursuant to Part 3 under the Standard Payments Mechanism; provided that if the Externalised Payments Mechanism is applicable in respect of one or more kinds of payment for the Individually Segregated Sponsored Account, then separate payments shall be made in relation to those kinds of payments to which the Externalised Payments Mechanism applies, in the same way as for any other Account;
  - (ii) the Individually Segregated Sponsored Account will be gross margined across Sponsored Principals;
  - (iii) only a single net sum will be declared on any Individually Segregated Sponsored Account and accordingly each Sponsored Principal consents to mutualised Sponsored Principal risk and to set off as between all relevant rights, assets and liabilities in the Individually Segregated Sponsored Account, regardless of the Sponsored Principal to which such rights, assets or liabilities relate; and
  - (iv) an Event of Default declared in respect of one Sponsored Principal using the Individually Segregated Sponsored Account is deemed to be, and may be declared by the Clearing House as, an Event of Default of any or all other Sponsored Principals interested in the Individually Segregated Sponsored Account.
- (i) For the avoidance of doubt, Individually Segregated Sponsored Accounts are available to indirect clients (as defined in EMIR) which are Sponsored Principals, provided that a Sponsor (that is a Clearing Member and not a client of a Clearing Member) agrees to act as such and nominates, pursuant to the Sponsor Agreement, such indirect client as a Sponsored Principal. In such a situation, the related Customer-CM Transaction will instead be a transaction between the Clearing Member and its client and a further transaction equivalent to a Customer-CM Transaction shall arise as between the client and the Sponsored Principal. Nothing in these Rules shall prevent the establishment of any other provisions regarding liability as between a Sponsor, Sponsored Principal or client in connection with indirect clearing arrangements provided that a Sponsor and Sponsored Principal shall remain fully liable for their obligations under these Rules, the Sponsor Agreement and the Sponsored Principal Clearing Agreement notwithstanding the existence of any client or the position of a Sponsored Principal as an indirect client (as opposed to a client).
  - (j) A Sponsored Principal shall provide its Sponsor with such information as that Sponsor may reasonably request in connection with it acting as Sponsor, including, without limitation, position and Margin data, at such times and frequencies as the Sponsor directs.
  - (k) If:
    - (i) the Clearing House is due to make or receive any performance or take any step in relation to Contracts or in respect of Clearing Members or an event occurs or circumstances arise (in any case including but not limited to any change in

## Part 19 – Sponsored Principals

Applicable Law or any action taken by any Regulatory Authority pursuant to Applicable Law) affecting Contracts or Clearing Members;

- (ii) the same performance, step or action cannot under Applicable Laws or due to the circumstances reasonably be taken in relation to a Contract to which a Sponsored Principal is party or in respect of or by a Sponsored Principal or Sponsor in the same way as would be the case were a Clearing Member to have been the only counterparty in question; and
- (iii) the Sponsor does not agree to receive any relevant performance or perform any relevant obligation instead of the Sponsored Principal,

then the Clearing House, at its option and discretion, shall be entitled to take equivalent action (or, if it cannot take equivalent action, it is not advisable to do so or equivalent action would not deal with the matter in hand, other appropriate action) in good faith and in a commercially reasonable manner, in relation to a Contract to which the Sponsored Principal is party or with respect to such Sponsored Principal or Sponsor, including but not limited to terminating, or modifying the non-economic terms of a Contract or making adjustments to any determination of amounts paid or payable under a Contract or these Rules.

### ***Rule 1903 General modifications to the Rules for Sponsored Principals, Sponsors and Individually Segregated Accounts***

Notwithstanding any provision of these Rules (other than any provision of this Part 19) or the Procedures to the contrary (except to the extent that any provision of the Rules or Procedures expressly provides for a particular treatment for an Individually Segregated Sponsored Account, Sponsor or Sponsored Principal), in relation to an Individually Segregated Sponsored Account and subject to Rule 1902:

- (a) a Sponsored Principal shall have no obligation to transfer or replenish any Guaranty Fund Contribution or to transfer any Assessment Contribution to the Clearing House and no right to return, recovery or reimbursement of the same;
- (b) the Sponsored Principal shall have no entitlement in respect of the Guaranty Fund Contributions made by the Sponsor, but this is without prejudice to the right of the Clearing House to apply such Guaranty Fund Contributions against any loss or shortfall on an Individually Segregated Sponsored Account;
- (c) Sponsored Principals will not be responsible for the submission of any pricing data to the Clearing House nor will be required to enter into any Contract as a result of any such submission;
- (d) Sponsored Principals may (but will not be obliged to) participate in Default Auctions in accordance with the Default Auction Procedures;

## Part 19 – Sponsored Principals

- (e) disputes arising in connection with Sponsored Principals and Sponsored Principal Clearing Agreements between a Sponsored Principal and the Clearing House will be subject to the same procedures, jurisdiction, choice of law, forum and other requirements as Disputes;
- (f) disputes arising in connection with Sponsors and Sponsor Agreements between a Sponsor and the Clearing House will be subject to the same procedures, jurisdiction, choice of law, forum and other requirements as Disputes;
- (g) a Sponsored Principal may make complaints under Part 10 and the Complaint Resolution Procedures and be subject to investigations and sanctions under Part 10, in each case in the same way as a Clearing Member;
- (h) the Business Continuity Procedures, Complaint Resolution Procedures, Contract Terms Procedures, Delivery Procedures and Market Rules apply to a Sponsored Principal in the same way as they apply to a Clearing Member;
- (i) the Standard Terms and terms of Customer-CM Transactions between a Sponsor and Sponsored Principal shall be interpreted always subject to Rule 1902(g); and
- (j) each Sponsored Principal is deemed to agree and undertake that: (i) in addition to the application of Market Rules to Sponsored Principals pursuant to Rule 1903(h), the Market Rules (of each Market that allows trading in Contracts to which the Sponsored Principal is a party) shall apply to Sponsored Principals in accordance with their terms; (ii) any choice of jurisdiction, disciplinary, enforcement, dispute resolution and arbitration provisions set out in any Market Rules shall apply to Sponsored Principals as if such Sponsored Principals were members of the relevant Market, notwithstanding that a Sponsored Principal may not be a member of the relevant Market, except to the extent that the relevant Market Rules provide otherwise; and (iii) to the extent provided for in the relevant Market Rules, each Sponsored Principal shall be deemed to have waived any rights it might otherwise have to object to any choice of law or jurisdiction, proceedings, disciplinary, enforcement, dispute resolution or arbitration provisions in relevant Market Rules on the basis of *forum non conveniens*, statutory immunity, that the governing law or chosen forum is not specified in these Rules or otherwise; accordingly, each Market is entitled to rely upon and enjoy the benefit of the agreements and obligations of the Sponsored Principal under Rule 1903(h) and this Rule 1903(j) and shall have the right to enforce such, agreements and obligations against a Sponsored Principal under the Contracts (Rights of Third Parties) Act 1999,

and the Rules and Procedures shall be construed accordingly.

### **Rule 1904 Termination of relationship between Sponsor and Sponsored Principal**

- (a) Rule 209 shall not apply to termination by a Sponsor or Sponsored Principal of their relationship. Neither the Sponsor nor the Sponsored Principal shall have any right to terminate their relationship with the other party except as expressly provided in this Rule 1904.
- (b) A Sponsored Principal may terminate its Sponsor on notice (copied to the Clearing House) or a Sponsor may terminate its Sponsored Principal on notice (copied to the Clearing

## Part 19 – Sponsored Principals

House), in either case only if there is no Open Contract Position (i.e. zero open Contracts) in all Sets in the relevant Individually Segregated Sponsored Account. Following service of any such notice, neither the Sponsored Principal nor the Sponsor may enter into or cause the entry into of any further Contract on the Individually Segregated Sponsored Account and the Clearing House shall be entitled to close the Individually Segregated Sponsored Account.

- (c) A Sponsored Principal may change its Sponsor (or a Sponsor may change its Sponsored Principal) in respect of an Individually Segregated Sponsored Account only if a new Sponsor is accepted to act for the Sponsored Principal by the Clearing House, is party to a Sponsor Agreement and has duly nominated the Sponsored Principal pursuant to the relevant Sponsor Agreement. In such circumstances, the new Sponsor shall be deemed to make all the representations of a Sponsor of an applicant for Sponsored Principal status and Sponsor, as set out in Rule 1901. The Clearing House will specify the date on which the new Sponsor's appointment becomes effective, on which date the new Sponsor shall become responsible for and entitled in respect of the Individually Segregated Sponsored Account and the old Sponsor will hereby cease to have and be released from any right, liability or obligation in respect of the Individually Segregated Sponsored Account, provided that none of the old Sponsor, new Sponsor or Sponsored Principal has become a Defaulter prior to such date.

### ***Rule 1905 Provisions Inapplicable to FCM/BD Clearing Members***

Notwithstanding anything to the contrary in these Rules, FCM/BD Clearing Members shall not be permitted to act as Sponsors of Individually Segregated Sponsored Accounts.

### ***Rule 1906 Provisions Inapplicable to ICE Endex UK Contracts and ICE Endex Spot Market Contracts***

Part 19 of the Rules does not apply to ICE Endex UK Contracts or ICE Endex Spot Market Contracts. References to 'Contracts' in Part 19 exclude ICE Endex UK Contracts and ICE Endex Spot Market Contracts, and the term 'Open Contract Position' shall be construed accordingly. References to 'Sponsor', 'Sponsored Principal', and 'Individually Segregated Sponsored Account' in this Part 19 are only references in relation to Contracts excluding ICE Endex UK Contracts and ICE Endex Spot Market Contracts. References to 'Customers' in this Part 19 are solely to Customers of Clearing Members in relation to Contracts excluding ICE Endex UK Contracts and ICE Endex Spot Market Contracts and the terms 'Customer-CM Transaction' and 'Customer-CM Collateral' shall be construed accordingly.

*Part 20 – Transition Rules for ICE Endex in 2013 [No longer applicable: available on request.]*

*Part 20 Transition Rules for ICE Endex in 2013 [No longer applicable: available on request.]*



[Part 21 – Transition Rules for LIFFE in 2014](#)

**Part 21 Transition Rules for LIFFE in 2014**

**Rule 2101 Introduction**

- (a) These LIFFE Transition Rules deal with certain matters occurring at and around each Transition Time. These LIFFE Transition Rules form part of the Rules and are intended to be interpreted together with the Rules. All terms used but not defined in these LIFFE Transition Rules have the meaning given to them elsewhere in the Rules. In the event of any conflict between the Rules and these LIFFE Transition Rules in relation to any matter to which these LIFFE Transition Rules relate, these LIFFE Transition Rules shall prevail.
- (b) These LIFFE Transition Rules will cease to apply on a date notified by the Clearing House to Clearing Members in a Circular, following such consultation with LIFFE and the Clearing House as has been agreed to take place as between LIFFE, ICE Futures Europe and the Clearing House.

**Rule 2102 Additional Definitions**

- (a) The term "**1m Eonia**" means One Month EONIA Indexed Futures Contracts.
- (b) The term "**3m Eonia**" means Three Month EONIA Swap Index Futures Contracts.
- (c) The term "**1<sup>st</sup> Transition Time**" means 29 September 2014 or such later date to which the first transition time is deferred (which will be communicated to Clearing Members by the Clearing House) for Soft Commodities Contracts and such other contracts as specified by ICE Futures Europe.
- (d) The term "**1<sup>st</sup> Transition Time Contracts**" means the contracts transferring at the 1<sup>st</sup> Transition Time.
- (e) The term "**2<sup>nd</sup> Transition Time**" means 6 October 2014 or such later date to which the second transition time is deferred (which will be communicated to Clearing Members by the Clearing House) for Euroswiss, 1m Eonia, Bond Contracts (excluding Long Gilts and Ultra Long Gilts), Swapnote® Contracts and such other contracts as specified by ICE Futures Europe to the extent not transitioned during the 1<sup>st</sup> Transition Time.
- (f) The term "**2<sup>nd</sup> Transition Time Contracts**" means the contracts transferring at the 2<sup>nd</sup> Transition Time.
- (g) The term "**3<sup>rd</sup> Transition Time**" means 20 October 2014 or such later date to which the third transition time is deferred (which will be communicated to Clearing Members by the Clearing House) for Sterling, Long Gilts, Ultra Long Gilts and such other contracts as specified by ICE Futures Europe to the extent not transitioned during the 2<sup>nd</sup> Transition Time.
- (h) The term "**3<sup>rd</sup> Transition Time Contracts**" means the contracts transferring on the 3<sup>rd</sup> Transition Time.

[Part 21 – Transition Rules for LIFFE in 2014](#)

- (i) The term "**4<sup>th</sup> Transition Time**" means 3 November 2014 or such later date to which the fourth transition time is deferred (which will be communicated to Clearing Members by the Clearing House) for Euribor, 3m Eonia, Euribor/Eonia Spread and such other contracts as specified by ICE Futures Europe to the extent not transitioned during the 3<sup>rd</sup> Transition Time.
- (j) The term "**4<sup>th</sup> Transition Time Contracts**" means the contracts transferring on the 4<sup>th</sup> Transition Time.
- (k) The term "**5<sup>th</sup> Transition Time**" means 17 November 2014 or such later date to which the fifth transition time is deferred (which will be communicated to Clearing Members by the Clearing House) for Securities Contracts (excluding Bond Contracts) and such other contracts as specified by ICE Futures Europe to the extent not transitioned during the 4<sup>th</sup> Transition Time.
- (l) The term "**5<sup>th</sup> Transition Time Contracts**" means the contracts transferring on the 5<sup>th</sup> Transition Time.
- (m) The term "**Bond Contracts**" means Gilt Contracts, Eurobond Government Contracts and Swiss Confederation Bond Contracts.
- (n) The term "**Euribor**" means Three Month Euro Futures Contracts, Options on Three Month Euro Futures Contracts, One Year Mid-Curve Options on Three Month Euro Futures Contracts, Two Year Mid-Curve Options on Three Month Euro Futures Contracts, Three Year Mid-Curve Options on Three Month Euro Futures Contracts and Four Year Mid-Curve Options on Three Month Euro Futures Contracts.
- (o) The term "**Euribor/Eonia Spread**" means the Inter-contract Spread strategy between Three Month Euro Futures Contracts and 3m Eonia.
- (p) The term "**Eurobond Government Contracts**" means German Government Bond Contracts, Italian Government Bond Contracts and Spanish Government Bond Contracts.
- (q) The term "**Euroswiss**" means Three Month Euro Swiss Franc Futures Contracts and Options on Three Month Euro Swiss Franc Futures Contracts.
- (r) The term "**German Government Bond Contracts**" means Short Bund Futures Contracts, Medium Bund Futures Contracts, Long Bund Futures Contracts and Ultra Long Bund Futures Contracts.
- (s) The term "**Gilt Contracts**" means Short Gilts, Medium Gilts, Long Gilts and Ultra Long Gilts.
- (t) The term "**Italian Government Bond Contracts**" means Short BTP Futures Contracts, Medium BTP Futures Contracts and Long BTP Futures Contracts.
- (u) The term "**LIFFE Transition Rules**" means these transitional rules.

[Part 21 – Transition Rules for LIFFE in 2014](#)

- (v) The term "**Long Gilts**" means Long Gilt Futures Contracts and Options on Long Gilt Futures Contracts.
- (w) The term "**Medium Gilts**" means Medium Gilt Futures Contracts.
- (x) The term "**Securities Contract**" means a Future or Option containing the terms set out in any of Sections IIIII to PPPPP of the ICE Futures Europe Rules, a Bond Contract, and/or any other contract determined to be a Securities Contract by the directors of ICE Futures Europe from time to time.
- (y) The term "**Short Gilts**" means Short Gilt Futures Contracts.
- (z) The term "**Soft Commodities Contract**" means a Future or Option containing the terms set out in any of Sections EEEE to MMMM of the ICE Futures Europe Rules and/or any other contract determined to be a Soft Commodities Contract by the directors of ICE Futures Europe from time to time.
- (aa) The term "**Spanish Government Bond Contracts**" means Short Spanish Government Bond Futures Contracts, Medium Spanish Government Bond Futures Contracts and Long Spanish Government Bond Futures Contracts.
- (bb) The term "**Sterling**" means Three Month Sterling Futures Contracts, Options on Three Month Sterling Futures Contracts, One Year Mid-Curve Options on Three Month Sterling Futures Contracts, Two Year Mid-Curve Options on Three Month Sterling Futures Contracts, Three Year Mid-Curve Options on Three Month Sterling Futures Contracts and Four Year Mid-Curve Options on Three Month Sterling Futures Contracts.
- (cc) The term "**Swapnote® Contract**" means a Future or Option containing the terms set out in any of Sections XXXX to EEEEE, and Section FFFFF as it relates to a Swapnote®, of the ICE Futures Europe Rules and/or any other contract determined to be a Swapnote® Contract by the directors of ICE Futures Europe from time to time.
- (dd) The term "**Swiss Confederation Bond Contracts**" means Medium Swiss Confederation Bond Futures Contracts and Long Swiss Confederation Bond Futures Contracts.
- (ee) The term "**Transitioning Contracts**" means the 1<sup>st</sup> Transition Time Contracts, the 2<sup>nd</sup> Transition Time Contracts, the 3<sup>rd</sup> Transition Time Contracts, the 4<sup>th</sup> Transition Time Contracts and the 5<sup>th</sup> Transition Time Contracts.
- (ff) The term "**Transition Time**" means each of the 1<sup>st</sup> Transition Time, 2<sup>nd</sup> Transition Time, 3<sup>rd</sup> Transition Time, 4<sup>th</sup> Transition Time or 5<sup>th</sup> Transition Time, which will be communicated to Clearing Members by the Clearing House.
- (gg) The term "**Ultra Long Gilts**" means Ultra Long Gilt Futures Contracts.

*Part 21 – Transition Rules for LIFFE in 2014*

**Rule 2103    Exchange Transition**

- (a) At each relevant Transition Time, the trading of relevant Transitioning Contracts will transfer from LIFFE to ICE Futures Europe.

**Rule 2104    Redesignation of Transitioning Contracts**

- (a) With effect from the 1<sup>st</sup> Transition Time, open 1<sup>st</sup> Transition Time Contracts shall be automatically redesignated, without need for any further step or notices, as Financials & Softs Contracts for the purposes of the Rules. Any such redesignated Contract shall remain in full force and effect as between the relevant Clearing Member and the Clearing House provided that, from the 1<sup>st</sup> Transition Time, the Rules shall apply to such Contract which was previously a 1<sup>st</sup> Transition Time Contract as a Financials & Softs Contract. The Contract Terms of affected 1<sup>st</sup> Transition Time Contracts shall be amended and restated at the 1<sup>st</sup> Transition Time accordingly.
- (b) With effect from the 2<sup>nd</sup> Transition Time, open 2<sup>nd</sup> Transition Time Contracts shall be automatically redesignated, without need for any further step or notices, as Financials & Softs Contracts for the purposes of the Rules. Any such redesignated Contract shall remain in full force and effect as between the relevant Clearing Member and the Clearing House provided that, from the 2<sup>nd</sup> Transition Time, the Rules shall apply to such Contract which was previously a 2<sup>nd</sup> Transition Time Contract as a Financials & Softs Contract. The Contract Terms of affected 2<sup>nd</sup> Transition Time Contracts shall be amended and restated at the 2<sup>nd</sup> Transition Time accordingly.
- (c) With effect from the 3<sup>rd</sup> Transition Time, open 3<sup>rd</sup> Transition Time Contracts shall be automatically redesignated, without need for any further step or notices, as Financials & Softs Contracts for the purposes of the Rules. Any such redesignated Contract shall remain in full force and effect as between the relevant Clearing Member and the Clearing House provided that, from the 3<sup>rd</sup> Transition Time, the Rules shall apply to such Contract which was previously a 3<sup>rd</sup> Transition Time Contract as a Financials & Softs Contract. The Contract Terms of affected 3<sup>rd</sup> Transition Time Contracts shall be amended and restated at the 3<sup>rd</sup> Transition Time accordingly.
- (d) With effect from the 4<sup>th</sup> Transition Time, open 4<sup>th</sup> Transition Time Contracts shall be automatically redesignated, without need for any further step or notices, as Financials & Softs Contracts for the purposes of the Rules. Any such redesignated Contract shall remain in full force and effect as between the relevant Clearing Member and the Clearing House provided that, from the 4<sup>th</sup> Transition Time, the Rules shall apply to such Contract which was previously a 4<sup>th</sup> Transition Time Contract as a Financials & Softs Contract. The Contract Terms of affected 4<sup>th</sup> Transition Time Contracts shall be amended and restated at the 4<sup>th</sup> Transition Time accordingly.
- (e) With effect from the 5<sup>th</sup> Transition Time, open 5<sup>th</sup> Transition Time Contracts shall be automatically redesignated, without need for any further step or notices, as Financials & Softs Contracts for the purposes of the Rules. Any such redesignated Contract shall remain in full force and effect as between the relevant Clearing Member and the Clearing House provided that, from the 5<sup>th</sup> Transition Time, the Rules shall apply to such Contract which

*Part 21 – Transition Rules for LIFFE in 2014*

was previously a 5<sup>th</sup> Transition Time Contract as a Financials & Softs Contract. The Contract Terms of affected 5<sup>th</sup> Transition Time Contracts shall be amended and restated at the 5<sup>th</sup> Transition Time accordingly.

*Part 22 – Launch Rules for ICE Endex UK and ICE Endex Continental in 2015 [No longer applicable: available on request.]*

*Part 22 Launch Rules for ICE Endex UK and ICE Endex Continental in 2015 [No longer applicable: available on request.]*



[Part 23 – Rules for Market Transitions](#)

**Part 23** *Rules for Market ~~transitions~~Transitions*

**Rule 2301** *Introduction*

- (a) These Market Transition Rules deal with certain matters occurring at and around each and any Transition Time. These Market Transition Rules form part of the Rules and are intended to be interpreted together with the Rules. All terms used but not defined in these Market Transition Rules have the meaning given to them elsewhere in the Rules. In the event of any conflict between any other section of the Rules and these Market Transition Rules in relation to any matter to which these Market Transition Rules relate, these Market Transition Rules shall prevail.

**Rule 2302** *Additional Definitions*

- (a) The term "Exiting Market" means a Market which will cease to offer trading in the Transitioning Contracts at the Transition Time.
- (b) The term "Market Transition Rules" means the rules in this Part 23.
- (c) The term "Receiving Market" means a Market which will offer trading in the Transitioning Contracts as from the Transition Time.
- (d) The term "Transitioning Contracts" means, with respect to a Transition Time, such F&O Contracts, as are identified by the Exiting Market and Receiving Market by notice in writing to the Clearing House the trading of which is proposed to be transitioned from the Exiting Market to the Receiving Market with the consent of the Clearing House, as may be specified by the Clearing House from time to time by Circular following receipt of such notice.
- (e) The term "Transition Time" means a transition time designated by the Clearing House in a Circular with respect to one or more Transitioning Contracts.

**Rule 2303** *Exchange Transition*

At each relevant Transition Time, the trading of the related Transitioning Contracts will transfer from the Exiting Market to the Receiving Market, as identified in the relevant Circular.

**Rule 2304** *Redesignation of Transitioning Contracts*

- (a) With effect from each Transition Time, open Transitioning Contracts shall be automatically redesignated, without need for any further step or notices, such that they become Contracts made under the Market Rules of the Receiving Market and are no longer Contracts made under the Market Rules of the Exiting Market, for the purposes of the Rules. Any such redesignated Contract shall remain in full force and effect as between the relevant Clearing Member and the Clearing House. The Contract Terms of affected Transitioning Contracts shall be amended and restated automatically at the Transition Time accordingly.
- (b) With effect from the Transition Time, and without limiting Rule 2304(a), if the Receiving Market is a U.S. designated contract market and the Exiting Market is a non-U.S. Market

*Part 23 – Rules for Market Transitions*

that is not a U.S. designated contract market: (i) open Transitioning Contracts registered in the Non-DCM/Swap Customer Account of an FCM/BD Clearing Member shall be transferred, without need for any further step or notices, to the DCM Customer Account of such FCM/BD Clearing Member; and (ii) FCM/BD Customer Collateral constituting FCM/BD Other Transaction Collateral in respect of such open Transitioning Contracts shall be transferred to and held by the Clearing House in the Clearing House DCM Segregated Account as FCM/BD U.S. Futures Customer Collateral under the Rules, without need for any further step or notices.

**EXHIBIT 1****ICE CLEAR EUROPE LIMITED****CUSTOMER-CM CDS TRANSACTIONS STANDARD TERMS****BACKGROUND:**

In respect of a Non-FCM/BD Clearing Member and Customer using a Customer Account other than an Individually Segregated Sponsored Account:

- (1) Clearing Member is a Non-FCM/BD Clearing Member, as defined in the rules (together with the procedures, as interpreted in accordance with guidance and circulars thereunder, the "**Rules**") of ICE Clear Europe Limited (the "**Clearing House**") and is thereby permitted to submit certain CDS Trade Particulars which, if an Acceptance Notice is issued, will result in a cleared CDS Contract arising in accordance with the Rules and the CDS Procedures of the Clearing House.
- (2) Clearing Member and Customer are or intend to become party to one or more Customer-CM Transactions, where related cleared CDS Contracts are requested or are to be requested by the CDS Clearing Member to be recorded in a Customer Position Account in which CDS Contracts may be recorded. They further desire to agree to the operation of the Rules and the Procedures in relation to any Customer-CM CDS Transactions that may arise following the submission of the related CDS Trade Particulars, as further provided for in these Customer-CM CDS Transactions Standard Terms (these "**CDS Standard Terms**").
- (3) Clearing Member and Customer have established a "master" futures account, clearing agreement or other master agreement (the "**Cleared Transactions Master Agreement**", as amended from time to time) and, if applicable, a related collateral arrangement, whether contained in the same or another agreement with respect to cleared transactions, including such Customer-CM CDS Transactions (which Cleared Transactions Master Agreement may be supplemented by a cleared derivatives addendum, or similar document, as agreed by Clearing Member and Customer (together, the "**Customer-Clearing Member Agreement**") and as amended and supplemented by these CDS Standard Terms).

In respect of a Non-FCM/BD Clearing Member and Customer using an Individually Segregated Sponsored Account:

- (4) Clearing Member is a Non-FCM/BD Clearing Member and Customer is a Sponsored Principal, in each case as defined in the Rules, and each of them is thereby permitted to submit certain CDS Trade Particulars which, if an Acceptance Notice is issued, will result in a cleared CDS Contract governed by Part 19 arising in accordance with the Rules and the CDS Procedures of the Clearing House.
- (5) Clearing Member and Customer are or intend to become party to one or more Customer-CM Transactions on the terms set out in these CDS Standard Terms as modified pursuant to Part 19, where related cleared CDS Contracts are requested or are to be requested by

**Exhibit 1 – Customer-CM CDS Transactions Standard Terms**

the CDS Clearing Member or Customer to be recorded in a Position Account linked to an Individually Segregated Sponsored Account in which CDS Contracts are recorded. They further desire to agree to the operation of the Rules and the Procedures in relation to any Customer-CM CDS Transactions that may arise following the submission of the related CDS Trade Particulars, as further provided for in these CDS Standard Terms.

- (6) Clearing Member and Customer have established a Cleared Transactions Master Agreement and, if applicable, a related collateral arrangement, whether contained in the same or another agreement with respect to cleared transactions, including such Customer-CM CDS Transactions (which Cleared Transactions Master Agreement may be supplemented by a cleared derivatives addendum, or similar document, as agreed by Clearing Member and Customer and as amended and supplemented by these CDS Standard Terms).
- (7) These CDS Standard Terms shall apply equally to the Sponsored Principal as they apply to a Customer and to the Clearing Member as they apply to a Sponsor, subject to such amendments and modifications as are set out in the Rules (including Part 19 of the Rules) and Procedures, the Sponsored Principal Clearing Agreement, the Sponsor Agreement and section 13 hereof.

**CDS STANDARD TERMS:**

1. **Defined Terms.** Terms used but not otherwise defined in these CDS Standard Terms shall have the meaning set forth in the Rules or the Procedures, as applicable.
2. **Exhibit to Rules.** These CDS Standard Terms are published by the Clearing House as an Exhibit to the Rules but do not form part of the Rules. Clearing Member and Customer agree that any amendments, modifications, restatements or supplements in respect of such Exhibit to the Rules (including the withdrawal of any part of these CDS Standard Terms) may be effective if made by the Clearing House pursuant to the provisions of Rule 109 as if the Exhibit were Rules and as if Rule 109 applied to Customers in addition to, and in the same way as it applies to, Clearing Members. At the request of Clearing Member or the Clearing House, Customer will enter into a written confirmation of the terms of any such amendment, modification, supplement or restatement. The Clearing House is a third party beneficiary of these CDS Standard Terms and may enforce these CDS Standard Terms. Accordingly, unless the Clearing House provides its prior written consent: (i) any attempted amendment to or disapplication of any provision of these CDS Standard Terms (or any amendment made hereto by the Clearing House) as between any Customer and Clearing Member shall be void and of no effect; and (ii) any agreement that any provision of any other document shall prevail over these CDS Standard Terms (or any amendment made hereto by the Clearing House) shall be void and of no effect.
3. **Cleared Transactions.**
  - (a) Clearing Member may designate, by specifying that certain CDS Trade Particulars submitted to the Clearing House are to be recorded in a Customer Position Account, that certain transactions between Clearing Member and Customer shall arise at the

*Exhibit 1 – Customer-CM CDS Transactions Standard Terms*

same time as related CDS Contracts and shall constitute Customer-CM CDS Transactions.

- (b) Clearing Member and Customer agree that a Customer-CM CDS Transaction shall arise automatically and without further action on the part of Clearing Member or Customer as set out in Part 4 of the Rules in respect of the related CDS Contract.
- (c) The terms of any Customer-CM CDS Transaction shall, save as contemplated by these CDS Standard Terms, be identical to those of the related CDS Contract between Clearing Member and the Clearing House (as such CDS Contract may be amended from time to time in accordance with the Rules and/or CDS Procedures), except that:
  - (i) if the Clearing Member is the protection seller under the CDS Contract it shall be the protection buyer under the Customer-CM CDS Transaction and vice versa;
  - (ii) Customer's recourse against Clearing Member shall be limited and Clearing Member's obligations to Customer shall be conditional as provided for in Section 8(c) below;
  - (iii) Customer-CM CDS Transactions shall also be subject to these CDS Standard Terms and the terms of the Customer-Clearing Member Agreement; and
  - (iv) except where the Settlement and Notices Terms or a Customer-Clearing Member Agreement provide for specific timings in respect of the performance of obligations:
    - (1) any obligation of the Clearing Member to the Customer shall not be required to be performed until a reasonable period has passed after the Clearing Member has received equivalent performance from the Clearing House; and
    - (2) any obligation of the Customer to the Clearing Member may be required by the Clearing Member to be performed a reasonable period in advance of the Clearing Member becoming obliged to the Clearing House in respect of an equivalent obligation.
- (d) If any Customer-CM CDS Transactions are governed by a Customer-Clearing Member Agreement which is not a separate agreement from any master agreement applicable to transactions between Clearing Member and Customer other than Customer-CM CDS Transactions ("**Non-Cleared Transactions**"), Clearing Member and Customer shall distinguish in their books and records Customer-CM CDS Transactions from Non-Cleared Transactions to the extent required to enable them to comply with the Rules, the Procedures and these CDS Standard Terms.

*Exhibit 1 – Customer-CM CDS Transactions Standard Terms*

- (e) For purposes of the Customer-Clearing Member Agreement, in the event of any inconsistency among or between the Customer-Clearing Member Agreement, these CDS Standard Terms, the Rules and the Procedures with respect to Customer-CM CDS Transactions the following provisions shall prevail in the following order: (i) first, the Rules from time to time; (ii) second, subject to (m) below, the Procedures from time to time; (iii) third, these CDS Standard Terms from time to time; and (iv) fourth, the Customer-Clearing Member Agreement.
- (f) Customer agrees with Clearing Member that Customer-CM CDS Transactions shall be subject to the provisions of the Rules and the Procedures applicable to Customer-CM CDS Transactions as such Rules or Procedures are amended, modified, supplemented or restated from time to time. In particular but without limitation, Customer hereby agrees that it shall be bound by, shall comply with and shall facilitate compliance by Clearing Member with the terms and conditions set forth in Parts 5 and 9 of the Rules and Rule 202 in so far as they relate to Customer-CM CDS Transactions.
- (g) Customer agrees that publication of a Circular by the Clearing House shall constitute valid notice by the Clearing House of any matter under or relating to the Rules, the Procedures, Customer-CM CDS Transactions or these CDS Standard Terms.
- (h) Clearing Member and Customer agree that, save in the circumstances contemplated by these CDS Standard Terms and as provided for in any Customer-Clearing Member Agreement or other agreement between Clearing Member and Customer, each Customer-CM CDS Transaction is intended to reflect exactly the operation of the related CDS Contract. In any circumstances in which a CDS Contract is netted (in whole or in part), terminated or voided under the Rules, the related Customer-CM CDS Transaction will also be netted (in whole or in part), terminate or be voided by reference to the same price as the CDS Contract is so netted, terminated or voided and a payment in respect of such price may be payable between Customer and Clearing Member pursuant to the Customer-Clearing Member Agreement or as determined by the Clearing Member. Thereupon, Customer and Clearing Member shall have no further rights and be under no further liability with respect to such Customer-CM CDS Transaction(s) (or, if applicable, part thereof) other than in respect of any unpaid payments under such Customer-CM CDS Transactions (which shall be payable as and when originally payable). Clearing Member may, at its discretion, elect to continue an equivalent transaction with Customer as a Non-Cleared Transaction.
- (i) In addition, without limiting any rights that Clearing Member may have under the Customer-Clearing Member Agreement, if the Clearing House takes any step, including but not limited to the following events or actions, or any such event or action otherwise occurs (in each case including but not limited to any change in Applicable Law or any action taken by any Regulatory Authority pursuant to Applicable Law) in relation to a CDS Contract, Clearing Member, at its option and discretion, shall be entitled to take equivalent action (or, if it cannot take equivalent action, it is not advisable to do so or equivalent action would not deal with the matter in hand, other appropriate action) in good faith and in a commercially reasonable



*Exhibit 1 – Customer-CM CDS Transactions Standard Terms*

manner, in relation to the related Customer-CM CDS Transaction and/or against Customer, including but not limited to terminating, and/or modifying the non-economic terms of, such Customer-CM CDS Transaction and/or making adjustments to any determination of amounts paid or payable under the Customer-Clearing Member Agreement:

- (i) imposition of a fine or disgorgement payment pursuant to Part 10, any arbitral award or any other payment obligation arising other than pursuant to the Contract Terms or Parts 5 or 11 of the Rules, where the conduct in question is caused by, or in any way due to, the Customer and/or under the Customer-CM CDS Transaction;
  - (ii) any other event or action the effect of which is to create a material mismatch between the rights, obligations or exposures as between Clearing Member and the Clearing House pursuant to a CDS Contract on the one hand and the rights, obligations or exposures as between Clearing Member and Customer, including without limitation pursuant to the related Customer-CM CDS Transaction, on the other hand; and
  - (iii) any other event or action the effect of which is to result in any loss, liability, cost, claim, damages or expenses being incurred by Clearing Member in connection with a CDS Contract where such event or action does not form part of the CDS Contract (and so is not reflected in the related Customer-CM CDS Transaction).
- (j) Notwithstanding Section 3(c), Clearing Member and Customer may agree different settlement arrangements between Clearing Member and Customer so as to accommodate any particular requirements of Clearing Member or Customer.
  - (k) Any price or rate determined by the Clearing House as Calculation Agent or otherwise under the Rules in relation to a CDS Contract shall be used as the same price or rate by the Clearing Member in relation to the related Customer-CM CDS Transaction(s).
  - (l) Customer shall not be entitled to serve any type of notice under a Customer-CM CDS Transaction in circumstances in which or by means that the Clearing Member would not, by virtue of the Rules or CDS Procedures, be entitled to serve a corresponding notice on the Clearing House in relation to the corresponding CDS Contract. Clearing Member and the Clearing House shall be entitled to treat any service of a notice in breach of this provision as invalid.
  - (m) Clearing Member may, but (subject as otherwise agreed, including but not limited to pursuant to the Settlement and Notices Terms) is not obliged to, deliver any Electronic Notices in relation to Customer-CM CDS Transactions at the times allowed under the Rules and Procedures.
  - (n) These CDS Standard Terms may, pursuant to the process provided for in Section 2 of these CDS Standard Terms, from time to time, incorporate additional standard

*Exhibit 1 – Customer-CM CDS Transactions Standard Terms*

terms published by the Clearing House so as to establish mechanics for dealing with the relationship between CDS Contracts and Customer-CM CDS Transactions until such time as market infrastructure solutions are available to address the relevant operational issues. Such additional standard terms shall form part of these CDS Standard Terms, may (if so specified) prevail over the applicable Procedures in respect of Customer-CM CDS Transactions and may be amended and/or withdrawn only as provided for in Section 2 of these CDS Standard Terms. Initially, such additional standard terms are the Settlement and Notices Terms as published by the Clearing House as an Exhibit to the Rules.

- (o) On each date on which the Customer has any open Customer-CM CDS Transaction, the Customer shall represent that the Clearing House is not prevented from entering into any Contract nor is the Clearing Member prevented from entering into any Customer-CM CDS Transaction as a result of any Sanctions affecting the Customer or any of its assets (except, if it is a Customer incorporated in Germany or the Clearing Member is located in Germany, solely to the extent that any obligation, or undertaking, representation or statement contemplated by this Section 3(o) would be in conflict with any Applicable Laws purporting to nullify or restrict the effect of foreign Sanctions or preventing boycotts).
- (p) Each Customer or Indirect Client that has chosen individual segregation through usage of a Margin-flow Co-mingled Account or Segregated Gross Indirect Account shall be deemed to have appointed and authorised the Clearing Member to determine how the different classes of Permitted Cover should be transferred to the Clearing House in respect of the Margin-flow Co-mingled Account or Segregated Gross Indirect Account in which positions relating to such Customer are registered, for purposes of and including in each of the manners set forth in, Rule 503(k).
- (q) The Customer shall obtain the necessary authority from its "beneficial owners" (having the meaning given to it in article 3(6) of the Money Laundering Directive) for the immediate disclosure of relevant information to the Clearing Member or the Clearing House and, in the circumstances described in Rule 202(a)(xii), shall immediately provide to the Clearing Member or the Clearing House on request relevant information about itself and its beneficial owners as are needed by the Clearing Member or the Clearing House to apply customer due diligence measures under the Money Laundering Directive or other Applicable Laws relating to anti-money laundering and immediately forward to the Clearing Member or the Clearing House on request copies of identification and verification data and other relevant documents on itself and its beneficial owners obtained when applying those measures.

4. ***Margin Requirements.***

- (a) Subject as agreed otherwise in the Customer-Clearing Member Agreement, Clearing Member shall be entitled to require each of its Customers in respect of CDS Contracts to provide margin (or permitted cover in respect thereof) in an amount no less than the amount of Margin of each relevant type required on a gross basis by the Clearing House with respect to the relevant Open Contract Position(s),

*Exhibit 1 – Customer-CM CDS Transactions Standard Terms*

separately for each of its Customer Accounts. For this purpose, "gross basis" shall mean that the margin requirement will be determined giving effect to any offset permitted under the Rules of such Open Contract Positions against Open Contract Positions relating to the same Set and Customer in the same Customer Account, but without giving effect to any offset or permitted offset of such Open Contract Positions against Open Contract Positions relating to a different Customer.

- (b) Customer agrees that Clearing Member may use any margin provided by Customer under the Customer-Clearing Member Agreement in circumstances in which the Clearing Member's obligations, representations and warranties to and agreements with the Clearing House are entered into and made (as applicable) under the relevant Clearing Membership Agreement, Rule 504, Rule 505 and Part 11, without any breach by the Clearing Member of any such provision. On each occasion on which collateral is transferred by the Clearing Member to the Clearing House for credit to a Customer Account in which any Customer-CM CDS Transactions of the Customer is recorded, the Customer shall be deemed to give all the same representations, warranties and acknowledgments as are given by the Clearing Member pursuant to Rule 504(c)(iii), (iv) and (v) (save that the reference to 'Clearing Member' in Rule 504(c)(iv) will be treated as a reference to 'Customer' and the reference to 'any third party' in Rule 504(c)(v) will be treated as a reference to 'the Customer'), Rule 504(g) and Rule 505. Customer shall take any action reasonably requested by the Clearing House or the Clearing Member that may be necessary or desirable to create, preserve, perfect or validate the right, title or interests of the Clearing House in any Margin or Permitted Cover or to enable the Clearing House to exercise or enforce any of its rights under the Rules with respect to Margin or other Permitted Cover. Customer shall not create or give notice of any Encumbrance related to Permitted Cover that is held by the Clearing House in any Account. Customer shall not assert that: (i) it is the beneficiary of or interested party in any Encumbrance with respect to any Permitted Cover held by the Clearing House; (ii) it has given any notice of any such Encumbrance to the Clearing House; or (iii) the Clearing House otherwise should be attributed with notice in respect of any such Encumbrance. Nothing in this provision is intended to prevent any Encumbrance arising under Applicable Laws in favour of a Customer from subsisting in any receivable of a Clearing Member in respect of a Customer Account.

5. *Events of Default and Termination.*

- (a) In the event of the declaration by the Clearing House of an Event of Default (as defined in the Rules) with respect to Clearing Member (such an event being an "**ICE-Declared Default**"), whether or not any other default (howsoever defined or described) has also occurred under the Customer-Clearing Member Agreement or otherwise, Customer shall not be entitled to exercise any remedies with respect to Customer-CM CDS Transactions pursuant to the Customer-Clearing Member Agreement or otherwise, except as provided herein (and any other remedies being exercised at the time of the declaration of such ICE-Declared Default shall cease and be superseded by the applicable provisions of these CDS Standard Terms).

Exhibit 1 – Customer-CM CDS Transactions Standard Terms

- (b) If an ICE-Declared Default occurs at a time when Clearing Member has not already terminated the relevant Customer-CM CDS Transactions by reason of the occurrence of an event of default or termination event relating to Customer, Clearing Member may not take any action against Customer that may interfere with the Default Portability Rule resulting in Customer discharging its obligations to Clearing Member as provided for in Section 6(e) below. Save for such restriction, nothing in these CDS Standard Terms will limit Clearing Member's remedies under the Customer-Clearing Member Agreement in respect of Customer-CM CDS Transactions if an event of default or termination event (or similar concept) with respect to Customer occurs under the Customer-Clearing Member Agreement.
- (c) Upon an ICE-Declared Default:
- (i) in accordance with Section 3, as a result of no further liabilities, obligations or rights of the Clearing Member falling due for performance or being capable of enforcement under any CDS Contracts or these Rules prior to calculation of the final net sum payable under the relevant Customer Account pursuant to Part 9 (except as is required to achieve settlement finality of irrevocable Transfer Orders pursuant to Part 12), it shall be a condition precedent to performance of any obligations on the part of the Customer (except as is required to achieve settlement finality of irrevocable Transfer Orders to which the Customer is bound pursuant to Part 12) under the Customer-CM CDS Transaction that either: (A) the related CDS Contract has been terminated; or (B) the date of payment of the relevant net sum as between the Customer and Clearing Member pursuant to the Cleared Transactions Master Agreement and Applicable Laws, following completion of any applicable close-out netting or Insolvency processes has occurred;
  - (ii) any provision of a Cleared Transactions Master Agreement requiring termination of a Customer-CM CDS Transaction upon, prior to or following an ICE-Declared Default or giving a party the right to terminate (other than such a termination or right effective contemporaneous with termination of the related CDS Contract), shall be ineffective unless (A) one of the parties is incorporated in Switzerland or any other jurisdiction as may be specified by the Clearing House for such purposes; or (B) the Clearing House provides its written consent to such termination provision being effective, which consent may be given after declaration of the relevant ICE-Declared Default; and
  - (iii) if a provision of the Cleared Transactions Master Agreement that provides for the termination of the Customer-CM CDS Transaction is not suspended or disapplied pursuant to Sections 5(a) or 5(c)(ii): (A) Section 3(h) shall nonetheless still apply to determine the termination price of any Customer-CM CDS Transaction; and (B) if a Customer-CM CDS Transaction is so terminated other than at a time contemplated by Section 5(c)(ii), Section 6 of these Standard Terms shall apply *mutatis mutandis* in relation to such

*Exhibit 1 – Customer-CM CDS Transactions Standard Terms*

terminated Customer-CM CDS Transaction and rights, obligations and liabilities relating thereto.

6. ***Post-default Portability; Termination and Valuation of Cleared Transactions.***

~~(a) Customer shall indicate to Clearing Member in such manner as the Clearing House may direct:~~

~~(i) Customer's preference as to whether, in the event of an ICE-Declared Default, it would prefer the Clearing House to apply the Default Portability Rules and related processes to the Customer's Customer-CM CDS Transactions and related CDS Contracts; and~~

~~(a) (ii) its Default Portability Preference. [\[Not Used\]](#)~~

~~Any Default Portability Preference notified by Customer must apply to all Customer-CM CDS Transactions with Clearing Member. Any such Default Portability Preference by Customer may be amended by notice to Clearing Member (who will, in turn, notify the Clearing House in accordance with the Rules and the Procedures), at any time prior to the occurrence of an ICE-Declared Default in respect of Clearing Member or, at the discretion of the Clearing House, by notice directly to the Clearing House in accordance with the Rules and the Procedures, following the occurrence of such an ICE-Declared Default.~~

(b) Unless it has notified the Clearing Member and Clearing House in writing to the contrary, Customer hereby consents and agrees that, in the event of an ICE-Declared Default, whether or not Customer has ~~specified a Default Portability Preference~~ [submitted a Porting Notice](#), the Clearing House shall be entitled (but shall not be obliged) to apply the Default Portability Rules with respect to CDS Contracts to which Clearing Member and Customer's Customer-CM CDS Transactions relate, including by taking any of the following steps:

(i) transferring, assigning, selling or novating Customer-CM CDS Transactions (and related CDS Contracts) to any Transferee Clearing Member;

(ii) terminating Customer-CM CDS Transactions (and related CDS Contracts) and arranging for the entry into of new replacement Customer-CM CDS Transactions (and related CDS Contracts) with any Transferee Clearing Member (by way of novation or otherwise); and/or

(iii) transferring Margin (in such amount as the Clearing House may determine) credited to the Customer Margin Account of Clearing Member to the Customer Margin Account of the Transferee Clearing Member and, if such a transfer occurs, Clearing Member's obligations to Customer in respect of the transferred Margin shall be fully discharged.

(c) In the event that the Clearing House arranges for a replacement CDS Contract and related Customer-CM CDS Transaction pursuant to Section 6(b)(ii), the Customer-

*Exhibit 1 – Customer-CM CDS Transactions Standard Terms*

CM CDS Transaction with the Transferor Clearing Member shall be deemed terminated at the same time that the replacement CDS Contract and related Customer-CM CDS Transaction is entered into. Customer shall take no action, including but not limited to attempting to obtain a court order, that could interfere with the ability of the Clearing House to take action contemplated by Part 9 of the Rules, including, without limitation, the Transfer of CDS Contracts and Customer-CM CDS Transactions, the transfer of any related Margin or other collateral or cover (or contingent cover) for the same or the imposition of the Transferee Clearing Member's form of Customer-Clearing Member Agreement where so permitted under the Default Portability Rules.

- (d) Customer hereby appoints the Clearing House as its lawful agent and attorney-in-fact to take such actions on behalf of the Customer as the Clearing House determines necessary or appropriate in order to effect the Default Portability Rules with respect to Customer's Customer-CM CDS Transactions and the Customer Margin Account, including executing any document or instrument with respect to the Transfer or replacement of the Customer-CM CDS Transaction and/or exercising rights and remedies to terminate or Transfer Customer-CM CDS Transactions, including (without limitation) the execution of any Transfer, or the exercise of any termination notice or the transfer of amounts recorded in the Customer Margin Account. Such appointment shall not be revoked by Customer. Customer shall take such actions as the Clearing House and/or a Transferee Clearing Member may request to give full effect to the Default Portability Rules, including without limitation execution of documentation confirming or agreeing to any terms specified by Transferee Clearing Member pursuant to Rule 904(j).
- (e) In connection with any Transfer of Customer-CM CDS Transactions pursuant to the Default Portability Rules, any termination payments owed between Customer and Clearing Member in respect of the relevant Customer-CM CDS Transactions (determined in accordance with the Rules and the provisions of the Customer-Clearing Member Agreement), any termination payments owed between Clearing Member and the Clearing House in respect of the related CDS Contracts (which in each case shall be determined by the Clearing House pursuant to its default rules), any upfront Mark-to-Market Margin payments owed between Customer and the Transferee Clearing Member with respect to the initiation of the replacement cleared transactions and any upfront Mark-to-Market Margin payments owed between such Transferee Clearing Member and the Clearing House with respect to the initiation of replacement CDS Contracts shall be equal.
- (f) In the event of an ICE-Declared Default:
  - (i) There will be a minimum period, after issuance by the Clearing House of a Circular including a Default Notice naming a Clearing Member, for Customers and their Transferee Clearing Members to notify the Clearing House of their agreement that Contracts and/or Margin can be Transferred to a Transferee Clearing Member pursuant to the Default Portability Rules ("**Porting Notice**"). For Customers other than Sponsored Principals, a Porting Notice must be received by the Clearing House within 4 hours of the



*Exhibit 1 – Customer-CM CDS Transactions Standard Terms*

Default Notice being published in order to be assured of being acted upon, subject to the below. For Sponsored Principals, the minimum period for receipt of Porting Notices is specified in Rule 904. Any Porting Notice, in order to be valid, must:

- (A) be in writing;
- (B) concern and be duly authorised and executed by a Customer who would not, if it were a Clearing Member, be capable of being declared a Defaulter;
- (C) concern and be duly authorised and executed by a Transferee Clearing Member who is not a Defaulter;
- (D) be delivered to the Clearing House electronically in the form and to the address specified by the Clearing House;
- (E) concern positions which have not already been closed out or Transferred; and
- (F) otherwise comply with the requirements of Part 9 of the Rules.

In the case of an Individually Segregated Margin-flow Co-mingled Account, Standard Omnibus Indirect Account, Segregated Gross Indirect Account or Individually Segregated Sponsored Account, a Porting Notice must be in respect of the single Customer interested in the Account in order to be valid. In the case of a Customer Account that is neither an Individually Segregated Margin-flow Co-mingled Account, Standard Omnibus Indirect Account, Segregated Gross Indirect Account nor an Individually Segregated Sponsored Account, the Porting Notice must be in respect of and executed by all Customers interested in the Account in order to be valid.

Subject to Rule 904(c), the Clearing House will act upon Porting Notices received by it within the 4 hour period specified above. The Clearing House may also act upon other Porting Notices received by it after the end of such period, at its discretion. However, Customers and Transferee Clearing Members acknowledge that due to operational constraints and depending on market conditions, it may not be possible for the Clearing House to process all Porting Notices (whether received within the 4 hour period or thereafter) within a reasonable period of time. Porting Notices received within the initial 4 hour period will be prioritised over any other notice. The Clearing House may select Porting Notices to be dealt with in such order as it sees fit, based on such criteria as it determines are relevant, including completeness and due execution of Default Notices, legibility, time of receipt, size of positions, lawfulness of porting, Customer jurisdiction of incorporation or place of business, whether risk increasing or risk decreasing and satisfaction of the requirements of Part 9 of the Rules. The Clearing House will not be obliged to comply with any Porting Notice which has not been acted upon by it:

*Exhibit 1 – Customer-CM CDS Transactions Standard Terms*

- (A) if the Default Notice was issued before 13:00 hrs on a Business Day prior to the close of business on the same Business Day;
- (B) if the Default Notice was issued on a day which is not a Business Day prior to close of business on the next following Business Day; or
- (C) if the Default Notice is issued after 13:00 hrs on a Business Day prior to noon of the next following Business Day.

At the end of this period, the Clearing House may, at its sole discretion, terminate any open Contracts and related assets of the Defaulter or undertake other Transfers under consents provided for in the Rules and these Standard Terms. The deadlines for the delivery of prioritised Porting Notices or for the Clearing House to act upon any Porting Notices may be extended at the Clearing House's discretion by Circular. If, as of the end of the period for acting upon Default Notices, any Customer-CM CDS Transactions have not been Transferred pursuant to the Default Portability Rules, such Customer-CM CDS Transactions shall be deemed terminated, and in such case an early termination date (or similar concept) in respect of the Customer-CM CDS Transactions shall occur under the Customer-Clearing Member Agreement, on the applicable date on which the Clearing House terminates the related CDS Contracts pursuant to Part 9 of the Rules.

- (ii) Notwithstanding anything to the contrary in the Customer-Clearing Member Agreement or any other agreement or arrangement between Clearing Member and Customer, the amount payable pursuant to the Customer-Clearing Member Agreement in respect of the termination of the Customer-CM CDS Transactions shall be determined on the basis of the termination value calculated by the Clearing House for the corresponding CDS Contracts pursuant to Part 9 of the Rules but subject always, in the case of amounts due from Clearing Member, to Section 8(c) below. Customer hereby agrees and acknowledges that any determination made by the Clearing House with respect to the termination value of a CDS Contract or a Customer-CM CDS Transaction shall be conclusive and binding upon Customer for this purpose to the same extent that any 'net sum' declared by the Clearing House is conclusive and binding on Clearing Member. The obligation of a Clearing Member to a Customer under a Customer-CM CDS Transaction shall be discharged to the extent that the Clearing House makes payment of any net sum or any part thereof direct to the Customer.
  - (iii) Customer acknowledges and agrees that the allocation and, subject to Applicable Law, return of available amounts in the relevant Customer Margin Account shall be governed by Part 9 of the Rules, which may reduce or defer Clearing Member's obligations to Customer.
- (g) For the avoidance of doubt, nothing in these CDS Standard Terms shall prevent other amounts being due and payable between Clearing Member and Customer as provided for in the Customer-Clearing Member Agreement.

**Exhibit 1 – Customer-CM CDS Transactions Standard Terms****7. Consents to Disclosure.**

Customer hereby consents to:

- (i) the Clearing House having the right to obtain information in relation to the Customer-CM CDS Transactions from any CDS Trade Execution/Processing Platform, Repository or Deriv/SERV so as to enable the Clearing House to identify which CDS Contracts and Margin or Permitted Cover between the Clearing House and Clearing Member relate to such Customer-CM CDS Transactions;
- (ii) Clearing Member making any disclosures in connection with Customer and Customer-CM CDS Transactions as are required by the Rules and/or Procedures or as are required by Applicable Law;
- (iii) disclosures to, use by and disclosures by the Clearing House of information relating to Customer (including ~~the Personal Data of its Data Subjects~~) pursuant to Rule 106; and
- (iv) submissions of and other actions relating to data concerning Customer-CM CDS Transactions by the Clearing House pursuant to Section 12, the Rules and the Procedures.

**8. Certain Limitations.**

- (a) Customer agrees and acknowledges for the benefit of the Clearing House and Clearing Member that: (i) the liability of the Clearing House to Customer shall be excluded and limited as set forth in Rule 111 and specifically that the Clearing House shall have no liability or obligation to Customer in respect of a Customer-CM CDS Transaction or otherwise nor shall it have any duty of care directly to Customer, in any case whether in tort, contract, restitution, in respect of any Contract, pursuant to the Rules, pursuant to a Clearing Membership Agreement, pursuant to these CDS Standard Terms or otherwise, save for any liability which by law may not be excluded, (ii) in no event shall Customer attempt to interfere with the ability of the Clearing House to exercise its rights hereunder or as set forth in the Rules, the Procedures or any Clearing Membership Agreement, and (iii) it is not entitled to, and will not, petition a court or take any action or commence any proceedings against the Clearing House, directly or indirectly and will if any such action is taken fully indemnify the Clearing House against any costs, losses or other consequences of Customer taking any such action. Customer agrees that Clearing Member acts as principal at all times in all its Contracts with the Clearing House.
- (b) The Clearing House shall have no responsibility for the compliance by Clearing Member or Customer with its obligations under a Customer-Clearing Member Agreement. The Clearing House shall be under no obligation to enquire into, and shall be fully protected in relying on, any instructions or directions with respect to a Customer Account or the assets recorded therein or transferred thereto or therefrom

**Exhibit 1 – Customer-CM CDS Transactions Standard Terms**

under the Rules received from a Person that the Clearing House believes to be authorised to act on behalf of Clearing Member.

- (c) Customer agrees and acknowledges that the performance and payment obligations of Clearing Member to Customer are limited by and contingent on the actual performance or payment by the Clearing House under the related CDS Contract and that Clearing Member shall have no responsibility for the compliance by the Clearing House (or any person other than that Clearing Member) with its obligations, including without limitation, under any CDS Contract, the Rules or the Procedures. In the event that the Clearing House defaults in or defers or varies the payment or performance of any obligation otherwise owed by it in respect of a CDS Contract corresponding to a Customer-CM CDS Transaction (including, without limitation, any shortfall in repayment of Permitted Cover or any recovery of less than 100% of amounts owed by the Clearing House or property provided to the Clearing House in circumstances in which Rule 912 applies), Clearing Member will be entitled to make a corresponding deduction, withholding or other reduction from, or tolling or deferring of, any payment or performance otherwise owed by it under such corresponding Customer-CM CDS Transactions and/or to make its performance under such Customer-CM CDS Transactions conditional on performance by the Clearing House under the related CDS Contract (and where any such deduction may be attributable to both Customer-CM CDS Transactions and to Customer Account Contracts of other Customers, Clearing Member shall allocate such deduction among such contracts on a *pro rata* basis) provided that if such defaulted or delayed payment or performance is subsequently obtained by Clearing Member from the Clearing House (in whole or in part), Clearing Member shall thereupon make the corresponding payment or performance (or portion thereof) to Customer.

9. ***Certain Tax Matters.***

Subject always, and without prejudice, to any provisions of a Customer-Clearing Member Agreement: (i) if Clearing Member is required to pay to Clearing House any additional amount under Rule 301(j) or the Contract Terms with respect to a CDS Contract corresponding to a Customer-CM CDS Transaction, Customer shall be obliged to pay to Clearing Member an amount equal to such additional amount (or the applicable portion thereof), but without duplication of any additional amount payable by Customer under any relevant provision of the Customer-Clearing Member Agreement, (ii) for the avoidance of doubt, and without prejudice to the above, if Clearing House deducts or withholds any amount otherwise payable to Clearing Member on a CDS Contract pursuant to Rule 301 or the Contract Terms, Clearing Member shall be entitled to make a corresponding deduction from any amount otherwise payable by Clearing Member to Customer under a corresponding Customer-CM CDS Transaction, and (iii) where such additional amount or deduction may be attributable to both Customer-CM CDS Transactions and to Customer-CM CDS Transactions of other customers, Clearing Member shall allocate such additional amount or deduction among such contracts on a *pro rata* basis.

**Exhibit 1 – Customer-CM CDS Transactions Standard Terms****10. Reliance on CDS Trade Particulars and submissions to Deriv/SERV or etc.**

The Clearing House shall be entitled to assume, without enquiry, that (i) at each Acceptance Time at which a Customer-CM CDS Transaction arises, the respective obligations of Clearing Member and Customer under such Customer-CM CDS Transaction constitutes its legal, valid and binding obligations enforceable in accordance with their respective terms, subject to applicable Insolvency laws or similar Applicable Laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles in general application (regardless of whether enforcement is sought in a proceeding in equity or at law); (ii) where Customer or Clearing Member are acting out of an office in the United States of America, each of Clearing Member and Customer represents to the other and to the Clearing House that it is an "eligible contract participant" as defined in the US Commodity Exchange Act, as amended and (iii) that the Clearing House is duly authorised by Clearing Member and Customer to submit, in accordance with the Rules and the Procedures, details of any CDS Trade Particulars or Customer-CM CDS Transaction to Deriv/SERV and to amend or delete such records from time to time in accordance with the Rules and the Procedures, in each case subject to Applicable Law. For the avoidance of doubt, Clearing Member shall not take any actions in Deriv/SERV of a nature specified in this Section and neither the Clearing House nor Clearing Member will be liable to Customer for any action or omission of the Clearing House as a result of having made such submissions. The sole remedy of Customer in the case of any error shall be to request that Clearing Member request the Clearing House to amend or correct any error pursuant to the Rules or Procedures.

**11. Third Party Rights.**

The Clearing House shall be entitled to rely upon and enjoy the benefit of the representations, warranties, agreements, obligations and covenants of the Customer under these CDS Standard Terms and shall have the right to enforce such representations, warranties, agreements, obligations and covenants against the parties under the Contracts (Rights of Third Parties) Act 1999. Other than as set out in this Section 11, no persons other than Clearing Member and Customer shall have the right to enforce any provision of these CDS Standard Terms under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

**12. Miscellaneous.**

- (a) **Entire Agreement.** These CDS Standard Terms (together with the Customer-Clearing Member Agreement and the Rules and the Procedures incorporated by reference herein) constitutes the entire agreement and understanding of Customer and Clearing Member with respect to its subject matter and supersedes all oral communication and prior writings (except as otherwise provided herein) with respect thereto.
- (b) **Headings.** The headings used in these CDS Standard Terms are for convenience of reference only and are not to affect the construction of or to be taken into consideration in interpreting these CDS Standard Terms.

**Exhibit 1 – Customer-CM CDS Transactions Standard Terms**

- (c) **Governing Law.** Any contractual or non-contractual disputes arising out of or in connection with the Customer-Clearing Member Agreement are governed by and shall be construed in accordance with the law specified in the Customer-Clearing Member Agreement and subject to the non-exclusive jurisdiction of the courts specified in the Cleared Transactions Master Agreement provided that: (i) Sections 6(d) and 11 of these CDS Standard Terms shall be governed by and shall be construed in accordance with the laws of England and Wales and are subject to arbitration under Rule 117 as if such provisions of these CDS Standard Terms were Rules and the parties were bound thereby as if they were both Clearing Members, notwithstanding any choice of law or jurisdiction in the Cleared Transactions Master Agreement; and (ii) each provision of the Rules and the Procedures incorporated by reference herein or in the Customer-Clearing Member Agreement shall be governed by and construed in accordance with the laws of England and Wales, as set forth in the relevant governing law provision of such document (it being understood that no Pledged Collateral Matters are of relevance to Non-FCM/BD Clearing Members). Clearing Member and Customer hereby waive any right to object to any such proceedings on the basis of *forum non conveniens* or otherwise.
- (d) **Intellectual Property.** Customer agrees to the representation, warranty and undertaking specified in Rule 406(g).
13. **Modifications where Clearing Member is a Sponsor and Customer is a Sponsored Principal.**
- (a) This Section 13 shall apply only in respect of an Individually Segregated Sponsored Account, notwithstanding any other provisions of these CDS Standard Terms to the contrary.
- (b) The Sponsored Principal and Sponsor agree that, save in the circumstances contemplated by these CDS Standard Terms and as provided for in any Customer-Clearing Member Agreement or other agreement between Sponsored Principal and Sponsor, each Customer-CM CDS Transaction is intended to reflect exactly the obligations of the Clearing Member in respect of the related CDS Contract in the manner set forth in Part 19 of the Rules. Any reference to a CDS Contract or Customer-CM CDS Transaction or the relationship between a Sponsored Principal and Sponsor shall be construed in accordance with recitals 4 to 8, Part 19 of the Rules, the Sponsored Principal Clearing Agreement and the Sponsor Agreement.
- (c) The following provisions of these CDS Standard Terms shall be modified as set out below in connection with an Individually Segregated Sponsored Account:
- (i) Section 4(a) shall not apply if the Nominated Bank Account used for the Individually Segregated Sponsored Account is an account of the Sponsored Principal;
- (ii) the second sentence of Section 4(b) shall not apply; and the rights of the Sponsored Principal to the assets recorded in the Individually Segregated Sponsored Account shall be as set out in the Rules;
- (iii) Sections 6(b)-(e) shall be construed as being modified to the extent that the Default Portability Rules and default rules are modified for Sponsors and Sponsored



*Exhibit 1 – Customer-CM CDS Transactions Standard Terms*

Principals pursuant to Rule 904 and in particular for purposes of Section 6(b)(iii) the Clearing House shall in addition be entitled to accept the appointment of a new Sponsor pursuant to Rule 904; and

- (iv) Sections 8(a)(i) and (iii) and the provisions of the Rules shall instead apply to determine the liability of the Clearing House to the Sponsored Principal.
- (d) The Sponsored Principal shall be deemed to represent and warrant to the Sponsor, upon their first date of its holding such status and on each subsequent date that it is a Sponsored Principal with such Sponsor, that it meets all of the criteria set out in Rule 1901(b) and (d) and is in compliance with all of its obligations under these Rules.
- (e) Any asset received by the Sponsor from the Clearing House in respect of an Individually Segregated Sponsored Account shall be treated by the Sponsor and Sponsored Principal as if it had been received by the Sponsor from the Sponsored Principal as collateral (or cover for collateral) pursuant to the Cleared Transactions Master Agreement and these CDS Standard Terms.

**EXHIBIT 2****ICE CLEAR EUROPE LIMITED****CUSTOMER-CM F&O TRANSACTIONS STANDARD TERMS****BACKGROUND:**

In respect of a Non-FCM/BD Clearing Member and Customer using a Customer Account other than an Individually Segregated Sponsored Account:

- (1) Clearing Member is a Non-FCM/BD Clearing Member, as defined in the rules (together with the procedures, as interpreted in accordance with guidance and circulars thereunder, the "**Rules**") of ICE Clear Europe Limited (the "**Clearing House**") and is thereby permitted to submit certain F&O Transactions which result in a cleared F&O Contract arising in accordance with the Rules and the Procedures of the Clearing House.
- (2) Clearing Member and Customer are or intend to become party to one or more Customer-CM Transactions, where related cleared F&O Contracts are requested or are to be requested by the F&O Clearing Member to be recorded in a Customer Position Account in which F&O Contracts may be recorded. They further desire to agree to the operation of the Rules and the Procedures in relation to any Customer-CM F&O Transactions that may arise following the submission of the related F&O Transactions, as further provided for in these Customer-CM F&O Transactions Standard Terms (these "**F&O Standard Terms**").
- (3) Clearing Member and Customer have established a "master" futures account, clearing agreement or other master agreement (the "**Cleared Transactions Master Agreement**", as amended from time to time) and, if applicable, a related collateral arrangement, whether contained in the same or another agreement with respect to cleared transactions, including such Customer-CM F&O Transactions (which Cleared Transactions Master Agreement may be supplemented by a cleared derivatives addendum, or similar document, as agreed by Clearing Member and Customer (together, the "**Customer-Clearing Member Agreement**") and as amended and supplemented by these F&O Standard Terms).

In respect of a Non-FCM/BD Clearing Member and Customer using an Individually Segregated Sponsored Account:

- (4) Clearing Member is a Non-FCM/BD Clearing Member and Customer is a Sponsored Principal, in each case as defined in the Rules, and each of them is thereby permitted to submit certain F&O Transactions which will result in a cleared F&O Contract, governed by Part 19 arising in accordance with the Rules of the Clearing House.
- (5) Clearing Member and Customer are or intend to become party to one or more Customer-CM Transactions on the terms set out in these F&O Standard Terms as modified pursuant to Part 19, where related cleared F&O Contracts are requested or are to be requested by the F&O Clearing Member or Customer to be recorded in a Position Account linked to an Individually Segregated Sponsored Account in which F&O Contracts are recorded. They

**Exhibit 2 – Customer-CM F&O Transactions Standard Terms**

further desire to agree to the operation of the Rules and the Procedures in relation to any Customer-CM F&O Transactions that may arise following the submission of the related F&O Transaction, as further provided for in these F&O Standard Terms.

- (6) Clearing Member and Customer have established a Cleared Transactions Master Agreement and, if applicable, a related collateral arrangement, whether contained in the same or another agreement with respect to cleared transactions, including such Customer-CM F&O Transactions (which Cleared Transactions Master Agreement may be supplemented by a cleared derivatives addendum, or similar document, as agreed by Clearing Member and Customer and as amended and supplemented by these F&O Standard Terms).
- (7) These F&O Standard Terms shall apply equally to the Sponsored Principal as they apply to a Customer and to the Clearing Member as they apply to a Sponsor, subject to such amendments and modifications as are set out in the Rules (including Part 19 of the Rules) and Procedures, the Sponsored Principal Clearing Agreement, the Sponsor Agreement and section 13 hereof.

**F&O STANDARD TERMS:**

1. **Defined Terms.** Terms used but not otherwise defined in these F&O Standard Terms shall have the meaning set forth in the Rules or the Procedures, as applicable.
2. **Exhibit to Rules.** These F&O Standard Terms are published by the Clearing House as an Exhibit to the Rules but do not form part of the Rules. Clearing Member and Customer agree that any amendments, modifications, restatements or supplements in respect of such Exhibit to the Rules (including the withdrawal of any part of these F&O Standard Terms) may be effective if made by the Clearing House pursuant to the provisions of Rule 109 as if the Exhibit were Rules and as if Rule 109 applied to Customers in addition to, and in the same way as it applies to, Clearing Members. At the request of Clearing Member or the Clearing House, Customer will enter into a written confirmation of the terms of any such amendment, modification, supplement or restatement. The Clearing House is a third party beneficiary of these F&O Standard Terms and may enforce these F&O Standard Terms. Accordingly, unless the Clearing House provides its prior written consent: (i) any attempted amendment to or disapplication of any provision of these F&O Standard Terms (or any amendment made hereto by the Clearing House) as between any Customer and Clearing Member shall be void and of no effect; and (ii) any agreement that any provision of any other document shall prevail over these F&O Standard Terms (or any amendment made hereto by the Clearing House) shall be void and of no effect.
3. **Cleared Transactions.**
  - (a) Clearing Member may designate, by specifying that certain F&O Transactions submitted to the Clearing House are to be recorded in a Customer Position Account, that certain transactions between Clearing Member and Customer shall arise at the same time as related F&O Contracts and shall constitute Customer-CM F&O Transactions.

Exhibit 2 – Customer-CM F&O Transactions Standard Terms

- (b) Clearing Member and Customer agree that a Customer-CM F&O Transaction shall arise automatically and without further action on the part of Clearing Member or Customer as set out in accordance with Part 4 of the Rules ~~in respect of the related F&O Contract~~.
- (c) The terms of any Customer-CM F&O Transaction shall, save as contemplated by these F&O Standard Terms, be identical to those of the related F&O Contract between Clearing Member and the Clearing House (as such F&O Contract may be amended from time to time in accordance with the Rules and/or Procedures), except that:
- (i) if the Clearing Member is the seller under the F&O Contract it shall be the buyer under the Customer-CM F&O Transaction and vice versa;
  - (ii) Customer's recourse against Clearing Member shall be limited and Clearing Member's obligations to Customer shall be conditional as provided for in Section 8(c) below;
  - (iii) Customer-CM F&O Transactions shall also be subject to these F&O Standard Terms and the terms of the Customer-Clearing Member Agreement; and
  - (iv) except where the Settlement and Notices Terms or a Customer-Clearing Member Agreement provide for specific timings in respect of the performance of obligations:
    - (1) any obligation of the Clearing Member to the Customer shall not be required to be performed until a reasonable period has passed after the Clearing Member has received equivalent performance from the Clearing House; and
    - (2) any obligation of the Customer to the Clearing Member may be required by the Clearing Member to be performed a reasonable period in advance of the Clearing Member becoming obliged to the Clearing House in respect of an equivalent obligation.
- (d) If any Customer-CM F&O Transactions are governed by a Customer-Clearing Member Agreement which is not a separate agreement from any master agreement applicable to transactions between Clearing Member and Customer other than Customer-CM F&O Transactions ("**Non-Cleared Transactions**"), Clearing Member and Customer shall distinguish in their books and records Customer-CM F&O Transactions from Non-Cleared Transactions to the extent required to enable them to comply with the Rules, the Procedures and these F&O Standard Terms.
- (e) For purposes of the Customer-Clearing Member Agreement, in the event of any inconsistency among or between the Customer-Clearing Member Agreement, these F&O Standard Terms, the Rules and the Procedures with respect to Customer-CM F&O Transactions the following provisions shall prevail in the following order: (i)

*Exhibit 2 – Customer-CM F&O Transactions Standard Terms*

first, the Rules from time to time; (ii) second, subject to (m) below, the Procedures from time to time; (iii) third, these F&O Standard Terms from time to time; and (iv) fourth, the Customer-Clearing Member Agreement.

- (f) Customer agrees with Clearing Member that Customer-CM F&O Transactions shall be subject to the provisions of the Rules and the Procedures applicable to Customer-CM F&O Transactions as such Rules or Procedures are amended, modified, supplemented or restated from time to time. In particular but without limitation, Customer hereby agrees that it shall be bound by, shall comply with and shall facilitate compliance by Clearing Member with the terms and conditions set forth in Parts 5 and 9 of the Rules and Rule 202 in so far as they relate to Customer-CM F&O Transactions.
- (g) Customer agrees that publication of a Circular by the Clearing House shall constitute valid notice by the Clearing House of any matter under or relating to the Rules, the Procedures, Customer-CM F&O Transactions or these F&O Standard Terms.
- (h) Clearing Member and Customer agree that, save in the circumstances contemplated by these F&O Standard Terms and as provided for in any Customer-Clearing Member Agreement or other agreement between Clearing Member and Customer, each Customer-CM F&O Transaction is intended to reflect exactly the operation of the related F&O Contract. In any circumstances in which an F&O Contract is netted (in whole or in part), terminated or voided under the Rules, the related Customer-CM F&O Transaction will also be netted (in whole or in part), terminate or be voided by reference to the same price as the F&O Contract is so netted, terminated or voided and a payment in respect of such price may be payable between Customer and Clearing Member pursuant to the Customer-Clearing Member Agreement or as determined by the Clearing Member. Thereupon, Customer and Clearing Member shall have no further rights and be under no further liability with respect to such Customer-CM F&O Transaction(s) (or, if applicable, part thereof) other than in respect of any unpaid payments under such Customer-CM F&O Transactions (which shall be payable as and when originally payable). Clearing Member may, at its discretion, elect to continue an equivalent transaction with Customer as a Non-Cleared Transaction.
- (i) In addition, without limiting any rights that Clearing Member may have under the Customer-Clearing Member Agreement, if the Clearing House takes any step, including but not limited to the following events or actions, or any such event or action otherwise occurs (in each case including but not limited to any change in Applicable Law or any action taken by any Regulatory Authority pursuant to Applicable Law) in relation to an F&O Contract, Clearing Member, at its option and discretion, shall be entitled to take equivalent action (or, if it cannot take equivalent action, it is not advisable to do so or equivalent action would not deal with the matter in hand, other appropriate action) in good faith and in a commercially reasonable manner, in relation to the related Customer-CM F&O Transaction and/or against Customer, including but not limited to terminating, and/or modifying the non-economic terms of, such Customer-CM F&O Transaction and/or making

Exhibit 2 – Customer-CM F&O Transactions Standard Terms

adjustments to any determination of amounts paid or payable under the Customer-Clearing Member Agreement:

- (i) imposition of a fine or disgorgement payment pursuant to Part 10, any arbitral award or any other payment obligation arising other than pursuant to the Contract Terms or Parts 5 or 11 of the Rules, where the conduct in question is caused by, or in any way due to, the Customer and/or under the Customer-CM F&O Transaction;
  - (ii) any other event or action the effect of which is to create a material mismatch between the rights, obligations or exposures as between Clearing Member and the Clearing House pursuant to an F&O Contract on the one hand and the rights, obligations or exposures as between Clearing Member and Customer, including without limitation pursuant to the related Customer-CM F&O Transaction, on the other hand; and
  - (iii) any other event or action the effect of which is to result in any loss, liability, cost, claim, damages or expenses being incurred by Clearing Member in connection with an F&O Contract where such event or action does not form part of the F&O Contract (and so is not reflected in the related Customer-CM F&O Transaction).
- (j) Notwithstanding Section 3(c), Clearing Member and Customer may agree different settlement arrangements between Clearing Member and Customer so as to accommodate any particular requirements of Clearing Member or Customer.
  - (k) Any price or rate determined by the Clearing House under the Rules in relation to an F&O Contract shall be used as the same price or rate by the Clearing Member in relation to the related Customer-CM F&O Transaction(s).
  - (l) Customer shall not be entitled to serve any type of notice under a Customer-CM F&O Transaction in circumstances in which or by means that the Clearing Member would not, by virtue of the Rules or Procedures, be entitled to serve a corresponding notice on the Clearing House in relation to the corresponding F&O Contract. Clearing Member and the Clearing House shall be entitled to treat any service of a notice in breach of this provision as invalid.
  - (m) Clearing Member may, but (subject as otherwise agreed) is not obliged to, deliver any electronic notices in relation to Customer-CM F&O Transactions at the times allowed under the Rules and Procedures.
  - (n) These F&O Standard Terms may, pursuant to the process provided for in Section 2 of these F&O Standard Terms, from time to time, incorporate additional standard terms published by the Clearing House so as to establish mechanics for dealing with the relationship between F&O Contracts and Customer-CM F&O Transactions until such time as market infrastructure solutions are available to address the relevant operational issues. Such additional standard terms shall form part of these F&O Standard Terms, may (if so specified) prevail over the applicable Procedures in



*Exhibit 2 – Customer-CM F&O Transactions Standard Terms*

respect of Customer-CM F&O Transactions and may be amended and/or withdrawn only as provided for in Section 2 of these F&O Standard Terms.

- (o) On each date on which the Customer has any open Customer-CM F&O Transaction, the Customer shall represent that the Clearing House is not prevented from entering into any Contract nor is the Clearing Member prevented from entering into any Customer-CM F&O Transaction as a result of any Sanctions affecting the Customer or any of its assets.
- (p) Solely where National Grid is the Customer, these F&O Standard Terms shall be without prejudice to the Network Code, and National Grid shall not be stopped from relying upon or enforcing the provisions set out in the Network Code or exercising any remedy pursuant thereto, by virtue of either its status as a Customer or being bound by these F&O Standard Terms and the Rules.
- (q) Each Customer or Indirect Client that has chosen individual segregation through usage of a Margin-flow Co-mingled Account or Segregated Gross Indirect Account shall be deemed to have appointed and authorised the Clearing Member to determine how the different classes of Permitted Cover should be transferred to the Clearing House in respect of the Margin-flow Co-mingled Account or Segregated Gross Indirect Account in which positions relating to such Customer are registered, for purposes of and including in each of the manners set forth in, Rule 503(k).
- (r) The Customer shall obtain the necessary authority from its "beneficial owners" (having the meaning given to it in article 3(6) of the Money Laundering Directive) for the immediate disclosure of relevant information to the Clearing Member or the Clearing House and, in the circumstances described in Rule 202(a)(xii), shall immediately provide to the Clearing Member or the Clearing House on request relevant information about itself and its beneficial owners as are needed by the Clearing Member or the Clearing House to apply customer due diligence measures under the Money Laundering Directive or other Applicable Laws relating to anti-money laundering and immediately forward to the Clearing Member or the Clearing House on request copies of identification and verification data and other relevant documents on itself and its beneficial owners obtained when applying those measures.

#### 4. ***Margin Requirements.***

- (a) Subject as agreed otherwise in the Customer-Clearing Member Agreement, Clearing Member shall be entitled to require each of its Customers in respect of F&O Contracts to provide margin (or permitted cover in respect thereof) in an amount no less than the amount of Margin of each relevant type required on a gross basis by the Clearing House with respect to the relevant Open Contract Position(s), separately for each of its Customer Accounts. For this purpose, "gross basis" shall mean that the margin requirement will be determined giving effect to any offset permitted under the Rules of such Open Contract Positions against Open Contract Positions relating to the same Set and Customer in the same Customer Account, but

*Exhibit 2 – Customer-CM F&O Transactions Standard Terms*

without giving effect to any offset or permitted offset of such Open Contract Positions against Open Contract Positions relating to a different Customer.

- (b) Customer agrees that Clearing Member may use any margin provided by Customer under the Customer-Clearing Member Agreement in circumstances in which the Clearing Member's obligations, representations and warranties to and agreements with the Clearing House are entered into and made (as applicable) under the relevant Clearing Membership Agreement, Rule 504, Rule 505 and Part 11, without any breach by the Clearing Member of any such provision. On each occasion on which collateral is transferred by the Clearing Member to the Clearing House for credit to a Customer Account in which any Customer-CM F&O Transactions of the Customer is recorded, the Customer shall be deemed to give all the same representations, warranties and acknowledgments as are given by the Clearing Member pursuant to Rule 504(c)(iii), (iv) and (v) (save that the reference to 'Clearing Member' in Rule 504(c)(iv) will be treated as a reference to 'Customer' and the reference to 'any third party' in Rule 504(c)(v) will be treated as a reference to 'the Customer'), Rule 504(g) and Rule 505. Customer shall take any action reasonably requested by the Clearing House or the Clearing Member that may be necessary or desirable to create, preserve, perfect or validate the right, title or interests of the Clearing House in any Margin or Permitted Cover or to enable the Clearing House to exercise or enforce any of its rights under the Rules with respect to Margin or other Permitted Cover. Customer shall not create or give notice of any Encumbrance related to Permitted Cover that is held by the Clearing House in any Account. Customer shall not assert that: (i) it is the beneficiary of or interested party in any Encumbrance with respect to any Permitted Cover held by the Clearing House; (ii) it has given any notice of any such Encumbrance to the Clearing House; or (iii) the Clearing House otherwise should be attributed with notice in respect of any such Encumbrance. Nothing in this provision is intended to prevent any Encumbrance arising under Applicable Laws in favour of a Customer from subsisting in any receivable of a Clearing Member in respect of a Customer Account.

**5. *Events of Default and Termination.***

- (a) In the event of the declaration by the Clearing House of an Event of Default (as defined in the Rules) with respect to Clearing Member (such an event being an "**ICE-Declared Default**"), whether or not any other default (howsoever defined or described) has also occurred under the Customer-Clearing Member Agreement or otherwise, Customer shall not be entitled to exercise any remedies with respect to Customer-CM F&O Transactions pursuant to the Customer-Clearing Member Agreement or otherwise, except as provided herein (and any other remedies being exercised at the time of the declaration of such ICE-Declared Default shall cease and be superseded by the applicable provisions of these F&O Standard Terms).
- (b) If an ICE-Declared Default occurs at a time when Clearing Member has not already terminated the relevant Customer-CM F&O Transactions by reason of the occurrence of an event of default or termination event relating to Customer, Clearing Member may not take any action against Customer that may interfere with

Exhibit 2 – Customer-CM F&O Transactions Standard Terms

the Default Portability Rule resulting in Customer discharging its obligations to Clearing Member as provided for in Section 6(e) below. Save for such restriction, nothing in these F&O Standard Terms will limit Clearing Member's remedies under the Customer-Clearing Member Agreement in respect of Customer-CM F&O Transactions if an event of default or termination event (or similar concept) with respect to Customer occurs under the Customer-Clearing Member Agreement.

- (c) Upon an ICE-Declared Default:
- (i) in accordance with Section 3, as a result of no further liabilities, obligations or rights of the Clearing Member falling due for performance or being capable of enforcement under any F&O Contracts or these Rules prior to calculation of the final net sum payable under the relevant Customer Account pursuant to Part 9 (except as is required to achieve settlement finality of irrevocable Transfer Orders pursuant to Part 12), it shall be a condition precedent to performance of any obligations on the part of the Customer (except as is required to achieve settlement finality of irrevocable Transfer Orders to which the Customer is bound pursuant to Part 12) under the Customer-CM F&O Transaction that either: (A) the related F&O Contract has been terminated; or (B) the date of payment of the relevant net sum as between the Customer and Clearing Member pursuant to the Cleared Transactions Master Agreement and Applicable Laws, following completion of any applicable close-out netting or Insolvency processes has occurred;
  - (ii) any provision of a Cleared Transactions Master Agreement requiring termination of a Customer-CM F&O Transaction upon, prior to or following an ICE-Declared Default or giving a party the right to terminate (other than such a termination or right effective contemporaneous with termination of the related F&O Contract), shall be ineffective unless (A) one of the parties is incorporated in Switzerland or any other jurisdiction as may be specified by the Clearing House for such purposes; or (B) the Clearing House provides its written consent to such termination provision being effective, which consent may be given after declaration of the relevant ICE-Declared Default; and
  - (iii) if a provision of the Cleared Transactions Master Agreement that provides for the termination of the Customer-CM F&O Transaction is not suspended or disappplied pursuant to Sections 5(a) or 5(c)(ii): (A) Section 3(h) shall nonetheless still apply to determine the termination price of any Customer-CM F&O Transaction; and (B) if a Customer-CM F&O Transaction is so terminated other than at a time contemplated by Section 5(c)(ii), Section 6 of these Standard Terms shall apply *mutatis mutandis* in relation to such terminated Customer-CM F&O Transaction and rights, obligations and liabilities relating thereto.

Exhibit 2 – Customer-CM F&O Transactions Standard Terms6. *Post-default Portability; Termination and Valuation of Cleared Transactions.*

~~(a) Customer shall indicate to Clearing Member in such manner as the Clearing House may direct:~~

~~(i) Customer's preference as to whether, in the event of an ICE-Declared Default, it would prefer the Clearing House to apply the Default Portability Rules and related processes to the Customer's Customer-CM F&O Transactions and related F&O Contracts; and~~

~~(a) (ii) its Default Portability Preference: [\[Not Used\]](#)~~

~~Any Default Portability Preference notified by Customer must apply to all Customer-CM F&O Transactions with Clearing Member. Any such Default Portability Preference by Customer may be amended by notice to Clearing Member (who will, in turn, notify the Clearing House in accordance with the Rules and the Procedures), at any time prior to the occurrence of an ICE-Declared Default in respect of Clearing Member or, at the discretion of the Clearing House, by notice directly to the Clearing House in accordance with the Rules and the Procedures, following the occurrence of such an ICE-Declared Default.~~

(b) Unless it has notified the Clearing Member and Clearing House in writing to the contrary, Customer hereby consents and agrees that, in the event of an ICE-Declared Default, whether or not Customer has ~~specified a Default Portability Preference~~[submitted a Porting Notice](#), the Clearing House shall be entitled (but shall not be obliged) to apply the Default Portability Rules with respect to F&O Contracts to which Clearing Member and Customer's Customer-CM F&O Transactions relate, including by taking any of the following steps:

(i) transferring, assigning, selling or novating Customer-CM F&O Transactions (and related F&O Contracts) to any Transferee Clearing Member;

(ii) terminating Customer-CM F&O Transactions (and related F&O Contracts) and arranging for the entry into of new replacement Customer-CM F&O Transactions (and related F&O Contracts) with any Transferee Clearing Member (by way of novation or otherwise); and/or

(iii) transferring Margin (in such amount as the Clearing House may determine) credited to the Customer Margin Account of Clearing Member to the Customer Margin Account of the Transferee Clearing Member and, if such a transfer occurs, Clearing Member's obligations to Customer in respect of the transferred Margin shall be fully discharged.

(c) In the event that the Clearing House arranges for a replacement F&O Contract and related Customer-CM F&O Transaction pursuant to Section 6(b)(ii), the Customer-CM F&O Transaction with the Transferor Clearing Member shall be deemed terminated at the same time that the replacement F&O Contract and related Customer-CM F&O Transaction is entered into. Customer shall take no action,

Exhibit 2 – Customer-CM F&O Transactions Standard Terms

including but not limited to attempting to obtain a court order, that could interfere with the ability of the Clearing House to take action contemplated by Part 9 of the Rules, including, without limitation, the Transfer of F&O Contracts and Customer-CM F&O Transactions, the transfer of any related Margin or other collateral or cover (or contingent cover) for the same or the imposition of the Transferee Clearing Member's form of Customer-Clearing Member Agreement where so permitted under the Default Portability Rules.

- (d) Customer hereby appoints the Clearing House as its lawful agent and attorney-in-fact to take such actions on behalf of the Customer as the Clearing House determines necessary or appropriate in order to effect the Default Portability Rules with respect to Customer's Customer-CM F&O Transactions and the Customer Margin Account, including executing any document or instrument with respect to the Transfer or replacement of the Customer-CM F&O Transaction and/or exercising rights and remedies to terminate or Transfer Customer-CM F&O Transactions, including (without limitation) the execution of any Transfer, or the exercise of any termination notice or the transfer of amounts recorded in the Customer Margin Account. Such appointment shall not be revoked by Customer. Customer shall take such actions as the Clearing House and/or a Transferee Clearing Member may request to give full effect to the Default Portability Rules, including without limitation execution of documentation confirming or agreeing to any terms specified by Transferee Clearing Member pursuant to Rule 904(j).
- (e) In connection with any Transfer of Customer-CM F&O Transactions pursuant to the Default Portability Rules, any termination payments owed between Customer and Clearing Member in respect of the relevant Customer-CM F&O Transactions (determined in accordance with the Rules and the provisions of the Customer-Clearing Member Agreement), any termination payments owed between Clearing Member and the Clearing House in respect of the related F&O Contracts (which in each case shall be determined by the Clearing House pursuant to its default rules), any upfront variation margin payments owed between Customer and the Transferee Clearing Member with respect to the initiation of the replacement cleared transactions and any upfront Variation Margin payments owed between such Transferee Clearing Member and the Clearing House with respect to the initiation of replacement F&O Contracts shall be equal.
- (f) In the event of an ICE-Declared Default:
- (i) There will be a minimum period, after issuance by the Clearing House of a Circular including a Default Notice naming a Clearing Member, for Customers and their Transferee Clearing Members to notify the Clearing House of their agreement that Contracts and/or Margin can be Transferred to a Transferee Clearing Member pursuant to the Default Portability Rules ("**Porting Notice**"). For Customers other than Sponsored Principals, a Porting Notice must be received by the Clearing House within 4 hours of the Default Notice being published in order to be assured of being acted upon, subject to the below. For Sponsored Principals, the minimum period for

*Exhibit 2 – Customer-CM F&O Transactions Standard Terms*

receipt of Porting Notices is specified in Rule 904. Any Porting Notice, in order to be valid, must:

- (A) be in writing;
- (B) concern and be duly authorised and executed by a Customer who would not, if it were a Clearing Member, be capable of being declared a Defaulter;
- (C) concern and be duly authorised and executed by a Transferee Clearing Member who is not a Defaulter;
- (D) be delivered to the Clearing House electronically in the form and to the address specified by the Clearing House;
- (E) concern positions which have not already been closed out or Transferred; and
- (F) otherwise comply with the requirements of Part 9 of the Rules.

In the case of an Individually Segregated Margin-flow Co-mingled Account, Standard Omnibus Indirect Account, Segregated Gross Indirect Account or Individually Segregated Sponsored Account, a Porting Notice must be in respect of the single Customer interested in the Account in order to be valid. In the case of a Customer Account that is neither an Individually Segregated Margin-flow Co-mingled Account, Standard Omnibus Indirect Account, Segregated Gross Indirect Account nor an Individually Segregated Sponsored Account, the Porting Notice must be in respect of and executed by all Customers interested in the Account in order to be valid.

Subject to Rule 904(c), the Clearing House will act upon Porting Notices received by it within the 4 hour period specified above. The Clearing House may also act upon other Porting Notices received by it after the end of such period, at its discretion. However, Customers and Transferee Clearing Members acknowledge that due to operational constraints and depending on market conditions, it may not be possible for the Clearing House to process all Porting Notices (whether received within the 4 hour period or thereafter) within a reasonable period of time. Porting Notices received within the initial 4 hour period will be prioritised over any other notice. The Clearing House may select Porting Notices to be dealt with in such order as it sees fit, based on such criteria as it determines are relevant, including completeness and due execution of Default Notices, legibility, time of receipt, size of positions, lawfulness of porting, Customer jurisdiction of incorporation or place of business, whether risk increasing or risk decreasing and satisfaction of the requirements of Part 9 of the Rules. The Clearing House will not be obliged to comply with any Porting Notice which has not been acted upon by it:

- (A) if the Default Notice was issued before 13:00 hrs on a Business Day prior to the close of business on the same Business Day;



*Exhibit 2 – Customer-CM F&O Transactions Standard Terms*

- (B) if the Default Notice was issued on a day which is not a Business Day prior to close of business on the next following Business Day; or
- (C) if the Default Notice is issued after 13:00 hrs on a Business Day prior to noon of the next following Business Day.

At the end of this period, the Clearing House may, at its sole discretion, terminate any open Contracts and related assets of the Defaulter or undertake other Transfers under consents provided for in the Rules and these Standard Terms. The deadlines for the delivery of prioritised Porting Notices or for the Clearing House to act upon any Porting Notices may be extended at the Clearing House's discretion by Circular. If, as of the end of the period for acting upon Default Notices, any Customer-CM F&O Transactions have not been Transferred pursuant to the Default Portability Rules, such Customer-CM F&O Transactions shall be deemed terminated, and in such case an early termination date (or similar concept) in respect of the Customer-CM F&O Transactions shall occur under the Customer-Clearing Member Agreement, on the applicable date on which the Clearing House terminates the related F&O Contracts pursuant to Part 9 of the Rules.

- (ii) Notwithstanding anything to the contrary in the Customer-Clearing Member Agreement or any other agreement or arrangement between Clearing Member and Customer, the amount payable pursuant to the Customer-Clearing Member Agreement in respect of the termination of the Customer-CM F&O Transactions shall be determined on the basis of the termination value calculated by the Clearing House for the corresponding F&O Contracts pursuant to Part 9 of the Rules but subject always, in the case of amounts due from Clearing Member, to Section 8(c) below. Customer hereby agrees and acknowledges that any determination made by the Clearing House with respect to the termination value of an F&O Contract or a Customer-CM F&O Transaction shall be conclusive and binding upon Customer for this purpose to the same extent that any 'net sum' declared by the Clearing House is conclusive and binding on Clearing Member. The obligation of a Clearing Member to a Customer under a Customer-CM F&O Transaction shall be discharged to the extent that the Clearing House makes payment of any net sum or any part thereof direct to the Customer.
  - (iii) Customer acknowledges and agrees that the allocation and, subject to Applicable Law, return of available amounts in the relevant Customer Margin Account shall be governed by Part 9 of the Rules, which may reduce or defer Clearing Member's obligations to Customer.
- (g) For the avoidance of doubt, nothing in these F&O Standard Terms shall prevent other amounts being due and payable between Clearing Member and Customer as provided for in the Customer-Clearing Member Agreement.

**Exhibit 2 – Customer-CM F&O Transactions Standard Terms**

**7. Consents to Disclosure.**

Customer hereby consents to:

- (i) the Clearing House having the right to obtain information in relation to the Customer-CM F&O Transactions from any Market or Repository so as to enable the Clearing House to identify which F&O Contracts and Margin or Permitted Cover between the Clearing House and Clearing Member relate to such Customer-CM F&O Transactions;
- (ii) Clearing Member making any disclosures in connection with Customer and Customer-CM F&O Transactions as are required by the Rules and/or Procedures or as are required by Applicable Law;
- (iii) disclosures to, use by and disclosures by the Clearing House of information relating to Customer (including ~~the Personal Data of its Data Subjects~~) pursuant to Rule 106; and
- (iv) submissions of and other actions relating to data concerning Customer-CM F&O Transactions by the Clearing House pursuant to Section 12, the Rules and the Procedures.

**8. Certain Limitations.**

- (a) Customer agrees and acknowledges for the benefit of the Clearing House and Clearing Member that: (i) the liability of the Clearing House to Customer shall be excluded and limited as set forth in Rule 111 and specifically that the Clearing House shall have no liability or obligation to Customer in respect of a Customer-CM F&O Transaction or otherwise nor shall it have any duty of care directly to Customer, in any case whether in tort, contract, restitution, in respect of any Contract, pursuant to the Rules, pursuant to a Clearing Membership Agreement, pursuant to these F&O Standard Terms or otherwise, save for any liability which by law may not be excluded, (ii) in no event shall Customer attempt to interfere with the ability of the Clearing House to exercise its rights hereunder or as set forth in the Rules, the Procedures or any Clearing Membership Agreement, and (iii) it is not entitled to, and will not, petition a court or take any action or commence any proceedings against the Clearing House, directly or indirectly and will if any such action is taken fully indemnify the Clearing House against any costs, losses or other consequences of Customer taking any such action. Customer agrees that Clearing Member acts as principal at all times in all its Contracts with the Clearing House.
- (b) The Clearing House shall have no responsibility for the compliance by Clearing Member or Customer with its obligations under a Customer-Clearing Member Agreement. The Clearing House shall be under no obligation to enquire into, and shall be fully protected in relying on, any instructions or directions with respect to a Customer Account or the assets recorded therein or transferred thereto or therefrom

**Exhibit 2 – Customer-CM F&O Transactions Standard Terms**

under the Rules received from a Person that the Clearing House believes to be authorised to act on behalf of Clearing Member.

- (c) Customer agrees and acknowledges that the performance and payment obligations of Clearing Member to Customer are limited by and contingent on the actual performance or payment by the Clearing House under the related F&O Contract and that Clearing Member shall have no responsibility for the compliance by the Clearing House (or any person other than that Clearing Member) with its obligations, including without limitation, under any F&O Contract, the Rules or the Procedures. In the event that the Clearing House defaults in or defers or varies the payment or performance of any obligation otherwise owed by it in respect of an F&O Contract corresponding to a Customer-CM F&O Transaction (including, without limitation, any shortfall in repayment of Permitted Cover or any recovery of less than 100% of amounts owed by the Clearing House or property provided to the Clearing House in circumstances in which Rule 912 applies), Clearing Member will be entitled to make a corresponding deduction, withholding or other reduction from, or tolling or deferring of, any payment or performance otherwise owed by it under such corresponding Customer-CM F&O Transactions and/or to make its performance under such Customer-CM F&O Transactions conditional on performance by the Clearing House under the related F&O Contract (and where any such deduction may be attributable to both Customer-CM F&O Transactions and to Customer Account Contracts of other Customers, Clearing Member shall allocate such deduction among such contracts on a *pro rata* basis) provided that if such defaulted or delayed payment or performance is subsequently obtained by Clearing Member from the Clearing House (in whole or in part), Clearing Member shall thereupon make the corresponding payment or performance (or portion thereof) to Customer.

9. ***Certain Tax Matters.***

Subject always, and without prejudice, to any provisions of a Customer-Clearing Member Agreement: (i) if Clearing Member is required to pay to Clearing House any additional amount under Rule 301(j) or the Contract Terms with respect to an F&O Contract corresponding to a Customer-CM F&O Transaction, Customer shall be obliged to pay to Clearing Member an amount equal to such additional amount (or the applicable portion thereof), but without duplication of any additional amount payable by Customer under any relevant provision of the Customer-Clearing Member Agreement, (ii) for the avoidance of doubt, and without prejudice to the above, if Clearing House deducts or withholds any amount otherwise payable to Clearing Member on an F&O Contract pursuant to Rule 301 or the Contract Terms, Clearing Member shall be entitled to make a corresponding deduction from any amount otherwise payable by Clearing Member to Customer under a corresponding Customer-CM F&O Transaction, and (iii) where such additional amount or deduction may be attributable to both Customer-CM F&O Transactions and to Customer-CM F&O Transactions of other customers, Clearing Member shall allocate such additional amount or deduction among such contracts on a *pro rata* basis.

*Exhibit 2 – Customer-CM F&O Transactions Standard Terms*10. ***Reliance on F&O Transactions and submissions to Repositories etc.***

The Clearing House shall be entitled to assume, without enquiry, that (i) at each ~~Aceceptance~~ ~~Time~~ ~~time~~ at which a Customer-CM F&O Transaction arises pursuant to Part 4 of the Rules, the respective obligations of Clearing Member and Customer under such Customer-CM F&O Transaction constitutes its legal, valid and binding obligations enforceable in accordance with their respective terms, subject to applicable Insolvency laws or similar Applicable Laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles in general application (regardless of whether enforcement is sought in a proceeding in equity or at law); and ~~(ii) where Customer or Clearing Member are acting out of an office in the United States of America, each of Clearing Member and Customer represents to the other and to the Clearing House that it is an "eligible contract participant" as defined in the US Commodity Exchange Act, as amended and~~ ~~(iii)~~ that the Clearing House is duly authorised by Clearing Member and Customer to submit, in accordance with the Rules and the Procedures, details of any F&O Transactions or Customer-CM F&O Transaction to a Repository and to amend or delete such records from time to time in accordance with the Rules and the Procedures, in each case subject to Applicable Law. For the avoidance of doubt, Clearing Member shall not take any actions in any Repository of a nature specified in this Section and neither the Clearing House nor Clearing Member will be liable to Customer for any action or omission of the Clearing House as a result of having made such submissions. The sole remedy of Customer in the case of any error shall be to request that Clearing Member request the Clearing House to amend or correct any error pursuant to the Rules or Procedures.

11. ***Third Party Rights.***

The Clearing House shall be entitled to rely upon and enjoy the benefit of the representations, warranties, agreements, obligations and covenants of the Customer under these F&O Standard Terms and shall have the right to enforce such representations, warranties, agreements, obligations and covenants against the parties under the Contracts (Rights of Third Parties) Act 1999. Other than as set out in this Section 11, no persons other than Clearing Member and Customer shall have the right to enforce any provision of these F&O Standard Terms under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

12. ***Miscellaneous.***

- (a) ***Entire Agreement.*** These F&O Standard Terms (together with the Customer-Clearing Member Agreement and the Rules and the Procedures incorporated by reference herein) constitutes the entire agreement and understanding of Customer and Clearing Member with respect to its subject matter and supersedes all oral communication and prior writings (except as otherwise provided herein) with respect thereto.
- (b) ***Headings.*** The headings used in these F&O Standard Terms are for convenience of reference only and are not to affect the construction of or to be taken into consideration in interpreting these F&O Standard Terms.

*Exhibit 2 – Customer-CM F&O Transactions Standard Terms*

- (c) ***Governing Law.*** Any contractual or non-contractual disputes arising out of or in connection with the Customer-Clearing Member Agreement are governed by and shall be construed in accordance with the law specified in the Customer-Clearing Member Agreement and subject to the non-exclusive jurisdiction of the courts specified in the Cleared Transactions Master Agreement provided that: (i) Sections 6(d) and 11 of these F&O Standard Terms shall be governed by and shall be construed in accordance with the laws of England and Wales and are subject to arbitration under Rule 117 as if such provisions of these F&O Standard Terms were Rules and the parties were bound thereby as if they were both Clearing Members, notwithstanding any choice of law or jurisdiction in the Cleared Transactions Master Agreement; and (ii) each provision of the Rules and the Procedures incorporated by reference herein or in the Customer-Clearing Member Agreement shall be governed by and construed in accordance with the laws of England and Wales, as set forth in the relevant governing law provision of such document (it being understood that no Pledged Collateral Matters are of relevance to Non-FCM/BD Clearing Members). Clearing Member and Customer hereby waive any right to object to any such proceedings on the basis of *forum non conveniens* or otherwise.
- (d) ***Intellectual Property.*** Customer agrees to the representation, warranty and undertaking specified in Rule 406(g).
13. ***Modifications where Clearing Member is a Sponsor and Customer is a Sponsored Principal.***
- (a) This Section 13 shall apply only in respect of an Individually Segregated Sponsored Account, notwithstanding any other provisions of these F&O Standard Terms to the contrary.
- (b) The Sponsored Principal and Sponsor agree that, save in the circumstances contemplated by these F&O Standard Terms and as provided for in any Customer-Clearing Member Agreement or other agreement between Sponsored Principal and Sponsor, each Customer-CM F&O Transaction is intended to reflect exactly the obligations of the Clearing Member in respect of the related F&O Contract in the manner set forth in Part 19 of the Rules. Any reference to an F&O Contract or Customer-CM F&O Transaction or the relationship between a Sponsored Principal and Sponsor shall be construed in accordance with recitals 4 to 8, Part 19 of the Rules, the Sponsored Principal Clearing Agreement and the Sponsor Agreement.
- (c) The following provisions of these F&O Standard Terms shall be modified as set out below in connection with an Individually Segregated Sponsored Account:
- (i) Section 4(a) shall not apply if the Nominated Bank Account used for the Individually Segregated Sponsored Account is an account of the Sponsored Principal;
- (ii) the second sentence of Section 4(b) shall not apply; and the rights of the Sponsored Principal to the assets recorded in the Individually Segregated Sponsored Account shall be as set out in the Rules;

*Exhibit 2 – Customer-CM F&O Transactions Standard Terms*

- (iii) Sections 6(b)-(e) shall be construed as being modified to the extent that the Default Portability Rules and default rules are modified for Sponsors and Sponsored Principals pursuant to Rule 904 and in particular for purposes of Section 6(b)(iii) the Clearing House shall in addition be entitled to accept the appointment of a new Sponsor pursuant to Rule 904; and
- (iv) Sections 8(a)(i) and (iii) and the provisions of the Rules shall instead apply to determine the liability of the Clearing House to the Sponsored Principal.
- (d) The Sponsored Principal shall be deemed to represent and warrant to the Sponsor, upon their first date of its holding such status and on each subsequent date that it is a Sponsored Principal with such Sponsor, that it meets all of the criteria set out in Rule 1901(b) and (d) and is in compliance with all of its obligations under these Rules.
- (e) Any asset received by the Sponsor from the Clearing House in respect of an Individually Segregated Sponsored Account shall be treated by the Sponsor and Sponsored Principal as if it had been received by the Sponsor from the Sponsored Principal as collateral (or cover for collateral) pursuant to the Cleared Transactions Master Agreement and these F&O Standard Terms.



**EXHIBIT 3**  
**ICE CLEAR EUROPE LIMITED**  
**CUSTOMER-CM FX TRANSACTIONS STANDARD TERMS**

**BACKGROUND:**

In respect of a Non-FCM/BD Clearing Member and Customer using a Customer Account other than an Individually Segregated Sponsored Account:

- (1) Clearing Member is a Non-FCM/BD Clearing Member, as defined in the rules (together with the procedures, as interpreted in accordance with guidance and circulars thereunder, the "**Rules**") of ICE Clear Europe Limited (the "**Clearing House**") and is thereby permitted to submit certain FX Trade Particulars which, if an FX Acceptance Notice is issued, will result in a cleared FX Contract arising in accordance with the Rules and the FX Procedures of the Clearing House.
- (2) Clearing Member and Customer are or intend to become party to one or more Customer-CM FX Transactions, where related cleared FX Contracts are requested or are to be requested by the FX Clearing Member to be recorded in a Customer Position Account in which FX Contracts may be recorded. They further desire to agree to the operation of the Rules and the Procedures in relation to any Customer-CM FX Transactions that may arise following the submission of the related FX Trade Particulars, as further provided for in these Customer-CM FX Transactions Standard Terms (these "**FX Standard Terms**").
- (3) Clearing Member and Customer have established a "master" futures account, clearing agreement or other master agreement (the "**Cleared Transactions Master Agreement**", as amended from time to time) and, if applicable, a related collateral arrangement, whether contained in the same or another agreement with respect to cleared transactions, including such Customer-CM FX Transactions (which Cleared Transactions Master Agreement may be supplemented by a cleared derivatives addendum, or similar document, as agreed by Clearing Member and Customer (together, the "**Customer-Clearing Member Agreement**") and as amended and supplemented by these FX Standard Terms).

In respect of a Non-FCM/BD Clearing Member and Customer using an Individually Segregated Sponsored Account:

- (4) Clearing Member is a Non-FCM/BD Clearing Member and Customer is a Sponsored Principal, in each case as defined in the Rules, and each of them is thereby permitted to submit certain FX Trade Particulars which, if an FX Acceptance Notice is issued, will result in a cleared FX Contract governed by Part 19 arising in accordance with the Rules and the FX Procedures of the Clearing House.
- (5) Clearing Member and Customer are or intend to become party to one or more Customer-CM Transactions on the terms set out in these FX Standard Terms as modified pursuant to Part 19, where related cleared FX Contracts are requested or are to be requested by the FX

**Exhibit 3 – Customer-CM FX Transactions Standard Terms**

Clearing Member or Customer to be recorded in a Position Account linked to an Individually Segregated Sponsored Account in which FX Contracts are recorded. They further desire to agree to the operation of the Rules and the Procedures in relation to any Customer-CM FX Transactions that may arise following the submission of the related FX Trade Particulars, as further provided for in these FX Standard Terms.

- (6) Clearing Member and Customer have established a Cleared Transactions Master Agreement and, if applicable, a related collateral arrangement, whether contained in the same or another agreement with respect to cleared transactions, including such Customer-CM FX Transactions (which Cleared Transactions Master Agreement may be supplemented by a cleared derivatives addendum, or similar document, as agreed by Clearing Member and Customer and as amended and supplemented by these FX Standard Terms).
- (7) These FX Standard Terms shall apply equally to the Sponsored Principal as they apply to a Customer and to the Clearing Member as they apply to a Sponsor, subject to such amendments and modifications as are set out in the Rules (including Part 19 of the Rules) and Procedures, the Sponsored Principal Clearing Agreement, the Sponsor Agreement and section 13 hereof.

**FX STANDARD TERMS:**

1. **Defined Terms.** Terms used but not otherwise defined in these FX Standard Terms shall have the meaning set forth in the Rules or the Procedures, as applicable.
2. **Exhibit to Rules.** These FX Standard Terms are published by the Clearing House as an Exhibit to the Rules but do not form part of the Rules. Clearing Member and Customer agree that any amendments, modifications, restatements or supplements in respect of such Exhibit to the Rules (including the withdrawal of any part of these FX Standard Terms) may be effective if made by the Clearing House pursuant to the provisions of Rule 109 as if the Exhibit were Rules and as if Rule 109 applied to Customers in addition to, and in the same way as it applies to, Clearing Members. At the request of Clearing Member or the Clearing House, Customer will enter into a written confirmation of the terms of any such amendment, modification, supplement or restatement. The Clearing House is a third party beneficiary of these Standard Terms and may enforce these FX Standard Terms. Accordingly, unless the Clearing House provides its prior written consent: (i) any attempted amendment to or disapplication of any provision of these FX Standard Terms (or any amendment made hereto by the Clearing House) as between any Customer and Clearing Member shall be void and of no effect; and (ii) any agreement that any provision of any other document shall prevail over these FX Standard Terms (or any amendment made hereto by the Clearing House) shall be void and of no effect.
3. **Cleared Transactions.**
  - (a) Clearing Member may designate, by specifying that certain FX Trade Particulars submitted to the Clearing House are to be recorded in a Customer Position Account, that certain transactions between Clearing Member and Customer shall arise at the

Exhibit 3 – Customer-CM FX Transactions Standard Terms

same time as related FX Contracts and shall constitute Customer-CM FX Transactions.

- (b) Clearing Member and Customer agree that a Customer-CM FX Transaction shall arise automatically and without further action on the part of Clearing Member or Customer as set out in Part 4 of the Rules in respect of the related FX Contract.
- (c) The terms of any Customer-CM FX Transaction shall, save as contemplated by these FX Standard Terms, be identical to those of the related FX Contract between Clearing Member and the Clearing House (as such FX Contract may be amended from time to time in accordance with the Rules and/or FX Procedures), except that:
  - (i) if the Clearing Member is the Reference Currency Seller under the FX Contract it shall be the reference currency buyer under the Customer-CM FX Transaction and vice versa;
  - (ii) Customer's recourse against Clearing Member shall be limited and Clearing Member's obligations to Customer shall be conditional as provided for in Section 8(c) below;
  - (iii) Customer-CM FX Transactions shall also be subject to these FX Standard Terms and the terms of the Customer-Clearing Member Agreement; and
  - (iv) except where the Settlement and Notices Terms or a Customer-Clearing Member Agreement provide for specific timings in respect of the performance of obligations:
    - (1) any obligation of the Clearing Member to the Customer shall not be required to be performed until a reasonable period has passed after the Clearing Member has received equivalent performance from the Clearing House; and
    - (2) any obligation of the Customer to the Clearing Member may be required by the Clearing Member to be performed a reasonable period in advance of the Clearing Member becoming obliged to the Clearing House in respect of an equivalent obligation.
- (d) If any Customer-CM FX Transactions are governed by a Customer-Clearing Member Agreement which is not a separate agreement from any master agreement applicable to transactions between Clearing Member and Customer other than Customer-CM FX Transactions ("**Non-Cleared Transactions**"), Clearing Member and Customer shall distinguish in their books and records Customer-CM FX Transactions from Non-Cleared Transactions to the extent required to enable them to comply with the Rules, the Procedures and these FX Standard Terms.
- (e) For purposes of the Customer-Clearing Member Agreement, in the event of any inconsistency among or between the Customer-Clearing Member Agreement, these FX Standard Terms, the Rules and the Procedures with respect to Customer-CM

Exhibit 3 – Customer-CM FX Transactions Standard Terms

FX Transactions the following provisions shall prevail in the following order: (i) first, the Rules from time to time; (ii) second, subject to (m) below, the Procedures from time to time; (iii) third, these FX Standard Terms from time to time; and (iv) fourth, the Customer-Clearing Member Agreement.

- (f) Customer agrees with Clearing Member that Customer-CM FX Transactions shall be subject to the provisions of the Rules and the Procedures applicable to Customer-CM FX Transactions as such Rules or Procedures are amended, modified, supplemented or restated from time to time. In particular but without limitation, Customer hereby agrees that it shall be bound by, shall comply with and shall facilitate compliance by Clearing Member with the terms and conditions set forth in Parts 5 and 9 of the Rules and Rule 202 in so far as they relate to Customer-CM FX Transactions.
- (g) Customer agrees that publication of a Circular by the Clearing House shall constitute valid notice by the Clearing House of any matter under or relating to the Rules, the Procedures, Customer-CM FX Transactions or these FX Standard Terms.
- (h) Clearing Member and Customer agree that, save in the circumstances contemplated by these FX Standard Terms and as provided for in any Customer-Clearing Member Agreement or other agreement between Clearing Member and Customer, each Customer-CM FX Transaction is intended to reflect exactly the operation of the related FX Contract. In any circumstances in which an FX Contract is netted (in whole or in part), terminated or voided under the Rules, the related Customer-CM FX Transaction will also be netted (in whole or in part), terminate or be voided by reference to the same price as the FX Contract is so netted, terminated or voided and a payment in respect of such price may be payable between Customer and Clearing Member pursuant to the Customer-Clearing Member Agreement or as determined by the Clearing Member. Thereupon, Customer and Clearing Member shall have no further rights and be under no further liability with respect to such Customer-CM FX Transaction(s) (or, if applicable, part thereof) other than in respect of any unpaid payments under such Customer-CM FX Transactions (which shall be payable as and when originally payable). Clearing Member may, at its discretion, elect to continue an equivalent transaction with Customer as a Non-Cleared Transaction.
- (i) In addition, without limiting any rights that Clearing Member may have under the Customer-Clearing Member Agreement, if the Clearing House takes any step, including but not limited to the following events or actions, or any such event or action otherwise occurs (in each case including but not limited to any change in Applicable Law or any action taken by any Regulatory Authority pursuant to Applicable Law) in relation to an FX Contract, Clearing Member, at its option and discretion, shall be entitled to take equivalent action (or, if it cannot take equivalent action, it is not advisable to do so or equivalent action would not deal with the matter in hand, other appropriate action) in good faith and in a commercially reasonable manner, in relation to the related Customer-CM FX Transaction and/or against Customer, including but not limited to terminating, and/or modifying the non-economic terms of, such Customer-CM FX Transaction and/or making adjustments

Exhibit 3 – Customer-CM FX Transactions Standard Terms

to any determination of amounts paid or payable under the Customer-Clearing Member Agreement:

- (i) imposition of a fine or disgorgement payment pursuant to Part 10, any arbitral award or any other payment obligation arising other than pursuant to the Contract Terms or Parts 5 or 11 of the Rules, where the conduct in question is caused by, or in any way due to, the Customer and/or under the Customer-CM FX Transaction;
  - (ii) any other event or action the effect of which is to create a material mismatch between the rights, obligations or exposures as between Clearing Member and the Clearing House pursuant to an FX Contract on the one hand and the rights, obligations or exposures as between Clearing Member and Customer, including without limitation pursuant to the related Customer-CM FX Transaction, on the other hand; and
  - (iii) any other event or action the effect of which is to result in any loss, liability, cost, claim, damages or expenses being incurred by Clearing Member in connection with an FX Contract where such event or action does not form part of the FX Contract (and so is not reflected in the related Customer-CM FX Transaction).
- (j) Notwithstanding Section 3(c), Clearing Member and Customer may agree different settlement arrangements between Clearing Member and Customer so as to accommodate any particular requirements of Clearing Member or Customer.
  - (k) Any price or rate determined by the Clearing House as Calculation Agent or otherwise under the Rules in relation to an FX Contract shall be used as the same price or rate by the Clearing Member in relation to the related Customer-CM FX Transaction(s).
  - (l) Customer shall not be entitled to serve any type of notice under a Customer-CM FX Transaction in circumstances in which or by means that the Clearing Member would not, by virtue of the Rules or FX Procedures, be entitled to serve a corresponding notice on the Clearing House in relation to the corresponding FX Contract. Clearing Member and the Clearing House shall be entitled to treat any service of a notice in breach of this provision as invalid.
  - (m) Clearing Member may, but (subject as otherwise agreed) is not obliged to, deliver any electronic notices in relation to Customer-CM FX Transactions at the times allowed under the Rules and Procedures.
  - (n) These FX Standard Terms may, pursuant to the process provided for in Section 2 of these FX Standard Terms, from time to time, incorporate additional standard terms published by the Clearing House so as to establish mechanics for dealing with the relationship between FX Contracts and Customer-CM FX Transactions until such time as market infrastructure solutions are available to address the relevant operational issues. Such additional standard terms shall form part of these FX

**Exhibit 3 – Customer-CM FX Transactions Standard Terms**

Standard Terms, may (if so specified) prevail over the applicable Procedures in respect of Customer-CM FX Transactions and may be amended and/or withdrawn only as provided for in Section 2 of these FX Standard Terms.

- (o) On each date on which the Customer has any open Customer-CM FX Transaction, the Customer shall represent that the Clearing House is not prevented from entering into any Contract nor is the Clearing Member prevented from entering into any Customer-CM FX Transaction as a result of any Sanctions affecting the Customer or any of its assets.
- (p) Each Customer or Indirect Client that has chosen individual segregation through usage of a Margin-flow Co-mingled Account or Segregated Gross Indirect Account shall be deemed to have appointed and authorised the Clearing Member to determine how the different classes of Permitted Cover should be transferred to the Clearing House in respect of the Margin-flow Co-mingled Account or Segregated Gross Indirect Account in which positions relating to such Customer are registered, for purposes of and including in each of the manners set forth in, Rule 503(k).
- (q) The Customer shall obtain the necessary authority from its "beneficial owners" (having the meaning given to it in article 3(6) of the Money Laundering Directive) for the immediate disclosure of relevant information to the Clearing Member or the Clearing House and, in the circumstances described in Rule 202(a)(xii), shall immediately provide to the Clearing Member or the Clearing House on request relevant information about itself and its beneficial owners as are needed by the Clearing Member or the Clearing House to apply customer due diligence measures under the Money Laundering Directive or other Applicable Laws relating to anti-money laundering and immediately forward to the Clearing Member or the Clearing House on request copies of identification and verification data and other relevant documents on itself and its beneficial owners obtained when applying those measures.

#### 4. **Margin Requirements.**

- (a) Subject as agreed otherwise in the Customer-Clearing Member Agreement, Clearing Member shall be entitled to require each of its Customers in respect of FX Contracts to provide margin (or permitted cover in respect thereof) in an amount no less than the amount of Margin of each relevant type required on a gross basis by the Clearing House with respect to the relevant Open Contract Position(s), separately for each of its Customer Accounts. For this purpose, "gross basis" shall mean that the margin requirement will be determined giving effect to any offset permitted under the Rules of such Open Contract Positions against Open Contract Positions relating to the same Set and Customer in the same Customer Account, but without giving effect to any offset or permitted offset of such Open Contract Positions against Open Contract Positions relating to a different Customer.
- (b) Customer agrees that Clearing Member may use any margin provided by Customer under the Customer-Clearing Member Agreement in circumstances in which the Clearing Member's, representations and warranties to and agreements with the



*Exhibit 3 – Customer-CM FX Transactions Standard Terms*

Clearing House are entered into and made (as applicable) under the relevant Clearing Membership Agreement, Rule 504, Rule 505 and Part 11, without any breach by the Clearing Member of any such provision. On each occasion on which collateral is transferred by the Clearing Member to the Clearing House for credit to a Customer Account in which any Customer-CM FX Transactions of the Customer is recorded, the Customer shall be deemed to give all the same representations, warranties and acknowledgments as are given by the Clearing Member pursuant to Rule 504(c)(iii), (iv) and (v) (save that the reference to 'Clearing Member' in Rule 504(c)(iv) will be treated as a reference to 'Customer' and the reference to 'any third party' in Rule 504(c)(v) will be treated as a reference to 'the Customer'), Rule 504(g) and Rule 505. Customer shall take any action reasonably requested by the Clearing House or the Clearing Member that may be necessary or desirable to create, preserve, perfect or validate the right, title or interests of the Clearing House in any Margin or Permitted Cover or to enable the Clearing House to exercise or enforce any of its rights under the Rules with respect to Margin or other Permitted Cover. Customer shall not create or give notice of any Encumbrance related to Permitted Cover that is held by the Clearing House in any Account. Customer shall not assert that: (i) it is the beneficiary of or interested party in any Encumbrance with respect to any Permitted Cover held by the Clearing House; (ii) it has given any notice of any such Encumbrance to the Clearing House; or (iii) the Clearing House otherwise should be attributed with notice in respect of any such Encumbrance. Nothing in this provision is intended to prevent any Encumbrance arising under Applicable Laws in favour of a Customer from subsisting in any receivable of a Clearing Member in respect of a Customer Account.

5. *Events of Default and Termination.*

- (a) In the event of the declaration by the Clearing House of an Event of Default (as defined in the Rules) with respect to Clearing Member (such an event being an "**ICE-Declared Default**"), whether or not any other default (howsoever defined or described) has also occurred under the Customer-Clearing Member Agreement or otherwise, Customer shall not be entitled to exercise any remedies with respect to Customer-CM FX Transactions pursuant to the Customer-Clearing Member Agreement or otherwise, except as provided herein (and any other remedies being exercised at the time of the declaration of such ICE-Declared Default shall cease and be superseded by the applicable provisions of these FX Standard Terms).
- (b) If an ICE-Declared Default occurs at a time when Clearing Member has not already terminated the relevant Customer-CM FX Transactions by reason of the occurrence of an event of default or termination event relating to Customer, Clearing Member may not take any action against Customer that may interfere with the Default Portability Rule resulting in Customer discharging its obligations to Clearing Member as provided for in Section 6(e) below. Save for such restriction, nothing in these FX Standard Terms will limit Clearing Member's remedies under the Customer-Clearing Member Agreement in respect of Customer-CM FX Transactions if an event of default or termination event (or similar concept) with respect to Customer occurs under the Customer-Clearing Member Agreement.

Exhibit 3 – Customer-CM FX Transactions Standard Terms

- (c) Upon an ICE-Declared Default:
- (i) in accordance with Section 3, as a result of no further liabilities, obligations or rights of the Clearing Member falling due for performance or being capable of enforcement under any FX Contracts or these Rules prior to calculation of the final net sum payable under the relevant Customer Account pursuant to Part 9 (except as is required to achieve settlement finality of irrevocable Transfer Orders pursuant to Part 12), it shall be a condition precedent to performance of any obligations on the part of the Customer (except as is required to achieve settlement finality of irrevocable Transfer Orders to which the Customer is bound pursuant to Part 12) under the Customer-CM FX Transaction that either: (A) the related FX Contract has been terminated; or (B) the date of payment of the relevant net sum as between the Customer and Clearing Member pursuant to the Cleared Transactions Master Agreement and Applicable Laws, following completion of any applicable close-out netting or Insolvency processes has occurred;
  - (ii) any provision of a Cleared Transactions Master Agreement requiring termination of a Customer-CM FX Transaction upon, prior to or following an ICE-Declared Default or giving a party the right to terminate (other than such a termination or right effective contemporaneous with termination of the related FX Contract), shall be ineffective unless (A) one of the parties is incorporated in Switzerland or any other jurisdiction as may be specified by the Clearing House for such purposes; or (B) the Clearing House provides its written consent to such termination provision being effective, which consent may be given after declaration of the relevant ICE-Declared Default; and
  - (iii) if a provision of the Cleared Transactions Master Agreement that provides for the termination of the Customer-CM FX Transaction is not suspended or disapplied pursuant to Sections 5(a) or 5(c)(ii): (A) Section 3(h) shall nonetheless still apply to determine the termination price of any Customer-CM FX Transaction; and (B) if a Customer-CM FX Transaction is so terminated other than at a time contemplated by Section 5(c)(ii), Section 6 of these Standard Terms shall apply *mutatis mutandis* in relation to such terminated Customer-CM FX Transaction and rights, obligations and liabilities relating thereto.

6. ***Post-default Portability; Termination and Valuation of Cleared Transactions.***

~~(a) Customer shall indicate to Clearing Member in such manner as the Clearing House may direct:~~

~~(i) Customer's preference as to whether, in the event of an ICE-Declared Default, it would prefer the Clearing House to apply the Default Portability Rules and related processes to the Customer's Customer-CM FX Transactions and related FX Contracts; and~~

Exhibit 3 – Customer-CM FX Transactions Standard Terms(a) ~~(ii) its Default Portability Preference.~~ [Not Used]

~~Any Default Portability Preference notified by Customer must apply to all Customer-CM FX Transactions with Clearing Member. Any such Default Portability Preference by Customer may be amended by notice to Clearing Member (who will, in turn, notify the Clearing House in accordance with the Rules and the Procedures), at any time prior to the occurrence of an ICE-Declared Default in respect of Clearing Member or, at the discretion of the Clearing House, by notice directly to the Clearing House in accordance with the Rules and the Procedures, following the occurrence of such an ICE-Declared Default.~~

- (b) Unless it has notified the Clearing Member and Clearing House in writing to the contrary, Customer hereby consents and agrees that, in the event of an ICE-Declared Default, whether or not Customer has ~~specified a Default Portability Preference~~ submitted a Porting Notice, the Clearing House shall be entitled (but shall not be obliged) to apply the Default Portability Rules with respect to FX Contracts to which Clearing Member and Customer's Customer-CM FX Transactions relate, including by taking any of the following steps:
- (i) transferring, assigning, selling or novating Customer-CM FX Transactions (and related FX Contracts) to any Transferee Clearing Member;
  - (ii) terminating Customer-CM FX Transactions (and related FX Contracts) and arranging for the entry into of new replacement Customer-CM FX Transactions (and related FX Contracts) with any Transferee Clearing Member (by way of novation or otherwise); and/or
  - (iii) transferring Margin (in such amount as the Clearing House may determine) credited to the Customer Margin Account of Clearing Member to the Customer Margin Account of the Transferee Clearing Member and, if such a transfer occurs, Clearing Member's obligations to Customer in respect of the transferred Margin shall be fully discharged.
- (c) In the event that the Clearing House arranges for a replacement FX Contract and related Customer-CM FX Transaction pursuant to Section 6(b)(ii), the Customer-CM FX Transaction with the Transferor Clearing Member shall be deemed terminated at the same time that the replacement FX Contract and related Customer-CM FX Transaction is entered into. Customer shall take no action, including but not limited to attempting to obtain a court order, that could interfere with the ability of the Clearing House to take action contemplated by Part 9 of the Rules, including, without limitation, the Transfer of FX Contracts and Customer-CM FX Transactions, the transfer of any related Margin or other collateral or cover (or contingent cover) for the same or the imposition of the Transferee Clearing Member's form of Customer-Clearing Member Agreement where so permitted under the Default Portability Rules.
- (d) Customer hereby appoints the Clearing House as its lawful agent and attorney-in-fact to take such actions on behalf of the Customer as the Clearing House

Exhibit 3 – Customer-CM FX Transactions Standard Terms

determines necessary or appropriate in order to effect the Default Portability Rules with respect to Customer's Customer-CM FX Transactions and the Customer Margin Account, including executing any document or instrument with respect to the Transfer or replacement of the Customer-CM FX Transaction and/or exercising rights and remedies to terminate or Transfer Customer-CM FX Transactions, including (without limitation) the execution of any Transfer, or the exercise of any termination notice or the transfer of amounts recorded in the Customer Margin Account. Such appointment shall not be revoked by Customer. Customer shall take such actions as the Clearing House and/or a Transferee Clearing Member may request to give full effect to the Default Portability Rules, including without limitation execution of documentation confirming or agreeing to any terms specified by Transferee Clearing Member pursuant to Rule 904(j).

- (e) In connection with any Transfer of Customer-CM FX Transactions pursuant to the Default Portability Rules, any termination payments owed between Customer and Clearing Member in respect of the relevant Customer-CM FX Transactions (determined in accordance with the Rules and the provisions of the Customer-Clearing Member Agreement), any termination payments owed between Clearing Member and the Clearing House in respect of the related FX Contracts (which in each case shall be determined by the Clearing House pursuant to its default rules), any upfront mark-to-market margin payments owed between Customer and the Transferee Clearing Member with respect to the initiation of the replacement cleared transactions and any upfront FX Mark-to-Market Margin payments owed between such Transferee Clearing Member and the Clearing House with respect to the initiation of replacement FX Contracts shall be equal.
- (f) In the event of an ICE-Declared Default:
  - (i) There will be a minimum period, after issuance by the Clearing House of a Circular including a Default Notice naming a Clearing Member, for Customers and their Transferee Clearing Members to notify the Clearing House of their agreement that Contracts and/or Margin can be Transferred to a Transferee Clearing Member pursuant to the Default Portability Rules ("**Porting Notice**"). For Customers other than Sponsored Principals, a Porting Notice must be received by the Clearing House within 4 hours of the Default Notice being published in order to be assured of being acted upon, subject to the below. For Sponsored Principals, the minimum period for receipt of Porting Notices is specified in Rule 904. Any Porting Notice, in order to be valid, must:
    - (A) be in writing;
    - (B) concern and be duly authorised and executed by a Customer who would not, if it were a Clearing Member, be capable of being declared a Defaulter;
    - (C) concern and be duly authorised and executed by a Transferee Clearing Member who is not a Defaulter;

Exhibit 3 – Customer-CM FX Transactions Standard Terms

- (D) be delivered to the Clearing House electronically in the form and to the address specified by the Clearing House;
- (E) concern positions which have not already been closed out or Transferred; and
- (F) otherwise comply with the requirements of Part 9 of the Rules.

In the case of an Individually Segregated Margin-flow Co-mingled Account, Standard Omnibus Indirect Account, Segregated Gross Indirect Account or Individually Segregated Sponsored Account, a Porting Notice must be in respect of the single Customer interested in the Account in order to be valid. In the case of a Customer Account that is neither an Individually Segregated Margin-flow Co-mingled Account, Standard Omnibus Indirect Account, Segregated Gross Indirect Account nor an Individually Segregated Sponsored Account, the Porting Notice must be in respect of and executed by all Customers interested in the Account in order to be valid.

Subject to Rule 904(c), the Clearing House will act upon Porting Notices received by it within the 4 hour period specified above. The Clearing House may also act upon other Porting Notices received by it after the end of such period, at its discretion. However, Customers and Transferee Clearing Members acknowledge that due to operational constraints and depending on market conditions, it may not be possible for the Clearing House to process all Porting Notices (whether received within the 4 hour period or thereafter) within a reasonable period of time. Porting Notices received within the initial 4 hour period will be prioritised over any other notice. The Clearing House may select Porting Notices to be dealt with in such order as it sees fit, based on such criteria as it determines are relevant, including completeness and due execution of Default Notices, legibility, time of receipt, size of positions, lawfulness of porting, Customer jurisdiction of incorporation or place of business, whether risk increasing or risk decreasing and satisfaction of the requirements of Part 9 of the Rules. The Clearing House will not be obliged to comply with any Porting Notice which has not been acted upon by it:

- (A) if the Default Notice was issued before 13:00 hrs on a Business Day prior to the close of business on the same Business Day;
- (B) if the Default Notice was issued on a day which is not a Business Day prior to close of business on the next following Business Day; or
- (C) if the Default Notice is issued after 13:00 hrs on a Business Day prior to noon of the next following Business Day.

At the end of this period, the Clearing House may, at its sole discretion, terminate any open Contracts and related assets of the Defaulter or undertake other Transfers under consents provided for in the Rules and these Standard Terms. The deadlines for the delivery of prioritised Porting Notices or for the Clearing House to act upon any Porting Notices may be extended at the Clearing House's discretion by Circular.

**Exhibit 3 – Customer-CM FX Transactions Standard Terms**

If, as of the end of the period for acting upon Default Notices, any Customer-CM FX Transactions have not been Transferred pursuant to the Default Portability Rules, such Customer-CM FX Transactions shall be deemed terminated, and in such case an early termination date (or similar concept) in respect of the Customer-CM FX Transactions shall occur under the Customer-Clearing Member Agreement, on the applicable date on which the Clearing House terminates the related FX Contracts pursuant to Part 9 of the Rules.

- (ii) Notwithstanding anything to the contrary in the Customer-Clearing Member Agreement or any other agreement or arrangement between Clearing Member and Customer, the amount payable pursuant to the Customer-Clearing Member Agreement in respect of the termination of the Customer-CM FX Transactions shall be determined on the basis of the termination value calculated by the Clearing House for the corresponding FX Contracts pursuant to Part 9 of the Rules but subject always, in the case of amounts due from Clearing Member, to Section 8(c) below. Customer hereby agrees and acknowledges that any determination made by the Clearing House with respect to the termination value of a FX Contract or a Customer-CM FX Transaction shall be conclusive and binding upon Customer for this purpose to the same extent that any 'net sum' declared by the Clearing House is conclusive and binding on Clearing Member. The obligation of a Clearing Member to a Customer under a Customer-CM FX Transaction shall be discharged to the extent that the Clearing House makes payment of any net sum or any part thereof direct to the Customer.
- (iii) Customer acknowledges and agrees that the allocation and, subject to Applicable Law, return of available amounts in the relevant Customer Margin Account shall be governed by Part 9 of the Rules, which may reduce or defer Clearing Member's obligations to Customer.
- (g) For the avoidance of doubt, nothing in these FX Standard Terms shall prevent other amounts being due and payable between Clearing Member and Customer as provided for in the Customer-Clearing Member Agreement.

**7. Consents to Disclosure.**

Customer hereby consents to:

- (i) the Clearing House having the right to obtain information in relation to the Customer-CM FX Transactions from any FX Trade Execution/Processing Platform or Repository so as to enable the Clearing House to identify which FX Contracts and Margin or Permitted Cover between the Clearing House and Clearing Member relate to such Customer-CM FX Transactions;
- (ii) Clearing Member making any disclosures in connection with Customer and Customer-CM FX Transactions as are required by the Rules and/or Procedures or as are required by Applicable Law;



*Exhibit 3 – Customer-CM FX Transactions Standard Terms*

- (iii) disclosures to, use by and disclosures by the Clearing House of information relating to Customer (including ~~the Personal Data of its Data Subjects~~) pursuant to Rule 105(c); and
- (iv) submissions of and other actions relating to data concerning Customer-CM FX Transactions by the Clearing House pursuant to Section 12, the Rules and the Procedures.

**8. *Certain Limitations.***

- (a) Customer agrees and acknowledges for the benefit of the Clearing House and Clearing Member that: (i) the liability of the Clearing House to Customer shall be excluded and limited as set forth in Rule 111 and specifically that the Clearing House shall have no liability or obligation to Customer in respect of a Customer-CM FX Transaction or otherwise nor shall it have any duty of care directly to Customer, in any case whether in tort, contract, restitution, in respect of any Contract, pursuant to the Rules, pursuant to a Clearing Membership Agreement, pursuant to these FX Standard Terms or otherwise, save for any liability which by law may not be excluded, (ii) in no event shall Customer attempt to interfere with the ability of the Clearing House to exercise its rights hereunder or as set forth in the Rules, the Procedures or any Clearing Membership Agreement, and (iii) it is not entitled to, and will not, petition a court or take any action or commence any proceedings against the Clearing House, directly or indirectly and will if any such action is taken fully indemnify the Clearing House against any costs, losses or other consequences of Customer taking any such action. Customer agrees that Clearing Member acts as principal at all times in all its Contracts with the Clearing House.
- (b) The Clearing House shall have no responsibility for the compliance by Clearing Member or Customer with its obligations under a Customer-Clearing Member Agreement. The Clearing House shall be under no obligation to enquire into, and shall be fully protected in relying on, any instructions or directions with respect to a Customer Account or the assets recorded therein or transferred thereto or therefrom under the Rules received from a Person that the Clearing House believes to be authorised to act on behalf of Clearing Member.
- (c) Customer agrees and acknowledges that the performance and payment obligations of Clearing Member to Customer are limited by and contingent on the actual performance or payment by the Clearing House under the related FX Contract and that Clearing Member shall have no responsibility for the compliance by the Clearing House (or any person other than that Clearing Member) with its obligations, including without limitation, under any FX Contract, the Rules or the Procedures. In the event that the Clearing House defaults in or defers or varies the payment or performance of any obligation otherwise owed by it in respect of an FX Contract corresponding to a Customer-CM FX Transaction (including, without limitation, any shortfall in repayment of Permitted Cover or any recovery of less than 100% of amounts owed by the Clearing House or property provided to the Clearing House in circumstances in which Rule 912 applies), Clearing Member will be entitled to make a corresponding deduction, withholding or other reduction from, or tolling or deferring of, any payment

**Exhibit 3 – Customer-CM FX Transactions Standard Terms**

or performance otherwise owed by it under such corresponding Customer-CM FX Transactions and/or to make its performance under such Customer-CM FX Transactions conditional on performance by the Clearing House under the related FX Contract (and where any such deduction may be attributable to both Customer-CM FX Transactions and to Customer Account Contracts of other Customers, Clearing Member shall allocate such deduction among such contracts on a *pro rata* basis) provided that if such defaulted or delayed payment or performance is subsequently obtained by Clearing Member from the Clearing House (in whole or in part), Clearing Member shall thereupon make the corresponding payment or performance (or portion thereof) to Customer.

**9. *Certain Tax Matters.***

Subject always, and without prejudice, to any provisions of a Customer-Clearing Member Agreement: (i) if Clearing Member is required to pay to Clearing House any additional amount under Rule 301(j) or the Contract Terms with respect to an FX Contract corresponding to a Customer-CM FX Transaction, Customer shall be obliged to pay to Clearing Member an amount equal to such additional amount (or the applicable portion thereof), but without duplication of any additional amount payable by Customer under any relevant provision of the Customer-Clearing Member Agreement, (ii) for the avoidance of doubt, and without prejudice to the above, if Clearing House deducts or withholds any amount otherwise payable to Clearing Member on an FX Contract pursuant to Rule 301 or the Contract Terms, Clearing Member shall be entitled to make a corresponding deduction from any amount otherwise payable by Clearing Member to Customer under a corresponding Customer-CM FX Transaction, and (iii) where such additional amount or deduction may be attributable to both Customer-CM FX Transactions and to Customer-CM FX Transactions of other customers, Clearing Member shall allocate such additional amount or deduction among such contracts on a *pro rata* basis.

**10. *Reliance on FX Trade Particulars and submissions to Repositories etc.***

The Clearing House shall be entitled to assume, without enquiry, that (i) at each Acceptance Time at which a Customer-CM FX Transaction arises, the respective obligations of Clearing Member and Customer under such Customer-CM FX Transaction constitutes its legal, valid and binding obligations enforceable in accordance with their respective terms, subject to applicable Insolvency laws or similar Applicable Laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles in general application (regardless of whether enforcement is sought in a proceeding in equity or at law); (ii) where Customer or Clearing Member are acting out of an office in the United States of America, each of Clearing Member and Customer represents to the other and to the Clearing House that it is an "eligible contract participant" as defined in the US Commodity Exchange Act, as amended and (iii) that the Clearing House is duly authorised by Clearing Member and Customer to submit, in accordance with the Rules and the Procedures, details of any FX Trade Particulars or Customer-CM FX Transaction to a Repository and to amend or delete such records from time to time in accordance with the Rules and the Procedures, in each case subject to Applicable Law. For the avoidance of doubt, Clearing Member shall not take any actions in any Repository of a nature specified in this Section and neither the Clearing House nor Clearing Member will be liable to Customer for any action or omission

[Exhibit 3 – Customer-CM FX Transactions Standard Terms](#)

of the Clearing House as a result of having made such submissions. The sole remedy of Customer in the case of any error shall be to request that Clearing Member request the Clearing House to amend or correct any error pursuant to the Rules or Procedures.

11. ***Third Party Rights.***

The Clearing House shall be entitled to rely upon and enjoy the benefit of the representations, warranties, agreements, obligations and covenants of the Customer under these FX Standard Terms and shall have the right to enforce such representations, warranties, agreements, obligations and covenants against the parties under the Contracts (Rights of Third Parties) Act 1999. Other than as set out in this Section 11, no persons other than Clearing Member and Customer shall have the right to enforce any provision of these FX Standard Terms under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

12. ***Miscellaneous.***

- (a) ***Entire Agreement.*** These FX Standard Terms (together with the Customer-Clearing Member Agreement and the Rules and the Procedures incorporated by reference herein) constitutes the entire agreement and understanding of Customer and Clearing Member with respect to its subject matter and supersedes all oral communication and prior writings (except as otherwise provided herein) with respect thereto.
- (b) ***Headings.*** The headings used in these FX Standard Terms are for convenience of reference only and are not to affect the construction of or to be taken into consideration in interpreting these FX Standard Terms.
- (c) ***Governing Law.*** Any contractual or non-contractual disputes arising out of or in connection with the Customer-Clearing Member Agreement are governed by and shall be construed in accordance with the law specified in the Customer-Clearing Member Agreement and subject to the non-exclusive jurisdiction of the courts specified in the Cleared Transactions Master Agreement provided that: (i) Sections 6(d) and 11 of these FX Standard Terms shall be governed by and shall be construed in accordance with the laws of England and Wales and are subject to arbitration under Rule 117 as if such provisions of these FX Standard Terms were Rules and the parties were bound thereby as if they were both Clearing Members, notwithstanding any choice of law or jurisdiction in the Cleared Transactions Master Agreement; and (ii) each provision of the Rules and the Procedures incorporated by reference herein or in the Customer-Clearing Member Agreement shall be governed by and construed in accordance with the laws of England and Wales, as set forth in the relevant governing law provision of such document (it being understood that no Pledged Collateral Matters are of relevance to Non-FCM/BD Clearing Members). Clearing Member and Customer hereby waive any right to object to any such proceedings on the basis of *forum non conveniens* or otherwise.
- (d) ***Intellectual Property.*** Customer agrees to the representation, warranty and undertaking specified in Rule 406(g).

*Exhibit 3 – Customer-CM FX Transactions Standard Terms*

13. ***Modifications where Clearing Member is a Sponsor and Customer is a Sponsored Principal.***
- (a) This Section 13 shall apply only in respect of an Individually Segregated Sponsored Account, notwithstanding any other provisions of these FX Standard Terms to the contrary.
- (b) The Sponsored Principal and Sponsor agree that, save in the circumstances contemplated by these FX Standard Terms and as provided for in any Customer-Clearing Member Agreement or other agreement between Sponsored Principal and Sponsor, each Customer-CM FX Transaction is intended to reflect exactly the obligations of the Clearing Member in respect of the related FX Contract in the manner set forth in Part 19 of the Rules. Any reference to an FX Contract or Customer-CM FX Transaction or the relationship between a Sponsored Principal and Sponsor shall be construed in accordance with recitals 4 to 8, Part 19 of the Rules, the Sponsored Principal Clearing Agreement and the Sponsor Agreement.
- (c) The following provisions of these FX Standard Terms shall be modified as set out below in connection with an Individually Segregated Sponsored Account:
- (i) Section 4(a) shall not apply if the Nominated Bank Account used for the Individually Segregated Sponsored Account is an account of the Sponsored Principal;
- (ii) the second sentence of Section 4(b) shall not apply; and the rights of the Sponsored Principal to the assets recorded in the Individually Segregated Sponsored Account shall be as set out in the Rules;
- (iii) Sections 6(b)-(e) shall be construed as being modified to the extent that the Default Portability Rules and default rules are modified for Sponsors and Sponsored Principals pursuant to Rule 904 and in particular for purposes of paragraph 6(b)(iii) the Clearing House shall in addition be entitled to accept the appointment of a new Sponsor pursuant to Rule 904; and
- (iv) Sections 8(a)(i) and (iii) and the provisions of the Rules shall instead apply to determine the liability of the Clearing House to the Sponsored Principal.
- (d) The Sponsored Principal shall be deemed to represent and warrant to the Sponsor, upon their first date of its holding such status and on each subsequent date that it is a Sponsored Principal with such Sponsor, that it meets all of the criteria set out in Rule 1901(b) and (d) and is in compliance with all of its obligations under these Rules.
- (e) Any asset received by the Sponsor from the Clearing House in respect of an Individually Segregated Sponsored Account shall be treated by the Sponsor and Sponsored Principal as if it had been received by the Sponsor from the Sponsored Principal as collateral (or cover for collateral) pursuant to the Cleared Transactions Master Agreement and these FX Standard Terms.

**EXHIBIT 4**  
**ICE CLEAR EUROPE LIMITED**  
**SETTLEMENT AND NOTICES TERMS**

1. APPLICATION AND INTERPRETATION

These settlement and notices terms (the "**Settlement and Notices Terms**") apply to all Customer-CM CDS Transactions and to the clearing arrangements between an FCM/BD CDS Clearing Member and its FCM/BD Customers and, in each case, to the related CDS Contracts (the term "**CDS Contract**", as used in these Settlement and Notices Terms, being restricted to CDS Contracts in a CDS Chain, as described below). Notwithstanding the previous sentence but without prejudice to the terms of any CDS Contract or Customer-CM CDS Transaction, a Clearing Member and its Customer may agree in their clearing arrangements or otherwise to vary or override the terms of these Settlement and Notices Terms as between themselves only, in respect of the Customer-CM CDS Transaction between them or, in the case of an FCM/BD Customers, the clearing arrangements between them, provided that this shall not result in any amendment to the terms, or required performance under, any Customer-CM CDS Transaction to which such parties are not both a party or to any CDS Contract. These Settlement and Notices Terms apply equally to Sponsors and Sponsored Principals, respectively, as they apply to FCM/BD CDS Clearing Members and FCM/BD Customers, respectively.

These Settlement and Notices Terms are published by the Clearing House as an exhibit to the Rules. They are incorporated into the Contract Terms of CDS Contracts under Rule 1502 and are part of the terms of Customer-CM CDS Transactions pursuant to the CDS Standard Terms (and, in relation to FCM/BD CDS Clearing Members and Sponsors, are incorporated by reference into the clearing agreements between FCM/BD CDS Clearing Members or Sponsors and their Customers or Sponsored Principals, respectively). These Settlement and Notices Terms shall be governed by and construed in accordance with the law governing the CDS Contract, Customer-CM CDS Transaction or clearing arrangement into which they are incorporated and shall be subject to such dispute resolution mechanisms and procedures and such courts or other forum for hearing disputes as are applicable in respect of such CDS Contract, Customer-CM CDS Transaction and/or clearing arrangement, in each case of which they form part, as applicable. Each Clearing Member, Sponsor, Customer and Sponsored Principal to which these Settlement and Notices Terms apply hereby waives any right to object to any such choice of law or proceedings on the basis of *forum non conveniens*, that the governing law or forum is not specified on the face of this document or otherwise.

These Settlement and Notices Terms are intended to apply in their present form pending broader industry discussion of other possible solutions, possibly in connection with technological progress, and may be amended as any further technological or industry developments take place. Any amendments, modifications, restatements or supplements in respect of these Settlement and Notices Terms shall be effective if made by the Clearing House pursuant to the provisions of Rule 109 as if these Settlement and Notices Terms were Rules and as if Rule 109 applied to Customers of CDS Clearing Members and Sponsored Principals in addition to, and in the same way as it applies to, Clearing Members and Sponsors. At the request of a CDS Clearing Member, a Sponsor or the Clearing House, a Customer of that CDS Clearing Member or Sponsored Principal in relation to

## **Exhibit 4 – Settlement and Notices Terms**

that Sponsor will enter into a written confirmation of its agreement to the terms of these Settlement and Notices Terms or any amendment, modification, supplement or restatement made to them.

In the event of any inconsistency between any provision of the Rules, CDS Procedures or CDS Standard Terms and any provision of these Settlement and Notices Terms, Rule 102(f) shall apply to determine which provision prevails.

Capitalised terms used, but not defined, in these Settlement and Notices Terms shall have the meanings given to them in the Rules, CDS Procedures, and Standard Terms (together, the "**ICE Documentation**") as applicable, and in the order of priority specified in Rule 102(f) in the event and to the extent of any conflict.

These Settlement and Notices Terms are intended to establish the processes for dealing with certain aspects of Physical Notices. "**Physical Notices**" mean those notices that may be delivered in connection with the terms of CDS Contracts and, where applicable, Customer-CM CDS Transactions (other than Electronic Notices and other equivalent electronic notices under Customer-CM CDS Transactions which are or are required pursuant to the Rules or CDS Procedures to be given through Deriv/SERV) but excluding any notices that may be delivered solely pursuant to the bilateral clearing arrangements existing between any Clearing Member and its Customer or between any Sponsor and its Sponsored Principal and excluding also notices arising under the Rules that are not specific to the terms of a CDS Contract or Customer-CM CDS Transaction.

For the avoidance of doubt, nothing herein is intended to or shall create any additional obligations or liability for Clearing Members or Sponsors to their Customers or Sponsored Principals, respectively, for the performance of the Clearing House, which is limited pursuant to the Standard Terms or the clearing arrangements between a Clearing Member or Sponsor and its Customer or Sponsored Principal.

References to "**Sections**" herein are to sections of these Settlement and Notices Terms, unless specified otherwise.

These Settlement and Notices Terms are intended to amend and supplement the contractual relationships created pursuant to the documentation referred to herein; they are not intended to create new contractual relationships between parties which would not otherwise exist.

## **2. THE SETTLEMENT AND NOTICES TERMS**

### **2.1 Provisions Applicable to all Physical Notices**

- (a) These Settlement and Notice Terms apply where there is a chain of transactions (each a "**CDS Chain**") for which:
  - (i) a Clearing Member ("**Clearing Member A**") is the protection buyer under a CDS Contract with the Clearing House;



**Exhibit 4 – Settlement and Notices Terms**

- (ii) Clearing Member A may have entered into a related Customer-CM CDS Transaction with, or if it is an FCM/BD CDS Clearing Member may be party to the CDS Contract on behalf of, its Customer ("**Customer A**");
- (iii) a Matched Pair has been created pursuant to which Clearing Member A is a Matched CDS Buyer with Clearing Member B (defined below) in respect of the CDS Contract referred to in (i) above;
- (iv) a Clearing Member ("**Clearing Member B**") is the protection seller under a CDS Contract with the Clearing House and is the Matched CDS Seller in respect of such CDS Contract in the Matched Pair with Clearing Member A referred in (iii) above; and
- (v) Clearing Member B may have entered into a related Customer-CM CDS Transaction with, or if it is an FCM/BD CDS Clearing Member may be party to the CDS Contract on behalf of, its Customer ("**Customer B**"),

but will not apply to a CDS Chain in which there is neither a Customer A nor a Customer B. Accordingly a CDS Chain may involve:

- (A) Customer A, Clearing Member A, the Clearing House, Clearing Member B and Customer B;
- (B) Customer A, Clearing Member A, the Clearing House and Clearing Member B; or
- (C) Clearing Member A, the Clearing House, Clearing Member B and Customer B.

**Non FCM/BD CDS Clearing Members and their Customers**

- (b) A Physical Notice from a Customer to its Non-FCM/BD CDS Clearing Member will only be deemed to be effective for purposes of a Customer-CM CDS Transaction if and when a Physical Notice of an equivalent type has been delivered by such Non-FCM/BD CDS Clearing Member pursuant to and in accordance with the related CDS Contract and is effective pursuant to the terms of such CDS Contract (which may, for the avoidance of doubt, be by delivery to the other Clearing Member in a Matched Pair as designee for the Clearing House in accordance with the ICE Documentation).
- (c) If a Physical Notice is delivered by a Non-FCM/BD CDS Clearing Member to the Clearing House (which may, for the avoidance of doubt, be by delivery to the other Clearing Member in a Matched Pair as designee for the Clearing House in accordance with the ICE Documentation) under a CDS Contract, the Non-FCM/BD CDS Clearing Member's Customer, if any, will be deemed to have delivered at the same time to such Non-FCM/BD CDS Clearing Member, pursuant to and in accordance with the related Customer-CM CDS Transaction, a Physical

**Exhibit 4 – Settlement and Notices Terms**

Notice of an equivalent type and with identical content and effect to that delivered by such Non FCM/BD CDS Clearing Member under such CDS Contract.

- (d) An effective Physical Notice that has been delivered to a Non-FCM/BD CDS Clearing Member by the Clearing House (which may, for the avoidance of doubt, be by delivery by the other Clearing Member in a Matched Pair on behalf of the Clearing House in accordance with the ICE Documentation) pursuant to a CDS Contract shall, subject to the terms of the clearing arrangement between such Clearing Member and its Customer, be deemed to constitute the effective delivery at the same time of a Physical Notice of an equivalent type and with identical content and effect by such Clearing Member to its Customer, if any, under the related Customer-CM CDS Transaction, regardless of whether or when the Customer actually receives such or a corresponding Physical Notice from such Clearing Member under the Customer-CM CDS Transaction.
- (e) Each Non-FCM/BD CDS Clearing Member agrees for the benefit of each of its Customers that, if such Customer delivers any Physical Notice which it is permitted to deliver under a Customer-CM CDS Transaction and which would, in the absence of Section 2.1(b) of these Settlement and Notices Terms, be effective pursuant to such Customer-CM CDS Transaction and any clearing arrangements between them, the Non-FCM/BD CDS Clearing Member will, subject to the terms of the related CDS Contract and the ICE Documentation, deliver a corresponding Physical Notice under the relevant CDS Contract no later than two (2) hours after effective receipt by such Non-FCM/BD CDS Clearing Member of such Physical Notice from such Customer.
- (f) Each Non-FCM/BD CDS Clearing Member agrees for the benefit of each of its Customers that, if it (i) receives a Physical Notice pursuant to a CDS Contract or (ii) gives a Physical Notice that is effective pursuant to the terms of a CDS Contract, it will, subject to the terms of the CDS Contract, the ICE Documentation, the clearing arrangements between them, and the terms of any related Customer-CM CDS Transaction, deliver a copy of such Physical Notice to Customer no later than two (2) hours after effective receipt or delivery by it of such notice.

**FCM/BD CDS Clearing Members and their Customers**

- (g) Each FCM/BD CDS Clearing Member agrees for the benefit of each of its Customers that, if such Customer delivers any request or instruction to such FCM/BD CDS Clearing Member to deliver a Physical Notice under a CDS Contract (that such FCM/BD CDS Clearing Member is permitted to deliver) and where such request or instruction is effective pursuant to both (i) the clearing arrangements between them and (ii) these Settlement and Notice Terms, the FCM/BD CDS Clearing Member will, subject to the terms of the relevant CDS Contract and the ICE Documentation, deliver such Physical Notice under the relevant CDS Contract no later than two (2) hours after effective receipt by the FCM/BD CDS Clearing Member of such request or instruction.

**Exhibit 4 – Settlement and Notices Terms**

- (h) An effective Physical Notice that has been delivered to an FCM/BD CDS Clearing Member by the Clearing House (which may, for the avoidance of doubt, be by delivery by the other Clearing Member in a Matched Pair on behalf of the Clearing House in accordance with the ICE Documentation) pursuant to a CDS Contract shall, subject to the terms of the clearing arrangement between such FCM/BD CDS Clearing Member and its Customer, be deemed to have been copied to and bind its Customer, if any, at the same time, regardless of if or when the Customer actually receives such Physical Notice or copy of such Physical Notice or any corresponding notice from such FCM/BD CDS Clearing Member or any other Person.
- (i) Each FCM/BD CDS Clearing Member agrees for the benefit of each of its Customers that, if it (i) receives a Physical Notice pursuant to a CDS Contract or (ii) gives a Physical Notice that is effective pursuant to the terms of a CDS Contract, it will, subject to the terms of the CDS Contract, the ICE Documentation and the clearing arrangements between them, deliver a copy of such Physical Notice to Customer no later than two (2) hours after effective receipt or delivery by it of such notice.

**2.2 Credit Event Notices and Notices to Exercise Movement Option**

No Customer may deliver any Restructuring Credit Event Notice or Notice to Exercise Movement Option or an instruction to deliver the same other than pursuant to the Electronic Notice Process.

**2.3 Notices**

- (a) For the purposes of determining, as between each Clearing Member and its Customer only, (A) when notices, requests or instructions delivered by a Customer to a Clearing Member pursuant to their clearing arrangements and, if applicable a Customer-CM CDS Transaction are treated as received or given; and (B) when notices received or given by a Clearing Member must be copied by a Clearing Member to its Customer, in each case pursuant to Section 2.1 of these Settlement and Notices Terms, the following shall apply:
  - (i) (A) a notice, request or instruction received from a Customer or (B) a notice given by the Clearing Member pursuant to a CDS Contract, in each case on or after 9:00 am and on or prior to 4:00 pm (in each case Calculation Agent City time) on a Calculation Agent City Business Day will be effective at the time received (as referred to in (A)) or given (as referred to in (B));
  - (ii) (A) a notice, request or instruction received from a Customer or (B) a notice given by the Clearing Member pursuant to a CDS Contract, in each case prior to 9:00 am (in each case Calculation Agent City time) on a Calculation Agent City Business Day will be effective at 9:00 am Calculation Agent City time on such Calculation Agent City Business Day; and
  - (iii) (A) a notice, request or instruction received from a Customer or (B) a notice given by the Clearing Member pursuant to a CDS Contract, in each case on

**Exhibit 4 – Settlement and Notices Terms**

a day that is not a Calculation Agent City Business Day or after 4:00 pm (Calculation Agent City time) on a day that is a Calculation Agent City Business Day, will be effective at 9:00 am Calculation Agent City time on the next following Calculation Agent City Business Day.

A deemed notice, request or instruction under a Customer-CM CDS Transaction will be deemed to be given at the same times as the notice, request or instruction is treated as given or received under the related CDS Contract pursuant to this Section 2.3(a).

Terms used but not defined in this Section 2.3(a) shall have the meanings given to them in the relevant CDS Contract.

- (b) Any notice required to be delivered pursuant to these Settlement and Notices Terms shall be delivered in accordance with the terms of the relevant CDS Contract or, if applicable, Customer-CM CDS Transaction, the ICE Documentation and the clearing arrangements applicable between a Clearing Member and its Customer. Subject to paragraph 6.2 and paragraph 6.3 of the CDS Procedures and these Settlement and Notices Terms, section 1.10 (*Requirements Regarding Notices*) of the 2003 Credit Derivatives Definitions or section 1.38 of the 2014 Credit Derivatives Definitions, as applicable, will apply to all such notices.

#### 2.4 Delivery of Deliverable Obligations

- (a) Customer A, Clearing Member A, Clearing Member B and Customer B may, if they wish and subject to Applicable Law, in any instance where Physical Settlement applies, arrange among themselves for delivery versus payment as between any two of them in satisfaction of the obligations of the relevant parties in the CDS Chain agreeing to such arrangement (including the Clearing House where the obligations of the two Clearing Members to each other are so satisfied). In any instance in which a Customer makes or receives delivery or payment on behalf of its Clearing Member pursuant to such arrangements, the Customer will be treated as a Representative and designee of the Clearing Member.
- (b) To the extent that no arrangement of a nature referred to in Section 2.4(a) is established, the remaining provisions of this Section 2.4 shall apply in connection with Physical Settlement of CDS Contracts and Customer-CM CDS Transactions, if any.
- (c) Delivery of Deliverable Obligations by Customer A, if any, under a Customer-CM CDS Transaction will only be deemed to have been effectively made if and when Clearing Member A has Delivered under the related CDS Contract Deliverable Obligations, having an outstanding principal balance (or, if applicable, a Due and Payable Amount) equal to that Delivered to it by Customer A, which may for the avoidance of doubt, be by way of Delivery to Clearing Member B as designee for the Clearing House in accordance with the ICE Documentation. Consequently, no payment is due from Clearing Member A to Customer A upon delivery by Customer A of such Deliverable Obligations to Clearing Member A until the corresponding

**Exhibit 4 – Settlement and Notices Terms**

Physical Settlement Amount or Cash Settlement Amount is paid to Customer A pursuant to the CDS Contract.

- (d) Each Clearing Member covenants separately for the benefit of each of its Customers A that if it is acting as Clearing Member A and receives Delivery of a Deliverable Obligation from its Customer for purposes of settlement under a CDS Contract or Customer-CM CDS Transaction, it will, in accordance with the relevant CDS Contract, the ICE Documentation and the clearing arrangements between such Clearing Member and its Customer, Deliver Deliverable Obligations (which, for the avoidance of doubt need not correspond to those Delivered to it by the Customer) no later than the first Business Day following the day on which a trade in the relevant Deliverable Obligations would, if effected on the day of receipt by such Clearing Member A of such Deliverable Obligations from Customer A, be settled in accordance with customary practice. On each occasion on which a Customer of an FCM/BD CDS Clearing Member Delivers Deliverable Obligations to its FCM/BD CDS Clearing Member, such Customer will be deemed to make the representations in section 9.2 of the 2003 Credit Derivatives Definitions or section 11.2 of the 2014 Credit Derivatives Definitions, as applicable, as if it were party as Buyer to a Customer-CM CDS Transaction with such FCM/BD CDS Clearing Member.
- (e) For the purposes of sections 9.3, 9.4, 9.5, 9.6, 9.9 and 9.10 of the 2003 Credit Derivatives Definitions and sections 9.1, 9.2, 9.3, 9.4, 9.7 and 9.8 of the 2014 Credit Derivatives Definitions but subject to any other provision of these Settlement and Notices Terms, the ICE Documentation and the clearing arrangements between a Clearing Member and its Customer which provides for an alternative means of settlement (or no settlement), when Clearing Member B receives Delivery of Deliverable Obligations pursuant to a CDS Contract where Clearing Member B is party to a related Customer-CM CDS Transaction with Customer B, Delivery of Deliverable Obligations with an outstanding principal balance (or, if applicable, a Due and Payable Amount) equal to that Delivered to Clearing Member B pursuant to such CDS Contract will be deemed to have been made by Clearing Member B to Customer B, whether or not Customer B actually receives Delivery from Clearing Member B.
- (f) Each Clearing Member covenants separately for the benefit of each of its Customers B that if it is acting as Clearing Member B and receives Deliverable Obligations pursuant to the terms of a CDS Contract where the Clearing Member is party to a related Customer-CM CDS Transaction with Customer B, it will, in accordance with the Standard Terms, the terms of such Customer-CM CDS Transaction, and the clearing arrangements between Clearing Member B and Customer B, Deliver Deliverable Obligations with an outstanding principal balance (or, if applicable, a Due and Payable Amount) equal to that Delivered to Clearing Member B under the relevant CDS Contract on or prior to the first Business Day following the date on which a trade in the relevant Deliverable Obligations would, if effected on the day of receipt by such Clearing Member B of such Deliverable Obligations, settle in accordance with customary practice. For the purposes of this covenant only, Section 2.4(e) shall be deemed not to apply.

**Exhibit 4 – Settlement and Notices Terms**

- (g) For the avoidance of doubt, if Customer A has delivered Deliverable Obligations to Clearing Member A but the relevant CDS Contract to which Clearing Member A is party is not physically settled for any reason, Clearing Member A shall return Obligations equivalent to the Deliverable Obligations to Customer A as soon as reasonably practicable.

**2.5 Fallback to Cash Settlement**

- (a) In respect of any CDS Chain where there is a Customer A, if fallback to Cash Settlement applies under the Customer-CM CDS Transaction between Clearing Member A and Customer A (or, where Clearing Member A is an FCM/BD CDS Clearing Member, the relevant CDS Contract would fall back to Cash Settlement if Customer A were alone party to such CDS Contract as protection buyer), then all CDS Contracts and any Customer-CM CDS Transactions in such CDS Chain shall be subject to a fallback to Cash Settlement in accordance with either Rule 1513 or Article 9 of the Applicable Credit Derivatives Definitions, depending on the reason for the fallback to Cash Settlement.
- (b) If fallback to Cash Settlement applies under a CDS Contract in a CDS Chain then all CDS Contracts and any Customer-CM CDS Transactions in such CDS Chain shall be subject to a fallback to Cash Settlement in accordance with either Rule 1513 or Article 9 of the Applicable Credit Derivatives Definitions, depending on the reason for the fallback to Cash Settlement.
- (c) If fallback to Cash Settlement applies only under a Customer-CM CDS Transaction between Clearing Member B and Customer B in a CDS Chain, then such fallback to Cash Settlement shall apply only to such Customer-CM CDS Transaction in such CDS Chain.
- (d) Without prejudice to the provisions of the ICE Documentation in relation to CDS Contracts, as soon as reasonably practicable on becoming aware that fallback to Cash Settlement applies to any part of a CDS Chain (other than solely a Customer-CM CDS Transaction between Clearing Member B and Customer B): (i) Clearing Member A and Customer A; (ii) Clearing Member A, the Clearing House and Clearing Member B; and (iii) Clearing Member B and Customer B shall notify each other in accordance with the terms of the relevant CDS Contracts and, if applicable, Customer-CM CDS Transactions and/or any clearing arrangements describing in reasonable detail the facts giving rise to the fallback. Sections 2.1 and 2.3 shall apply to such notices.
- (e) Where Section 2.5(a) or (b) applies, Clearing Member A shall determine the Cash Settlement Amount in accordance with the terms of the relevant CDS Contract pursuant to the Rules and section 9.8 (*Partial Cash Settlement Terms*) of the 2003 Credit Derivatives Definitions or section 9.6 of the 2014 Credit Derivatives Definitions, as applicable: (i) as if: (A) Clearing Member A were the Calculation Agent in respect of such CDS Contract; and (B) the Valuation Date were the first, or in the case of a fallback to cash settlement pursuant to Rule 1512 or 1513, its corresponding counterpart in a Customer-CM CDS Transaction or the relationship



**Exhibit 4 – Settlement and Notices Terms**

between and FCM/BD CDS Clearing Member and its Customer, the second Business Day after the date of receipt or delivery by it of the notice referred to in Section 2.5(d)(ii); and (ii) subject to Section 2.5(h). No other party to a CDS Contract or Customer-CM CDS Transaction in the relevant CDS Chain shall determine any separate or different Cash Settlement Amount and the Cash Settlement Amount determined by Clearing Member A (provided that it is determined as set out above) shall apply to all CDS Contracts and Customer-CM CDS Transactions in the CDS Chain and to any related clearing arrangements. Sections 2.1 and 2.3 shall apply to any notices delivered or served in connection with the determination or notification of the Cash Settlement Amount.

- (f) For the purposes of Section 2.5(e):
- (i) section 9.8(k) of the 2003 Credit Derivatives Definitions is amended by inserting the following at the beginning thereof:

"For the purposes hereof, in addition to the requirements of Section 7.10 (*Full Quotation*), each firm Quotation shall:

(A) be for a transaction with the party seeking the Quotation (or its designee) (the "**Relevant Party**") in which the Relevant Party agrees to Deliver the Deliverable Obligations to the Dealer submitting the firm quotation (the "**Quoting Dealer**"), which transaction shall be governed by documentation that is consistent with market practice applicable to the sale and purchase of Deliverable Obligations on the Valuation Date (which may be determined by the Determining Body), including without limitation a representation that the Quoting Dealer has completed all "know your customer" or similar requirements under all Applicable Laws and internal compliance procedures relating to a transaction with the Relevant Party and on the Reference Entity;

(B) be capable of acceptance by the Relevant Party (for such purposes, each firm Quotation must, inter alia, be obtained from a Dealer with whom the Relevant Party in its sole, unfettered and absolute discretion determines that it is able in accordance with all its internal compliance and policy requirements to transact and to Deliver the Deliverable Obligations) and be open for acceptance to the relevant party for at least 30 minutes; and

(C) be obtained on the basis that if the Relevant Party agrees to Deliver the Deliverable Obligations to such Quoting Dealer on the terms set forth herein, such Quoting Dealer agrees to pay the settlement amount (calculated and payable for this purpose in accordance with the relevant market standard documentation and based on the price so quoted) that would be payable for such Deliverable Obligations to the Relevant Party.

provided that:

(D) if Rule 1512 applies: (I) on the same Business Day that the CDS Buyer (as if it were Calculation Agent) has attempted to obtain all Quotations that the Calculation

**Exhibit 4 – Settlement and Notices Terms**

Agent is required to attempt to obtain in accordance with section 9.8(k) of the 2003 Credit Derivatives Definitions, the CDS Buyer shall offer the Clearing House the opportunity to provide a Quotation as if the Clearing House were a Dealer in accordance with section 9.8(k) of the 2003 Credit Derivatives Definitions; and (II) if the Quotation provided by the Clearing House is higher than any Quotation obtained by the CDS Buyer (as if it were Calculation Agent) from the Dealers in accordance with section 9.8(k) of the 2003 Credit Derivatives Definitions (including, for the avoidance of doubt, any Weighted Average Quotation) such Quotation shall be deemed to be the Highest Quotation and the CDS Buyer (as if it were Calculation Agent) shall use such Quotation to determine the Final Price; and

(E) if Rule 1513(a)(ii) applies: (I) on the same Business Day that the Matched CDS Buyer (as if it were Calculation Agent) has attempted to obtain all Quotations that the Calculation Agent is required to attempt to obtain in accordance with section 9.8(k) of the 2003 Credit Derivatives Definitions, the Matched CDS Buyer shall offer the Clearing House the opportunity to provide a Quotation as if the Clearing House were a Dealer in accordance with section 9.8(k) (as amended) of the 2003 Credit Derivatives Definitions; and (II) if the Quotation provided by the Clearing House is higher than any Quotation obtained by the Matched CDS Buyer (as if it were Calculation Agent) from the Dealers in accordance with section 9.8(k) of the 2003 Credit Derivatives Definitions (including, for the avoidance of doubt, any Weighted Average Quotation) such Quotation shall be deemed to be the Highest Quotation and the Matched CDS Buyer (as if it were Calculation Agent) shall use such Quotation to determine the Final Price."; and

(ii) section 9.6(k) of the 2014 Credit Derivatives Definitions is amended by inserting the following at the beginning hereof:

"For the purposes hereof, in addition to the requirements of Section 7.10 (*Full Quotation*), each firm Quotation shall:

(A) be for a transaction with the party seeking the Quotation (or its designee) (the "**Relevant Party**") in which the Relevant Party agrees to Deliver the Deliverable Obligations to the Dealer submitting the firm quotation (the "**Quoting Dealer**"), which transaction shall be governed by documentation that is consistent with market practice applicable to the sale and purchase of Deliverable Obligations on the Valuation Date (which may be determined by the Determining Body), including without limitation a representation that the Quoting Dealer has completed all "know your customer" or similar requirements under all Applicable Laws and internal compliance procedures relating to a transaction with the Relevant Party and on the Reference Entity;

(B) be capable of acceptance by the Relevant Party (for such purposes, each firm Quotation must, inter alia, be obtained from a Dealer with whom the Relevant Party in its sole, unfettered and absolute discretion determines that it is able in accordance with all its internal compliance and policy requirements to transact and to Deliver the

**Exhibit 4 – Settlement and Notices Terms**

Deliverable Obligations) and be open for acceptance to the relevant party for at least 30 minutes; and

(C) be obtained on the basis that if the Relevant Party agrees to Deliver the Deliverable Obligations to such Quoting Dealer on the terms set forth herein, such Quoting Dealer agrees to pay the settlement amount (calculated and payable for this purpose in accordance with the relevant market standard documentation and based on the price so quoted) that would be payable for such Deliverable Obligations to the Relevant Party.

provided that:

(D) if Rule 1512 applies: (I) on the same Business Day that the CDS Buyer (as if it were Calculation Agent) has attempted to obtain all Quotations that the Calculation Agent is required to attempt to obtain in accordance with section 9.6(k) of the 2014 Credit Derivatives Definitions, the CDS Buyer shall offer the Clearing House the opportunity to provide a Quotation as if the Clearing House were a Dealer in accordance with section 9.6(k) of the 2014 Credit Derivatives Definitions; and (II) if the Quotation provided by the Clearing House is higher than any Quotation obtained by the CDS Buyer (as if it were Calculation Agent) from the Dealers in accordance with section 9.6(k) of the 2014 Credit Derivatives Definitions (including, for the avoidance of doubt, any Weighted Average Quotation) such Quotation shall be deemed to be the Highest Quotation and the CDS Buyer (as if it were Calculation Agent) shall use such Quotation to determine the Final Price; and

(E) if Rule 1513(a)(ii) applies: (I) on the same Business Day that the Matched CDS Buyer (as if it were Calculation Agent) has attempted to obtain all Quotations that the Calculation Agent is required to attempt to obtain in accordance with section 9.6(k) of the 2014 Credit Derivatives Definitions, the Matched CDS Buyer shall offer the Clearing House the opportunity to provide a Quotation as if the Clearing House were a Dealer in accordance with section 9.6(k) of the 2014 Credit Derivatives Definitions; and (II) if the Quotation provided by the Clearing House is higher than any Quotation obtained by the Matched CDS Buyer (as if it were Calculation Agent) from the Dealers in accordance with section 9.6(k) of the 2014 Credit Derivatives Definitions (including, for the avoidance of doubt, any Weighted Average Quotation) such Quotation shall be deemed to be the Highest Quotation and the Matched CDS Buyer (as if it were Calculation Agent) shall use such Quotation to determine the Final Price."

- (g) As soon as practicable after determining the Cash Settlement Amount pursuant to Section 2.5(f), Clearing Member A shall deliver a notice pursuant to the relevant CDS Contract, notifying such Cash Settlement Amount. Sections 2.1 and 2.3 will apply to such notice.
- (h) The Cash Settlement Date in respect of each of all CDS Contracts and any Customer-CM CDS Transactions in the relevant CDS Chain in respect of which Clearing Member A has determined the Cash Settlement Amount for the relevant

**Exhibit 4 – Settlement and Notices Terms**

CDS Contract shall be the third Business Day after the date of service of the notice by Clearing Member A pursuant to the relevant CDS Contract under Section 2.5(g).

- 2.6 Additional provisions relating to section 9.9 (*Buy-in of Bonds Not Delivered*) of the 2003 Credit Derivatives Definitions and section 9.7 (*Buy-in of Bonds Not Delivered*) of the 2014 Credit Derivatives Definitions
- (a) No Clearing Member or Customer may deliver (or, in the case of a Customer of an FCM/BD CDS Clearing Member, request or instruct the delivery of) a Buy-In Notice except for a Clearing Member that is acting as Clearing Member B (where there is no Customer B) or a Customer that is acting as Customer B in a CDS Chain. If a Buy-In Notice (or instruction or request to deliver a Buy-in Notice, as applicable), is effectively given in respect of a CDS Contract or a Customer-CM CDS Transaction by Clearing Member B or Customer B (the relevant party being the "**Electing Seller**"), the Electing Seller may exercise the rights of Seller pursuant to and subject to section 9.9 (*Buy-in of Bonds Not Delivered*) of the 2003 Credit Derivatives Definitions and section 9.7 (*Buy-in of Bonds Not Delivered*) of the 2014 Credit Derivatives Definitions, as applicable, under the CDS Contract or Customer-CM CDS Transaction, as applicable, but without prejudice to Sections 2.1 and 2.3.
  - (b) Where a Buy-In Price is determined by the Electing Seller, each other seller of protection in the CDS Chain shall be deemed to have effectively determined the same Buy-In Price for the transactions to which it is a party as seller of protection in the CDS Chain, provided that the Buy-In Price determined by the Electing Seller was determined in accordance with the terms of the relevant CDS Contract or Customer-CM CDS Transaction, as applicable.
- 2.7 Additional provisions applicable to section 9.10 (*Alternative Procedures Relating to Loans not Delivered*) of the 2003 Credit Derivatives Definitions and section 9.8 (*Alternative Procedures Relating to Loans not Delivered*) of the 2014 Credit Derivatives Definitions
- (a) No Customer may deliver (or, in the case of a Customer of an FCM/BD CDS Clearing Member, request or instruct the delivery of) a notice under section 9.10(a) of the 2003 Credit Derivatives Definitions or section 9.8(i) of the 2014 Credit Derivatives Definitions.
  - (b) No Clearing Member or Customer may deliver (or, in the case of a Customer of an FCM/BD CDS Clearing Member, request or instruct the delivery of) a notice under section 9.10(b) of the 2003 Credit Derivatives Definitions or section 9.8(ii) of the 2014 Credit Derivatives Definitions (a "**9.10(b)/9.8(ii) Notice**") except for a Clearing Member that is acting as Clearing Member B. Sections 2.1 and 2.3 hereof shall apply to 9.10(b)/9.8(ii) Notices.
  - (c) If a CDS Contract is subject to settlement in accordance with section 9.10(b) of the 2003 Credit Derivatives Definitions or section 9.8(ii) of the 2014 Credit Derivatives Definitions then, where there is a Customer A in the relevant CDS Chain, the related Customer-CM CDS Transaction between Clearing Member A and

**Exhibit 4 – Settlement and Notices Terms**

Customer A or the rights between Clearing Member A and Customer A where Clearing Member A is an FCM/BD CDS Clearing Member shall be settled as if a fallback to Cash Settlement applied to such transaction or relationship, by reference to the Deliverable Obligations in respect of the CDS Contract.

**(I) CLEARING PROCEDURES****INDEX**

1.	Systems.....	2
2.	Trade Clearing and Position Management.....	4
3.	Financial Accounts.....	10
4.	Margin Procedures.....	13
5.	Options Exercise and Expiry.....	15
6.	Customer Clearing.....	21
7.	Terms Applicable to Position Transfers.....	25



## 1. SYSTEMS

1.1 The Clearing House's primary systems, to which Clearing Members and Sponsored Principals require interfaces, consist of:

- (a) Post-trade administration/clearing and settlement processing: ICE clearing systems including ECS, ~~PTMS, ACT~~ and [\(as defined in the Delivery Procedures\)](#), ICE FEC [\(as defined in the Delivery Procedures\)](#) and Guardian (or any successor system) and UCP (or any successor system) (the "**ICE Post Trade and Clearing Systems**" or the "**ICE Systems**");
- (b) Risk management: the ICE Systems and ICE® Risk Model;
- (c) Banking: ECS;
- (d) Deliveries: ICE in-house system and, for Financials & Softs Contracts, Guardian (or any successor system);
- (e) Billing: ICE in-house system; and
- (f) Reporting and data file downloads: ~~Managed File Transfer Service ("MFT")~~ [\(as defined in the Delivery Procedures\)](#).

1.2 These Clearing Procedures deal primarily with matters relating to post-trade administration, clearing and settlement and risk management. Details relating to finance and deliveries are set out in the Finance Procedures and Delivery Procedures respectively.

1.3 Clearing Members should immediately inform the Clearing House of any event, system-related or otherwise, that would prevent them from operating timely and accurately on the Markets cleared by the Clearing House. Clearing Members must, at all times, ensure that they are able to continuously monitor communication facilities for receipt of communications from the Clearing House.

1.4 Paragraphs 1, 2.1, 2.2, 2.5, 4 and 5 of these Clearing Procedures apply to Sponsored Principals in the same way as they apply to Clearing Members, subject to Part 19 of the Rules. Other paragraphs of these Clearing Procedures are subject to specific provisions in respect of Sponsored Principals and Sponsors and Individually Segregated Sponsored Accounts.

1.5 These Clearing Procedures are "Procedures" as defined in the ICE Clear Europe rules (the "**Rules**") and are subject to the Rules, including, without limitation, Rule 102. Subject to paragraph 1.6 to 1.11 below, these Clearing Procedures, and all non-contractual obligations arising out of or in connection with them, are governed by and shall be construed in accordance with English law and any Dispute under these Clearing Procedures will be subject to arbitration under Rule 117.

1.6 Solely as between an FCM/BD Clearing Member and the Clearing House, paragraphs 3, 4 and 6 of these Clearing Procedures inasmuch as they relate solely to an issue or matter concerning:

- (a) the pledging, transfer, holding, use and segregation of Pledged Collateral provided by an FCM/BD Clearing Member (or other property, excluding for the avoidance of doubt the Contracts themselves recorded in such an Account, recorded in a Customer Account or Proprietary Account that is designated as an account in respect of which Pledged Collateral may be provided by an FCM/BD Clearing Member); and/or
- (b) the application of any net sum owed in favour of the FCM/BD Clearing Member in respect of a Customer Account or Proprietary Account that is designated as an account in respect of which Pledged Collateral may be provided,

and, solely to the extent relevant to interpreting the foregoing provisions in such circumstances, relevant definitions and interpretative provisions in paragraph 1 of these Clearing Procedures (such

provisions, together or separately "**Pledged Collateral Matters**") shall be governed by and construed in accordance with the laws of the State of New York and, as applicable, the federal law of the United States of America.

1.7 For the avoidance of doubt, paragraph 1.6 is an exception to paragraph 1.5 and Rule 102(s) which provide that the Clearing Procedures and Rules respectively shall be governed by and construed in accordance with the laws of England and Wales. For the avoidance of doubt, without limitation and notwithstanding paragraph 1.6, the following are governed by and shall be construed in accordance with the laws of England and Wales in their entirety without any exception and shall in no circumstances constitute a Pledged Collateral Matter:

- (a) all of the provisions of these Clearing Procedures relating to the Designated System;
- (b) any Dispute or issue arising as between a Non-FCM/BD Clearing Member or Sponsored Principal on the one hand and the Clearing House on the other hand;
- (c) any Dispute or issue arising in respect of a Customer Account or Proprietary Account that is not designated as an account in respect of which Pledged Collateral may be provided;
- (d) any matter relating to Pledged Collateral of a Non-FCM/BD Clearing Member or a Sponsored Principal;
- (e) any Pledged Collateral provided by an FCM/BD Clearing Member or Sponsored Principal pursuant to an English law Pledged Collateral Addendum; and
- (f) the Contract Terms of all Contracts.

1.8 Where a dispute between an FCM/BD Clearing Member and the Clearing House relates to one or more Pledged Collateral Matters, notwithstanding the provisions of Rule 117, solely the allegations or claims relating to the Pledged Collateral Matters in such dispute shall be heard and determined exclusively in any New York federal court sitting in the Borough of Manhattan of the City of New York, provided, however, that if such federal court does not have jurisdiction over such allegations or claims, such allegations or claims shall be heard and determined exclusively in any New York state court sitting in the Borough of Manhattan of the City of New York (such Courts, together, "**New York Courts**"). Consistent with the preceding sentence, the Clearing House and each FCM/BD Clearing Member hereby:

- (a) submits to the exclusive jurisdiction of the New York Courts solely in respect of allegations or claims relating to Pledged Collateral Matters; and
- (b) agrees that service of process will be validly effected by sending notice in accordance with Rule 113.

1.9 All allegations or claims other than those over which the New York Courts have exclusive jurisdiction pursuant to paragraph 1.8 shall be finally and exclusively determined by way of arbitration pursuant to Rule 117. It is expressly recognised that for Disputes between an FCM/BD Clearing Member and the Clearing House containing both allegations or claims over which the New York Courts have exclusive jurisdiction pursuant to paragraph 1.8 and other allegations or claims, it may be necessary to have both New York Court proceedings and arbitral proceedings. The submission of a party to the jurisdiction of a New York Court and/or the taking of a step by a party in proceedings before a New York Court, where in any such instance the New York Court has exclusive jurisdiction pursuant to paragraph 1.8 does not amount to a waiver by that party of its right to commence or participate in arbitral proceedings in accordance with Rule 117. The submission of a party to arbitration under Rule 117 or in respect of any Dispute does not amount to a waiver by that party of its right to have allegations or claims in relation to which the New York Courts have exclusive jurisdiction pursuant to paragraph 1.8 heard in the New York Courts.

- 1.10 Nothing in paragraphs 1.5 to 1.11 precludes the Clearing House from bringing an action to enforce a judgment from any New York Court or award of any arbitral tribunal in any court of competent jurisdiction.
- 1.11 EACH CLEARING MEMBER AND THE CLEARING HOUSE HEREBY IRREVOCABLY WAIVES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY DISPUTE ARISING OUT OF, UNDER OR IN CONNECTION WITH THESE CLEARING PROCEDURES OR ANY MATTER CONTEMPLATED BY THEM. EACH CLEARING MEMBER AND THE CLEARING HOUSE HEREBY:
- (a) CERTIFIES THAT NO REPRESENTATIVE OF ANY OTHER PERSON BOUND BY THESE RULES HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF ANY SUCH DISPUTE, SEEK TO ENFORCE THE FOREGOING WAIVER; AND
  - (b) ACKNOWLEDGES THAT IT HAS BEEN INDUCED TO ENTER INTO THESE RULES, ALL CONTRACTS AND ALL OTHER TRANSACTIONS CONTEMPLATED BY THESE RULES, AS APPLICABLE, BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN PARAGRAPHS 1.5 TO 1.11.

## 2. TRADE CLEARING AND POSITION MANAGEMENT

### 2.1 The Clearing Systems

- (a) The components of the ICE Systems are licensed to, and supplied and maintained for the benefit of, the Clearing House. The ICE Systems are integrated trade registration and clearing processing systems used for the clearing of the relevant Market.
- (b) The ICE Systems work together to process transactions from the time of trading and entry into the system, through the maintenance and settlement of Open Contract Positions, the calculation of Margin, and the delivery/expiry of Contracts.

### 2.2 Trade registration and clearing process

- (a) The instant a Contract arises pursuant to Rule 401, the Clearing House becomes the buyer to the Selling Counterparty and the seller to the Buying Counterparty.
- (b) Data in relation to matched trades will automatically pass to the ICE Systems.
- (c) The ICE Systems receive details of trades in real-time from the relevant Market. It allows Clearing Members and their Representatives to perform the following functions, among others:
  - (i) assign trades to one of various sub-accounts (or position-keeping accounts) described below;
  - (ii) allocate trades to other Clearing Members as allowed under Rule 408(a)(ii) and Market Rules or between position keeping accounts;
  - (iii) accept trades allocated or split by other Clearing Members or Sponsored Principals (within one hour of trading) as allowed under Rule 408(a)(ii) and Market Rules;
  - (iv) allocate or split trades between different position keeping accounts;
  - (v) enter position settlement instructions; [and](#)

- ~~(vi) input consolidation crosses in order to consolidate trades at various prices into average prices; and~~
- ~~(vii)~~ (vi) view trading history and status of trades.
- (d) Clearing Members should refer to the ICE Systems user guides for more detailed information concerning the ICE Systems' functionality.
- (e) The ICE Systems will allow Clearing Members and their Representatives to perform the following functions, among others:
  - (i) monitor Open Contract Positions;
  - (ii) close out open Contracts by netting off equal and opposite Contracts in its Customer Accounts;
  - (iii) process physical delivery of Deliverables pursuant to Futures Contracts;
  - (iv) review Margin requirements; and,
  - (v) exercise or abandon Option Contracts.
- (f) A number of reports are available in the ICE Systems, the list and details of which are available in the ICE Systems user guide and other supporting Clearing House documentation.
- (g) In the event of any system errors or other systemic issues connected with the ICE Systems, Clearing Members should contact the Clearing House's operations department.
- (h) In the event of any processing errors or error in communications with the Clearing House, Clearing Members should contact the Clearing House's operations department.

### 2.3 Position keeping

- (a) Position-keeping activities are governed by Market Rules. In the event of any conflict between these Clearing Procedures and Market Rules in relation to position-keeping, Market Rules shall prevail.
- (b) Open Contract Positions can be maintained in several position-keeping accounts within the ICE Systems, identified in the ICE Systems by one letter as follows:
  - 1. Position keeping-accounts linked to a Proprietary Account for purposes of the Rules (all Clearing Members):
    - (i) H – house;
    - (ii) L - individual trader (not available for FCM Clearing Members);
    - (iii) N – gross-maintained sub-account with no automatic contractual netting.
    - (iv) G – gas associate (not available for FCM Clearing Members);
    - (v) U – unallocated (for intra-day usage only);
    - (vi) M – Liquidity Provider (for Financials & Softs Contracts only); and

- (vii) such other sub-accounts as are made available to Clearing Members for Proprietary Accounts by the Clearing House.

2. Additional position-keeping accounts linked to a separate Proprietary Account from that under 2.3(b)(1), only for FCM/BD Clearing Members:

- (viii) F – this or the next position-keeping account shall be used for all positions related to affiliates of FCM/BD Clearing Members, which positions must not be recorded in any of the accounts referred to in 2.3(b)(1); uses a gross margin model; and
- (ix) R – or the previous position-keeping account shall be used for all positions related to affiliates of FCM/BD Clearing Members, which positions must not be recorded in any of the accounts referred to in 2.3(b)(1); uses a net margin model.

3. Position-keeping accounts linked to a Customer Account for FCM/BD Clearing Members:

- (x) S (for F&O) - maps to the Non-DCM/Swap Customer Account or General Customer Account; uses a gross margin model;
- (xi) O (for F&O) – maps to the same Non-DCM/Swap Customer Account or General Customer Account as for S; uses a gross margin model; made available in order to assist in any desire for separate treatment for positions relating to the indirect clients of a Customer of the Clearing Member;
- (xii) E (for F&O) - maps to the Non-DCM/Swap Customer Account or General Customer Account, which if the same kind of Account will be to the same Account as that in S; uses a net margin model, and available for usage only in circumstances where net margin models are permissible under Applicable Laws;
- (xiii) W – maps to DCM Customer Account; uses a gross margin model;
- (xiv) P – maps to the same DCM Customer Account as W; uses a gross margin model; made available in order to assist in any desire for separate treatment for positions relating to the indirect clients of a Customer of the Clearing Member;
- (xv) Z (for CDS) – maps to Swap Customer Account; uses a gross margin model; and
- (xvi) O (for CDS) – maps to the same Swap Customer Account as Z; uses a gross margin model; made available in order to assist in any desire for separate treatment for positions relating to the indirect clients of a Customer of the Clearing Member.

4. Position-keeping-accounts linked to a Customer Account for Non-FCM/BD Clearing Members which are regulated by the Financial Conduct Authority and to whom the client money rules in CASS apply:

- (xvii) S (for F&O) or C (for CDS or FX) – maps to a Segregated Customer Omnibus Account For F&O, Segregated Customer Omnibus Account For CDS or Segregated Customer Omnibus Account For FX which is different and separate from that in E, F or K, uses a gross margin model;
- (xviii) E - maps to a different, separate Segregated Customer Omnibus Account For F&O from that in S, C, F or K, uses a net margin model;
- (xix) F – maps to a different, separate Segregated Customer Omnibus Account For F&O, Segregated Customer Omnibus Account For CDS or Segregated Customer Omnibus Account For FX from that used for S, C, E or K; made available in order to assist in

any desire for separate treatment for Customers that are affiliates; uses a gross margin model;

- (xx) R – maps to a different, separate Segregated Customer Omnibus Account For F&O from that used for S, C, E or F; made available in order to assist in any desire for separate treatment for Customers that are affiliates; uses a net margin model;
- (xxi) T – Segregated TTFCA Customer – maps to Segregated TTFCA Customer Omnibus Account For F&O, Segregated TTFCA Customer Omnibus Account For CDS or Segregated TTFCA Customer Omnibus Account For FX which is different and separate from that in R; uses a gross margin model;
- (xxii) K – maps to a different, separate Segregated TTFCA Customer Omnibus Account For F&O from that used in T; uses a net margin model;
- (xxiii) I – maps to Margin-flow Co-mingled Accounts for Segregated Customers;
- (xxiv) J – maps to Margin-flow Co-mingled Accounts for Segregated TTFCA Customers;
- (xxiv) O – maps to an Standard Omnibus Indirect Account For F&O, Standard Omnibus Indirect Account For CDS or Standard Omnibus Indirect Account For FX; uses a gross margin model;
- (xxv) X – maps to a different Standard Omnibus Indirect Account For F&O or Standard Omnibus Indirect Account For FX from that in O; uses a net margin model;
- (xxvi) P – maps to an Standard TTFCA Omnibus Indirect Account for F&O, Standard TTFCA Omnibus Indirect Account For CDS or Standard TTFCA Omnibus Indirect Account for FX; uses a gross margin model;
- (xxvii) Y – maps to an Standard TTFCA Omnibus Indirect Account For F&O or Standard TTFCA Omnibus Indirect Account For FX; uses a net margin model;
- (xxviii) A – maps to Segregated Gross Indirect Accounts for Segregated Customers; and
- (xxix) B - maps to Segregated Gross Indirect Accounts for Segregated TTFCA Customers.

Circular C08/032 applies only to the Accounts in S / C, E, F, K, I, O, X and A of such Non-FCM/BD Clearing Members.

5. Position-keeping -accounts linked to a Customer Account for a Clearing Member which is neither (i) an FCM/BD Clearing Member nor (ii) a Non-FCM/BD Clearing Members falling under (4.) above:

- (xxx) S (for F&O) or C (for CDS or FX) – maps to a Segregated Customer Omnibus Account For F&O, Segregated TTFCA Customer Omnibus Account For F&O, Segregated Customer Omnibus Account For CDS, Segregated TTFCA Customer Omnibus Account For CDS, Segregated Customer Omnibus Account For FX or Segregated TTFCA Customer Omnibus Account For FX which is different and separate from that in E, F, K, T or R, uses a gross margin model;
- (xxxi) T – as S, but maps to a different, separate Customer Account from that in S, C, E, K, F or R;



- (xxxii) E - maps to a different, separate Segregated Customer Omnibus Account For F&O or Segregated TTFCA Customer Omnibus Account For F&O from that in S, C, T, K, F or R; uses a net margin model;
- (xxxiii) K – as E, but maps to a different, separate Account from that in S, C, T, E, F or R;
- (xxxiv) F – maps to a different, separate Segregated Customer Omnibus Account For F&O, Segregated TTFCA Customer Omnibus Account For F&O, Segregated Customer Omnibus Account For CDS, Segregated TTFCA Customer Omnibus Account For CDS, Segregated Customer Omnibus Account For FX or Segregated TTFCA Customer Omnibus Account For FX from that in S, C, T, E, K or R; made available in order to assist in any desire for separate treatment for Customers that are affiliates; uses a gross margin model;
- (xxxv) R – maps to a different, separate Segregated Customer Omnibus Account For F&O or Segregated TTFCA Customer Omnibus Account For F&O from that in S, C, E, F, T or K; made available in order to assist in any desire for separate treatment for Customers that are affiliates; uses a net margin model;
- (xxxvi) I – maps to Margin-flow Co-mingled Accounts;
- (xxxvii) J – maps to different Margin-flow Co-mingled Accounts to those in I;
- (xxxviii) O – maps to an Standard Omnibus Indirect Account For F&O, Standard TTFCA Omnibus Indirect Account For F&O, Standard Omnibus Indirect Account For CDS, Standard TTFCA Omnibus Indirect Account For CDS, Standard Omnibus Indirect Account For FX or Standard TTFCA Omnibus Indirect Account For FX which is different and separate from that in X, P or Y; uses a gross margin model;
- (xxxix) X – maps to a different, separate Standard Omnibus Indirect Account For F&O, Standard TTFCA Omnibus Indirect Account For F&O, Standard TTFCA Omnibus Indirect Account For CDS, Standard Omnibus Indirect Account For FX or Standard TTFCA Omnibus Indirect Account For FX from that in O, P or Y; uses a net margin model;
- (xl) P – as O, but maps to a different Standard Omnibus Indirect Account For F&O, Standard TTFCA Omnibus Indirect Account For F&O, Standard Omnibus Indirect Account For CDS, Standard TTFCA Omnibus Indirect Account For CDS, Standard Omnibus Indirect Account For FX or Standard TTFCA Omnibus Indirect Account For FX from that in O, X or Y; uses a gross margin model;
- (xli) Y – as X but maps to a different Standard Omnibus Indirect Account For F&O, Standard TTFCA Omnibus Indirect Account For F&O, Standard TTFCA Omnibus Indirect Account For CDS, Standard Omnibus Indirect Account For FX or Standard TTFCA Omnibus Indirect Account For FX from that in O, X or P; uses a net margin model;
- (xlii) A – maps to Segregated Gross Indirect Accounts; and
- (xliii) B - maps to different Segregated Gross Indirect Accounts to those in A.

Standard Omnibus Indirect Accounts For CDS, Standard TTFCA Omnibus Indirect Account For CDS and Segregated Gross Indirect Accounts for the CDS Contract Category will only be made available as from such date as is announced by the Clearing House by Circular.

- (c) Clearing Members may maintain separate position-keeping accounts for each Exchange member for whom they provide clearing services. Where this is the case, a series of

additional position-keeping accounts of the Clearing Member that are referable solely to the Exchange member may be established within the Clearing House's systems. These Exchange member specific position-keeping accounts shall exist in addition to the position-keeping accounts of the Clearing Member (of which that Exchange member is a Customer) and may use some of the same terminal codes (e.g. N, H, U, S) or a different three-letter mnemonic from that of the Clearing Member. Notwithstanding paragraph 2.3(b) and even if the terminal codes of such position-keeping accounts would otherwise refer to a Proprietary Account of the Clearing Member under paragraph 2.3(b), such Exchange member-related position-keeping accounts shall all link solely to the relevant Customer Account of the Clearing Member in which the Exchange member is interested and will not link to the Clearing Member's Proprietary Account (unless the Clearing Member is an FCM/BD Clearing Member and the Exchange member is one in respect of which, under the Rules and Clearing Procedures, the Clearing Member may record positions in the Proprietary Account).

- (d) Where a Clearing Member holds accounts of Exchange members who are not Clearing Members, the mapping of these accounts to a Customer Account or Proprietary Account will be determined by the Clearing Member in conjunction with the relevant Market.
- (e) For Individually Segregated Sponsored Principal Accounts, it is assumed that only H, N and U sub-accounts are needed and only these are made available in the absence of any written request for additional sub-accounts. Sponsored Principals wishing to clear for Customers through indirect clearing arrangements may request establishment of additional sub-accounts similar to those used for Customer Accounts of Clearing Members, according to their regulatory status.
- (f) In paragraph 2.3(b)(2), the term "affiliate" with respect to an FCM/BD Clearing Member means a Person (other than the FCM/BD Clearing Member) that is an owner or holder of a "proprietary account" (as defined in CFTC Rule 1.3) or "cleared swaps proprietary account" (as defined in CFTC Rule 22.1) carried by such FCM/BD Clearing Member. In paragraphs 2.3(b)(4) and 2.3(b)(5), the term "affiliate" means an undertaking that is in the same "group" (as defined in EMIR) as the Clearing Member.

#### 2.4 Open Contract Positions and Close-outs

- (a) The H, L, M and G sub-accounts will only reflect net Open Contract Positions. Systematic netting will take place before any Option exercise or delivery allocation.
- (b) The N sub-account and all Customer Accounts hold gross Contracts, showing all sell and all buy positions that have not been netted or closed out (in the case of position-keeping sub-accounts linked to Customer Accounts to the extent that there is more than one Customer interested in the Account). The ICE Systems and Rule 406 allow Clearing Members to close out opposite Contracts that are held gross in certain circumstances. In order to ensure a true representation of Open Contract Positions, Clearing Members and Sponsored Principals may be required to perform manual close-outs (netting) in the sub-accounts where gross Open Contract Positions are maintained. Clearing Members and Sponsored Principals are responsible for inputting any required manual netting or close-out instructions in relation to such sub-accounts.
- (c) Any close-outs should be performed in a fashion and at a time in accordance with Market Rules and in any event before Options expire or delivery processes commence. Position transfers between sub-accounts in the ICE Systems must be complete at or before the time specified by the relevant Market from time to time in order to be reflected in Open Contract Positions and Margin calls calculated at the end of that day.

- (d) For Non-FCM/BD Clearing Members, Customer-CM Transactions arise only in respect of transactions recorded in a position-keeping account linked to a Customer Account.

## 2.5 Invoicing Back, Void Contracts, etc.

- (a) Any Contracts which are subject to Invoicing Back will be reflected by the entry into by the Clearing House through the ICE Systems of a new Contract of opposite effect to the original Contract (or pursuant to such other terms or prices as are determined by the Clearing House pursuant to the Rules). Clearing Members will be notified of Contracts subject to Invoicing Back or amendment by the Clearing House's operations department. Each such event will be confirmed in writing.
- (b) Any Contracts which are void or voided will be deleted from the ICE Systems by the Clearing House. Clearing Members will be notified of Contracts which are void or voided by the Clearing House's operations department. Each such event will be confirmed in writing.
- (c) The Clearing House may make other trade or Open Contract Position adjustments as directed by the relevant Market. In each such event, the Clearing House's operations department will contact the Clearing Member and confirm such adjustment in writing.

## 2.6 Clearing Members shall bear the risk of any instructions which are given incorrectly or late to the Clearing House.

## 2.7 Message Format

- (a) This paragraph 2.7 applies to F&O Contracts. This paragraph 2.7 sets forth examples of situations in which F&O Contracts will be rejected by the Clearing House as void Contracts pursuant to Rule 403(a) or Contracts that the Clearing House has the discretion to avoid pursuant to Rule 404(a).
- (b) An F&O Contract may be rejected by the Clearing House, if:
  - (i) the Clearing Member to be recognised by its trader initials is unknown;
  - (ii) the Clearing Member is not approved and/or no longer admitted by the Clearing House;
  - (iii) the relevant market member code is unknown or not approved or no longer admitted by the Clearing House; or
  - (iv) the ISIN code of the underlying is not of a type recognised by the Clearing House.
- (c) In the case of a rejected F&O Contract, the Clearing House will contact the relevant Market in order for the Market to provide details of a new F&O Contract or corrected details to the Clearing House for both sides of the F&O Contract. The Clearing House will make available to Clearing Members intra-day and end-of-day reports on the F&O Contract so made.

### 3. FINANCIAL ACCOUNTS

#### 3.1 Margining accounts

- (a) While Open Contract Positions are held in several different sub-accounts through the ICE Systems, the margining of Open Contract Positions will take place as follows:
- (i) H, L, G, M, N and U will be margined together via the house account (referred to as a “Proprietary Account” under the Rules), with F and R for FCM/BD Clearing Members margined via a separate Proprietary Account;
  - (ii) S, C and O (for F&O) will be margined via a General Customer Account or Non-DCM/Swap Customer Account of FCM/BD Clearing Members; or in the case of S and C only, to the relevant Customer Account for Non-FCM/BD Clearing Members; and for FCM/BD Clearing Members, E will be margined via the same Accounts as that used for S, C and O (for F&O);
  - (iii) for Non-FCM/BD Clearing Members, E, F, K, T, R, O, X, P and Y will each be margined separately via the relevant Customer Account, which is a separate Customer Account in each case;
  - (iv) payments and collections on I and J will be margined on a net or gross basis across all Margin-flow Co-mingled Accounts in the relevant sub-account of the Clearing Member or on an Account by Account basis, in accordance with Rule 302;
  - (v) payments and collections on A and B will be margined on a net or gross basis across all Segregated Gross Indirect Accounts in the relevant sub-account of the Clearing Member or on an Account by Account basis, in accordance with Rule 302;
  - (vi) W and P will be margined via a “DCM Customer Account” under the Rules (this may also be referred to as CSEGW); and
  - (vii) Z and O (for CDS) will be margined via a “Swap Customer Account” under the Rules (this may also be referred to as CSEGZ).
- (b) Save as provided for I, J, A and B sub-accounts of the same Clearing Member in paragraph (a) and Rule 302, each separate Proprietary Account and Customer Account will be subject to calculations and calls for Margin separately. Transfers or offsets between any two such Accounts will not be possible. These Accounts are also all treated separately following any Event of Default, under Part 9 of the Rules. Where a Clearing Member requests more than one Proprietary Account or more than one Customer Account of the same Customer Account Category (other than Individually Segregated Sponsored Accounts or Sponsored Principal Accounts or as allowed under paragraph 2.3), the Clearing Member may request to be set up on the Clearing House’s systems as if it were two Clearing Members and, where this approach is adopted, each Account of the same Customer Account Category will use the same sub-account code but with a different Clearing Member mnemonic (see paragraph (c) below). Any such additional Customer Account may be dedicated for purposes of indirect clearing of positions relating to the indirect clients of a Customer of the Clearing Member.
- (c) Records of all financial information including, but not limited to, Margin requirements, cash balances, collateral, contingent Margin, Buyer’s Security and Seller’s Security will be held in ~~ICE Clear Europe’s Extensible Clearing System (“ECS”)~~ within the ICE Systems. The naming convention for the sub-accounts in ECS used for F&O Contracts will be the Clearing Member’s or Sponsored Principal’s three letter mnemonic followed by the sub-account code (e.g. XXXH for house / linked to a Proprietary Account). Margin-flow Co-mingled Accounts may also be established operationally using a dedicated three letter mnemonic referencing the

Customer. The naming convention for the accounts in ECS used for CDS Contracts will be the Clearing Member's or Sponsored Principal's three number mnemonic followed by the account type (e.g. 123H for a Proprietary Account).

- (d) Clearing Members and Sponsored Principals can find more information about ECS functions and facilities in the ICE Systems user guide.

### 3.2 Guaranty Fund account

- (a) Each Clearing Member's Guaranty Fund Contribution will be recorded in a separate sub-account, recorded in ECS under the name XXXH-GUAR.

**Table A: Summary of sub-account Codes**

Position Account	ICE Systems Term	ECS Term	ECS Account name	Rulebook
N/A	N/A	Guaranty Fund Account	XXXH-GUAR	Guaranty Fund Contribution
H L G M U N	House Individual Trader Gas Associate Liquidity Provider Unallocated Non-segregated	House Account (H)	XXXH (may also be referred to as HOUSE segregation)	Proprietary Account
F R	Affiliates	Affiliate Account (F or R)	XXXF XXXR	Proprietary Account for FCM/BD Clearing Member affiliate business.  Customer Account for non-FCM/BD Clearing Members: see paragraph 2.3.
S C E K T	Segregated Customer or Segregated TTFC Customer	Client Account (C)	XXXC (may also be referred to as CSEG segregation) (and for those accounts available to FCMs only, may be referred to as Secured or 30.7 segregation) XXXX XXXE XXXX XXXT	A Customer Account: see paragraph 2.3.
I or J	Individually Segregated Operationally Co-mingled (ISOC)	ISOC	XXXI or XXXJ (whether using Clearing Member's or Customer's mnemonic)	Customer Accounts that are Margin-flow Co-mingled Accounts
W	DCM Client	DCM Client Account (W)	XXXW (may also be referred to as CSEGW segregation, or Regulated or	DCM Customer Account

			4d(a) segregation)	
Z	Swap Client	Swap Client Account (Z)	XXXXZ (may also be referred to as CSEGGZ segregation, or Swaps or 4d(f) segregation)	Swap Customer Account
O X P Y	Indirect Clearing – Standard Omnibus (Non-FCM/BD Clearing Members)  Indirect clearing position accounts (FCM/BD Clearing Members)	O X P Y	XXXXO XXXXX XXXXP XXXXY (may also be referred to as CSEGO, CSEGX, CSEGP or CSEGY segregation) (and for those accounts available to FCMs only, may be referred to as Secured or 30.7 segregation)	For non-FCM/BD Clearing Members, a Customer Account that is a Standard Omnibus Indirect Account.  For FCM/BD Clearing Members, a position keeping account linked to a Customer Account.
A B	Indirect Clearing – Segregated Accounts	A B	XXXXA XXXXB	Customer Accounts that are Segregated Gross Indirect Accounts.

#### 4. MARGIN PROCEDURES

##### 4.1 General

The matters described in this paragraph 4 will be recorded through ECS and will form part of the Clearing House's daily Margin processes. Margin requirements will determine whether funds are needed to be paid to, or received from, the relevant Clearing Member. Any required payments will be effected through Approved Financial Institutions that participate in the assured payment system (APS), as described in the Finance Procedures.

##### 4.2 Original Margin, Initial Margin and FX Original Margin

- (a) Original Margin, Initial Margin and FX Original Margin calculations are made separately in respect of each of a Clearing Member's Proprietary Accounts and Customer Accounts. No Margin offset is possible between any of these accounts. Original Margin, Initial Margin and FX Original Margin calculations for each Proprietary Account will be based on the net positions for each Contract Set, rather than the sum of the gross positions for a Set. Customer Accounts are margined either on the basis of the net risk position across all Customers with related positions in the Account or on the basis of the gross positions of each Customer with related positions in the Account, in each case based on the records submitted by the relevant Clearing Member under Rule 401 and in the way set out in paragraph 2.3(b).
- (b) Original Margin, Initial Margin and FX Original Margin parameters are set by the Clearing House within the framework of the policy reviewed by the relevant product risk committee.
- (c) The Clearing House will notify Clearing Members of any change to Original Margin, Initial Margin or FX Original Margin parameters by Circular no later than the day before calls are



made based on the new parameters. For routine changes, the Clearing House will provide five Business Days' advance notice of changes to Margin parameters, unless another period is specified in the relevant Circular.

- (d) Original Margin, Initial Margin and FX Original Margin requirements will be calculated at close of business on a daily basis, for both Proprietary Accounts and Customer Accounts. Original Margin is calculated using the ICE® Risk Model.

#### 4.3 Variation Margin, Mark-to-Market Margin and FX Mark-to-Market Margin

With the exception of Premium Up-Front Options (discussed in paragraph 4.4(c) below), all open Contracts are marked to market daily in accordance with the Contract Terms (which includes any applicable Market Rules). Profits and losses are credited to or debited from the relevant Nominated Customer Bank Account or Nominated Proprietary Bank Account of each Clearing Member as set out in the Finance Procedures.

#### 4.4 Options Premium

- (a) The Clearing House clears two types of Options, both of which are types of F&O Contracts, with different margining methodology, "**Premium Up-Front**" and "**Future-Style**".
- (b) Future-Style Options (e.g. Brent) are marked to market and subject to Variation Margin calls daily in the same way as for Future Contracts.
- (c) Premium Up-Front Options (e.g. emissions) are subject to a full premium charge or credit on the day on which the Option Contract first arises under the Rules (i.e. the day of trading) as part of the overnight margining process. After the premium has been paid, net liquidating value ("**NLV**") will be calculated on each Business Day based on relevant Exchange Delivery Settlement Prices. For persons who are Long in respect of an Option, any positive value in respect of NLV will be applied against the requirement for Original Margin. For persons who are Short in respect of an Option, any negative value in respect of NLV shall contribute to the requirement for Original Margin. For the accounts listed at paragraphs 2.3(b)(4) to (5) which use a gross margin model, NLV will be held on a gross basis and there will be no offset between different Customers interested in such account.
- (d) Clearing Members are referred to the applicable Contract Terms for details on the premium types for the Options currently cleared by the Clearing House as well as their exercise style (discussed further in paragraph 5).

#### 4.5 Cash Settlement

- (a) When it reaches maturity, a Contract can give rise either to cash settlement (if determined by the Contract Terms or, where permitted by the Contract Terms for F&O Contracts, if the Clearing Member opts out of the delivery via EFP) or delivery obligations.
- (b) Cash settlement for F&O Contracts entered into prior to the last day of trading, will be determined by the difference between the Exchange Delivery Settlement Price and the previous day's Exchange Delivery Settlement Price, as determined in accordance with Part 7 of the Rules.
- (c) Cash settlement for F&O Contracts entered into on the last day of trading, will be determined by the difference between the trade price and the Exchange Delivery Settlement Price, as determined in accordance with Part 7 of the Rules.
- (d) Details relating to deliveries for F&O Contracts are set out in the Delivery Procedures.

#### 4.6 Contingent Variation Margin

- (a) A contingent Variation Margin amount will be calculated and called daily for certain Contracts under tender, for example, Gasoil Futures, Soft Commodities. This contingent Variation Margin will result from the difference between the Exchange Delivery Settlement Price for the Contract under tender and the Exchange Delivery Settlement Price for the next maturing Contract Set of otherwise equivalent specifications, or by other method prescribed by the Clearing House from time to time.
- (b) Clearing Members will not receive repayment in respect of any credit contingent Variation Margin in cash. However, they will be able to use any excess against Margin requirements on the Contracts in respect of which contingent Variation Margin is called and other Contracts. If contingent Variation Margin is a debit, it will be possible for Clearing Members to use assets, as permitted by these Procedures and updated by Circular, as Permitted Cover.
- (c) Contingent Variation Margin will be released:
  - (i) for the Buyer, on payment of the Buyer's security; and
  - (ii) for the Seller, once all relevant deliveries are completed,
 as detailed or as otherwise specified in the Delivery Procedures.

#### 4.7 Contingent Credit

When a Seller satisfies its daily delivery obligations under Market Rules for Natural Gas Futures and Electricity Futures Contracts, the Clearing House will take into account a "Contingent Credit" equivalent to the amount or number of underlying Commodities already delivered in respect of which payment has not been made to the Seller. This credit will not be made available to the Seller in cash but may be used to cover Original Margin requirements on the Contracts in respect of which the contingent credit is applicable and other Contracts.

#### 4.8 Buyer's security and Seller's security

In accordance with Market Rules and where specified in the Delivery Procedures, Clearing Members will be liable for Buyer's security and Seller's security in respect of Contracts undergoing deliveries. Such amounts will be included in the Margin call process.

#### 4.9 Intra-day or *ad hoc* margin calls

If market conditions dictate, the Clearing House may decide to proceed to an intra-day or *ad hoc* Margin call for certain, or all, Contract Sets or for all or particular Clearing Members. In the event of an intra-day or *ad hoc* call applying, any increased Margin requirements will be reflected in ECS. If there is a shortfall, ECS will generate a call which must be met in accordance with the Finance Procedures. Affected Clearing Members will be informed of the call by the Clearing House and such call will be confirmed by email to a designated e-mail account of each affected Clearing Member.

#### 4.10 Contingency Holidays

If there is a bank holiday in the country of a particular currency, the Clearing House will call cash in another currency, as described in the Finance Procedures.

### 5. OPTIONS EXERCISE AND EXPIRY

#### 5.1 Definitions

This paragraph 5 applies only to Options that are F&O Contracts. In these Clearing Procedures:

- (a) The term “**American-Style Option**” means an Option that can be exercised at any time between the purchase date and the expiration date under its Contract Terms.
- (b) The term “**European-Style Option**” means an Option that can only be exercised on the expiry date under its Contract Terms.
- (c) The term “**In The Money**”, in respect of an Option Contract or Set of Option Contracts for a Person with a Long position: for a Put Option, means where the Strike Price is greater than the Exchange Delivery Settlement Price; and, for a Call Option, means where the Strike Price is less than the Exchange Delivery Settlement Price.
- (d) The term “**Out Of The Money**”, in respect of an Option Contract or Set of Option Contracts for a Person with a Long position: for a Put Option means, where the Strike Price is less than the Exchange Delivery Settlement Price; and, for a Call Option, means where the Strike Price is greater than the Exchange Delivery Settlement Price.
- (e) The term “**At The Money**”, in respect of an Option Contract or Set of Option Contracts for a Person with a Long position: for a Put Option and a Call Option means, where the Strike Price is exactly equal to the Exchange Delivery Settlement Price.

## 5.2 General

- (a) Options may only be exercised by Clearing Members in accordance with the Rules, the applicable Contract Terms and these Procedures.
- (b) Options may be exercised either:
  - (i) by the submission of an elective exercise notification to the ICE Systems (as described in the ICE Systems user guide and relevant technical specifications);
  - (ii) automatically through the ICE Systems (as described in the ICE Systems user guide);  
or
  - (iii) automatically in accordance with the Contract Terms.

Those Options which are not so exercised by the time of expiry will expire (be abandoned) and will terminate.

- (c) The Contract Terms determine the days on which, and the times by which, notification of exercise of an Option may, or must, be made, as well as the default settings to be applied by the ICE Systems for the purposes of automatic exercise.
- (d) When an Option whose Deliverable is a Future Contract is exercised, a Contract at the Strike Price of the Option will arise in accordance with Rule 401.

## 5.3 Early Exercise

- (a) It is possible for Clearing Members to exercise Long American-Style Options at any time when the ICE Systems are open. Such exercises must be input by Clearing Members before the daily exercise cut-off time specified in the Contract Terms.
- (b) Clearing Members may not submit an elective early exercise notification to the ICE Systems for Options other than American-Style Options.

#### 5.4 Elective Exercise

- (a) Clearing Members are permitted to submit elective exercise notifications to the ICE Systems in the manner set out in the ICE Systems user guide and relevant technical specifications at any time within the deadlines specified in the Contract Terms.
- (b) Where permitted by the Contract Terms, Clearing Members wishing to exercise an Option which is Out Of The Money, or an Option that will not automatically exercise, must submit an elective exercise notification in respect of that Option in accordance with the ICE Systems user guide and relevant technical specifications.

#### 5.5 Automatic exercise

- (a) On the relevant expiry day, once the exercise deadline has passed for an Option Set, the Clearing House will input into the ICE Systems the Exchange Delivery Settlement Price communicated by the relevant Market and will instruct the ICE Systems to process an Option Set expiry. The ICE Systems will affect the automatic exercise of all Options in the relevant Set meeting the criteria in the automatic exercise instruction facility and the relevant Contract Terms.
- (b) The settings of the automatic exercise instruction facility for particular Options are set out in the Contract Terms. For several Contracts, including ICE Brent Options, those Options that are one minimum price variation (or 'tick') or more In The Money will be subject to automatic exercise. The Contract Terms for some, but not all, Option Sets include settings for the automatic exercise of At The Money Call Options, in addition to In The Money Options. Clearing Members not wishing automatic exercise to take place should submit, where permitted by the Contract Terms, an abandon instruction via ICE Systems prior to the exercise deadlines specified in the Contract Terms.
- (c) Where permitted by the Contract Terms, Clearing Members wishing to exercise an Option that will not be automatically exercised must do so by submitting, before the deadline is applied, an elective exercise notification in respect of that Option, as described above.
- (d) Clearing Members experiencing difficulties with any aspect of an Option exercise or who have any doubt about how to carry out specific exercise or abandonment instructions must contact the Clearing House's operations department in advance of the expiry deadline.

#### 5.6 Exchange Delivery Settlement Price for Options

The Exchange Delivery Settlement Price used by the ICE Systems automatic Option exercise facility to determine whether an Option is In The Money, At The Money or Out Of The Money will be determined in accordance with the Contract Terms, and will be made available to Clearing Members via ICE Systems in advance of the relevant exercise deadline.

#### 5.7 Exercise Deadlines on Expiry Day

- (a) Clearing Members are referred to the Contract Terms and subject to the operation of the automatic Option exercise facility (as applicable) of a particular Option Set to determine whether elective exercise and/or abandon notifications can be submitted on the relevant expiry day. Pursuant to Market Rules and the Contract Terms, where elective exercise and/or abandon notifications can be submitted on the expiry day, Clearing Members have a limited period after the time when trading in an Option Set ceases to submit such notifications. Once the ICE Systems deadline has passed for the exercise or abandon of an Option Set, it will not be possible to submit any exercise or abandon instructions. Options which have not been exercised in accordance with these Clearing Procedures at that time will expire.

- (b) Clearing Members are advised via ICE Systems messages of the time by which all position maintenance instructions for expiring Options must be submitted and when the ICE Systems Exercise/Assignment report is available by selecting the relevant menu item in the ICE Systems.
- (c) Clearing Members are referred to the applicable Contract Terms for details on the deadlines for exercise of the Options currently supported by the Clearing House.
- (d) In the event that a Clearing Member's ICE Systems Options Exercise facilities are unavailable, it is essential that the Clearing House's operations department and the relevant Market's compliance department are informed. In such circumstances the Clearing House will determine appropriate steps to be taken in order to ensure exercise instructions can be processed, as appropriate.
- (e) The Clearing House can modify any exercise deadline at its discretion in accordance with the Rules. Any such modification shall take effect as an amendment to Contract Terms pursuant to Rule 109. Amendments to deadlines may occur following a Force Majeure Event and otherwise at the Clearing House's discretion.

#### 5.8 Allocation of exercises

- (a) If, in relation to exercise of a particular Option Set, there are more open Short Options than are exercised by the holders of Long Options, the Clearing House will select Clearing Members with Short Open Contract Positions in the same Option Set against which to exercise a corresponding Option or Options and subsequently become party to a Future Contract or Contracts, or Contract of Sale.
- (b) Option allocation is performed by reference to each Clearing Member's ICE Systems position-keeping accounts i.e. allocations are made separately for each Proprietary Account and each Customer Account of a Clearing Member, as follows:

##### Equity Options – Random

Where the volume available for assignment exceeds the exercised volume, the available lots are assigned on a random basis, one lot at a time. Each short lot therefore has an equal chance of being selected for assignment. If the volume available for assignment in an option contract exactly matches the volume which has been exercised (i.e. if the short volume equals the exercised volume), all the short volume is assigned.

##### Non-Equity Options – Pro Rata

- (i) Clearing Members holding Short Open Contract Positions in the same Option Set will first be allocated with the following number of exercised Short Options (and hence, Future Contracts):

$$\text{SOCP (CM)} \times \text{LOCP (all)} / \text{SOCP (all)}$$

where:

SOCP (CM) = the Short Open Contract Position for the relevant position-keeping account of the relevant Clearing Member;

LOCP (all) = the total number of Long Options of the relevant Option Set being exercised from all relevant position-keeping accounts by all Clearing Members; and

SOCF (all) = the total number of Short Open Contract Positions in the relevant Option Set in all relevant position-keeping accounts of all Clearing Members,

- (ii) any fractions produced by the calculation in paragraph (i) shall be rounded down and Clearing Members shall not be allocated fractions of a Future Contract; and
- (iii) remaining unallocated Future Contracts following completion of the processes described in paragraphs (i) and (ii) shall be distributed among position-keeping accounts of Clearing Members with unallocated Short Aggregated Contract Positions, one lot at a time, to the largest remaining fractional quantities until the whole quantity is allocated.

(c) Below is an example of this allocation method, where 71 of 111 Contracts are exercised:

Clearing Member	Short Open Contract Position	Calculated allocation	Rounded allocation	Residual	Fraction remaining	Residual allocation	Total allocated
AAA-H	13	8.8153	8	-	0.8153	1	9
AAA-S	13	8.8153	8	-	0.8153	1	9
BBB-H	18	11.5135	11	-	0.5135	-	11
CCC-H	45	28.7838	28	-	0.7838	-	28
DDD-H	22	14.0721	14	-	0.0721	-	14
Total	111	71	69	2	2.00	2	71

#### 5.9 Target 2 Settlement

This Paragraph 5.9 applies only to Options involving Securities which settle through the T2S system.

##### (a) Settlement of premium

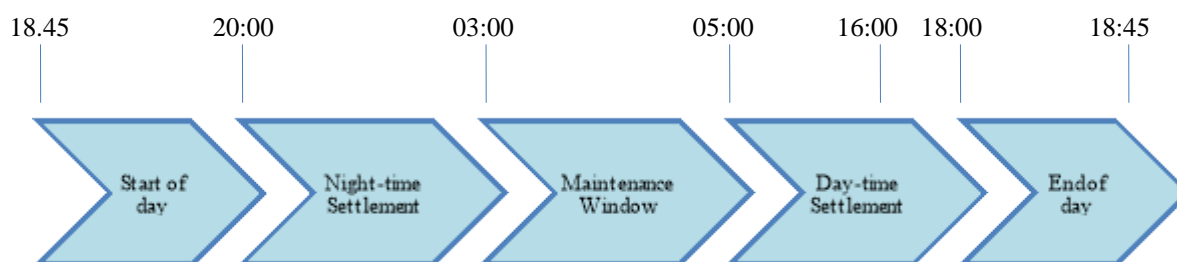
The Settlement Date is the date on which settlement of the premium of Option Contracts takes place, which is the next Business Day following the day of that they are matched on the relevant Market. Cash settlement as result of exercise/assignment of index or currency options will also take place on the next Business Day after expiration of such Option Contract.

Settlement will take place via a debit or payment on the Target2 account of the Clearing Member or the account held with an Approved Financial Institution. The debit or payment is initiated by the Clearing House and will take place before opening of the market.

##### (b) Settlement of Securities



### Settlement Timeline T2S (CET)



<p><b>Start of Day</b> This window involves:</p> <ul style="list-style-type: none"> <li>– change of business date</li> <li>– static data update</li> <li>– instruction revalidation</li> </ul>	<p><b>Night-time Settlement</b> 20:00-03:00 CET There will be two batch cycles with a reporting and static data update. The last cycle will allow for partial settlement.</p>	<p><b>Day-time Settlement</b> 05:00-18:00 CET Real time settlement for all new instructions as well as any failing transactions from the NTS cycles. There are currently five 15-minute partial settlement periods at 8:00, 10:00, 12:00, 14:00 and at 15:45 CET. The settlement deadline for DVP/RVP instructions currently ends at 16:00 CET. These cycles and deadlines are subject to change by T2S.</p>	<p><b>End of Day</b> This window involves:</p> <ul style="list-style-type: none"> <li>– recycling and purging</li> <li>– securities account consistency check</li> <li>– statement and reports</li> </ul>
--	---	--	---

The Settlement Date (“S”) for the Securities as a result of exercise or assignment is the transaction date (“T”) of the processed exercise or assignment plus two business days ( $T+2= S$ ). The settlement of DVP/RVP instructions in the home market of the Securities starts at 18.45 CET on S-1 and ends at 16.00 CET on S. The regular DVP/RVP instructions will be settled through the ESES system.

#### Instruction time frame

Period	Time	Action
Sending settlement instruction	On T between 20.00 and 24.00 CET	Settlement instruction information is made available to the Clearing Member.
DVP Instruction settlement	On EOD T till T+1, 09.00 CET	The Clearing House will instruct the DVP settlement instruction(s) in the CSD. The Clearing Member, or if relevant its settlement agent, needs to instruct its RVP instruction from its own account within the CSD in order to timely match the DVP instruction(s) of the Clearing House.
RVP Instruction settlement	On EOD T till T+2, 16.00 CET	The Clearing House will continuously instruct the RVP settlement instruction(s) in the CSD (auto release RVP instructions triggered by matching status of instructed Clearing House DVP instructions). The Clearing Member or (if relevant) its settlement agents need to instruct its DVP instruction(s) from its own account within the CSD in order to timely match the RVP settlement instruction(s) of the Clearing House.

**Settlement cycle T2S**

<b>Period</b>	<b>Time</b>	<b>Action</b>
Start of Day	On S-1 between 18:45 and 19:30 CET	This batch cycle involves: change of business date, static data update and Instruction validation.
Night-Time Settlement	On S-1 between 20.00 CET and S, 03.00 CET	There will be two batch cycles. The first cycle involves reporting and static data update. The second cycle will allow for partial settlement.
Day-Time Settlement	On S between 05.00 CET and 18.00 CET	This batch cycle involves real time settlement for all new instructions and any failing instructions from the Night-Time cycle. There are currently five 15-minute partial settlement periods at 8:00, 10:00, 12:00, 14:00 CET and at 15:45 CET.
End of Day	On S between 18.00 CET and 18.45 CET	This batch cycle involves among others recycling, statements and reports.

## (c) T2S partial settlement

The Clearing House has opted for automatic partial settlement within T2S. As a result, the available Clearing House holding(s) within the aforementioned T2S partial settlement periods will be partially settled unless the cash consideration involved is <10.000 EUR (pre-defined cash threshold T2S). All Clearing Members are obliged to honor the receipt of partial deliveries from the Clearing House.

## (d) Equity settlement netting

The Clearing Member can opt for the following settlement methods facilitated by the Clearing House for the generation of a final (SWIFT) settlement instruction.

## (i) Gross settlement

All generated gross equity transactions as a result of an exercise or assignment will be settled on a gross base. All gross equity transactions for a specific position-keeping account related to the same contract symbol, same settlement date and the same contract strike price will be aggregated into one gross transaction for settlement.

## (ii) Net settlement

The Clearing House offers the Clearing Member settlement netting at position-keeping account level. All gross equity transactions for a specific position-keeping account related to the same contract symbol and settlement date will be netted to one single settlement instruction. If a Clearing Member services more position-keeping accounts, the gross or netting indicator can be defined per position-keeping account.

## (e) Strange nets

If the Clearing Member opted for settlement netting per position-keeping account, netting will result in one of the 9 following outcomes:

	<b>Stock movement</b>	<b>Cash movement</b>
1 "Normal" purchase	Receive	Deliver
2 "Normal" sale	Deliver	Receive
3 Delivery with payment	Deliver	Deliver
4 Receive with payment	Receive	Receive
5 Deliver stock with no cash	Deliver	0
6 Receive stock with no cash	Receive	0
7 Deliver cash but no stock	0	Deliver

8 Receive cash but no stock	0	Receive
9 No stock or cash movement	0	0

By default, the Clearing House will resolve scenarios 3 to 8 by means of a directional net. In this case, all buys and sells will be netted "directional", resulting in two settlement instructions.

For scenario 9, the Clearing House will not generate a settlement instruction.

## 6. CUSTOMER CLEARING

### 6.1 Open Contract Positions and accounts:

- (a) Provided that no Event of Default has been declared with respect to the Clearing Member or Sponsor, in the event of the termination of a Customer-CM Transaction (including but not limited to as a result of a default by a Segregated Customer or Sponsored Principal under the terms of a Cleared Transactions Master Agreement), the Clearing Member or Sponsor may, to the extent permitted under Applicable Law:
- (i) request of the Clearing House that a Customer Account Position or any part thereof be transferred into one of its Proprietary Accounts (in which case, for the avoidance of doubt, the Proprietary Position Account will reflect, and Rule 406 will apply to, such transferred Contracts); or
  - (ii) submit to the Clearing House particulars in respect of offsetting Transactions, one leg of which is to be recorded in a Customer Position Account (in which case, for the avoidance of doubt, the resultant Contract may be offset against Contracts in the same sub-account which relate to such Customer, pursuant to Rule 406).

For the avoidance of doubt, Rule 302 and the Finance Procedures apply in relation to the return of any Surplus Collateral at the Clearing House resulting from the termination of any Contract.

### 6.2 Transfer of Contracts absent an Event of Default:

- (a) Each Clearing Member (other than a Defaulter) with a Customer Account and Sponsor (the "**Transferor Clearing Member**") shall be required, upon request of a Customer or Sponsored Principal to transfer such Clearing Member's or Sponsor's rights and obligations with respect to Contracts recorded in a Customer Account or Individually Segregated Sponsored Account (and, in the case of Non-FCM/BD Clearing Members, any related Customer-CM Transactions) to one or more other Clearing Member or Sponsor (the "**Transferee Clearing Member**") designated by such Customer or Sponsored Principal subject to the provisions of this paragraph 6.2 and, to the extent not inconsistent with this paragraph 6.2, to any terms agreed between the Transferor Clearing Member and Customer. Such transfer shall be effected as soon as practicable following satisfaction of the conditions set forth in paragraph 6.2(b).
- (b) A transfer pursuant to paragraph 6.2(a) shall be subject to the following conditions:
- (i) the Transferor Clearing Member shall have no obligation to locate or identify a Transferee Clearing Member (which shall be the responsibility of the Customer or Sponsored Principal);

- (ii) the transfer must be in accordance with Applicable Laws, including any applicable Market Rules, and, to the extent permitted thereunder, any applicable agreement between the Transferor Clearing Member and Customer or Sponsored Principal;
  - (iii) the Transferor Clearing Member, Transferee Clearing Member and Customer or Sponsored Principal shall, through a CDS Trade Processing Platform, FX Trade Processing Platform, Market or the ICE Systems, have agreed and executed and submitted to the Clearing House an electronic transfer confirmation (the "**Transfer Confirmation**") in a form approved by the Clearing House (which may be written or electronic) which may include the following:
    - (A) the relevant Contracts to be transferred (the "**Transferred Contracts**") and the corresponding Customer-CM Transactions, if any, to be transferred;
    - (B) the proposed transfer date (the "**Transfer Date**"), which shall be no earlier than the Business Day of submission of the Transfer Confirmation to the Clearing House and shall be a Business Day;
    - (C) whether relevant Original Margin, Initial Margin or FX Original Margin of the Transferor Clearing Member recorded in the relevant Margin Account in respect of the Transferred Contracts is to be transferred to or to the account of the Transferee Clearing Member or returned to the Transferor Clearing Member for distribution to the Customer or Sponsored Principal or to its account or order;
    - (D) the amount of such Original Margin, Initial Margin or FX Original Margin, if any, to be so transferred or returned in respect of the Transferred Contracts; and
    - (E) such other matters as the Clearing House may specify;
  - (iv) prior to the applicable transfer time determined by the Clearing House on the Transfer Date (such time, the "**Transfer Time**"), if required by the Clearing House, each of the Transferor Clearing Member and the Transferee Clearing Member shall have transferred additional Margin in the amount specified by the Clearing House to satisfy any additional Margin requirements as a result of the proposed adjustments in Open Contract Positions in relevant Accounts resulting from the proposed transfer; and
  - (v) the Clearing House has accepted such Transfer Confirmation, and the Transferor Clearing Member and Transferee Clearing Member have satisfied such other conditions as the Clearing House may have specified.
- (c) If such conditions are satisfied, then as of the Transfer Time, the transfer shall occur as set forth in the Transfer Confirmation in relation to the Transferred Contracts and corresponding Customer Transactions, if any, and Rule 408(a)(i), and the Clearing House shall:
- (i) adjust the records of the Open Contract Positions in the relevant Account of the Transferor Clearing Member or Individually Segregated Sponsored Account so as to reflect the transfer of the Transferred Contracts;
  - (ii) adjust the records of the Open Contract Positions in the relevant Account of the Transferee Clearing Member or Individually Segregated Sponsored Account so as to reflect the transfer of the Transferred Contracts;

- (iii) adjust the Margin requirements of relevant Accounts to reflect such adjustments of Open Contract Positions; and
  - (iv) record the transfer of any Margin to be transferred from an Account of the Transferor Clearing Member or Individually Segregated Sponsored Account to an Account of the Transferee Clearing Member or Individually Segregated Sponsored Account or return such Margin to the Transferor Clearing Member for distribution to the relevant Customer or Sponsored Principal or to its account or order, as specified in the Transfer Confirmation.
- (d) Notwithstanding anything to the contrary herein, no Clearing Member or Sponsor shall be required to accept a transfer of any Transferred Contracts as a Transferee Clearing Member without such Clearing Member's or Sponsor's consent.
- (e) Following the Transfer Time, the Clearing House may, in accordance with the Procedures, make submissions of data to, or amendments or terminations of data at, the relevant Repository to reflect the adjustments to Open Contract Positions in the affected Accounts. The Clearing House may require each of the Transferor Clearing Member and Transferee Clearing Member (and may also require any affected Customers or Sponsored Principals) to make appropriate such submissions, amendments and terminations to reflect such transfer.
- (f) Notwithstanding anything to the contrary herein or in any Transfer Confirmation, if an Event of Default occurs with respect to a Transferor Clearing Member prior to the transfer becoming irrevocable pursuant to Part 12 of the Rules, such transfer (and any related Transfer Confirmation) will be cancelled and of no effect and the Clearing House will not adjust the related Open Contract Positions pursuant to this paragraph 6.2.
- (g) Unless otherwise agreed between the Transferor Clearing Member and the Customer and subject to any applicable legal or regulatory requirements, the Customer must satisfy in full, at or prior to the proposed Transfer Time, any margin requirements ("**Pre-Transfer Margin Requirements**") imposed by the Transferor Clearing Member with respect to:
- (i) any remaining Customer-CM Transactions; and
  - (ii) if the Customer and Transferor Clearing Member have expressly agreed (whether orally or in writing) to determine the margin requirements for contracts, transactions or positions of that Customer other than Customer-CM Transactions or Contracts (collectively, "**Non-cleared Positions**") by taking into account the margin requirements for the Customer-CM Transactions being transferred, such Non-cleared Positions;

in each case calculated after giving effect to such transfer. If there is an express agreement (whether written or oral) between the Transferor Clearing Member and the Customer with respect to the margining that will be imposed on Customer Transactions or Non-cleared Positions, the Transferor Clearing Member shall determine the Pre-Transfer Margin Requirements in accordance with the terms of such agreement. So long as (x) the Pre-Transfer Margin Requirements specified in this paragraph 6.2(g) are satisfied and (y) no event of default has occurred with respect to the Customer under the applicable Cleared Transactions Master Agreement, no consent of the Transferor Clearing Member shall be required for such transfer.

### 6.3 Margin

- (a) If Customer-CM Collateral is not in the form of Permitted Cover, the relevant Clearing Member shall remain obliged to transfer only Permitted Cover to the Clearing House and to account accordingly for any transformation of assets with its Customer (without prejudice to

arrangements under which fees or rates of return may be determined) in accordance with the relevant Standard Terms.

- (b) Any additional Customer-CM Collateral (beyond the Clearing House's requirement) required by a Clearing Member of a Customer may be held in any lawful manner as agreed between a Customer and Clearing Member. Subject to such agreement, such collateral may, but is not required hereunder to, be transferred to a Customer Margin Account of the Clearing Member or Individually Segregated Sponsored Account and will, if so transferred, be treated as Surplus Collateral to the extent that a greater value of Permitted Cover is credited to the relevant Customer Margin Account than the Margin requirement for that Customer Margin Account.

#### 6.4 Data in relation to Customer Clearing

- (a) Each Clearing Member shall keep and maintain written or electronic records showing, with respect to each of its Customer Accounts:
  - (i) the identity of each of its Customers (and, where it acts as a Sponsor, Sponsored Principals);
  - (ii) all Default Portability Preferences of each of its Customers (and, where it acts as a Sponsor, Sponsored Principals); and
  - (iii) such other information as may be requested by the Clearing House in accordance with the Rules or these Procedures from time to time.
- (b) Each Clearing Member shall provide any data of a nature described in paragraph 6.4(a) to the Clearing House promptly upon demand. Data relating to the identity of Customers or Default Portability Preferences may be requested by the Clearing House with reference to anonymous customer serial codes. Each Clearing Member shall provide accurate information to any CDS Trade Processing Platform, FX Trade Processing Platform or Market for purposes of identifying its Customers. Each Clearing Member and Customer consents to a CDS Trade Processing Platform, FX Trade Processing Platform or Market providing all such information as is referred to in paragraph 6.4(a) to the Clearing House.
- (c) Each Clearing Member that has a Customer Account shall request each of its Customers and to specify a Default Portability Preference or confirm that it has not specified a Default Portability Preference. Clearing Members and the Clearing House acknowledge that a Customer may designate permitted Transferee Clearing Members at any time prior to or after an Event of Default being declared in relation to a Clearing Member.
- (d) Each Sponsor shall request each of its Sponsored Principals to specify a Default Portability Preference or confirm that it has not specified a Default Portability Preference. Clearing Members and the Clearing House acknowledge that a Sponsored Principal may designate permitted Transferee Clearing Members at any time prior to or after an Event of Default being declared in relation to a Sponsor.

## 7. TERMS APPLICABLE TO POSITION TRANSFERS

### 7.1 Additional defined terms

In this paragraph 7 only:

- (a) The term "**Novation**" or "**Position Transfer**" means a transfer by way of novation of Novating Contracts from a Position Transferor to a Position Transferee pursuant to Rule



408(a)(i), Part 12 of the Rules or paragraph 6 of these Clearing Procedures and this paragraph 7 of the Clearing Procedures.

- (b) The term "**Novation Time**" means the novation time specified by the Clearing House for a Novation of particular Novating Contracts which will be communicated to the Position Transferor and Position Transferee by the Clearing House.
- (c) The term "**Novating Contract**" means a Contract between a Position Transferor and the Clearing House which is open immediately prior to the Novation Time and which has not, as at the Novation Time, been cash settled or otherwise performed, discharged or closed out, void, voided, terminated or rescinded in full, and which is to be subject to a Novation, or a Contract between a Position Transferee and the Clearing House arising as a result of the same Novation (as applicable).
- (d) The term "**Position Transferee**" means a Clearing Member or Sponsored Principal which is party to a Position Transfer as transferee.
- (e) The term "**Position Transferor**" means a Clearing Member or Sponsored Principal which is party to a Position Transfer as transferor.

## 7.2 General

- (a) Rules 408(a)(i) and Part 12 of the Rules set out various provisions applicable to the transfer or novation of Contracts between Position Transferors and Position Transferees and to Position Transfer Orders. This paragraph 7 sets out the terms of the novation and transfer under which all Position Transfers will take place.
- (b) Each Position Transferor and Position Transferee will be deemed to agree to the application of the terms set out in this paragraph 7 in respect of each Position Transfer to which it is a party.
- (c) Each Position Transferor and Position Transferee shall ensure that immediately prior to the time at which any Position Transfer Order becomes irrevocable:
  - (i) it has made all due payments to the Clearing House in respect of Margin, including, if it is a Position Transferee, any additional pre-funded Margin required by the Clearing House in respect of the Contracts expected to arise as a result of the Novation, or if it is a Position Transferor, any additional pre-funded Margin required by the Clearing House arising from the proposed termination of the Novating Contracts recorded in its accounts; and
  - (ii) legally binding and enforceable agreements are in place to the extent necessary with all third parties that are affected by the Position Transfer and all necessary notices have been served on such third parties in order for the Position Transfer to take place at the Novation Time in accordance with the Rules and this paragraph 7.

## 7.3 Novation Terms

- (a) On and as from the Novation Time, the following shall take place by operation of this provision:
  - (i) the Position Transferor releases and discharges the Clearing House from all covenants, undertakings, warranties and other obligations of the Clearing House pursuant to each of the Novating Contracts and (subject to paragraph 7.3(a)(vii)) from all claims and demands whatsoever or howsoever arising out of or in respect of

- each of the Novating Contracts whether arising prior to, on or subsequent to the Novation Time;
- (ii) the Clearing House releases and discharges the Position Transferor from all covenants, undertakings, warranties and other obligations of the Position Transferor pursuant to each of the Novating Contracts and (subject to paragraph 7.3(a)(viii)) from all claims and demands whatsoever or howsoever arising out of or in respect of each of the Novating Contracts whether arising prior to, on or subsequent to the Novation Time;
  - (iii) the Position Transferee assumes in favour of the Clearing House and shall be vested with all the liabilities of the Position Transferor to the Clearing House whatsoever arising out of or under each of the Novating Contracts whether arising prior to, on or subsequent to the Novation Time, agrees to perform all the duties and to discharge all the obligations of the Position Transferor under each of the Novating Contracts whether arising prior to, on or subsequent to the Novation Time and agrees to be bound by all the terms and conditions of the Novating Contracts in every way as if the Position Transferee had been party to each of the Novating Contracts from inception instead of the Position Transferor;
  - (iv) the Clearing House agrees to perform all its duties and discharge all its obligations under the Novating Contracts and to be bound by all the terms and conditions of the Novating Contracts in every way as if the Position Transferee had been party to each of the Novating Contracts from inception instead of the Position Transferor;
  - (v) subject to paragraphs 7.3(a)(vii) and (viii), the Position Transferor and the Position Transferee shall be deemed to acknowledge and agree that the Clearing House shall on and as from the Novation Time have the right to enforce each of the Novating Contracts and pursue all claims and demands whatsoever or howsoever arising out of or in respect of each of the Novating Contracts whether arising prior to, on or subsequent to the Novation Time as if the Position Transferee had been party to each of the Novating Contracts from inception instead of the Position Transferor;
  - (vi) subject to paragraphs 7.3(a)(vii) and (viii), the Clearing House and the Position Transferor shall be deemed to acknowledge and agree that the Position Transferee shall on and as from the Novation Time have the right to enforce all of the Novating Contracts and pursue all claims and demands whatsoever or howsoever arising out of or in respect of the Novating Contracts whether arising prior to, on or subsequent to the Novation Time as if the Position Transferee had been party to the Novating Contracts from inception instead of the Position Transferor;
  - (vii) the Novation shall not affect any complaints made prior to the Novation Time or to be made by the Position Transferor against the Clearing House in relation to any matter or event occurring or circumstance arising prior to the Novation Time (in either case in connection with the Complaint Resolution Procedures) or any Dispute relating to any matter or event occurring or circumstance arising prior to the Novation Time, other than a claim or demand for payment of an amount due but unpaid at the Novation Time pursuant to the terms of a Novating Contract;
  - (viii) the Novation shall not affect any disciplinary, legal or other proceedings commenced against the Position Transferor by the Clearing House prior to the Novation Time or the right of the Clearing House to bring disciplinary, legal or other proceedings against the Position Transferor in relation to any matter or event occurring or circumstance arising (in whole or in part) prior to the Novation Time or any Dispute relating to any matter or event occurring or circumstance arising (in whole or in part) prior to the Novation Time, other than a claim or demand for payment of an amount

due but unpaid at the Novation Time pursuant to the terms of a Novating Contract;  
and

- (ix) the Clearing House, Position Transferor and Position Transferee shall each be deemed to agree that all materials, communications and instructions (whether written, electronic or oral) relating to or made in connection with any Novating Contract produced or used by any of them and all references in any Novating Contract to such contract shall be construed as a reference to the relevant Novating Contract after the Novation.
- (b) Subject to paragraphs 7.3(a)(vii) and (viii), the Clearing House, Position Transferor and Position Transferee each shall be deemed hereby to agree and acknowledge that, as between them, each Novating Contract shall be construed for all purposes on and after the Novation Time as if it had, from its inception, always been the subject of the Novation and the amendments given effect to pursuant to this paragraph 7, regardless of the date on which any event, matter, notice, circumstance, dispute or difference under the Novating Contract occurred or arose or was or is deemed to occur or arise.
- (c) The Position Transferor and the Clearing House, and the Position Transferee and the Clearing House shall each hereby be deemed to agree and acknowledge to each other that, at the Novation Time and without the need for any further act on behalf of either of them, any and all requirements of the Rules or Applicable Law and all requirements for notices and other formalities in relation to the Novation of the Novating Contracts pursuant to this paragraph 7 under the terms of such Novating Contracts have been satisfied or, to the extent not satisfied, are hereby waived. As from the time at which the Position Transfer Order becomes irrevocable, the Clearing House shall be deemed to have provided its consent to the Novation for purposes of Rule 408(a)(i).
- (d) The Position Transferor shall make available to the Clearing House such data relating to the Novation and Novating Contracts that is in the Position Transferor's control as the Clearing House may reasonably request in order to give effect expeditiously to the Novation or to carry out its obligations under the Rules or Applicable Law.
- (e) Notwithstanding any communication that the Position Transferor or Position Transferee may have had with any other party, each of the Position Transferor and Position Transferee shall hereby be deemed to represent and warrant to the Clearing House as at the Novation Time that:
  - (i) it is not relying upon any representation or warranty of the Clearing House or any other Clearing Member except any representation or warranty expressly set out in the Rules or Procedures;
  - (ii) it has consulted with its own legal, regulatory, tax, business, financial and accounting advisers to the extent that it has deemed necessary and agrees to the Novation based upon its own judgment and upon any advice from its advisors as it has deemed necessary and not upon any view or advice expressed by the Clearing House;
  - (iii) it is entering into the Novation with a full understanding of the terms and conditions and risks thereof and it is capable of and willing to assume those risks.
  - (iv) it has the power to execute and effect the Novation and any documents that may be required to effect the Novation, and to perform its obligations under the Rules, all Contracts to which it is party and this paragraph 7 and all necessary action to authorise such execution, delivery and performance has been taken;

- (v) the execution, delivery and performance of the Novation do not violate or conflict with any Applicable Law applicable to it, any provision of its constitutional documents, any order or judgment of any court or Governmental Authority applicable to it or any of its assets or any contractual restriction binding on or affecting any of its assets; and
- (vi) all consents of any Governmental Authority or other Person that are required to have been obtained by it with respect to the Novation have been obtained and are in full force and effect and all conditions of any such consents have been complied with.

**(II) FINANCE PROCEDURES****INDEX**

1.	General.....	2
2.	Cash collateral.....	4
3.	Triparty Collateral.....	4
4.	Assured Payment System: Accounts.....	8
5.	Assured Payment System: Procedures.....	11
6.	Payments To And From The Clearing House.....	13
7.	Custody Accounts.....	23
8.	Permitted Cover: Securities.....	24
9.	Intentionally Omitted.....	24
10.	Permitted Cover: Gold Bullion.....	24
11.	Settlement Procedures For Non-Cash Collateral.....	26
12.	Intentionally omitted.....	29
13.	Risk Management.....	29
14.	Guaranty Fund Parameters And Restrictions.....	31
15.	Clearing House Contributions.....	32

**2-June**   2020

## 1. GENERAL

1.1 **These Finance Procedures are 'Procedures' as defined in the ICE Clear Europe rules (the "Rules") and are subject to the Rules, including, without limitation, Rule 102. These Finance Procedures set out details on how Clearing Members' and Sponsored Principals' financial obligations are met, including the provision of cash and securities to the Clearing House.**

1.2 The Clearing House will execute and initiate a range of financial transactions on a daily basis to manage Clearing Members' and Sponsored Principals' requests, rights, liabilities and obligations. Such transactions will result in payments being made to cover Margin obligations and to pay fees, among others. ICE Clear Europe has established a network of Approved Financial Institutions for this purpose. This is also known as the "**Assured Payment System**" or "**APS**".

1.3 These Finance Procedures apply in relation to F&O Clearing, CDS Clearing and FX Clearing.

1.4 Subject to paragraph 1.5 to 1.10 below, these Finance Procedures, and all non-contractual obligations arising out of or in connection with them, are governed by and shall be construed in accordance with English law and any Dispute under these Finance Procedures will be subject to arbitration under Rule 117.

1.5 Solely as between an FCM/BD Clearing Member and the Clearing House, those provisions of these Finance Procedures inasmuch as they relate solely to an issue or matter concerning:

- (a) the pledging, transfer, holding, use and segregation of Pledged Collateral provided by an FCM/BD Clearing Member (or other property, excluding for the avoidance of doubt the Contracts themselves recorded in such an Account, recorded in a Customer Account or Proprietary Account that is designated as an account in respect of which Pledged Collateral may be provided by an FCM/BD Clearing Member); and/or
- (b) the application of any net sum owed in favour of the FCM/BD Clearing Member in respect of a Customer Account or Proprietary Account that is designated as an account in respect of which Pledged Collateral may be provided,

and, solely to the extent relevant to interpreting the foregoing provisions in such circumstances, relevant definitions and interpretative provisions in paragraph 1 of these Finance Procedures (such provisions, together or separately "**Pledged Collateral Matters**") shall be governed by and construed in accordance with the laws of the State of New York and, as applicable, the federal law of the United States of America.

1.6 For the avoidance of doubt, paragraph 1.5 is an exception to paragraph 1.4 and Rule 102(s) which provide that the Finance Procedures and Rules respectively shall be governed by and construed in accordance with the laws of England and Wales. For the avoidance of doubt, without limitation and notwithstanding paragraph 1.5, the following are governed by and shall be construed in accordance with the laws of England and Wales in their entirety without any exception and shall in no circumstances constitute a Pledged Collateral Matter:

- (a) all of the provisions of these Finance Procedures relating to the Designated System;
- (b) any Dispute or issue arising as between a Non-FCM/BD Clearing Member or Sponsored Principal on the one hand and the Clearing House on the other hand;
- (c) any Dispute or issue arising in respect of a Customer Account or Proprietary Account that is not designated as an account in respect of which Pledged Collateral may be provided;
- (d) any matter relating to Pledged Collateral of a Non-FCM/BD Clearing Member or a Sponsored Principal;



- (e) any Pledged Collateral provided by an FCM/BD Clearing Member or Sponsored Principal pursuant to an English law Pledged Collateral Addendum; and
  - (f) the Contract Terms of all Contracts.
- 1.7 Where a dispute between an FCM/BD Clearing Member and the Clearing House relates to one or more Pledged Collateral Matters, notwithstanding the provisions of Rule 117, solely the allegations or claims relating to the Pledged Collateral Matters in such dispute shall be heard and determined exclusively in any New York federal court sitting in the Borough of Manhattan of the City of New York, provided, however, that if such federal court does not have jurisdiction over such allegations or claims, such allegations or claims shall be heard and determined exclusively in any New York state court sitting in the Borough of Manhattan of the City of New York (such Courts, together, "New York Courts"). Consistent with the preceding sentence, the Clearing House and each FCM/BD Clearing Member hereby:
- (a) submits to the exclusive jurisdiction of the New York Courts solely in respect of allegations or claims relating to Pledged Collateral Matters; and
  - (b) agrees that service of process will be validly effected by sending notice in accordance with Rule 113.
- 1.8 All allegations or claims other than those over which the New York Courts have exclusive jurisdiction pursuant to paragraph 1.7 shall be finally and exclusively determined by way of arbitration pursuant to Rule 117. It is expressly recognised that for Disputes between an FCM/BD Clearing Member and the Clearing House containing both allegations or claims over which the New York Courts have exclusive jurisdiction pursuant to paragraph 1.7 and other allegations or claims, it may be necessary to have both New York Court proceedings and arbitral proceedings. The submission of a party to the jurisdiction of a New York Court and/or the taking of a step by a party in proceedings before a New York Court, where in any such instance the New York Court has exclusive jurisdiction pursuant to paragraph 1.7 does not amount to a waiver by that party of its right to commence or participate in arbitral proceedings in accordance with Rule 117. The submission of a party to arbitration under Rule 117 or in respect of any Dispute does not amount to a waiver by that party of its right to have allegations or claims in relation to which the New York Courts have exclusive jurisdiction pursuant to paragraph 1.7 heard in the New York Courts.
- 1.9 Nothing in paragraphs 1.4 to 1.10 precludes the Clearing House from bringing an action to enforce a judgment from any New York Court or award of any arbitral tribunal in any court of competent jurisdiction.
- 1.10 EACH CLEARING MEMBER AND THE CLEARING HOUSE HEREBY IRREVOCABLY WAIVES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY DISPUTE ARISING OUT OF, UNDER OR IN CONNECTION WITH THESE FINANCE PROCEDURES OR ANY MATTER CONTEMPLATED BY THEM. EACH CLEARING MEMBER AND THE CLEARING HOUSE HEREBY:
- (a) CERTIFIES THAT NO REPRESENTATIVE OF ANY OTHER PERSON BOUND BY THESE RULES HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF ANY SUCH DISPUTE, SEEK TO ENFORCE THE FOREGOING WAIVER; AND
  - (b) ACKNOWLEDGES THAT IT HAS BEEN INDUCED TO ENTER INTO THESE RULES, ALL CONTRACTS AND ALL OTHER TRANSACTIONS CONTEMPLATED BY THESE RULES, AS APPLICABLE, BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN PARAGRAPHS 1.4 to 1.10.

1.11 The following terms shall have the meaning specified below where they are used in these Procedures:

- (a) “CZK” means the lawful currency from time to time of the Czech Republic;
- (b) “DKK” means the lawful currency from time to time of the Kingdom of Denmark;
- (c) “HUF” means the lawful currency from time to time of Hungary;
- (d) “JPY” means the lawful currency from time to time of Japan;
- (e) “NOK” means the lawful currency from time to time of the Kingdom of Norway;
- (f) “PLN” means the lawful currency from time to time of the Republic of Poland;
- (g) “TRY” means the lawful currency from time to time of the Republic of Turkey; and
- (h) “ZAR” means the lawful currency from time to time of the Republic of South Africa.

## 2. CASH COLLATERAL

2.1 The Clearing House will support transactions and account holdings in six currencies: USD, GBP, EUR, CAD, CHF and SEK. Initial Margin, Original Margin and FX Original Margin obligations may be met only in USD, GBP and EUR. Other currencies may be used by Clearing Members and Sponsored Principals only for the receipt of income on non-cash Permitted Cover with coupons payable in those currencies. CAD may also be used for Variation Margin and settlement payments only for Energy Contracts which settle in CAD (whether in whole or in part). AUD, CHF, CZK, DKK, HUF, JPY, NOK, PLN, SEK TRY and ZAR may also be used for Variation Margin and settlement payments only for Financials & Softs Contracts which settle in such currencies (whether in whole or in part).

2.2 The Clearing House supports cross currency collateral, which means that it is not necessary to cover Margin requirements in the same currency as the underlying Contract (other than Variation Margin in accordance with Rule 502(c)). The relevant exchange rate applied is the rate determined by the daily concertation procedure between central banks within and outside the European System of Central Banks (currently published by the European Central Bank at <http://www.ecb.int/stats/exchange/eurofxref/html/index.en.html#latest>) on the day or business day prior to the date on which the exchange rate is calculated by the Clearing House or, in the event that such rate is not available, a reasonable exchange rate determined by the Clearing House at its discretion. The Clearing House may impose a “haircut” on any Original Margin provided in a currency other than the reference currency to cover fluctuations in exchange rates. Applicable exchange rate haircuts will be published from time to time by Circular. Haircuts will be determined as set out in paragraph 13.7 of these Finance Procedures.

2.3 Variation Margin, Mark-to-Market Margin and FX Mark-to-Market Margin is transferred to and from the Clearing House by way of outright transfer. Accordingly: (i) no Variation Margin, Mark-to-Market Margin or FX Mark-to-Market Margin is subject to any Pledged Collateral Addendum or the pledge referred to in paragraph 7.2; and (ii) there is excluded from the requirement in Rule 1603(c) for Margin to be provided by an FCM/BD Clearing Member in respect of a Customer Account in the form of Pledged Collateral, any Variation Margin, Mark-to-Market Margin and FX Mark-to-Market Margin so provided to or by the Clearing House by outright transfer of cash.

## 3. TRIPARTY COLLATERAL

### General

3.1 Clearing Members may use Triparty Collateral to cover Original Margin, Initial Margin and FX Original Margin requirements for certain Accounts, as specified in Circulars concerning the use of

Permitted Cover. This facility is available to Clearing Members at the discretion of the Clearing House. The facility is available, and this paragraph 3 applies equally, to Sponsored Principals in the same way as it applies to Clearing Members, save as expressly set out in paragraph 3.2, subject to Part 19 of the Rules. The Clearing House reserves the right to terminate this arrangement at any time. The service is provided in cooperation with the following Triparty Collateral Service Providers:

Euroclear Bank

Clearstream Banking.

- 3.2 These Finance Procedures should be read in conjunction with the Terms and Conditions and the Operational Procedures of the Triparty Collateral Service Providers. The legal basis underpinning the collateral consists of (i) the Collateral Service Agreement (or equivalent document) (CSA) of the Triparty Collateral Service Provider; (ii) the Clearing Membership Agreement (CMA, for Clearing Members) or Sponsored Principal Clearing Agreement (SPCA, for Sponsored Principals); and (iii) in respect of securities collateral which is transferred pursuant to a Pledged Collateral Addendum, such Pledged Collateral Addendum. The Collateral Giver (under the CSA) must be the same legal entity as the Clearing Member (under the CMA) or, in respect of an Individually Segregated Sponsored Account, the Disclosed Principal (under the SPCA).
- 3.3 The following definitions apply to these Triparty Collateral Procedures:
- (a) The term “Triparty Collateral Service Provider” or “Provider” means the institution offering the Triparty Collateral Service.
  - (b) The term “Triparty Collateral Instruction” or “Instruction” means: (i) the instruction to transfer to or withdraw from the Clearing House, sent to the Clearing House by the Clearing Member, or (ii) the initiation, amendment or closure instructions sent by the Clearing House or the Clearing Member to the Triparty Collateral Service Provider.
  - (c) The term “Triparty Collateral Transaction” or “Transaction” means the transaction which is created after matching and settlement of the instructions from both the Clearing House and the Clearing Member at the Triparty Collateral Service Provider.
  - (d) The term “Fill” or “Filling” means the transfer of eligible securities and cash from the Clearing Member to the Clearing House in accordance with the Triparty Collateral Transaction.

#### **Collateral Service Agreement**

- 3.4 In order to use Triparty Collateral a CSA must be executed between the Clearing Member, the Clearing House and the Provider. This CSA contains terms and conditions, eligible securities and cash (Annex I), Eligibility Set profiles (Annex II) and Fee specifications (Annex III).
- 3.5 The Clearing House retains the right to add, adjust or remove any currency or any collateral type from the relevant list of eligible securities or change other components in the Eligibility Set profile at any time. The Clearing House will inform the Clearing Member and provide him with revised documentation as appropriate. The Clearing Member will be deemed to accept the revision proposed by the Clearing House and must inform the Provider of its acceptance within five business days. Rejection or delay in informing the Provider may result in a reduction in collateral value of the Triparty Collateral.
- 3.6 A Clearing Member may request an exclusion of asset types from the list of eligible securities and cash. Adjustments to other parts of the CSA will not be accepted by the Clearing House.

#### **Triparty Collateral Service**

- 3.7 The Clearing Member is allowed to transfer to the Clearing House Triparty Collateral in the three currencies currently supported by the Clearing House for Original Margin, Initial Margin and FX Original Margin (USD, GBP and EUR).
- 3.8 Instructions can be given for same day or for next business day settlement. Same day instructions will adjust the relevant collateral value when the Instructions are matched and settled and the Transaction is filled. Transfers for next day settlement will receive collateral value in the next overnight clearing process of the Clearing House. Withdrawals for next day settlement will have an immediate effect on the value of the Clearing Member's collateral but will actually settle in the market in the next overnight settlement process of the Provider.
- 3.9 The Clearing House has opened accounts with each Triparty Collateral Service Provider, the account numbers of which will be confirmed, from time to time, by the Clearing House along with the details, if applicable, of how Clearing Members are able to use a Pledged Collateral Addendum (other than a Pledged Collateral Addendum relating to Customer Account Margin of an FCM/BD Clearing Member) in connection therewith.

### **Instruction**

- 3.10 In order to initiate, amend or close a Transaction the Clearing Member must instruct the Clearing House using ~~the Extensible Clearing System (ECS~~ [\(as defined in the Delivery Procedures\)](#). The mandatory fields to be completed are:
- (a) Asset type
  - (b) Service provider
  - (c) Risk profile
  - (d) Settlement date (instruction date or next business day)
  - (e) Currency
  - (f) Amount of adjustment
- 3.11 Settlement accounts and the risk profile are considered to be static data and are stored in ~~the ECS system~~. Clearing Members are not required to include this information in the initial instruction, amendment or closure towards the Clearing House. The static data is used by the Clearing House to create instructions to the Provider.
- 3.12 Please note that in ECS the Clearing Member must enter the increase or decrease in value of the Transaction. This is in contrast with the Instruction to the Triparty Collateral Service Provider which quotes the new Transaction value.
- 3.13 In ECS an entry in "add new collateral" will generate an initiation of a Triparty Collateral Transaction, an adjustment ("+" or "-") will create an adjustment to the value of an existing Transaction and a reduction to zero will result in a closure.

### **Matching or Settlement Instructions**

- 3.14 Matching and settlement can only take place during the normal settlement window of the Provider. Unmatched instructions will be cancelled after the last matching possibility on the day on which the relevant instructions are issued has elapsed.
- 3.15 The Clearing House will provide updated information on the settlement status of Instructions through ECS. Clearing Members are responsible for monitoring the status of the Instructions. The status of an

instruction as matched or not matched is not advised by the Clearing House and the Clearing Member must confirm this directly with the relevant Provider.

- 3.16 It is the responsibility of the Clearing Member to ensure that instructions from ECS and the matching instruction to the Provider match correctly. The Clearing House will not be liable for any losses of Clearing Members or third parties caused by non-settlement or a delay in settlement as a result of the actions or omissions of a settlement system, Provider or the Clearing Member.

#### **Cancellation requests and cancellation of pending instructions**

- 3.17 Clearing Members can only cancel an instruction prior to the time that the Clearing House sends the instruction to the Provider. After the Clearing House has sent the Instruction, the Clearing House will assume that the Instruction has been completed.
- 3.18 All unmatched Instructions are automatically cancelled at the end of each day in ECS. If the Instruction is unmatched and cancelled but the Clearing Member still wishes to initiate, amend or close the Transaction then the Clearing Member has to re-instruct the following business day.

#### **Settlement deadlines**

- 3.19 Deadlines will be set out and updated in the Clearing House's Circulars.
- 3.20 Based on the market deadlines, the Clearing House has set the following deadlines for Triparty Collateral Instructions:
- SAME DAY settlement 15.00 pm (UK TIME)
- NEXT DAY settlement 16.00 pm (UK TIME)
- 3.21 Any instruction after this time will not be accepted by ~~the ECS system~~. Instruction prior to the deadline will be released to the Provider and have the possibility to match and settle until the end of the Provider's business day.

#### **Holidays affecting settlement systems**

- 3.22 On bank holidays and other days on which payments are required to be made in another currency pursuant to paragraph 6.1 ~~(ixviii)~~, it will or may not be possible to create Instructions. These dates will be advised by Circular from the Clearing House. On these days, Clearing Members will need to use alternative settlement systems and/or types of collateral to cover relevant Margin requirements.

#### **Collateral transfers (transaction filling)**

- 3.23 It is the Clearing Member's responsibility to make sufficient cash or securities available to transfer to the account of the Clearing House up to the value of the Transaction. The Clearing House will have the right to raise an additional margin requirement when insufficient cash or securities are transferred to the Clearing House to Fill in accordance with the Transaction.
- 3.24 An intra-day requirement will be raised for the value of the uncovered part of the Transaction. After the deadline has passed the Clearing House will calculate and raise the intra-day requirement using the information provided by the Triparty Collateral Service Provider.
- Deadline Triparty Collateral 9.00 am (UK TIME).
- 3.25 The additional requirement will not be released before the next end-of-day clearing process.

- 3.26 Cash might be used as collateral for the Triparty Collateral during the day. Cash remaining in a Transaction overnight on the account of the Clearing House will not be treated as cash collateral upon completion of the relevant transfer to the Clearing House and no interest return will be paid.

#### **Collateral value of Triparty Collateral**

- 3.27 The Clearing House is allowed to adjust the collateral value of the Triparty Collateral Transaction by applying a haircut to the Triparty Collateral. Notification in advance by the Clearing House will not be provided.

#### **Termination of the Collateral Service Agreement**

- 3.28 The Clearing House reserves the right to terminate a Collateral Service Agreement at any time at its own discretion. Pending Triparty Collateral Transactions must be replaced by alternative permitted cover before the Transactions are closed.

#### **Corporate actions**

- 3.29 Transfer of cash (including the cash proceeds of any securities) into the Clearing House accounts may only be executed through a transfer of title pursuant to the Clearing Membership Agreement. Transfer of securities into the Clearing House accounts may be executed either (i) through a transfer of title pursuant to the Clearing Membership Agreement or (ii) through delivery of possession pursuant to a Pledged Collateral Addendum. The Clearing House will become beneficial owner of all proceeds resulting from any holdings of securities. All proceeds from Triparty Collateral, less any deduction or withholding for or on account of tax required by Applicable Law, will be passed on to the member by the Triparty Collateral Service Provider in satisfaction of the Clearing House's obligations in respect of such proceeds under clause 4.4 of the Clearing Membership Agreement. The Clearing House, as collateral taker, provides access to information on income payments, redemptions or corporate events in relation to collateral securities provided to the collateral taker.
- 3.30 The Clearing House will be the beneficial owner of all securities title to which is transferred to the Clearing House and the withholding of tax is based on the tax status of the Clearing House. We strongly recommend that the Clearing Member should withdraw or exclude the collateral which is subject to the corporate action as the Clearing House is not liable for any deviations in taxation and does not assist in the reclaiming of tax.

#### **Default**

- 3.31 The Clearing House will inform the Triparty Collateral Service Provider of an event of default of the Clearing Member according to the terms and regulations of the CSA. The Clearing House Rules regarding the liquidation of the collateral can be found in the Clearing Member Agreement.
- 3.32 At the request of an F&O Clearing Member, the Clearing House may, in its sole discretion, agree to enter into a collateral purchase agreement with a third party collateral purchaser and such F&O Clearing Member (and in the case of an Individually Segregated Margin-flow Co-mingled Account, the relevant Customer), under which the Clearing House will agree to offer for sale to the third party collateral purchaser Triparty Collateral transferred to the Clearing House by such F&O Clearing Member for a Proprietary Account or Individually Segregated Margin-flow Co-mingled Account in respect of F&O Contracts, in the event of the F&O Clearing Member being declared a Defaulter under the Rules. Any proceeds of such sale will be included in the relevant net sum pursuant to Rules 905(b)(vii) and 906(a). The Clearing House shall have no obligation to enter into any such agreement, and the identity of any such third party collateral purchaser (and, in the case of an Individually Segregated Margin-flow Co-mingled Account, the relevant Customer) must be approved by the Clearing House pursuant to criteria established by the Clearing House. Any such collateral purchase agreement must be in the form approved by the Clearing House for such purposes from time to time.



#### 4. ASSURED PAYMENT SYSTEM: ACCOUNTS

4.1 Each Clearing Member must as a minimum maintain the following accounts at one or more Approved Financial Institutions:

- (a) up to six Nominated Proprietary Bank Accounts (also known as 'house' accounts) linked to each Proprietary Account, denominated in up to one each of USD, GBP, EUR, CAD, CHF and SEK as follows, subject to paragraph 4.2:
- (i) all ~~F&O Clearing Members and FX~~ Clearing Members must have an account, denominated in USD;
  - (ii) all CDS Clearing Members must have an account denominated in EUR;
  - (iii) all F&O Clearing Members and FX Clearing Members must additionally have at least one further account denominated in either GBP or EUR;
  - ~~(iv) all CDS Clearing Members must additionally have at least one further account denominated in either GBP or USD;~~
  - (iv) ~~(v)~~ a Clearing Member which has an Open Contract Position in a contract for which EUR, GBP, USD or CAD is the settlement currency must have an account denominated in such currency;
  - (v) ~~(vi)~~ a Clearing Member that transfers non-cash Permitted Cover to the Clearing House which pays a coupon, interest or redemptions must have an account in the currency of such coupon, interest or redemption; and.
  - (vi) ~~(vii)~~ an F&O Clearing Member that is a Financials & Softs Clearing Member and is party to Financials & Softs Contracts which settle in AUD, CAD, CHF, CZK, DKK, HUF, JPY, NOK, PLN, SEK, TRY or ZAR must have an account in each such currency.
- (b) for an F&O Clearing Member that is a Non-FCM/BD Clearing Member, additional Nominated Customer Bank Accounts (also known as 'client' accounts), one for each currency used by it for each of its different Customer Accounts (other than Margin-flow Co-mingled Accounts, in respect of which a single Nominated Customer Bank Account shall be used), the relevant currencies being USD, GBP, EUR, AUD, CAD, CHF, SEK, CZK, DKK, HUF, JPY, NOK, PLN, SEK, TRY and ZAR, based on the same principles as set out in 4.1(a)(i) to (vii);
- (c) for an F&O Clearing Member that is an FCM/BD Clearing Member and which has one or more Customer Accounts, additional Nominated Customer Bank Accounts (also known as 'client' accounts), one for each currency for each of its Non-DCM/Swap Customer Accounts, Swap Customer Accounts, DCM Customer Accounts and General Customer Accounts, the relevant currencies being USD, GBP, EUR, AUD, CAD, CHF, SEK, CZK, DKK, HUF, JPY, NOK, PLN, SEK, TRY and ZAR, based on the same principles as set out in 4.1(a)(i) to ~~(vii)~~ (vii) for each such Customer Account;
- (d) for F&O Clearing Members, a Guaranty Fund account denominated in USD (which may be the same account as a USD Nominated Proprietary Bank Account or a USD guaranty fund account for CDS);
- (e) for CDS Clearing Members, a Guaranty Fund account, denominated in EUR for CDS (which may be the same account as a EUR Nominated Proprietary Bank Account);
- (f) if a CDS Clearing Member is approved to become party to Sovereign Contracts, an additional Guaranty Fund account denominated in USD (which may be the same account as a USD

Nominated Proprietary Bank Account or the USD Guaranty Fund account for F&O Guaranty Fund Contributions or FX Guaranty Fund Contributions); and

- (g) for FX Clearing Members, a Guaranty Fund account, denominated in USD (which may be the same account as a USD Nominated Proprietary Bank Account or the USD Guaranty Fund account for CDS Guaranty Fund Contributions or FX Guaranty Fund Contributions);
  - (h) if a Non-FCM/BD Clearing Member is a Sponsor in respect of an Individually Segregated Sponsored Account and is appointed by the Sponsored Principal and agrees to operate Nominated Bank Accounts for the Individually Segregated Sponsored Account, such further accounts as would be required of each such Sponsored Principal pursuant to paragraph 4.4.
- 4.2 If a Clearing Member is more than one of: (i) an F&O Clearing Member; or (ii) a CDS Clearing Member, that Clearing Member is treated for the purposes of the Clearing House's banking systems as if it were two Clearing Members. Such a Clearing Member may specify the same Nominated Bank Accounts for a particular Nominated Bank Account for both CDS and F&O or may use different Nominated Bank Accounts for the different product classes. Accordingly, it may have up to twelve Nominated Proprietary Bank Accounts, one for each currency for each of CDS and F&O. Where a Clearing Member requests more than one Proprietary Account or more than one Customer Account of the same Customer Account Category (other than Individually Segregated Sponsored Accounts, Margin-flow Co-mingled Accounts or by using "F" for an additional omnibus Customer Account), the Clearing Member will be set up on the Clearing House's systems as if it were two Clearing Members and each account of the same Customer Account Category will use the same account code but with a different Clearing Member mnemonic. Any such additional Customer Account may be dedicated for purposes of indirect clearing of positions relating to the indirect clients of a Customer of the Clearing Member.
- 4.3 Nominated Proprietary Bank Accounts, Nominated Customer Bank Accounts and Guaranty Fund accounts must be accounts at Approved Financial Institutions but need not all be at the same Approved Financial Institution.
- 4.4 Each Sponsored Principal must as a minimum maintain (or procure that its Sponsor, if it is a Non-FCM/BD Clearing Member maintains) the following accounts at one or more Approved Financial Institutions:
- (a) up to six Nominated Bank Accounts linked to the Individually Segregated Sponsored Account, denominated in up to one each of USD, GBP, EUR, CAD, CHF and SEK as follows, subject to paragraph 4.2:
    - (i) all Sponsored Principals ~~that clear F&O or FX~~ must have an account denominated in USD;
    - (ii) all Sponsored Principals that clear CDS must have an account denominated in EUR;
    - (iii) all Sponsored Principals that clear F&O or FX must additionally have at least one further account denominated in either GBP or EUR;
    - ~~(iv) all Sponsored Principals that clear CDS additionally have at least one further account denominated in either GBP or USD;~~
    - (iv) ~~(v)~~ all Sponsored Principals that have an Open Contract Position in a contract for which EUR, GBP, USD or CAD is the settlement currency must have an account denominated in such currency;

(v) ~~(vi)~~ a Sponsored Principal which transfers non-cash Permitted Cover to the Clearing House which pays a coupon, interest or redemptions in USD, EUR, GBP, CAD, CHF or SEK must have an account in that currency; and.

(vi) ~~(vii)~~ a Sponsored Principal that clears Financials & Softs Contracts which settle in AUD, CAD, CHF, CZK, DKK, HUF, JPY, NOK, PLN, SEK, TRY or ZAR must have an account in each such currency.

4.5 ~~The Clearing House's Extensible Clearing System ("ECS")~~ will be used for payments. Successful applicants for membership or Sponsored Principal status will be issued with log-ins and given training in the use of ECS. ECS will be used by Clearing Members and Sponsored Principals to give instructions in respect of certain transactions relating to the transfer of cash and securities to the Clearing House and when there is excess Permitted Cover in place that the Clearing Member or Sponsored Principal requests be returned. The Clearing House will be entitled to act upon instructions made through ECS by the Clearing Member or any of its Representatives. In respect of an Individually Segregated Sponsored Account, the Clearing House will be entitled to act upon instructions made through ECS by either the Sponsor or the Sponsored Principal or any of their Representatives. The accounts described in paragraph 4.1 are the only accounts that may be used for day-to-day transfers to and from the Clearing House through ECS.

4.6 The Clearing House operates Clearing House Accounts in each of the currencies at each Approved Financial Institution and separately for each different Customer Account and Proprietary Account business of Clearing Members and separately for F&O, CDS and FX, as mentioned in paragraph 4.2. Such separation by the Clearing House is undertaken to comply with Applicable Laws and provide administrative benefits to Clearing Members. Upon an Event of Default being declared, amounts in all Proprietary Accounts of a Clearing Member may be combined and set off (subject to and in accordance with the Rules and paragraph 4.2), and amounts relevant to a single separate Customer Account may be combined and set off with one another but not with any other Account, as set out in the Rules.

4.7 Additionally, the Clearing House will hold Clearing House Accounts at Concentration Banks in order to facilitate transfers between accounts at Approved Financial Institutions.

## 5. ASSURED PAYMENT SYSTEM: PROCEDURES

5.1 Each Clearing Member and Sponsored Principal (or, if a Sponsor operates a Nominated Bank Account for the Sponsored Principal, the Sponsor) will be required to have in place at all times a standard debit mandate, allowing the Clearing House to call funds from its Nominated Bank Accounts, established in the relevant Approved Financial Institution's standard form ("**Third Party Authority Form**"). Pursuant to the Clearing Membership Agreement, each Clearing Member must at all times have in place a duly executed Third Party Authority Form in favour of each Approved Financial Institution used by it and in respect of each of its Nominated Bank Accounts. Pursuant to the Sponsored Principal Clearing Agreement and Sponsor Agreement, each Sponsored Principal must at all times have in place a duly executed Third Party Authority Form executed by the Sponsored Principal or Sponsor in favour of each Approved Financial Institution used by it and in respect of each of its Nominated Bank Accounts. Pursuant to Clearing Membership Agreements (and, where applicable, Sponsored Principal Clearing Agreements and Sponsor Agreements) and arrangements between the Clearing House and Approved Financial Institutions, the Clearing House is given various powers, including to take any action as it in its discretion determines in the Clearing Member's (or, where applicable Sponsor's and Sponsored Principal's) or the Clearing House's name in connection with a Clearing Member's (or, where applicable Sponsor's and Sponsored Principal's) Nominated Bank Accounts. Approved Financial Institutions will act upon any instructions received from the Clearing House in relation to the Nominated Bank Accounts without any further reference to, or authority from, a Clearing Member.

5.2 Changes in APS account details must be notified at least five Business Days in advance.

- 5.3 It is the responsibility of each Clearing Member and Sponsored Principal to have sufficient funds in its Nominated Bank Accounts to enable all cash transfers required under the Rules to be settled. Approved Financial Institutions will not be able to reverse any payment from or to a Clearing House Account without receipt of authorisation from the Clearing House evidenced in writing.
- 5.4 Clearing Members and Sponsored Principals (or their Sponsors) will be advised of debits from or credits to their physical accounts by the standard SWIFT advices of debit and credit (MT900 and MT910 respectively) or otherwise in accordance with arrangement established with Approved Financial Institutions.
- 5.5 Clearing Members and Sponsored Principals must ensure that Approved Financial Institutions make payment to the Clearing House Account at the same Approved Financial Institution within the time periods specified in Table 1. The Clearing House will notify all affected Approved Financial Institutions if a contingency method is to be invoked, which will occur if an Approved Financial Institution or the Clearing House experiences a technology failure that affects either of their ability to send or receive SWIFT messages. In the event that no payment notification is received from an Approved Financial Institution by the time specified in Table 1, the Clearing House will be permitted to act as if the funds have not and will not be received, which includes the declaration of an Event of Default in respect of any affected Clearing Member or Sponsored Principal. In such circumstances, the Clearing House will use its reasonable endeavours to determine the cause of the late notification with the relevant Approved Financial Institutions. The remittance of funds remains at all times the responsibility of Clearing Members. The Clearing House may otherwise treat funds as not having been received and take similar actions as a result of Rule 301(f). In the case of the failure or Insolvency of an Approved Financial Institution used by a Clearing Member or Sponsored Principal in circumstances in which an amount is not treated as having been paid as a result of Rule 301(f), the amount must still be paid (through a further payment, if necessary) by a Clearing Member or Sponsored Principal using alternative methods or a different Approved Financial Institution, in order to discharge the Clearing Member's or Sponsored Principal's liabilities.
- 5.6 If the Clearing House has been transferred excess cash (beyond applicable Margin requirements) by any Clearing Member or Sponsored Principal, the Clearing Member or Sponsored Principal in question is entitled to request repayment through ECS, either on an *ad hoc* basis or automatically on a daily or other regular basis. Such repayments will take place through the same systems and accounts as for payments to the Clearing House.

**TABLE 1: TIME PERIODS FOR DELIVERY OF FUNDS AND SWIFT MT900/MT910**

Type of Instruction	Time for Receipt of Instruction	Latest time for APS Bank to make payment of amount specified in Instruction and send SWIFT MT900/MT910
---------------------	---------------------------------	--

Routine End-of-day Instruction	<p>For Contracts other than F&amp;O Contracts: On or after 00:00:00 London Time on Business Day X+1 but on or before 07:59:59 on Business Day X+1</p> <p>For F&amp;O Contracts: On or after 00:00:00 London Time on Business Day X+1 but on or before 07:29:59 on Business Day X+1</p>	Before 09:00:00 London time on Business Day X+1
Routine End-of-day Instruction for Financials & Softs Contracts that settle in currencies other than EUR, USD or GBP	On or after 00:00:00 London Time on Business Day X+1 but on or before 07:29:59 on Business Day X+1	Before 09:00:00 London time on Business Day X+2
Intra-day Instruction	<p>For Contracts other than F&amp;O Contracts: between 09:00:00 and 19:00:00 London time on Business Day X</p> <p>For F&amp;O Contracts: between 07:30:00 and 20:00:00 London time on Business Day X</p>	Within one hour of instruction on Business Day X
Intra-day Instruction (contingency)	<p>For Contracts other than F&amp;O Contracts: On or after 08:00:00 on Business Day X but on or before 21:00:00 on Business Day X</p> <p>For F&amp;O Contracts: On or after 07:30:00 on Business Day X but on or before 21:00:00 on Business Day X</p>	Within one hour of instruction on Business Day X

## 6. PAYMENTS TO AND FROM THE CLEARING HOUSE

### 6.1 General

- (a) This paragraph 6 applies to each Sponsored Principal (or, to the extent that a Sponsor operates Nominated Bank Accounts in respect of an Individually Segregated Sponsored Account, each such Sponsor) in the same way as it applies to a Clearing Member, subject to Part 19 of the Rules.
- (b) Adjustments in Margin calls resulting from price changes in underlying open Contracts and other amounts due between the Clearing House and the Clearing Member will result in either a payment from the Clearing Member's relevant Nominated Bank Account by direct debit or a payment from a Clearing House Account to a Clearing Member's Nominated Bank Account (subject to Part 3 of the Rules). Pursuant to Part 3 of the Rules, payments between the Clearing House and a Clearing Member may be set off and consolidated into end-of-day or *ad hoc* payments in respect of each Account (other than Margin-flow Co-mingled Accounts, in respect of which single combined payments may be used) pursuant to the Standard Payments

Mechanism. Under the Standard Payments Mechanism, Margin payments are combined with all other amounts due and payable pursuant to the Rules and discussed further in this paragraph. As an alternative to the Standard Payments Mechanism, Clearing Members will be able to elect for upfront fees, Mark-to-Market Margin, FX Mark-to-Market Margin, Variation Margin or other payments to be excluded from the Standard Payments Mechanism by selecting the Externalised Payments Mechanism for any such classes of payments in respect of a particular Account, subject to the written consent of the Clearing House. Details of the payments to Clearing Members which can be included under the Externalised Payments Mechanism are set forth in Rule 302 and paragraph 6.1(i).

- (c) Payments will be executed as an intra-APS-bank, between accounts, book transfer from the relevant Nominated Bank Account to a Clearing House Account at the same Approved Financial Institution. Payment into Clearing Members' Nominated Bank Accounts will generally take place through a similar book transfer. However, if insufficient funds are available within the relevant Clearing House Account at that Approved Financial Institution, the remaining balance may be transferred from a Clearing House Account at another Approved Financial Institution or Institutions.
- (d) In ECS, Clearing Members have the ability to set standing instructions to return all funds above applicable Margin requirements or above a threshold (if higher). Such standing instructions can only be set for cash collateral. For currencies which can be used only for Variation Margin and settlement payments, credits are automatically returned to the Clearing Member's account regardless of any standing instructions to the contrary.
- (e) If a Clearing Member has not established standing instructions in ECS, it may manage its cash accounts by giving manual instructions. An increase in cash positions through ECS will result in a direct debit from the relevant Nominated Bank Account of the Clearing Member. A reduction in cash positions will result in a payment from a Clearing House Account to one of the Clearing Member's Nominated Bank Accounts. ECS does not permit requested reductions or standing instructions to result in a Clearing Member holding any positions below applicable Margin and Guaranty Fund Contribution requirements.

All instructions for *ad hoc* withdrawals of cash must be received by:

Currency	Instruction deadline
GBP	Same day 10.00 a.m.
EUR	Same day 10.00 a.m.
USD	Same day 11:45 a.m. (Eastern time)

No *ad hoc* withdrawals of cash will be possible on the same day if instructions are received after these deadlines. The Clearing House may require any Clearing Member to reduce excess cash on account with the Clearing House or may specify that excess cash on account above a certain threshold does not receive interest.

- (f) Clearing Members are able to enter cash transfers for value next day. These requests need to be entered and approved by Clearing Members prior to end of day, but the Clearing House will only be obliged to accept such transfers on the following morning after receipt. Following receipt and acceptance by the Clearing House in ECS, the changes resulting from *ad hoc* cash credits will take effect immediately notwithstanding the previous sentence. This paragraph 6.1(f) is subject at all times to Rule 301(f).
- (g) Overnight payments must be made to the Clearing House at or before 09:00 on the morning following a call. *Ad hoc* payments must be made within one hour of an instruction being



issued by the Clearing House through ECS. In relation to overnight pending transactions, any withdrawals or transfers instructed after the relevant deadline will be rejected by ECS. For risk management reasons, the Clearing House will be entitled to delay any payments that are due to be paid to the Clearing Member pursuant to this paragraph 6.1 in any currency in respect of an Account, if the Clearing Member (or any Affiliate of the Clearing Member) has failed to pay to the Clearing House any overnight payment in any currency due following a call issued to the Clearing Member (or any Affiliate of a Clearing Member) for payment by 09:00 on the morning following the relevant call. For such purposes, the relevant Clearing Member will be deemed to be subject to an equivalent additional Margin requirement pursuant to Rule 502(g) until such time as the other payment is made or the Clearing House notifies it that the additional Margin requirement has been released.

- (h) The Clearing House will not provide Clearing Members with any specific notifications or confirmations after the execution of a cash movement. Clearing Members may instead find details of all instructions in daily and other reports available through the ECS graphical user interface (“GUT”). After execution, the status of an instruction within ECS will change from ‘pending’ to ‘processed’.
- (i) The following sub-paragraphs describe the various payments that may be included in any cash transfer:
  - (i) *Variation Margin (for F&O Contracts), Mark-to-Market Margin (for CDS Contracts) and FX Mark-to-Market Margin (for FX Contracts)*

Daily Calls: Pursuant to Rule 503, all Contracts will be revalued and subject to Variation Margin, Mark-to-Market Margin or FX Mark-to-Market Margin calls and resulting settlement payments on a daily basis for settlement next day for payments in currencies other than EUR, USD and GBP or same day for payments in other currencies in accordance with Table 1. Variation Margin, Mark-to-Market Margin and FX Mark-to-Market Margin requirements are calculated and settled only in cash. The standard process will be for adjustments to be calculated and payments ordinarily to be executed in the currency of the relevant Contracts (or underlying Contracts). Once the resulting settlement payments of Variation Margin, Mark-to-Market Margin or FX Mark-to-Market Margin in respect of the relevant daily call have been paid in cleared funds, the value of the Contracts will be reset to zero. Under the Standard Payments Mechanism, liabilities resulting from Variation Margin, Mark-to-Market Margin and FX Mark-to-Market Margin requirements will be included in the overnight call or return. Where the Externalised Payments Mechanism applies in respect of Variation Margin, Mark-to-Market Margin or FX Mark-to-Market Margin for a particular Account, such cash payments will be settled through a separate cash flow and not included in a combined overnight call or return as would apply under the Standard Payments Mechanism. The specific timings, payments and Accounts that are subject to the Externalised Payments Mechanism will be confirmed to the relevant Clearing Member by the Clearing House.

Intra-day Calls: Contracts may also be marked to market and subject to an additional Initial Margin, Original Margin or FX Original Margin call (the proceeds of which may be applied against future Variation Margin, Mark-to-Market Margin or FX Mark-to-Market Margin calls) on an *ad hoc* intra-day basis. Affected Clearing Members will be informed (not in writing) by the Clearing House in the event of an intra-day call being applicable. If the call affects a significant number of Clearing Members, the Clearing House may issue a Circular. Intra-day calls will be executed via a direct debit from the Clearing Member’s Nominated Bank Account at an Approved Financial Institution. Payment must be made within one hour. Intra-day calls will only be in USD, GBP or EUR.

Non EUR, USD or GBP payments: Any obligation to pay Variation Margin or settlement amounts on Financials & Softs Contracts in JPY must be covered with cash or non cash Original Margin in a different currency between the time of instruction and settlement.

- (ii) *Original Margin (for F&O Contracts), Initial Margin (for CDS Contracts) and FX Original Margin (for FX Contracts)*

Daily Calls: Pursuant to Part 5 of the Rules, Original Margin, Initial Margin and FX Original Margin requirements will be recalculated on a daily basis. Requirements will be calculated and payments will ordinarily be executed in the currency of the relevant Contracts (or underlying Contracts). Under the Standard Payments Mechanism, liabilities resulting from Original Margin, Initial Margin and FX Original Margin requirements will be included in the overnight call or return. When the Externalised Payments Mechanism applies in respect of Variation Margin, Mark-to-Market Margin or FX Mark-to-Market Margin for a particular Account, cash payments will be settled through a separate cash flow and not included in a combined overnight call or return. The specific timings, payments and Accounts that are subject to the Externalised Payments Mechanism will be confirmed to the relevant Clearing Member by the Clearing House.

Intra-day Calls: Original Margin, Initial Margin and FX Original Margin may also be subject to *ad hoc* intra-day recalculations and calls. Affected Clearing Members will be informed (not in writing) by the Clearing House in the event of an intra-day call being applicable. If the call affects a significant number of Clearing Members, the Clearing House may issue a Circular. Intra-day Original Margin, Initial Margin and FX Original Margin calls will be executed via a direct debit from the Clearing Member's Nominated Bank Account at an Approved Financial Institution. Payment must be made within one hour. Intra-day calls will only be in USD, GBP or EUR.

Clearing Members can specify the currency in which Original Margin, Initial Margin and FX Original Margin deficits are called. In order to enable this facility Clearing Members will have to complete and return the ICE Clear Europe Margin Deficit Currency Form.

As explained in the Clearing Procedures, in the event that an intra-day Margin call is anticipated, the Clearing House will contact the Clearing Member by phone to notify them of the requirement. This will be followed by written notification distributed by email. Intra-day Margin calls for Contracts other than F&O Contracts can be made between 09:00 and 19:00 London time. Intra-day Margin calls for F&O Contracts can be made between 07:30 and 20:00 London time. Where a contingency method applies (see paragraph 5.5), intra-day calls in respect of any Contracts may be made up to 21:00 London time. All intra-day Margin calls must be met within 60 minutes of notification by the Clearing House. Any Margin calls made outside of these hours for a particular product must be met by the later of: (x) 60 minutes after notification by the Clearing House, provided that any settlement system used by the Clearing House for the relevant currency remains open for business at that time; or (y) 60 minutes after the time at which any settlement system used by the Clearing House for the relevant currency becomes open for business following the time of the notification by the Clearing House. Clearing Members will be able to answer the call by reducing positions (e.g. reallocation of trades/clearing give-ups), or submitting new cash and/or collateral. Margin calls are rounded to the smallest major currency unit (e.g. US dollar cents).

- (iii) *Guaranty Fund adjustments*

Each relevant Guaranty Fund Period, the total value of the Guaranty Funds and required Guaranty Fund Contributions of Clearing Members are reviewed and may

be amended. Each Clearing Member will be notified of its total Guaranty Fund Contribution requirements at each Guaranty Fund Period end ~~by Circular~~. The Clearing House Contributions will also be notified to Clearing Members by Circular. Adjustments to Guaranty Fund Contributions will be notified to individual Clearing Members by e-mail to a nominated e-mail account of each Clearing Member prior to the Business Day after the end of the relevant Guaranty Fund Period. Adjustments to Guaranty Fund Contributions will be made five Business Days after the date of notification unless the relevant Circular specifies otherwise. Other than in exceptional circumstances, any additional required Guaranty Fund Contribution payments will be included together with overnight calls and details will be included in daily reports provided to Clearing Members through ECS.

(iv) *Interest and price alignment amounts*

The Clearing House will notify Clearing Members of its interest rate in each currency on the Business Day following the day to which the rate applies. The Clearing House rates payable (or deductible in the case of negative rates) on Original Margin, Initial Margin and FX Original Margin are referred to as the ICE Deposit Rate (IDR).

Payments or deductions on accounts in respect of interest will be made to or from Clearing Members in respect of cash, assets and securities held by the Clearing House as Margin, Guaranty Fund Contributions or Permitted Cover. The rate of return or loss (in the case of negative rates) may vary for different cash and asset classes and between types of cover. The IDR and accumulated interest over each month will be available to Clearing Members through the ECS-GUI.

Interest will be calculated on a simple daily basis and will become available for payment to or liable for deduction from Clearing Members, subject to any required deduction or withholding tax, monthly, by the fourth Business Day after the end of each month. Once credited, ~~the~~any positive interest is available to meet Margin payments or may be withdrawn by Clearing Members. If used to meet Margin payments, ~~the~~such positive interest then itself becomes eligible to accrue positive or negative interest.

Any deductions on account of interest may result in calls for Margin in respect of requirements under the Rules which are no longer being satisfied as a result of such deduction.

Price alignment amounts are payable in respect of CDS Contracts by Clearing Members and the Clearing House as set out in the CDS Procedures. FX Price Alignment Amounts are payable in respect of FX Contracts by Clearing Members and the Clearing House as set out in the FX Procedures.

(v) *Income (interest and collateral) and redemption*

The Clearing House will make payment to Clearing Members in respect of income and redemptions on non-cash assets transferred to the Clearing House as Margin, Guaranty Fund Contributions or Permitted Cover. Distributions will be executed direct to the Clearing Member by the relevant custodian pursuant to a standing instruction made by the Clearing House based on account information provided by the Clearing Member. Clearing Members are required to provide account details in relation to accounts in all applicable currencies to the Clearing House. Changes in account details must be notified at least five Business Days in advance.

Payments in respect of income on non-cash assets will be paid to Clearing Members in the same currency as the income is distributed by the relevant issuer or payment agent to the Clearing House or the relevant Custodian. Any required foreign exchange transaction following payment must be arranged by the Clearing Member and the costs of the same must be met by the Clearing Member. No currency exchange will be arranged by the Clearing House or its custodian.

If there is a failed payment in respect of income or redemption (e.g. as a result of account details being unavailable or incorrect), income may be retained by the Clearing House or custodian but will not be treated by the Clearing House as Permitted Cover. The Clearing House makes no representation or warranty to Clearing Members in respect of the promptness of payment by any issuer or payment agent, the custodian or any of its sub-custodians or agents (save for any liability which by Applicable Law may not be excluded).

(vi) *Fees and rebates*

All Market fees, Clearing House fees, delivery fees and other fees payable to the Clearing House or a Market will be calculated and charged to each Clearing Member as such fees accrue (typically on a monthly basis).

Rebates, fee discounts and incentive programme payments which have been directed by the payee or beneficiary to be paid to the account of a Clearing Member will be calculated and credited to the relevant account of the Clearing Member as such rebates, fee discounts and incentive programme payments accrue (typically on a monthly basis) and may include payments for which the payer is a Market, payments for which the payer is the Clearing House or both.

The following additional provisions apply in respect of rebate, fee discount or incentive programme payments except to the extent agreed or notified otherwise by the Clearing House from time to time. Terms, conditions and amounts of rebate, fee discount or incentive programmes may be periodically modified by the Clearing House at its sole discretion. In certain circumstances, the Clearing House may make the availability of a rebate, fee discount or incentive programme contingent on certain cleared volume levels. Rebate, fee discount and incentive programmes may be withdrawn by the Clearing House or any relevant Market at any time. Persons may be required to meet participation criteria, conditions and obligations applicable to participants in this scheme as the same may be amended or added to from time to time, in order to be able to continue to participate in any such programme. Where a rebate, fee discount or incentive programme relates to a service for which both Market trading, clearing or other fees or Clearing House clearing fees are applicable, the payer of the rebate, fee discount or incentive programme payment is the Clearing House as to the total amount of the Market and Clearing House rebate, fee discount or incentive programme payments multiplied by the percentage that Clearing House fees represent of the sum of Clearing House and Market fees. The legal entity operating the relevant Market will be the payer of the remainder of the rebate, fee discount or incentive programme payment. Where only Clearing House fees are charged or a rebate, fee discount, or incentive programme payment the payer of the entire rebate, fee discount or incentive programme payment is the Clearing House. The Clearing House or the operator of the relevant Market may arrange for one of its Affiliates or the Clearing House to make any payment in respect of rebates, fee discounts or incentive programmes on the payer's behalf. The payee in respect of a rebate, fee discount or incentive programme is the person who participates in the programme, regardless of whether such person is or is not a Clearing Member or member or participant of the relevant Market. A qualifying participant in a rebate, fee discount or incentive programme may from time to time direct that relevant

payments be made directly to their account or to the account of their Clearing Member, exchange member, execution platform participant or any other third party. Any payment in accordance with such instructions shall constitute due and final payment by the Clearing House or Market to the account of the rebate, fee discount or incentive programme participant. Rebate, fee discount or incentive programme participants may direct changes to such payment arrangements from time to time by providing notice in writing to the Clearing House or the relevant Market. In the absence of any payment instructions, the Clearing House shall be entitled (but shall not be required) to make payment in respect of any rebate, fee discount or incentive programme payment by crediting amounts to the Proprietary Account or Customer Account of the relevant Clearing Member and in doing so shall have made good discharge of its obligations and those of any Market in relation to the relevant rebate, fee discount or incentive programme payment.

Fee invoices will be made available via ECS by the fourth Business Day of each month. Fees and any applicable rebates, incentive payments or discounts will be included in the overnight call or return by the fifth Business Day after the end of each month. All fees are collected through a Clearing Member's Nominated Proprietary Bank Account. Rebates, incentive payments or discounts may be credited to a Clearing Member's Nominated Proprietary Bank Account or Nominated Customer Bank Account, as instructed from time to time by the payee.

Clearing Members that wish to query a fee invoice should contact the Clearing House Finance department on or before the 10th Business Day of the relevant month. Any required amendments will be reflected in the next billing cycle.

(vii) *Other amounts*

Any amount payable by a Clearing Member to the Clearing House (or *vice versa*) pursuant to the Rules or any Contract may be included within an end-of-day or *ad hoc* payment under the Standard Payments Mechanism. This may include premium payments (in the case of Options), settlement amounts, Surplus Collateral, delivery-related payments (e.g. Buyer's Security and Seller's Security), fines, damages, amounts payable as a result of arbitration or disciplinary proceedings, dividends and coupons and other corporate action payments relating to Investments being delivered under Financials & Softs Contracts, amounts resulting from reduced gain distributions, product terminations or non-default loss contributions under Part 9 of the Rules, and other amounts payable under the Rules.

(viii) *Applicability of Externalised Payments Mechanism to Part 9 Rules payments*

If the Externalised Payments Mechanism applies to Variation Margin, Mark-to-Market Margin or FX Mark-to-Market Margin for a particular Account, then:

- (A) Margin Account Adjustments applied on Loss Distribution Days in accordance with Rule 914(e) may be netted and offset or aggregated by the Clearing House against any payment from or receivable by the relevant Contributor under either the Standard Payments Mechanism or the Externalised Payments Mechanism on the relevant Account, including against any payment for MTM/VM and, accordingly, payments of Cash Gainer Adjustments and Cash Loser Adjustments pursuant to Rule 914(l) may be made under the Standard Payments Mechanism or the Externalised Payments Mechanism at the election and discretion of the Clearing House.
- (B) Product Termination Amounts may be netted and offset or aggregated by the Clearing House against any other payment from or receivable by a

Clearing Member under either the Standard Payments Mechanism or the Externalised Payments Mechanism, regardless of whether the Externalised Payments Mechanism would apply in respect of any kind of payment on the relevant Account by any other provision of these Procedures, at the election and discretion of the Clearing House.

- (C) Payments of Collateral Offset Obligations as referred to in Rule 919(m) Assessment Contributions and Guaranty Fund Contribution calls or replenishments will be made under the Standard Payments Mechanism unless the Clearing House at its discretion directs otherwise.

The specific timings, Part 9 payments and Accounts that are subject to the Externalised Payments Mechanism will be confirmed to the relevant Clearing Member by the Clearing House at the relevant time.

(ix) *Currency Holidays and payments in other currencies*

Before the start of each calendar year, the Clearing House will publish a Circular setting out details of bank/public holidays relevant to the currencies supported by the Clearing House in different jurisdictions (each, a “**Currency Holiday**”). Transfer of funds in a currency will not take place on a Currency Holiday for that currency.

If there is a Currency Holiday, the Clearing House will call and Clearing Members shall pay (or receive as applicable) Margin in another currency specified by the Clearing House. The sequence of alternative currencies to be used for F&O Contracts and FX Contracts in respect of Currency Holidays (in the absence of a Clearing Member specifying an alternative sequence for these three currencies in writing to the Clearing House) is as follows: USD, GBP and EUR. The sequence of alternative currencies to be used for CDS Contracts (in the absence of a Clearing Member specifying an alternative sequence for these three currencies in writing to the Clearing House) is as follows: EUR, USD and GBP.

If, due to a Force Majeure Event, Financial Emergency or otherwise, a transfer of funds of a currency is not possible or advisable, the Clearing House may call and Clearing Members shall pay (or receive as applicable) Margin, Guaranty Fund Contributions, fees, fines, interest, incentive payments, fee discount, rebates and all other payments (excluding final settlement payments under Contracts) in another currency specified by the Clearing House. If payments are to take place in a currency other than the contractual currency in circumstances other than a Currency Holiday, the Clearing House will issue a Circular or notify affected Clearing Members, specifying the currency to be used and the exchange rate to be applied.

Payments of Margin in a different currency on a Currency Holiday will not be netted against obligations in a currency other than that of the underlying Contract, nor paid in another currency. For Variation Margin, Mark-to-Market Margin and FX Mark-to-Market Margin, payment in a different currency from the contractual currency due to a Currency Holiday will result in a delay of payments to the next day on which payment may be made in the contractual currency. Any obligation to pay Variation Margin, Mark-to-Market Margin or FX Mark-to-Market Margin in a currency other than the contractual currency, [including on a Currency Holiday](#), will result in an additional Original Margin, Initial Margin or FX Original Margin requirement, which must be covered with cash or non-cash collateral (which may be of, or be denominated in, a different currency). Any obligation to pay any other amount in a currency other than the contractual currency may result in an additional Original Margin, Initial Margin or FX Original Margin requirement, which must be covered with cash or non-cash collateral (which may be of, or be denominated in, a different



currency) and which will be collected via the Standard Payments Mechanism, regardless of whether the Externalised Payments Mechanism applies to such Variation Margin, Mark-to-Market Margin or FX Mark-to-Market Margin (unless the Clearing House directs otherwise). In the case of payment in a currency other than the contractual currency being required in instances other than a Currency Holiday, the Clearing House will specify in the relevant Circular how applicable obligations will be margined or netted.

Transactions in collateral on bank/public holidays in a relevant jurisdiction will not necessarily be rejected upon instruction but will be cancelled at the end of day and must be re-instructed by Clearing Members on a day which is not a bank/public holiday in the relevant jurisdiction.

- (j) Clearing Members are required to provide any information to the Clearing House and complete any forms provided by the Clearing House as may be required by the Clearing House to comply with its obligations relating to FATCA. For the purposes of this Rule, FATCA means:

(a) sections 1471 to 1474 of the US Internal Revenue Code of 1986, as amended, and any associated legislation, regulations or guidance, or similar legislation, regulations or guidance enacted in any jurisdiction which seeks to implement similar tax reporting and/or withholding tax regimes;

(b) any intergovernmental agreement, treaty, regulation, guidance or any other agreement between the United Kingdom (or any UK governmental authority) and the United States or any other jurisdiction (including any governmental authority in such jurisdiction), entered into in order to comply with, facilitate, supplement or implement the legislation, regulations or guidance described in paragraph (a) above;

(c) any agreement pursuant to the implementation of any intergovernmental agreement, treaty, regulation, guidance or other agreement referred to in paragraphs (a) or (b) above with the US Internal Revenue Service, the US government or any governmental authority in any other jurisdiction; and

(d) any legislation, regulations or guidance in the United Kingdom that give effect to the matters outlined in the preceding paragraphs.

The Clearing House's status under FATCA (and registration for any applicable Global Intermediary Identification Number, including on a protective basis) is not intended to have any effect on the Clearing House's status for the purposes of any other Applicable Law. The Clearing House's registration under FATCA shall not affect any of the rights or obligations of the Clearing House or any Clearing Member or Sponsored Principal (including, without limitation, relating to transfers of title over collateral, pledged collateral or other property rights) provided for under the Rules, Procedures, Clearing Membership Agreements, Sponsor Agreements, Sponsored Principal Clearing Agreements, Applicable Laws or otherwise, nor does it put the Clearing House on notice of any Encumbrance.

- (k) In respect of Contracts that are equity or equity index futures or options products:
- (i) No Clearing Member that is treated as a non-U.S. entity for U.S. federal income tax purposes shall enter into any Contract in any equity or equity index futures or option product with the Clearing House unless:
- (A) such Clearing Member has entered into a qualified intermediary agreement with the U.S. Internal Revenue Service (the "IRS") to become: (y) with respect to any Proprietary Account Contract or any other Contract in respect

of which such Clearing Member considers that it is acting as principal for U.S. tax purposes, a qualified derivatives dealer (“Qualified Derivatives Dealer”); and (z) with respect to any Customer Account Contract in respect of which such Clearing Member considers that it acts as an intermediary for U.S. tax purposes, a qualified intermediary that assumes the primary obligation for withholding under Chapters 3 and 4 of subtitle A of the Internal Revenue Code of 1986, as amended (the “Code”) and for reporting and withholding under Chapter 61 of subtitle F and Section 3406 of the Code (“Withholding Qualified Intermediary”), such that the Clearing House may make payments of dividend equivalents (as that term is defined in Section 871(m)(2) of the Code and Treasury Regulations Section 1.871-15(c) or any successor thereto (“Dividend Equivalents”)) or deemed payments to such Clearing Member free from U.S. withholding taxes imposed pursuant to Chapters 3 and 4 of subtitle A, and Chapter 61 of subtitle F and Section 3406, of the Code arising from Contracts with the Clearing House that are entered into by the Clearing Member; and

- (B) such Contract entered into by the Clearing Member is within the scope of the exemption from withholding tax for Dividend Equivalents paid to Qualified Derivative Dealers or Withholding Qualified Intermediaries pursuant to Chapters 3 and 4 of subtitle A, and Chapter 61 of subtitle F and Section 3406, of the Code; and
- (C) such Clearing Member has qualified under such procedures promulgated by the IRS as are in effect from time to time to establish an exemption from withholding under FATCA, such that the Clearing House will not be required to withhold any amount with respect to any payment made or deemed to be made to such Clearing Member under FATCA.

A Clearing Member that enters into any Contract in breach of paragraph 6.1(k)(i)(A)-(C) must immediately bring itself into compliance or terminate the relevant Contract (without prejudice to any other rights or remedies of the Clearing House).

- (ii) On 1 January of each year, each Clearing Member that is treated as a non-U.S. entity for U.S. federal income tax purposes and that enters into any Contract in any equity or equity index futures or option product with the Clearing House in accordance with paragraph 6.1(k)(i) shall certify to the Clearing House that such Clearing Member satisfies the requirements of paragraph 6.1(k)(i) by providing to the Clearing House appropriate tax documentation attesting to such Clearing Member’s U.S. federal income tax status. Each such Clearing Member is required to promptly update its certification to the Clearing House when required by Applicable Law and, if sooner, whenever the certification is no longer accurate.
- (iii) On 1 January of each year, each Clearing Member that is treated as a non-U.S. entity for U.S. federal income tax purposes shall provide the Clearing House with information relating to Dividend Equivalents the Clearing House pays or is treated as paying to such Clearing Member in sufficient detail and in a sufficiently timely manner to enable the Clearing House to report on IRS Forms 1042 and 1042-S (or successor forms) under Chapters 3 and 4 of subtitle A of the Code the required amounts and other information relating to such Dividend Equivalents and transactions giving rise thereto between the Clearing House and the Clearing Member.
- (iv) Each Clearing Member that is treated as a non-U.S. entity for U.S. federal income tax purposes shall promptly notify the Clearing House in writing if it undergoes a

change in circumstance that would affect its compliance with this paragraph 6.1(k), or otherwise knows or has reason to know that it is not, or will not be, in compliance with this paragraph 6.1(k), but in each case, such notice must be delivered to the Clearing House no later than within two Business Days of the Clearing Member's knowledge thereof.

- (v) The representations set forth above or for U.S. tax purposes concerning "principal" or "intermediary" status shall not affect the rights, obligations, status, position or capacity of any Clearing Member as principal or otherwise under Contracts, in respect of Margin or under the Rules or Procedures.

## 7. CUSTODY ACCOUNTS

- 7.1 Pursuant to Rule 502, Original Margin, Initial Margin and FX Original Margin requirements are payable initially in cash but a Clearing Member may [at the discretion of the Clearing House](#) substitute such cash Original Margin, Initial Margin or FX Original Margin with other Permitted Cover by delivery of the replacement Permitted Cover to the Clearing House. Such transfers must first be notified to the Clearing House by the relevant Clearing Member through ECS and will not be effective and may not be made until after the Clearing House has approved the proposed transaction in ECS. Guaranty Fund Contribution requirements may also be satisfied through non-cash assets to the extent allowed under the Rules and these Procedures. This paragraph 7.1 applies to each Sponsored Principal (or, to the extent that a Sponsor operates Nominated Bank Accounts in respect of an Individually Segregated Sponsored Account, each such Sponsor) in the same way as it applies to a Clearing Member, subject to Part 19 of the Rules.
- 7.2 Pursuant to Clearing Membership Agreements and Sponsored Principal Clearing Agreements, the Clearing House receives all non-cash assets provided to it as Permitted Cover in respect of Accounts that are not Pledged Collateral Accounts pursuant to title transfer arrangements. For Pledged Collateral Accounts, pursuant to the relevant Pledged Collateral Addendum, the Clearing House is beneficiary of a pledge over non-cash assets provided to it as Permitted Cover. Non-cash assets transferred to the Clearing House by way of title transfer cease to belong to the Clearing Member, Sponsored Principal or Sponsor upon transfer to the Clearing House. Accounts available to the Clearing Members in ECS will contain information concerning the amounts and kinds of non-cash Permitted Cover that have been transferred to the Clearing House in respect of both Margin and Guaranty Fund Contributions. Non-cash Permitted Cover will be held in accounts of the Clearing House at a Custodian, central securities depository ("CSD") or international central securities depository ("ICSD"), which accounts are in the name of the Clearing House, as permitted under regulatory technical standards under EMIR. Such accounts may be managed by a third party agent. If liquidity needs to be generated against any non-cash assets transferred to the Clearing House as Permitted Cover, for example in respect of a Defaulter's Margin or non-defaulting Clearing Members' Guaranty Fund Contributions following an Event of Default or when required to support liquidity funding for making payments, non-cash assets held by the Clearing House may become the subject of repurchase agreements or secured lending facilities or may be sold and as a result such assets or their proceeds may be held in other kinds of accounts. However, in the case of Margin (and Guaranty Fund Contributions which are ultimately not applied under the Rules), the Clearing House will remain liable to transfer assets of the same kind as those which were transferred, upon relevant secured obligations for the relevant Account being performed or closed out by the Clearing Member.
- 7.3 In the event that a Clearing Member wishes to lodge U.S. Government securities as Permitted Cover, Clearing Members are required to complete and return a Form W-8BEN "Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding" (non-U.S. entities) or a Form W-9 "Request for Taxpayer Identification Number and Certification" (U.S. entities). In the event that a Sponsored Principal or Sponsor wishes to lodge U.S. Government securities as Permitted Cover, the Sponsored Principal is required to complete and return a Form W-8BEN "Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding" (non-U.S. entities) or a Form W-9 "Request for Taxpayer Identification Number and Certification" (U.S. entities) specifying the name and details of

the Sponsored Principal. Clearing Members, Sponsors and Sponsored Principals must inform the Clearing House of any changes in relevant tax status or the information provided in any such form. Late provision of information may result in unnecessary tax withholdings, deductions, penalties or costs. The Clearing House shall not be liable to Clearing Members, Sponsors or Sponsored Principals for any such withholdings, deductions, penalties or costs, save as provided otherwise pursuant to the CDS Procedures in relation to CDS Contracts. Where necessary, the Clearing House's custodian will make available a tax certificate or other details which may be required for tax purposes from time to time. Declarations relating to 'beneficial ownership' on IRS Form W-8BEN or IRS Form W-9 are based upon U.S. tax law concepts and do not affect the transfer of title, pledge or property rights provided for under Clearing Membership Agreements, Sponsor Agreements or Sponsored Principal Clearing Agreements, nor do they put ICE Clear on notice of any Encumbrance.

## 8. **PERMITTED COVER: SECURITIES**

- 8.1 The Clearing House will publish by Circular a list from time to time setting out all security classes acceptable as non-cash Permitted Cover, specifying any restrictions for such Permitted Cover applicable by way of class or status of Clearing Member or Sponsored Principal, account or Contract. Applicable 'haircuts' will also be published and amended by Circular. The amount of recognised Permitted Cover at the Clearing House attributable to a particular security is the market value of the relevant security multiplied by the applicable haircut. Within ECS, details of international security identification numbers (ISINs) for all acceptable Permitted Cover will be provided. New issues are automatically added to the list and can be selected for settlement and coverage. The Clearing House is entitled to remove securities from the list of accepted Permitted Cover or to vary haircuts at any time.
- 8.2 Clearing Members and Sponsored Principals may suggest to the Clearing House's risk department that a new class or series of permitted cover be included within the list of acceptable Permitted Cover. A request form to lodge new certificates of deposit is available on the member-only section of the Clearing House website. New classes will only be added after approval by the risk department. A limited sub-set of the acceptable securities are accepted by the Clearing House in respect of required Guaranty Fund Contributions. The Clearing House will set out and amend the list of acceptable Permitted Cover by a Circular.
- 8.3 The Clearing House does not recognise any value for non-cash collateral as from the day falling one full Business Day prior to redemption or maturity for non-cash collateral other than UK government bonds and seven full Business Days prior to redemption or maturity for non-cash collateral consisting of UK government bonds. Clearing Members and Sponsored Principals must arrange for substitute Permitted Cover on or prior to such time. The Clearing House will use endeavours (but shall not be required) to contact Clearing Members and Sponsored Principals or their Sponsors who have securities nearing maturity in order to assist with the timely lodgement of alternative Permitted Cover.
- 8.4 Notwithstanding paragraph 8.1, a Clearing Member, Sponsor or Sponsored Principal may not use any financial instrument otherwise agreed by the Clearing House to be eligible as Permitted Cover where such financial instrument is issued by such Clearing Member, Sponsor or Sponsored Principal or one of its Affiliates except in the case of a covered bond and only where the assets backing that bond are appropriately segregated within a robust legal framework which the Clearing House determines to satisfy applicable requirements under Applicable Law.

## 9. **INTENTIONALLY OMITTED.**

## 10. **PERMITTED COVER: GOLD BULLION**

### **General**

- 10.1 This paragraph 10 applies to each Sponsored Principal (or, if a Sponsor has been appointed as responsible for making and receiving transfers in respect of Permitted Cover in the form of Gold Bullion on an Individually Segregated Sponsored Account, the Sponsor) in the same way as it applies

to a Clearing Member, subject to Part 19 of the Rules. The following definitions apply to this part of the Finance Procedures:

- (a) The term “**Gold Bullion**” shall have the same meaning as “London Good Delivery Bars” as set by London Bullion and Metals Association (“**LBMA**”).
  - (b) “**AURUM**” means the electronic matching and settlement system operated by London Precious Metal Clearing Limited (“**LPMCL**”).
  - (c) “**Market Rules**” means the rules, regulations, practices and customs of the LBMA, LPMCL, the Financial Conduct Authority, the Prudential Regulatory Authority, the Bank of England and such other regulatory authority or other body, relevant to the transfer and safekeeping of Gold Bullion.
  - (d) “**Unallocated Account**” established at the custodian for the purpose of transferring Gold Bullion between the Clearing House and the Clearing Member. Gold Bullion in the Unallocated Account will be unidentifiable, and present the contractual obligations from the custodian to the Clearing House.
  - (e) “**Allocated Account**” established at the custodian for the purpose of safekeeping Gold Bullion. Gold Bullion on the Allocated Account is physically held in the custodian’s vaults and identifiable by serial numbers.
  - (f) “**Business Day**” means a day (excluding Saturdays, Sundays and public holidays) on which AURUM, the settlement system operated by LPMCL, is open for the transfer of Gold Bullion.
- 10.2 Clearing Members may use Gold Bullion to satisfy Original Margin, Initial Margin and FX Original Margin requirements (unless agreed otherwise by the Clearing House at its discretion). The Clearing House has set a Collateral limit of the lower of 250 million US Dollar or 30% of total Initial Margin or FX Original Margin requirement, per Clearing Member.
- 10.3 Gold Bullion to be used as Permitted Cover shall conform to the eligibility criteria described by the LBMA and transfers shall be in conformance with the Market Rules. Clearing Members will be liable to the Clearing House in the event that the Clearing House incurs any loss as a result of Gold Bullion being delivered to the Clearing House as Original Margin, Initial Margin or FX Original Margin which does not comply with these Procedures
- 10.4 The Clearing House limits its liabilities for loss or damage of all Gold Bullion that has been transferred to it. Prior to the first transfer the Clearing House must have received a signed copy of the “Gold Supplement” to the Clearing Member Agreement or Sponsored Principal Clearing Agreement. A template of this agreement will be provided by the Clearing House.
- 10.5 Transfers and withdrawals of Gold Bullion must be made in increments of 1 Troy Ounce.
- 10.6 Gold Bullion received before 16:00 hours (London time) on a Business Day will be reflected in Permitted Cover on the same Business Day. Gold Bullion received after 16:00 hours (London time) will be treated as having been not received until the next Business Day.
- 10.7 Transfer of Gold Bullion to the Unallocated Account of the Clearing House, must be done in accordance with the provisions of the LBMA and LPMCL. The Clearing House is not responsible for, and/or shall have no liability whatsoever as a result of, the performance or non-performance of any settlement system or settlement party.
- 10.8 Management of the Gold Bullion as margin is only possible on Business Days as set by LPMCL. Additionally the Clearing House is not able to transfer assets on non-Clearing days or UK bank holidays in case they differ from the non-Business Days.

10.9 The Gold Bullion will be priced in accordance with the rules, policies and processes of ICE Benchmark Administration Limited, with price reports available at <https://www.theice.com/marketdata/reports/178>. The Gold Bullion will be quoted in US Dollars. The Clearing House retains the right to adjust the price if the Risk Department regards this as necessary.

10.10 Gold Bullion will be held in physical form in the vaults of our custodian JPMorgan Chase Bank NA.

#### **Transfer procedure**

10.11 Prior to transferring Gold Bullion the Clearing Member must provide details of the standard counterparty account and the contact details of the persons authorised to instruct on behalf of the Member. This information must be provided on the standard form provided by the Clearing House and signed by two Authorised Signatories. A template of this form will be provided by the Clearing House.

10.12 For every transfer of Gold Bullion, the Clearing Member must instruct the Clearing House using the standard form provided by the Clearing House. Any uninstructed transfers will not be accepted as Permitted Cover and the Clearing House shall try to return the assets as soon as possible. The Clearing House is not liable for any losses resulting from transfers which do not comply with these procedures.

10.13 A transfer must be made to the Unallocated Account of the Clearing House as notified to Clearing Members from time-to-time. The transfer has to be made via AURUM, the electronic matching and settlement system operated by LPMCL.

10.14 Transfer instructions to the Clearing House have to be received prior to the:

Instruction deadline      11:00 (London Time).

Instructions received after the deadline or instructions pending in anticipation of the provision of alternative margin after the deadline will be rejected by the Clearing House.

10.15 The Clearing House has established an Allocated Account for Gold Bullion received as Permitted Cover. The Clearing House shall manage the transfers between the Allocated Accounts and Unallocated Accounts.

10.16 The Clearing House has the right to reject instructions in the event that: (i) insufficient information has been supplied; (ii) counterparty accounts are not pre-advised on the list with allowed counterparties; (iii) when concentration limits are exceeded; and (iv) the transfer results in uncovered liabilities towards the Clearing House; or, (v) for any other reason that places the Clearing House under additional risk.

10.17 The position in the Clearing House's collateral system ECS will be adjusted prior to the withdrawal or after confirmation of completion of the relevant transfer in the Clearing House's Unallocated Account by its custodian. The adjustment of the position will have immediate effect on the value of available collateral.

#### **Expiry**

10.18 The Clearing House is entitled to remove Gold Bullion from the list of accepted Permitted Cover or to vary haircuts at any time.

### **11. SETTLEMENT PROCEDURES FOR NON-CASH COLLATERAL**

This paragraph 11 applies to each Sponsored Principal (or, if a Sponsor has been appointed as responsible for meeting obligations in respect of non-cash collateral on an Individually Segregated Sponsored Account, the Sponsor) in the same way as it applies to a Clearing Member, subject to Part 19 of the Rules.



### 11.1 Instruction Type

All transactions including each transfer to or withdrawal from the Clearing House will be executed free of payment.

### 11.2 Trade and Settlement Date

- (a) The Clearing House accepts instructions with settlement date up to two business days from trade date. The proposed settlement date shall be specified by the Clearing Member in its instruction. If this is accepted by the Clearing House, the Clearing Member must deliver the securities on settlement date.
- (b) Settlements must take place during normal opening hours of the relevant settlement or depository system. The Clearing House will not give settlement instructions in extended settlement periods such as 'daylight' or 'Real Time Settlement' periods.

### 11.3 Custody and Sub-custody

- (a) Settlement of a transfer of Permitted Cover from the Clearing House to a Clearing Member may only be effected when the relevant securities to be subject to settlement are under custody of the Clearing House's custodian at the moment that settlement instructions are made.
- (b) Each settlement between the Clearing House and a Clearing Member must be effected pursuant to a transaction within the relevant settlement or depository system.

### 11.4 Matching of Settlement Instructions

The Clearing House will support the matching mechanism of at least one major settlement system or depository for securities acceptable as Permitted Cover. ECS requires only the minimum necessary information required by such systems and depositories in order for matching of a counterparty's instruction. The Clearing House will notify Clearing Members of the relevant account details for matching. However, it is the responsibility of the Clearing Member to ensure that instructions entered into ECS are correctly matched. The Clearing House will not be liable for any losses of Clearing Members or third parties caused by non-settlement or a delay in settlement as a result of the actions or omissions of a settlement system, a depository or the Clearing Member (save for any liability which by law may not be excluded).

Matching criteria per custodian or central securities depository (and ICE settlement details) will be sent out by Circular. Settlement timing per settlement system or depository is set out below:

<b>CBF (DE)</b>	Instruction deadline:	14:30 (GMT/BST)
	Trade date:	Entry day
	Contractual Settlement date:	Entry day or up to two Business Days from trade date
<b>EOC France (FR)</b>	Instruction deadline:	12:30 (GMT/BST)
	Trade date:	Entry day
	Contractual settlement date:	Entry day or up to two Business

		Days from trade date
<b>EOC GB/IE (GB)</b>	Instruction deadline:	15:00 (GMT/BST)
	Trade date:	Entry day
	Contractual Settlement date:	Entry day or up to two Business Days from trade date
<b>FED (US)</b>	Instruction deadline:	17.00 (GMT/BST)
	Trade date:	Entry day
	Contractual Settlement date:	Entry day or up to two Business Days from trade date
<b>EOC bank</b>	Instruction deadline:	15:00 (GMT/BST)
	Trade date:	Entry day
	Contractual Settlement date:	Entry day or up to two Business Days from trade date
<b>CBL (Clearstream Lux.)</b>	Instruction deadline:	12:00 (GMT/BST)
	Trade date:	Entry day
	Contractual Settlement date:	Entry day or up to two Business Days from trade date

Direct accounts of the Clearing House at settlement systems may also be notified by the Clearing House to Clearing Members from time to time and must be used instead of any of the accounts referenced in any Circular issued by the Clearing House pursuant to this paragraph 11.4, where the Clearing House and Clearing Member are able to do so.

#### 11.5 Settlement cancellations and unsettled transactions

- (a) Clearing Members may only cancel settlement instructions prior to the time when the Clearing House sends settlement instructions to its custodian. After the Clearing House has sent instructions to its custodian, the Clearing House and ECS will assume that the transaction has been executed and settled.
- (b) All unsettled transactions are automatically cancelled at the end of each day in ECS. In the event that the relevant settlement system or depository does not support one-sided cancellations and the transaction settles after the contractual settlement date, relevant securities will not be taken into account as Permitted Cover. If same-day settlement does not occur but the Clearing Member still wishes to make settlement, it must cancel the instruction and re-enter that instruction.

#### 11.6 Settlement deadlines

All settlements will be executed by the Clearing House with a request for same-day settlement. As deadlines for settlement systems or deadlines on particular days may vary, the Clearing House will provide details of normal deadlines for free-of-payment instructions for each supported settlement system by Circular. Deadlines for settlement systems will be set out and updated in Circulars. Any adjustments of deadlines will be published by Circular. Instructions received after a specified deadline will be rejected by ECS.

#### 11.7 **Holidays affecting settlement systems**

- (a) If a settlement system or depository is closed, it will not be possible to transfer securities within that system. Clearing Members are allowed to use alternative settlement systems or types of collateral to cover Margin requirements or Guaranty Fund Contribution requirements. Clearing Members wishing to deliver securities through either of Euroclear Bank or Clearstream Bank Luxemburg should contact the Clearing House's Treasury department.
- (b) UK bank holidays will not affect the settlement of transaction in non-UK instruments.

#### 11.8 **Status settlement transaction**

The Clearing House will provide updated information on the settlement status of transactions through ECS. Clearing Members are responsible for monitoring the status of settlements. The status of a transaction as matched or not matched is not reported upon by the Clearing House and must be confirmed by Clearing Members directly with the relevant settlement system or depository.

#### 12. **INTENTIONALLY OMITTED.**

#### 13. **RISK MANAGEMENT**

##### 13.1 **Contacting Risk Management**

Clearing Members, Sponsors and Sponsored Principals should contact the Clearing House's Risk department to discuss any special issues relating to Margin, Permitted Cover, Guaranty Fund Contributions, Position Limits or any unusual circumstances or events.

##### 13.2 **Specific information request**

Clearing Members, Sponsors and Sponsored Principals may be required from time to time to respond to an information request made by the Clearing House. Such a request may include (but shall not be limited to) information concerning:

- (a) the nature and extent of Open Contract Positions;
- (b) identification of a Customer or Customers for whom Open Contract Positions are held;
- (c) explanation of the commercial strategy or rationale relating to Open Contract Positions;
- (d) any economically similar positions at other Clearing Organisations or Exchanges or in over-the-counter instruments; and/or
- (e) details around plans to close out or reduce any Open Contract Positions.

- 13.3 The Clearing House shall be entitled to require written responses and may make further or follow-up requests and visits and inspections. This paragraph 13 is without prejudice to the Clearing House's rights under the Rules, including in relation to the provision of information, audit and disciplinary proceedings.

### 13.4 **Staff Availability**

Clearing Members, Sponsors and Sponsored Principals may be required from time to time to make staff of suitable seniority available to attend meetings, called by the Clearing House at reasonable notice, in order to assess:

- (a) the Clearing Member's, Sponsor's or Sponsored Principal's compliance with the Rules and these Procedures;
- (b) risks to which the Clearing House, Clearing Member, Sponsor or Sponsored Principal is exposed; or
- (c) any related purposes.

### 13.5 **Default Procedure**

In the case where the payment deadline is not met, the Clearing House may initiate a default procedure. Without prejudice to Part 9 of the Rules, the default procedure in general may use the following tools:

- (a) setting of final deadlines for the Clearing Member, Sponsor or Sponsored Principal to meet requirements;
- (b) imposition of Position Limits;
- (c) additional Margin requirements;
- (d) restriction of trading (e.g. new trades only allowed to liquidate existing positions);
- (e) transfer of Open Contract Positions;
- (f) liquidation of Permitted Cover;
- (g) liquidation of Guaranty Fund Contributions; or
- (h) closure of Open Contract Positions.

### 13.6 **Margin Parameters**

The Clearing House monitors market volatilities on a daily basis. The Clearing House will review Original Margin, Initial Margin and FX Original Margin rates on a periodic and *ad hoc* basis. Changes to Original Margin, Initial Margin and FX Original Margin rates will be notified to Clearing Members by Circular. With respect to F&O Contracts, *ad hoc* rate changes will become effective on the next Business Day. Routine rate changes will be implemented on the date given in the Circular announcing such changes, normally five Business Days after the date of the Circular. With respect to F&O Contracts, changes to Original Margin rates will be based on an analysis of appropriate factors as determined by the Clearing House, including market prices, historical and implied volatilities of relevant contracts, spreads and correlations between related commodities, other current and anticipated conditions (including liquidity) in the market for the contracts and other relevant information.

### 13.7 **Haircuts**

The Clearing House will review haircuts applicable for Permitted Cover on a periodic and *ad hoc* basis. Changes to haircuts will be notified to Clearing Members by Circular. With respect to Permitted Cover for F&O Contracts, *ad hoc* rate changes will become effective on the next Business Day. Routine rate changes will be implemented on the date given in the Circular announcing such changes, normally five Business Days after the date of the Circular. With respect to Permitted Cover

for F&O Contracts, changes to haircuts will be based on an analysis of appropriate factors as determined by the Clearing House, including historical and implied price volatility of such assets, current and anticipated conditions in the market for those assets, spreads and correlations between relevant assets, liquidity in the trading market for those assets, composition of the relevant market, default risk (including sovereign risk) with respect to those assets, relevant foreign exchange market conditions and other relevant information.

### 13.8 Permitted Capital Limits

The Clearing House monitors the relationship between Capital and outstanding Original Margin, Initial Margin and FX Original Margin obligations of Clearing Members. If, on aggregate, a Clearing Member's Original Margin, Initial Margin or FX Original Margin is greater than three times the Clearing Member's Capital, the Clearing House may require that further Capital (or substitute Capital) be put in place by the Clearing Member.

The Clearing House will endeavour to contact Clearing Members that may be required to put in place additional Capital in advance of such requirement becoming necessary, in order to agree steps to be taken by the Clearing Members.

### 13.9 Concentrated Positions

The Clearing House monitors Open Contract Positions on a daily basis. Where the Clearing House determines an Open Contract Position to be concentrated, as defined by its large positions policy, the Clearing House may, at its discretion, require that the Clearing Member or Disclosed Principal do any of the following:

- (a) reduce an Open Contract Position; or
- (b) lodge additional Permitted Cover with the Clearing House.

Positions will be subject to an extra Margin requirement in the case that a single Clearing Member holds more than 20% of the total Margin requirement in the margined product group.

## 14. GUARANTY FUND PARAMETERS AND RESTRICTIONS

### 14.1 F&O Guaranty Fund

The following parameters apply to the F&O Guaranty Fund and F&O Guaranty Fund Contributions, in addition to those parameters specified in the Rules (in the case of currencies save to the extent that the Clearing House notifies otherwise whether by Circular or to a particular Clearing Member or allows a different currency to be used to cover the relevant requirements in accordance with these Finance Procedures):

- (a) F&O Guaranty Fund Contributions will be calculated and payable in USD;
- (b) the Clearing House will establish from time to time a minimum F&O Guaranty Fund Contribution for each Clearing Member, based on a methodology adopted by the Clearing House, of not less than USD 1 million;
- (c) minimum cash portion of F&O Guaranty Fund Contribution is 50%;
- (d) in addition to the above requirement, first USD10 million in cash (such that any F&O Guaranty Fund Contribution of less than USD10 million must be provided entirely as cash) unless agreed otherwise by the Clearing House; and

- (e) other Permitted Cover for F&O Guaranty Fund Contributions must be USD denominated for F&O Guaranty Fund Contributions.
- (f) The start and end dates of Guaranty Fund Periods will be communicated to F&O Clearing Members.

#### 14.2 CDS Guaranty Fund

The following parameters apply to the CDS Guaranty Fund and CDS Guaranty Fund Contributions, in addition to those parameters specified in the Rules (in the case of currencies save to the extent that the Clearing House notifies otherwise whether by Circular or to a particular Clearing Member or allows a different currency to be used to cover the relevant requirements in accordance with these Finance Procedures):

- (a) CDS Guaranty Fund Contributions will be calculated and payable in EUR, except for Guaranty Fund Contributions relating to Open Contract Positions in Sovereign Contracts, which are calculated and payable in USD;
- (b) minimum CDS Guaranty Fund Contribution of EUR 15 million for CDS Contracts other than Sovereign Contracts;
- (c) minimum cash portion of CDS Guaranty Fund Contribution is 50% for each currency;
- (d) in addition to the above requirements, minimum of EUR 15 million in cash (such that any CDS Guaranty Fund Contribution of EUR 15 million must be provided entirely as cash) unless agreed otherwise by the Clearing House;
- (e) other Permitted Cover for CDS Guaranty Fund Contributions must be EUR denominated, except for Guaranty Fund Contribution in relation to Sovereign Contracts, which must be USD denominated;
- (f) the start and end dates of Guaranty Fund Periods will be communicated to CDS Clearing Members; and
- (g) the parameters for determining the CDS Guaranty Fund Contributions of CDS Clearing Members will be determined by the Clearing House in consultation with the CDS [Product Risk Committee](#).

#### 14.3 FX Guaranty Fund

The following parameters apply to the FX Guaranty Fund and FX Guaranty Fund Contributions, in addition to those parameters specified in the Rules (in the case of currencies save to the extent that the Clearing House notifies otherwise whether by Circular or to a particular Clearing Member or allows a different currency to be used to cover the relevant requirements in accordance with these Finance Procedures):

- (a) FX Guaranty Fund Contributions will be calculated and payable in USD;
- (b) minimum FX Guaranty Fund Contributions are as specified by the Clearing House;
- (c) minimum cash portion of FX Guaranty Fund Contribution is 50%;
- (d) other Permitted Cover for FX Guaranty Fund Contributions must be USD denominated;
- (e) the start and end dates of Guaranty Fund Periods will be communicated to FX Clearing Members; and



- (f) the parameters for determining the FX Guaranty Fund Contributions of FX Clearing Members will be determined by the Clearing House in consultation with the FX [Product Risk Committee](#).

## 15. CLEARING HOUSE CONTRIBUTIONS

### 15.1 Clearing House Initial Contributions

The following provisions apply to each of the Clearing House CDS Initial Contribution, Clearing House F&O Initial Contribution and the Clearing House FX Initial Contribution:

- (a) The Clearing House shall keep, and indicate separately in its balance sheet, an amount of dedicated own resources as the Clearing House Initial Contributions. No resources other than capital, including retained earnings and reserves as referred to in Article 16 of EMIR, shall qualify as Clearing House Initial Contributions.
- (b) The Clearing House CDS Initial Contribution, Clearing House F&O Initial Contribution and the Clearing House FX Initial Contribution shall each be constituted by two parts: (i) a minimum contribution of own resources for purposes of article 35(2) of Commission Delegated Regulation No 153/2013 (as calculated under paragraphs 15.1(c)-(d)); and (ii) an additional voluntary contribution constituted by the remainder of the Clearing House Initial Contribution in question, as calculated in accordance with this paragraph 15.
- (c) The Clearing House shall calculate the minimum sum of Clearing House Initial Contributions by multiplying its minimum required capital (including retained earnings and reserves) to be maintained by it in accordance with article 16 of EMIR, by 25%.
- (d) The minimum sum calculated in accordance with paragraph 15.1(c) shall be allocated to the Clearing House CDS Initial Contribution, Clearing House F&O Initial Contribution and Clearing House FX Initial Contribution in proportion to the sizes of the CDS Guaranty Fund, F&O Guaranty Fund and FX Guaranty Fund respectively, and shall be separately indicated in the Clearing House's balance sheet.
- (e) The Clearing House shall revise the minimum sum of Clearing House Initial Contributions and breakdown of the same between the Clearing House CDS Initial Contribution, Clearing House F&O Initial Contribution and Clearing House FX Initial Contribution on a yearly basis.
- (f) The Clearing House may use such exchange rates as it sees fit for purposes of calculating the relative sizes of the CDS Guaranty Fund, F&O Guaranty Fund and FX Guaranty Fund.

### 15.2 Clearing House CDS Contributions

- (a) The Clearing House CDS Initial Contribution shall be at least the higher of: (i) the EUR equivalent of USD 10 million, calculated at the exchange rate specified in paragraph 2.2 of the Finance Procedures on 28 July 2009; and (ii) the minimum required under paragraph 15.1. The Clearing House may increase the Clearing House CDS Initial Contribution from time to time and shall be obliged on or prior to the first anniversary of the first date on which the Clearing of CDS Contracts recorded in CDS Customer Accounts becomes operationally available ("**Customer Integration Date**") to have made an aggregate Clearing House CDS Initial Contribution (including the initial USD 10 million equivalent) of at least the higher of: (A) the EUR equivalent of USD 25 million, calculated at the exchange rate specified in paragraph 2.2 of the Finance Procedures on the first anniversary of the Customer Integration Date; and (B) the minimum required under paragraph 15.1. The amount of the Clearing House CDS Initial Contribution may be further increased by the Clearing House redesignating all or part of any of the Clearing House CDS GF Contributions as Clearing

House CDS Initial Contributions. Any such redesignation shall be notified by Circular. Such amounts are subject to any reduction following the application of any amount of Clearing House CDS Initial Contribution pursuant to Rule 1103.

- (b) If on or after the first anniversary of the Customer Integration Date, the value, determined in the same way in which the value of Guaranty Fund Contributions is calculated, of the assets constituting the Clearing House CDS Initial Contribution is below the required amount of the Clearing House CDS Initial Contribution under paragraph 15.2(a)(i) or 15.2(a)(A) because of a decrease in the value of assets representing such Clearing House CDS Initial Contribution (including such decreases that occurred prior to such first anniversary or as the result of investments of the Clearing House CDS Initial Contribution, but excluding decreases resulting from the application of any amount of Clearing House CDS Initial Contribution pursuant to Rule 1103 and excluding any decreases due to exchange rate fluctuations described in paragraph 15.2(g)), the Clearing House shall be required, by the open of business on the following Business Day, to make additional Clearing House CDS Initial Contributions sufficient to cause the assets constituting the Clearing House CDS Initial Contribution to have a value, determined in the same way in which the value of Guaranty Fund Contributions is calculated but excluding the effects of any exchange rate fluctuations as aforesaid, of at least the required amount in EUR of the Clearing House CDS Initial Contribution (plus the required amount in EUR of any amounts of Clearing House CDS GF Contributions that have been redesignated as Clearing House CDS Initial Contributions under paragraph 15.2(a)).
- (c) The Clearing House may allocate amounts as Clearing House CDS GF Contributions and, by the second anniversary of the Customer Integration Date, shall be obliged to have allocated amounts as Clearing House CDS GF Contributions (net of any decreases resulting from the application of any amount of Clearing House CDS GF Contributions pursuant to Rule 1103) on or before such second anniversary of the Customer Integration Date of at least the EUR equivalent of USD 25 million, calculated at the exchange rate specified in paragraph 2.2 of the Finance Procedures on the second anniversary of the Customer Integration Date (from time to time, the aggregate amount of Clearing House CDS GF Contributions being reduced by any application of any amount of Clearing House CDS GF Contributions pursuant to Rule 1103 for such period as is permitted under this paragraph 15.2(c) and further as a result of Clearing House CDS GF Contributions being redesignated as Clearing House CDS Initial Contributions under paragraph 15.2(a)). If, prior to the second anniversary of the Customer Integration Date, the aggregate amount of Clearing House CDS GF Contributions is reduced by any application of any amount of Clearing House CDS GF Contributions pursuant to Rule 1103, the Clearing House shall be required, by the open of business on the following Business Day, to allocate additional amounts as Clearing House CDS GF Contributions equal to the amount by which the Clearing House CDS GF Contribution was applied and such additional amount shall constitute part of the Clearing House CDS GF Contribution (subject to the same being redesignated as Clearing House CDS Initial Contributions under paragraph 15.2(a)).
- (d) If on or after the second anniversary of the Customer Integration Date, the value, determined in the same way in which the value of Guaranty Fund Contributions is calculated, of the assets constituting the Clearing House CDS GF Contribution (or which would have constituted the Clearing House CDS GF Contribution but for their redesignation as Clearing House CDS Initial Contribution under paragraph 15.2(a)) is below the required amount of the Clearing House CDS GF Contribution because of a decrease in the value of assets representing such Clearing House CDS GF Contribution (excluding any decreases due to exchange rate fluctuations described in paragraph 15.2(g)) or the application of any amount of Clearing House CDS GF Contribution or Clearing House CDS Initial Contribution pursuant to Rule 1103, the Clearing House shall be required, by the open of business on the following Business Day, to make additional Clearing House CDS GF Contributions sufficient to cause the assets constituting the Clearing House CDS GF Contribution to have a value, determined in the same way in which the value of Guaranty Fund Contributions is calculated but excluding the effects of any exchange rate fluctuations as aforesaid, of at least the required

amount in EUR of the Clearing House CDS GF Contribution. Such assets may be redesignated as Clearing House CDS Initial Contributions under paragraph 15.2(a).

- (e) For the purposes of calculating the amount of any application of any amount of Clearing House CDS Contribution pursuant to Rule 1103, the value of the Clearing House CDS Contribution shall be determined in EUR as of the date of such application. Subject to paragraph (g), any deficiency of the actual Clearing House CDS Contributions relative to the required amounts at the time of application shall remain the liability of the Clearing House, notwithstanding anything to the contrary in the Rules or Procedures.
- (f) The Clearing House may make withdrawals from accounts containing the Clearing House CDS Initial Contribution or Clearing House CDS GF Contribution only to the extent the value of the relevant assets exceeds the required EUR requirement.
- (g) Notwithstanding any other provision of this paragraph 15.2, the Clearing House shall not be obliged to top up or redesignate any amount or part of any Clearing House CDS Contribution as a result of fluctuations in currency exchange rates between USD and EUR compared to the rates at which any EUR requirement for any Clearing House CDS Contribution was calculated, whether to ensure that any Clearing House CDS Contribution equals any USD amount specified in this paragraph 15.2 or otherwise (save as required pursuant to paragraph 15.1). Notwithstanding any other provision of this paragraph 15.2 the Clearing House shall not be entitled to withdraw or redesignate any amount or part of any Clearing House CDS Contribution as a result of fluctuations in currency exchange rates between USD and EUR compared to the rates at which any EUR requirement for any Clearing House CDS Contribution was calculated, whether to ensure that any Clearing House CDS Contribution equals any USD amount specified in this paragraph 15.2 or otherwise.

### 15.3 Clearing House FX Contributions

- (a) The Clearing House FX Contributions are to be determined and allocated from time to time in accordance with the following provisions:
  - (i) the Clearing House FX Initial Contribution shall be at least the higher of: (A) USD 2.5 million; or (B) the minimum required under paragraph 15.1;
  - (ii) the Clearing House FX GF Contribution shall be at least USD 2.5 million;
  - (iii) subject to paragraph 15.1, the maximum amount of the Clearing House FX Initial Contribution shall be USD 25 million;
  - (iv) the maximum amount of the Clearing House FX GF Contribution shall be USD 25 million;
  - (v) subject to the minima in paragraphs (i) and (ii) above and any applicable maxima in paragraphs (iii) and (iv) above, the total Clearing House FX Contributions from time to time shall be at least of an amount representing 5% of the total FX Guaranty Fund Contributions required from time to time to be provided to the Clearing House by FX Clearing Members (excluding FX Guaranty Fund Contributions applied under Rule 1103);
  - (vi) subject to paragraph (vii), the amount of the Clearing House FX Initial Contribution and the amount of the Clearing House FX GF Contribution from time to time shall always be identical to one another, provided that the total of the Clearing House FX Initial Contribution and Clearing House FX GF Contribution shall be capped at USD 50 million (subject to paragraph 15.1); and

- (vii) if the calculations in paragraph (vi) result in a fraction of a USD cent being allocated to the Clearing House FX GF Contribution, that fraction of a cent shall be allocated to the Clearing House FX Initial Contribution so as to round up the Clearing House FX Initial Contribution to the nearest higher USD cent and round down the Clearing House FX GF Contribution to the nearest lower USD cent.
- (b) If the total amount of Clearing House FX Contributions is reduced by any application of any amount of Clearing House FX Contributions pursuant to Rule 1103, the Clearing House shall, by the open of business on the Business Day following the date of any application of Clearing House FX Contributions, allocate additional Clearing House FX Contributions equal to the amount by which the Clearing House FX Contributions were applied. Such allocations shall be made as Clearing House FX Initial Contribution and Clearing House FX GF Contribution in proportion to the amount by which each such contribution was applied.
- (c) For the purposes of calculating the amount of any application of any amount of Clearing House FX Contributions pursuant to Rule 1103, the value of the Clearing House FX Contribution so applied shall be determined in USD as of the date of such application at the exchange rates used by the Clearing House pursuant to the Finance Procedures at the relevant time, where any exchange rate is required to be applied.

#### 15.4 General Provisions relevant to Clearing House Contributions

- (a) The Clearing House may substitute assets constituting Clearing House Contributions in the same way and to the same extent that assets constituting Guaranty Fund Contributions may be substituted by Clearing Members.
- (b) Without prejudice to Applicable Laws relating to insolvency, the Clearing House shall have no obligation to contribute or allocate any additional Clearing House Contributions in any situation in which either: (i) Rule 209(c)(ii) or (iii) or Rule 912 applies; or (ii) Rule 209(c)(ii) or (iii), Rule 209(f)(ii) ~~or Rule 912 of the Continuing CDS Rule Provisions applies~~, except in either case in respect of any due but unallocated amounts at the time of such occurrence.
- (c) There shall not be any breach by the Clearing House of its obligations under this paragraph 15 solely as a result of any temporary reduction to any Clearing House Contributions as a result of the application of any amount of Clearing House Contributions pursuant to Rule 1103.

## (IV) DELIVERY PROCEDURES

## INDEX

1.	General Provisions .....	1
2.	Delivery of Documentation .....	3
3.	Authorised Signatories .....	<del>34</del>
4.	Clearing Member Accounts .....	<del>34</del>
5.	Transferors and Transferees .....	<del>34</del>
6.	Alternative Delivery Procedure (“ADP”): ICE Gasoil Futures .....	<del>45</del>
7.	<a href="#">Alternative Delivery Procedure: Emission Contracts</a> .....	5
<del>78.</del>	Alternative Delivery Procedure: Financials & Softs <del>white-sugar-contracts</del> <a href="#">White Sugar Contracts</a> .....	5
<del>89.</del>	Alternative Delivery Procedure: ICE Futures Europe Permian West Texas Intermediate Crude Oil Futures Contracts .....	5
<del>910.</del>	Alternative Delivery Procedure: ICE Futures Europe Permian West Texas Intermediate Crude Oil Storage Futures Contracts .....	<del>56</del>
<del>1011.</del>	Alternative Delivery Procedure: ICE NYH ULSO Futures Contracts .....	6
<del>112.</del>	Alternative Delivery Procedure: ICE Murban Crude Oil Futures .....	<del>67</del>
<del>1213.</del>	Exclusion of Alternative Delivery Procedures for Other Contracts .....	<del>67</del>
<del>1314.</del>	Interim Payments: Gasoil .....	7
<del>1415.</del>	ICE Brent Futures: Cash Settlement .....	<del>78</del>
<del>1516.</del>	Similar Obligations Under Different Contracts .....	<del>78</del>
<del>1617.</del>	Interpretation .....	<del>78</del>
<del>1718.</del>	Reports and Notifications .....	<del>78</del>
<del>1819.</del>	Liability, Margin, Default and Disciplinary .....	<del>78</del>
<del>1920.</del>	Payments .....	<del>89</del>
<del>2021.</del>	Guardian .....	<del>89</del>

## PART A: ICE DELIVERABLE EU EMISSIONS CONTRACTS

1.	Definitions .....	<del>910</del>
2.	Delivery Specification .....	<del>112</del>
3.	Liability .....	<del>1314</del>

4.	Delivery Contract Security.....	<del>13</del> <u>14</u>
5.	Delivery Timetable for Emission Contracts: Routine.....	<del>14</del> <u>15</u>
6.	Delivery Timetable for Emission Contracts: Late and Failed Delivery.....	18
7.	Emissions Alternative Delivery Procedure (“EADP”).....	<del>20</del> <u>21</u>
8.	Invoice Calculation.....	21
9.	<del>Delivery Documentation Summary</del> .....	<del>21</del> <u>[Not Used]</u> <u>22</u>

....

PART M: ~~ICE ENDEX GERMAN POWER FUTURES~~ [NOT USED]

1.	<del>Definitions</del> .....	<del>137</del>
2.	<del>Delivery Specification</del> .....	<del>139</del>
3.	<del>Liability</del> .....	<del>140</del>
4.	<del>Delivery Timetable for ICE Endex German Power Futures: Routine</del> .....	<del>140</del>
5.	<del>Delivery Timetable for ICE Endex German Power Futures: Failed Delivery</del> .....	<del>142</del>
6.	<del>Delivery Contract Security</del> .....	<del>143</del>
7.	<del>Invoice and Account Sale Calculation</del> .....	<del>144</del>
8.	<del>Delivery Documentation Summary</del> .....	<del>144</del>

PART N: ICE DELIVERABLE US EMISSIONS CONTRACTS (BILATERAL DELIVERY)

1.	Applicability and Definitions.....	<del>146</del> <u>57</u>
2.	Delivery Specification.....	<del>146</del> <u>57</u>
3.	Liability.....	<del>146</del> <u>57</u>
4.	Delivery Contract Security and Contract Value.....	<del>147</del> <u>57</u>
5.	Delivery Timetable and Obligations.....	<del>147</del> <u>57</u>

PART O: FINANCIALS & SOFTS COCOA CONTRACTS

1.	Delivery Specification.....	<del>150</del> <u>57</u>
2.	Delivery Documentation Summary.....	<del>155</del> <u>57</u>



PART P: [FINANCIALS & SOFTS](#) ROBUSTA COFFEE FUTURES

1.	Delivery Specification.....	<del>157</del> <u>57</u>
----	-----------------------------	--------------------------

....

1.	Gilt Contracts.....	<del>171</del> <u>57</u>
----	---------------------	--------------------------

2.	<a href="#">Failed Settlement and Non-Delivery of Stock</a> .....	<u>57</u>
----	---	-----------

....

PART Z: ~~FINANCIALS & SOFTS~~ EQUITY FUTURES/OPTIONS

1.	Physically Delivered Equity Futures/Options, and Stock Contingent Trades Delivery Procedures.....	<del>187</del> <u>57</u>
----	---	--------------------------

2.	Physically Delivered Equity Delivery Timetables.....	<del>187</del> <u>57</u>
----	--	--------------------------

3.	Failed Settlements and non-delivery of stock.....	<del>194</del> <u>57</u>
----	---	--------------------------

4.	Corporate Events.....	<del>196</del> <u>57</u>
----	-----------------------	--------------------------

5.	Delivery Documentation Summary.....	<del>200</del> <u>57</u>
----	-------------------------------------	--------------------------

....

## 1. GENERAL PROVISIONS<sup>4</sup>

1.1 With regard to all open Contracts, which, pursuant to the Contract Terms, give rise to delivery obligations:

- (a) Clearing Members with Open Contract Positions at cessation of trading or auctioning are obliged to make or take delivery (as applicable);
- (b) Clearing Members must make themselves fully aware of their delivery obligations under each relevant Contract; and
- (c) these Delivery Procedures form part of the terms of the relevant Contract if such Contract becomes deliverable and should be read in conjunction with the Rules, particularly Part 7, and the relevant Market Rules where relevant; and
- (d) Clearing Members shall:
  - (i) conduct customer due diligence relating to anti-money laundering in relation to any delivery including in relation to any Transferors/Transferees nominated by them in accordance with paragraph 5.1 and all other “beneficial owners” of such Transferors/Transferees (for the purposes of this paragraph the term “beneficial owners” having the meaning given to it in article 3(6) of the Money Laundering Directive) to the extent required under the Money Laundering Directive or such other Applicable Laws as determined acceptable by the Clearing House at its discretion) or Customers in relation to any delivery in accordance with Applicable Laws;
  - (ii) at the request of the Relevant Market or the Clearing House, promptly provide satisfactory evidence that the Clearing Member has undertaken customer due diligence in respect of any delivery; and
  - (iii) promptly deliver to the Clearing House or directly to the relevant Clearing Member that is Buyer or Seller such documentation as may be necessary for the Clearing House or the relevant Clearing Member to meet the requirements of Applicable Laws relating to know your customer and anti-money laundering.

1.2 Any enquiries concerning these Delivery Procedures should be directed to the clearing operations department of the Clearing House.

1.3 The following definitions apply to these Delivery Procedures:

- (a) The term “Clearing Day” means a day on which the Clearing House is open for business.
- (b) The term “Business Day” means a Clearing Day that is not a public holiday in England.
- (c) The term “Delivery Period” means a period during which delivery and settlement occurs in accordance with these Delivery Procedures and applicable Market Rules.
- (d) The term “Non-Clearing Day” means Christmas Day, New Year’s Day, Easter Friday, each Saturday and Sunday where the Clearing House and the relevant Exchange are closed and any other day that is not a Clearing Day, as determined by the Clearing House from time to time.

<sup>4</sup> Amended 27 July 2009

- (e) The term “Tender” means a notice given pursuant to these Delivery Procedures and/or Market Rules, of an intention to make or take delivery of a Deliverable.
- (f) [The term “ECS” means the extensible clearing system that provides functionality for position maintenance \(including close-outs\), options exercise and delivery, in addition to cash and collateral management for the Clearing House \(or any successor system\).](#)
- (g) [The term “MFT” means the managed file transfer system through which the Clearing House provides access to all clearing reports and data files.](#)
- (h) [The term “ICE FEC” means the single user interface used by the Clearing House, offering functions to view and manage trades, transfers, allocations and claims.](#)
- (i) [The term “MPFE” means the futures expiry report generated by the Clearing House.](#)

1.4 These Delivery Procedures apply only in relation to F&O Contracts.

1.5 Subject to paragraph 1.6 to 1.11 below, these Delivery Procedures, and all non-contractual obligations arising out of or in connection with them, are governed by and shall be construed in accordance with English law and any Dispute under these Delivery Procedures will be subject to arbitration under Rule 117 save as provided in Market Rules.

1.6 Solely as between an FCM/BD Clearing Member and the Clearing House, those provisions of these Delivery Procedures inasmuch as they relate solely to an issue or matter concerning:

- (a) the pledging, transfer, holding, use and segregation of Pledged Collateral provided by an FCM/BD Clearing Member (or other property, excluding for the avoidance of doubt the Contracts themselves recorded in such an Account, recorded in a Customer Account or Proprietary Account that is designated as an account in respect of which Pledged Collateral may be provided by an FCM/BD Clearing Member); and/or
- (b) the application of any net sum owed in favour of the FCM/BD Clearing Member in respect of a Customer Account or Proprietary Account that is designated as an account in respect of which Pledged Collateral may be provided,

and, solely to the extent relevant to interpreting the foregoing provisions in such circumstances, relevant definitions and interpretative provisions in paragraph 1 of these Delivery Procedures (such provisions, together or separately “Pledged Collateral Matters”) shall be governed by and construed in accordance with the laws of the State of New York and, as applicable, the federal law of the United States of America.

1.7 For the avoidance of doubt, paragraph 1.6 is an exception to paragraph 1.5 and Rule 102(s) which provide that the Delivery Procedures and Rules respectively shall be governed by and construed in accordance with the laws of England and Wales. For the avoidance of doubt, without limitation and notwithstanding paragraph 1.6, the following are governed by and shall be construed in accordance with the laws of England and Wales in their entirety without any exception and shall in no circumstances constitute a Pledged Collateral Matter:

- (a) all of the provisions of these Delivery Procedures relating to the Designated System;
- (b) any Dispute or issue arising as between a Non-FCM/BD Clearing Member or Sponsored Principal on the one hand and the Clearing House on the other hand;
- (c) any Dispute or issue arising in respect of a Customer Account or Proprietary Account that is not designated as an account in respect of which Pledged Collateral may be provided;

- (d) any matter relating to Pledged Collateral of a Non-FCM/BD Clearing Member or a Sponsored Principal;
- (e) any Pledged Collateral provided by an FCM/BD Clearing Member or Sponsored Principal pursuant to an English law Pledged Collateral Addendum; and
- (f) the Contract Terms of all Contracts.

1.8 Where a dispute between an FCM/BD Clearing Member and the Clearing House relates to one or more Pledged Collateral Matters, notwithstanding the provisions of Rule 117, solely the allegations or claims relating to the Pledged Collateral Matters in such dispute shall be heard and determined exclusively in any New York federal court sitting in the Borough of Manhattan of the City of New York, provided, however, that if such federal court does not have jurisdiction over such allegations or claims, such allegations or claims shall be heard and determined exclusively in any New York state court sitting in the Borough of Manhattan of the City of New York (such Courts, together, "New York Courts"). Consistent with the preceding sentence, the Clearing House and each FCM/BD Clearing Member hereby:

- (a) submits to the exclusive jurisdiction of the New York Courts solely in respect of allegations or claims relating to Pledged Collateral Matters; and
- (b) agrees that service of process will be validly effected by sending notice in accordance with Rule 113.

1.9 All allegations or claims other than those over which the New York Courts have exclusive jurisdiction pursuant to paragraph 1.8 shall be finally and exclusively determined by way of arbitration pursuant to Rule 117. It is expressly recognised that for Disputes between an FCM/BD Clearing Member and the Clearing House containing both allegations or claims over which the New York Courts have exclusive jurisdiction pursuant to paragraph 1.8 and other allegations or claims, it may be necessary to have both New York Court proceedings and arbitral proceedings. The submission of a party to the jurisdiction of a New York Court and/or the taking of a step by a party in proceedings before a New York Court, where in any such instance the New York Court has exclusive jurisdiction pursuant to paragraph 1.8 does not amount to a waiver by that party of its right to commence or participate in arbitral proceedings in accordance with Rule 117. The submission of a party to arbitration under Rule 117 or in respect of any Dispute does not amount to a waiver by that party of its right to have allegations or claims in relation to which the New York Courts have exclusive jurisdiction pursuant to paragraph 1.8 heard in the New York Courts.

1.10 Nothing in paragraphs 1.5 to 1.11 precludes the Clearing House from bringing an action to enforce a judgment from any New York Court or award of any arbitral tribunal in any court of competent jurisdiction.

1.11 EACH CLEARING MEMBER AND THE CLEARING HOUSE HEREBY IRREVOCABLY WAIVES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY DISPUTE ARISING OUT OF, UNDER OR IN CONNECTION WITH THESE DELIVERY PROCEDURES OR ANY MATTER CONTEMPLATED BY THEM. EACH CLEARING MEMBER AND THE CLEARING HOUSE HEREBY:

- (a) CERTIFIES THAT NO REPRESENTATIVE OF ANY OTHER PERSON BOUND BY THESE RULES HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF ANY SUCH DISPUTE, SEEK TO ENFORCE THE FOREGOING WAIVER; AND
- (b) ACKNOWLEDGES THAT IT HAS BEEN INDUCED TO ENTER INTO THESE RULES, ALL CONTRACTS AND ALL OTHER TRANSACTIONS CONTEMPLATED BY THESE

RULES, AS APPLICABLE, BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN PARAGRAPHS 1.5 to 1.11.

2. DELIVERY OF DOCUMENTATION

Clearing Members must submit the required delivery documentation to the Clearing House by email to [iceuops@theice.com](mailto:iceuops@theice.com) marked “for the attention of the Deliveries Department” or by courier to the Clearing House’s registered office.

3. AUTHORISED SIGNATORIES

Clearing Members, or their Transferor(s) or Transferee(s), must ensure that all delivery documents [that require signature](#) are signed by a director or officer who is properly authorised to sign such documentation on behalf of the Clearing Member. The Clearing House is entitled to rely upon the information specified in all forms and documents submitted by Buyers, Sellers, Transferors and Transferees without making any enquiry, investigation or check as to the accuracy of the information or whether the signatory is authorised to sign or submit the form or document to the Clearing House.

4. CLEARING MEMBER ACCOUNTS

No offset is allowed for either physical delivery or financial settlement between Clearing Members’ Proprietary Account and Customer Account. Separate delivery documentation is required for each such Account.

5. TRANSFERORS AND TRANSFEREES

[5.1](#) Each ICE Futures UK Natural Gas Futures Contract, ICE Futures UK Natural Gas (EUR/MWh) Futures Contract, ICE Futures UK Natural Gas Daily Futures Contract, ICE Endex UK OCM Natural Gas Spot Contract, ICE UK Base Electricity Futures Contract (Gregorian), ICE UK Peak Electricity Futures Contract (Gregorian), ICE Deliverable US Emissions Contract, ICE Endex TTF Natural Gas Futures Contract, ICE Endex TTF Natural Gas Working Days Next Week Futures Contract, ICE Endex TTF Natural Gas Daily Futures Contract, ICE Endex PSV Natural Gas Futures Contract, ICE Endex GASPOOL Natural Gas Futures Contract, ICE Endex NCG Natural Gas Futures Contract, ICE Endex ZTP Natural Gas Futures Contract, ICE Endex Spot Market TTF Natural Gas Spot Contract, ICE Endex Spot Market ZTP Natural Gas Spot Contract, ICE Endex Spot Market ZTPL Natural Gas Spot Contract, ICE Endex Dutch Power Futures Contract, ICE Endex Belgian Power Base Load Futures Contract and ICE Endex CEGH Austrian VTP Natural Gas Futures Contract subject to delivery obligations allows Sellers and Buyers to nominate Transferors and Transferees respectively. A Transferor or Transferee may be a Seller or Buyer, respectively, itself. Transferors and Transferees are permitted to make or take delivery of Natural Gas, Electricity or Allowances to or from the Clearing House by the prescribed delivery method. The Clearing House permits the nomination of Transferors or Transferees for reasons of convenience of Clearing Members only. Notwithstanding the appointment of a Transferor or Transferee, the relevant Clearing Member remains at all times fully responsible for meeting all of its obligations and liabilities to the Clearing House.

[5.2](#) A Clearing Member may appoint a Representative (which may be another Clearing Member) to undertake delivery administration or obligations.

[5.3](#) A person who is not the Buyer, Seller or the Clearing House shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any provision of a Contract (including any requirement of these Delivery Procedures). As further described in Rule 111, the Clearing House is not liable to or for Transferors or Transferees.

[5.4](#) Where separate procedures apply to a Transferor/Transferee who is not the Seller/Buyer, this is indicated in these Delivery Procedures. Any form to be completed and submitted to the Clearing House by a Transferor/Transferee shall be signed by an authorised signatory of the

Transferor/Transferee. The Clearing House is entitled to rely upon the information specified in the form without making any enquiry, investigation or checks as to the accuracy of such information or whether the signatory on the form has been authorised by the Transferor/Transferee. If a Transferor/Transferee is a Customer, then it shall be bound by the F&O Standard Terms, including in relation to these Delivery Procedures. Pursuant to the F&O Standard Terms, a Transferor/Transferee signing such a form shall be subject to obligations and liabilities under these Delivery Procedures which are enforceable by both the Clearing Member and the Clearing House. Each Clearing Member acknowledges and agrees that it is responsible for ensuring the accuracy of the information on each form submitted by a Transferor/Transferee and that the form is signed by an authorised signatory of such Transferor/Transferee.

5.5 For the avoidance of doubt, Transferors/Transferees nominated by a Seller or Buyer in accordance with paragraph 5.1 and Customers are not customers of the Clearing House for the purposes of the Money Laundering Regulations, FSMA or EMIR. The Clearing House only owes, and carries out, obligations relating to the delivery of F&O Contracts under these Delivery Procedures in relation to Buyers and Sellers.

6. ALTERNATIVE DELIVERY PROCEDURE (“ADP”): ICE GASOIL FUTURES

6.1 In respect of ICE Low Sulphur Gasoil Futures Contracts (“ICE Gasoil Futures”), if the Buyer agrees with the Seller to undertake delivery outside the ICE Futures Europe Rules, both parties must advise the Clearing House using the Form ICE Gasoil Futures: Confirmation of Agreed ADP.

6.2 Where an ADP is agreed, the Clearing House will settle the relevant Contracts at the settlement price agreed between the Buyer and Seller fulfilling its obligations under the Contract in respect of delivery. If the agreed price is not the one at which the positions were placed under Tender, the difference between the two prices will be debited or credited to the Clearing Members’ accounts and an invoice or credit note will be issued.

6.3 ICE Gasoil Futures: Confirmation of Agreed ADP forms received by the Clearing House after 15:00 hours will be deemed to have been received on the next Business Day.

6.4 A reduced delivery fee is charged for ADPs agreed at least two days prior to the first day of the delivery range.

6.5 Where an ADP is agreed for ICE Gasoil Futures, then, as from the time that the Clearing Members’ accounts are amended by the Clearing House as described in this paragraph 6, the affected Clearing Members and the Clearing House shall all automatically and immediately be released and discharged from all their rights, liabilities and obligations in respect of the affected Contract or Contracts and such rights, liabilities and obligations shall be replaced by such amended obligations as are agreed between the parties.

7. ALTERNATIVE DELIVERY PROCEDURE: EMISSION CONTRACTS

In the event of a failed delivery in respect of an Emission Contract, the relevant Clearing Member and the Clearing House may enter into a separate contract to make or take delivery beyond the point of failure in a manner and on terms pursuant to paragraph 7 of Part A below.

8. ALTERNATIVE DELIVERY PROCEDURE: FINANCIALS & SOFTS ~~WHITE SUGAR~~ CONTRACTSWHITE SUGAR CONTRACTS

In the event that the Seller agrees with the Buyer (to whom the Seller’s Tender is allocated by the Clearing House) to make delivery other than as specified in the ICE Futures Europe Rules in respect of Financials & Softs White Sugar Contracts, both parties must advise ICE Futures Europe via Guardian (or any successor system) of their agreement. In such circumstances, the Clearing House will



terminate the Financials & Softs White Sugar Contracts at the agreed settlement price, in fulfilment of all obligations and rights of all parties under the Contracts.

**9. ~~8.~~ ALTERNATIVE DELIVERY PROCEDURE: ICE FUTURES EUROPE PERMIAN WEST TEXAS INTERMEDIATE CRUDE OIL FUTURES CONTRACTS**

**9.1** ~~8.1~~ In respect of an ICE Futures Europe Permian West Texas Intermediate Crude Oil Futures Contract (“ICE Permian WTI Contract”), if the Buyer agrees with the Seller to undertake a specific Tender outside the ICE Future Europe Rules, both parties must advise the Clearing House using the Form ICE Permian WTI Contracts: Confirmation of Agreed ADP.

**9.2** ~~8.2~~ Where an ADP is agreed, the Clearing House will settle the relevant Contracts at the Exchange Delivery Settlement Price and using such pipeline or facilities and subject to such specifications as are agreed between the Buyer and Seller fulfilling its obligations under the Contract in respect of delivery.

**9.3** ~~8.3~~ ICE Permian WTI Contracts: Confirmation of Agreed ADP forms received by the Clearing House after 09:00 CT / 15:00 LPT will be deemed to have been received on the next Business Day.

**9.4** ~~8.4~~ Where an ADP is agreed for an ICE Permian WTI Contract, then, as from the time that the Clearing Members’ accounts are amended by the Clearing House as described in this paragraph ~~89~~, the affected Clearing Members and the Clearing House shall all automatically and immediately be released and discharged from all their rights, liabilities and obligations in respect of the affected Contract or Contracts and such rights, liabilities and obligations shall be replaced by such amended obligations as are agreed between the parties.

**10. ~~9.~~ ALTERNATIVE DELIVERY PROCEDURE: ICE FUTURES EUROPE PERMIAN WEST TEXAS INTERMEDIATE CRUDE OIL STORAGE FUTURES CONTRACTS**

**10.1** ~~9.1~~ In respect of an ICE Futures Europe Permian West Texas Intermediate Crude Oil Futures Contract (“ICE Permian WTI Storage Contract”), if one party to the Contract wishes to make delivery other than as specified in the ICE Futures Europe Rules or is not able to make delivery in accordance with the ICE Futures Europe Rules, such party must raise this request with the Clearing House.

**10.2** ~~9.2~~ If, upon contacting the other party to the Contract, such other party is amenable in principle to commence discussions regarding a possible ADP, the Clearing House will disclose the identity of the parties to each other. In the event the parties (namely the Buyer and the Seller) agree to undertake the specific Tender outside the ICE Futures Europe Rules both parties must advise the Clearing House using the Form ICE Permian WTI Storage Contracts: Confirmation of Agreed ADP.

**10.3** ~~9.3~~ Confirmation of Agreed ADPs for the ICE Permian WTI Storage Contracts must be received by the Clearing House by no later than midday CT on the first Business Day following the Last Trading Day, or by such other time as may be specified by the Clearing House from time to time.

**10.4** ~~9.4~~ Where an ADP is agreed, the Clearing House will settle the relevant Contracts at the Exchange Delivery Settlement Price and return all associated margin to the relevant Clearing Member(s).

**10.5** ~~9.5~~ Where an ADP is agreed for an ICE Permian WTI Storage Contract, then, as from the time that the Clearing Members’ accounts are amended by the Clearing House as described in this paragraph ~~910~~, the affected Clearing Members and the Clearing House shall all automatically and immediately be released and discharged from all their rights, liabilities and obligations in respect of the affected Contract or Contracts and such rights, liabilities and obligations shall be replaced by such amended obligations as are agreed between the parties.

**11.** ~~10.~~ ALTERNATIVE DELIVERY PROCEDURE: ICE NYH ULSO FUTURES CONTRACTS

**11.1** ~~10.1~~ In respect of ICE NYH ULSO Futures Contracts (as defined in Section FF of these Delivery Procedures), if the Buyer and the Seller agree to undertake delivery outside the ICE Futures Europe

Rules, both parties must advise the Clearing House using the ICE NYH ULSO Futures: Confirmation of Agreed ADP Form.

[11.2](#) ~~10.2~~ Where an ADP is agreed, the Clearing House will settle the relevant Contracts at the Exchange Delivery Settlement Price (as defined in the ICE Futures Europe Rules) fulfilling its obligations under the Contract in respect of delivery.

[11.3](#) ~~10.3~~ ICE NYH ULSO Futures: Confirmation of Agreed ADP Forms must be received by the Clearing House any time before the finalisation of delivery. Forms received by the Clearing House after 10:00 ET will be deemed to have been received on the next Business Day.

[11.4](#) ~~10.4~~ Where an ADP is agreed for ICE NYH Futures, then, as from the time that the Clearing Members' accounts are amended by the Clearing House and the payment of the EDSP has taken place, the affected Clearing Members and the Clearing House shall all automatically and immediately be released and discharged from all their rights, liabilities and obligations in respect of the affected Contract or Contracts and such rights, liabilities and obligations shall be replaced by such amended obligations as are agreed between the parties.

[12.](#) ~~11~~-ALTERNATIVE DELIVERY PROCEDURE: ICE MURBAN CRUDE OIL FUTURES

[12.1](#) ~~11.1~~ In respect of ICE Murban Crude Oil Futures Contracts (as defined in Section GG of these Delivery Procedures), if the Buyer and the Seller agree to undertake delivery outside the ICE Futures Abu Dhabi Rules, both parties must advise the Clearing House using the ICE Murban Crude Oil Futures: Confirmation of Agreed ADP Form.

[12.2](#) ~~11.2~~ Where an ADP is agreed, the Clearing House will settle the relevant Contracts at the Exchange Delivery Settlement Price (as defined in the ICE Futures Abu Dhabi Rules) fulfilling its obligations under the Contract in respect of delivery.

[12.3](#) ~~11.3~~ ICE Murban Crude Oil Futures: Confirmation of Agreed ADP Forms must be received by the Clearing House any time before the Buyers and Sellers are invoiced by the Clearing House. Forms received by the Clearing House after 16:00 LPT will be deemed to have been received on the next Clearing Day.

[12.4](#) ~~11.4~~ Where an ADP is agreed for ICE Murban Crude Oil Futures, then, as from the time that the Clearing Members' accounts are amended by the Clearing House, the affected Clearing Members and the Clearing House shall all automatically and immediately be released and discharged from all their rights, liabilities and obligations in respect of the affected Contract or Contracts and such rights, liabilities and obligations shall be replaced by such amended obligations as are agreed between the parties.

[13.](#) ~~12~~-EXCLUSION OF ALTERNATIVE DELIVERY PROCEDURES FOR OTHER CONTRACTS

Clearing Members may not agree alternative delivery procedures for any ICE Futures UK Natural Gas Futures Contract, ICE Futures UK Natural Gas (EUR/MWh) Futures Contract, ICE Futures UK Natural Gas Daily Futures Contract, ICE UK Base Electricity Futures Contract (Gregorian), ICE UK Peak Electricity Futures Contract (Gregorian) or ICE Deliverable US Emissions Contract, Financials & Softs Coffee Contract, Financials & Softs Cocoa Contract, Financials & Softs Wheat Contract, Financials & Softs Gilt Contract, Financials & Softs Equity Futures/Options Contract or Financials & Softs Stock Contingent Trade Contract or any other Contract subject to a delivery from time to time for which no specific alternative delivery procedure applies, save where a Governmental Authority of competent jurisdiction orders or requires or Applicable Law so requires or the Clearing House provides its consent in writing.

14. ~~13.~~ INTERIM PAYMENTS: GASOIL

Where a Delivery Panel formed under ICE Futures Europe Rules directs that an interim payment or payments should be made pending a decision as to the price to be set for Invoicing Back, the Clearing House may make an interim payment to the affected Clearing Member of the amount specified in the direction of the Delivery Panel (or such other amount as the Clearing House, at its discretion, determines). If the Clearing House makes any such interim payment, an equivalent deduction from the Buyer's Security will be effected. Any amount to be paid as a result of the Delivery Panel's decision or direction shall be such amount due less any interim payment made or shall result in an obligation to repay all or part of any interim payment, as applicable, and further deduction to, or replenishment of, the Buyer's Security shall be effected by the Clearing House appropriately.

15. ~~14.~~ ICE BRENT FUTURES: CASH SETTLEMENT

ICE Brent Futures is a contract deliverable via EFP with an option to cash settle. Where the Notice to Cash Settle ICE Brent Futures or the Standing Notice to Cash Settle ICE Brent Futures is completed and submitted to the Clearing House by the relevant time as applicable to each notice, then the Rules on cash settlement set out in the Rules shall apply.

16. ~~15.~~ SIMILAR OBLIGATIONS UNDER DIFFERENT CONTRACTS

Where a Seller or a Buyer has delivery obligations under one or more Contracts that are not of the same Set but which result in a delivery obligation in respect of the same Deliverable at the same time, the Clearing House may notify the Seller (and its Transferor, if applicable) and the Buyer (and its Transferee, if applicable) of their aggregated delivery obligations under the affected Contracts and, upon such notification, the Seller and Buyer shall be required to make and take delivery in respect of such aggregated delivery obligations instead of such other obligations as may otherwise have been required.

17. ~~16.~~ INTERPRETATION

Words and phrases defined in the Rules or these Delivery Procedures bear the same meanings when used in any form or other document delivered pursuant to these Delivery Procedures.

The Clearing House may, from time to time, enter into clearing services arrangements with ICE Futures Europe in respect of Financials & Softs Contracts, pursuant to which the functions of the Clearing House (as designated in these Delivery Procedures) may be performed by ICE Futures Europe and *vice versa*. Accordingly, references in these Delivery Procedures to the Clearing House may be interpreted as references to ICE Futures Europe in respect of such Financials & Softs Contracts, and *vice versa*, as circumstances require.

18. ~~17.~~ REPORTS AND NOTIFICATIONS

Unless otherwise specified, the Clearing House will make the reports and confirmations it issues as part of the delivery processes available to the Clearing Members electronically, both via email and via MFT (or any successor system).

19. ~~18.~~ LIABILITY, MARGIN, DEFAULT AND DISCIPLINARY

19.1 ~~18.1~~ The requirements relating to liability set out in the Rules apply equally in relation to deliveries. Without prejudice to the generality of, and subject to, the provisions of the Rules relating to liability:

- (a) it is the responsibility of Clearing Members to ensure that all forms are in place at the relevant time, and any failure or omission to ensure that they are in place that causes or contributes to the failure of any delivery may itself constitute a failure to deliver by the Clearing Member; and

- (b) upon any such failure or omission, the Clearing Member will be liable to the Clearing House for any cost, loss or expense of the Clearing House arising as a result of such failure or omission, which may include any delivery failure costs.

19.2 ~~18.2~~ The Clearing House may at any time make an additional Margin call as a result of any event or circumstance occurring in relation to a delivery.

19.3 ~~18.3~~ Notwithstanding the availability of any possible alternative or late delivery procedure, failure to comply with any requirement of these Delivery Procedures may constitute an Event of Default.

19.4 ~~18.4~~ Nothing in these Delivery Procedures shall preclude the Clearing House, in its discretion, from bringing disciplinary proceedings or levying a fine against a Clearing Member, including (without limitation) in respect of late or failed delivery.

19.5 ~~18.5~~ Clearing Members are referred to the relevant Contract Terms (including, where relevant, the terms and conditions set out in the relevant Market Rules) as regards the rules that apply following a Clearing Member's non-performance of obligations under a Contract, including in particular (for ICE Futures Europe Contracts only) Rules. I.17 – I.19 of the ICE Futures Europe Rules, which provisions are, to the extent relevant to the Rules, incorporated herein.

19.6 ~~18.6~~ Nothing in these Delivery Procedures shall exclude any liability for fraud, death, personal injury or any liability which by Applicable Law may not be excluded.

19.7 ~~18.7~~ Each Clearing Member, Buyer, Seller, Transferor and Transferee that makes or takes delivery of any Deliverable pursuant to a Contract shall comply (and shall be deemed to represent and warrant to the Clearing House that it will comply and has complied) with all filing, notification, reporting, registration, certification or authorisation requirements under Applicable Laws or required by any Delivery Facility in connection with such delivery.

20. ~~19.~~ PAYMENTS

All payments to and from Clearing Members pursuant to these Delivery Procedures shall take place to and from relevant Nominated Accounts as described in the Finance Procedures. Amounts due in respect of delivery obligations may be set off against or aggregated with other amounts due under the Rules, as described in the Finance Procedures.

21. ~~20.~~ GUARDIAN

Guardian is an electronic grading and delivery system which is used in the process of making and taking delivery of certain Deliverables as specified in these Delivery Procedures (including cocoa, coffee, wheat, white sugar and bonds).

## PART A: ICE ENDEX DELIVERABLE EU EMISSIONS CONTRACTS

This Part A applies to all ICE Endex Deliverable EU Emissions Contracts which go to physical delivery on the expiry date. Such Contracts are referred to in this part as “ICE Endex Deliverable EU Emissions Contracts”. For the avoidance of doubt, all Contracts remain separate Contracts and the Transfer Request made to support the delivery of one of the Contracts needs to reference EUA or EUAs only as specified under the definition of the relevant Contract.

## 1. DEFINITIONS

1.1 The following definitions apply to this part of the Delivery Procedures:

- (a) The term “Allowance Type” has the same meaning as that given to the term in the ICE Endex Rules, as applicable to the relevant Contract Set.
- (b) The term “Aviation Emissions Allowance” or “EUAA” means an aviation allowance issued pursuant to Chapter II of the Emissions Directive to permit the emission of one tonne of carbon dioxide equivalent during the relevant period, which falls within an Allowance Type, and only to the extent such allowance is valid, as of the time of delivery to the Clearing House, for the purposes of meeting the requirements of the Emissions Directive.
- (c) The term “Aviation Emissions Allowance Contract” means a Contract for an Aviation Emissions Allowance.
- (d) The term “Aviation Emissions Allowance Transfer Request” means a request to effect a transfer of an Aviation Emissions Allowance submitted by the Seller to the Registry in the manner required by the Registry Regulations or relevant applicable law and otherwise in accordance with the Rules and ICE Endex Rules.
- (e) The term “Carbon Emissions Allowance” or “EUA” means an allowance issued pursuant to Chapter III of the Emissions Directive to permit the emission of one tonne of carbon dioxide equivalent during the relevant period, which falls within an Allowance Type and is valid, as of the time of delivery to the Clearing House, for the purposes of meeting the requirements of the Emissions Directive or is valid for determining compliance with emission limitation commitments during the relevant period].
- (f) The term “Carbon Emission Allowance Contract” means a Contract for a Carbon Emissions Allowance.
- (g) The term “Carbon Emissions Allowance Transfer Request” means a request to effect a transfer of a Carbon Emissions Allowance submitted by the Seller to the Registry in the manner required by the Registry Regulations or relevant applicable law and otherwise in accordance with the Rules and ICE Endex Rules.
- (h) The term “Clearing House Directions” means any instructions or requests that the Clearing House may issue to the Buyer or Seller from time to time in respect of the delivery of an EUA or an EUAA under an Emission Contract.
- (i) The term “Communication Link”, in relation to EUAs and EUAs has the same meaning as that given to the term in the ICE Endex Rules as applicable to EUAs or EUAs.
- (j) The term “Community Independent Transaction Log” or “CITL” means the predecessor log to the EUTL established pursuant to Commission Regulation (EC) No 2216/2004 for a standardised and secured system of registries pursuant to Directive 2003/87/EC of the European Parliament and of the Council.

- (k) The term “Competent Authority” means the authority or authorities designated by a member state of the EEA pursuant to Article 18 of the Emissions Directive.
- (l) The term “Contract Date” means for an ICE Endex EUA an individual Business Day on which: (a) trading commences; and (b) trading ceases; ~~and (c) the Delivery Period commences for those trades executed on that Business Day.~~
- (m) The term “Delivery Costs” has the same meaning as that given to the term in the ICE Endex Rules, as applicable to the relevant Contract Set.
- (n) The term “Emissions Alternative Delivery Procedure” or “EADP” means the circumstances and means by which delivery may be effected in accordance with paragraph 6 of this Part A.
- (o) The term “EADP Agreement” means an agreement to adopt an EADP.
- (p) The term “Emission Contracts” where used in this Part A, shall mean ICE Endex EUA or ICE Endex EUAA Futures Contracts and/or ICE Endex EUA Daily Futures Contracts, as the case may be, to be delivered pursuant to and in accordance with this Part A.
- (q) The term “Emissions Directive” means Directive 2003/87/EC of the European Parliament and the Council of 13 October 2003 establishing a scheme for greenhouse gas emissions allowance trading and amending Council Directive 96/61/EC, as amended from time to time, including, without limitation, by Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009.
- (r) “European Union Transaction Log” or “EUTL” means the independent transaction log provided for in Article 20(1) of the Directive, for the purpose of recording the issue, transfer and cancellation of allowances under the Scheme and established, operated and maintained pursuant to Article 4 of the Registry Regulations.
- (s) The term “Non-Business Day” means a Clearing Day that is a public holiday in England.
- (t) The term “Registry Account” means an account of a Clearing Member or the Clearing House maintained at the Registry pursuant to the Registry Regulations in order to record the holding and transfer of Allowances to the relevant Contract Set.
- (u) The term “Registry Regulations” means, in each case, as applicable and as amended from time to time: (1) Commission Regulation (EU) No 920/2010 of 7 October 2010 for a standardised and secured system of registries pursuant to Directive 2003/87/EC of the European Parliament and of the Council and Decision No 280/2004/EC of the European Parliament and of the Council, and (2) Commission Regulation (EU) No 1193/2011 of 18 November 2011 establishing a Union Registry for the trading period commencing on 1 January 2013, and subsequent trading periods, of the Union emissions trading scheme pursuant to Directive 2003/87/EC of the European Parliament and of the Council and Decision No 280/2004/EC of the European Parliament and of the Council and amending Commission Regulations (EC) No 2216/2004 and (EU) No 920/2010.
- (v) The term “Registry” (i) in respect of an EUA or EUAA, means the single Union registry established pursuant to the Registry Regulations in order to ensure the accurate accounting of the holding, transfer, acquisition, surrender, cancellation, and replacement of EUAs and EUAAs under the Scheme.
- (w) The term “Scheme” means the scheme for transferring EUAs and EUAAs established pursuant to the Emissions Directive, as implemented by relevant national law.



- (x) The term “Transfer Request” means an Allowance Transfer Request.
- (y) The term “Transfer Request Delay” shall have the same meaning as set out in the ICE Endex Rules, as applicable to the relevant Contract Set.
- (z) The term “Transfer Request Failure” shall have the same meaning as set out in the ICE Endex Rules, as applicable to the relevant Contract Set.

## 2. DELIVERY SPECIFICATION

### 2.1 Delivery

Deliveries under Emissions Contracts are effected upon:

- (a) in the case of the Seller effecting delivery, the completion of the transfer of the relevant EUAs or the relevant EUAAs, as the case may be, from the relevant Registry Account of the Seller to the relevant Registry Account of the Clearing House; and
- (b) in the case of the Buyer taking delivery, the completion of the transfer of the relevant EUAs, or the relevant EUAAs, as the case may be from the relevant Registry Account of the Clearing House to the relevant Registry Account of the Buyer.

This takes place during the Delivery Period for the relevant Emissions Contracts in accordance with ICE Endex Rules. Neither delivery by the Seller nor receipt of the delivery by the Buyer requires performance by the other to occur simultaneously. Each of the Buyer and Seller should deal directly with the Clearing House.

### 2.2 EUAs and EUAAs

EUAs and EUAAs to be delivered shall conform to the specifications described in ICE Endex Rules and the specifications of the Registry to and from which delivery may be made under the relevant Contract.

The price at which an Emission Contract is delivered is the EDSP (as defined and determined in accordance with the relevant ICE Endex Rules) for the relevant contract month of the relevant Emission Contract on the last day of trading, or the at the end of the trading period on the Contract Date, as applicable.

### 2.3 Days and Times

All “timings” or times of day are London times.

### 2.4 Cessation of Trading

- (a) Trading for the ICE Endex EUA and EUAA Futures Contract contract month will normally cease on the last Monday of that month. Where this falls on a Non-Business Day for the relevant Emission Contract, or there is a Non-Business Day for the relevant Emission Contract in the four days immediately following the last Monday, the last trading day shall be the penultimate Monday of the delivery month. Where the penultimate Monday of the delivery month falls on a Non-Business Day for the relevant Emission Contract, or there is a Non-Business Day for the relevant Emission Contract in the four days immediately following the penultimate Monday, the last trading day shall be the antepenultimate Monday of the delivery month. A list of dates, subject to amendment, is available from ICE Endex.
- (b) Trading for the ICE Endex EUA Daily Futures Contracts shall normally cease at 17.00 hours on the relevant Contract Date.

## 2.5 Exchange for Physicals (EFPs) and Exchange for Swaps (EFSs)

- (a) In accordance with ICE Endex Rules, EFPs and EFSs in respect of the ICE Endex EUA and EUAA Futures Contracts may be posted up to 30 minutes following the cessation of trading.
- (b) In relation to the ICE Endex EUA Daily Futures Contracts, EFPs and EFSs:
  - (i) can only be registered until 17:00 each Business Day.
  - (ii) which have been alleged but not accepted will be cleared from ICE Block overnight; and,
  - (iii) which are outstanding at the end of a Business Day must be re-submitted to the Exchange on the next Business Day.

## 3. LIABILITY

3.1 The provisions of this paragraph 3 are without prejudice to the generality, and subject to, the provisions of the Rules relating to liability and apply in addition to the general requirements of these Delivery Procedures.

3.2 The Clearing House shall have no liability in connection with an Emission Contract, its performance, non-performance or its termination whether based on breach of contract, warranty, negligence or tort. In particular, but without limitation, the Clearing House is not responsible for or shall have any liability whatsoever to any Buyer or Seller for:

- (i) the availability, suitability, unavailability or malfunction of a Communication Link or any part thereof;
- (ii) the performance or non-performance by the Registry, CITL or EUTL, as the case may be of their respective obligations under the Registry Regulations or otherwise;
- (iii) the validity or non-validity of any EUA or EUAA for the purposes of meeting the requirements of the Directive;
- (iv) any act or omission of any operator of a Communication Link or any part thereof;
- (v) any act or omission of an Authorised Representative of any other party; or
- (vi) the actions, omissions, performance or non-performance of any Seller, the European Commission, the Central Administrator or any Competent Authority or Governmental Authority

3.3 Neither the Buyer nor the Seller shall have any claim against the Clearing House for any loss, cost, damage or expense incurred or suffered as a result of the performance or non-performance of the Registry, the CITL or EUTL, as the case may except as otherwise expressly provided in the ICE Endex Rules or the Rules.

## 4. DELIVERY CONTRACT SECURITY

The Clearing House makes a report available on a daily basis to Clearing Members with delivery positions

### (a) Delivery Margin

The delivery Margin is collected from the Buyer and Seller and is an amount calculated against the costs or charges arising from delivery failure. The Clearing House may alter the calculation of delivery Margin at any time or make adjustments in respect of a specific Seller.



	TIME	ACTION
Clearing House on LTD + 1		
	By 09:00	Account Sales will be available via MFT.
Deadline for receipt of EUAs or EUAAs by the Clearing House	By 15:00	The Clearing House will have received EUAs or EUAAs, as applicable, into its Registry Account from the Sellers.
Deadline for submission of Transfer Requests by the Clearing House	By 15:00	All Transfer Requests by the Clearing House will have been made through the Communication Link to the Registry for EUAs or EUAAs, as applicable, to be transferred from the Registry Account of the Clearing House to the Registry Account of the Buyer.
	<b>LTD + 3</b>	
Payment for EUAs or EUAAs received by the Clearing House on LTD + 2	By 09:00	Seller receives full contract value against EUAs or EUAAs received by the Clearing House on LTD +2. Account Sales will be available via MFT.
Deadline for receipt of EUAs or EUAAs by the Buyer	By 15:00	Buyer will have received EUAs and/or EUAAs into their Registry Account.

## 5.2 ICE Endex EUA Daily Futures Contracts

	TIME	ACTION
	<b>Contract Date</b>	
Cessation of Trading	At 17:00	Trading ceases.
		All EFPs and EFSs which have been alleged but not accepted will be cleared from ICE Block.
	By 17:45	Clearing Members must ensure that all appropriate position maintenance and transfers are performed via ECS.
Submission of ICE Daily Delivery Intentions		Clearing Members with Open Contract Positions at this time are obliged to make or take delivery.
	By 17:45	Buyer and Seller must submit known delivery intentions via ECS in order to confirm their position and Registry Account details.
	Aafter1 8:00	MPFE report available on ECS and MFT.
	<b>Contract Date + 1</b>	
Payment by Buyer	By 09:00	Buyer pays full contract value to the Clearing House. Seller pays Delivery Margin to the Clearing House
	By	Buyer's Invoices are available via MFT.

	TIME	ACTION
	09:00	
Deadline for receipt of EUAs by the Clearing House	By 15:00	<p>Seller must ensure that the necessary EUAs have been transferred from the Registry Account of the Seller to the Registry Account of the Clearing House.</p> <p>On receipt from the Seller of EUAs into the appropriate Registry Account of the Clearing House, the Clearing House will randomly select the order in which it will make the Transfer Requests and make such Transfer Requests through the Communication Link to the Registry for EUAs to be transferred from the appropriate Registry Account of the Clearing House to the appropriate Registry Account of the Buyer.</p> <p>This means that Buyers may receive EUAs in their appropriate <a href="#">Registry</a> Accounts on Contract Date + 1.</p>
	Contract Date + 2	
Payment for EUAs received by the Clearing House on Contract Date + 1	By 09:00	<p>Sellers receive full contract value against EUAs received by the Clearing House on Contract Date + 1.</p> <p>The Clearing House will release the Delivery Margin received on Contract Date +1 to the Seller.</p>
	By 09:00	<a href="#">Registry</a> Account Sales will be available via MFT.
Deadline for receipt of EUAs by the Buyer	By 15:00	Buyer will have received EUAs into their <a href="#">Registry</a> Account from the Clearing House.

## 6. DELIVERY TIMETABLE FOR EMISSION CONTRACTS: LATE AND FAILED DELIVERY

### 6.1 ICE ENDEX EUA and EUAA Futures Contracts

Unless stated otherwise, the times apply to ICE Endex EUA and EUAA Futures Contracts.

TIME	ACTION
LTD + 1	
Between 15:00 and 15:00 on LTD+2	Where a Transfer Request has been submitted by the Seller after 15:00 hours on the first Business Day following the last day of trading, but before 15:00 hours on the second Business Day after the last day of trading, in compliance with a Clearing House Direction or otherwise, the Seller shall advise the Clearing House immediately of such submission. The Clearing House may, in its discretion, declare and notify to the Seller and the Exchange that the Clearing Member is subject to a Transfer Request Delay.
LTD + 2	
At 15:00	Where a Transfer Request has not been submitted by the Seller, or has been submitted but such Transfer Request has not been accepted by the Registry by 15:00 hours on the second Business Day after the last day of trading, the Seller shall advise the Clearing House immediately of such non-submission, or non-acceptance. The Clearing House may, in its discretion, declare that the Clearing

	House or the Seller, as appropriate, has failed to meet its delivery obligations and that there is a Transfer Request Failure.
LTD + 3	
At 15:00	<p>Where a Transfer Request has not been submitted by the Clearing House or has been submitted but not accepted or actioned by the Registry by 15:00 hours on the third Business Day after the last day of trading, the Clearing House shall advise the Buyer immediately of such non-submission, non-acceptance or non-action. The Clearing House may, in its discretion, declare that the Clearing House or the Buyer, as appropriate, is subject to a Transfer Request Delay and may:</p> <p>(a) take, or require the Buyer to take, such steps as appropriate to rectify the situation in compliance with any Clearing House Directions which allow for EUAs or EUAAs to be delivered by such time (which shall not be a time after 15:00 hours on the fourth Business Day after the last day of trading in relation to the relevant Transfer). In the event that the Buyer's Registry Account has not been credited by 15:00 hours on the fourth Business Day after the last day of trading in relation to the relevant Transfer, the Clearing House shall declare that there is a Transfer Request Failure; or</p> <p>(b) declare that the Clearing House or the Buyer or Seller, as appropriate, has failed to meet its delivery obligations and that there is a Transfer Request Failure.</p>
LTD + 4	
At 15:00	Where the Buyer's Registry Account has not been credited by 15:00 hours on the fourth Business Day after the last day of trading, the Clearing House may, in its discretion, declare that the Clearing House or the Buyer, as appropriate, has failed to meet its delivery obligations and that there is a Transfer Request Failure.

## 6.2 ICE ENDEX EUA Daily Futures Contracts

TIME	ACTION
Contract Date + 1	
At 15:00	Where the Registry Account of the Clearing House has not been credited by 15:00 hours on the first Business Day after the Contract Date, the Clearing House shall declare and notify to the Seller and the Exchange that the Member is subject to a Transfer Request Delay.
Contract Date + 2	
At 15:00	Where the Registry Account of the Clearing House has not been credited by 15:00 hours on the second Business Day after the Contract Date, the Clearing House shall declare that the Clearing House or the Seller, as appropriate, has failed to meet its delivery obligations and that there is a Transfer Request Failure.
At 15:00	<p>Where a Transfer Request has not been submitted by the Clearing House or has been submitted but not accepted or actioned by the Registry by 15:00 hours on the second Business Day after the Contract Date, the Clearing House shall advise the Buyer immediately of such non-submission, non-acceptance or non-action. The Clearing House may, in its discretion, declare that the Clearing House or the Buyer, as appropriate, is subject to a Transfer Request Delay and may:</p> <p>(a) take, or require the Buyer to take, such steps as appropriate to rectify the situation in compliance with any Clearing House Directions which allow for Allowances to be delivered by such time (which shall not be a time after 15:00 hours on the third Business Day after the Contract Date in relation to therelevant Transfer). In the event that the Buyer's Registry Account has not been credited by 15:00 hours on the third Business Day after the Contract Date in relation to the relevant Transfer, the Clearing House shall declare that there is a</p>



	Transfer Request Failure; or (b) declare that the Clearing House or the Buyer or Seller, as appropriate, has failed to meet its delivery obligations and that there is a Transfer Request Failure.
Contract Date + 3	
At 15:00	Where the Buyer's Registry Account has not been credited by 15:00 hours on the third Business Day after the Contract Date, the Clearing House may, in its discretion, declare that the Clearing House or the Buyer, as appropriate, has failed to meet its delivery obligations and that there is a Transfer Request Failure.

## 7. EMISSIONS ALTERNATIVE DELIVERY PROCEDURE ("EADP")

- 7.1 In the event of a Transfer Request Failure relating to Emission Contracts, the relevant Clearing Member may seek agreement of the Clearing House to make or take delivery beyond the point of failure (see prescribed "Emissions: Late & Failed Deliveries Timetable" in ICE User Guide and above) in a manner and on terms other than those required pursuant to the ICE Endex Rules. The purpose of the EADP is to afford flexibility to Clearing Members in circumstances where it is envisaged that delivery will be possible but not within the prescribed timetable. Failure to deliver in accordance with ICE Endex Rules and this Part A may nonetheless attract disciplinary action or a fine by ICE Endex and/or the Clearing House notwithstanding any subsequent delivery in accordance with an EADP Agreement.
- 7.2 Each Clearing Member that enters into an EADP Agreement shall, pursuant to these Delivery Procedures, and without need for any further action on the part of the relevant Clearing Member or the Clearing House, be deemed to have agreed to indemnify the Clearing House in respect of all and any of the Clearing House's costs, losses, charges and expenses incurred by the Clearing House in connection with the EADP, including, without limitation, any costs, losses, charges and expenses incurred as a result of a failure on the part of the Clearing Member to meet its obligations under an EADP Agreement and the Clearing House's staff, operational and legal costs associated with the EADP.
- 7.3 In the event that a Clearing Member and the Clearing House enter into an EADP Agreement, the existing Contract will be dealt with in the manner specified in the EADP. If the existing Contract is to be liquidated under the EADP Agreement, this will be done on the basis of the Exchange Delivery Settlement Price. Delivery under an EADP Agreement will be subject to the requirements (including the indemnity) set out in this paragraph ~~7.37~~, the same Contract Terms as the Contract(s) replaced as a result of the EADP Agreement (subject to such new terms as are agreed in relation to any matter, which may (without limitation) include new terms in respect of price, delivery times or Deliverable), any directions the Clearing House may in its discretion issue and the terms of the EADP Agreement. A new Contract or Contracts shall arise pursuant to Part 4 of the Rules as a result of EADP being agreed.
- 7.4 Where EADP is agreed, as from the time that the Clearing Members' accounts are amended, as described in the EADP in the books and records of the Clearing House, the affected Clearing Members and the Clearing House shall all automatically and immediately be released from all their rights, liabilities and obligations in respect of the Contract or Contracts that gave rise to the EADP and such rights, liabilities and obligations shall be substituted for such amended obligations as are detailed in the EADP Agreement.
- 7.5 In the event that the Clearing Member and Clearing House are unable to enter into an EADP Agreement or effect delivery under EADP ~~by the close of business on the Business Day following the day of~~ within a reasonable period of time after the Failed Delivery, the Clearing House ~~will~~ may refer the matter to ICE Endex and will consider in its discretion what other reasonable next steps it should take (if any). For example, and without limitation, the Clearing

House may decide to Invoice Back affected Contracts ~~and may itself~~, begin disciplinary proceedings, levy a fine, call additional Margin and/ or declare an Event of Default.

8. INVOICE CALCULATION

The Invoice and Account Sale Report will give details of all deliveries and amounts due to Sellers and payable by the Buyers in respect of deliveries of EUAs and EUAAs, as applicable.

The value of confirmed deliveries of EUAs and EUAAs will be calculated as follows:

EUAs or EUAAs                    x           Exchange Delivery Settlement Price on last day of trading for the relevant Contract month or the at the end of the trading period on the Contract Date, as applicable (EDSP) of the relevant Contract

9.        ~~[NOT USED]~~ NOT USED

~~9.3        ICE-EUA and EUAA Auction Contracts~~

~~EUA or EUAA Auction Delivery Confirmation Form~~

~~Buyers must submit this form to the Clearing House by 11:00 hours on the day of the relevant Auction. It includes the following details: the number of lots that are to be specified in each Transfer Request for a Margin account; details of each Account from/to which each Transfer Request will be made; name and contact details of the Authorised Representative in respect of each Account specific to each Transfer Request; confirmation that the Clearing Member will continue to have the relevant Accounts during the Delivery Period at the Registry and is not for any reason prevented from having Transfer Requests accepted and not subsequently rejected or not actioned; and is not for any reason prevented from having the Accounts updated as a result of Transfer Requests; and such other details as are required by the Clearing House and the Registry from time to time in accordance with their rules and procedures.~~

## PART B: ICE FUTURES GASOIL FUTURES (“ICE GASOIL FUTURES”)

## 1. DELIVERY SPECIFICATION

## 1.1 Quality

Gasoil shall be delivered in bulk and free of all liens and any other form of claim and shall conform to the specifications, as appropriate, described in ICE Futures Europe Rules.

## 1.2 Price

The price at which a ICE Gasoil Futures Contract is delivered is the Exchange Delivery Settlement Price of the Business Day immediately preceding the cessation of trading day, adjusted in accordance with ICE Futures Europe Rules.

## 1.3 Scope

ICE Gasoil Futures Contracts are for the sale and delivery of gasoil meeting the contract specification set out in ICE Futures Europe Rules by the Seller to the Buyer, out of a recognised storage installation or refinery in Amsterdam, Rotterdam, Antwerp, Flushing or Ghent, at the Seller’s option. This takes place on a Delivery Day nominated by the Buyer in accordance with ICE Futures Europe Rules, within a five-day period agreed by the Seller and Buyer from the sixteenth to the last day of the contract month, inclusive.

The Buyer has the option to choose the method of delivery: barge, coaster (maximum size 15,000 DWT), in-tank or inter-tank transfer.

## 1.4 Determination of Quantity and Quality

The quality and quantity of the gasoil delivered is determined by an inspector selected from a panel of independent inspectors authorised by ICE Futures Europe to perform such determination.

The inspector is selected in accordance with ICE Futures Europe Rules by the Seller from two possible inspectors proposed by the Buyer, provided that if the Seller objects to both of the Buyer’s preferences and the parties cannot agree upon an alternative, ICE Futures Europe shall nominate the Inspector and this nomination shall be binding on the parties.

## 1.5 Cessation of trading

Trading for a contract month of ICE Gasoil Futures will normally cease two Business Days prior to the fourteenth day of that month. A list of dates, subject to amendment by ICE Futures Europe, is available from ICE Futures Europe.

## 1.6 Exchange for Physicals (EFPs) and Exchange for Swaps (EFSs)

In accordance with ICE Futures Europe Rules, EFPs and EFSs may be posted up to one hour following the cessation of trading.

## 2. DELIVERY TIMETABLE FOR ICE GASOIL FUTURES

Cessation of Trading	2 Business Days prior to the 14th calendar day of the contract month	
	At 12:00	Trading in ICE Gasoil Futures ceases.
	By 13:00	EFPs and EFSs may be posted up to one hour following the cessation of trading.
	By 14:00	<p>All assignments, settlements and transfers must be performed in ECS.</p> <p>Seller must submit an ICE Gasoil Futures: Seller's Tender Notice via ECS to the Clearing House notifying the location(s) of the gasoil, the number of lots at each location and whether the gasoil is exempt or import duty has been paid.</p> <p>Buyer may (but is not obliged to) submit an ICE Gasoil Futures: Buyer's Preference Notice via ECS, indicating a preferred location for delivery to the Clearing House.</p> <p>An ICE Gasoil Futures: Preference Notice is only an indication of a Buyer's preference and is not binding on the Clearing House.</p>
	At 14:00	Sellers/ Buyers are obliged to make/take delivery of all Contracts remaining open in the expiring contract month.
	After 14:00	<p>The Clearing House allocates Tenders to Buyers by location at its sole discretion, endeavouring to minimise the number of Clearing Members and locations involved, taking account of Buyers' preferences.</p> <p>The Clearing House sends an ICE Gasoil Futures: Notice to Seller Form to each Seller identifying the Buyer(s) per delivery location and instructing Sellers to deliver directly to Buyer(s) in accordance with Part 7 of the Rules.</p> <p>The Clearing House sends an ICE Gasoil Futures: Notice to Buyer Form to each Buyer identifying the Seller(s) and the delivery location(s).</p> <p>The MPFE report is available on ECS and MFT advising each Clearing Member of its delivery positions and obligations.</p>
Determination of Delivery Range	Cessation of trading day +1 Business Day	
	By 10:00	The Buyer submits their Delivery Range Nomination(s) to the Seller via ECS (stating the Buyer's preferred five-day delivery range(s) together with the identity and status of the Buyer's Customer (or if he has no Customer, the status of the Buyer) under Council Directive 92/12/EEC, or having no such status, the tax warehouse nominated to receive delivery).

	By 12:00	<p>The Seller notifies the Buyer via ECS of its acceptance or rejection of the Buyer's preferred delivery range(s) together with the identity of the Seller's Customer (or Seller).</p> <p>The Seller may only reject a preferred delivery range where it can be shown, supported by evidence from the installation through which delivery is to be made, that berth space will not be available on any of the days in the delivery range preferred by the Buyer.</p> <p>In the case of delivery by inter-tank transfer or by transfer in-tank without movement, the Seller may only reject a preferred delivery range where it can be shown, supported by evidence from the installation, that pumping into the Buyer's tank or transfer in the books of the installation will be impracticable on any of the days in the delivery range preferred by the Buyer.</p>
	By 14:00	<p>In the event that a delivery range is rejected, the Seller provides proof of rejection from the installation to Buyer (copied to the Clearing House).</p> <p>If the Seller fails to provide supporting evidence/proof of rejection, the Seller is deemed to have accepted the Buyer's preferred range.</p> <p>If the Seller rejects the Buyer's preferred range and provides acceptable evidence, the Buyer and Seller shall endeavour to agree an alternative delivery range by 16:00 and notify the Clearing House of the agreed range forthwith.</p>
	By 16:00	<p>Failing agreement, the Buyer must give notice of a second five-day range to the Seller (wholly outside the first preferred range) and the Seller must accept this range.</p>
	Cessation of trading day +2 Business Days	
Excise duty	By 12:00	<p>The Seller informs the Clearing House of non-receipt or receipt of certificate of payment of excise duty from the Buyer where the Buyer is a non-registered trader.</p>
	Minimum of 48 hours before 1 <sup>st</sup> day of delivery range (must be a Business Day)	
Nomination of Installation	By 12:00	<p>The Seller submits to the Buyer their Installation Nomination(s) via ECS indicating the name of the installation(s), the number of lots and the name of an official at the installation.</p>
	1 Business Day prior to 1 <sup>st</sup> day of delivery range	
Buyer's Security	By 09:00	<p>The Buyer must provide Buyer's Security to the Clearing House of full Contract value plus 0.5 % or an amount specified by the Clearing House. The Buyer's Original and contingent (Variation) Margin is released on receipt of Buyer's Security.</p>
	Business Day, a minimum of 48 hours before the nominated Delivery Day	
Nomination of Delivery Day	By 14:00	<p>The Buyer submits to the Seller (copied to the Clearing House) the ICE Gasoil Futures: Delivery Day Nomination (Vessel) form or the</p>

		<p>ICE Gasoil Futures: Delivery Day Nomination (in-tank/inter-tank) form. The form includes details of the Delivery Day, the installation, (in the case of an ICE Gasoil Futures: Delivery Day Nomination (Vessel) form) the vessel, fiscal destination and information of any tests waived and nominates two inspectors indicating a first and second preference from which one must be selected by the Seller.</p> <p>The Delivery Day nominated must be within the agreed delivery range.</p> <p>In the case of delivery by inter-tank transfer, the nominated Delivery Day is the day the Buyer wishes pumping to commence. In the case of delivery by transfer in-tank without movement of the product, the nominated Delivery Day is the day on which the Buyer wishes the transfer to be entered in the books of the installation.</p> <p>If this nomination is received by the Seller after 14:00 hours, it is deemed to have been given on the following Business Day.</p> <p>The Buyer may not alter any particular, or substitute a new nomination, except by notice conforming to the 48-hour minimum notice requirement in accordance with ICE Futures Europe Rules unless the particular amended is accepted by the installation without conforming to the 48-hour minimum notice requirement.</p>
		<p>The ICE Gasoil Futures Delivery Day Nomination Table in paragraph 3 of this Part B sets out the appropriate day to submit a nomination for a specific delivery day.</p> <p>The Seller must notify the Buyer and the Clearing House of any rejection of a nomination. Such notice must contain all the reasons for rejection.</p> <p>A nomination may not be rejected for frivolous or vexatious reasons, such as details which do not result in a rejection of the nomination by the Seller's installation or obvious clerical errors.</p>
	By 16:30	<p>The Seller must inform the Buyer and the Clearing House of which one of the Buyer's two preferred inspectors has been accepted. If the Seller fails to reply by 16:30 the Seller is deemed to have accepted the Buyer's first preference.</p> <p>If the Seller objects to both of the Buyer's preferences, the Seller must inform the Buyer and the Clearing House in good time of the reasons and attempt to agree an alternative with the Buyer. In the event that no agreement is reached, the Seller must advise ICE Futures Europe by 16:45 hours, on the day of nomination, and ICE Futures Europe will nominate an inspector no later than the nominated delivery Day, pursuant to ICE Futures Europe Rules.</p>
Delivery Day and Loading	On the nominated Delivery Day within the agreed 5-day Delivery Range between the 16 <sup>th</sup> and end of the contract month	
		<p>Loading shall commence on the nominated Delivery Day and be on a first come, first served basis, and demurrage shall be calculated in accordance with barge market practice.</p> <p>In the event that the barge has presented herself in readiness to load and the Seller has made gasoil ready for delivery, both within the agreed delivery range, but loading has not been completed by the last day of the delivery, there shall be an extension of 24 working hours for completion of delivery provided the Seller can show, supported by</p>



		<p>evidence from the installation through which delivery is to be made, that he has made the product ready for delivery but loading has been prevented by operational factors. Such evidence shall be copied to the Clearing House.</p> <p>In the event that the delay exceeds 24 working hours, the party responsible for the delay shall (subject to ICE Futures Europe Rules) be in default.</p>
Receipt of Documents by the Clearing House	On or before 6 <sup>th</sup> calendar day after completion of loading	
	By 11:00	<p>The Seller shall lodge the following delivery documents with the Clearing House:</p> <p>(a) the original certificates of quality and quantity or faxes from the inspector confirming quality and quantity;</p> <p>(b) If applicable a certificate of origin or EU movement certificate or a copy thereof or written statement by the Inspector that he has seen the original and brief detail thereof; and</p> <p>(c) in the case of delivery into barge, the original barge delivery notes or set of original negotiable bills of lading; in the case of inter-tank transfer, a document satisfactorily evidencing the movement of product into the Buyer's tank, issued by the operator of the Buyer's tank and naming the supplier or the supplying installation (where different from the receiving installation) and the receiver; in the case of delivery in tank without movement of the product, a document satisfactorily evidencing the intention of the parties to transfer title to Commodities, issued by the installation and naming at least the receiver.</p> <p>If the Seller fails to provide all or part of the documentation by the stated time, the Clearing House advises the Seller by telephone or in writing (see ICE Gasoil Future: Notification of Amicable Agreement Period) (copy to ICE Futures Europe) that if the issue is not resolved within five calendar days immediately following the sixth calendar day after the completion of loading, the issue will be referred to ICE Futures Europe under ICE Futures Europe Rules.</p> <p>The issue may be resolved by the production of the required documentation or agreement by both Seller and Buyer to ADP.</p> <p>Documents lodged after 11:00 hours are deemed to be lodged on the next Business Day.</p>
	By 16:00	<p>The Clearing House advises the Seller of the Account Sale amount. The Clearing House advises the Buyer of document availability and the Invoice amount and that payment will take place the next Business Day.</p>
Payment	Business Day following receipt of documents (if received before 11:00)	
	By 09:00	<p>The Buyer pays the invoice amount to the Clearing House. Buyer's Security is released as part of the payment transaction.</p> <p>If the Buyer notifies the Clearing House, in writing and before the Seller is paid, that the product does not comply with the quality specification, the Clearing House will withhold 10% of the payment from the Seller. If an amicable solution is not achieved within five days, the Clearing House will refer the dispute to ICE Futures Europe</p>

		under ICE Futures Europe Rules.
	After 10:30	<p>The Seller collects the Account Sales, from the Clearing House.</p> <p>The Buyer collects the Invoice and related delivery documents from the Clearing House.</p> <p><del>The Buyer signs a receipt to confirm acceptance of the Invoice and related delivery documents (see paragraph 5 of this Part B for invoice details).</del></p>
	After 12:00	<p>The Account Sale amount is credited to the Seller's settlement account.</p> <p>Positions are removed from tender.</p>
	Document receipt day + 2 Business Days	
Release Margin	of	Seller's Original Margin and contingent (Variation) Margin is released.

## 3. ICE GASOIL FUTURES DELIVERY DAY NOMINATION TABLE

The table below indicates the deadlines for the receipt of an ICE Gasoil Futures: Delivery Day Nomination-Vessel or ICE Gasoil Futures: Delivery Day Nominations-In Tank/Inter Tank by the Clearing House.

D = Nominated Delivery Day  
R = Day by which nomination must be received (by 14:00)

E.g.: in the first line below, the nominated Delivery Day is Thursday and the deadline for receipt of the nomination is 14:00 on the previous Monday.

Mon	Tues	Wed	Thurs	Fri	Sat	Sun	Mon	Tues	Wed
R			D						
	R			D					
		R			D				
			R			D			
				R			D		
				R				D	
				R					D

If the Monday is a bank holiday, the deadline for receipt of nomination for the following Thursday is the previous Friday instead of the Monday.

These days may vary over Christmas, New Year and Easter periods.

## 4. DELIVERY DOCUMENTATION SUMMARY

<i>Sellers and Buyers should ensure that relevant Delivery Documentation is completed in full – including elections in respect of Gasoil/Low Sulphur Gasoil, as appropriate.</i>		
Name of Delivery Document	Explanation	Timing
ICE Gasoil Futures: Seller's Tender Notice	This notice is submitted by the Seller to the Clearing House. It provides details of the number of lots and location(s) from which the delivery is to be made and a statement to confirm that import duty has been paid or whether or not the product tendered is exempt from import duty.	By 14:00 on the last day of trading
ICE Gasoil Futures: Buyer's Preference Notice	This notice may be submitted by the Buyer to the Clearing House specifying: the number of lots, the size of parcels and the locations at which the Buyer would prefer to take delivery.	By 14:00 on the last day of trading
ICE Gasoil Futures: Notice to Buyer	This notice is issued by the Clearing House to the Buyer, identifying the Seller's delivery location, number of lots and a statement to confirm that the product is or is not exempt from import duty.	After 14:00 on the last day of trading
ICE Gasoil Futures: Notice to Seller	This notice is issued by the Clearing House to the Seller. This directs the Seller to deliver the product to the Buyer(s) and states the identity of the Buyer(s) and delivery location(s).	After 14:00 on the last day of trading
ICE Gasoil Futures: Delivery Range Nomination	This nomination is submitted by the Buyer to the Seller via ECS. The nomination contains details of the Buyer's preferred five day delivery range/s together with the name(s) and	By 10:00 hours on the Business Day following the last trading

<i>Sellers and Buyers should ensure that relevant Delivery Documentation is completed in full – including elections in respect of Gasoil/Low Sulphur Gasoil, as appropriate.</i>		
Name of Delivery Document	Explanation	Timing
	<p>the tax status of the Buyer's customer(s).</p> <p>The Seller must confirm the acceptance or rejection of the nominated range(s) together with the name(s) of the Seller's customer(s).</p>	<p>day</p> <p>By 12:00 hours on the same day.</p>
ICE Gasoil Futures: Installation Nomination	This nomination is submitted by the Seller to the Buyer via ECS. It includes the name of the installation(s) where delivery will be made, number of lots and the name of an official at the installation who may be contacted in respect of deliveries.	By 12:00 hours on a Business Day no later than forty-eight hours before the commencement of the delivery range.
ICE Gasoil Futures: Delivery Day Nomination - Vessel	This nomination is submitted by the Buyer to the Seller (copied to the Clearing House), and includes the Delivery Day, vessel, number of lots, name of the inspector, fiscal destination details and information of any tests waived.	By 14:00 hours on a Business Day no later than forty-eight hours prior to the nominated Delivery Day.
ICE Gasoil Futures: Delivery Day Nomination - In-tank/Inter-tank	This nomination of the Delivery Day is used where the gasoil is to be delivered by in-tank or inter-tank transfer and is submitted by the Buyer to the Seller, (copied to the Clearing House).	By 14:00 hours on a Business Day no later than forty-eight hours prior to the nominated Delivery Day.
ICE Gasoil Futures: Notification of Amicable Agreement Period	The Clearing House may issue this notification to give notice to Clearing Member(s) (copied to ICE Futures Europe) of the day by which an amicable solution to a problem must be arrived at or referral to ICE Futures Europe for resolution will proceed. The Clearing House will automatically refer a delivery to ICE Futures Europe on completion of the five days allowed for amicable settlement of a problem in accordance with ICE Futures Europe Rules and notify the Clearing Member of such action.	
ICE Gasoil Futures: Confirmation of Agreed ADP	This form is submitted by both Buyers and Sellers to the Clearing House confirming their agreement to, and the price of, the ADP.	
<del>Referral Form</del>	<del>This form is submitted in the event of failure to reach an amicable agreement to the delivery dispute, so that the dispute is referred to ICE Futures Europe for resolution</del>	

## 5. INVOICE

### 5.1 Invoice Calculation

ICE Gasoil Futures are traded by weight but are delivered by volume, 118.35 cubic metres of gasoil being delivered per 100 tonnes (100 tonnes being one lot).

The amount due to the Seller and payable by the Buyer in respect of deliveries of gasoil is calculated as follows:

$$\frac{\text{Contract Volume}}{1.1835} \times \text{Exchange Delivery Settlement Price of the Business Day immediately preceding the last day of trading (EDSP)}$$

### 5.2 Delivery Tolerance

A delivery tolerance of plus or minus ½% of the contract volume of gasoil is allowed on the gasoil delivered in each port between a Seller and a Buyer.

Any amount over or under the contract volume, but within the tolerance level, is invoiced using the applicable EDSP.

### 5.3 Adjustments for Actual Delivered Volumes

- (a) Delivery must be for whole lots. If the total amount of gasoil delivered falls below the number of lots tendered (taking into account the delivery tolerance), the delivery will be deemed to be for the nearest full lot below the tendered number of lots. Clearing Members will be required to agree to an ADP for the under-delivered number of lots.
- (b) Failure to agree to an ADP will result in referral to ICE Futures Europe under ICE Futures Europe Rules and the under-delivered lots will be Invoiced Back by the Clearing House.
- (c) If the actual amount delivered is above the tendered lots (taking into account the delivery tolerance) the surplus will be ignored by the Clearing House for invoice purposes. Any payment for the excess must be settled between the Buyer and Seller without the involvement of the Clearing House.

### 5.4 Discounts

Discounts apply for deliveries made from the ports of Flushing and Ghent. The discount levels (50 cents and \$1.25 per tonne respectively) are determined by ICE Futures Europe and are subject to alteration from time to time.

### 5.5 Examples of Invoice Calculations

Basics:

1 lot = 100 tonnes

1 lot = 118.35 m<sup>3</sup> (cubic metres)

EDSP is quoted per Tonne, so price of a lot is *EDSP x 100 tonnes*

The price of a m<sup>3</sup> is  $\frac{\text{EDSP} \times 100 \text{ tonnes}}{118.35}$

One invoice is produced per barge. A final invoice is produced to reflect the adjustment for actual delivered volume. The EDSP in all examples is \$600 per tonne.

- (a) Invoice Calculation - Where Delivered Volume is within the Tolerance for the anticipated number of lots.

Tender for 35 lots in 3 nominated loadings of 20 lots, 10 lots and 5 lots each per barge respectively.

Tolerance permitted on 35 lots =  $35 \times 118.35 \times 0.5\% = \pm 20.711 \text{ m}^3$ .

Invoices reflecting individual Loadings		
1st Barge loads		2355.000 m <sup>3</sup>
2nd Barge loads		1207.000 m <sup>3</sup>
3rd Barge loads		586.000 m <sup>3</sup>
Total loaded		4148.000 m <sup>3</sup>
1st Barge invoice	19 lots @ 600.00	\$1,140,000.00
2nd Barge invoice	10 lots @ 600.00	\$600,000.00
3rd Barge invoice	4 lots @ 600.00	\$240,000.00
Total invoiced via the Barge Loading Invoices	33 lots	\$1,980,000.00
<u>Final Invoice</u>		
Based on total loaded quantity delivered, the number of lots delivered (within tolerance) is 35 Lots.		
Total invoiced already in m <sup>3</sup> =	33 x 118.35	3905.550 m <sup>3</sup>
Total delivered in m <sup>3</sup>		4148.000 m <sup>3</sup>
Total excess		242.450 m <sup>3</sup>
Excess is equivalent to		2 lots + 5.750 m <sup>3</sup>
2 lots @ EDSP of 600.00		\$120,000.00
5.91 m <sup>3</sup> is within the permitted tolerance of $\pm 20.711 \text{ m}^3$ allowable on 35 lots, so the invoice amount for this excess is $\frac{\$600 \times 100}{118.35} \times 5.91 \text{ m}^3$		\$2915.08
Final invoice amount		\$122,915.08

- (b) Invoice Calculation – Where Delivered Volume is outside the Tolerance - Over-Delivered.

Invoices reflecting individual Loadings		
1st Barge loads		2355.000 m <sup>3</sup>
2nd Barge loads		1207.000 m <sup>3</sup>
3rd Barge loads		603.000 m <sup>3</sup>



Total loaded		4165.000 m <sup>3</sup>
1st Barge invoice	19 lots @ 600.00	\$1,140,000.00
2nd Barge invoice	10 lots @ 600.00	\$600,000.00
3rd Barge invoice	5 lots @ 600.00	\$300,000.00
Total invoiced via the Barge Loading Invoices		\$2,040,000.00
<u>Final Invoice</u>		
Based on total loaded quantity delivered, the number of lots delivered is treated as 35 lots (being the number tendered) despite the quantity of 4162.961 m <sup>3</sup> exceeding the maximum permitted for 35 lots.		
Total invoiced already in m <sup>3</sup> =	33 x 118.35	3905.550 m <sup>3</sup>
Total delivered in m <sup>3</sup>		4148.000 m <sup>3</sup>
Total excess		141.100 m <sup>3</sup>
Excess is equivalent to		1 lot + 22.750 m <sup>3</sup>
1 lot @ EDSP of 600.00		\$60,000.00
22.750 m <sup>3</sup> is outside the permitted tolerance of +/- 20.711 m <sup>3</sup> allowable on 35 lots, so the invoice amount for this excess is $\frac{\$600 \times 100}{118.35} \times 20.711 m^3$ , i.e. the excess is “capped” at the permitted tolerance.		\$10,499.87
Final invoice amount		\$70,499.87
The difference between the maximum amount allowed as tolerance and the quantity in excess of that tolerance (22.750-20.711) is not invoiced by the Clearing House.		

- (c) Invoice Calculation – Where Delivered Volume is outside the Tolerance - Under-Delivered and thus resulting in an ADP.

Invoices reflecting individual Loadings		
1st Barge loads		2355.000 m <sup>3</sup>
2nd Barge loads		1160.000 m <sup>3</sup>
3rd Barge loads		586.000 m <sup>3</sup>
Total loaded		4101.000 m <sup>3</sup>
1st Barge invoice	19 lots @ 600.00	\$1,140,000.00
2nd Barge invoice	9 lots @ 600.00	\$540,000.00
3rd Barge invoice	4 lots @ 600.00	\$240,000.00
Total invoiced via the Barge Loading		\$1,920,000.00

Invoices		
<u>Final Invoice</u>		
Based on total loaded quantity delivered, the number of lots delivered (within tolerance) is 34 lots not 35 lots. For the total quantity delivered to be within tolerance for the tendered 35 lots, it would need to be within 4121.539 m <sup>3</sup> and 4162.961 m <sup>3</sup> . As the delivered quantity then exceeds the amount of a 34 lot delivery, this tender is then treated, for the purposes of the final invoice, as an over-delivered 34 lot tender with the 1 lot now excluded being settled between the Buyer and Seller under ADP.		
Total invoiced already in m <sup>3</sup> =	32 x 118.35	3787.200 m <sup>3</sup>
Total delivered in m <sup>3</sup>		4101.000 m <sup>3</sup>
Total excess		313.800 m <sup>3</sup>
Excess is equivalent to		2 lots + 77.100 m <sup>3</sup>
2 lots @ EDSP of 600.00		\$120,000.00
77.100m <sup>3</sup> is outside the permitted tolerance of +/- 20.120 m <sup>3</sup> allowable on 35 lots, so the invoice amount for this excess is $\frac{\$600 \times 100}{118.35} \times 20.120m^3$ , i.e. the excess is “capped” at the permitted tolerance.		\$10,200.25
Final invoice amount		\$130,200.25
The 1 lot ADP may be settled between the Seller and the Buyer. Failing this, the issue will be referred to ICE Futures Europe and the under-delivered lot invoiced back by the Clearing House. The quantity of Gasoil in excess of that invoiced by the Clearing House (77.100-20.120) may be considered by the Buyer and Seller under that ADP.		

- (d) Invoice Calculation – A further example where Delivered Volume is outside the Tolerance - Under-Delivered and thus resulting in an ADP.

In this example, the tendered quantity is 302 lots nominated on 3 barges for delivery of 200, 51 and 51 lots respectively.

Invoices reflecting individual Loadings		
1st Barge loads		23671.000 m <sup>3</sup>
2nd Barge loads		5918.000 m <sup>3</sup>
3rd Barge loads		5918.000 m <sup>3</sup>
Total loaded		35507.000 m <sup>3</sup>
1st Barge invoice	200 lots @ 600.00	\$12,000,000.00
2nd Barge invoice	50 lots @ 600.00	\$3,000,000.00
3rd Barge invoice	50 lots @ 600.00	\$3,000,000.00
Total invoiced via the Barge Loading		

Invoices	300 lots	\$18,000,000.00												
<u>Final Invoice</u>														
<p>The total loaded quantity (33507.000) delivered is not within the tolerance of the tendered quantity of 302 lots (35562.992 to 35920.409). However, the volume delivered does fall within the “0.5% in tolerance quantity” for 299, 300 or 301 lots:</p> <table border="1"> <thead> <tr> <th>Lots</th> <th>Lower m<sup>3</sup></th> <th>Upper m<sup>3</sup></th> </tr> </thead> <tbody> <tr> <td>299</td> <td>35209.717</td> <td>35563.583</td> </tr> <tr> <td>300</td> <td>35327.475</td> <td>35682.525</td> </tr> <tr> <td>301</td> <td>35445.233</td> <td>35801.467</td> </tr> </tbody> </table> <p>In this situation, the Clearing House will always regard this as the uppermost number of lots, i.e. in this case will regard this as a “short” 301 lot delivery with 1 lot ADP’d, rather than for example an “over”-delivery on a 300 lot tender with 2 lots ADP’d.</p> <p>This tender is then treated, for the purposes of the final invoice, as an under-delivered 301 lot tender with the 1 lot now excluded being settled between the Buyer and Seller under ADP. This quantity is overall equivalent to 301 lots – 116.35 m<sup>3</sup>. 300 lots were invoiced under the individual loadings leaving the 1 lot – 116.35 m<sup>3</sup> to be invoiced in the final invoice.</p>			Lots	Lower m <sup>3</sup>	Upper m <sup>3</sup>	299	35209.717	35563.583	300	35327.475	35682.525	301	35445.233	35801.467
Lots	Lower m <sup>3</sup>	Upper m <sup>3</sup>												
299	35209.717	35563.583												
300	35327.475	35682.525												
301	35445.233	35801.467												
Total invoiced already in m <sup>3</sup> =	300 x 118.35	35505.000 m <sup>3</sup>												
Total delivered in m <sup>3</sup>		35507.000 m <sup>3</sup>												
Total excess		2.000 m <sup>3</sup>												
Excess is equivalent to		1 lot – 116.35 m <sup>3</sup>												
1 lot @ EDSP of 600.00		\$60,000.00												
The invoice amount for this excess is MINUS $\frac{\$600 \times 100}{118.35} \times 2.000m^3$		- \$58,986.06												
Final invoice amount		\$1,013.94.00												
<p>The 1 lot ADP’d should be settled between the Seller and the Buyer. Failing this, the issue will be referred to ICE Futures Europe and the under-delivered lot invoiced back by the Clearing House.</p>														

PART D: ICE FUTURES UK NATURAL GAS FUTURES CONTRACT (“ICEFUTURES UK NATURAL GAS FUTURES”), ICE FUTURES UK NATURAL GAS (EUR/MWh) FUTURES CONTRACT (“ICE FUTURES UK NATURAL GAS (EUR/MWh) FUTURES”) AND ICE FUTURES UK NATURAL GAS DAILY FUTURES CONTRACT (“ICE FUTURES UK NATURAL GAS DAILY FUTURES”)

## 1. DEFINITIONS

1.1 The following additional definitions apply to this part of the Delivery Procedures:

- (a) The term “Acquiring Trade Nomination” means a nomination submitted, in the manner required by the National Grid Rules and otherwise in accordance with this Part D, by the Transferee to acquire rights in respect of one or more lots of Natural Gas at the National Balancing Point.
- (b) The terms “D-” or “D+” relate to the number of Business Days before and after the Delivery Day respectively on which rights to natural gas are to be transferred.
- (c) The term “Daily Imbalance” has the same meaning as that given to that term in the Network Code.
- (d) The term “Delivery Day” means the period beginning at 05:00 hours on a day on which the transfer of rights in respect of Natural Gas is due to be made under a Contract in accordance with ICE Futures Europe Rules and this Part D and ending at 05:00 hours on the following day.
- (e) The term “Disposing Trade Nomination” means a nomination submitted, in the manner required by the National Grid Rules and otherwise in accordance with ICE Futures Europe Rules and this Part D, by the Transferor to dispose of rights in respect of one or more lots of Natural Gas at the National Balancing Point.
- (f) The term “Gemini” means that part of the UK Link which enables, inter alia, a user to submit a Trade Nomination to National Grid and to access information concerning the user’s Trade Nominations, and any successor system thereto;
- (g) The term "ICE Futures UK Natural Gas" means ICE Futures UK Natural Gas Futures, ICE Futures UK Natural Gas (EUR/MWh) Futures and ICE Futures UK Natural Gas DailyFutures.
- (h) The term “Invoice Period” refers to the period beginning at the start of the day on which the last invoice was issued, up to the end of the day prior to the date of the current invoice and also includes any additional period of time during which payments are made from the Buyer to the Seller in respect of completed deliveries
- (i) The term “kWh” or “Kilowatt Hours” means 3,600,000 joules where “joule” is as defined in ISO 1000:1992(E) or any standard replacing the same as nominated by ICE Futures Europe.
- (j) The term “M+” means, in respect of a Contract, the number of Business Days immediately following the last day of the month in which the Delivery Day specified in the Contract commenced.
- (k) The term “MWh” or “Megawatt Hours” means 3,600,000,000 joules where “joule” is as defined in ISO 1000:1992(E) or any standard replacing the same as nominated by ICE Futures Europe.

- (l) The term “National Balancing Point” means, in respect of a Contract, a notional point within the Transmission System at which the balancing of the amounts of Natural Gas delivered into and out of the Transmission System takes place for the purposes of the Network Code.
- (m) The term “National Grid Rules” means the Network Code and any manuals, procedures, practices or directions of National Grid which support the operation of the Network Code, as amended from time to time.
- (n) The term “National Grid” means National Grid or any successor thereto.
- (o) The term “Natural Gas” means any hydrocarbons or mixture of hydrocarbons and other gases consisting predominantly of methane which at a temperature of 15 degrees Celsius and at an absolute pressure of 1.01325 bar are or is predominantly in the gaseous state where “degree Celsius” and “bar” are as defined in ISO 1000:1992(E) or any standard replacing the same as nominated by ICE Futures Europe.
- (p) The term “Network Code” means the document, as amended from time to time, setting out National Grid’s arrangements for transportation of Natural Gas pursuant to its public gas transporter’s licence under the Gas Act 1986 and any manuals, procedures, practices or directions of National Grid which support the operation of that document, in either case as amended from time to time.
- (q) The term “Therm” means 29.3071 kWh.
- (r) The term “Trade Nomination” means in respect of a Contract either a Disposing Trade Nomination or an Acquiring Trade Nomination, as the case may be.
- (s) The term “Trade Nomination Quantity” means the quantity of Natural Gas nominated in a Trade Nomination.
- (t) The term “Transmission System” means the onshore transmission pipeline system owned and operated by National Grid as may be enlarged, extended or altered from time to time.
- (u) The term “UK Link” means the computer system for the electronic transfer of information between National Grid and users of such system managed and operated by National Grid, or any agent appointed by National Grid, and any system from time to time replacing the same.

## 2. DELIVERY SPECIFICATION

### 2.1 Delivery

Deliveries of ICE Futures UK Natural Gas are effected by the transfer of rights to Natural Gas at the National Balancing Point from a Transferor (nominated by the Seller, which may be the Seller itself) to the Clearing House and from the Clearing House to a Transferee (nominated by the Buyer, which may be the Buyer itself), through the input of Acquiring and Disposing Trade Nominations into the National Grid’s Gemini system. The National Grid will take those Nominations into account when determining whether the Clearing House has a “Daily Imbalance”.

### 2.2 Quantity

ICE Futures UK Natural Gas Futures and ICE Futures UK Natural Gas Daily Futures trade in Therms but are delivered in kWh. Similarly, ICE Futures UK Natural Gas (EUR/MWh) Futures trade in MWh but are delivered in kWh. The Gemini system, through which delivery is made, accepts Trade Nominations to the nearest kWh. Therefore, when converting a deliverable position from Therms to kWh the Clearing House will, in its absolute discretion, round either up or down to the nearest whole

kWh to facilitate the matching of the Clearing House Acquiring and Disposing Trade Nominations with the Trade Nominations made by the Transferor and Transferee.

### 2.3 Price

The price at which the contract is delivered is the Exchange Delivery Settlement Price (EDSP) for the second Business Day immediately prior to the calendar day on which the Delivery Month commences in accordance with the ICE Futures Europe Rules.

### 2.4 Days and Times

All “timings” or times of day are London times.

### 2.5 Cessation of Trading

- (a) ICE Futures UK Natural Gas Futures and ICE Futures UK Natural Gas (EUR/MWh) Futures cease trading at 17:00 hours on the Business Day which is two Business Days prior to the first calendar day of the delivery month.
- (b) ICE Futures UK Natural Gas Daily Futures cease trading at 16:30 hours on the Business Day prior to the Delivery Day.

### 2.6 Exchange for Physicals (EFPs) and Exchange for Swaps (EFSs)

In accordance with ICE Futures Europe Rules, for ICE Futures UK Natural Gas, EFPs and EFSs may be posted up to one hour following the cessation of trading.

## 3. LIABILITY

3.1 The provisions of this paragraph 3 are without prejudice to the generality, and subject to, the provisions of the Rules relating to liability and apply in addition to the general requirements of these Delivery Procedures.

3.2 The Clearing House is not responsible for, and shall have no liability whatsoever as a result of:

- (a) the performance or non-performance of National Grid of its obligations under the National Grid Rules or the Network Code; or
- (b) the performance or non-performance of National Grid.

3.3 Neither the Buyer nor the Seller, nor their Transferees or Transferors, shall have any claim against the Clearing House for any loss, cost, damage or expense incurred or suffered as a result of the condition or operation of the Transmission System or any part thereof or the performance or non-performance of National Grid except as otherwise expressly provided in the ICE Futures Europe Rules.

## 4. DELIVERY CONTRACT SECURITY

The Clearing House makes the ~~Natural Gas Security Report~~ [delivery information](#) available [through the delivery system](#) on a daily basis to Clearing Members with delivery positions.

### (a) Buyer’s Security

Buyer’s Security is calculated by reference to the relevant Exchange Delivery Settlement Price (EDSP) plus a “Buyer’s Default Top-up”. The “Buyer’s Default Top-up” is an amount calculated against the



possibility of a negative System Marginal Sell Price (SMP Sell), as defined by National Grid in the Network Code.

The Clearing House may alter the calculation of Buyer's Security at any time or make adjustments in respect of specific Buyers.

(b) Seller's Security

Seller's Security is calculated against the Seller's Default Price (SDP) for the relevant Delivery Day.

The SDP is calculated by reference to the relevant System Marginal Buy Price (SMP Buy), as defined by National Grid in the Network Code, or Exchange Delivery Settlement Price (EDSP).

The Clearing House may alter the calculation of Seller's Security at any time or make adjustments in respect of a specific Seller.

## 5. DELIVERY TIMETABLE FOR ICE FUTURES UK NATURAL GAS: ROUTINE

### 5.1 ICE Futures UK Natural Gas Futures and ICE Futures UK Natural Gas (EUR/MWh) Futures

2 Business Days prior to the 1 <sup>st</sup> Delivery Day (M-2)		
Confirmation of Delivery positions - Provisional	By 09:00	The Provisional Natural Gas Delivery Report identifies Open Contract Positions at the close of business on M-3.
	By 17:00	Buyer and Seller <u>must</u> submit known delivery <u>intentions via ECS in order to confirm their position and Gemini account</u> details <del>using ICE Futures UK Natural Gas: Delivery Confirmation Form</del> for those Open Contract Positions, which are expected to be delivered.
Cessation of Trading	At 17:00	Monthly Contract ceases trading.
	By 18:00	EFPs and EFSs may be posted up to one hour following the cessation of trading.  If final delivery Open Contract Positions are known, the Seller and Buyer may (but are not obliged to) submit to the Clearing House a completed ICE Futures UK Natural Gas Delivery Confirmation Form for those Open Contract Positions it expects to be delivered.
M-1		
Provision of Buyer's and Seller's Security	By 09:00	Seller and Buyer must provide the Clearing House with Seller's Security and Buyer's Security as appropriate. This is calculated for all deliverable Open Contract Positions at close of business on D-2 (which corresponds to M-2 for the first delivery day and M-1 for the second).  The Clearing House may make adjustments to provisional Seller's Security or Buyer's Security by making intra-day calls at this time or other times on this day.
	By 10:30	Settlement instructions and Open Contract Positions transfers are entered into ECS for expired Contracts.  Clearing Members with Open Contract Positions at this time for a Contract Set subject to delivery are obliged to make or take delivery.

	By 11:30	MPFE report available on ECS to Clearing Members.
Submission of ICE Futures UK Natural Gas Delivery Intentions	By <del>12:00</del> 10:30	Buyer and Seller must, for all deliverable Open Contract Positions, submit their delivery intentions via ECS in order to confirm their position and Gemini account details. The delivery intentions must be submitted by 12:00 hours on M-1.
	By 11:30	MPFE report available via MFT and ECS to Clearing Members.
Nomination of Transferor /Transferee		Seller or Buyer who is nominating a Transferor or Transferee in respect of a Contract must ensure that the Clearing House has in its possession a signed ICE Futures UK Natural Gas: Blanket Transferor Form or ICE Futures UK Natural Gas: Blanket Transferee Form (as applicable) for each nominated Transferor or Transferee. This Transferor/Transferee Form must be signed by an authorised signatory of the Transferor/Transferee.
ICE Futures UK Natural Gas Conversion and Confirmation Report	By 13:00	The ICE Futures UK Natural Gas Conversion and Confirmation Reports, listing all deliverable positions in kWh for the Delivery Day, are made available to Clearing Members electronically. Where Clearing Members will have submitted email details for their Transferee/Transferors, this report will also be emailed directly to the Transferee/Transferors.  It is the responsibility of the Clearing Member to ensure that each nominated Transferor/Transferee has received a copy of the ICE Futures UK Natural Gas Conversion and Confirmation Report.
	By 14:00	Seller and Buyer must each inform the Clearing House of any details on the ICE Futures UK Natural Gas Conversion and Confirmation Report that do not match their submitted ICE Futures UK Natural Gas Delivery Confirmation Form.  Failure to notify the Clearing House by this deadline will constitute acceptance by the Seller and Buyer of their delivery obligations.  If necessary, the Clearing House will then make any appropriate amendments to the ICE Futures UK Natural Gas Conversion and Confirmation Report and resend it to Clearing Members.
Entry of Disposing and Acquiring Nominations	By 18:30	Seller and Buyer must ensure that their nominated Transferors/Transferees have entered the appropriate Disposing Trade Nomination(s)/Acquiring Trade Nominations(s) into the Gemini system.  If by 19:30 one such Trade Nomination has not been accepted by National Grid, the Clearing House, or its agent, may direct the Seller (or its Transferor) or the Buyer (or its Transferee) who submitted the Trade Nomination to amend or withdraw such Trade Nomination on such terms as the Clearing House may consider appropriate until such Trade Nomination is accepted by National Grid.
	Delivery Day (D) (or next Business Day if D is a Non-Clearing Day)	
	By 09:00	The Clearing House makes Daily Summary Report available.
	D+1	
Payment, Seller's Security and Buyer's	By	Seller's Security for actual delivered amount is released.

Default Top Up	09:00	<p>The Clearing House releases the 'Buyer's Default Top-up' portion of the Buyer's Security on confirmed deliveries.</p> <p>Buyers make contract payment via their Nominated Accounts in respect of deliveries for the preceding delivery day. Buyer's Security is released as part of the payment transaction.</p> <p>Seller receives contract value (payment) for confirmed delivered amount in respect of deliveries for the preceding delivery day.</p> <p><del>N.B. A credit note may be issued at a later date against the failed deliveries.</del></p>
One Day following the end of the Invoice Period		
Invoice and Account Sale Details	By 09:00	The Clearing House makes the Invoice and Account Sale Report available to Seller and Buyer for the Invoice Period.

## 5.2 ICE Futures UK Natural Gas Daily Futures

1 Business Day prior to the Delivery Day (D-1)		
Cessation of Trading	At 16:30	Daily Contract ceases trading.
Submission of ICE Futures UK Natural Gas Daily Futures Delivery Intentions	By 17:30	Buyer and Seller must, for all deliverable Open Contract Positions, submit their delivery intentions confirming their position and Gemini account via ECS.
Nomination of Transferor /Transferee	By 17:30	Seller or Buyer who is nominating a Transferor or Transferee in respect of a Contract must ensure that the Clearing House has in its possession a signed ICE Futures UK Natural Gas: Blanket Transferor Form or ICE Futures UK Natural Gas: Blanket Transferee Form (as applicable) for each nominated Transferor or Transferee. This Transferor/Transferee Form must be signed by an authorised signatory of the Transferor/Transferee.
	By 17:30	EFPs and EFSs may be posted up to one hour following the cessation of trading.
	By 17:30	<p>Settlement instructions and Open Contract Positions transfers are entered for expired Contracts.</p> <p>Clearing Members with Open Contract Positions at this time for a Contract Set subject to delivery are obliged to make or take delivery.</p>
	By 17:45	MPFE report available to Clearing Members.
ICE Futures UK Natural Gas Daily Futures Conversion and Confirmation Report	By 18:00	<p>The ICE Futures UK Natural Gas Daily Futures Conversion and Confirmation Reports, listing all deliverable positions in kWh for the Delivery Day, are made available to Clearing Members electronically. Where Clearing Members will have submitted email details for their Transferee/Transferors, this report will also be emailed directly to the Transferee/Transferors.</p> <p>It is the responsibility of the Clearing Member to ensure that each nominated</p>

		Transferor/Transferee has received a copy of the ICE Futures UK Natural Gas Daily Futures Conversion and Confirmation Report.
	By 19:00	<p>Seller and Buyer must each inform the Clearing House of any details on the ICE Futures UK Natural Gas Daily Futures Conversion and Confirmation Report that do not match the details submitted on the delivery intentions they submitted via ECS.</p> <p>Failure to notify the Clearing House by this deadline will constitute acceptance by the Seller and Buyer of their delivery obligations.</p> <p>If necessary, the Clearing House will then make any appropriate amendments to the ICE Futures UK Natural Gas Daily Futures Conversion and Confirmation Report and resend it to Clearing Members.</p>
Entry of Disposing and Acquiring Nominations	By 19:30	<p>Seller and Buyer must ensure that their nominated Transferors/Transferees have entered the appropriate Disposing Trade Nomination(s)/Acquiring Trade Nominations(s) into the Gemini system.</p> <p>If by 20:30 one such Trade Nomination has not been accepted by National Grid, the Clearing House, or its agent, may direct the Seller (or its Transferor) or the Buyer (or its Transferee) who submitted the Trade Nomination to amend or withdraw such Trade Nomination on such terms as the Clearing House may consider appropriate until such Trade Nomination is accepted by National Grid.</p>
	Delivery Day (D) (or next Business Day if D is a Non-Clearing Day)	
Provision of Buyer's and Seller's Security	By 09:00	<p>Seller and Buyer must provide the Clearing House with Seller's Security and Buyer's Security as appropriate. This is calculated for all deliverable Open Contract Positions at close of business on D-1.</p> <p>The Clearing House may make adjustments to provisional Seller's Security or Buyer's Security by making intra-day calls at this time or other times on this day.</p>
		The Clearing House makes Daily Summary Report available.
	D+1	
Final Confirmation of Delivery Report	By 09:00	The Clearing House makes the Daily Summary Report available for the previous day's deliveries.
Seller's Security and Buyer's Default Top Up	By 09:00	<p>Seller's Security for actual delivered amount is released.</p> <p>The Clearing House releases the 'Buyer's Default Top-up' portion of the Buyer's Security on confirmed deliveries.</p>
Payment	By 09:00	<p>Seller receives contract value (payment) for confirmed delivered amount in respect of deliveries for the preceding day as detailed on the Invoice and Account Sale report.</p> <p>Buyer pays contract value for both performed and failed delivery amounts in respect of deliveries for the preceding month as detailed on the Invoice and Account Sale Report. Buyer's Security is released as part of the payment transaction.</p> <p>N.B. A credit note may be issued at a later date against the failed deliveries.</p>

	One Day following the end of the Invoice Period	
Invoice and Account Sale Details	By 09:00	The Clearing House makes the Invoice and Account Sale Report available to Seller and Buyer for the Invoice Period.

## 6. DELIVERY TIMETABLE FOR ICE FUTURES UK NATURAL GAS: FAILED DELIVERY

### 6.1 ICE Futures UK Natural Gas Futures and ICE Futures UK Natural Gas (EUR/MWh) Futures

	D+2	
Seller's Security and Buyer's Default Top up	By 09:00	In the event of a failed delivery, the Clearing House may call additional Seller's Security and/or Buyer's Security.
	24 to 29 Business Days following the month of delivery (M+24 to M+29)	
Failed Delivery	By 09:00	The Clearing House makes the Invoice and Credit Note Report available to Sellers and Buyers for the previous month's failed deliveries.
	26 to 40 Business Days following the month of delivery (M+26 to M+40)	
Payment for Failed Delivery	By 09:00	Seller makes payment for previous month's failed deliveries.
		Buyers make/receive payment or take receipt for previous month's failed deliveries.
	27 to 41 Business Days following the month of delivery (M+27 to M+41)	
Release of Seller's and Buyer's Security against Failed Deliveries	By 09:00	Seller's Security and Buyer's Security held against failed deliveries is released following confirmation that payment has been made for all failed deliveries for the delivery month.

### 6.2 ICE Futures UK Natural Gas Daily Futures

	D+2	
Seller's Security and Buyer's Default Top up	By 09:00	In the event of a failed delivery, the Clearing House may call additional Seller's Security and/or Buyer's Security.
	24 to 29 Business Days following the Delivery Day (D+24 to D+29)	
Failed Delivery	By 09:00	The Clearing House makes the Invoice and Credit Note Report available to Sellers and Buyers for the failed deliveries.
	26 to 40 Business Days following the Delivery Day (D+26 to D+40)	
Payment for Failed Delivery	By 09:00	Seller makes payment for the failed deliveries.

		Buyers make/receive payment or take receipt for the failed deliveries.
		27 to 41 Business Days following the Delivery Day (D+27 to D+41)
Release of Seller's and Buyer's Security against Failed Deliveries	By 09:00	Seller's Security and Buyer's Security held against failed deliveries is released following confirmation that payment has been made.

Note: in the event of a failed delivery, the Clearing House may retain Buyer's Security and/or Seller's Security.

## 7. INVOICE AND ACCOUNT SALE CALCULATION

### 7.1 Invoice and Account Sale

#### (a) Previous Month's Deliveries

The Invoice and Account Sale Report gives details of all deliveries made during the Invoice Period.

Confirmed deliveries for ICE Futures UK Natural Gas Futures:

$$\text{kWh} * \text{EDSP} / 29.3071$$

Where,

kWh = the number of Kilowatt hours delivered.

EDSP = The relevant Exchange Delivery Settlement Price for the contract in delivery, quoted in pence per Therm

Confirmed deliveries for ICE Futures UK Natural Gas (EUR/MWh) Futures:

$$\text{kWh} * \text{EDSP} / 1000 \text{ kWh}$$

Where

kWh = the number of Kilowatt hours delivered.

EDSP = The relevant Exchange Delivery Settlement Price for the contract in delivery, quoted in Euros per MWh

Failed Deliveries (Buyers only) for ICE Futures UK Natural Gas Futures:

$$\text{kWh} * \text{EDSP} / 29.3071$$

Where

kWh = the number of Kilowatt hours delivered.

EDSP = The relevant Exchange Delivery Settlement Price for the day of delivery, quoted in pence per Therm.

Failed Deliveries (Buyers only) for ICE Futures UK Natural Gas (EUR/MWh) Futures:

$$\text{kWh} * \text{EDSP} / 1000 \text{ kWh}$$

Where

kWh = the number of Kilowatt hours delivered.

EDSP = The relevant Exchange Delivery Settlement Price for the contract in delivery, quoted in Euros per MWh

(b) Daily Deliveries

The Invoice and Account Sale Report gives details of all deliveries made during the business day 2 days before its production.

Confirmed deliveries:

kWh \* EDSP / 29.3071

Where

kWh = the number of Kilowatt hours delivered.

EDSP = The relevant Exchange Delivery Settlement Price for the day of delivery, quoted in pence per Therm.

Failed Deliveries (Buyers only)

kWh \* EDSP / 29.3071

Where

kWh = the number of Kilowatt hours delivered.

EDSP = The relevant Exchange Delivery Settlement Price for the day of delivery, quoted in pence per Therm.

7.2 Invoice/Credit Note for Failed Deliveries

The Invoice and Credit Note Report gives details of the proportion of the Clearing House's costs, incurred from National Grid, allocated to Clearing Members as a result of Buyers' and Sellers' failed deliveries.

Credit Notes are issued to Buyers up to the contract value of the failed delivery, dependent on the value received by the Clearing House from National Grid. In the event that the value received by the Clearing House is in excess of the contract value, any such excess will be passed on to ICE Futures Europe.

The Clearing House's costs are allocated *pro rata* to those Clearing Members whose failed deliveries have caused the Clearing House's net Daily Imbalance.

8. DELIVERY DOCUMENTATION SUMMARY

8.1 ICE Futures UK Natural Gas Futures and ICE Futures UK Natural Gas (EUR/MWh) Futures

Reports produced by the Clearing House are made available to Buyers and Sellers electronically.



Name of Delivery Document	Explanation	Timing
Daily Summary Report	This report summarises on a daily basis the deliverable positions by transferee/transferor	By 9:00 Daily
ICE Futures UK Natural Gas: Blanket Transferee Form	Where applicable, the Buyer must ensure that this form is submitted by the Transferee to the Clearing House. It must be signed by an authorised signatory of the Transferee as confirmation that they will take delivery of Natural Gas on any Delivery Days nominated by the Buyer and referred to on the ICE Futures UK Natural Gas Delivery Confirmation form.	By 12:00 on D-1
ICE Futures UK Natural Gas: Blanket Transferor Form	Where applicable, the Seller must ensure that this form is submitted by the Transferor to the Clearing House. It must be signed by an authorised signatory of the Transferor as confirmation that they will make delivery of Natural Gas on any Delivery Days nominated by the Buyer and referred to on the ICE Futures UK Natural Gas Delivery Confirmation form.	By 12:00 on D-1
ICE Futures UK Natural Gas Conversion and Confirmation Report	When available, Buyers and Sellers must promptly provide a copy of this report to the relevant Transferor(s) and Transferee(s). It is a Transferor/Transferee order and informs Buyers and Sellers of Clearing Member mnemonic; Transferee/Transferor; Delivery Day or series of Delivery Days as defined in paragraph 1 of this Part D from first Delivery Day to last Delivery Day; lots to be delivered; details of the Acquiring and/or Disposing Trade Nomination(s) to be entered by the Transferees/Transferors; and a statement that if the Transferor/Transferee fails to notify the Clearing House by the necessary deadline as specified in these Delivery Procedures, then the delivery obligation is irrevocably accepted and Transferor/Transferee will enter the correct Acquiring and/or Disposing Trade Nomination(s) into the Gemini system, by the relevant deadline and that the trade(s) nominations will not be amended or withdrawn unless instructed to do so by the Clearing House.	By 18:00 on D-1
ICE Futures UK Natural Gas Invoice Report and Account Sale Report	The report gives Buyers and Sellers details of: Clearing Member mnemonic; Clearing Member account; contract; delivery month; Delivery Day; contracted kWh; actual delivered (matched) kWh; price in pence per Therm; value of Natural Gas; and a summary of the Invoice and Account Sale.	By 09:00 on the day following the Invoice Period
Invoice Report and Credit Note Report: Failed Deliveries	The report gives Buyers and Sellers with failed deliveries during the previous delivery month details of Clearing Member mnemonic; Clearing Member account; contract; delivery month; Delivery Day; amount of failed delivery long (kWh); amount of failed delivery short (kWh); and total costs charged to the Clearing Member as a result of failed delivery/deliveries.	M+24 to M+29 at 09:00.

## 8.2 ICE Futures UK Natural Gas Daily Futures Contract

Reports produced by the Clearing House are made available to Buyers and Sellers electronically.

Name of Delivery Document	Explanation	Timing
Daily Summary Report	This report summarises on a daily basis the deliverable positions by transferee/transferor	By 9:00 Daily
ICE Futures UK Natural Gas: Blanket Transferee Form	Where applicable, the Buyer must ensure that this form is submitted by the Transferee to the Clearing House. It must be signed by an authorised signatory of the Transferee as confirmation that they will take delivery of Natural Gas on any Delivery Days nominated by the Buyer and referred to on the ICE Futures UK Natural Gas Daily Futures Delivery Confirmation form.	By 17:30 on D
ICE Futures UK Natural Gas: Blanket Transferor Form	Where applicable, the Seller must ensure that this form is submitted by the Transferor to the Clearing House. It must be signed by an authorised signatory of the Transferor as confirmation that they will make delivery of Natural Gas on any Delivery Days nominated by the Buyer and referred to on the ICE Futures UK Natural Gas Daily Futures Delivery Confirmation form.	By 17:30 on D
ICE Futures UK Natural Gas Daily Futures Conversion and Confirmation Report	When available, Buyers and Sellers must promptly provide a copy of this report to the relevant Transferor(s) and Transferee(s). It is a Transferor/Transferee order and informs Buyers and Sellers of Clearing Member mnemonic; Transferee/Transferor; Delivery Day or series of Delivery Days as defined in paragraph 1 of this Part D from first Delivery Day to last Delivery Day; lots to be delivered; details of the Acquiring and/or Disposing Trade Nomination(s) to be entered by the Transferees/Transferors; and a statement that if the Transferor/Transferee fails to notify the Clearing House by the necessary deadline as specified in these Delivery Procedures, then the delivery obligation is irrevocably accepted and Transferor/Transferee will enter the correct Acquiring and/or Disposing Trade Nomination(s) into the Gemini system, by the relevant deadline and that the trade(s) nominations will not be amended or withdrawn unless instructed to do so by the Clearing House.	By 18:00 on D
ICE Futures UK Natural Gas Daily Futures Invoice Report and Account Sale Report	The report gives Buyers and Sellers details of: Clearing Member mnemonic; Clearing Member account; contract; Delivery Day; contracted kWh; actual delivered (matched) kWh; price in pence per Therm; value of Natural Gas; and a summary of the Invoice and Account Sale.	By 09:00 on D+2

Name of Delivery Document	Explanation	Timing
Invoice Report and Credit Note Report: Failed Deliveries	The report gives Buyers and Sellers with failed deliveries details of Clearing Member mnemonic; Clearing Member account; contract; Delivery Day; amount of failed delivery long (kWh); amount of failed delivery short (kWh); and total costs charged to the Clearing Member as a result of failed delivery/deliveries.	D+24 to D+29 at 09:00.

PART E: ICE ENDEX UK OCM NATURAL GAS SPOT CONTRACT ("UK OCM NATURAL GAS SPOT CONTRACT")

1. DEFINITIONS

1.1 The following additional definitions apply to this part of the Delivery Procedures:

- (a) The term "Acquiring Trade Nomination" means a nomination submitted, in the manner required by the National Grid Rules and otherwise in accordance with the ICE Endex UK Rules and this Part E, by the Transferee to acquire rights in respect of a quantity of Natural Gas at the National Balancing Point.
- (b) The term "Contingent Credit" has the meaning as set out in paragraph 4.7 of the Clearing Procedures.
- (c) The term "Contract Renomination" has the same meaning as given to that term in the Network Code.
- (d) The terms "D-" or "D+" relate to the number of days before and after the Delivery Day respectively on which rights to Natural Gas are to be transferred.
- (e) The term "Daily Imbalance" has the same meaning as that given to that term in the Network Code.
- (f) The term "Delivery Day" means a "Day" (as defined in the Network Code) on which the transfer of rights in respect of Natural Gas is due to be made under a Contract in accordance with ICE Endex UK Rules and this Part E.
- (g) The term "Delivery Month" means the period beginning at 06:00 hours CET on the first calendar day of the month until 06.00 hours CET on the first calendar day of the next month.
- (h) The term "Disposing Trade Nomination" means a nomination submitted, in the manner required by the National Grid Rules and otherwise in accordance with ICE Endex UK Rules and this Part E, by the Transferor to dispose of rights in respect of a quantity of Natural Gas at the National Balancing Point.
- (i) The term "Gemini" means that part of the UK Link which enables, *inter alia*, a user to submit a Trade Nomination to National Grid and to access information concerning the user's Trade Nominations, and any successor system thereto.
- (j) The term "Invoice Period" refers to the period beginning at the start of the day on which the last invoice was issued, up to the end of the day prior to the date of the current invoice and also includes any additional period of time during which payments made from the Buyer to the Seller in respect of completed deliveries.
- (k) The term "kWh" or "Kilowatt Hours" means 3,600,000 joules where "joule" is as defined in ISO 1000:1992(E) or any standard replacing the same as nominated by ICE Endex UK.
- (l) The term "M+" or "M-" means, in respect of a Contract, the number of Business Days immediately following the last day of the month or the number of Business Days immediately preceding the first day of the month in which the Delivery Day specified in the Contract commenced.
- (m) The term "National Balancing Point" means, in respect of a Contract, a notional point within the Transmission System at which the balancing of the amounts of Natural Gas delivered into and out of the Transmission System takes place for the purposes of the Network Code.

- (n) The term "National Grid" means National Grid Gas plc, a company incorporated under the laws of England and Wales, company number 02006000, acting as a public gas transporter under its licence granted or treated as having been granted under Section 7(2) of the Gas Act 1986, as amended from time to time, or any successor thereto.
- (o) The term "National Grid Rules" means the Network Code and any manuals, procedures, practices or directions of National Grid which support the operation of the Network Code, as amended from time to time.
- (p) The term "Natural Gas" has the same meaning as that given to the term "gas" in the Network Code, as may be amended from time to time.
- (q) The term "Network Code" means the document, as amended from time to time, setting out National Grid's arrangements for transportation of Natural Gas pursuant to its public gas transporter's licence under the Gas Act 1986 and any manuals, procedures, practices or directions of National Grid which support the operation of that document, in either case as amended from time to time.
- (r) The term "Settlement Cut Off" for a given Business Day refers to the time at which the Clearing House calculates the associated cash flows for all deliverable obligations.
- (s) The term "System" has the same meaning as given to that term in the Network Code.
- (t) The term "Therm" means 29.3071 kWh.
- (u) The term "Trade Date" refers to the calendar day on which a trade was executed according to the ICE Endex UK Rules.
- (v) The term "Trade Nomination" means in respect of a Contract, either a Disposing Trade Nomination or an Acquiring Trade Nomination, as the case may be.
- (w) The term "Transmission System" means the onshore transmission pipeline system owned and operated by National Grid as may be enlarged, extended or altered from time to time.
- (x) The term "UK Link" means the computer system for the electronic transfer of information between National Grid and users of such system managed and operated by National Grid, or any agent appointed by National Grid, and any system from time to time replacing the same.
- (y) The term "UK OCM Locational Natural Gas Spot Contract" shall mean the ICE Endex UK OCM Locational Day Natural Gas Spot Contract, the ICE Endex UK OCM Locational Two Day Natural Gas Spot Contract, the ICE Endex UK OCM Locational Three Day Natural Gas Spot Contract, the ICE Endex UK OCM Locational Four Day Natural Gas Spot Contract, the ICE Endex UK OCM Locational Five Day Natural Gas Spot Contract, the ICE Endex UK OCM Locational Six Day Natural Gas Spot Contract and the ICE Endex UK OCM Locational Seven Day Natural Gas Spot Contract.
- (z) The term "UK OCM Natural Gas Spot Contract" shall mean the UK OCM Title Day Natural Gas Spot Contract, the UK OCM Physical Day Natural Gas Spot Contract and the UK OCM Locational Natural Gas Spot Contract.
- (aa) The term "UK OCM Physical Day Natural Gas Spot Contract" shall mean the ICE Endex UK OCM Physical Day Natural Gas Spot Contract.
- (bb) The term "UK OCM Title Day Natural Gas Spot Contract" shall mean the ICE Endex UK OCM Title Day Natural Gas Spot Contract.

## 2. ICE ENDEX UK AUTHORITY

For the purposes of the Network Code, ICE Endex UK is both the Trading System Operator and the Trading System Clearer (as such terms are defined in the Network Code) in respect of the UK OCM Natural Gas Spot Contracts. At the point a Contract arises, ICE Endex UK shall submit, as a User Agent (as defined in the Network Code) on behalf of the Transferor (specified by the Seller, which may be the Seller itself) and the Transferee (specified by the Buyer, which may be the Buyer itself), Trade Nominations. Each Clearing Member (for itself and on behalf of its Transferors and Transferees) hereby grants authority to ICE Endex UK to make Trade Nominations in connection with deliveries under UK OCM Natural Gas Spot Contracts. No Clearing Member shall revoke or terminate, or purport to revoke or terminate, such authorisation, and each Clearing Member shall procure that none of its Transferors or Transferees shall revoke or terminate, or purport to revoke or terminate, such authorisation. Clearing Members are not required, and are not able, to submit Trade Nominations themselves.

## 3. DELIVERY SPECIFICATION

### 3.1 Transferors and Transferees

- (a) Clearing Members must ensure that prior to any UK OCM Natural Gas Spot Contracts arising which are to be referable to a Transferor or Transferee, an appropriate Transferor/Transferee form is in place relating to such Transferor or Transferee and the relevant Transferor or Transferee is a User and where it is not a Trader User, hold a Gas Transporter's Licence or a Shipper Licence (as such terms are defined in the Network Code).
- (b) Clearing Members shall ensure that each Contract at the point it arises under Rule 401, is appropriately identified as relating to such Transferor or Transferee (which may be the Clearing Member itself).
- (c) At the point that the Contract arises, the Clearing Member (which may be the Transferor or Transferee) shall be automatically deemed to have appointed the specified Transferor or Transferee to make or take delivery on its behalf.
- (d) Following the entry into of each UK OCM Natural Gas Spot Contract:
  - (i) the Transferor (specified by the Seller, which may be the Seller itself); and
  - (ii) the Transferee (specified by the Buyer, which may be the Buyer itself)
 shall effect delivery of the UK OCM Natural Gas Spot Contract, in accordance with paragraph 3.2 below.

### 3.2 Delivery

- (a) Deliveries of UK OCM Title Day Natural Gas Spot Contracts are effected by the transfer of rights to Natural Gas at the National Balancing Point from a Transferor (specified by the Seller, which may be the Seller itself) to the Clearing House and from the Clearing House to a Transferee (specified by the Buyer, which may be the Buyer itself), through the input of Acquiring Trade Nominations and Disposing Trade Nominations by ICE Endex UK into the National Grid's Gemini system.
- (b) Deliveries of UK OCM Physical Day Natural Gas Spot Contracts and UK OCM Locational Natural Gas Spot Contracts are effected by:
  - (i) the transfer of rights to Natural Gas at the National Balancing Point from a Transferor (specified by the Seller, which may be the Seller itself) to the Clearing House and from the Clearing House to the Transferee (specified by the Buyer, which

may be the Buyer itself), through the input of Acquiring Trade Nominations and Disposing Trade Nominations by ICE Endex UK into the National Grid's Gemini system; and

- (ii) the modification of the quantity of Natural Gas to be delivered to the System by the Transferor (specified by the Seller, which may be the Seller itself) and offtaken from the System by the Transferee (specified by the Buyer, which may be the Buyer itself) by an amount equal to the Trade Nomination Quantity (as defined in the Network Code) (and to modify the rate of such offtake and/or delivery), and the input of Contract Renominations in accordance with the Network Code.

For the avoidance of doubt, neither ICE Endex UK nor the Clearing House shall, on behalf of any Clearing Member, its Transferor or Transferee, modify the quantity of Natural Gas to be delivered to or offtaken from the System or input Contract Renominations, or be responsible or liable for the same. The modification of the quantity of Natural Gas to be delivered to or offtaken from the System and the input of Contract Renominations is solely the responsibility of the Transferor (specified by the Seller, which may be the Seller itself) and the Transferee (specified by the Buyer, which may be the Buyer itself).

### 3.3 Quantity

UK OCM Natural Gas Spot Contracts trade in Therms and are delivered in kWh. The Gemini system, through which delivery is made, accepts Trade Nominations to the nearest kWh.

Where any quantity is required to be converted from Therms to kWh, the conversion shall be conducted by multiplication of the figure in Therms by 29.3071 to obtain a figure in kWh. Where a value expressed in kWh is required to be an integer, the result of such multiplication shall be subject to standard rounding.

### 3.4 Price

The price at which the contract is delivered is the trade price at which the trade is executed in accordance with ICE Endex UK Rules. No EDSP will be calculated. Accordingly, standard contractual netting under Rules 406(b) and (c), and Rules 701(a), 701(b) and 702(c) will not apply but the Clearing House will have the same powers as under Rule 701(c) in respect of trade prices.

Where any price is required to be converted from pence per Therm to pence per kWh, the conversion shall be conducted by dividing the price in pence per Therm by 29.3071 to obtain a price in pence per kWh and rounding to the nearest fourth decimal point (subject to standard rounding).

### 3.5 Days and Times

All "timings" or times of day are London times.

### 3.6 Exchange for Physicals (EFPs) and Exchange for Swaps (EFSs)

EFSs and EFPs are not supported for UK OCM Natural Gas Spot Contracts.

## 4. LIABILITY

4.1 The provisions of this paragraph 4 are without prejudice to the generality, and subject to, the provisions of the Rules relating to liability and apply in addition to the general requirements of these Delivery Procedures.

4.2 The Clearing House is not responsible for, and shall have no liability whatsoever as a result of:



- (a) the performance or non-performance of National Grid of its obligations under the National Grid Rules or the Network Code; or
- (b) any other performance or non-performance of National Grid.

4.3 Neither the Buyer nor the Seller, or their Transferees or Transferors, shall have any claim against the Clearing House for any loss, cost, damage or expense incurred or suffered as a result of the condition or operation of the Transmission System or any part thereof or the performance or non-performance of National Grid except as otherwise expressly provided in the ICE Endex UK Rules.

## 5. DELIVERY CONTRACT SECURITY

The Clearing House makes the ~~Daily Summary Report~~ [daily summary report](#) available on a daily basis to Clearing Members with delivery positions.

### (a) Buyer's Security

Buyer's Security is calculated by reference to the relevant original trade price and represents the full contract value of the deliverable obligation for a particular day. The Clearing House may alter the calculation of Buyer's Security at any time or make adjustments in respect of specific Buyers.

### (b) Delivery Margin

The delivery Margin is collected from the Buyer and Seller and is an amount calculated against the costs or charges arising from delivery failure including the possibility of costs or charges arising from the balancing regime set out in the Network Code. The Clearing House may alter the calculation of delivery Margin at any time or make adjustments in respect of a specific Seller. For the Buyer, the delivery Margin includes an amount calculated against the possibility of a negative System Marginal Sell Price, as defined by National Grid in the Network Code. For the Seller, it includes an amount calculated by reference to the relevant System Marginal Buy Price, as defined by National Grid in the Network Code.

## 6. DELIVERY TIMETABLE FOR UK OCM NATURAL GAS SPOT CONTRACTS: ROUTINE

### 6.1 Trade Nominations

ICE Endex UK, pursuant to the authority granted to it under paragraph 2, shall submit Trade Nominations.

The Clearing House and a Clearing Member shall, for the purposes of satisfying their delivery obligations in respect of all trades in the UK OCM Natural Gas Spot Contracts, settle as between one another, pursuant to Trade Nominations made by ICE Endex UK. ICE Endex UK shall not make Trade Nominations more than five Days (as defined in the Network Code) before the Delivery Day.

## 6.2 Margin and Settlement Schedule where Trade Date is also a Business Day

Calculation of Margin and Payments	On Trade Date/Delivery Day (D)	
	By 18:00	<p>The Clearing House will calculate:</p> <ul style="list-style-type: none"> <li>i. Where applicable delivery Margin for delivery obligations scheduled for future Delivery Days.</li> <li>ii. Payment amounts relating to all deliveries completed on the prior Delivery Day.</li> <li>iii. Buyer's Security representing full contract value of delivery obligations scheduled to occur for the current Delivery Day and the next Delivery Day.</li> </ul>
Provision of Margin and Payment	On the Clearing Day following the Trade Date/Delivery Day (D+1)	
	By 09:00	<p>Seller and Buyer must provide the Clearing House with delivery Margin and Buyer's Security as appropriate. This is calculated for all deliverable obligations at the Settlement Cut Off.</p> <p>Seller's delivery Margin collected for completed delivery obligations in respect of the previous Delivery Day is released.</p> <p>The Clearing House releases the Buyer's delivery Margin for the delivery obligations in respect of the current Delivery Day.</p>
	Two Clearing Days following the Trade Date/Delivery Day (D+2)	
	By 09:00	<p>The Clearing House releases the Buyer's Security for deliveries completed on Delivery Day.</p> <p>Buyers make contract payment via their Nominated Accounts in respect of completed deliveries completed on Delivery Day.</p> <p>Seller receives contract value (payment) for delivered amount completed on Delivery Day.</p> <p>N.B. A credit note may be issued at a later date against the failed deliveries.</p>
Invoice and Account Sale Details	One Day following the end of the Invoice Period	
	By 09:00	The Clearing House makes the Invoice and Account Sale Report available to Seller and Buyer for the Invoice Period.

## 6.1 Margin and Settlement Schedule where Trade Date is not a Business Day

Calculation of Margin and Payments	On the First Clearing Day following the Trade Date	
	By 18:00	<p>The Clearing House will calculate:</p> <ul style="list-style-type: none"> <li>i. Where applicable, delivery Margin for delivery obligations scheduled for future Delivery Days.</li> <li>ii. Buyer's Security representing full contract value of delivery obligations scheduled to commence on the next Delivery Day.</li> <li>iii. Payment amounts representing full contract value of delivery obligations completed on prior Delivery Days that are not Clearing Days.</li> </ul>
Provision of Margin and Payment	On the second Clearing Day following the Trade Date	
	By 09:00	<p>Seller and Buyer must provide the Clearing House with delivery Margin and Buyer's Security as appropriate. This is calculated for all deliverable obligations at the Settlement Cut Off.</p> <p>The Clearing House releases the Buyer's delivery Margin for the delivery obligations in respect of the current Delivery Day.</p> <p>The Clearing House releases the Buyer's Security for deliveries completed on prior Delivery Days.</p> <p>Buyers make contract payment via their Nominated Accounts in respect of completed deliveries completed on prior Delivery Days.</p> <p>Seller receives contract value (payment) for delivered amount completed on prior Delivery Days.</p> <p>N.B. A credit note may be issued at a later date against the failed deliveries.</p>
Invoice and Account Sale Details	One Day following the end of the Invoice Period	

	By 09:00	The Clearing House makes the Invoice and Account Sale Report available to Seller and Buyer for the Invoice Period.

7. DELIVERY TIMETABLE FOR UK OCM NATURAL GAS SPOT CONTRACTS: FAILED DELIVERY

Delivery Margin and Buyer Security	D+2	
	By 10:00	In the event of a failed delivery, the Clearing House may call additional delivery Margin from the Buyer and Seller and Buyer Security.
Failed Delivery	10 Business Days following the Delivery Month (M+10)	
	By 10:00	The Clearing House makes the Invoice and Credit Note Report available to Sellers and Buyers for the previous month's failed deliveries.
Payment for Failed Delivery	12 Business Days following the Delivery Month (M+12)	
	By 10:00	Seller makes payment for previous month's failed deliveries. Buyers make/receive payment or take receipt for previous month's failed deliveries.
Release of Seller's and Buyer's Security against Failed Deliveries	13 Business Days following the Delivery Month (M+13)	

	By 10:00	Seller's Security and Buyer's Security held against failed deliveries is released following confirmation that payment has been made for all failed deliveries for the Delivery Month.
--	-------------	---

Note: in the event of a failed delivery, the Clearing House may retain Buyer's Security and/or Seller's Security.

Note: the above timetables can be altered without notice at the discretion of the Clearing House.

## 8. INVOICE AND ACCOUNT SALE CALCULATION

### 8.1 Invoice and Account Sale

#### (a) Deliveries relating to the previous Invoice Period

The Invoice and Account Sale Report gives details of all deliveries made during the Invoice Period.

#### Confirmed deliveries:

(kWh/29.3071) \* trade price

Where,

kWh = the number of Kilowatt Hours delivered.

#### Failed Deliveries (Buyers only):

(kWh/ 29.3071) \* trade price

Where,

kWh = the number of Kilowatt Hours delivered.

#### (b) Invoice/Credit Note for Failed Deliveries

The Invoice and Credit Note Report gives details of the proportion of the Clearing House's costs, incurred from National Grid, allocated to Clearing Members as a result of Buyers' and Sellers' failed deliveries.

Credit Notes are issued to Buyers up to the contract value of the failed delivery, dependent on the value received by the Clearing House from National Grid. In the event that the value received by the Clearing House is in excess of the contract value, any such excess will be passed on to ICE Exend UK.

The Clearing House's costs are allocated *pro rata* to those Clearing Members whose failed deliveries have caused the Clearing House's net Daily Imbalance.

## 9. DELIVERY DOCUMENTATION SUMMARY

Reports produced by the Clearing House are made available to Buyers and Sellers electronically.

Name of Delivery Document	Explanation	Timing
Trade Register	This report provides a daily register of all new	By 19:00

	trades by Transferee/Transferor.	
Daily Summary Report	This report summarises on a daily basis the Trade Nomination status and the associated margin flows of delivery obligations by Transferee/Transferor.	By 19:00
Daily Detail Report	This report summarises on a daily basis the Trade Nomination status of delivery obligations by Transferee/Transferor.	By 19:00
Daily Cashflow Summary Report	This summarises the total debits and credits by payment type and Transferee and Transferor.	By 19:00
UK OCM Natural Gas Spot Contracts: Blanket Transferee Form	Where applicable, the Buyer must ensure that this form is submitted by the Transferee to the Clearing House. It must be signed by an authorised signatory of the Transferee as confirmation that they will take delivery of Natural Gas on any Delivery Days arising from trading activity on ICE Exend UK.	Before trading is permitted on ICE Exend UK
UK OCM Natural Gas Spot Contracts: Blanket Transferor Form	Where applicable, the Seller must ensure that this form is submitted by the Transferor. It must be signed by an authorised signatory of the Transferor as confirmation that they will make delivery of Natural Gas on any Delivery Days arising from trading activity on ICE Exend UK.	Before trading is permitted on ICE Exend UK
UK OCM Natural Gas Spot Contracts Invoice and Account Sale	The report gives Buyers and Sellers details of: Clearing Member mnemonic; Clearing Member account; contract; delivery period; contracted kWh; actual delivered (matched) kWh; value of Natural Gas; and a summary of the Invoice and Account Sale.	By 09:00 on the day following the Invoice Period
Invoice Report and Credit Note Report: Failed Deliveries	The report gives Buyers and Sellers with failed deliveries details of Clearing Member mnemonic; Clearing Member account; contract; delivery period; amount of failed delivery long (kWh); amount of failed delivery short (kWh); and total costs charged to the Clearing Member as a result of failed delivery/deliveries.	M+10 at 09:00.

PART F: ICE ENDEX TTF NATURAL GAS FUTURES CONTRACT (“ICE ENDEX TTF NATURAL GAS FUTURES”) AND ICE ENDEX TTF NATURAL GAS DAILY FUTURES CONTRACT (“ICE ENDEX TTF NATURAL GAS DAILY FUTURES”)

1. DEFINITIONS

1.1 The following additional definitions apply to this part of the Delivery Procedures:

- (a) The term “Acquiring Trade Nomination” means a nomination submitted, in the manner required by the GTS Rules and otherwise in accordance with this Part F, by the Transferee to acquire rights in respect of one or more lots of Natural Gas at the Title Transfer Facility.
- (b) The terms “D-” or “D+” relate to the number of Business Days before and after the Delivery Day respectively on which rights to Natural Gas are to be transferred.
- (c) The term “Delivery Day” means the period beginning at 06:00 hours CET on a day on which the transfer of rights in respect of Natural Gas is due to be made under a Contract in accordance with ICE Endex Rules and this Part F and ending at 06:00 hours CET on the following day.
- (d) The term “Delivery Month” means the period beginning at 06:00 hours CET on the first calendar day of the month until 06.00 hours CET on the first calendar day of the next month.
- (e) The term “Delivery Week” means the period beginning at 06:00 hours CET on the first business day of the week until 06.00 hours CET on the day following the last business day of the week (Saturday).
- (f) The term “Disposing Trade Nomination” means a nomination submitted, in the manner required by the GTS Rules and otherwise in accordance with ICE Endex Rules and this Part F, by the Transferor to dispose of rights in respect of one or more lots of Natural Gas at the Title Transfer Facility.
- (g) The term “Edigas” means GTS’s electronic messaging protocol which enables, *inter alia*, submission of a Trade Nomination to GTS and to access information concerning the submitted Trade Nominations, and any successor system thereto.
- (h) The term “GTS” means the Dutch gas transmission system operator Gasunie TransportServices B.V. or any successor thereto.
- (i) The term “GTS Rules” means the Gasvoowaarden, or Transmission Service Conditions (“TSC”), and any manuals, procedures, practices or directions of GTS which support the operation of the Transmission Service Conditions, as amended from time to time.
- (j) The term “ICE Endex TTF Natural Gas” means ICE Endex TTF Natural Gas Futures and ICE Endex TTF Natural Gas Daily Futures.
- (k) The term “Invoice Period” refers to the period beginning at the start of the day on which the last invoice was issued, up to the end of the day prior to the date of the current invoice and also includes any additional period of time during which payments are made from the Buyer to the Seller in respect of completed deliveries.
- (l) The term “kWh” or “Kilowatt Hours” means 3,600,000 joules where “joule” is as defined in ISO 1000:1992(E) or any standard replacing the same as nominated by ICE Endex.
- (m) The term “M+” or “M-” means, in respect of a Contract, the number of Business Days immediately following the last day of the month or the number of Business Days immediately



preceding the first day of the month in which the Delivery Day specified in the Contract commenced.

- (n) The term “Natural Gas” means any hydrocarbons or mixture of hydrocarbons and other gases consisting predominantly of methane which at a temperature of 15 degrees Celsius and at an absolute pressure of 1.01325 bar are or is predominantly in the gaseous state where “degree Celsius” and “bar” are as defined in ISO 1000:1992(E) or any standard replacing the same as nominated by ICE Endex.
- (o) The term “Title Transfer Facility” (TTF) means, in respect of a Contract, a notional point within the Transmission System at which the balancing of the amounts of Natural Gas takes place for the purposes of the Transmission Service Conditions.
- (p) The term “Trade Nomination” means in respect of a Contract either a Disposing Trade Nomination or an Acquiring Trade Nomination, as the case may be.
- (q) The term “Trade Nomination Quantity” means the quantity of Natural Gas nominated in a Trade Nomination.
- (r) The term “Transmission System” means the onshore transmission pipeline system owned and operated by GTS as may be enlarged, extended or altered from time to time.
- (s) The term “TSC” means the Transmission Service Conditions, as amended from time to time, setting out GTS’s arrangements for transportation of Natural Gas and operation of the Transmission System and TTF and any manuals, procedures, practices or directions of GTS which support the operation of that document, in either case as amended from time to time.
- (t) The term “W+” or “W-” means, in respect of a Contract, the number of Business Days immediately following the last day of the week or the number of Business Days immediately preceding the first day of the week in which the Delivery Day specified in the Contract commenced.

## 2. CLEARING HOUSE AUTHORITY

The Clearing Member hereby grants authority to the Clearing House to make Trade Nominations in connection with deliveries under ICE Endex TTF Natural Gas. No Clearing Member shall revoke or terminate, nor purport to revoke or terminate, such authorisation. Members are not required, and are not able, to send Trade Nominations themselves.

## 3. DELIVERY SPECIFICATION

### 3.1 Delivery

Deliveries of ICE Endex TTF Natural Gas are effected by the transfer of rights to Natural Gas at the TTF from a Transferor (nominated by the Seller, which may be the Seller itself) to the Clearing House and from the Clearing House to a Transferee (nominated by the Buyer, which may be the Buyer itself), through the input of Acquiring and Disposing Trade Nominations into the GTS’s Edigas system by the Clearing House. GTS will take those Trade Nominations into account when determining whether any costs or charges arise from the balancing regime.

### 3.2 Quantity

ICE Endex TTF Natural Gas trades in MWh and is delivered in kWh.

### 3.3 Price

The price at which the contract is delivered is the Exchange Delivery Settlement Price (EDSP) for the second Business Day immediately prior to the calendar day on which the Delivery Month for the ICE Endex TTF Natural Gas Futures commences in accordance with the ICE Endex Rules. The price at which the contract is delivered is the Exchange Delivery Settlement Price (EDSP) for the Business Day immediately prior to the calendar day on which the Delivery Day for the ICE Endex TTF Natural Gas Daily Futures commences in accordance with the ICE Endex Rules.

### 3.4 Days and Times

All “timings” or times of day are Central European Time (“CET”) or Central European Summer Time (“CEST”) as applicable.

### 3.5 Cessation of Trading

- (a) The ICE Endex TTF Natural Gas Futures cease trading at 18:00 hours on the business day, as defined in the ICE Endex Rules, which is two business days prior to the first calendar day of the Delivery Period, in accordance with the ICE Endex Rules.
- (b) The ICE Endex TTF Natural Gas Daily Futures cease trading at 18:00 on the business day, as defined in the ICE Endex Rules, which is one business day prior to the Delivery Day.

### 3.6 Exchange for Physicals (EFPs) and Exchange for Swaps (EFSs)

For the ICE Endex TTF Natural Gas Futures, in accordance with ICE Endex Rules, EFPs and EFSs may be posted up to one hour following the cessation of trading. For the ICE Endex TTF Natural Gas Daily Futures, in accordance with ICE Endex Rules, EFPs and EFSs may be posted up to thirtyminutes following the cessation of trading

## 4. LIABILITY

4.1 The provisions of this paragraph 4 are without prejudice to the generality, and subject to, the provisions of the Rules relating to liability and apply in addition to the general requirements of these Delivery Procedures.

4.2 The Clearing House is not responsible for, and shall have no liability whatsoever as a result of:

- (a) the performance or non-performance of GTS of its obligations under the GTS Rules; or
- (b) the performance or non-performance of GTS.

4.3 Neither the Buyer nor the Seller, nor their Transferees or Transferors, shall have any claim against the Clearing House for any loss, cost, damage or expense incurred or suffered as a result of the condition or operation of the Transmission System or any part thereof or the performance or non-performance of GTS except as otherwise expressly provided in the ICE Endex Rules.

## 5. DELIVERY CONTRACT SECURITY

The Clearing House makes the ~~Natural Gas Daily Summary Report~~ [delivery information](#) available [through the delivery system](#) on a daily basis to Clearing Members with delivery positions.

### (a) Buyer’s Security

Buyer’s Security is calculated by reference to the relevant EDSP plus a “Buyer’s Default Top-up”. The “Buyer’s Default Top-up” is an amount calculated against the possibility of costs or charges arising from the balancing regime under the TSC.

The Clearing House may alter the calculation of Buyer's Security at any time or make adjustments in respect of specific Buyers.

(b) Seller's Security

Seller's Security is calculated against the Seller's Default Price (SDP) for the relevant Delivery Day.

The SDP is calculated by reference to costs and charges arising from the balancing regime under the TSC, or EDSP.

The Clearing House may alter the calculation of Seller's Security at any time or make adjustments in respect of a specific Seller.

6. DELIVERY TIMETABLE FOR ICE ENDEX TTF NATURAL GAS: ROUTINE

6.1 ICE Endex TTF Natural Gas Futures

	2 Business Days prior to the 1st Delivery Day M-2 or W-2, as applicable	
Cessation of Trading	At 18:00 CET	Contract ceases trading.
	By 19:00 CET	EFPs and EFSs may be posted up to one hour following the cessation of trading.
Provision of Buyer's and Seller's Security	M or W-1	
	By 10:00 CET	Seller and Buyer must provide the Clearing House with Seller's Security and Buyer's Security as appropriate. This is calculated for all deliverable Open Contract Positions at close of business on D-2 (which corresponds to M (or W)-2 for the first Delivery Day and M (or W)-1 for the second).  The Clearing House may make adjustments to provisional Seller's Security or Buyer's Security by making intra-day calls at this time or other times on this day.
	By 11:30 CET	Settlement instructions and Open Contract Positions transfers are entered into <a href="#">PTMS</a> <a href="#">ICE</a> <a href="#">FEC</a> for expired Contracts.  Clearing Members with Open Contract Positions at this time for a Contract Set subject to delivery are obliged to make or take delivery.
	By 12:30 CET	MPFE report available on <a href="#">PTMS</a> <a href="#">ICE</a> <a href="#">FEC</a> to Clearing Members.
Submission of ICE Endex TTF Natural Gas Futures Delivery Intentions via ECS	By <del>12:30</del> <a href="#">11:30</a> CET	Buyer and Seller must, for all relevant deliverable Open Contract Positions, submit their delivery intentions via ECS for ICE Endex TTF Natural Gas Futures. If delivery details are known, the delivery intentions for ICE Endex TTF Natural Gas Futures may be submitted to the Clearing House any time from the start of M (or W)-2, but must have been submitted by 12.30 hours CET on M (or W)-1.

	<a href="#">By 12.30 CET</a>	<a href="#">MPFE report available on ECS and MFT to Clearing Members.</a>
	By 13:00 CET	Seller or Buyer who is nominating a Transferor or Transferee in respect of a Contract must ensure that the Clearing House has in its possession a signed ICE Endex TTF Natural Gas: Blanket Transferor Form or ICE Endex TTF Natural Gas: Blanket Transferee Form (as applicable) for each nominated Transferor or Transferee
ICE Endex TTF Natural Gas Futures Conversion and Confirmation Report	By 14:00 CET	The ICE Endex TTF Natural Gas Futures Confirmation Reports, listing all deliverable positions in kWh for the Delivery Month, are made available to Clearing Members electronically. Where Clearing Members will have submitted email details for their transferee/transferors, this report will also be emailed directly to the transferee/transferors.  It is the responsibility of the Clearing Member to ensure that each nominated transferor/transferee has received a copy of the ICE Endex TTF Natural Gas Futures Conversion and Confirmation Report, as applicable.
	By 15:00 CET	Seller and Buyer must each inform the Clearing House of any details on the ICE Endex TTF Natural Gas Futures Conversion and Confirmation Report that do not match the delivery intentions that they submitted previously.
Notification file to Nomination Agent		The Clearing House will send to its appointed nomination agent a notification file detailing the nominations to be made between the Clearing House and the Seller (or the Seller's Transferor), and the nominations to be made between the Clearing House and the Buyer (or the Buyer's Transferee).
		Failure to notify the Clearing House by this deadline will constitute acceptance by the Seller and Buyer of their delivery obligations.  If necessary, the Clearing House will then make any appropriate amendments to the ICE Endex TTF Natural Gas Futures Confirmation Report and resend it to Clearing Members.
	Delivery Day (D) (or next Business Day if D is a Non-Clearing Day)	
	By 10:00 CET	The Clearing House makes the Daily Summary Report available.
	D+1	

Payment, Seller's Security and Buyer's Default Top Up	By 10:00 CET	<p>Seller's Security for actual delivered amount is released.</p> <p>The Clearing House releases the 'Buyer's Default Top-up' portion of the Buyer's Security on confirmed deliveries.</p> <p>Buyers make contract payment via their Nominated Accounts in respect of deliveries for the preceding delivery day. Buyer's Security is released as part of the payment transaction</p> <p>Seller receives contract value (payment) for confirmed delivered amount in respect of deliveries for the preceding delivery day.</p> <p>N.B. A credit note may be issued at a later date against the failed deliveries.</p>
Invoice and Account Sale Details	One Day following the end of the Invoice Period	
	By 10:00 CET	The Clearing House makes the Invoices and Account Sales available to Seller and Buyer for the Invoice Period.

## 6.2 ICE Endex TTF Natural Gas Daily Futures

1 Business Day prior to the Delivery Day (D-1)		
Cessation of Trading	At 18:00 CET	Daily Contract ceases trading.
Submission of delivery intentions for ICE Endex TTF Natural Gas Daily Futures	By 18:15 CET	Buyer and Seller must, for all deliverable Open Contract Positions, submit delivery intentions via ECS for ICE Endex TTF Natural Gas Daily Futures.
Nomination of Transferor /Transferee	By 18:15 CET	Seller or Buyer who is nominating a Transferor or Transferee in respect of a Contract must ensure that the Clearing House has in its possession a signed ICE Endex TTF Natural Gas: Blanket Transferor Form or ICE Endex TTF Natural Gas: Blanket Transferee Form (as applicable) for each nominated Transferor or Transferee. This Transferor/Transferee Form must be signed by an authorised signatory of the Transferor/Transferee.
	By 18:30 CET	EFPs and EFSs may be posted up to one hour following the cessation of trading.
	By 18:30 CET	<p>Settlement instructions and Open Contract Positions transfers are entered for expired Contracts.</p> <p>Clearing Members with Open Contract Positions at this time for a Contract Set subject to delivery are obliged to make or take delivery.</p>
	By 18:30 CET	MPFE report available <a href="#">in MFT and ECS</a> to Clearing Members.

ICE Endex TTF Natural Gas Daily Futures Conversion and Confirmation Report	By 19:00 CET	<p>The ICE Endex TTF Natural Gas Daily Futures Conversion and Confirmation Reports, listing all deliverable positions in kWh for the Delivery Day, are made available to Clearing Members electronically. Where Clearing Members will have submitted email details for their Transferee/Transferors, this report will also be emailed directly to the Transferee/Transferors.</p> <p>It is the responsibility of the Clearing Member to ensure that each nominated Transferor/Transferee has received a copy of the ICE Endex TTF Natural Gas Daily Futures Conversion and Confirmation Report.</p>
	By 20:00 CET	<p>Seller and Buyer must each inform the Clearing House of any details on the ICE Endex TTF Natural Gas Daily Futures Conversion and Confirmation Report that do not match the delivery intentions that they submitted previously.</p> <p>Failure to notify the Clearing House by this deadline will constitute acceptance by the Seller and Buyer of their delivery obligations.</p> <p>If necessary, the Clearing House will then make any appropriate amendments to the ICE Endex TTF Natural Gas Daily Futures Conversion and Confirmation Report and resend it to Clearing Members.</p>
Notification file to Nomination Agent	By 20:00 CET	The Clearing House will send to its appointed nomination agent a notification file detailing the nominations to be made between the Clearing House and the Seller (or the Seller's Transferor), and the nominations to be made between the Clearing House and the Buyer (or the Buyer's Transferee).
Provision of Buyer's and Seller's Security	Delivery Day (D) (or next Business Day if D is a Non-Clearing Day)	
	By 10:00 CET	<p>Seller and Buyer must provide the Clearing House with Seller's Security and Buyer's Security as appropriate. This is calculated for all deliverable Open Contract Positions at close of business on D-1.</p> <p>The Clearing House may make adjustments to provisional Seller's Security or Buyer's Security by making intra-day calls at this time or other times on this day.</p>
		The Clearing House makes Daily Summary Report available.
Final Confirmation of Delivery Report	D+1	
	By 10:00 CET	The Clearing House makes the Daily Summary Report available for the previous day's deliveries.
Seller's Security and Buyer's Default Top Up	By 10:00 CET	<p>Seller's Security for actual delivered amount is released.</p> <p>The Clearing House releases the 'Buyer's Default Top-up' portion of the Buyer's Security on confirmed deliveries.</p>

Payment	By 10:00 CET	<p>Seller receives contract value (payment) for confirmed delivered amount in respect of deliveries for the preceding day as detailed on the Invoice and Account Sale report.</p> <p>Buyer pays contract value for both performed and failed delivery amounts in respect of deliveries for the preceding month as detailed on the Invoice and Account Sale Report. Buyer's Security is released as part of the payment transaction.</p> <p>N.B. A credit note may be issued at a later date against the failed deliveries.</p>
One Day following the end of the Invoice Period		
Invoice and Account Sale Details	By 10:00 CET	The Clearing House makes the Invoice and Account Sale Report available to Seller and Buyer for the Invoice Period.

## 7. DELIVERY TIMETABLE FOR ICE ENDEX TTF NATURAL GAS: FAILED DELIVERY

### 7.1 ICE Endex TTF Natural Gas Futures

	D+2	
Seller's Security and Buyer's Default Top Up	By 10:00 CET	In the event of a failed delivery, the Clearing House may call additional Seller's Security and/or Buyer's Security.
	10 Business Days following the month or week of delivery (M or W+10)	
Failed Delivery	By 10:00 CET	The Clearing House makes the Invoice and Credit Note Report available to Sellers and Buyers for the previous month's failed deliveries.
	12 Business Days following the month or week of delivery (M or W+12)	
Payment for Failed Delivery	By 10:00 CET	<p>Seller makes payment for previous month's failed deliveries.</p> <p>Buyers make/receive payment or take receipt for previous month's failed deliveries.</p>
	13 Business Days following the month or week of delivery (M or W+13)	
Release of Seller's and Buyer's Security against Failed Deliveries	By 10:00 CET	Seller's Security and Buyer's Security held against failed deliveries is released following confirmation that payment has been made for all failed deliveries for the Delivery Month.

### 7.2 ICE Endex TTF Natural Gas Daily Futures

	D+2
--	-----



Seller's Security and Buyer's Default Top up	By 10:00 CET	In the event of a failed delivery, the Clearing House may call additional Seller's Security and/or Buyer's Security.
24 to 29 Business Days following the Delivery Day (D+24 to D+29)		
Failed Delivery	By 10:00 CET	The Clearing House makes the Invoice and Credit Note Report available to Sellers and Buyers for the failed deliveries.
26 to 40 Business Days following the Delivery Day (D+26 to D+40)		
Payment for Failed Delivery	By 10:00 CET	Seller makes payment for the failed deliveries.
		Buyers make/receive payment or take receipt for the failed deliveries.
27 to 41 Business Days following the Delivery Day (D+27 to D+41)		
Release of Seller's and Buyer's Security against Failed Deliveries	By 10:00 CET	Seller's Security and Buyer's Security held against failed deliveries is released following confirmation that payment has been made.

Note: in the event of a failed delivery, the Clearing House may retain Buyer's Security and/or Seller's Security.

Note: the above timetables can be altered without notice at the discretion of the Clearing House.

## 8. INVOICE AND ACCOUNT SALE CALCULATION

### 8.1 Invoice and Account Sale

#### (a) Previous Month's Deliveries

The Invoice and Account Sale Report gives details of all deliveries made during the Invoice Period.

#### Confirmed deliveries:

$\text{kWh} * \text{EDSP} * 1 \text{ MWh} / 1000 \text{ kWh}$ , plus any additional costs of the Clearing House as appropriate

Where

kWh = the number of Kilowatt Hours delivered.

EDSP = The relevant Exchange Delivery Settlement Price for the day of delivery, quoted in Euros per MWh .

#### Failed Deliveries

$\text{kWh} * \text{Delivery Failure Cost} * 1 \text{ MWh} / 1000 \text{ kWh}$ , plus any additional costs of the Clearing House, as appropriate

Where

kWh = the number of Kilowatt Hours delivered.

Delivery Failure Cost = the costs of the Clearing House per kWh incurred from GTS in accordance with the GTS Rules in respect of any failure of a Clearing Member to correctly make a delivery.

(b) Daily Deliveries

The Invoice and Account Sale Report gives details of all deliveries made during the Invoice Period.

Confirmed deliveries:

$\text{kWh} * \text{EDSP} * 1 \text{ MWh} / 1000 \text{ kWh}$ , plus any additional costs of the Clearing House as appropriate

Where

kWh = the number of Kilowatt Hours delivered.

EDSP = The relevant Exchange Delivery Settlement Price for the day of delivery, quoted in Euros per MWh .

Failed Deliveries

$\text{kWh} * \text{Delivery Failure Cost} * 1 \text{ MWh} / 1000 \text{ kWh}$ , plus any additional costs of the Clearing House, as appropriate

Where

kWh = the number of Kilowatt Hours delivered.

Delivery Failure Cost = the costs of the Clearing House per kWh incurred from GTS in accordance with the GTS Rules in respect of any failure of a Clearing Member to correctly make a delivery.

8.2 Invoice/Credit Note for Failed Deliveries

The Invoice and Credit Note Report gives details of the proportion of the Clearing House's costs, incurred from GTS, allocated to Clearing Members as a result of Buyer's and Seller's failed deliveries.

Credit Notes are issued to Buyers up to the contract value of the failed delivery, dependent on the value received by the Clearing House from GTS. In the event that the value received by the Clearing House is in excess of the contract value, any such excess will be passed on to ICE Endex.

The Clearing House's costs are allocated *pro rata* to those Clearing Members whose failed deliveries have caused the Clearing House's net costs or charges arising from the balancing regime under the TSC.

9. DELIVERY DOCUMENTATION SUMMARY

9.1 ICE Endex TTF Natural Gas Futures

Reports produced by the Clearing House are made available to Buyers and Sellers electronically.

Name of Delivery Document	Explanation	Timing
Daily Summary Report	This report summarises on a daily basis the deliverable positions by transferee/transferor.	By 10:00 CET Daily
Daily Detail Report	This report provides details of each day's deliveries.	By 10:00 CET Daily
ICE Endex TTF Natural Gas: Blanket Transferee Form	Where applicable, the Buyer must ensure that this form is submitted by the Transferee to the Clearing House. It must be signed by an authorised signatory of the Transferee as confirmation that they will take delivery of Natural Gas on any Delivery Days nominated by the Buyer and referred to in the delivery intentions previously submitted for the ICE Endex TTF Natural Gas Futures.	By 11:00 CET on M or W-1
ICE Endex TTF Natural Gas: Blanket Transferor Form	Where applicable, the Seller must ensure that this form is submitted by the Transferor to the Clearing House. It must be signed by an authorised signatory of the Transferor as confirmation that they will make delivery of Natural Gas on any Delivery Days nominated by the Buyer and referred to in the delivery intentions previously submitted for the ICE Endex TTF Natural Gas Futures.	By 11:00 CET on M or W-1
ICE Endex TTF Natural Gas Futures Confirmation Report	When available, Buyers and Sellers must promptly provide a copy of this report to the relevant transferor(s) and transferee(s). It is a transferor/transferee order and informs Buyers and Sellers of Clearing Member mnemonic; transferee/transferor; Delivery Day or series of Delivery Days as defined in paragraph 1 of this Part F from first Delivery Day to last Delivery Day; lots to be delivered; and a statement that if the transferor/transferee fails to notify the Clearing House by the necessary deadline as specified in these Delivery Procedures, then the delivery obligation is irrevocably accepted and the Clearing House will enter the Trade Nomination(s) into Edigas based on the Net Hourly Position of the Clearing Member, by the relevant deadline.	By 12:30 CET on D-1
ICE Endex TTF Natural Gas Futures Invoice and Account Sale	The reports give Buyers and Sellers details of: Clearing Member mnemonic; Clearing Member account; contract; Delivery Month; contracted kWh; actual delivered (matched) kWh; price in Euros per MWh; value of Natural Gas.	By 10:00 CET on the day following the Invoice Period
Invoice Report and Credit Note Report: Failed Deliveries	The report gives Buyers and Sellers with failed deliveries during the previous Delivery Month details of Clearing Member mnemonic; Clearing Member account; contract; Delivery Month;	M or W+10 at 10:00 CET.

Name of Delivery Document	Explanation	Timing
	Delivery Day; amount of failed delivery long (kWh); amount of failed delivery short (kWh); and total costs charged to the Clearing Member as a result of failed delivery/deliveries.	

## 9.2 ICE Endex TTF Natural Gas Daily Futures

Reports produced by the Clearing House are made available to Buyers and Sellers electronically.

Name of Delivery Document	Explanation	Timing
Daily Summary Report	This report summarises on a daily basis the deliverable positions by transferee/transferor	By 09:00 CET Daily
ICE Endex TTF Natural Gas: Blanket Transferee Form	Where applicable, the Buyer must ensure that this form is submitted by the Transferee to the Clearing House. It must be signed by an authorised signatory of the Transferee as confirmation that they will take delivery of Natural Gas on any Delivery Days nominated by the Buyer and referred to in the delivery intentions previously submitted for the ICE Endex TTF Natural Gas Daily Futures.	By 17:30 CET on D
ICE Endex TTF Natural Gas: Blanket Transferor Form	Where applicable, the Seller must ensure that this form is submitted by the Transferor to the Clearing House. It must be signed by an authorised signatory of the Transferor as confirmation that they will make delivery of Natural Gas on any Delivery Days nominated by the Buyer and referred to in the delivery intentions previously submitted for the ICE Endex TTF Natural Gas Daily Futures.	By 17:30 CET on D
ICE Endex TTF Natural Gas Daily Futures Conversion and Confirmation Report	When available, Buyers and Sellers must promptly provide a copy of this report to the relevant Transferor(s) and Transferee(s). It is a Transferor/Transferee order and informs Buyers and Sellers of Clearing Member mnemonic; Transferee/Transferor; Delivery Day or series of Delivery Days as defined in paragraph 1 of this Part F from first Delivery Day to last Delivery Day; lots to be delivered; details of the Acquiring and/or Disposing Trade Nomination(s) to be entered by the Transferees/Transferors; and a statement that if the Transferor/Transferee fails to notify the Clearing House by the necessary deadline as specified in these Delivery Procedures, then the delivery obligation is irrevocably accepted and Transferor/Transferee will enter the correct Acquiring and/or Disposing Trade Nomination(s) into Edigas, by the relevant deadline and that the trade(s) nominations will not be amended or withdrawn unless instructed to do so by the Clearing House.	By 18:00 CET on D

Name of Delivery Document	Explanation	Timing
ICE Endex TTF Natural Gas Daily Futures Invoice Report and Account Sale Report	The report gives Buyers and Sellers details of: Clearing Member mnemonic; Clearing Member account; contract; Delivery Day; contracted kWh; actual delivered (matched) kWh; price in pence per Therm; value of Natural Gas; and a summary of the Invoice and Account Sale.	By 09:00 CET on D+2
Invoice Report and Credit Note Report: Failed Deliveries	The report gives Buyers and Sellers with failed deliveries details of Clearing Member mnemonic; Clearing Member account; contract; Delivery Day; amount of failed delivery long (kWh); amount of failed delivery short (kWh); and total costs charged to the Clearing Member as a result of failed delivery/deliveries.	D+24 to D+29 at 09:00 CET.

PART G: ICE ENDEX GASPOOL NATURAL GAS FUTURES CONTRACT (“ICE ENDEX GASPOOL NATURAL GAS FUTURES”)

1. DEFINITIONS

1.1 The following additional definitions apply to this part of the Delivery Procedures:

- (a) The term “Acquiring Trade Nomination” means a nomination submitted, in the manner required by the GASPOOL Rules and otherwise in accordance with this Part G, by the Transferee to acquire rights in respect of one or more lots of Natural Gas at the GASPOOL Hub.
- (b) The terms “D-” or “D+” relate to the number of Business Days before and after the Delivery Day respectively on which rights to natural gas are to be transferred.
- (c) The term “Delivery Day” means the period beginning at 06:00 hours on a day on which the transfer of rights in respect of Natural Gas is due to be made under a Contract in accordance with ICE Endex Rules and this Part G and ending at 06:00 hours on the following day.
- (d) The term “Delivery Month” means the period beginning at 06:00 hours CET on the first calendar day of the month until 06.00 hours CET on the first calendar day of the next month;
- (e) The term “Disposing Trade Nomination” means a nomination submitted, in the manner required by the GASPOOL Rules and otherwise in accordance with ICE Endex Rules and this Part G, by the Transferor to dispose of rights in respect of one or more lots of Natural Gas at the GASPOOL Hub.
- (f) The term “GASPOOL” means GASPOOL Balancing Services GmbH domiciled in Berlin Germany the operator of the market area co-operation between various gas network owners in Germany known as “GASPOOL” or any successor thereto.
- (g) The term “GASPOOL Hub” means, in respect of a Contract, a notional point within the Transmission System at which the balancing of the amounts of Natural Gas delivered into and out of the Transmission System takes place in accordance with the GASPOOL Rules.
- (h) The term “GASPOOL Rules” means the current GASPOOL Network Access Conditions and GASPOOL Balancing Group Contract and any manuals, procedures, practices or directions of GASPOOL which support the operation of GASPOOL as amended from time to time.
- (i) The term “GASPOOL’s Communication Facilities” means GASPOOL’s electronic facility which enables, *inter alia*, submission of a Trade Nomination to GASPOOL and to access information concerning the submitted Trade Nominations, and any successor system thereto.
- (j) The term “ICE Endex GASPOOL Natural Gas” means ICE Endex GASPOOL Natural Gas Futures.
- (k) The term “Invoice Period” refers to the period beginning at the start of the day on which the last invoice was issued, up to the end of the day prior to the date of the current invoice and also includes any additional period of time during which payments are made from the Buyerto the Seller in respect of completed deliveries.
- (l) The term “kWh” or “Kilowatt Hours” means 3,600,000 joules where “joule” is as defined in ISO 1000:1992(E) or any standard replacing the same as nominated by ICE Endex.
- (m) The term “M+” or “M-” means, in respect of a Contract, the number of Business Days immediately following the last day of the month or the number of Business Days immediately

preceding the first day of the month in which the Delivery Day specified in the Contract commenced.

- (n) The term “Natural Gas” means any hydrocarbons or mixture of hydrocarbons and other gases consisting predominantly of methane which at a temperature of 15 degrees Celsius and at an absolute pressure of 1.01325 bar are or is predominantly in the gaseous state where “degree Celsius” and “bar” are as defined in ISO 1000:1992(E) or any standard replacing the same as nominated by ICE Endex.
- (o) The term “Trade Nomination” means in respect of a Contract either a Disposing Trade Nomination or an Acquiring Trade Nomination, as the case may be.
- (p) The term “Trade Nomination Quantity” means the quantity of Natural Gas nominated in a Trade Nomination.
- (q) The term “Transmission System” means the transmission pipeline system operated by GASPOOL as may be enlarged, extended or altered from time to time.

## 2. DELIVERY SPECIFICATION

Deliveries of ICE Endex GASPOOL Natural Gas are effected by the transfer of rights to Natural Gas at the GASPOOL Hub from a Transferor (nominated by the Seller, which may be the Seller itself) to the Clearing House and from the Clearing House to a Transferee (nominated by the Buyer, which may be the Buyer itself), through the input of Acquiring and Disposing Trade Nominations into GASPOOL’s Communication Facilities. GASPOOL will take those Trade Nominations into account when determining whether any costs or charges arise from the balancing regime under the GASPOOL Rules.

### 2.1 Quantity

ICE Endex GASPOOL Natural Gas trades in MWh and is delivered in kWh.

### 2.2 Price

The price at which the contract is delivered is the Exchange Delivery Settlement Price (EDSP) for the second business day, as defined in the ICE Endex Rules, immediately prior to the calendar day on which the Delivery Month for the ICE Endex GASPOOL Natural Gas Futures commences in accordance with the ICE Endex Rules.

### 2.3 Days and Times

All timings or times of day are Central European Time or Central European Summer Time as applicable.

### 2.4 Cessation of Trading

ICE Endex GASPOOL Natural Gas Futures cease trading at 18:00 hours on the business day, in accordance with the ICE Endex Rules, which is two business days prior to the first calendar day of the delivery month.

### 2.5 Exchange for Physicals (EFPs) and Exchange for Swaps (EFSs)

For ICE Endex GASPOOL Natural Gas Futures, in accordance with ICE Endex Rules, EFPs and EFSs may be posted up to one hour following the cessation of trading.



### 3. LIABILITY

3.1 The provisions of this paragraph 3 are without prejudice to the generality, and subject to, the provisions of the Rules relating to liability and apply in addition to the general requirements of these Delivery Procedures.

3.2 The Clearing House is not responsible for, and shall have no liability whatsoever as a result of:

- (a) the performance or non-performance of GASPOOL of its obligations under the GASPOOL Rules; or
- (b) the performance or non-performance of GASPOOL.

3.3 Neither the Buyer nor the Seller, nor their Transferees or Transferors, shall have any claim against the Clearing House for any loss, cost, damage or expense incurred or suffered as a result of the condition or operation of the Transmission System or any part thereof or the performance or non-performance of GASPOOL except as otherwise expressly provided in the ICE Endex Rules.

### 4. DELIVERY CONTRACT SECURITY

The Clearing House makes the Natural Gas Daily Summary Report available on a daily basis to Clearing Members with delivery positions.

#### (a) Buyer's Security

Buyer's Security is calculated by reference to the relevant EDSP plus a 'Buyer's Default Top-up'. The "Buyer's Default Top-up" is an amount calculated against the possibility of costs or charges arising from the balancing regime under the GASPOOL Rules.

The Clearing House may alter the calculation of Buyer's Security at any time or make adjustments in respect of specific Buyers.

#### (b) Seller's Security

Seller's Security is calculated against the Seller's Default Price (SDP) for the relevant Delivery Day.

The SDP is calculated by reference to costs and charges arising from the balancing regime under the GASPOOL Rules, or EDSP.

The Clearing House may alter the calculation of Seller's Security at any time or make adjustments in respect of a specific Seller.

### 5. DELIVERY TIMETABLE FOR ICE ENDEX GASPOOL NATURAL GAS: ROUTINE

#### 5.1 ICE Endex GASPOOL Natural Gas Futures

	2 Business Days prior to the 1 <sup>st</sup> Delivery Day (M-2)	
Cessation of Trading	At 18:00 CET	Monthly Contract ceases trading.

	By 19:00 CET	EFPs and EFSs may be posted up to one hour following the cessation of trading.
	M-1	
Provision of Buyer's and Seller's Security	By 10:00 CET	Seller and Buyer must provide the Clearing House with Seller's Security and Buyer's Security as appropriate. This is calculated for all deliverable Open Contract Positions at close of business on D-2 (which corresponds to M-2 for the first Delivery Day and M-1 for the second).  The Clearing House may make adjustments to provisional Seller's Security or Buyer's Security by making intra-day calls at this time or other times on this day.
	By 11:30 CET	<del>Settlement instructions and Open Contract Positions transfers are entered into PTMS for expired Contracts.</del>  <a href="#">Deadline for position maintenance within ECS.</a>  Clearing Members with Open Contract Positions at this time for a Contract Set subject to delivery are obliged to make or take delivery.
	By 12:30 CET	MPFE report available <del>on PTMS</del> <a href="#">in MFT and ECS</a> to Clearing Members.
Submission of delivery intentions for ICE Endex GASPOOL Natural Gas Futures	By 13:00 CET	Buyer and Seller must, for all deliverable Open Contract Positions, submit delivery intentions for the ICE Endex GASPOOL Natural Gas Futures via ECS. If delivery details are known, the ICE Endex GASPOOL Natural Gas Futures delivery intentions may be submitted to the Clearing House any time from the start of M-2, but must have been submitted by 12:00 hours CET on M-1.
Nomination of Transferor/Transferee	By 13:00 CET	Seller or Buyer who is nominating a Transferor or Transferee in respect of a Contract must ensure that the Clearing House has in its possession a signed ICE Endex GASPOOL Natural Gas: Blanket Transferor Form or ICE Endex GASPOOL Natural Gas: Blanket Transferee Form (as applicable) for each nominated Transferor or Transferee. This Transferor/Transferee Form must be signed by the Transferor/Transferee.
ICE Endex GASPOOL Natural Gas Futures Conversion and Confirmation Report	By 14:00 CET	The ICE Endex GASPOOL Natural Gas Futures Confirmation Reports, listing all deliverable positions in kWh for the Delivery Month, are made available to Clearing Members electronically. Where Clearing Members will have submitted email details for their Transferee/Transferors, this report will also be emailed directly to the Transferee/Transferors.  It is the responsibility of the Clearing Member to ensure that each nominated Transferor/Transferee has received a copy of the ICE Endex GASPOOL Natural Gas Futures Conversion and Confirmation Report.

	By 15:00 CET	<p>Seller and Buyer must each inform the Clearing House of any details on the ICE Endex GASPOOL Natural Gas Futures Conversion and Confirmation Report that do not match the delivery intentions that they previously submitted.</p> <p>Failure to notify the Clearing House by this deadline will constitute acceptance by the Seller and Buyer of their delivery obligations.</p> <p>If necessary, the Clearing House will then make any appropriate amendments to the ICE Endex GASPOOL Natural Gas Futures Confirmation Report and resend it to Clearing Members.</p>
Entry of Disposing and Acquiring Nominations	By 15:00 CET	<p>Seller and Buyer must ensure that their nominated Transferors/Transferees have entered the appropriate Disposing Trade Nomination(s)/Acquiring Trade Nominations(s) into GASPOOL's Communication Facilities.</p> <p>If by 15:30 CET one such Trade Nomination has not been accepted by GASPOOL, the Clearing House, or its agent, may direct the Seller (or its Transferor) or the Buyer (or its Transferee) who submitted the Trade Nomination to amend or withdraw such Trade Nomination on such terms as the Clearing House may consider appropriate until such Trade Nomination is accepted by GASPOOL.</p> <p>In the event that the Seller (or its Transferor) or Buyer (or its Transferee) have entered a Trade Nomination Quantity different from that appearing on the ICE Endex GASPOOL Natural Gas Futures Confirmation Report, which has been accepted by GASPOOL under GASPOOL Rules, the Clearing House or its agent may direct the Seller(or its Transferor) or the Buyer (or its Transferee) to amend or withdraw such Trade Nomination on such terms as the Clearing House may consider appropriate.</p>
	Delivery Day (D) (or next Business Day if D is a Non-Clearing Day)	
	By 10:00 CET	The Clearing House makes the Daily Summary Report available.
Payment, Seller's Security and Buyer's Default Top Up	D+1	

	By 10:00 CET	<p>Seller's Security for actual delivered amount is released.</p> <p>The Clearing House releases the 'Buyer's Default Top up' portion of the Buyer's Security on confirmed deliveries.</p> <p>Buyers make contract payment via their Nominated Accounts in respect of deliveries for the preceding delivery day. Buyer's Security is released as part of the payment transaction.</p> <p>Seller receives contract value (payment) for confirmed delivered amounts in respect of deliveries for the preceding delivery day.</p> <p>N.B. A credit note may be issued at a later date against the failed deliveries.</p>
Final Confirmation of Invoice and Account Sale Details	One Day following the end of the Invoice Period	
	By 10:00 CET	The Clearing House makes the Daily Summary Report available for the previous month's deliveries.
		The Clearing House makes the Invoices and Account Sales available to Seller and Buyer for the Invoice Period.

## 6. DELIVERY TIMETABLE FOR ICE ENDEX GASPOOL NATURAL GAS: FAILED DELIVERY

### 6.1 ICE Endex GASPOOL Natural Gas Futures

	D+2	
Seller's Security and Buyer's Default Top up	By 10:00 CET	In the event of a failed delivery, the Clearing House may call additional Seller's Security and/or Buyer's Security.
	10 Business Days following the month of delivery (M+10)	
Failed Delivery	By 10:00 CET	The Clearing House makes the Invoice and Credit Note Report available to Sellers and Buyers for the previous month's failed deliveries.
	12 Business Days following the month of delivery (M+12)	
Payment for Failed Delivery	By 10:00 CET	<p>Seller makes payment for previous month's failed deliveries.</p> <p>Buyers make/receive payment or take receipt for previous month's failed deliveries.</p>
	13 Business Days following the month of delivery (M+13)	
Release of Seller's and Buyer's Security against Failed Deliveries	By 10:00 CET	Seller's Security and Buyer's Security held against failed deliveries is released following confirmation that payment has been made for all failed deliveries for the delivery month.

Note: in the event of a failed delivery, the Clearing House may retain Buyer's Security and/or Seller's Security.

Note: the above timetables can be altered without notice at the discretion of the Clearing House.

## 7. INVOICE AND ACCOUNT SALE CALCULATION

### 7.1 Invoice and Account Sale

#### (a) Previous Month's Deliveries

The Invoice and Account Sale Report gives details of all deliveries made during the Invoice Period.

##### Confirmed deliveries:

$\text{kWh} * \text{EDSP} * 1 \text{ MWh} / 1000 \text{ kWh}$ , plus any other costs of the Clearing House as applicable

Where

kWh = the number of Kilowatt Hours delivered.

EDSP = The relevant Exchange Delivery Settlement Price for the day of delivery, quoted in Euros per MWh.

##### Failed Deliveries

$\text{kWh} * \text{Delivery Failure Cost} * 1 \text{ MWh} / 1000 \text{ kWh}$ , plus any other costs of the Clearing House as applicable

Where

kWh = the number of Kilowatt Hours delivered.

Delivery Failure Cost = the costs of the Clearing House per kWh incurred from GASPOOL in accordance with the GASPOOL Rules in respect of any failure by a Clearing Member to correctly make a delivery.

#### (b) Daily Deliveries

The Invoice and Account Sale Report gives details of all deliveries made during the Invoice Period.

##### Confirmed deliveries:

$\text{kWh} * \text{EDSP} * 1 \text{ MWh} / 1000 \text{ kWh}$ , plus any other costs of the Clearing House as applicable

Where

kWh = the number of Kilowatt hours delivered.

EDSP = The relevant Exchange Delivery Settlement Price for the day of delivery, quoted in Euros per MWh.

##### Failed Deliveries (Buyers only)

$\text{kWh} * \text{Delivery Failure Cost} * 1 \text{ MWh} / 1000 \text{ kWh}$ , plus any other costs of the Clearing House as applicable

Where

kWh = the number of Kilowatt hours delivered.

Delivery Failure Cost = the costs of the Clearing House per kWh incurred from GASPOOL in accordance with the GASPOOL Rules in respect of any failure by a Clearing Member to correctly make a delivery.

## 7.2 Invoice/Credit Note for Failed Deliveries

The Invoice and Credit Note Report gives details of the proportion of the Clearing House's costs, incurred from GASPOOL, allocated to Clearing Members as a result of Buyer's and Seller's failed deliveries.

Credit Notes are issued to Buyers up to the contract value of the failed delivery, dependent on the value received by the Clearing House from GASPOOL. In the event that the value received by the Clearing House is in excess of the contract value, any such excess will be passed on to ICE Endex.

The Clearing House's costs are allocated *pro rata* to those Clearing Members whose failed deliveries have caused the Clearing House's net costs or charges arising from the balancing regime under GASPOOL Rules.

## 8. DELIVERY DOCUMENTATION SUMMARY

### 8.1 ICE Endex GASPOOL Natural Gas Futures

Reports produced by the Clearing House are made available to Buyers and Sellers electronically.

Name of Delivery Document	Explanation	Timing
Daily Summary Report	This report summarises on a daily basis the deliverable positions by transferee/transferor.	By 10:00 CET Daily
Daily Detail Report	This report provides details of each day's deliveries.	By 10:00 CET Daily
ICE Endex GASPOOL Natural Gas: Blanket Transferee Form	Where applicable, the Buyer must ensure that this form is submitted by the Transferee to the Clearing House. It must be signed by the Transferee as confirmation that they will take delivery of Natural Gas on any Delivery Days nominated by the Buyer and referred to in the delivery intentions previously submitted for the ICE Endex GASPOOL Natural Gas Futures.	By 12:00 CET on D-1

Name of Delivery Document	Explanation	Timing
ICE Endex GASPOOL Natural Gas: Blanket Transferor Form	Where applicable, the Seller must ensure that this form is submitted by the Transferor to the Clearing House. It must be signed by the Transferor as confirmation that they will make delivery of Natural Gas on any Delivery Days nominated by the Buyer and referred to in the delivery intentions previously submitted for the ICE Endex GASPOOL Natural Gas Futures.	By 12:00 CET on D-1
ICE Endex GASPOOL Natural Gas Futures Confirmation Report	When available, Buyers and Sellers must promptly provide a copy of this report to the relevant Transferor(s) and Transferee(s). It is a Transferor/Transferee order and informs Buyers and Sellers of Clearing Member mnemonic; Transferee/Transferor; Delivery Day or series of Delivery Days as defined in paragraph 1 of this Part G from first Delivery Day to last Delivery Day; lots to be delivered; details of the Acquiring and/or Disposing Trade Nomination(s) to be entered by the Transferees/Transferors; and a statement that if the Transferor/Transferee fails to notify the Clearing House by the necessary deadline as specified in these Delivery Procedures, then the delivery obligation is irrevocably accepted and Transferor/Transferee will enter the correct Acquiring and/or Disposing Trade Nomination(s) into GASPOOL's Communication Facilities, by the relevant deadline and that the trade(s) nominations will not be amended or withdrawn unless instructed to do so by the Clearing House.	By 12:30 CET on D-1
ICE Endex GASPOOL Natural Gas Futures Invoice and Account Sale	The reports give Buyers and Sellers details of: Clearing Member mnemonic; Clearing Member account; contract; delivery month; contracted kWh; actual delivered (matched) kWh; price in Euros per MWh; value of Natural Gas.	By 10:00 CET on the following the Invoice Period.
Invoice Report and Credit Note Report: Failed Deliveries	The report gives Buyers and Sellers with failed deliveries during the previous delivery month details of Clearing Member mnemonic; Clearing Member account; contract; delivery month; Delivery Day; amount of failed delivery long (kWh); amount of failed delivery short (kWh); and total costs charged to the Clearing Member as a result of failed delivery/deliveries.	M+10 at 10:00 CET



PART H: ICE ENDEX NCG NATURAL GAS FUTURES CONTRACT (“ICE ENDEX NCG NATURAL GAS FUTURES”)

1. DEFINITIONS

1.1 The following additional definitions apply to this part of the Delivery Procedures:

- (a) The term “Acquiring Trade Nomination” means a nomination submitted, in the manner required by the NCG Rules and otherwise in accordance with this Part H, by the Transferee to acquire rights in respect of one or more lots of Natural Gas at the VTP operated by NCG.
- (b) The terms “D-” or “D+” relate to the number of Business Days before and after the Delivery Day respectively on which rights to natural gas are to be transferred.
- (c) The term “Delivery Day” means the period beginning at 06:00 hours on a day on which the transfer of rights in respect of Natural Gas is due to be made under a Contract in accordance with ICE Endex Rules and this Part H and ending at 06:00 hours on the following day.
- (d) The term “Delivery Month” means the period beginning at 06:00 hours CET on the first calendar day of the month until 06:00 hours CET on the first calendar day of the next month;
- (e) The term “Disposing Trade Nomination” means a nomination submitted, in the manner required by the NCG Rules and otherwise in accordance with ICE Endex Rules and this Part H, by the Transferor to dispose of rights in respect of one or more lots of Natural Gas at the VTP operated by NCG.
- (f) The term “ICE Endex NCG Natural Gas” means ICE Endex NCG Natural Gas Futures.
- (g) The term “Invoice Period” refers to the period beginning at the start of the day on which the last invoice was issued, up to the end of the day prior to the date of the current invoice and also includes any additional period of time during which payments are made from the Buyer to the Seller in respect of completed deliveries.
- (h) The term “kWh” or “Kilowatt Hours” means 3,600,000 joules where “joule” is as defined in ISO 1000:1992(E) or any standard replacing the same as nominated by ICE Endex.
- (i) The term “M+” or “M-” means, in respect of a Contract, the number of Business Days immediately following the last day of the month or the number of Business Days immediately preceding the first day of the month in which the Delivery Day specified in the Contract commenced.
- (j) The term “Natural Gas” means any hydrocarbons or mixture of hydrocarbons and other gases consisting predominantly of methane which at a temperature of 15 degrees Celsius and at an absolute pressure of 1.01325 bar are or is predominantly in the gaseous state where “degree Celsius” and “bar” are as defined in ISO 1000:1992(E) or any standard replacing the same as nominated by ICE Endex.
- (k) The term “NCG” means NetConnect Germany GmbH & Co. KG domiciled in Ratingen Germany the operator of the market area co-operation between various gas network owners in Germany known as “NCG” or any successor thereto.
- (l) The term “NCG’s Communication Facilities” means NCG’s electronic facility which enables, *inter alia*, submission of a Trade Nomination to NCG and to access information concerning the submitted Trade Nominations, and any successor system thereto.

- (m) The term “NetConnect Germany (NCG) Rules” means the current NCG Network Access Conditions and NCG Balancing Group Contract and any manuals, procedures, practices or directions of NCG which support the operation of NCG as amended from time to time.
- (n) The term “Trade Nomination” means in respect of a Contract either a Disposing Trade Nomination or an Acquiring Trade Nomination, as the case may be.
- (o) The term “Trade Nomination Quantity” means the quantity of Natural Gas nominated in a Trade Nomination.
- (p) The term “Transmission System” means the transmission pipeline system operated by NCG as may be enlarged, extended or altered from time to time.
- (q) The term “Virtual Trading Point” (VTP) means, in respect of a Contract, a notional point within the Transmission System at which the balancing of the amounts of Natural Gas delivered into and out of the Transmission System takes place in accordance with the NCG Rules.

## 2. DELIVERY SPECIFICATION

### 2.1 Delivery

Deliveries of ICE Endex NCG Natural Gas are effected by the transfer of rights to Natural Gas at the Virtual Trading Point from a Transferor (nominated by the Seller, which may be the Seller itself) to the Clearing House and from the Clearing House to a Transferee (nominated by the Buyer, which may be the Buyer itself), through the input of Acquiring and Disposing Trade Nominations into the NCG’s Communication Facilities. NCG will take those Nominations into account when determining whether any costs or charges arise from the balancing regime under the NCG Rules.

### 2.2 Quantity

ICE Endex NCG Natural Gas trades in MWh and is delivered in kWh.

### 2.3 Price

The price at which the contract is delivered is the Exchange Delivery Settlement Price (EDSP) for the second business day, as defined in the ICE Endex Rules, immediately prior to the calendar day on which the Delivery Month for the ICE Endex NCG Natural Gas Futures commences in accordance with the ICE Endex Rules.

### 2.4 Days and Times

All “timings” or times of day are Central European Times or Central European Summer Times as applicable.

### 2.5 Cessation of Trading

ICE Endex NCG Natural Gas Futures cease trading at 18:00 hours on the business day which is two business days, in accordance with the ICE Endex Rules, prior to the first calendar day of the delivery month.

### 2.6 Exchange for Physicals (EFPs) and Exchange for Swaps (EFSs)

For ICE Endex NCG Natural Gas Futures, in accordance with ICE Endex Rules, EFPs and EFSs may be posted up to one hour following the cessation of trading.

### 3. LIABILITY

3.1 The provisions of this paragraph 3 are without prejudice to the generality of, and subject to, the provisions of the Rules relating to liability and apply in addition to the general requirements of these Delivery Procedures.

3.2 The Clearing House is not responsible for, and shall have no liability whatsoever as a result of:

- (a) the performance or non-performance of NCG of its obligations under the NCG Rules; or
- (b) the performance or non-performance of NCG.

3.3 Neither the Buyer nor the Seller, nor their Transferees or Transferors, shall have any claim against the Clearing House for any loss, cost, damage or expense incurred or suffered as a result of the condition or operation of the Transmission System or any part thereof or the performance or non-performance of NCG except as otherwise expressly provided in the ICE Endex Rules.

### 4. DELIVERY CONTRACT SECURITY

The Clearing House makes the Natural Gas Daily Summary Report available on a daily basis to Clearing Members with delivery positions.

#### (a) Buyer's Security

Buyer's Security is calculated by reference to the relevant EDSP plus a "Buyer's Default Top-up". The "Buyer's Default Top-up" is an amount calculated against the possibility of costs or charges arising from the balancing regime under the NCG Rules.

The Clearing House may alter the calculation of Buyer's Security at any time or make adjustments in respect of specific Buyers.

#### (b) Seller's Security

Seller's Security is calculated against the Seller's Default Price (SDP) for the relevant Delivery Day.

The SDP is calculated by reference to costs and charges arising from the balancing regime under the NCG Rules, or EDSP.

The Clearing House may alter the calculation of Seller's Security at any time or make adjustments in respect of a specific Seller.

### 5. DELIVERY TIMETABLE FOR ICE ENDEX NCG NATURAL GAS: ROUTINE

#### 5.1 ICE Endex NCG Natural Gas Futures

	2 Business Days prior to the 1 <sup>st</sup> Delivery Day (M-2)	
Cessation of Trading	At 18:00 CET	Monthly Contract ceases trading.
	By 19:00 CET	EFPs and EFSS may be posted up to one hour following the cessation of trading.

	M-1	
Provision of Buyer's and Seller's Security	By 10:00 CET	Seller and Buyer must provide the Clearing House with Seller's Security and Buyer's Security as appropriate. This is calculated for all deliverable Open Contract Positions at close of business on D-2 (which corresponds to M-2 for the first delivery day and M-1 for the second).
		The Clearing House may make adjustments to provisional Seller's Security or Buyer's Security by making intra-day calls at this time or other times on this day.
	By 11:30 CET	<del>Settlement instructions and Open Contract Positions transfers are entered into PTMS for expired Contracts.</del>  <a href="#">Deadline for position maintenance within ECS.</a>  Clearing Members with Open Contract Positions at this time for a Contract Set subject to delivery are obliged to make or take delivery.
	By 12:30 CET	MPFE report available <del>on PTMS</del> <a href="#">in MFT and ECS</a> to Clearing Members.
Submission of delivery intentions for ICE Endex NCG Natural Gas Futures	By 13:00 CET	Buyer and Seller must, for all deliverable Open Contract Positions, submit their delivery intentions via ECS for the ICE Endex NCG Natural Gas Futures. If delivery details are known, the delivery intentions for ICE Endex NCG Natural Gas Futures may be submitted to the Clearing House any time from the start of M-2, but must have been submitted by 13:00 CET on M-1.
Nomination of Transferor/Transferee	By 13:00 CET	Seller or Buyer who is nominating a Transferor or Transferee in respect of a Contract must ensure that the Clearing House has in its possession a signed ICE Endex NCG Natural Gas: Blanket Transferor Form or ICE Endex NCG Natural Gas: Blanket Transferee Form (as applicable) for each nominated Transferor or Transferee. This Transferor/Transferee Form must be signed by the Transferor/Transferee.
ICE Endex NCG Natural Gas Futures Conversion and Confirmation Report	By 14:00 CET	The ICE Endex NCG Natural Gas Futures Confirmation Reports, listing all deliverable positions in kWh for the Delivery Month, are made available to Clearing Members electronically. Where Clearing Members will have submitted email details for their Transferee/Transferors, this report will also be emailed directly to the Transferee/Transferors.  It is the responsibility of the Clearing Member to ensure that each nominated Transferor/Transferee has received a copy of the ICE Endex NCG Natural Gas Futures Conversion and Confirmation Report.

	By 15:00 CET	<p>Seller and Buyer must each inform the Clearing House of any details on the ICE Endex NCG Natural Gas Futures Conversion and Confirmation Report that do not match the delivery intentions previously submitted for the ICE Endex NCG Natural Gas Futures.</p> <p>Failure to notify the Clearing House by this deadline will constitute acceptance by the Seller and Buyer of their delivery obligations.</p> <p>If necessary, the Clearing House will then make any appropriate amendments to the ICE Endex NCG Natural Gas Futures Confirmation Report and resend it to Clearing Members.</p>
Entry of Disposing and Acquiring Nominations	By 15:00 CET	<p>Seller and Buyer must ensure that their nominated Transferors/Transferees have entered the appropriate Disposing Trade Nomination(s)/Acquiring Trade Nominations(s) into NCG's Communication Facilities.</p> <p>If by 16:30 CET one such Trade Nomination has not been accepted by NCG, the Clearing House, or its agent, may direct the Seller (or its Transferor) or the Buyer (or its Transferee) who submitted the Trade Nomination to amend or withdraw such Trade Nomination on such terms as the Clearing House may consider appropriate until such Trade Nomination is accepted by NCG.</p> <p>In the event that the Seller (or its Transferor) or Buyer (or its Transferee) have entered a Trade Nomination Quantity different from that appearing on the ICE Endex NCG Natural Gas Futures Confirmation Report, which has been accepted by NCG under NCG Rules, the Clearing House or its agent may direct the Seller (or its Transferor) or the Buyer (or its Transferee) to amend or withdraw such Trade Nomination on such terms as the Clearing House may consider appropriate.</p>
	Delivery Day (D) (or next Business Day if D is a Non-Clearing Day)	
	By 10:00 CET	The Clearing House makes the Daily Summary Report available.
Payment, Seller's Security and Buyer's Default Top Up	D+1	

	By 10:00 CET	<p>Seller's Security for actual delivered amount is released.</p> <p>The Clearing House releases the 'Buyer's Default Top up' portion of the Buyer's Security on confirmed deliveries.</p> <p>Buyers make contract payment via their Nominated Accounts in respect of deliveries for the preceding delivery day. Buyer's Security is released as part of the payment transaction.</p> <p>Seller receives contract value (payment) for confirmed delivered amount in respect of deliveries for the preceding delivery day.</p> <p>N.B. A credit note may be issued at a later date against the failed deliveries.</p>
	One Day following the end of the Invoice Period	
Invoice and Account Sale Details	By 10:00 CET	Invoices and Account Sales available for the Invoice Period.

## 6. DELIVERY TIMETABLE FOR ICE ENDEX NCG NATURAL GAS: FAILED DELIVERY

### 6.1 ICE Endex NCG Natural Gas Futures

	D+2	
Seller's Security and Buyer's Default Top up	By 10:00 CET	In the event of a failed delivery, the Clearing House may call additional Seller's Security and/or Buyer's Security.
	10 Business Days following the month of delivery (M+10)	
Failed Delivery	By 10:00 CET	The Clearing House makes the Invoice and Credit Note Report available to Sellers and Buyers for the previous month's failed deliveries.
	12 Business Days following the month of delivery (M+12)	
Payment for Failed Delivery	By 10:00 CET	<p>Seller makes payment for previous month's failed deliveries.</p> <p>Buyers make/receive payment or take receipt for previous month's failed deliveries.</p>
	13 Business Days following the month of delivery (M+13)	
Release of Seller's and Buyer's Security against Failed Deliveries	By 10:00 CET	Seller's Security and Buyer's Security held against failed deliveries is released following confirmation that payment has been made for all failed deliveries for the delivery month.

Note: in the event of a failed delivery, the Clearing House may retain Buyer's Security and/or Seller's Security.

Note: the above timetables can be altered without notice at the discretion of the Clearing House.

## 7. INVOICE AND ACCOUNT SALE CALCULATION

### 7.1 Invoice and Account Sale

#### (a) Previous Month's Deliveries

The Invoice and Account Sale Report gives details of all deliveries made during the Invoice Period.

##### Confirmed deliveries:

$\text{kWh} * \text{EDSP} * 1 \text{ MWh} / 1000 \text{ kWh}$ , plus any other costs of the Clearing House as applicable

Where

kWh = the number of kilowatt hours delivered.

EDSP = The relevant Exchange Delivery Settlement Price for the day of delivery, quoted in Euros per MWh.

##### Failed Deliveries

$\text{kWh} * \text{Delivery Failure Cost} * 1 \text{ MWh} / 1000 \text{ kWh}$ , plus any other costs of the Clearing House as applicable

Where

kWh = the number of kilowatt hours delivered.

Delivery Failure Cost = the costs of the Clearing House by kWh incurred from NCG in accordance with the NCG Rules in respect of any failure by a Clearing Member to correctly make a delivery.

#### (b) Daily Deliveries

The Invoice and Account Sale Report gives details of all deliveries made during the Invoice Period.

##### Confirmed deliveries:

$\text{kWh} * \text{EDSP} * 1 \text{ MWh} / 1000 \text{ kWh}$ , plus any other costs of the Clearing House as applicable

Where

kWh = the number of kilowatt hours delivered.

EDSP = The relevant Exchange Delivery Settlement Price for the day of delivery, quoted in Euros per MWh.

##### Failed Deliveries

$\text{kWh} * \text{Delivery Failure Cost} * 1 \text{ MWh} / 1000 \text{ kWh}$ , plus any other costs of the Clearing House as applicable

Where

kWh = the number of kilowatt hours delivered.



Delivery Failure Cost = the costs of the Clearing House by kWh incurred from NCG in accordance with the NCG Rules in respect of any failure by a Clearing Member to correctly make a delivery.

## 7.2 Invoice/Credit Note for Failed Deliveries

The Invoice and Credit Note Report gives details of the proportion of the Clearing House's costs, incurred from NCG, allocated to Clearing Members as a result of Buyer's and Seller's failed deliveries.

Credit Notes are issued to Buyers up to the contract value of the failed delivery, dependent on the value received by the Clearing House from NCG. In the event that the value received by the Clearing House is in excess of the contract value, any such excess will be passed on to ICE Endex.

The Clearing House's costs are allocated *pro rata* to those Clearing Members whose failed deliveries have caused the Clearing House's net costs or charges arising from the balancing regime under NCG Rules.

## 8. DELIVERY DOCUMENTATION SUMMARY

### 8.1 ICE Endex NCG Natural Gas Futures

Reports produced by the Clearing House are made available to Buyers and Sellers electronically.

Name of Delivery Document	Explanation	Timing
Daily Summary Report	This report summarises on a daily basis the deliverable positions by transferee/transferor.	By 10:00 CET Daily
Daily Detail Report	This report provides details of each day's deliveries.	By 10:00 CET Daily
ICE Endex NCG Natural Gas: Blanket Transferee Form	Where applicable, the Buyer must ensure that this form is submitted by the Transferee to the Clearing House. It must be signed by the Transferee as confirmation that they will take delivery of Natural Gas on any Delivery Days nominated by the Buyer and referred to in the delivery intentions previously submitted for the ICE Endex NCG Natural Gas Futures.	By 12:00 CET on D-1
ICE Endex NCG Natural Gas: Blanket Transferor Form	Where applicable, the Seller must ensure that this form is submitted by the Transferor to the Clearing House. It must be signed by the Transferor as confirmation that they will make delivery of Natural Gas on any Delivery Days nominated by the Buyer and referred to in the delivery intentions previously submitted for the ICE Endex NCG Natural Gas Futures.	By 12:00 CET on D-1

Name of Delivery Document	Explanation	Timing
ICE Endex NCG Natural Gas Futures Confirmation Report	When available, Buyers and Sellers must promptly provide a copy of this report to the relevant Transferor(s) and Transferee(s). It is a Transferor/Transferee order and informs Buyers and Sellers of Clearing Member mnemonic; Transferee/Transferor; Delivery Day or series of Delivery Days as defined in paragraph 1 of this Part H from first Delivery Day to last Delivery Day; lots to be delivered; details of the Acquiring and/or Disposing Trade Nomination(s) to be entered by the Transferees/Transferors; and a statement that if the Transferor/Transferee fails to notify the Clearing House by the necessary deadline as specified in these Delivery Procedures, then the delivery obligation is irrevocably accepted and Transferor/Transferee will enter the correct Acquiring and/or Disposing Trade Nomination(s) into NCG's Communication Facilities, by the relevant deadline and that the trade(s) nominations will not be amended or withdrawn unless instructed to do so by the Clearing House.	By 12:30 CET on D-1
ICE Endex NCG Natural Gas Futures Invoice and Account Sale	The reports give Buyers and Sellers details of: Clearing Member mnemonic; Clearing Member account; contract; delivery month; contracted kWh; actual delivered (matched) kWh; price in Euros per MWh; value of Natural Gas.	By 10:00 CET on the day following the Invoice Period
Invoice Report and Credit Note Report: Failed Deliveries	The report gives Buyers and Sellers with failed deliveries during the previous delivery month details of Clearing Member mnemonic; Clearing Member account; contract; delivery month; Delivery Day; amount of failed delivery long (kWh); amount of failed delivery short (kWh); and total costs charged to the Clearing Member as a result of failed delivery/deliveries.	M+10 at 10:00 CET

PART I: ICE ENDEX ZTP NATURAL GAS FUTURES CONTRACT (“ICE ENDEX ZTP NATURAL GAS FUTURES”)

1. DEFINITIONS

1.1 The following additional definitions apply to this part of the Delivery Procedures:

- (a) The term “Acquiring Trade Nomination” means a nomination submitted, in the manner required by the Fluxys Rules and/or Huberator Terms and otherwise in accordance with this Part I, by the Transferee to acquire rights in respect of one or more lots of Natural Gas at the ZTP.
- (b) The term “Business Day” has the meaning set out in the ICE Endex Rules.
- (c) The term “CREG” means the Commissie voor de Regulering van de Elektriciteit en het Gas (Dutch) or *Commission pour la Régulation de l'Electricité et du Gaz* (French) as referred to in the Gas Act.
- (d) The terms “D-” or “D+” relate to the number of Business Days before and after the Delivery Day respectively on which rights to Natural Gas are to be transferred.
- (e) The term “Delivery Day” means the period beginning at 06:00 hours on a day on which the transfer of rights in respect of Natural Gas under a Contract is due to be made, in accordance with ICE Endex Rules and this Part I and ending at 06:00 hours on the following day.
- (f) The term “Delivery Month” means the period beginning at 06:00 hours on the first calendar day of the month until 06.00 hours on the first calendar day of the next month.
- (g) The term “Disposing Trade Nomination” means a nomination submitted, in the manner required by the Fluxys Rules and/or the Huberator Terms and otherwise in accordance with ICE Endex Rules and this Part I, by the Transferor to dispose of rights in respect of one or more lots of Natural Gas at the ZTP.
- (h) The term “EDIg@s” means electronic data interchange used for the purpose of, *inter alia*, submission of a Trade Nomination to Huberator and to access information concerning the submitted Trade Nominations, and any successor system thereto.
- (i) The term “Fluxys Belgium” means Fluxys Belgium S.A., being the operator of the transmission system in Belgium.
- (j) The term “Fluxys Belgium Rules” means the terms and conditions set out in the Standard Transmission Agreement (or STA) of Fluxys Belgium and the Access Code for Transmission (or ACT) including attachments, as approved by the CREG, which stipulate the standard terms and conditions for access to the Fluxys transmission system, as amended from time to time.
- (k) The term “Gas Act” means the Belgian Gas Law concerning the transportation of gaseous and other substances by pipeline of 12 April 1965, as amended from time to time, or any successor thereof.
- (l) The term “Huberator” means Huberator S.A., being the company operating the ZTP notional trading services.
- (m) The term “Huberator Terms” means the terms and conditions set out in the applicable hub services agreement and its annexures to which Huberator is party or by which it is bound,

which provides, *inter alia*, for terms governing the notional trading services in relation to ZTP.

- (n) The term “ICE Endex ZTP Natural Gas” means the ICE Endex ZTP Natural Gas Futures.
- (o) The term “Invoice Period” refers to the period beginning at the start of the day on which the last invoice was issued, up to the end of the day prior to the date of the current invoice and also includes any additional period of time during which payments are made from the Buyer to the Seller in respect of completed deliveries.
- (p) The term “kWh” or “Kilowatt Hours” means 3,600,000 joules where “joule” is as defined in ISO 1000:1992(E) or any standard replacing the same specified by ICE Endex.
- (q) The term “M+” or “M-“ means, in respect of a Contract, the number of Business Days immediately following the last day of the month or the number of Business Days immediately preceding the first day of the month in which the Delivery Day specified in the Contract commenced.
- (r) The term “Natural Gas” means a gaseous fuel from underground origin, and mainly consisting of methane, including liquefied natural gas (LNG) (but excluding mine gas), pursuant to article 1.2° of the Gas Act and such other kinds of gas as are specified by Fluxys Belgium as being acceptable for delivery into the Transmission System from time to time..
- (s) The term “Trade Nomination” means in respect of a Contract either a Disposing Trade Nomination or an Acquiring Trade Nomination, as the case may be.
- (t) The term “Trade Nomination Quantity” means the quantity of Natural Gas nominated in a Trade Nomination.
- (u) The term “Transmission System” means the onshore transmission pipeline system for which Fluxys Belgium is designated transmission system operator, as the same may be restricted, expanded, extended or altered from time to time.
- (v) The term “Zeebrugge Trading Point” or “ZTP” shall mean the location where the notional trading services for high calorific Natural Gas are offered by Huberator in accordance with the Huberator Terms.

## 2. CLEARING HOUSE AUTHORITY

The Clearing Member hereby grants authority to the Clearing House to make Trade Nominations in connection with deliveries under ICE Endex ZTP Natural Gas. No Clearing Member shall revoke or terminate, nor purport to revoke, amend or terminate such authorisation. Neither Clearing Members nor their Transferors or Transferees shall issue, send or transmit any Trade Nomination themselves.

## 3. DELIVERY SPECIFICATION

### 3.1 Delivery

Deliveries of ICE Endex ZTP Natural Gas are effected by the transfer of rights to Natural Gas at the ZTP (as the case may be) from a Transferor (nominated by the Seller, which may be the Seller itself) to the Clearing House and from the Clearing House to a Transferee (nominated by the Buyer, which may be the Buyer itself), through the input of Acquiring and Disposing Trade Nominations to Huberator by the Clearing House. Huberator will process and transmit the Trade Nominations to Fluxys Belgium and Fluxys Belgium will take those Trade Nominations into account when determining whether any costs or charges arise from the balancing regime of the Transmission System.

### 3.2 Quantity

ICE Endex ZTP Natural Gas trades in MWh and is delivered in kWh.

### 3.3 Price

The price at which a Set of Contracts subject to delivery obligations is to be delivered is the Exchange Delivery Settlement Price (EDSP) for the second Business Day immediately prior to the calendar day on which the relevant Delivery Month for the Set of ICE Endex ZTP Natural Gas Futures commences, in accordance with the ICE Endex Rules.

### 3.4 Days and Times

All “timings” or times of day are Central European Time (“CET”) or Central European Summer Time (“CEST”) as applicable.

### 3.5 Cessation of Trading

The ICE Endex ZTP Natural Gas Futures cease trading at 18:00 hours on the Business Day falling two Business Days prior to the first calendar day of the Delivery Period, in accordance with the ICE Endex Rules.

### 3.6 Exchange for Physicals (EFPs) and Exchange for Swaps (EFSs)

For ICE Endex ZTP Natural Gas Futures, in accordance with ICE Endex Rules, EFPs and EFSs may be posted up to one hour following the cessation of trading.

## 4. LIABILITY

4.1 The provisions of this paragraph 4 are without prejudice to the generality, and subject to, the provisions of the Rules relating to liability and apply in addition to the general requirements of these Delivery Procedures.

4.2 The Clearing House is not responsible for, and shall have no liability whatsoever as a result of:

- (a) the performance or non-performance of Fluxys Belgium of its obligations under the Fluxys Belgium Rules; or
- (b) the performance or non-performance of Fluxys Belgium; or
- (c) the performance or non-performance of Huberator of its obligations under the Huberator Terms; or
- (d) the performance or non-performance of Huberator.

4.3 Neither the Buyer nor the Seller, nor their Transferees or Transferors, shall have any claim against the Clearing House for any loss, cost, damage or expense incurred or suffered as a result of the condition or operation of the Transmission System or any part thereof or ZTP or any part thereof.

## 5. DELIVERY CONTRACT SECURITY

The Clearing House makes the Natural Gas Daily Summary Report available on a daily basis to Clearing Members with delivery positions.

- (a) Buyer’s Security

Buyer's Security is calculated by reference to the relevant EDSP plus a "Buyer's Default Top-up". The "Buyer's Default Top-up" is an amount calculated against the possibility of costs or charges arising from the balancing regime under the Fluxys Belgium Rules.

The Clearing House may alter the calculation of Buyer's Security at any time or make adjustments in respect of specific Buyers.

(b) Seller's Security

Seller's Security is calculated against the Seller's Default Price (SDP) for the relevant Delivery Day.

The SDP is calculated by reference to costs and charges arising from the balancing regime under the Fluxys Belgium Rules, or EDSP.

The Clearing House may alter the calculation of Seller's Security at any time or make adjustments in respect of a specific Seller.

## 6. DELIVERY TIMETABLE FOR ICE ENDEX ZTP NATURAL GAS FUTURES: ROUTINE

Note: All "timings" or times of day in this Part I are Central European Time ("CET") or Central European Summer Time ("CEST") as applicable.

### 6.1 ICE Endex ZTP Natural Gas Futures

	2 Business Days prior to the 1st Delivery Day (M-2)	
Cessation of Trading	At 18:00 CET	Contract ceases trading.
	By 19:00 CET	EFPs and EFSs may be posted up to one hour following the cessation of trading.
Provision of Buyer's and Seller's Security	The Business Day prior to the 1 <sup>st</sup> Delivery Day (M-1)	
	By 10:00 CET	Seller and Buyer must provide the Clearing House with Seller's Security and Buyer's Security as appropriate. This is calculated for all deliverable Open Contract Positions at close of business on D-2 (which corresponds to M -2 for the first Delivery Day and M -1 for the second).  The Clearing House may make adjustments to provisional Seller's Security or Buyer's Security by making intra-day calls at this time or other times on this day.
	By 11:00 CET	<del>Settlement instructions and Open Contract Positions transfers are entered into PTMS for expired Contracts.</del>  <a href="#">Deadline for position maintenance within ECS.</a>  Clearing Members with Open Contract Positions at this time for a Contract Set subject to delivery are obliged to make or take delivery.
	By 12:30	MPFE report available <del>on PTMS</del> <a href="#">in MFT and ECS</a> to Clearing

	CET	Members.
Submission of delivery intentions for ICE Endex ZTP Natural Gas Futures	By 13:00 CET	Buyer and Seller must, for all relevant deliverable Open Contract Positions, submit delivery intentions via ECS for the ICE Endex ZTP Natural Gas Futures. If delivery details are known, the delivery intentions for the ICE Endex ZTP Natural Gas Futures may be submitted to the Clearing House any time from the start of M -2, but must have been submitted by 13:00 hours CET on M -1.
Nomination of Transferor/Transferee	By 13:00 CET	Seller or Buyer who is nominating a Transferor or Transferee in respect of a Contract must ensure that the Clearing House has in its possession a signed ICE Endex ZTP Natural Gas: Blanket Transferor Form or ICE Endex ZTP Natural Gas: Blanket Transferee Form (as applicable) for each nominated Transferor or Transferee. This Transferor/Transferee Form must be signed by the Transferor/Transferee.
ICE Endex ZTP Natural Gas Futures Conversion and Confirmation Report	By 14:00 CET	The ICE Endex ZTP Natural Gas Futures Confirmation Reports, listing all deliverable positions in kWh for the Delivery Month, are made available to Clearing Members electronically. Where Clearing Members will have submitted email details for their Transferee/Transferors, this report will also be emailed directly to the Transferee/Transferors.  It is the responsibility of the Clearing Member to ensure that each nominated Transferor/Transferee has received a copy of the ICE Endex ZTP Natural Gas Futures Conversion and Confirmation Report.
	By 15:00 CET	Seller and Buyer must each inform the Clearing House of any details on the ICE Endex ZTP Natural Gas Futures Conversion and Confirmation Report that do not match the delivery intentions previously submitted for the ICE Endex ZTP Natural Gas Futures.
Notification file to Nomination Agent	By 15.00 CET	The Clearing House will send to its appointed nomination agent a notification file detailing the nominations to be made between the Clearing House and the Seller (or the Seller's Transferor), and the nominations to be made between the Clearing House and the Buyer (or the Buyer's Transferee).
	By 15:00 CET	Failure to notify the Clearing House by this deadline will constitute acceptance by the Seller and Buyer of their delivery obligations.  If necessary, the Clearing House will then make any appropriate amendments to the ICE Endex ZTP Natural Gas Futures Confirmation Report and resend it to Clearing Members.
Delivery Day (D) (or next Business Day if D is a Non-Clearing Day)		
	By 10:00 CET	The Clearing House makes the Daily Summary Report available.
D+1		



Payment, Seller's Security and Buyer's Default Top Up	By 10:00 CET	<p>Seller's Security for actual delivered amount is released.</p> <p>The Clearing House releases the 'Buyer's Default Top-up' portion of the Buyer's Security on confirmed deliveries.</p> <p>Buyers make contract payment via their Nominated Accounts in respect of deliveries for the preceding delivery day. Buyer's Security is released as part of the payment transaction.</p> <p>Seller receives contract value (payment) for confirmed delivered amount in respect of deliveries for the preceding delivery day.</p> <p>N.B. A credit note may be issued at a later date against the failed deliveries.</p>
One Day following the end of the Invoice Period		
Invoice and Account Sale Details	By 10:00 CET	Invoice and Account Sale Report available for the relevant Report Period.

## 7. DELIVERY TIMETABLE FOR ICE ENDEX ZTP NATURAL GAS FUTURES: FAILED DELIVERY

### 7.1 ICE Endex ZTP Natural Gas Futures

D+2		
Seller's Security and Buyer's Default Top Up	By 10:00 CET	In the event of a failed delivery, the Clearing House may call additional Seller's Security and/or Buyer's Security.
10 Business Days following the end of the calendar month of delivery (M +10)		
Failed Delivery	By 10:00 CET	The Clearing House makes the Invoice and Credit Note Report available to Sellers and Buyers for the previous month's failed deliveries.
12 Business Days following the end of the calendar month of delivery (M +12)		
Payment for Failed Delivery	By 10:00 CET	<p>Seller makes payment for previous month's failed deliveries.</p> <p>Buyers make/receive payment or take receipt for previous month's failed deliveries.</p>
13 Business Days following the end of the calendar month of delivery (M +13)		
Release of Seller's and	By	Seller's Security and Buyer's Security held against failed deliveries

Buyer's Security against Failed Deliveries	10:00 CET	is released following confirmation that payment has been made for all failed deliveries for the Delivery Month.
--	-----------	---

Note: in the event of a failed delivery, the Clearing House may retain Buyer's Security and/or Seller's Security.

Note: the above timetables can be altered without notice at the discretion of the Clearing House.

## 8. INVOICE AND ACCOUNT SALE CALCULATION

### 8.1 Invoice and Account Sale - Previous Month's Deliveries

#### (a) Previous Month's Deliveries

The Invoice and Account Sale Report gives details of all deliveries made during the Invoice Period.

#### Confirmed deliveries:

$\text{kWh} * \text{EDSP} * 1 \text{ MWh} / 1000 \text{ kWh}$ , plus any additional costs of the Clearing House as appropriate,

Where:

kWh = the number of Kilowatt Hours delivered.

EDSP = The relevant Exchange Delivery Settlement Price for the day of delivery, quoted in Euros per MWh .

#### Failed Deliveries

$\text{kWh} * \text{Delivery Failure Cost} * 1 \text{ MWh} / 1000 \text{ kWh}$ , plus any additional costs of the Clearing House, as appropriate,

Where:

kWh = the number of Kilowatt Hours delivered.

Delivery Failure Cost = the costs of the Clearing House per kWh incurred from Fluxys Belgium in accordance with the Fluxys Belgium Rules in respect of any failure of a Clearing Member correctly to make a delivery.

#### (b) Daily Deliveries

The Invoice and Account Sale Report gives details of all deliveries made during the Invoice Period.

#### Confirmed deliveries:

$\text{kWh} * \text{EDSP} * 1 \text{ MWh} / 1000 \text{ kWh}$ , plus any additional costs of the Clearing House as appropriate,

Where:

kWh = the number of Kilowatt Hours delivered.

EDSP = The relevant Exchange Delivery Settlement Price for the day of delivery, quoted in Euros per MWh .

### Failed Deliveries

kWh \* Delivery Failure Cost \* 1 MWh / 1000 kWh, plus any additional costs of the Clearing House, as appropriate,

Where:

kWh = the number of Kilowatt Hours delivered.

Delivery Failure Cost = the costs of the Clearing House per kWh incurred from Fluxys Belgium in accordance with the Fluxys Belgium Rules in respect of any failure of a Clearing Member correctly to make a delivery.

#### 8.2 Invoice/Credit Note for Failed Deliveries

The Invoice and Credit Note Report gives details of the proportion of the Clearing House's costs, incurred to Fluxys Belgium or otherwise, allocated to Clearing Members as a result of Buyer's and Seller's failed deliveries.

Credit Notes are issued to Buyers up to the contract value of the failed delivery, dependent on the value received by the Clearing House from Fluxys Belgium. In the event that the value received by the Clearing House is in excess of the contract value, any such excess will be passed on to ICE Endex and the Clearing House shall have no further liability to any Clearing Member, Transferor or Transferee in respect of any such amount.

The Clearing House's costs are allocated *pro rata* to those Clearing Members whose failed deliveries have caused the Clearing House's net costs or charges arising from the balancing regime under the Fluxys Belgium Rules.

#### 9. DELIVERY DOCUMENTATION SUMMARY

##### 9.1 ICE Endex ZTP Natural Gas Futures

Reports produced by the Clearing House are made available to Buyers and Sellers electronically.

Note: All "timings" or times of day are Central European Time ("CET") or Central European Summer Time ("CEST") as applicable.

Name of Delivery Document	Explanation	Timing
Daily Summary Report	This report summarises on a daily basis the deliverable positions by Transferee/Transferor.	By 10:00 CET Daily
Daily Detail Report	This report provides details of each Business Day's deliveries.	By 10:00 CET Daily
ICE Endex ZTP Natural Gas: Blanket Transferee Form	Where applicable, the Buyer must ensure that this form is submitted by the Transferee to the Clearing House. It must be signed by an authorised signatory of the Transferee as confirmation that they will take delivery of Natural Gas on any Delivery Day nominated by the Buyer and referred to in the delivery	By 11:00 CET on M or W-1

Name of Delivery Document	Explanation	Timing
	intentions previously submitted for the ICE Endex ZTP Natural Gas Daily Futures.	
ICE Endex ZTP Natural Gas: Blanket Transferor Form	Where applicable, the Seller must ensure that this form is submitted by the Transferor to the Clearing House. It must be signed by an authorised signatory of the Transferor as confirmation that they will make delivery of Natural Gas on any Delivery Day nominated by the Buyer and referred to in the delivery intentions previously submitted for the ICE Endex ZTP Natural Gas Futures.	By 11:00 CET on M or W-1
ICE Endex ZTP Natural Gas Futures Confirmation Report	When available, Buyers and Sellers must promptly provide a copy of this report to the relevant Transferor(s) and Transferee(s). It is a Transferor/Transferee order and informs Buyers and Sellers of Clearing Member mnemonic; Transferee/Transferor; Delivery Day or series of Delivery Days as defined in paragraph 1 of this Part I from first Delivery Day to last Delivery Day; lots to be delivered; and a statement that if the Transferor/Transferee fails to notify the Clearing House by the necessary deadline as specified in these Delivery Procedures, then the delivery obligation is irrevocably accepted and the Clearing House will enter the Trade Nomination(s) into EDIg@s based on the net hourly position of the Clearing Member, by the relevant deadline.	By 12:30 CET on D-1
ICE Endex ZTP Natural Gas Futures Invoice and Account Sale	The reports give Buyers and Sellers details of: Clearing Member mnemonic; Clearing Member account; Contract Set; Delivery Month; contracted kWh; actual delivered (matched) kWh; price in Euros per MWh; value of Natural Gas.	By 10:00 CET on the day following the Invoice Period.
Invoice Report and Credit Note Report: Failed Deliveries	The report gives Buyers and Sellers with failed deliveries during the previous Delivery Month details of Clearing Member mnemonic; Clearing Member account; Contract Set; Delivery Month; Delivery Day; amount of failed delivery long (kWh); amount of failed delivery short (kWh); and total costs charged to the Clearing Member as a result of failed delivery/deliveries.	M at 10:00 CET.

PART M: ~~ICE ENDEX GERMAN POWER FUTURES~~ [NOT USED]~~1. DEFINITIONS~~~~1.1 The following definitions apply to this part of the Delivery Procedures:~~

- ~~(a) The term “Balancing Group Contract” means the standardised contract in relation to the management of balancing groups (including any agreements relating thereto) entered into between a BRP and a TSO.~~
- ~~(b) The term “Balance Responsible Party” or “BRP” means the Clearing House, the Clearing Member or (if applicable) the Transferor/Transferee acting in such capacity under a Balancing Group Contract.~~
- ~~(c) References to “D+” or “D-” relate to, in the case of “D+”, the number of Business Days as defined in the Rules immediately after, and in the case of “D-” the number of Business Days immediately before, the day on which the Delivery Day specified in the German Electricity Contract commences.~~
- ~~(d) The term “Delivery Day” means:~~
- ~~(i) in respect of an ICE Endex German Power Base Load Futures, the period beginning at 00:00 hours on a day in respect of when an ICE Endex German Power Base Load Futures is due to become effective, and when the transfer from one Energy Account to the other Energy Account is due to be made under that ICE Endex German Power Base Load Futures in accordance with the terms of the ICE Endex Rules and the Rules, and ending at 00:00 hours on the following day (irrespective of whether this encompasses 23, 24 or 25 sequential hours); or~~
  - ~~(ii) in respect of an ICE Endex German Power Peak Load (8-20) Futures, the period beginning at 08:00 hours on a weekday in respect of when an ICE Endex German Power Peak Load (8-20) Futures is due to become effective, and when the transfer from one Energy Account to the other Energy Account is due to be made under that ICE Endex German Power Peak Load (8-20) Futures in accordance with the terms of the ICE Endex Rules and the Rules, and ending at 20:00 hours on the same day.~~
- ~~(e) The term “Delivery Month” means:~~
- ~~(i) in respect of an ICE Endex German Power Base Load Futures: The number of days in a “month contract” based on the number of days in a Gregorian Calendar month period.~~
  - ~~(ii) in respect of an ICE Endex German Power Peak Load (8-20) Futures: The number of week days (Monday to Friday) in a “month contract” based on the number of days in a Gregorian Calendar month period.~~
- ~~(f) The term “Delivery Period” means the Settlement Period for the relevant Contract.~~
- ~~(g) The term “German Energy Law” means the German Energy Industry Act (Energiewirtschaftsgesetz) and its accompanying ordinances (Rechtsverordnungen), especially the German Electricity Grid Access Ordinance (Stromnetzzugangsverordnung), each as amended from time to time.~~
- ~~(h) The term “German Electricity Contract” means an ICE Endex German Power Base Load Future or an ICE Endex German Power Peak Load (8-20) Futures made pursuant to the ICE Endex Rules.~~

- ~~(i) The term “German Electricity Grid Access Ordinance” means the ordinance (*Rechtsverordnung*) issued on the basis of Section 24 of the German Energy Industry Act (*Energiewirtschaftsgesetz*) each as amended from time to time.~~
- ~~(j) The term “Energy Account” means an account established and operated by a TSO in respect of a BRP to effect settlement of German Electricity Contracts by submitting Energy Schedules.~~
- ~~(k) The term “Energy Contract Volume” means, for each Settlement Period of a Delivery Day and an Energy Account, a volume of electricity calculated by the Clearing House and notified to the Clearing Member and (if applicable) the Transferor/Transferee, in respect of a German Electricity Contract.~~
- ~~(l) The term “Energy Schedule” means a programme (*Fahrplan*) drawn up by a BRP and submitted to a TSO under the relevant Balancing Group Contract.~~
- ~~(m) The term “Gregorian Calendar” means the reformed Julian calendar now in use, according to which the ordinary year consists of 365 days, and a leap year of 366 days occur in every year whose number is exactly divisible by 4 except centenary years whose numbers are not exactly divisible by 400.~~
- ~~(n) The term “ICE Endex German Power Base Load Future” means a contract for delivery of electricity for every Settlement Period during the period specified in the ICE Endex Rules.~~
- ~~(o) The term “ICE Endex German Power Peak Load (8-20) Future” means a contract for delivery of electricity for every Settlement Period during the period specified in the ICE Endex Rules.~~
- ~~(p) The term “Invoice Period” refers to the period beginning at the start of the day on which the last invoice was issued, up to the end of the day prior to the date of the current invoice and includes all payments made from the Buyer to the Seller in respect of completed deliveries.~~
- ~~(q) References to “M-” relate to the number of Business Days immediately preceding the first Delivery Day of the Delivery Month (for example “M-2” refers to the second Business Day prior to the Delivery Month).~~
- ~~(r) References to “M+” relate to the number of Business Days after the last day of the Delivery Month during which delivery was made (for example “M+2” refers to the second Business Day of the Delivery Month following delivery).~~
- ~~(s) The term “MWh” or “Megawatt Hours” means 1000 kWh, where 1 kWh means 3,600,000 joules and where “joule” is as defined in ISO 1000:1992(E) or any standard replacing the same as nominated by ICE Endex.~~
- ~~(t) The term “Notification Failure” means an occurrence where a nomination for a Settlement Period is not made, is made incorrectly, is not accepted or is made, accepted and subsequently rejected.~~
- ~~(u) The term “Settlement Period” means a 15 minute period in a Delivery Day commencing on the hour or the half hour or the quarter hour.~~
- ~~(v) The term “TSO” means any of the following German transmission system operators : 50Hertz Transmission GmbH, TenneT TSO GmbH, Amprion GmbH and Transnet BW GmbH or any successor thereto.~~
- ~~(w) The term “Transmission System” means any extra high voltage and high voltage interconnected system operated by a TSO to transport electricity with a view to its delivery to final customers.~~

~~or to distributors, but not including supply as defined in Art. 2 No. 2 of the EU Directive 2003/54/EC.~~

~~(x) All times quoted are Central European Time or Central European Summer Time, as applicable.~~

## ~~2. DELIVERY SPECIFICATION~~

### ~~2.1 Delivery~~

~~Delivery of a German Electricity Contract is effected by a transfer of Energy Contract Volume from a Seller or Transferor to the Clearing House, and by a transfer from the Clearing House to a Buyer or Transferee through book entry in a TSO and not through actual offloading or inputting of energy.~~

~~This is achieved by the submission of the appropriate Energy Schedules accepted by the relevant TSOs and the subsequent debiting and crediting of Energy Accounts for each Settlement Period for the Delivery Day specified in the German Electricity Contract.~~

~~If a TSO rejects or reduces any submitted Energy Schedules due to grid congestions or other emergency or *force majeure* events applicable to it under German Energy Law or any Balancing Group Contract then the delivery shall be based on the submitted Energy Schedules as amended by the TSO. To the extent any submitted Energy Schedules have been so rejected or reduced, the delivery shall constitute a failed delivery for the purposes of these Delivery Procedures.~~

~~For the purpose of delivery of a German Electricity Contract, each Clearing Member acting as Seller or Buyer must ensure that it, or (if applicable) the Transferor/Transferee nominated by it, is party to a Balancing Group Contract as a BRP.~~

~~If a Clearing Member, or (if applicable) the Transferor/Transferee nominated by it, fails to submit a corresponding Energy Schedule or submits a corresponding Energy Schedule which conflicts with the Energy Schedule submitted by the Clearing House, the delivery shall constitute a failed delivery for the purposes of these Delivery Procedures and the relevant Clearing Member shall be deemed to be in breach of these Delivery Procedures.~~

### ~~2.2 Quantity~~

~~The German Electricity Contracts trade in MW and is delivered in MWh.~~

### ~~2.3 Price~~

~~In accordance with the ICE Endex Rules, the price at which the German Electricity Contract is delivered is the Exchange Delivery Settlement Price (EDSP) for the relevant German Electricity Contract, two Business Days, prior to the first Delivery Day.~~

### ~~2.4 Cessation of Trading~~

~~The German Electricity Contracts cease trading at 18:00 CET hours on the Business Day which is two Business Days, as defined in the ICE Endex Rules, prior to the day on which delivery commences.~~

### ~~2.5 Exchange for Physicals (EFPs) and Exchange for Swaps (EFSs)~~

~~In accordance with ICE Endex Rules, EFPs and EFSs may be posted up to one hour following the cessation of trading.~~



### 3. LIABILITY

~~3.1 The provisions of this paragraph 3 are without prejudice to the generality of, and subject to, the provisions of the Rules relating to liability and apply in addition to the general requirements of these Delivery Procedures relating to liability.~~

~~3.2 The Clearing House is not responsible for, and shall have no liability whatsoever as a result of:~~

- ~~(a) the performance or non-performance of a TSO or a BRP of its obligations under any Balancing-Group Contractor the German Energy Law; or~~
- ~~(b) the performance or non-performance of a TSO otherwise.~~

~~3.3 Neither the Buyer nor the Seller, nor their Transferees or Transferors, shall have any claim against the Clearing House for any loss, cost, damage or expense incurred or suffered as a result of the condition or operation of the Transmission System or any part thereof or the performance or non-performance of the TSO except as otherwise expressly provided in the ICE Endex Rules.~~

### 4. DELIVERY TIMETABLE FOR ICE ENDEX GERMAN POWER FUTURES: ROUTINE

	TIME	ACTION
	<del>M-2</del>	
	<del>By 10:00 CET</del>	<del>The Clearing House makes Daily Summary Report available. The report identifies Open Contract Positions at the close of business on M-3.</del>
<del>Cessation of Trading</del>	<del>At 18:00 CET</del>	<del>The German Electricity Contracts cease trading.</del>
	<del>By 19:00 CET</del>	<del>EFPs and EFSs may be posted up to one hour following the cessation of trading.</del>
<del>Transferor/Transferee Nomination</del>	<del>By 19:45 CET</del>	<del>A Seller or Buyer who is nominating a Transferor or Transferee in respect of a Contract must ensure that the Clearing House has in its possession a signed ICE Endex German Power Transferor Form or ICE Endex German Power: Transferee Form (as applicable) for each nominated Transferor or Transferee. This Transferor/Transferee form must be signed by an authorised signatory of the Transferor/Transferee.</del>
<del>Electricity Delivery Confirmation Forms</del>	<del>By 19:45 CET</del>	<del>The Seller and Buyer must, for each deliverable Open Contract Position, each send to the Clearing House a signed and completed ICE Endex German Power Delivery Confirmation Form listing all delivery information for all deliverable Open Contract Positions.</del>
	<del>By 19:45 CET</del>	<del>Settlement instructions and position transfers are entered for expired Contracts.</del>
	<del>19:45 CET</del>	<del>Clearing Members with Open Contract Positions at this time are obliged to make or take delivery.</del>

	By 20:00 CET	MPFE report available to Clearing Members.
Confirmation Report	By 21:00 CET	The Clearing House makes available to the Clearing Members the Confirmation Report listing the deliverable positions in MWh for each Settlement Period for each day of the Delivery Month.
Notification file to Nomination Agent		The Clearing House will send to its appointed nomination agent a notification file detailing the nominations to be made between the Clearing House and the Seller (or the Seller's Transferor), and the nominations to be made between the Clearing House and the Buyer (or the Buyer's Transferee).

	TIME	ACTION
		M-1
	By 10:00 CET	The Clearing House makes Daily Summary Report available. The report identifies the positions that are deliverable at 00:00 hours.
Payment of Security	By 10:00 CET	<p>Seller and Buyer must each pay to the Clearing House the Seller's Security and Buyer's Security respectively. This is calculated for all deliverable positions at close of business on D-2 (which corresponds to M-2 for the first delivery day and M-1 for the second).</p> <p>The Clearing House may make adjustments to provisional Seller's Security and Buyer's Security via intra day call on D-1.</p>
Confirmation Report Error	By 11:00 CET	<p>The Seller and Buyer must each inform the Clearing House of any details on the Confirmation Report that do not match the ICE Endex German Power: Delivery Confirmation Form.</p> <p>If the Clearing House does not receive notification by this deadline, the Seller and Buyer will be deemed to have accepted the delivery obligations as set out in the Confirmation Report.</p>
Nomination submission to the TSO	By 14:00 CET	The appointed nomination agent will make the nominations by means of submitting the relevant Energy Schedules, representing the final delivery position held at the Clearing House to the relevant TSO.
Checking Nomination		In the event that either the Seller (or the Seller's Transferor) or the Buyer (or the Buyer's Transferee) becomes aware that a nomination is incorrectly reported, that person must promptly inform the other party and the Clearing House. The Clearing House

		<del>will take such action as is necessary to rectify the situation.</del>
	<del>Any time after the above</del>	
<del>Identification of nomination rejection</del>		<del>Seller (either the Seller itself or through its Transferor) and Buyer (either the Buyer itself or through its Transferee) must inform the Clearing House as soon as they become aware that there has been a rejection of all or part of a nomination for whatever reason. The Clearing House may also instruct the Seller or Buyer to take such steps as it considers reasonably necessary to ensure that losses are mitigated. Seller and Buyer must give effect to any and all such instructions.</del>

	<del>TIME</del>	<del>ACTION</del>
	<del>Delivery Day (D) (or D+1 if D is a Non-Clearing Day)</del>	
<del>Delivery Day</del>	<del>By 10:00 CET</del>	<del>The Clearing House makes Daily Summary Report available.</del>
	<del>D+1</del>	
<del>Payment, Seller's Security and Buyer's Default Top-Up</del>	<del>By 10:00 CET</del>	<del>Seller's Security for actual delivered amount is released. The Clearing House releases the "Buyer's Default Top-up" portion of Buyer's Security on confirmed deliveries.  Buyers make contract payment via their Nominated Accounts in respect of deliveries for the preceding delivery day. Buyer's Security is released as part of the payment transaction.  Seller receives contract value (payment) for confirmed delivered amount in respect of deliveries for the preceding delivery day.  N.B. A credit note may be issued at a later date against the failed deliveries.</del>
	<del>One Day following the Invoice Period</del>	
<del>Invoice and Account Sale Details</del>	<del>By 10:00 CET</del>	<del>Invoice and Account Sale Report available for the Invoice Period.</del>

#### ~~5. DELIVERY TIMETABLE FOR ICE ENDEX GERMAN POWER FUTURES: FAILED DELIVERY~~

<del>Delivery Day (D) (or D+1 if D is a Non-Clearing Day)</del>	
<del>By 10:00 CET</del>	<del>In the event of a failed delivery, the Clearing House may call additional Seller's</del>

	<del>Security and/or Buyer's Security.</del>
<del>D+1</del>	
<del>By 10:00 CET</del>	<del>In the event of a failed delivery the Clearing House may call additional Seller's Security and/or Buyer's Security.</del>
<del>D+2</del>	
<del>By 10:00 CET</del>	<del>In the event of a failed delivery, the Clearing House may call additional Seller's Security and/or Buyer's Security.</del>
<del>M+Variable</del>	
<del>By 10:00 CET</del>	<del>Invoice Report: Failed Deliveries and Credit Note Report: Failed Deliveries for the previous month's failed deliveries will be generated and made available to the Seller and Buyer by the Clearing House at a time when the full financial obligations of each of the parties are known.  Seller's Security and Buyer's Security held against failed deliveries is released following confirmation that all payments have been made for all failed deliveries for the delivery month.</del>
<del>2 days after above</del>	
<del>By 10:00 CET</del>	<del>Seller and Buyer make or receive payment for previous month's failed deliveries as detailed on the Invoice and Credit Note Report.  Seller's Security and Buyer's Security held against failed deliveries is released.</del>
<del>Any time after the above</del>	
	<del>If there is a change to the prices used to calculate the failed delivery amounts, the Clearing House shall be entitled to produce further invoices or credit notes, and the Seller and/or Buyer shall pay the Clearing House (or the Clearing House shall pay the Seller and/or Buyer, as the case may be) any additional amount due (or the Clearing House shall pay) within two Business Days of issue of such Invoice or credit note.</del>

~~Note: in the event of a failed delivery, the Clearing House may retain Buyer's Security and/or Seller's Security.~~

## ~~6. DELIVERY CONTRACT SECURITY~~

### ~~6.1 Buyer's and Seller's Security~~

- ~~(a) Buyer's Security is calculated by reference to the relevant EDSP plus a "Buyer's Default Top-up". The "Buyer's Default Top-up" is calculated against the possibility of any liability, costs or charges arising under the relevant Balancing Group Contract or the German Energy Law. The Clearing House may alter the calculation of Buyer's Security at any time or make adjustments in respect of specific Buyers.~~
- ~~(b) Seller's Security is calculated against the Seller's default price (SDP) for the relevant Delivery Day. The SDP is calculated by reference to any liability, costs or charges arising under the relevant Balancing Group Contract or the German Energy Law, or EDSP. The Clearing~~

~~House may alter the calculation of Seller's Security at any time or make adjustments in respect of a specific Seller.~~

## ~~7. INVOICE AND ACCOUNT SALE CALCULATION~~

### ~~7.1 Invoice and Account Sale—Previous Month's Deliveries~~

~~The Invoice and Account Sale Report gives details of all deliveries made during Invoice Period. For confirmed deliveries, the value of electricity is calculated as follows:~~

~~(MWh \* EDSP) plus any other costs of the Clearing House as applicable~~

~~Where~~

~~MWh = The number of Megawatt hours delivered.~~

~~EDSP = The relevant Exchange Delivery Settlement Price for the Delivery Day, quoted in Euro per MWh.~~

~~For failed deliveries the value of electricity is calculated as follows:~~

~~(MWh \* EDSP \* Delivery Failure Cost), plus any other costs of the Clearing House as applicable~~

~~Where~~

~~MWh = The number of Megawatt hours contracted.~~

~~Delivery Failure Cost = an amount calculated by the Clearing House by MWh based on the imbalance costs a BRP is obliged to pay or be paid under the relevant Balancing Group Contract and/or German Energy Law attributable to one or more Notification Failures under the ICE Endex Rules and these Delivery Procedures.~~

### ~~7.2 Credit Note for Failed Deliveries~~

~~The Invoice Report: Failed Deliveries and Credit Note Report: Failed Deliveries give details of charges to a Clearing Member for failing to deliver or off-take electricity and is calculated with reference to costs incurred by the Clearing House under the relevant Balancing Group Contract or the German Energy Law. These costs will also apply even where German Electricity Contracts are netted or aggregated for the same Settlement Period. Credit Notes are issued to Buyers up to the contract value of the failed delivery, less any costs incurred by the Clearing House, dependent on the value of the imbalance value received by the Clearing House.~~

## ~~8. DELIVERY DOCUMENTATION SUMMARY~~

<del>Name of Delivery Document</del>	<del>Explanation</del>	<del>Timing</del>
<del>Daily Summary Report</del>	<del>This report summarises on a daily basis the deliverable positions by Transferee/Transferor</del>	<del>By 10:00 CET daily</del>
<del>ICE Endex German Power Futures: Delivery Confirmation Form</del>	<del>The Seller and Buyer must, for each deliverable Open Contract Position, each send to the Clearing House a signed and completed ICE Endex German Power Delivery Confirmation Form listing all delivery information for all deliverable Open Contract Positions.</del>	<del>By 19:45 CET on M-2</del>

ICE-Endex-German Power Futures: Transferee Form	The Buyer must ensure that the Transferee submits and signs this form, as confirmation that it will take delivery of electricity for all the Settlement Periods on all Delivery Days referred to on the ICE-Endex-German Power Delivery Confirmation Form and submits it to the Clearing House.	By 19:45 CET on M-2
ICE-Endex-German Power Futures: Transferor Form	The Seller must ensure that the Transferor submits and signs this form, as confirmation that it will make delivery of electricity for all the Settlement Periods on all Delivery Days referred to on the ICE-Endex-German Power Delivery Confirmation Form and submits it to the Clearing House.	By 19:45 CET on M-2
Name of Delivery Document	Explanation	Timing
ICE-Endex-German Power Futures: Delivery Confirmation Form	The Clearing House makes this report available to Buyers and Sellers. Buyers and Sellers must promptly provide a copy of this report to the relevant Transferor(s) and Transferee(s). The report is in Transferor/Transferee order and informs Buyers and Sellers of: Clearing Member name, Transferee/Transferor name, Delivery Day, lots to be delivered, and Buyer's/Seller's delivery details in MWh.	By 21:00 CET on M-2
Invoice Report and Account Sale Report	The Clearing House makes this report available to Buyers and Sellers. The report gives Buyers and Sellers details of Clearing Member mnemonic, Clearing Member account, Contract, Delivery Month, Delivery Day, contracted MWh, actual delivered MWh, price in Euro per MWh, value of electricity; and a summary of the Invoice and Account Sale.	By 10:00 CET on the day following the Invoice Period

PART N: ICE DELIVERABLE US EMISSIONS CONTRACTS (BILATERAL DELIVERY)

1. APPLICABILITY AND DEFINITIONS

1.1 This Part N applies to all ICE ~~OTC Contracts and ICE~~ Futures US Contracts for which physical delivery is specified as being ‘Applicable’ in the relevant Contract Terms and which go to physical delivery on the expiry date. Such ICE ~~OTC Contracts and ICE~~ Futures US Contracts are referred to in this part as “ICE Deliverable US Emissions Contracts”.

1.2 The following additional definitions apply to this part of the Delivery Procedures:

- (a) “Allowance” means an instrument, certificate, permit, asset, security, right, contract or allowance that is designated as a deliverable instrument for an ICE Deliverable US Emissions Contract in the relevant Contract Terms.
- (b) “Registry” means a registry, custodian, depository or other system used for physical delivery of Allowances pursuant to an ICE Deliverable US Emissions Contracts that is approved by the Clearing House for purposes of physical delivery for the particular ICE Deliverable US Emissions Contract Set in question. The Registry for a particular ICE Deliverable US Emissions Contract Set may be specified in the Contract Terms.
- (c) “Registry Operator” means the operator of a Registry.

2. DELIVERY SPECIFICATION

2.1 Delivery

Deliveries pursuant to ICE Deliverable US Emissions Contracts are effected by the transfer of required Allowances directly from a Transferor (nominated by the Seller, which may be the Seller itself) to a Transferee (nominated by the Buyer, which may be the Buyer itself) through a Registry. Rule 703(d) applies to such deliveries.

2.2 Quantity

Quantities are as required under the relevant Contract Terms.

2.3 Price

The price at which the Contract is delivered is the relevant Exchange Delivery Settlement Price (EDSP) for the Contract Set on expiry.

2.4 Cessation of Trading

Contracts cease trading on the last trading day, as defined in the Contract Terms.

2.5 Exchange for Physicals (EFPs) and Exchange for Swaps (EFSs)

EFPs and EFSs may be made only in accordance with ~~either ICE OTC Participant Agreements and applicable procedures of the ICE OTC Operator or~~ the ICE Futures US Rules ~~(as applicable)~~ and procedures.



### 3. LIABILITY

- 3.1 The provisions of this paragraph 3 are without prejudice to the generality of, and subject to, the provisions of the Rules relating to liability and apply in addition to the general requirements of these Delivery Procedures.
- 3.2 ~~None of~~Neither the Clearing House, ~~the ICE OTC Operator~~ nor ICE Futures US is responsible for, and none of them shall have any liability whatsoever as a result of, the performance or non-performance of any Registry or Registry Operator. Neither the Buyer nor the Seller, their Transferees or Transferors, shall have any claim against the Clearing House for any loss, cost, damage or expense incurred or suffered as a result of the condition or operation of any Registry or the performance or non-performance of any Registry Operator. This provision is without prejudice to the Clearing House's liability under Contracts.
- 3.3 ~~None of~~Neither the Clearing House, nor ICE Futures US ~~nor the ICE OTC Operator~~ makes any representation regarding the authenticity, validity or accuracy of any delivery tender notice, description of a registry, market tracking system or any other registry instructions, confirmation of transfer or any other notice, document, file, record or instrument used or delivered pursuant to the Rules and Procedures or pursuant to the procedures of any Registry.

### 4. DELIVERY CONTRACT SECURITY AND CONTRACT VALUE

- 4.1 At end-of-day on the relevant Notice Day for the Contract Set, the Clearing House will call for the full contract value of the Contract from the Buyer, such amount to be paid in accordance with the Finance Procedures.
- 4.2 At end-of-business on the last trading day, the Clearing House will call for delivery Margin (Seller's Security) from the Seller, such amount to be paid in accordance with the Finance Procedures. The Clearing House will retain the Seller's Security until such time as the full contract value is released to the Seller under the table in paragraph 5.

### 5. DELIVERY TIMETABLE AND OBLIGATIONS

Delivery under an ICE Deliverable US Emissions Contract is based on Open Contract Positions after expiration of the relevant Contract Set. Delivery is a three Business Day process consisting of three consecutive days which must be Business Days: the Notice Day, Delivery Instruction Day and Delivery Day. However, payments may take place after the end of the Delivery Day, as provided in the table below and the Finance Procedures.

- 5.1 All times in this Part N are to U.S. Central Time.
- 5.2 Use of relevant registry
- (a) Clearing Members and their Transferors or Transferees must have established accounts in the relevant Registry for the ICE Deliverable US Emissions Contract in question.

		First Business Day following expiration of the Contract Set
Notice Day	By	<del>Clearing Members must report their Long Open Contract Positions and tender delivery notices to the Clearing House.</del>
	10:00	Clearing Members must <del>report their Long futures positions and tender</del> <u>confirm their final</u> delivery <del>notices to the Clearing House by submitting their delivery</del> <u>position</u> intentions via ECS <del>in order to confirm their position.</del>

	There after	<p>Following confirmation of positions from Clearing Members in respect of a particular Set, the Clearing House will make appropriate delivery assignments, matching Clearing Members that are Buyers to Clearing Members that are Sellers for the purposes of them making delivery to one another for purposes of Rule 703(d).</p> <p>Clearing House calls Buyer for full contract value.</p>
Delivery Instruction Day	Notice Day +1 Business Day	
	By 16:00	<p>The Seller must provide to the Buyer a description of the underlying Allowances to be delivered.</p> <p>The Buyer must provide the Seller with information of the account at the Registry to which Allowances are to be transferred, which may be an account of its Transferee.</p>
	By 17:00	The Seller must ensure that appropriate Allowances (delivery of which would satisfy its delivery obligations) are in its designated account at the relevant Registry.
Delivery Day	Notice Day + 2 Business Days	
	By 12:00	The Seller shall ensure that it or its Transferor has electronically submitted the transfer instructions in respect of all Allowances required to be transferred pursuant to the Contract to the relevant Registry.
	Following delivery	Buyer must deliver a "Receipt of Delivery Confirmation" form to the Clearing House, following receipt in its account at the relevant Registry of the Allowances. Such a form will constitute a representation and warranty from the Buyer to the Clearing House that the Buyer has received delivery of all required Allowances pursuant to the Contract under delivery, and that the Buyer is not aware of any dispute relating to the Allowances that have been delivered.
Payment	Delivery Day (if Receipt of Delivery Confirmation received before 13:00) or a following Business Day	
	By 13:00	Buyer must deliver the "Receipt of Delivery Confirmation" to the Clearing House on Delivery Day.
	After receipt	<p>After receipt by the Clearing House of the "Receipt of Delivery Confirmation" from the Buyer, the Clearing House releases the delivery proceeds to the Seller.</p> <p>The delivery proceeds and Seller's Security will be released to the Seller at the end-of-day on the same day as receipt by the Clearing House of the "Receipt of Delivery Confirmation" (for credit to the account of the Seller, this not being required prior to the morning of the Business Day after the Delivery Day), provided that the "Receipt of Delivery Confirmation" is received by the Clearing House at or before 1:00 p.m. U.S. Central Time on the Delivery Day.</p> <p>If the Clearing House receives a "Receipt of Delivery Confirmation"</p>

		after such time on the Delivery Day or any subsequent day, it will be treated as if it were received on the next Business Day and payments to the Seller shall be delayed accordingly.
--	--	--

PART P: [FINANCIALS & SOFTS](#) ROBUSTA COFFEE FUTURES

## 1. DELIVERY SPECIFICATION

## 1.1 Quality

Coffee shall be delivered of a growth and quality as specified in the ICE Futures Europe Rules.

## 1.2 Price

The price at which the Robusta Coffee is delivered is the Exchange Delivery Settlement Price on the Business Day immediately preceding the day of Tender, adjusted in accordance with the ICE Futures Europe Rules.

## 1.3 Scope

Coffee shall be delivered from a nominated warehouse as defined in the ICE Futures Europe Rules.

## 1.4 Cessation of Trading

Coffee delivery months cease trading on the last trading day, as specified in the Contract Terms. Sellers' Tenders may be submitted by 12:00 on any Business Day during the Tender Period (excluding the last trading day when the Tender must be submitted by 14:30).

DELIVERY TIMETABLE FOR [FINANCIALS & SOFTS](#) ROBUSTA COFFEE FUTURES

	TIME	ACTION
Tender Day (excluding last Tender day)	Tender Day	
	By 12:00	<p>All Clearing Members perform position maintenance.</p> <p>Sellers who wish to tender input Delivery Notices via both ECS (or any successor system) and Guardian (or any successor system).</p> <p>On each Business Day during the Tender Period a Seller may input a delivery notification via ECS (or any successor system). Clearing Members submitting a delivery notification to ECS (or any successor system) must also submit via Guardian (or any successor system) the details of the lots to be tendered.</p> <p>Tender notifications may be deleted by Clearing Members.</p> <p>Submission of a delivery notification to ECS (or any successor system) without the corresponding input to Guardian (or any successor system) (or <i>vice versa</i>) will not constitute valid notification of Tender to the Clearing House.</p> <p>Clearing Members must ensure that all settlements and transfers are completed in ECS/<del>PTMS</del> <a href="#">ICE FEC</a> (or any successor system) by the 12:00 deadline.</p>
Allocation	After 12:00	<p>MPFE report available on ECS and MFT informing Buyers of the number of lots allocated.</p> <p>Robusta Coffee allocated to Buyers on a pro rata basis.</p> <p>The following are made available to Buyers via Guardian (or any successor system):</p> <ul style="list-style-type: none"> <li>- invoice report.</li> <li>- delivery details.</li> </ul> <p>The following are made available to Sellers via Guardian (or any successor system):</p> <ul style="list-style-type: none"> <li>- account sale report.</li> <li>- delivery details.</li> </ul>
Cessation of Trading	Last Tender Day	
	At 12:30	The Robusta Coffee delivery month ceases trading.
	By 14:30	<p>All Clearing Members perform position maintenance. Remaining Open Contract Positions automatically become subject to delivery obligations.</p> <p>Sellers submit delivery notices via Guardian (or any successor system).</p> <p>Sellers holding Open Contract Positions must submit via Guardian (or any successor system) the details of the lots to be tendered.</p> <p>Tender notifications may be deleted by Clearing Members.</p>

	TIME	ACTION
		<p>Sellers are not required to give notification via ECS (or any successor system).</p> <p>Clearing Members must ensure that all assignments, settlements and transfers are completed in ECS/<del>PTMS</del> ICE FEC (or any successor system) by the 14:30 deadline. Clearing Members with Open Contract Positions in the expired delivery month are obliged to make or take delivery.</p>
Allocation	After 14:30	<p>The MPFE report is made available on ECS and MFT informing Buyers of the final number of lots allocated.</p> <p>Second allocation of Robusta Coffee to Buyers on a pro rata basis.</p> <p>The following are made available to Sellers via Guardian (or any successor system):</p> <ul style="list-style-type: none"> <li>- account sale report.</li> <li>- delivery details.</li> </ul> <p>The following are made available to Buyers via Guardian (or any successor system):</p> <ul style="list-style-type: none"> <li>- invoice report.</li> <li>- delivery details.</li> </ul>
Payment	Settlement Day 4 <del>days</del> Business Days after the Tender Day (or the next Business Day in the case of a Bank Holiday or a day declared a non-Business Day by ICE Futures Europe)	
	By 09:00	The Clearing House debits Buyers, as detailed on the Invoices
	After 09:00	<p>The Clearing House credits Sellers, as detailed on the Account Sales.</p> <p>The Clearing House transfers the warrants to Buyers via Guardian (or any successor system).</p>
Substitution of Tenders	14 Business Days after Tender Day	
	By 17:00	<p>A Seller may substitute a Tender with the Buyer's prior consent (or in the case of dispute, if ordered to do so by ICE Futures Europe) via Guardian (or any successor system) and Guardian (or any successor system) will notify any changes in pricing resulting from the substitution. A Substitution Invoice or Account Sale is made available to the Buyer and Seller respectively.</p> <p>If the Buyer does not consent to such a substitution, then the Seller remains obliged to make delivery in accordance with the original Tender. If the Seller fails to make delivery against the original Tender then the Seller will be in default in performance.</p>

## PART Q: FINANCIALS &amp; SOFTS WHITE SUGAR CONTRACTS

## 1. DELIVERY SPECIFICATION

## 1.1 Quality

White sugar shall be delivered of an origin and quality as specified in the ICE Futures Europe Rules.

## 1.2 Price

The price at which the white sugar contracts are delivered for a particular delivery month is the Exchange Delivery Settlement Price as calculated by ICE Futures Europe on the Last Trading Day, as defined in the ICE Futures Europe Rules.

## 1.3 Scope

White sugar contracts are for the sale and delivery of white beet or cane crystal sugar or refined sugar, in bags, of any origin of the crop or production current on the first day of the delivery period, conforming to the specifications set out in the ICE Futures Europe Rules. Delivery is permissible on a day in the period between the first day of the delivery month and the last day of the succeeding month.

Delivered white sugar must, inter alia, be free of all liens and claims of any kind.

## 1.4 Cessation of Trading

White sugar delivery months cease trading on the last trading day, as specified in the Contract Terms, which unless specified otherwise in the Market Rules is at ~~18:30~~17:55, sixteen calendar days preceding the first day of the delivery month (or, if not a Business Day, then the first Business Day immediately preceding).

## 1.5 Taking White Sugar “Off the Market”

If Clearing Members opt for alternative delivery procedures, notification must be made via Guardian (or any successor system).



## DELIVERY TIMETABLE FOR FINANCIALS &amp; SOFTS WHITE SUGAR CONTRACTS

	TIME	ACTION
	Last Trading Day	
	At 17:55	The white sugar delivery month ceases trading.
Seller's Notice of Tender	Last Trading Day +1	
	By 10:30	<p>All Clearing Members perform position maintenance.</p> <p>Remaining Open Contract Positions automatically become subject to delivery obligations.</p> <p>Sellers holding Open Contract Positions must deliver a Seller's Notice of Tender via Guardian (or any successor system). Clearing Members are not required to give notification via ECS (or any successor system).</p> <p>Clearing Members must ensure that all assignments, settlements and transfers are completed in ECS (or any successor system) by the 10:30 deadline.</p> <p>Clearing Members with Open Contract Positions in the expired delivery month are obliged to make or take delivery.</p>
First Allocation	After 10:30	<p>MPFE report available on ECS and MFT (or any successor system) which confirms the number of lots taken to delivery.</p> <p>First allocation of white sugar to Buyers on a pro-rata basis by "Port of Loading" and the information is made available via Guardian (or any successor system).</p> <p>Clearing Members are informed of the identity of the Buyers and ports from which delivery will be made via Guardian (or any successor system).</p>
Non-Qualifying Port(s)	By 11:00	Where any Sellers ("Insufficient Sellers") have submitted Seller's Delivery Notification via Guardian (or any successor system) in respect of a port or ports which is/are not Qualifying Port(s) under the ICE Futures Rules ("Non-Qualifying Port(s)"), Insufficient Seller(s) will be notified, as specified under the relevant Contract Terms, that the Tenders should be revised in accordance with the relevant Contract Terms.
Insufficient Sellers	By 13:00	Insufficient Seller(s) deliver, in accordance with the relevant Contract Terms, revised Seller's Delivery Notification via Guardian (or any successor system). If the Insufficient Seller(s) have not delivered the revised Seller's Delivery Notification by 13:00, ICE Futures Europe will determine in accordance with the relevant Contract Terms, the port of loading from which Tenders will be made, and ICE Futures Europe shall notify the Clearing House of such determination by 14:00.
Seller's Delivery Notification	By 14:00	Where Sellers' Delivery Notifications continue to be made in respect of Non-Qualifying Port(s), ICE Futures Europe will determine in accordance with the relevant Contract Terms, the port of loading from

	TIME	ACTION
		<p>which Tenders will be made and shall notify the Clearing House of such determination.</p> <p>ICE Futures Europe shall notify the Insufficient Seller(s) of the port of loading at which their Tender(s) shall take place.</p>
	After 14:00	The Buyers are advised of the identity of the Seller via Guardian (or any successor system).
Last Trading Day +2	Second Business Day following the Last Trading Day	
	By 12:00	With the consent of ICE Futures Europe, Buyers may exchange notices of Tender via Guardian (or any successor system).
Delivery day(s) - 14 Calendar Days	Last Business Day of delivery <u>monthperiod</u> (Settlement Day)	
	By 16:00	<p>Delivery may commence on any day within the delivery period, the Buyer having given fourteen calendar days' notice of the name of the vessel to the Seller via Guardian (or any successor system).</p> <p>Clearing Members should refer to the ICE Futures Europe Rules for further requirements in respect of nomination of vessels for delivery for delay in delivery.</p>
Document Notice Day	20 days after the date of issue of the bill of lading (whether the date of issue is the same or later than the date of completion of loading of the vessel)	
	By 12:00	The Seller must notify document presentations via Guardian (or any successor system). Once the presentation has been processed, the Buyer will be notified via Guardian (or any successor system).
	After 12:00	<p>Buyer informed via Guardian (or any successor system) of next day presentation of documents.</p> <p>Invoices and Account Sales are made available to the Buyers and Sellers respectively via Guardian (or any successor system).</p>
Document Delivery Day/ Settlement Day (Document Notice Day +1)	First Business Day following Document Notice Day	
	By 09:00	The Clearing House receives payment from the Buyer as detailed on the Invoice.
	By 10:00	<p>The Seller must lodge the following delivery documentation:</p> <ul style="list-style-type: none"> <li>(i) a commercial invoice;</li> <li>(ii) a complete set of original signed clean on board bills of lading;</li> <li>(iii) an original certificate of origin; and</li> <li>(iv) an original certificate of weight, packing, quality, (polarisation, moisture and colour), issued by an internationally-recognised independent or state-owned supervision company appointed by the Seller at its own</li> </ul>

	TIME	ACTION
		expense.
	After 11:00	ICE Futures Europe advises the Buyer that documents are available for collection. The Buyer collects the delivery documents from ICE Futures Europe.
	By 14:00	If the Buyer informs ICE Futures Europe via Guardian (or any successor system) by 14.00 that he wishes to reject the documents specified under the relevant Contract Terms, ICE Futures Europe will advise the Clearing House to withhold payment from the Seller. All documents to be returned to ICE Futures Europe at the Buyer's expense by 15:00.
Notification of rejection of documents	After 14:00	ICE Futures Europe shall notify the Seller in the event that the Buyer has rejected the documents, and shall advise the Seller that the original documents shall be held at their disposal at ICE Futures Europe for collection at the Seller's expense after 15:00. If the documents have been rejected, the Clearing House credits back to the Buyer the sum debited earlier.  The Clearing House credits the Seller, unless informed by 14:00 by the Buyer that the documents have been rejected.

## 2. DELIVERY DOCUMENTATION SUMMARY

*Sellers and Buyers should ensure that relevant Delivery Documentation is completed in full, including standard details such as Clearing Member name, mnemonic, etc.*

Name of Delivery Document	Explanation	Timing
Financials & Softs White Sugar Contract: Seller's Notice of Tender	The Clearing House sends the Buyer's Notice of Tender to Buyers.  The notice informs Buying Clearing Members, in respect of each delivery, of the number of lots, the Clearing House reference number(s), country of origin (if known), the port from which delivery will be made and the name of the Seller.	By 10:30 on Last Trading Day +1.
Financials & Softs White Sugar Contract: Seller's Delivery Notification	Sellers submit this notice to the Clearing House.	Last Trading Day +1.
Financials & Softs White Sugar Contract: Invoice and Account Sale	The Clearing House issues invoices (for Buyers) and Account Sales (for Sellers). A separate document is issued for each delivery.	After 12:00 on Document Notice Day.

## PART T: FINANCIALS &amp; SOFTS COMMON DELIVERY PROCEDURES

## 1. COMMON DELIVERY PROCEDURES FOR FINANCIALS &amp; SOFTS CONTRACTS

## 1.1 Allocation Method

For all deliverable bond contracts the following method is used by the Clearing House to allocate stock delivered by Sellers to Buyers:

- (a) Buyers' accounts are listed in mnemonic sequence and numbered sequentially
- (b) a number is chosen at random
- (c) the allocation of the lowest coupon bond commences with the selected mnemonic and progresses through the list referred to in (a) above
- (d) when no further allocation of the lowest coupon bond can be made, the allocation continues with the next lowest coupon bond and so on, until the process is completed with the allocation of the highest coupon bond.

If bonds of equal coupon but with different maturity dates have been nominated then the bond with the earliest maturity will be allocated first.

## 1.2 Clearing Accounts

Pursuant to Part 7 of the Rules, Clearing Members' Proprietary Accounts and Customer Accounts are treated separately for deliveries. Clearing Members must submit separate notifications (*Seller's Delivery Notices*, etc) to the Clearing House for each such account.

## 1.3 Exchange Delivery Settlement Prices (EDSP)

ICE Futures Europe sets an Exchange Delivery Settlement Price for bond deliveries as determined pursuant to the relevant Contract Terms and ICE Futures Europe Rules. This is published on ECS (or any successor system) as soon as possible after it has been set.

## 1.4 Delivery Details for Bond Deliveries

Clearing Members submit and receive these details electronically via Guardian (or any successor system), the content of the electronic message will vary depending on the contract being delivered.

## 1.5 Seller's Delivery Notice

Sellers must submit a Delivery Notice via Guardian (or any successor system). The Seller must provide all relevant information as required by Guardian (or any successor system) and the Clearing House.

## 1.6 Buyer Notifications

Buyers must submit a Buyer Notification via Guardian (or any successor system). The Buyer must provide all relevant information as required by Guardian (or any successor system) and the Clearing House.

## 1.7 Delivery Account Sales for Sellers

The Delivery Account Sale informs Sellers of the details of the invoice amount payable by the Clearing House.

### 1.8 Delivery Invoice for Buyers

The Delivery Invoice informs Buyers of the details of the invoice amount payable to the Clearing House and details of the bonds allocated.

### 1.9 Delivery Instructions for Sellers

The Delivery Instruction provides Sellers with:

- (i) precise instructions to be given to the delivery system; and
- (ii) details of the payment to be received from the Clearing House as advised in the Delivery Account Sale.

### 1.10 Delivery Instructions for Buyers

This Delivery Instruction provides Buyers with:

- (i) precise instructions to be given to the delivery system; and
- (ii) details of the bonds to be transferred from the Clearing House's delivery system.

### 1.11 Delivery Status

Clearing Members must provide the Clearing House with confirmation that relevant delivery statuses have been reached, as defined in these Delivery Procedures, by the appropriate deadline for a Financials & Softs Contract via Guardian (or any successor system). Failure to conform to notification requirements will result in a referral to ICE Futures Europe and potentially to disciplinary action by ICE Futures Europe under the ICE Futures Europe Rules or by the Clearing House under the Rules.

### 1.12 Delivery Invoice/Account Sales for Buyer and Seller Dissemination

Delivery Invoice/Account Sale notices for Buyers and Sellers may be obtained via Guardian (or any successor system).

### 1.13 Delivery Instruction Notices for Buyer and Seller Dissemination

Delivery Instruction notices for Buyers and Sellers may be obtained via Guardian (or any successor system).

### 1.14 Transferors and Transferees

Transferors and Transferees may not be nominated for Financials & Softs Gilt Contracts, Financials & Softs Physically Delivered Equity Futures/Options Contracts, and Financials & Softs Stock Contingent Trades Contracts. Any transfers to Customers or Clearing Members must be arranged for by Clearing Members after their receipt of the relevant gilts or securities, as applicable, and any transfers to Clearing Members from Customers must be arranged with sufficient time to enable the Clearing Member to comply with its delivery obligations.

## PART U: FINANCIALS &amp; SOFTS GILT CONTRACTS

## 1. GILT CONTRACTS

The following applies to each of the Financials & Softs Long, Medium and Short ~~gilt contracts~~ Gilt Contracts. These kinds of Financials & Softs Contract differ only in their maturity dates.

## 1.1 Delivery Mechanism

Financials & Softs gilt contracts must be delivered through the Clearing House's account at [Euroclear UK & Ireland \("CREST"\)](#). The Clearing House CREST account name is ICE Clear Europe Limited.

## 1.2 Delivery Communication and Guardian (or any successor system)

Delivery documentation must be submitted using Guardian (or any successor system). Clearing Members must always ensure they allow sufficient time to connect and transmit their delivery details within the deadlines prescribed in these Delivery Procedures. Failure to do so will result in late delivery and therefore may be subject to disciplinary action by ICE Futures Europe or the Clearing House.

## 1.3 Invoice Value Calculation

The amount due to Sellers and payable by Buyers is calculated in accordance with the relevant Contract Terms (all values in GBP):

Invoice value per lot = (1000 x EDSP x Price Factor) + Initial Accrued + (Daily Accrued x Delivery Days in Month)

## Invoice Calculation Example

EDSP(N)	=	107.41
Prime Factor	=	1.2554334
Initial Accrued	=	1746.58
Daily Accrued	=	17.1233
Delivery Days in Month	=	10
Single lot value =	=	(100 x 107.41 x 1.2554334) + 1746.58 + (17.1233x10)
	=	136,763.914494
Invoice value per lot	=	136,763.91

The Clearing House establishes the invoicing amount by calculating the full value of 1 lot using the formula (i.e. up to 7 decimal places on the price factor and 5 on the EDSP) and rounding to the nearest whole penny (.5 rounded down). This per lot value is then multiplied by the number of lots to establish the total invoice value.

## 1.4 Deliverable Bonds

A Deliverable Bond is a bond which is listed on the final list of deliverable bonds for a delivery month as defined in the relevant Contract Terms. This list is published by ICE Futures Europe and is available to download from Guardian (or any successor system).

## 1.5 Delivery Day Definition

The First and Last Notice Day, and Delivery Days, are defined in the relevant Contract Terms and the ICE Futures Europe Rules.

## 1.6 Delivery Timetable (except for Last Notice Day)

DAY	TIME	ACTION
		Notice Day
Seller's Delivery Notice	By 11:00	<p>Sellers submit Seller's Delivery Notices to the ECS (or any successor system) and Guardian (or any successor system).</p> <p>Deliverable positions are based on Clearing Members' Open Contract Positions at the close of business the previous day. The Open Contract Positions may be transferred or settled to establish the deliverable position.</p> <p>On each Business Day during the notice period, a Seller may input a 'Delivery Notification' and must then, in addition, submit the corresponding Seller's Delivery Notice via Guardian (or any successor system).</p> <p>The input of a delivery notification without the corresponding Seller's Delivery Notice (or <i>vice versa</i>) will not constitute a valid notification.</p> <p>Any notices submitted after this deadline will be treated as being submitted on the following Business Day (if the next Business Day is the Last Notice Day, then the Last Notice Day procedures apply).</p>
	By 11:30	ICE Futures Europe announces the EDSP and this is published on ECS (or any successor system) as soon as possible.
Allocation	By 12:00	<p>Allocation of lots to Buyers.</p> <p>A MPFE report indicating the number of lots allocated to Buyers is made available on ECS (or any successor system).</p>
	By 15:00	<p>Deliverable gilts are allocated to Buyers.</p> <p>The Delivery Invoice and Delivery Account Sale are made available to Sellers and Buyers respectively via Guardian (or any successor system).</p>
		Notice Day +1



DAY	TIME	ACTION
Matching	By 05:00	<p>The following are made available via <del>Guardian</del><u>MFT</u> (or any successor system):</p> <p>(i) <del>Delivery — Instructions</del><u>delivery instructions</u> for Sellers; <del>and</del></p> <p>(ii) <del>Delivery — Instructions</del><u>delivery instructions</u> for Buyers.</p> <p>The instructions as described must be utilised by Clearing Members in order to match the instructions. Clearing Members should endeavour to match at the earliest possible time.</p>
	From 09:00	<p>Clearing Member to commence matching.</p> <p>Details of the Financials &amp; Softs Contracts subject to delivery obligations must be submitted and matched in CREST.</p> <p>All entries must be made <u>by the Clearing Members</u> with the necessary fields completed in order to match with the instruction.</p>
	By 12:30	<p>Sellers and Buyers respectively update delivery status to 'Matched' in CREST.</p> <p>Failure to match contravenes the Clearing House Procedures and applicable Contract Terms.</p> <p>The Clearing House informs ICE Futures Europe of any outstanding matching problems after this time.</p>
	Settlement Day	
Settlement Day (Notice day + 2)	By 13:00	<p>Gilts delivered by Sellers against payment.</p> <p>Gilts received by Buyers against payment.</p>
	First day after Settlement Day	
S + 1		Original <u>Margin</u> and Variation Margin is released.

## 1.7 Last Trading Day (LTD)

*At 11:00*

Trading ceases two Business Days prior to the last Business Day in the delivery month.

## 1.8 Last Notice Day

The Last Notice Day is the Business Day following the Last Trading Day.

## 1.9 Delivery Timetable (Last Notice Day)

DAY	TIME	ACTION
Last Notice Day (the Business Day following the last trading day)	Last Notice Day	
	By 10:00	Sellers holding Open Contract Positions <u>must</u> submit a Seller's Delivery Notice via Guardian (or any successor system). <del>Clearing Members are not required to give notification via ECS (or any successor system).</del> Clearing Members with Open Contract Positions in the Set of the expired delivery month are obliged to make or take delivery.
	By 11:00	A MPFE report indicating the number of lots allocated to Buyers is made available on ECS (or any successor system).
	By 12:00	Allocation of lots and gilts to Buyers. Seller's Delivery Account Sale and Buyer's Delivery Invoice are made available via Guardian (or any successor system).
	By 13:30	Delivery <del>Instructions</del> instructions are made available to Buyers and Sellers via Guardian (or any successor system). Clearing Members should endeavour to match at the earliest time possible. Clearing Member to commence matching.
	By 17:30	Sellers and Buyers update delivery statuses to "Matched" in CREST. The Clearing House informs ICE Futures Europe of any outstanding matching problems after this time.
	Settlement Day	
Settlement Day (Last Notice Day + 1)	By 13:00	Gilts delivered against payment. Gilts received against payment. Settlement day occurs on the second Business Day after the Notice Day. Where the Notice Day is the Last Notice Day, settlement day will be the next Business Day after the Last Notice Day. The Clearing Member must ensure that their CREST priority settings and cap permit their trades to settle before the settlement deadline. Gilts will have passed from the Selling Clearing Member's CREST account to the Clearing House's CREST account and subsequently to the Buying Clearing Member's CREST

DAY	TIME	ACTION
		<p>account on Settlement Day.</p> <p><u>Clearing Members who have failed to deliver (including those whose Customer or Transferor has failed to deliver) must contact the Clearing House to give reasons for the failure and confirm what measures have been taken to facilitate delivery.</u></p>
S + 1	First day after Settlement Day	
		Original Margin and Variation Margin are released.

## 2. FAILED SETTLEMENT AND NON-DELIVERY OF STOCK

If the Seller has not made delivery to the Clearing House of a Deliverable Gilt pursuant to a Contract by the deadline for settlement on the intended settlement day under the Contract Terms or Applicable Laws or the rules or requirements of CREST or any other delivery default occurs, the Clearing House may take whatever action it determines in its discretion to be necessary to result in a delivery of the Gilts to the Buyer, including taking such steps as it determines would be advisable to promote settlement, compliance with the Contract Terms, Applicable Laws or the rules or requirements of CREST. Costs associated with any such steps, including any failed settlement will be charged to the account of the Clearing Member who failed to make delivery.

The Clearing House shall be entitled to take any action at the cost of the party who is responsible for the delivery default, with a view to ensuring that: (i) Gilts are delivered to the Buying Clearing Member; (ii) the settlement instructions relating to the settlement fail are cancelled; (iii) new settlement instructions are entered into CREST for any non-delivered Gilts; and (iv) CREST receives the information necessary to identify such new settlement instructions accordingly. Clearing Members must take all necessary measures to ensure that these steps can take place.

### 2.1 Partialling

If some, but not all, of the Gilts required to be delivered under the Contract are available to the Seller for delivery, the Buying Clearing Member and Selling Clearing Member shall partially settle the initial settlement instruction based on those Gilts which are so available, with related cash payments being determined on a *pro rata* basis. Where the settlement fails in part, the outstanding settlement amounts may be subject to any powers available to the Clearing House in accordance with the above.

PART V: [NOT USED]

PART Z: ~~FINANCIALS & SOFTS~~ EQUITY FUTURES/OPTIONS

## 1. PHYSICALLY DELIVERED EQUITY FUTURES/OPTIONS, AND STOCK CONTINGENT TRADES DELIVERY PROCEDURES

## 1.1 Introduction

For the purposes of these Delivery Procedures any reference to Equity Futures/Options Contracts means the following ~~Financials & Softs~~ Contracts that are physically delivered ~~Contracts~~:

- (i) ~~Single Stock~~ single stock Futures;
- (ii) ~~Individual Equity~~ individual equity Options; and
- (iii) Contracts arising from ICE Block.

## 1.2 Delivery System

Physical deliveries resulting from ~~Financials & Softs~~ Equity Futures/Options Contracts and stock contingent trades are made through ~~CREST for UK and Irish securities;~~

- (i) Euroclear UK & Ireland ("CREST") for UK and Irish securities;
- (ii) Clearstream Banking Frankfurt for German securities;
- (iii) SIX SIS for Swiss securities; ~~the~~
- (iv) Euroclear ~~Group Single Platform~~ France for French ~~and Netherlands~~ securities (~~"ESES") and Euroclear for all other securities;~~
- (v) Euroclear Nederland for Dutch securities; and
- (vi) Euroclear Bank SA/NV for all other securities.

(in each case, the "relevant settlement system").

All deliveries resulting from ~~Financials & Softs Equity Futures/Options~~ Equity Future or Option Contracts must be made gross because netting is not available.

## 1.3 Clearing House Settlement Details

Settlement details for the accounts of the Clearing House to and from which deliveries are to be made in the relevant settlement system will be as notified to Clearing Members by the Clearing House from time to time.

## 1.4 Deliverable Equities

A "deliverable equity" means the equity underlying an Equity Future or Option Contract, published (from time to time) by means of a Circular or by other means determined by ICE Futures Europe.

If an "equity underlying" is subject to a 'corporate event', as defined in paragraph 4 below, the deliverable security may become a combination of shares and entitlements. ~~See Section 4~~ in accordance with the ICE Futures Europe Corporate Action Policy, as amended from time to time, and the relevant Contract Terms. Paragraph 4 contains further information on corporate events.

## 2. PHYSICALLY DELIVERED EQUITY DELIVERY TIMETABLES

## 2.1 Physically Delivered Equity Futures and Options Contracts: Summary Timetable

DAY	TIME	ACTION
Exercise/Expiry day + 1	Day following the Day of Early Exercise or Expiry	
	By 07:00	<p>Summary Clearing Member Stock Deliveries Report (MPSDR) available via ECS or MFT (or any successor <del>system</del><u>systems</u>).</p> <p>Clearing Members must <del>establish their delivery obligations</del><u>check the information on ICE Systems related to the deliveries that are recorded against them</u> by reference to the Clearing Member Stock Deliveries Report (MPSDR) and the MPFE/MPEA reports.</p>
	By 11:30	<p>All settlement instructions submitted to the relevant settlement system: <u>by the Clearing Members</u>.</p> <p>CREST</p> <p>Details of the <del>Contracts subject to</del> delivery obligations resulting from early exercise or expiry of <u>Contracts with UK and/or Irish equities as deliverables</u> must be submitted and matched in CREST <u>by the Clearing Members</u>.</p> <p>All entries must be made <u>by the Clearing Members</u> with the following fields completed (where applicable standard entries are indicated and encapsulated in brackets):</p> <ul style="list-style-type: none"> <li>(a) <del>Intended Settlement Date</del><u>intended settlement date</u>;</li> <li>(b) <del>Transaction Type</del><u>transaction type</u>;</li> <li>(c) <del>Participant</del><u>participant ID</u>;</li> <li>(d) <del>Consideration</del><u>consideration</u>;</li> <li>(e) <del>Payment Type (Central)</del><u>payment type (central)</u>;</li> <li>(f) <del>Cash Movement Type</del><u>cash movement type</u> (set to 'A' to reflect a standard movement between principals);</li> <li>(g) <del>Debit Party Cash</del><u>debit party cash ID</u>;</li> <li>(h) <del>Credit Party Cash</del><u>credit party cash ID</u>;</li> <li>(i) <del>Stock</del><u>stock ISIN</u>;</li> <li>(j) <del>Quantity</del><u>quantity</u>;</li> <li>(k) <del>Debit Party Stock</del><u>debit party stock ID</u>;</li> <li>(l) <del>Credit Party Stock</del><u>credit party stock ID</u>;</li> <li>(m) <del>Trade System of Origin (LIFFE or)</del><u>trade system of origin</u> (ICE Futures Europe, <del>as applicable</del>);</li> </ul>

DAY	TIME	ACTION
		<p>(n) <del>Trade Price;</del><a href="#">trade price;</a></p> <p>(o) <del>Trade Date;</del><a href="#">trade date;</a></p> <p>(p) RO <del>Condition</del><a href="#">condition</a> (result of option)<del>(</del> for <del>Equity</del><a href="#">equity</a> Options only);</p> <p>(q) <del>Agent/Principal Indicator</del><a href="#">agent/principal indicator</a> ('S' for a principal sale and 'P' for a principal purchase); and</p> <p>(r) <del>Special Condition (Special</del><a href="#">special condition</a> (<a href="#">special</a> cum condition should only be entered in the event of a corporate action).</p> <p>Clearing Members should note that CREST requires perfect matching <a href="#">of entries in the above fields</a> and does not provide for <a href="#">any error</a> tolerance. Clearing Members should also note that a Nationality Declaration is required for certain securities, <a href="#">see as detailed further in the</a> CREST manual.</p> <p>Euroclear <a href="#">Bank SA/NV</a></p> <p>Details of the <del>Contracts subject to</del> delivery obligations resulting from <del>Physically Delivered</del> Equity Futures or Options Contracts in all stocks with the exception of UK, Irish, French, German, Dutch and Swiss equities must be submitted and matched <a href="#">by Clearing Members</a> in Euroclear <a href="#">Bank SA/NV</a>.</p> <p>France</p> <p>Details of the delivery <del>contracts</del><a href="#">obligations</a> resulting from <del>Physically Delivered</del> Equity Futures or Options Contracts in all French stocks must be submitted and matched <del>in ESES</del><a href="#">by Clearing Members in Euroclear France</a>.</p> <p>Germany</p> <p>Details of the delivery <del>contracts</del><a href="#">obligations</a> resulting from Physically Delivered Equity Futures or Options Contracts in all German stocks must be submitted and matched <a href="#">by Clearing Members</a> in Clearstream <a href="#">Banking</a> Frankfurt.</p> <p>Netherlands</p> <p>Details of the delivery <del>contracts</del><a href="#">obligations</a> resulting from Physically Delivered Equity Futures or Options Contracts in all Dutch stocks must be submitted and matched <del>in ESES</del><a href="#">by Clearing Members in Euroclear Nederland</a>.</p> <p>Switzerland</p> <p>Details of the delivery <del>contracts</del><a href="#">obligations</a> resulting from <del>Physically Delivered</del> Equity Futures or Options Contracts in all Swiss stocks must be submitted and matched <a href="#">by Clearing Members</a> in SIX SIS.</p>
		Clearing Members must have successfully matched all



DAY	TIME	ACTION
		<p><del>trades</del> <u>delivery transactions</u> with the Clearing House in the relevant settlement system by the times set out in these Delivery Procedures. All matched <del>trades are</del> <u>delivery transactions will</u> then <u>become</u> available for settlement in the relevant settlement system.</p> <p>It is the responsibility of the Clearing Member to contact the Clearing House and <del>agree any amendments required to achieve</del> <u>notify any issues with</u> matched <del>status</del> <u>transactions</u>.</p> <p>All amendments required to achieve matching must have been submitted <u>by the Clearing Members to the relevant settlement system</u> prior to the end of the day. <u>In the absence of any amendments being agreed to by the Clearing House and processed, the details recorded by the Clearing House will continue to apply.</u></p>
	Intended Settlement day	
	One hour prior to the close of delivery versus payment (DVP) equity settlement in the relevant settlement system.	<p>Transfer of shares from the Selling Clearing Member to the Clearing House complete.</p> <p>Clearing Members who have failed to deliver <u>(including those whose Customer or Transferor has failed to deliver)</u> must contact the Clearing House to give reasons for the failure and confirm what measures have been taken to facilitate delivery. <del>Clearing Members are reminded they are responsible for the timely settlement of Financials &amp; Softs Contracts subject to delivery obligations.</del></p> <p>The Clearing House will onward deliver <u>securities</u> to Buying Clearing Members <u>through the relevant settlement system</u> as soon as reasonably practicable following receipt from Selling Clearing Members: <u>through the relevant settlement system.</u></p> <p>The Clearing House releases Original <u>Margin</u> and non-realised Variation Margin for settled instructions.</p>

## 2.2 Stock Contingent Trading Delivery: Summary Timetable

DAY	TIME	ACTION
	Business Day following the Day of Trade	
Trade day + 1	By 05:00	All trades submitted to relevant settlement system.
	By 07:00	<p>Clearing Member Stock Contingent Trade Report (MTSCT) available via ECS or MFT (or any successor <del>system</del> <u>systems</u>).</p> <p>Clearing Members must <del>establish their delivery</del></p>

DAY	TIME	ACTION
		<p><del>obligations</del> <a href="#">check the information on ICE Systems related to the deliveries that are recorded against them</a> by reference to the Clearing Member Stock Contingent Trade Report (MTSCT) and Stock Deliveries Report (MPSDR).</p>
	By 11:30	<p>Details of the <del>Financials &amp; Softs</del> <a href="#">Equity</a> Contracts subject to delivery obligations resulting from stock contingent trades in all UK and Irish equities must be submitted and matched in CREST <a href="#">by the Clearing Members</a>.</p> <p>The reporting of stock contingent trades to the Clearing House will automatically generate the Clearing House's entries into CREST. The Clearing <del>Member</del> <a href="#">Members</a> will enter their trade details into CREST against the Clearing House's participant ID.</p> <p>All entries must be made <a href="#">by the Clearing Members</a> with the following fields completed:</p> <p>Where applicable standard entries are indicated and encapsulated in brackets.</p> <p>(a) <del>Intended Settlement Date</del> <a href="#">intended settlement date</a>;</p> <p>(b) <del>Transaction Type</del> <a href="#">transaction type</a>;</p> <p>(c) <del>Participant Id</del> <a href="#">participant ID</a>;</p> <p>(d) <del>Consideration</del> <a href="#">consideration</a>;</p> <p>(e) <del>Payment Type (Central)</del> <a href="#">payment type (central)</a>;</p> <p>(f) <del>Cash Movement Type</del> <a href="#">cash movement type</a> (set to 'A' to reflect a standard movement between principals);</p> <p>(g) <del>Debit Party Cash</del> <a href="#">debit party cash ID</a>;</p> <p>(h) <del>Credit Party Cash</del> <a href="#">credit party cash ID</a>;</p> <p>(i) <del>Stock</del> <a href="#">stock ISIN</a>;</p> <p>(j) <del>Quantity</del> <a href="#">quantity</a>;</p> <p>(k) <del>Debit Party Stock</del> <a href="#">debit party stock ID</a>;</p> <p>(l) <del>Credit Party Stock</del> <a href="#">credit party stock ID</a>;</p> <p>(m) <del>Trade System of Origin (LIFFE or</del> <a href="#">trade system of origin</a> (ICE Futures Europe, <del>as applicable</del>);</p> <p>(n) <del>Trade Price</del> <a href="#">trade price</a>;</p> <p>(o) <del>Trade Date</del> <a href="#">trade date</a>;</p> <p>(p) <del>Agent/Principal Indicator</del> <a href="#">agent/principal indicator</a> ('S' for a principal sale and 'P' for a principal purchase); <del>and</del></p> <p>(r) <del>Special Condition (Special</del> <a href="#">special condition</a> (<a href="#">special</a> cum condition should only be entered in</p>

DAY	TIME	ACTION
		<p>the event of a corporate action).</p> <p>Euroclear <a href="#">Bank SA/NV</a></p> <p>Details of the delivery <del>contract</del><a href="#">obligations</a> resulting from stock contingent trades in all stocks with the exception of UK <del>and</del> <a href="#">Irish equities</a>, French, German, Dutch <del>&amp;</del><a href="#">and</a> Swiss <a href="#">equities</a> must be submitted and matched <a href="#">by Clearing Members</a> in Euroclear <a href="#">Bank SA/NV</a>.</p> <p>France</p> <p>Details of the delivery <del>contract</del><a href="#">obligations</a> resulting from stock contingent trades in all French stocks must be submitted and matched <del>in ESES</del><a href="#">by Clearing Members in Euroclear France</a>.</p> <p>Germany</p> <p>Details of the delivery <del>contract</del><a href="#">obligations</a> resulting from stock contingent trades in all German stocks must be submitted and matched <a href="#">by Clearing Members</a> in Clearstream <a href="#">Banking Frankfurt</a>.</p> <p>Netherlands</p> <p>Details of the delivery <del>contract</del><a href="#">obligations</a> resulting from stock contingent trades in all Dutch stocks must be submitted and matched <del>in ESES</del><a href="#">by Clearing Members in Euroclear Nederland</a>.</p> <p>Switzerland</p> <p>Details of the delivery <del>contract</del><a href="#">obligations</a> resulting from stock contingent trades in all Swiss stocks must be submitted and matched <a href="#">by Clearing Members</a> in SIX SIS.</p>
	By 16:00	<p>Clearing Members that require the allocation of a stock contingent trade to be changed must submit an Allocation Change Request form. <del>The form must be</del><a href="#">Clearing Members must ensure that the form is</a> completed in full by the members of ICE Futures Europe who <del>executed</del><a href="#">entered into</a> the trade on ICE Futures Europe, <del>as applicable</del> (each, an “Originating Member”) and the relevant receiving members <a href="#">of ICE Futures Europe</a> and communicated to the Clearing House by no later than the 16:00 deadline. <a href="#">Where the Clearing Member was not the ICE Futures Europe member but clears for the ICE Futures Europe member, the Clearing Member will be responsible for ensuring and procuring that the Exchange members it clears for complete the relevant forms on time.</a></p>
		<p>Clearing Members must have successfully matched all trades with the Clearing House <del>in</del><a href="#">within</a> the relevant settlement system by the times set out in these Delivery Procedures. All matched trades <del>are</del><a href="#">will</a> then <a href="#">become</a></p>

DAY	TIME	ACTION
		<p>available for settlement in the relevant settlement system.</p> <p>It is the responsibility of the Clearing Member to contact the Clearing House and <del>agree any amendments required to achieve</del><u>notify any issues with</u> matched <del>status</del><u>transactions</u>.</p> <p>All amendments required to achieve matching must have been submitted <u>by the Clearing Members to the relevant settlement system</u> prior to the end of the day. <u>In the absence of any amendments being agreed to by the Clearing House and processed, the details recorded by the Clearing House will continue to apply.</u></p>
		Intended Settlement day
	One hour prior to the close of delivery versus payment (DVP) equity settlement in the relevant settlement system	<p>Transfer of shares from the Selling Clearing Member to the Clearing House complete.</p> <p>Clearing Members who have failed to deliver <u>(including those whose Customer or Transferor has failed to deliver)</u> must contact the Clearing House giving reasons for the failure and confirming what measures have been taken to facilitate delivery. <del>Clearing Members are reminded they are responsible for the timely settlement of Financials &amp; Softs Contracts subject to delivery obligations.</del></p> <p>The Clearing House will onward deliver to Buying Clearing Members <u>through the relevant settlement system</u> as soon as reasonably practicable following receipt from Selling Clearing Members: <u>through the relevant settlement system.</u></p> <p>The Clearing House releases Original <u>Margin</u> and non-realised Variation Margin for settled instructions.</p>

## 2.3 Partialling

### (a) Automatic partialling

~~It is a~~The Selling Clearing ~~Member's obligation to ensure~~Member shall be responsible for ensuring full delivery of all securities to the Clearing House through the relevant settlement system. When the Clearing House as Buyer does not receive delivery of all the securities to satisfy its position under a Contract, then the Clearing House may not have sufficient securities to completely fulfil its own delivery obligations. ~~This~~ towards Buyers that are Clearing Members.

It is the responsibility of the Buying Clearing Member to ensure that any onward partial delivery is accepted. In the event that a Buying Clearing Member fails or omits to comply with these provisions or settlement instructions are not cancelled and rematched as per the Clearing House's instruction, the Clearing House may charge that Buying Clearing Member and the Buying Clearing Member shall pay any costs incurred by the Clearing House as a result of such failure or omission.

Failure to complete a full delivery of securities under a Contract can result in the Clearing House holding an amount of securities that it cannot pass on or holding insufficient securities to pass on to the Buyer.

If the ~~Clearing House's holding is~~ securities delivered are insufficient to fulfil a larger delivery obligation ~~then, in order to reduce the risk associated with corporate actions and costs~~ under a related Contract, the Clearing House may split the fulfilment of that obligation into multiple deliveries and notify the Buyers and Seller of the relevant details accordingly. The Clearing House may use an auto-splitting service offered by a relevant settlement system where such service is available and suitable to its needs.

(b) Manual partialling

Notwithstanding the ~~above~~ automatic process described in paragraph 2.3(a), the Clearing House may in its discretion decide to accept a partial delivery or a request to do so, provided that the following criteria are fulfilled:

- (i) the partial delivery to the Clearing House enables the Clearing House to fulfil ~~any~~ one or more onward delivery obligations in full and does not result in the Clearing House being in such a position that it cannot deliver the full amount for any onward delivery obligation; and
- (ii) the Clearing House receives the request via e mail followed by a telephone call from the Selling Clearing Member concerned *by 11:00 (London time)* on the intended settlement date. Any requests received after this time will be reviewed by the Clearing House on a reasonable endeavours basis.

If, in the event that the Clearing House decides in its discretion to accept such request from a Seller, manual partialling may require the Clearing Member to rematch, ~~and~~ the Clearing House will advise its Clearing Members and will seek to agree the relevant amended details. Both affected Clearing Members will then be required to match the Clearing House's cancellation and rematch the subsequent new instructions as per the Clearing House's advice. Where partialling is possible at a relevant settlement system, Clearing Members must match by the relevant ~~Market~~ settlement system's deadlines and any imposed by ICE Futures Europe to ensure settlement. ~~Any costs incurred due to failure to instruct prior to the deadline after agreeing previously to do so, will be passed onto the relevant Clearing Member. Partialling shall be conducted;~~

- (iii) ~~(A)~~ where it can be initiated unilaterally in a relevant settlement system; or
- (iv) ~~(B)~~ where bilateral instructions are required, by prior agreement with the Clearing House.

Any costs incurred due to failure to instruct prior to the deadline after agreeing previously to do so, will be passed onto the relevant Clearing Member.

~~In the event that the~~ The Clearing House ~~decides~~ shall be entitled in its ~~absolute~~ discretion not to accept any partial delivery or request to do so. If it so rejects a partial delivery, it shall be under no obligation to provide any reason for such decision.

If the Clearing House decides to accept a request for a partial delivery then it ~~shall~~ will use its reasonable endeavours to advise the Selling Clearing Member and agree the cancellations and rematch that are required in order to do so on the day to make such partial delivery.

~~It is the responsibility of the Buying Clearing Member to ensure that any onward partial delivery is accepted.~~ In the event that the Clearing House makes any such request, the Buying Clearing Member

shall ~~to~~ match to the Clearing House's cancellation and rematch the subsequent new instructions as per the Clearing House's advice.

In the event that a Buying Clearing Member fails or omits to comply with these provisions or settlement instructions are not cancelled and rematched as per the Clearing House's ~~advice~~instruction, the Clearing House may charge that Buying Clearing Member and the Buying Clearing Member shall pay any costs incurred by the Clearing House as a result of such failure or omission. Such costs will be debited from the Clearing Member's relevant account.

#### 2.4 Daylight Indicator

The Clearing House may in its discretion decide to accept, or not to accept, any request for daylight settlement.

It is a Selling Clearing Member's obligation to ensure full delivery to the Clearing House, into its accounts at relevant settlement system, of all securities that are Deliverables under Contracts. If, to ensure settlement on intended settlement date, the use of a ~~Daylight Settlement~~daylight settlement period is necessary, a Selling Clearing Member must contact the Clearing House at the earliest opportunity to request ~~Daylight Settlement~~daylight settlement. The Clearing House will use its reasonable endeavours to ensure that Clearing House's and Buying Clearing Members' relevant transactions are marked with a ~~Daylight Indicator~~daylight indicator so that settlement can occur during ~~Daylight Settlement~~daylight settlement. In the event that a Clearing Member fails to settle during ~~Daylight Settlement~~daylight settlement, the Clearing House may charge for any losses and expenses incurred as a result of ~~non settlement. Such losses and expenses will be debited via the Clearing Member's relevant account.~~non-settlement.

~~In the event that the Clearing House decides in its discretion not to accept any request for Daylight Settlement, it shall be under no obligation to provide any reason for such decision.~~

#### 2.5 Tolerance Matching

Although Euroclear applies tolerance matching to internal instructions, Clearing Members must ensure that details of the Clearing House's settlement amount ~~is~~specified in Euroclear are perfectly matched in accordance with the relevant Contract Terms. In the event that a Seller fails perfectly to match details of the Clearing House's settlement amount, any tolerance applied will be debited from the Selling Clearing Member. Such funds should be paid to the Clearing House as a "cash only" delivery through Euroclear in accordance with Clearing House instructions. In the event that a Clearing Member fails or omits to match the Clearing House's instruction, the Clearing House will debit the relevant funds through the relevant account of the Clearing Member.

### 3. FAILED SETTLEMENTS AND NON-DELIVERY OF STOCK

Under the relevant Contract Terms, failure to comply with the Clearing House's instructions will constitute a delivery default by the Clearing Member. If the Seller has not made delivery to the Clearing House ~~by close of~~ an equity Deliverable pursuant to a Contract by the deadline for settlement on the intended settlement day under the Contract Terms or Applicable Laws or the rules or requirements of the relevant settlement system or any other delivery default occurs, the Clearing House ~~shall~~may take whatever action ~~is appropriate in keeping with its obligation to deliver~~it determines in its discretion to be necessary to result in a delivery of the securities to the Buyer ~~in accordance with the relevant Contract Terms, including exercising a buy-in or taking such other steps as it determines would be advisable to promote settlement discipline or compliance with the Contract Terms, Applicable Laws, or the rules or requirements of the relevant settlement system. Costs associated with any such steps, including any failed settlement or buy-in will be charged to the account of the Clearing Member who failed to make the delivery.~~

The Clearing House shall be entitled to take any action at the cost of the party who is responsible for the delivery default, with a view to ensuring that: (i) securities are delivered to the Buying Clearing Member; (ii) the settlement instructions relating to the settlement fail are cancelled; (iii) new settlement instructions are entered into the relevant settlement system for any non-delivered securities; and (iv) the relevant settlement system receives the information necessary to identify such new settlement instructions accordingly. Clearing Members must take all necessary measures to ensure that these steps take place.

### 3.1 Buying In Summary Timetable

The following Buying In Summary Timetable is subject to the Clearing House's right to instigate Early Buy In in accordance with paragraph 3.2 of this Part Z.

	TIME	ACTION
Failure to make delivery/payment	Intended Settlement Day + 1 or as soon as reasonably practical	
	<p><del>Post</del><u>After</u> the close of DVP Equity Settlement in the relevant settlement system.</p>	<p>As soon as reasonably <del>practical</del><u>practicable</u>, the Clearing House will contact Clearing Members who have failed to deliver to ascertain the reason for non-delivery.</p> <p>The Clearing House will request for Clearing Members to make the <del>share</del>-transfer immediately within the settlement timetable as dictated by the relevant settlement system.</p> <p>If this is not achieved, the Clearing House may take steps to acquire shares to fulfil its obligation to make delivery to the Buying Clearing Member by instigating Buying In.</p>
Satisfaction of delivery obligations	Settlement Day plus 2	
	By the close of DVP Equity Settlement in the relevant settlement system	<p>Clearing Members <u>shall</u> inform the Clearing House <del>that a if</del> <u>their</u> delivery obligation has been met. Failure to do so may result in the purchase of unwanted shares.</p> <p>The Clearing House will inform Clearing Members of any Buying In instructions issued.</p>
"Buying In"	Settlement Day plus 4	
	At any time prior to settlement or on Settlement Day plus 4 if the Clearing House considers that a settlement failure has or is likely to occur.	<p><del>In its discretion, the Clearing House may instigate buy-in procedures. In such circumstances</del><u>Upon receipt of notification that buy-in will be attempted</u>, Clearing Members must delete the original bargain and match the deletion with the Clearing House in the relevant settlement system.</p> <p>In the event that the Clearing House <del>'buys in'</del><u>administers a buy-in</u>, the Clearing House will <del>deal</del><u>seek to arrange</u> for the earliest possible settlement. Clearing Members will be advised of the <del>Buying In</del><u>buy-in</u> details <u>once buy-in is completed in whole or in part</u>. Associated costs will be for the account of the defaulting Clearing Member and will be debited via the relevant Clearing Member's account.</p>



	TIME	ACTION
		<p>Where the Clearing House is unable to 'buy in' by this day, an amount shall be paid to the Buying Clearing Member based on the value of the shares to be delivered on the intended settlement date plus an amount for losses incurred by the Buying Clearing Member as a result of a settlement failure. The amount will be determined by the Clearing House at its discretion. Associated costs will be for the account of the defaulting Clearing Member and will be debited via the relevant Clearing Member's account.</p> <p>For the purposes of Euroclear and where settlement occurs in markets using a local relevant settlement system, the close of Equity Settlement will be the close of Daylight settlement on the Settlement Day.</p>
	Settlement Day plus 6 <sup>1</sup> (or earlier, if possible)	
Settlement	By the close of DVP Equity Settlement in the relevant settlement system	Settlement effected.

### 3.2 Early Buy-In

Notwithstanding the Buying In Summary Timetable above, the Clearing House may, in its discretion, issue Buying In instructions at any time following a failed delivery on the Intended Settlement Day ("Early Buy In"). In the event that the Clearing House instigates Early Buy In, Clearing Members will be advised of the Buying In details including the timetable for settlement.

Without limiting the Clearing House's discretion in this regard, Clearing Members are advised that generally the Clearing House is only likely to instigate Early Buy In when there has been an Event of Default or Force Majeure Event or there are circumstances that would, in the Clearing House's opinion, otherwise be likely to prevent the Clearing Member making the share transfer immediately within the settlement timetable as dictated by the relevant settlement system.

### 3.3 Daily Payments for Failed Settlements

From the Intended Settlement Day + 1, the Clearing House is entitled to charge Clearing Members that have failed to make settlement a daily charge for each ~~day~~ Business Day that the failure continues, until the day the Clearing House 'buys in', instigates Early Buy In or, in the event that the Clearing House is unable to 'buy in', the day the amount is paid to the Buying Clearing Member based on the value of the shares to be delivered at the delivery date plus an amount for losses incurred by the Buying Clearing Member as a result of a settlement failure.

<sup>1</sup>~~Or the earliest possible day if not Settlement Day plus 6.~~

### 3.4 Margining of Failed Settlements

All ~~physically delivered~~ Equity Futures/Options Contracts going ~~in~~ to delivery are placed within ECS ~~(or any successor system)~~ in a pending delivery position at the ~~option strike or delivery price~~ Strike Price (for Options) or Exchange Delivery Settlement Price (for Futures). They are held there until Settlement Day. During this period, they are subject to Original Margin and contingent Margin.

In the event of a failed delivery on the settlement day the ~~contracts~~ Buyer and Seller will continue to be liable for Margin until the delivery obligation has been satisfied. ~~Margin is calculated independently by ECS (or any successor system).~~

## 4. CORPORATE EVENTS

### 4.1 The Clearing House shall not be responsible for any act with regard to any corporate event relating to any underlying or Deliverable of any ~~Financials & Softs~~ Equity Futures ~~or~~ / Options ~~Contract~~ Contracts, or stock contingent ~~contract~~ trade other than set out below.

For the purposes of these Delivery Procedures, the term 'corporate event' is used to refer to (i) cash claims in relation to an underlying Equity Futures/Option Contract or stock contingent ~~contract~~ trade (for example a dividend payment or distribution, a cash obligation arising from a fractional entitlement, or, in the event that the underlying is subject to a takeover, the right to cash in lieu of the relevant underlying) (a "Cash Claim"); (ii) the issuance of Deliverables and/or Investments (e.g. warrants or rights to shares) by way of a share or rights issue to a shareholder (a "Distribution"); or (iii) a transformation of the underlying (for example pursuant to a corporate reorganisation, de-listing, merger, de-merger or a buy-out) (a "Transformation").

Any amendments to an Equity Futures/Options Contract or stock contingent ~~contract~~ trade or the equity underlying in relation thereto arising as a result of a corporate event where the relevant record or reference date and time occurs prior to the exercise or expiry of such contract shall be determined in accordance with the ICE Futures Europe Corporate Actions Policy.

Any amendments to an Equity Futures/Options Contract or stock contingent ~~contract~~ trade or the equity underlying in relation thereto arising as a result of a corporate event where the relevant record or reference date or time is on or after the exercise or expiry of such contract shall be determined in accordance with these Delivery Procedures.

While the Clearing House will use reasonable efforts to carry out the steps set out below, it shall have no liability for any loss or damage arising out of or connected with any action or inaction on its part or on its behalf in connection with any corporate event.

The Clearing House shall not be obliged to provide or forward any information, or deliver any notice, document or instruction received by it, or of which it is aware, relating to or in connection with any corporate event, to any Clearing Member.

In the event that a Clearing Member fails to take delivery of a Deliverable by the final date for delivery of such Deliverable, due to insufficient funds, failure to match, by not allowing transactions to settle because of priority settings or for any other reason, the Clearing House may charge to that Clearing Member any costs incurred by the Clearing House or of which it is aware as a result thereof. Such charges will be debited from the Clearing Member's relevant Account.

Although Clearing Members are not permitted to delete claims in the relevant settlement system, the Clearing House may, in its discretion at any time, agree with a Clearing Member to give effect to a corporate event claim processed outside the relevant settlement system. In such circumstances, and always subject to the Clearing House's prior approval, the Clearing Member concerned may, in accordance with the Clearing House's instructions, thereafter delete the claim within the relevant settlement system and the Clearing House will seek to facilitate settlement through the Clearing

House's systems. Without limiting the Clearing House's discretion in this regard, Clearing Members are advised that generally this is only likely to occur when there are, in the Clearing House's opinion, circumstances that would be likely to prevent settlement in the relevant settlement system.

#### 4.2 Elective Corporate Events

Neither the Clearing House nor any Selling Clearing Member is under any obligation to accept any instructions from a Buying Clearing Member in relation to any corporate event requiring an election to be made, where such election would occur after the expiry or exercise date but prior to the date of settlement, unless the Buying Clearing Member notifies the Clearing House of a request to make an election prior to any deadlines stated within these procedures, or by any other means by the Clearing House. For securities settling through Euroclear UK & Ireland (CREST), Buying Clearing Members must submit election notices directly via the CREST ACON process. Buyer election notices will not be accepted by the Clearing House for events which are not supported by the CREST ACON process. Therefore, any affected failing transactions will automatically receive the default option.

Buyer election notices should be submitted to the Clearing House by 11 a.m. on the day before the relevant deadline set by the relevant issuer of the Deliverable for such election (or such other deadline as the Clearing House may specify). If the Clearing House receives a valid and timely request from a Buying Clearing Member to make an election, it shall promptly notify the Selling Clearing Member of the request and the Selling Clearing Member and Buying Clearing Member shall, upon receipt of the request by the Selling Clearing Member, simultaneously become bound by the effects of the request. Buying Clearing Member election notices must be submitted to the Clearing House in writing, and will not be deemed to have been accepted by the Clearing House unless and until confirmed so by the Clearing House. It is the responsibility of the Buying Clearing Member to ensure receipt of the election notice by the Clearing House. The corresponding notification to the Selling Clearing Member by the Clearing House may be made after the Buyer election deadline stated above, but in any case, as soon as reasonably possible. Upon receipt of an election notification from the Clearing House, the Selling Clearing Member must act upon that notification accordingly, and reduce settlement priority of the relevant unsettled transaction(s) to zero.

Where no instructions are received by the Clearing House by 11 a.m. on the day before the relevant deadline, the Selling Clearing Member shall allow the elective corporate event to default to the 'default option' for elections, as directed by the relevant settlement system. The Selling Clearing Member and Buying Clearing Member shall simultaneously become bound by the default option election.

Where a Selling Clearing Member does not act in accordance with an election relating to a Deliverable and/or an Investment made pursuant to the Contract Terms (including pursuant to any instructions made by the Clearing House in accordance with this paragraph 4.2), that Selling Clearing Member will be responsible for reimbursing the Clearing House for any costs, expenses and other losses suffered by the Clearing House or Buying Clearing Member in connection with or as a result of that failure or omission.

Where a Buying Clearing Member provides the Clearing House with a request for instructions in relation to an election after 11 a.m. on the day before the relevant deadline set by the relevant Issuer for such election, such claim shall be treated as invalid by the Clearing House and neither the Clearing House nor the Selling Clearing Member shall be under any obligation whatsoever to effect settlement on the basis of such election.

#### 4.3 Cash Claims

Subject to paragraphs 4.1 and 4.2, where a corporate event giving rise to a Cash Claim occurs where the relevant record or reference date is after the expiry or exercise date of the relevant EquityFutures/Options Contract or stock contingent ~~contract~~trade, the Buying Clearing Member shall be

entitled, in addition to delivery of the Deliverable (if applicable), to such Cash Claim, and the Clearing House and (if applicable) the Selling Clearing Member shall be obliged to effect settlement of such Equity Futures/Options Contract or stock contingent ~~contract~~trade taking into account such Cash Claim.

Subject to paragraphs 4.1 and 4.2, in the event of a failure of settlement, a Buying Clearing Member's rights in respect of reimbursement or settlement shall be calculated to include the Cash Claim (or may, consist entirely of the Cash Claim, as the case may be).

All such Cash Claim amounts should be settled on their intended settlement date in accordance with the relevant settlement system rules and procedures. If the Selling Clearing Member receives the proceeds of a Cash Claim, the relevant amount shall be transferred by it to the Clearing House in accordance with the Finance Procedures. If the Clearing House receives the proceeds of a Cash Claim or an amount in respect thereof from a Selling Clearing Member, the relevant amount shall be transferred by it to the Buying Clearing Member in accordance with the Finance Procedures.

Where Cash Claims are not settled in accordance with the procedures of the relevant settlement system, the Clearing House compensates Cash Claims on a net of tax basis, in accordance with Part 3 of the Rules and the Finance Procedures. The cash compensation is not itself a dividend payment and the Clearing House does not provide tax vouchers or certificates in respect of dividends. The Clearing House does not reclaim Tax on a Clearing Member's behalf. If a Clearing Member is entitled to receive Tax benefit, then it will need itself to deal directly with the relevant Tax authority.

If the Clearing House incurs any liability to pay any Tax (which may include stamp duty, income tax, withholding tax or corporation tax) in respect of the cash compensation then it will require reimbursement in respect of such Tax liability and any costs and other expenses incurred in relation thereto, from the Clearing Member who is or was party to the Contract concerned in accordance with Part 3. The Clearing House will debit such amounts from the relevant account of that Clearing Member.

#### 4.4 Distributions

Subject to paragraphs 4.1 and 4.2, where a corporate event giving rise to a Distribution occurs where the relevant record or reference date is after the expiry or exercise date of the relevant Equity Futures/Options Contract or stock contingent ~~contract~~trade, the Buying Clearing Member shall be entitled, in addition to delivery of the Deliverable, to such Distribution and the Clearing House and (if applicable) the Selling Clearing Member shall be obliged to effect settlement of such Equity Futures/Options Contract or stock contingent ~~contract~~trade taking into account such Distribution (including, for the avoidance of doubt, any rights or warrants under a rights issue or any other rights in relation to an equity underlying except for Cash Claims or Transformations).

Subject to paragraphs 4.1 and 4.2, in the event of a failure of settlement, a Buying Clearing Member's rights in respect of reimbursement or settlement shall be calculated to include such Distribution.

All such claims in respect of Distributions should be settled on their intended settlement date in accordance with the relevant settlement system rules and procedures. If the Selling Clearing Member receives the Distribution, it shall transfer such Distribution to the Clearing House as soon as reasonably practicable following receipt, through the same settlement system as that in which the relevant Deliverable and/or Investment is settled. If the Clearing House receives the Distribution from a Selling Clearing Member, it shall transfer such Distribution to the Buying Clearing Member as soon as reasonably practicable following receipt, through the same settlement system as that in which the relevant Deliverable and/or Investment is settled.

Where Distributions are not settled in accordance with the procedures of the relevant settlement system, the Clearing House compensates Distributions on a net of tax basis, in accordance with Part 3 of the Rules. The cash compensation is not itself a dividend payment and the Clearing House does not

provide tax vouchers or certificates in respect of dividends. The Clearing House does not reclaim Tax on a Clearing Member's behalf. If a Clearing Member is entitled to receive Tax benefit, then it will need itself to deal directly with the relevant Tax authority.

If the Clearing House incurs any liability to pay any Tax (which may include stamp duty, income tax, withholding tax or corporation tax) in respect of the cash compensation then it will require reimbursement in respect of such Tax liability and any costs and other expenses incurred in relation thereto, from the Clearing Member who is or was party to Contract concerned in accordance with Part 3. The Clearing House will debit such amounts from the relevant account of that Clearing Member.

#### 4.5 Transformations

Subject to paragraphs 4.1 and 4.2, where a corporate event giving rise to a Transformation occurs where the relevant record or reference date is after the expiry or exercise date of the relevant Equity Futures/Options Contract or stock contingent ~~contract~~trade, the Buying Clearing Member shall be entitled, in addition to the delivery of the relevant Deliverable (if applicable), to such Deliverable and/or Investment to which it would be entitled to pursuant to a Transformation if it were the owner of record of the relevant Deliverable at the relevant record or reference date, and the Clearing House and (if applicable) the Selling Clearing Member (subject to below) shall be obliged to effect settlement of such Equity Futures/Options Contract or stock contingent ~~contract~~trade upon the basis of such Transformation.

A Selling Clearing Member may only deliver the original equity underlying provided that the delivery occurs prior to the Last Time for Delivery. The Last Time for Delivery is the close of delivery versus payment equity settlement in the relevant settlement system, one relevant settlement system ~~business day~~Business Day prior to the call payment or registration date. Thereafter, such a Selling Clearing Member must deliver the new equity underlying. In the event that the original equity underlying continues to exist, a Selling Clearing Member delivers the original equity underlying, and the Buying Clearing Member declines to accept delivery of such original equity underlying, then the Clearing House will return the original equity underlying to the Selling Clearing Member and the Selling Clearing Member shall be obliged to deliver to the Clearing House the new equity underlying in accordance with such directions as may be given by the Clearing House.

Subject to paragraphs 4.1 and 4.2, in the event of a failure of settlement, a Buying Clearing Member's rights in respect of reimbursement or settlement shall be calculated upon the basis of such Transformation.

All such claims in respect of Transformations should be settled on their intended settlement date in accordance with the relevant settlement system rules and procedures. If the Selling Clearing Member receives Deliverables and/or Investments pursuant to a Transformation, the relevant Deliverables and/or Investments shall be transferred by it to the Clearing House as soon as reasonably practicable following receipt, through the same settlement system as that in which the relevant Deliverable and/or Investment is settled. If the Clearing House receives Deliverables and/or Investments pursuant to a Transformation from a Selling Clearing Member, the relevant Deliverables and/or Investments shall be transferred by it to the Buying Clearing Member as soon as reasonably practicable following receipt, through the same settlement system as that in which the relevant Deliverable and/or Investment is settled.

Where the relevant settlement system does not perform a Transformation, the Clearing House will manually enter the particulars of the physically delivered Equity Future/Option Contract or stock contingent ~~contract~~trade, which will include particulars of the new equity underlying. Clearing Members must immediately input matching instructions in order to match with those new particulars.

Where Transformations are not settled in accordance with the procedures of the relevant settlement system, the Clearing House compensates Transformations on a net of tax basis, in accordance with Part 3 of the Rules. The cash compensation is not itself a dividend payment and the Clearing House does

not provide tax vouchers or certificates in respect of dividends. The Clearing House does not reclaim Tax on a Clearing Member's behalf. If a Clearing Member is entitled to receive Tax benefit, then it will need itself to deal directly with the relevant Tax authority.

If the Clearing House incurs any liability to pay any Tax (which may include stamp duty, income tax, withholding tax or corporation tax) in respect of the cash compensation then it will require reimbursement in respect of such Tax liability and any costs and other expenses incurred in relation thereto, from the Clearing Member who is or was party to Contract concerned in accordance with Part 3. The Clearing House will debit such amounts from the relevant account of that Clearing Member.

## 5. DELIVERY DOCUMENTATION SUMMARY

### 5.1 Summary Clearing Member Stock Deliveries Report (MPSDR)

This report is made available to members upon early exercise or expiry of a physically delivered Equity Future or Option Contract, or the execution of a stock contingent trade, and informs Clearing Members of the following:

- (a) the Contract mnemonic of the shares to be delivered or received;
- (b) the settlement day on which delivery will occur; and
- (c) the quantity of shares to be delivered or received and the delivery price.

It will be available via ECS or MFT (or any successor system) to all Clearing Members by 07:00 every Business Day.

Clearing Members are advised to retain this report on a daily basis as a record of their Contracts which are subject to delivery obligations.

This report is cumulative until trades have been settled.

### 5.2 Clearing Member Stock Contingent Trades Report (MTSCT)

This report is made available to Clearing Members who execute stock contingent trades and informs Clearing Members of the following:

- (a) the Clearing Member's sub account;
- (b) the "underlying mnemonic" of the ~~Financials & Softs contract~~[Equity Contract](#) to be delivered or received;
- (c) the "derivative mnemonic" of the ~~Financials & Softs contract~~[Equity Contract](#);
- (d) the trade ID number;
- (e) a buy/sell indicator;
- (f) the quantity of shares to be delivered or received and the delivery price;

It will be available via ECS or MFT (or any successor system) to all Clearing Members by 07:00 on the Business Day following trade.

Clearing Members are advised to retain this report as a record of their Contracts subject to delivery obligations.

### 5.3 ~~Financials & Softs~~ Stock Contingent Allocation Change Request Form

Clearing Members requiring the allocation of the stock leg of a stock contingent trade on trade day plus 1 must complete this form. The form must be completed in full by all Originating Members and relevant receiving Clearing Members involved in the allocation and submitted by no later than 16:00 on trade day plus 1. The Clearing House reserves the right to charge a fee per Originating Member and Receiving Member per bargain.



PART EE: ICE ENDEX CEGH AUSTRIAN VTP NATURAL GAS FUTURES (“ICE ENDEX VTP NATURAL GAS FUTURES”)

1. DEFINITIONS

1.1 The following additional definitions apply to this part of the Delivery Procedures:

- (a) The term “Acquiring Trade Nomination” means a nomination submitted, in the manner required by the CEGH Terms and otherwise in accordance with this Part EE, by the Transferee to acquire rights in respect of one or more lots of Natural Gas at the VTP.
- (b) The term “Austrian Natural Gas Act 2011” means the Austrian gas law (“Gaswirtschaftsgesetz 2011”) as published with Federal Gazette (“*Bundesgesetzblatt*”) No. 107/2011 and as amended from time to time.
- (c) The term “Balance Group Responsible Party” and “Balance Group Member” means the representative or the member of a balance group (such terms as are defined in the Austrian Natural Gas Act 2011) and who has all the necessary licences and authorisations to transfer rights to Natural Gas at the VTP.
- (d) The term “CEGH” means Central European Gas Hub AG or any successor thereto, as the operator of the Virtual Trading Point for the Austrian Eastern Market Area.
- (e) The term “CEGH Terms” means the Austrian Natural Gas Act 2011, the Austrian Gas Market Model Ordinance and other related regulation, the CEGH General Terms and Conditions for Hub Services and Membership of Central European Gas Hub AG and any appendices, manuals, operating procedures and practices that support the operation of the VTP, as amended from time to time.
- (f) The terms “D+” or “D-” relate to the number of Business Days before and after the Delivery Day respectively on which rights to Natural Gas are to be transferred.
- (g) The term “Delivery Day” means the period of 24 consecutive hours beginning at 06:00 hours CET on a day on which the transfer of rights in respect of Natural Gas is due to be made under a Contract in accordance with ICE Endex Rules and this Part EE and ending at 06:00 hours CET on the following calendar day.
- (h) The term “Delivery Month” means the period beginning at 06:00 hours CET on the first calendar day of the month until 06.00 hours CET on the first calendar day of the next month.
- (i) The term “Disposing Trade Nomination” means a nomination submitted, in the manner required by the CEGH Terms and otherwise in accordance with ICE Endex Rules and this Part EE, by the Transferor to dispose of rights in respect of one or more lots of Natural Gas at the VTP.
- (j) The term “Eastern Market Area” means the eastern market areas as defined in the Austrian Natural Gas Act 2011.
- (k) The term “Edig@s” means the electronic messaging protocol which enables, inter alia, submission of a Trade Nomination to CEGH and to access information concerning the submitted Trade Nominations, and any successor system.
- (l) The term “ICE Endex VTP Natural Gas” means ICE Endex CEGH Austrian VTP Natural Gas Futures.

- (m) The term “Invoice Period” refers to the period beginning at the start of the day on which the last invoice was issued, up to the end of the day prior to the date of the current invoice and also includes any additional period of time during which payments are made from the Buyer to the Seller in respect of completed deliveries.
- (n) The term “M+” or “M-” means, in respect of a Contract, the number of Business Days immediately following the last day of the month or the number of Business Days immediately preceding the first day of the month in which the Delivery Day specified in the Contract commenced.
- (o) The term “Megawatt Hours” or “MWh” means 1000 kWh, where 1 kWh means 3,600,000 joules and where “joule” is as defined in ISO 1000:1992(E) or any standard replacing the same as nominated by ICE Endex.
- (p) The term “Natural Gas” means any hydrocarbons or mixture of hydrocarbons and other gases consisting predominantly of methane and, to a lesser extent, ethane, propane and higher hydrocarbons, which at a temperature of 15 degrees Celsius and at an absolute pressure of 1.01325 bar are or is predominantly in the gaseous state where “degree Celsius” and “bar” are as defined in ISO 1000:1992(E) or any standard replacing the same as nominated by ICE Endex.
- (q) The term “Trade Nomination” means in respect of a Contract, either a Disposing Trade Nomination or an Acquiring Trade Nomination at the VTP, as the case may be, nominated in kWh.
- (r) The term “Trade Nomination Quantity” means the quantity of Natural Gas nominated in a Trade Nomination.
- (s) The term “Transmission System” means means the transmission network operated and maintained by a transmission system operator in the Eastern Market Area, as further detailed in the CEGH Terms.
- (t) The term “Virtual Trading Point” or “VTP” means the virtual trading point as defined in the Austrian Natural Gas Act 2011, in respect of a Contract, being a notional point in the Eastern Market Area at which Natural Gas can be traded after injection and before offtake.

## 2. CLEARING HOUSE AUTHORITY

- 2.1 The Clearing Member hereby grants authority to the Clearing House to make Trade Nominations in connection with deliveries with respect to ICE Endex VTP Natural Gas on its behalf, and that the Clearing House is given the legal authority to make such Trade Nominations, via a third party, as the Clearing House deems appropriate.
- 2.2 No Clearing Member shall revoke or terminate, nor purport to revoke or terminate, such authorisation. Clearing Members are not required, and are not able, to send Trade Nominations themselves.

## 3. DELIVERY SPECIFICATION

### 3.1 Transferors and Transferees

- (a) Clearing Members must ensure that prior to any ICE Endex VTP Natural Gas Contract arising, an appropriate ICE Endex Austrian VTP Natural Gas: Blanket Transferor Form or ICE Endex Austrian VTP Natural Gas: Blanket Transferee Form (as applicable) is in place relating to such Transferor or Transferee and the relevant Transferor or Transferee is a Balance Group Responsible Party or a Balance Group Member (such terms as are further as further defined in the CEGH Terms).

- (b) Where a Clearing Member has designated a Transferee / Transferor for the delivery or offtake of Natural Gas at the hub, the Clearing Member shall promptly inform the Clearing House of any events that may impact on its or a Transferee's / Transferor's ability to operate at VTP, including but not limited to: failure in deliveries, loss of license or CEGH membership, termination of the Clearing Member's relationship with the initially appointed Transferee / Transferor, or any breaches which may affect deliveries at the hub.

Notwithstanding the appointment of a Transferor or Transferee, the relevant Clearing Member remains at all times fully responsible for meeting all of its obligations and liabilities to the Clearing House.

### 3.2 Delivery

Deliveries of ICE Endex VTP Natural Gas are effected by the transfer of rights to Natural Gas at the VTP from a Transferor (nominated by the Seller, which may be the Seller itself) to the Clearing House and from the Clearing House (effecting the transfer via its nomination agent) to a Transferee (nominated by the Buyer, which may be the Buyer itself), through the input of Acquiring Trade Nominations and Disposing Trade Nominations into the Edig@s system by the Clearing House (through its agent) and following receipt of instructions from the Clearing House. CEGH will take those Trade Nominations into account when determining whether any costs or charges arise from the balancing regime.

### 3.3 Quantity

ICE Endex VTP Natural Gas trades in MWh and is delivered in KWh.

### 3.4 Price

The price at which the Contract is delivered is the Exchange Delivery Settlement Price (EDSP) for the Business Day immediately prior to the calendar day on which the Delivery Month for the ICE Endex VTP Natural Gas Futures commences in accordance with the ICE Endex Rules.

### 3.5 Days and Times

All "timings" or times of day are Central European Time ("CET") or Central European Summer Time ("CEST") as applicable.

### 3.6 Cessation of Trading

ICE Endex VTP Natural Gas Futures cease trading at 18:00 hours on the day, which is two Business Days (as defined in the ICE Endex Rules) prior to the first calendar day of the Delivery Period, in accordance with these Delivery Procedures / the ICE Endex Rules.

### 3.7 Exchange for Physicals (EFPs) and Exchange for Swaps (EFSs)

For ICE Endex VTP Natural Gas Futures, in accordance with ICE Endex Rules, EFPs and EFSs may be posted up to one hour following the cessation of trading.

## 4. LIABILITY

4.1 The provisions of this paragraph 4 are without prejudice to the generality, and subject to, the provisions of the Rules relating to liability and apply in addition to the general requirements of these Delivery Procedures.

4.2 The Clearing House is not responsible for, and shall have no liability whatsoever as a result of:

- (a) the performance or non-performance of CEGH of its obligations under the CEGH Terms; or

(b) the performance or non-performance of CEGH.

4.3 Neither the Buyer nor the Seller, nor their Transferees or Transferors, shall have any claim against the Clearing House for any loss, cost, damage or expense incurred or suffered as a result of the condition or operation of the Transmission System or any part thereof except as otherwise expressly provided in the ICE Endex Rules.

## 5. DELIVERY CONTRACT SECURITY

The Clearing House makes the Natural Gas Daily Summary Report available on a daily basis to Clearing Members with delivery positions.

### (a) Buyer's Security

Buyer's Security is calculated by reference to the relevant EDSP plus a "Buyer's Default Top-up". The "Buyer's Default Top-up" is an amount calculated against the possibility of costs or charges arising from the balancing regime under the CEGH Terms.

The Clearing House may alter the calculation of Buyer's Security at any time or make adjustments in respect of specific Buyers.

### (b) Seller's Security

Seller's Security is calculated against the Seller's Default Price (SDP) for the relevant Delivery Day.

The SDP is calculated by reference to costs and charges arising from the balancing regime under the CEGH Terms, or EDSP.

The Clearing House may alter the calculation of Seller's Security at any time or make adjustments in respect of a specific Seller.

## 6. DELIVERY TIMETABLE FOR ICE ENDEX VTP NATURAL GAS: ROUTINE

### 6.1 ICE Endex VTP Natural Gas Futures

	2 Business Days prior to the 1st Delivery Day (M-2)	
Cessation of Trading	At 18:00 CET	Contract ceases trading.
	By 19:00 CET	EFPs and EFSs may be posted up to one hour following the cessation of trading.

Submission of delivery intentions for the ICE Endex Austrian VTP Natural Gas Futures:	By 19:45 CET	The Seller and Buyer must, for each deliverable Open Contract Position, each submit delivery intentions via ECS to the ClearingHouse for the ICE Endex Austrian VTP Natural Gas: This must contain all delivery information for all deliverable Open Contract Positions.
Transferor/Transferee Nomination	By 19:45 CET	A Seller or Buyer who is nominating a Transferor or Transferee in respect of a Contract must ensure that the Clearing House has in its possession a signed ICE Endex Austrian VTP Natural Gas: Blanket Transferor Form or ICE Endex Austrian VTP Natural Gas: Blanket Transferee Form (as applicable) for each nominated Transferor or Transferee. This Transferor/Transferee form must be signed by the Transferor/Transferee.
	By 19:45 CET	Clearing Members with Open Contract Positions at this time are obliged to make or take delivery.
	By 20:00 CET	MPFE report available <a href="#">in MFT and ECS</a> to Clearing Members.
ICE Endex VTP Natural Gas Futures Confirmation Report	By 21:00 CET	The Clearing House makes available to the Clearing Members the Confirmation Report listing the deliverable positions in MWh for each Settlement Period for each day of the Delivery Month. Where Clearing Members will have submitted email details for their Transferee/Transferor, this report will also be emailed directly to the Transferee/Transferor.  It is the responsibility of the Clearing Member to ensure that each nominated Transferor/Transferee has received a copy of the ICE Endex VTP Natural Gas Futures Confirmation Report.
		M-1
	By 10:00 CET	The Clearing House makes Daily Summary Report available. The report identifies the positions that are deliverable.
Provision of Buyer's and Seller's Security	By 10:00 CET	Seller and Buyer must provide the Clearing House with Seller's Security and Buyer's Security as appropriate. This is calculated for all deliverable Open Contract Positions at close of business on D-2 (which corresponds to M-2 for the first Delivery Day and M -1 for the second).  The Clearing House may make adjustments to provisional Seller's Security or Buyer's Security by making intra-day calls at this time or other times on this day.
	By 10:00 CET	Seller and Buyer must each inform the Clearing House of any details on the ICE Endex VTP Natural Gas Futures Confirmation Report that do not match the delivery intentions as submitted in ECS.  Failure to notify the Clearing House by this deadline will constitute acceptance by the Seller and Buyer of their delivery obligations.  If necessary, the Clearing House will then make any appropriate amendments to the ICE Endex VTP Natural Gas Futures Confirmation Report and resend it to Clearing Members.

Submission of Nominations	By 11:00 CET	The appointed nomination agent will make the nominations to CEGH representing the final delivery position held at the Clearing House.
Identification of nomination rejection	Any time after the above	
		<p>Seller (either by themselves or by their Transferor) and Buyer (either by themselves or by their Transferee) must promptly inform the other party and the Clearing House as soon as they become aware that a nomination is incorrectly submitted or there has been a rejection of all or part of a nomination for whatever reason. The Clearing House will take such action as is necessary to rectify the situation</p> <p>The Clearing House may also instruct the Seller or Buyer to take such steps as it considers reasonably necessary to ensure that losses are mitigated. Seller and Buyer must give effect to any and all such instructions.</p>
	Delivery Day (D) (or next Business Day if D is a non-Clearing Day)	
	By 10:00 CET	The Clearing House makes the Daily Summary Report available.
Payment, Seller's Security and Buyer's Default Top Up	D+1	
	By 10:00 CET	<p>Seller's Security for actual delivered amount is released.</p> <p>The Clearing House releases the 'Buyer's Default Top-up' portion of the Buyer's Security on confirmed deliveries.</p> <p>Buyers make contract payment via their Nominated Accounts in respect of deliveries for the preceding delivery day. Buyer's Security is released as part of the payment transaction</p> <p>Seller receives contract value (payment) for confirmed delivered amount in respect of deliveries for the preceding delivery day.</p> <p>N.B. A credit note may be issued at a later date against the failed deliveries.</p>
Invoice and Account Sale Details	One Day following the end of the Invoice Period	
	By 10:00 CET	The Clearing House makes the Invoices and Account Sales available to Seller and Buyer for the Invoice Period.

## 7. DELIVERY TIMETABLE FOR ICE ENDEX AUSTRIAN VTP NATURAL GAS: FAILED DELIVERY

### 7.1 ICE Endex VTP Natural Gas Futures

Seller's Security and Buyer's Default Top Up	Delivery Day (D) (or D+1 or D+2 if D is a non-Clearing Day)	
	By 10:00 CET	In the event of a failed delivery, the Clearing House may call additional Seller's Security and/or Buyer's Security.
	D+1	
	By 10:00 CET	In the event of a failed delivery, the Clearing House may call additional Seller's Security and/or Buyer's Security.
Failed Delivery	D+2	
	By 10:00 CET	In the event of a failed delivery, the Clearing House may call additional Seller's Security and/or Buyer's Security.
Failed Delivery	10 Business Days following the month or week of delivery (M +10)	
	By 10:00 CET	The Clearing House makes the Invoice and Credit Note Report available to Sellers and Buyers for the previous month's failed deliveries.
Payment for Failed Delivery	12 Business Days following the month or week of delivery (M +12)	
	By 10:00 CET	Seller makes payment for previous month's failed deliveries. Buyer makes/receives payment or takes receipt for previous month's failed deliveries.
Release of Seller's and Buyer's Security against Failed Deliveries	13 Business Days following the month or week of delivery (M +13)	
	By 10:00 CET	Seller's Security and Buyer's Security held against failed deliveries is released following confirmation that payment has been made for all failed deliveries for the Delivery Month.

Note: in the event of a failed delivery, the Clearing House may retain Buyer's Security and/or Seller's Security.

Note: the above timetables can be altered without notice at the discretion of the Clearing House.

## 8. INVOICE AND ACCOUNT SALE CALCULATION

### 8.1 Invoice and Account Sale

#### (a) Previous Month's Deliveries

The Invoice and Account Sale Report gives details of all deliveries made during the Invoice Period.

#### Confirmed deliveries:

MWh \* EDSP, plus any additional costs of the Clearing House as appropriate



Where

MWh = the number of Megawatt Hours delivered.

EDSP = The relevant Exchange Delivery Settlement Price for the day of delivery, quoted in Euros per MWh.

#### Failed Deliveries

MWh \* Delivery Failure Cost, plus any additional costs of the Clearing House, as appropriate

Where

MWh = the number of Megawatt Hours delivered.

Delivery Failure Cost = the costs of the Clearing House per MWh incurred from CEGH in accordance with the CEGH Terms in respect of any failure of a Clearing Member to correctly make a delivery.

#### 8.2 Invoice/Credit Note for Failed Deliveries

The Invoice and Credit Note Report gives details of the proportion of the Clearing House's costs, incurred from CEGH, allocated to Clearing Members as a result of Buyer's and Seller's failed deliveries.

Credit Notes are issued to Buyers up to the contract value of the failed delivery, dependent on the value received by the Clearing House from CEGH. In the event that the value received by the Clearing House is in excess of the contract value, any such excess will be passed on to ICE Endex.

The Clearing House's costs are allocated *pro rata* to those Clearing Members whose failed deliveries have caused the Clearing House's net costs or charges arising from the balancing regime under the Network Code operated by CEGH.

#### 9. DELIVERY DOCUMENTATION SUMMARY

##### 9.1 ICE Endex Austrian VTP Natural Gas Futures

Reports produced by the Clearing House are made available to Buyers and Sellers electronically.

Name of Delivery Document	Explanation	Timing
Daily Summary Report	This report summarises on a daily basis the deliverable positions by Transferee/Transferor.	By 10:00 CET Daily
Daily Detail Report	This report provides details of each day's deliveries	By 10:00 CET Daily
ICE Endex Austrian VTP Natural Gas Futures: Blanket Transferee Form	Where applicable, the Buyer must ensure that this form is submitted by the Transferee to the Clearing House. It must be signed by an authorised signatory of the Transferee as confirmation that they will take delivery of Natural Gas on any Delivery Days nominated by the Buyer and referred to on the delivery intentions submitted in ECS regarding the ICE	By 19:45 CET on M-2

Name of Delivery Document	Explanation	Timing
	Exend Austrian VTP Natural Gas Daily Futures.	
ICE Exend Austrian VTP Natural Gas Futures: Blanket Transferor Form	Where applicable, the Seller must ensure that this form is submitted by the Transferor. It must be signed by an authorised signatory of the Transferor as confirmation that they will make delivery of Natural Gas on any Delivery Days nominated by the Buyer and referred to on the delivery intentions submitted in ECS regarding the ICE Exend Austrian VTP Natural Gas Daily Futures.	By 19:45 CET on M-2
ICE Exend Austrian VTP Natural Gas Futures Futures Confirmation Report	When available, Buyers and Sellers must promptly provide a copy of this report to the relevant Transferor(s) and Transferee(s). It is a Transferor/Transferee order and informs Buyers and Sellers of Clearing Member mnemonic; Transferee/Transferor; Delivery Day or series of Delivery Days as defined in paragraph 1 of this Part EE from first Delivery Day to last Delivery Day; lots to be delivered; and a statement that if the Transferor/Transferee fails to notify the Clearing House by the necessary deadline as specified in these Delivery Procedures, then the delivery obligation is irrevocably accepted and the Clearing House will submit the Trade Nomination(s) to CEGH based on the Net Hourly Position of the Clearing Member, by the relevant deadline.	
ICE Exend Austrian VTP Natural Gas Futures Invoice and Account Sale	The reports give Buyers and Sellers details of: Clearing Member mnemonic; Clearing Member account; contract; Delivery Month; contracted MWh; actual delivered (matched) MWh; price in Euros per MWh; value of Natural Gas.	By 10:00 CET on the day following the Invoice Period
Invoice Report and Credit Note Report: Failed Deliveries	The report gives Buyers and Sellers with failed deliveries during the previous Delivery Month details of Clearing Member mnemonic; Clearing Member account; contract; Delivery Month; Delivery Day; amount of failed delivery long (MWh); amount of failed delivery short (MWh); and total costs charged to the Clearing Member as a result of failed delivery/deliveries.	M+10 at 10:00 CET.

PART FF: ICE FUTURES NEW YORK HARBOUR ULTRA LOW SULPHUR DIESEL FUTURES (“ICE NYH ULSD FUTURES CONTRACT”), ICE FUTURES EUROPE NEW YORK HARBOUR ULTRA LOW SULPHUR HEATING OIL FUTURES (“ICE NYH ULSHO FUTURES CONTRACT”)

1. APPLICABILITY AND DEFINITIONS

1.1 This Part FF applies to all physically deliverable ICE NYH ULSD Futures Contracts and ICE NYH ULSHO Futures Contracts for which physical delivery is specified as applicable in the relevant contract terms and which go to physical delivery on the expiry date. Such ICE Futures Europe contracts are referred to in this part as “ICE NYH ULSD Futures Contracts”.

1.2 For the avoidance of doubt, the two ICE NYH ULSD Futures Contracts remain separate Contracts and the various forms required to support the delivery of each of the Contracts need to clearly reference the Contract to which they refer. There is no fungibility between the two contracts and / or the underlying Product.

1.3 The following definitions apply to this part of the Delivery Procedures:

- (a) “ADP” means an alternative delivery procedure as may be agreed between the Buyer and the Seller, as further detailed in Section 1.11 of the Delivery Procedures;
- (b) “Business Day” means, for the purposes of these Delivery Procedures, a day on which the Clearing House and the Terminals are open for business;
- (c) “Delivery Confirmation Form” means the form specified in Section 5 of these Delivery Procedures;
- (d) “Delivery Nomination Form” means the form specified in Section 5 of these Delivery Procedures;
- (e) “Delivery Range Nomination Form” means the form specified in Section 5 of these Delivery Procedures;
- (f) “ET” means the prevailing time in New York;
- (g) “Inspector” means an inspector selected or nominated in accordance with the ICE NYH ULSD Futures Contracts for the purposes of determining the quality and quantity of the Product;
- (h) “LPT” means the prevailing time in London, United Kingdom;
- (i) “Product” means fungible 15ppm ultra low sulphur diesel fuel in respect of the ICE NYH ULSD Futures Contract, and fungible 15ppm ultra low sulphur heating oil in respect of the ICE NYH ULSHO Futures Contract, meeting the specifications set out in the ICE NYH ULSD Futures Contracts;
- (j) “Revised Delivery Nomination Instructions” means the form specified in Section 5 of these Delivery Procedures; and
- (k) “Terminal” means a storage terminal, facility or installation in New York Harbour area and nominated as a delivery terminus under the ICE NYH ULSD Futures Contracts;

## 2. DELIVERY SPECIFICATION

### 2.1 Scope

ICE NYH ULSO Futures Contracts are for the sale and delivery of the Product meeting the relevant contract specification set out in ICE Futures Europe Rules, by the Seller to the Buyer, via a recognised Terminal in New York Harbour, such facility as specified by the Seller. Delivery shall take place on a Business Day nominated by the Buyer within a five-day window as agreed by the Seller and the Buyer. Such day must fall between the sixth Business Day and the last Business Day of the Contract month inclusive.

### 2.2 Delivery Modes

The Buyer may choose from the following delivery options:

- (a) into Buyer's barge;
- (b) into Buyer's tanker;
- (c) by inter-tank transfer where there is a suitable connecting pipeline and the operator of the pipeline agrees, at Buyer's own expense (either between tanks in the Terminal nominated by the Seller or between a tank in that Terminal and a tank in a Terminal nominated by the Buyer);
- (d) by in-tank transfer without movement of the Product from the original in-tank location of the Product where the terms of business of the Terminal allow it, at Buyer's own expense.

To participate in a delivery, a minimum 25 lots threshold applies. For any deliveries below the 25 minimum lots requirement, the parties may undertake an ADP.

### 2.3 Quality

The Product delivered under the ICE NYH ULSO Futures Contracts shall be delivered in bulk and be free from all liens, encumbrances, unpaid taxes, fees, other charges and any other form of claim and shall conform to the specifications, as appropriate, described in ICE Futures Europe Rules.

### 2.4 Price

The price at which each ICE NYH ULSO Futures Contract is delivered is the Exchange Delivery Settlement Price (as defined in the ICE Futures Europe Rules) published on the Last Trading Day for the contract month.

### 2.5 Determination of Quantity and Quality

The quality and quantity of delivered Product is determined by an Inspector selected in accordance with the ICE NYH ULSO Futures Contracts to perform such determination.

### 2.6 Cessation of trading

Contracts of a particular set cease trading on the Last Trading Day, in accordance with the ICE NYH ULSO Futures Contracts.

### 2.7 Exchange for Physicals (EFPs)

In accordance with the ICE Futures Europe Rules, EFPs may be reported at any time after the close of trading up until 10:00 ET / 15:00 LPT on the next Business Day following the Last Trading Day.

### 3. ICE NYH ULSO FUTURES DELIVERY TIMETABLE

Last Trading Day		
Cessation of Trading	At 14:30 ET	Trading in ICE NYH ULSO Futures Contracts ceases.
Last Trading Day +1 Business Day		
EFPs	By 10:00 ET (15:00 LPT)	EFPs may be posted up until 10:00 ET (15:00 LPT) on the first Business Day after the Last Trading Day.
Expiry	By 11:00 ET	All position maintenance must be performed by Clearing Members.
		Sellers and Buyers must each submit to the Clearing House a Delivery Confirmation Form in relation to Contracts remaining open at 14:30 ET on Last Trading Day.
	At 11:00 ET	Sellers/Buyers are obliged to make/take delivery of all Contracts remaining open in the expiring contract month.  The MPFE report is available via ECS and MFT advising each Clearing Member of its delivery positions and obligations.
	After 11:00 ET	The Clearing House allocates lots to Sellers/Buyers by location at its sole discretion based on the Delivery Confirmation forms received, endeavouring to minimise the number of Clearing Members and locations involved, taking into account Buyers' and Seller's preferences for a Terminal and / or modes of delivery.  The Clearing House will notify each Seller of the Buyer(s) with whom it has been matched or allocated for each delivery location and instructing Sellers to deliver directly to Buyer(s) in accordance with the ICE Futures Europe Rules.  The Clearing House will send a notice to each Buyer identifying the Seller(s) and the delivery location(s).
Last Trading Day +2 Business Days		
Margin	By 09:00 LPT	Buyer's delivery Margin and Seller's delivery Margin shall be debited from Clearing Members that are Buyers and Clearing Members that are Sellers, respectively, for their deliverable positions.  Delivery Margin will be calculated by the Clearing House as undelivered volume (lots x 42,000) x an appropriate scanning range as determined by the Clearing House.  The Clearing House will collect Contingent Variation Margin from the Buyer's and the Seller's Clearing Member accounts for their respective deliverable positions.
Last Trading Day +2 to 4 Business Days		

Agreement of Delivery Detail	By 16:30 ET	Prior to providing the Delivery Range Nomination the Buyer shall verify and confirm in writing to the Seller, copying in the Clearing House, that the method of delivery conforms to the normal capabilities of the Seller's delivery facility with respect to all of the details to be provided in the Delivery Range Nomination Form.
Delivery Range Nomination	By 16:30 ET	Only after the agreed Delivery Range Nomination Form has been received in writing by the Seller and the Clearing House, the Buyer must provide the Seller with a Delivery Range Nomination Form.  If the Delivery Range Nomination Form is received on the 4th business day of the delivery month then the earliest possible five day range nomination will begin on the 7th business day of the delivery month.
Last Trading Day +3 Business Days onwards		
Delivery Nomination	By 10:30 ET	Buyer provides a Delivery Nomination Form to the Seller, with a copy to the Clearing House. The Delivery Nomination Form must be provided not less than two full calendar days prior to the delivery date. In the event of the Delivery Nomination Form being received by the Seller after 10.30 ET, it shall be deemed to have been received on the following calendar day.  The ICE NYH ULSO Futures Delivery Day Nomination Table in paragraph 3 of this Part FF sets out the appropriate day to submit a nomination for a specific delivery day.
	By 16:30 ET	On the day of the receipt of the Delivery Nomination Form, the Seller shall confirm its acceptance or rejection of the Buyer's nomination to the Buyer and the Clearing House.  Any rejection notice must be accompanied by specific reasons justifying this together with any relevant evidence. The Seller may not reject a nomination for frivolous or vexatious reasons, which shall include rejection of details which do not result in rejection of the nomination by the Seller's Terminal and obvious clerical errors  If the Seller fails to provide supporting evidence or proof of rejection, Seller is deemed to have accepted the Buyer's nomination.
Revised Delivery Nomination	By 10:30 ET on third Business Day following day of receiving rejection	If the Seller rejects the nomination, Buyer must provide Revised Delivery Nomination Instructions to the Seller, with a copy to the Clearing House, which must be provided at least two business days prior to the last calendar day of the delivery month.  If received by Selling Clearing Member after 10:30 ET then the Revised Delivery Nomination is deemed to have been received the following Business Day.
	By 16:30 ET on the day of receiving Revised Delivery Nomination Instructions	Seller must confirm or reject the Buyer's Revised Delivery Nomination Instructions. Any rejection notice provided to the Buyer, with a copy to the Clearing house, must be accompanied by specific reasons justifying this together with any relevant evidence.
1 Business Day prior to first day of Delivery Range		
Margin	By 09:00 LPT	Delivery Margin increases to full contract value for the Buyer; the

		Clearing House will debit the Buyer's account accordingly. Contingent variation Margin requirements end for the Buyer.
Delivery Date		
Delivery Date	<p>The barge shall be loaded on a first come first served basis, and any costs incurred (including demurrage) shall be calculated in accordance with industry market practice.</p> <p>In the event that the barge is presented ready to load and the Seller has made the Product ready for delivery, both within the agreed delivery range, but loading has not been completed by the last day of the delivery range there shall be an extension of 24 hours provided the Seller can show, supported by evidence from the Terminal through which delivery is to be made, that it has made the Product ready for delivery but loading has been prevented by operational factors.</p> <p>Such evidence shall be copied to the Clearing House.</p> <p>In the event that delay exceeds 24 hours, the party responsible for the delay may be in default, if so declared by the Clearing House.</p> <p>The above delivery provisions shall apply, mutatis mutandis, to deliveries by tanker, inter-tank transfers and in-tank transfers without movement of the Product.</p>	
Final Settlement Per Nomination		
Receipt of documents by the Clearing House	By 11:00 ET Document Receipt Day	<p>Seller shall lodge the following delivery documents with the Clearing House:</p> <ul style="list-style-type: none"> <li>(i) the Inspector's certificates of quality and quantity (or a copy thereof), if not previously submitted;</li> <li>(ii) in the case of delivery into barge, the barge delivery notes or negotiable set of bills of lading (or a copy thereof);</li> <li>(iii) in the case of delivery by inter-tank transfer, a document satisfactorily evidencing the movement of Product into the Buyer's tank, issued by the operator of the Buyer's tank and naming the supplier or the supplying Terminal (where different from the receiving Terminal) and the receiver;</li> <li>(iv) in the case of delivery in-tank without movement of Product, a document satisfactorily evidencing the transfer title, issued by the Terminal and naming at least the receiver.</li> </ul> <p>Seller shall use reasonable endeavours to provide any additional customary documentation reasonably requested by the Buyer and / or the Clearing House.</p> <p><del>In the event of non-availability of any of the documents listed above, Seller may substitute a letter of indemnity in favour of the Buyer in a form and from a bank approved from time to time by the Clearing House pending the availability of such document.</del></p> <p>Any documents received by the Clearing House after 11:00 ET will be deemed to be received on the following Business Day.</p>
	By 16:00 ET	The Clearing House advises the Seller of the account sale amount. The Clearing House advises the Buyer of document availability and the



		invoice amount and that payment will take place the next Business Day.
Document receipt day +1 Business Day (if received before 11:00 ET)		
Payment	By 09:00 LPT	The Buyer pays the invoice amount to the Clearing House. Buyer's security is released as part of the payment transaction. The account sale amount is credited to the Seller.  Any additional payments resulting from volume tolerance differences or demurrage are to be settled bilaterally and outside the Clearing House.
	After 09:00 LPT	Buyer collects invoice and related delivery documents from the Clearing House. Buyer signs a receipt to confirm acceptance of the invoice and related delivery documents. See paragraph 5 of this Part {FF} for invoice details.
Document receipt day +2 Business Days		
Release of Seller's Margin		Seller's Delivery Margin and Contingent Variation Margin are released.

ADP		
ADP	By 10:00 ET	In the event that the Seller and Buyer agree delivery of Product of a specification other than that provided for or in a manner or at a place or on terms other than those specified in the ICE Futures Europe Rules, they shall each immediately give notice of that fact to the Clearing House by submitting the ICE NYH ULISO Futures: Confirmation of Agreed ADP Form. Such forms must be submitted by 10:00 ET. On receipt of both forms, the Clearing House will remove the lots from delivery and return any associated Margins held. Any agreed ICE NYH ULISO Futures: Confirmation of Agreed ADP Form received after 10:00 ET will be deemed to be received the next business day, and lots will be removed by the Clearing House on that day. All ADPs will be processed by the Clearing House at the relevant Exchange Delivery Settlement Price. Any additional amounts payable between the parties shall be settled directly between the Seller and Buyer without involvement of the Clearing House. Buyer's security, Delivery Margin and/or Contingent Variation Margin will be returned overnight for value on the following Business Day.

## 4. ICE NYH ULSO FUTURES DELIVERY DAY NOMINATION TABLE

The table below indicates the deadlines for the receipt of an ICE NYH ULSO Futures: Delivery Day Nomination-Vessel or ICE NYH ULSO Futures: Delivery Day Nomination-In Tank / Inter-Tank by the Clearing House.

D = Nominated Delivery Day  
R = Day by which nomination must be received (by 10:30 ET)

For example: in the first line below, the nominated Delivery Day is Thursday and the deadline for receipt of the nomination is 10:30 ET on the previous Monday.

Mon	Tues	Wed	Thurs	Fri	Sat	Sun	Mon	Tues	Wed
R			D						
	R			D					
		R			D				
			R			D			
				R			D		
				R				D	
				R					D

If the Monday is a non-Business Day, the deadline for receipt of nomination for the following Thursday is the previous Friday instead of the Monday.

These days may vary over UK and US holiday days.

## 5. DELIVERY DOCUMENTATION SUMMARY

<i>Sellers and Buyers should ensure that relevant Delivery Documentation is completed in full</i>		
Name of Delivery Document	Explanation	Timing
ICE NYH ULSO Futures: Buyer's Delivery Confirmation Form	<p>This form must be completed in full for all Contracts subject to delivery.</p> <p>Buyer's Delivery Confirmation Form must include:</p> <ul style="list-style-type: none"> <li>(i) name(s) of underlying client(s);</li> <li>(ii) the Contract (or Contracts) against which it is given;</li> <li>(iii) names of the three inspectors proposed by the Buyer, specifying the Buyer's order of preference;</li> <li>(iv) in relation to all or some of the deliveries, the name and location of one or more preferred Terminals in which the Buyer would like to take delivery; and</li> <li>(v) any other relevant information.</li> </ul> <p>The Buyer's preferences for the Terminal and mode of delivery listed in the Delivery Confirmation Form will be an indication of preference only and not be binding on the Clearing House.</p>	By 11:00 ET on the Last Trading Day +1 Business Day
ICE NYH ULSO Futures: Seller's Delivery Confirmation Form	<p>This form must be completed in full for all Contracts subject to delivery.</p> <p>Seller's Delivery Confirmation Form must include:</p>	By 11:00 ET on the Last Trading Day +1 Business Day

<i>Sellers and Buyers should ensure that relevant Delivery Documentation is completed in full</i>		
Name of Delivery Document	Explanation	Timing
	<ul style="list-style-type: none"> <li>(i) name(s) of underlying client(s) or whether the Seller is acting for its own account;</li> <li>(ii) the Contract (or Contracts) against which it is made;</li> <li>(iii) the total number of lots making up each delivery;</li> <li>(iv) in respect of each delivery, the name and location of the Terminal within the delivery area in which the Seller will make delivery; and</li> <li>(v) any other relevant information.</li> </ul>	
ICE NYH ULSO Futures: Agreement of Delivery Detail	This notice is submitted by the Buyer to the Seller, with a copy to the Clearing House, confirming method of delivery conforms to normal capabilities of the Seller's delivery facility with respect to manner of delivery and quantity.	By 16:30 ET on Last Trading Day +2 to +4 Business Days, but before submission of Delivery Range Nomination Form
ICE NYH ULSO Futures: Delivery Range Nomination Form	<p>This notice is submitted by the Buyer to the Seller, with a copy to the Clearing House, confirming:</p> <ul style="list-style-type: none"> <li>(i) Seller's name (and Clearing member if different from the Seller);</li> <li>(ii) tender number;</li> <li>(iii) the Contract (or Contracts) against which it is given;</li> <li>(iv) the name of the Terminal within the delivery location in which delivery will be made/taken;</li> <li>(v) Inspector's name;</li> <li>(vi) the Buyer's preferred consecutive five-day delivery range;</li> <li>(vii) the Buyer's normal documentary requirements in addition to those mentioned in Rule 7C2.11, which may not be unreasonably requested; and</li> <li>(viii) any additional information that may be required by the Clearing House..</li> </ul>	By 16:30 ET on Last Trading Day +2 to +4 Business Days
ICE NYH ULSO Futures: Delivery Nomination Form	<p>This notice is submitted by the Buyer to the Seller, with a copy to the Clearing House, confirming:</p> <ul style="list-style-type: none"> <li>(i) the name of the Seller;</li> <li>(ii) tender number;</li> <li>(iii) the Contract (or Contracts) against which it is given;</li> <li>(iv) the name of the Terminal within the delivery location in which delivery will be made/taken;</li> <li>(v) delivery method;</li> <li>(vi) name and registration number of proposed carrier (e.g. barge or tanker) and the approximate size of the carrier where applicable;</li> </ul>	<p>By 10:30 ET on Last Trading Day +3 Business Days onwards</p> <p>By 16:30 ET on the day of receipt of Delivery</p>

<i>Sellers and Buyers should ensure that relevant Delivery Documentation is completed in full</i>		
Name of Delivery Document	Explanation	Timing
	(vii) for inter-tank transfer, the name of receiving facility; (viii) the nominated delivery day and approximate time for initiating delivery; (ix) name of the Inspector; and (x) any additional information that may be required by the Clearing House.  The Seller must complete and return to the Buyer, with a copy to the Clearing House, relevant section of the form confirming the Seller's acceptance or rejection of the nomination.	Nomination Form
ICE NYH ULSO Futures: Confirmation of Agreed ADP Form	This form is submitted by both Buyers and Sellers to the Clearing House confirming their agreement to the ADP and the number of lots.	Any time before the completion of delivery

## 6. INVOICE

### 6.1 Invoice Calculation

The Clearing House will invoice basis the full contract value

Contract Volume x Delivery Settlement Price x Contract Size (Gallons) = Full Contract Value

$$1 \text{ lot} \times 2.0000 \times 42,000 = \text{USD } 84,000.00$$

### 6.2 Delivery Tolerance

A delivery tolerance of plus or minus 2% of the contract volume is permitted. Notwithstanding the tolerance permitted under the Contract, the Clearing House will invoice the parties on a full lots basis; any Product delivered as part of the tolerance level will be accounted separately between the Buyer and the Seller.

Based upon 1 lot delivery

Maximum tolerance = 1 x 42,000 gallons plus 2% = 42,840 gallons

Minimum tolerance = 1 x 42,000 gallons minus 2% = 41,160 gallo

**(VIII) CDS PROCEDURES****INDEX**

<b>Page</b>		
1.	ADDITIONAL DEFINITIONS .....	2
2.	ADDITIONAL MEMBERSHIP REQUIREMENTS FOR CDS CLEARING MEMBERS .....	11
3.	CERTAIN PROVISIONS RELATING TO MARGIN AND OTHER PROCEDURES .....	12
4.	SUBMISSION AND ACCEPTANCE OF CDS CONTRACTS .....	12
5.	CDS DEFAULT COMMITTEE .....	22
6.	CREDIT EVENTS AND PHYSICAL SETTLEMENT .....	24
7.	CLEARED CDS PRODUCTS: ELIGIBLE SETS .....	40
8.	CONTRACT TERMS FOR ALL CDS CONTRACTS .....	41
9.	CONTRACT TERMS FOR ITRAXX EUROPE CONTRACTS .....	53
10.	CONTRACT TERMS FOR CDX NORTH AMERICA CONTRACTS .....	67
11.	CONTRACT TERMS FOR SINGLE NAME CDS CONTRACTS .....	75

## 1. ADDITIONAL DEFINITIONS

- 1.1 In connection with a 2003-type CDS Contract, the terms "**2005 Matrix Supplement**", "**Auction**", "**Auction Cancellation Date**", "**Auction Final Price Determination Date**", "**Auction Settlement Date**", "**Bankruptcy**", "**Calculation Agent**", "**Confirmation**", "**Credit Derivatives Determinations Committees**", "**Credit Derivative Transaction**", "**Credit Event**", "**Credit Event Backstop Date**", "**Credit Event Notice**", "**Credit Event Resolution Request Date**", "**Dealer**", "**Deliverable Obligation**", "**Delivery**", "**Delivery Date**", "**Exercise Cut-Off Date**", "**Failure to Pay**", "**Fallback Settlement Method**", "**Final List**", "**Final Price**", "**Fixed Rate**", "**Fixed Rate Payer**", "**Floating Rate Payer**", "**Floating Rate Payer Calculation Amount**", "**Highest**", "**Initial Payment Payer**", "**Loan**", "**Movement Option Cut-off Date**", "**No Auction Announcement Date**", "**NOPS Amendment Notice**", "**Notice of Physical Settlement**", "**Notice to Exercise Movement Option**", "**Obligation**", "**Physical Settlement Amount**", "**Quotation**", "**Reference Entity**", "**Reference Obligation**", "**Restructuring**", "**Scheduled Termination Date**", "**Substitute Reference Obligation**", "**Succession Event**", "**Succession Event Backstop Date**", "**Succession Event Resolution Request Date**", "**Successor**", "**Trade Date**", "**Transaction Auction Settlement Terms**", "**Transaction Type**", "**Valuation Date**" and "**Weighted Average Quotation**" each have the meanings given to those terms in the 2003 Credit Derivatives Definitions and the terms "**Relevant City Business Day**", "**Resolve**", "**Resolved**" and "**Resolves**", each have the meanings given to or used for those terms in the DC Rules.
- 1.2 In connection with a 2014-type CDS Contract, the terms "**Auction**", "**Auction Cancellation Date**", "**Auction Final Price Determination Date**", "**Auction Settlement Date**", "**Bankruptcy**", "**Calculation Agent**", "**Confirmation**", "**Credit Derivatives Determinations Committee**", "**Credit Derivative Transaction**", "**Credit Event**", "**Credit Event Backstop Date**", "**Credit Event Notice**", "**Credit Event Resolution Request Date**", "**Dealer**", "**Deliverable Obligation**", "**Delivery**", "**Delivery Date**", "**Exercise Cut-Off Date**", "**Failure to Pay**", "**Fallback Settlement Method**", "**Final List**", "**Final Price**", "**Fixed Rate**", "**Fixed Rate Payer**", "**Floating Rate Payer**", "**Floating Rate Payer Calculation Amount**", "**Governmental Intervention**", "**Highest**", "**Initial Payment Payer**", "**Loan**", "**Movement Option Cut-off Date**", "**M(M)R Restructuring**", "**No Auction Announcement Date**", "**NOPS Amendment Notice**", "**NOPS Cut-off Date**", "**Notice of Physical Settlement**", "**Notice to Exercise Movement Option**", "**Obligation**", "**Physical Settlement Amount**", "**Quotation**", "**Reference Entity**", "**Reference Obligation**", "**Relevant City Business Day**", "**Resolve**", "**Resolved**", "**Resolves**", "**Restructuring**", "**Scheduled Termination Date**", "**Substitute Reference Obligation**", "**Successor**", "**Succession Date**", "**Trade Date**", "**Transaction Auction Settlement Terms**", "**Transaction Type**", "**Valuation Date**" and "**Weighted Average Quotation**" each have the meanings given to those terms in the 2014 Credit Derivatives Definitions.
- 1.3 The term "**2014 CDD Implementation Date**" means 22 September 2014.
- 1.4 The term "**2014 CDD Protocol**" means the 2014 ISDA Credit Derivatives Definitions Protocol published by the International Swaps and Derivatives Association, Inc., as amended and/or supplemented as at 22 September 2014.
- 1.5 The term "**2019 NTCE Protocol**" means the ISDA 2019 NTCE Protocol published on 27 August 2019 and supplemented on 25 October 2019.
- 1.6 The term "**2019 NTCE Supplement**" means the 2019 Narrowly Tailored Credit Event Supplement to the 2014 ISDA Credit Derivatives Definitions (published on July 15, 2019).
- 1.7 The term "**Acceptance Notice**" has the meaning set out in paragraph 4.4(a).
- 1.8 The term "**Acceptance Time**" means the time specified pursuant to these CDS Procedures for the acceptance of CDS Contracts, as referred to in Rules 401(a)(ix) and (xi), being:

- (a) except as set out in (b) below, the time on a Business Day at which the Acceptance Notice was given, which time will be recorded in the Acceptance Notice;
  - (b) for CDS Contracts arising pursuant to Rule 401(a)(x), the time specified by the Clearing House in the relevant notice to the affected Clearing Members.
- 1.9 The term "**Affected CDS Clearing Member**" has the meaning set out in paragraph 11.5.
- 1.10 The term "**Affected Customer**" has the meaning defined in paragraph 11.5.
- 1.11 The term "**Affected SR Contract**" has the meaning defined in paragraph 11.5.
- 1.12 The term "**Annex Date**" has the meaning set out in paragraph 9.6.
- 1.13 The term "**Automatic Early Termination Provisions**" has the meaning specified in paragraph 8.2(b)(ii).
- 1.14 The term "**CDS Committee-Eligible Clearing Member**" means a Clearing Member that has been approved by the Clearing House, following consultation with the CDS Product Risk Committee, in accordance with paragraph 5.2 for participation in the CDS Default Committee. The Clearing House may revoke (or reinstate) its approval of any Clearing Member as a CDS Committee-Eligible Clearing Member from time to time based on its determination as to whether a particular Clearing Member has been in compliance with the Rules and continues to meet the criteria in paragraph 5.2.
- 1.15 The term "**CDS Default Committee**" means a committee established pursuant to paragraph 5.1.
- 1.16 The term "**CDS Default Committee Member**" has the meaning set out in paragraph 5.1.
- 1.17 The term "**CDS Default Committee Participant**" has the meaning set out in paragraph 5.1.
- 1.18 The term "**CDS Default Committee Participant List**" has the meaning set out in paragraph 5.2.
- 1.19 The term "**CDS Price Alignment Amount**" means in respect of each CDS Contract, a price alignment amount calculated daily in accordance with the market convention for the relevant currency by applying the applicable overnight rate referred to in paragraph 3.1 to the relevant CDS Notional Margin Balance for the relevant period.
- 1.20 The term "**CDS Notional Margin Balance**" in respect of CDS Contracts of a particular currency and an Account on any day, means the notional sum of all Mark-to-Market Margin transferred up to but excluding that day by the relevant CDS Clearing Member or Sponsored Principal in respect of such CDS Contracts less the notional sum of all Mark-to-Market Margin transferred up to but excluding that day to the relevant CDS Clearing Member or Sponsored Principal in respect of such CDS Contracts (notwithstanding that Mark-to-Market Margin is a settlement payment), as determined at the close of business on such day.
- 1.21 The term "**CDS Product Risk Committee**" means the committee of that name established by the board of the Clearing House.
- 1.22 The term "**CDX.NA Contract**" has the meaning set out in paragraph 10.
- 1.23 The term "**CEN Triggering Period**" means, in relation to any CDS Contracts of a Set in respect of which a Relevant Restructuring Credit Event has occurred, the period during which a CDS Buyer or CDS Seller may deliver a Restructuring Credit Event Notice in relation to all or part of such CDS Contract in accordance with the Contract Terms. Such period will start on the earliest of:



- (a) the date and time at which the RMP Matched Table is uploaded to Deriv/SERV (as referred to in paragraph 6.3(e)(vi); and
  - (b) the day after the RMP Deadline Time,
- and will end on the relevant Exercise Cut-off Date.
- 1.24 The term "**CH Reversioning Date**" means, if the reversioning as referred to in the definition of the term "DTCC Reversioning Date" has not been completed and notified by the Clearing House to Matched CDS Buyers and Matched CDS Sellers, prior to the opening of business on the second Business Day following the DC Restructuring Announcement Date, the later of:
- (a) such second Business Day; or
  - (b) the Business Day after the Business Day on which the relevant index publisher provides a new version of the relevant index.
- 1.25 The term "**Change in Tax Law**" means (other than for the purpose of paragraph 8.2(a)(ii)(C)) the enactment, promulgation, execution or ratification of, or any change in or amendment to, any law (or in the application or official interpretation of any law) that occurs after the parties enter into the relevant CDS Contract.
- 1.26 The term "**Consent**" in paragraph 8.2 means any consent, approval, action, authorisation, exemption, notice, filing, registration or exchange control consent.
- 1.27 The term "**Contractual Currency**" has the meaning set out in paragraph 8.2.
- 1.28 The term "**Daily Aggregate CDS Price Alignment Amount**" means, for any CDS Clearing Member or Sponsored Principal for each currency on any day, the sum of the Notional CDS Price Alignment Amounts on all CDS Notional Margin Balances in such currency for that day in respect of that CDS Clearing Member or Sponsored Principal. Daily Aggregate CDS Price Alignment Amounts will be determined separately in respect of each Account. Where the Daily Aggregate CDS Price Alignment Amount is positive, it will be owed by the Clearing House to the relevant CDS Clearing Member or Sponsored Principal; where it is negative, the relevant CDS Clearing Member or Sponsored Principal will owe the absolute value of the Daily Aggregate CDS Price Alignment Amount to the Clearing House.
- 1.29 The term "**DC Restructuring Announcement Date**" means the date on which the DC Credit Event Announcement of a Relevant Restructuring Credit Event is made, provided that where such DC Credit Event Announcement is made after 6.30 p.m. on a Business Day or on a day which is not a Business Day, the DC Restructuring Announcement Date (only) will, for the purposes of the Rules, be the first following Business Day.
- 1.30 The term "**DC Rules**" means, in relation to a 2003-type CDS Contract, the Credit Derivatives Determinations Committees Rules, as defined as the "Rules" in Section 1.22 of the 2003 Credit Derivatives Definitions. For the avoidance of doubt, the term "Rules" as defined in the Rules shall not replace, or otherwise affect the interpretation of, the term "Rules" in the 2003 Credit Derivatives Definitions.
- 1.31 The term "**DC Secretary**" means ISDA or such other secretary of the Credit Derivatives Determinations Committees as may be appointed from time to time under the Credit Derivatives Determinations Committees Rules to carry out the functions required thereunder.
- 1.32 The term "**DTCC**" means The Depository Trust and Clearing Corporation or any successor thereto.

- 1.33 The term "**DTCC Accounts**" means the accounts in Deriv/SERV for the recording of transaction data in relation to CDS Contracts.
- 1.34 The term "**DTCC Failure**" means any circumstances in which DTCC is unable to process all or substantially all Restructuring Credit Event Notices or Notices to Exercise Movement Option, if any, relating to a particular Relevant Restructuring Credit Event in the DTCC Accounts in a timely manner, where such failure affects all or substantially:
- (i) all Matched CDS Buyers and Matched CDS Sellers; or
  - (ii) the Clearing House.
- 1.35 The term "**DTCC Process**" means the process (if any) provided or to be provided by DTCC permitting the Clearing House alone to input to Deriv/SERV all relevant information in relation to a CDS Contract and any related Customer-CM CDS Transaction in order to establish, match and make "certain" the record of such CDS Contract and Customer-CM CDS Transaction in the relevant DTCC Account(s).
- 1.36 The term "**DTCC Reversioning Date**" means the date on which the Clearing House notifies Matched CDS Buyers and Matched CDS Sellers that it has completed the reversioning process and updated records in Deriv/SERV in respect of all Old Index CDS transactions to record them as excluding the Component Transaction relating to a Reference Entity in respect of which a Relevant Restructuring Credit Event has occurred.
- 1.37 The term "**Electronic Notice**" is a kind of MP Notice and means a Restructuring Credit Event Notice or Notice to Exercise Movement Option delivered pursuant to the Electronic Notice Process.
- 1.38 The term "**Electronic Notice Process**" means the process for the delivery and receipt of Restructuring Credit Event Notices and Notices to Exercise Movement Option pursuant to paragraphs 6.3(f)(i) and 6.3(f)(ii).
- 1.39 The term "**Excess Net Capital**" (i) in respect of a CDS Clearing Member or applicant that is or would become an FCM/BD Clearing Member shall equal its "excess net capital" as reported on its Form 1-FR-FCM or FOCUS report or as otherwise reported to the CFTC under CFTC Rule 1.12 or (ii) in respect of any other CDS Clearing Member or applicant that is or would become a US CDS Clearing Member, the amount, if any, by which its Capital (determined as set forth in paragraph 2.2(a)) exceeds the capital requirement that would be applicable to it if it were an FCM/BD, as determined pursuant to a methodology acceptable to the Clearing House.
- 1.40 The term "**iTraxx Contract**" has the meaning set out in paragraph 9.
- 1.41 The term "**Manual MP Notice**" is a kind of MP Notice and means any notice delivered pursuant to the terms of a CDS Contract under the Manual Notice Process.
- 1.42 The term "**Manual Notifier**" has the meaning set out in paragraph 6.3(f)(v)(A).
- 1.43 The term "**Manual Notice Process**" means the process for the delivery, receipt and copying to the Clearing House of notices pursuant to paragraph 6.3(g).
- 1.44 The term "**MCA/STS Changeover Time**" means midnight on 29 November 2010.
- 1.45 The term "**NEMO Triggering Period**" means:
- (a) in relation to any 2003-type CDS Contracts of a Set in respect of which a Restructuring Credit Event has occurred and for which either "Restructuring Maturity Limitation and Fully Transferable Obligation Applicable" or "Modified Restructuring Maturity

Limitation and Conditionally Transferable Obligation Applicable" is applicable, the period starting as follows:

- (i) where, in relation to the related CEN Triggering Period, a Restructuring Credit Event Notice was given pursuant to the Manual Notice Process at a time before the "Notify" function to be provided by Deriv/SERV has been made generally available to CDS Clearing Members, at 9 a.m. on the day falling one Business Day prior to the relevant Movement Option Cut-off Date for the Set of CDS Contracts; and
  - (ii) otherwise at 9 a.m. on the Business Day immediately following the Exercise Cut-off Date applicable to the Buyer in relation to the related CEN Triggering Period, and ending on the Movement Option Cut-off Date; and
- (b) in relation to any 2014-type CDS Contracts of a Set in respect of which an M(M)R Restructuring has occurred, the period starting at the close of business on the Exercise Cut-off Date and ending on the Movement Option Cut-off Date.
- 1.46 The term "**New Trade**", in respect of a CDS Contract, has the meaning set out in the applicable Contract Terms.
- 1.47 The term "**Notification Cut-Off Time**" means
- (a)
    - (i) with respect to delivery of a Restructuring Credit Event Notice in relation to a CDS Contract of a Set, 5:00 p.m. on the Exercise Cut-off Date applicable to the Buyer;
    - (ii) with respect to raising a dispute in respect of a Restructuring Credit Event Notice in relation to a CDS Contract of a Set, the later of:
      - (A) one hour after the Clearing House notifies the Matched CDS Buyers and Matched CDS Sellers of the Restructuring Credit Event Notices they have served or had served on them; or
      - (B) 7:00 p.m. on the Exercise Cut-off Date applicable to the Matched CDS Buyer;
  - (b)
    - (i) with respect to delivery of a Notice to Exercise Movement Option, 5:00 p.m. on the Movement Option Cut-off Date;
    - (ii) with respect to raising a dispute in respect of a Notice to Exercise Movement Option, the later of:
      - (A) one hour after the Clearing House notifies the Matched CDS Buyers and Matched CDS Sellers of the Notices to Exercise Movement Option they have served or had served on them; or
      - (B) 7:00 p.m. on the Movement Option Cut-off Date; and
  - (c) with respect to delivery of a Notice of Physical Settlement or a NOPS Amendment Notice in relation to a Set of CDS Contracts, 4:30 p.m. on the second Business Day after:

- (i) in relation to a 2003-type CDS Contract, the last date on which a Notice of Physical Settlement or a NOPS Amendment Notice, as applicable, may be served in respect of the Credit Event in question, pursuant to Section 3.2(c) of the 2003 Credit Derivatives Definitions; and
  - (ii) in relation to a 2014-type CDS Contract, the NOPS Cut-off Date.
- 1.48 The term "**NTCE Protocol Effective Date**" means [27 January 2020] (or such later date as may be designated by the Clearing House by Circular).
- 1.49 The term "**Office**" means a branch or office of a party, which may be such party's head or home office.
- 1.50 The term "**Old Index CDS**" means a CDS transaction based on an index where an Applicable Credit Event has occurred in relation to a Component Transaction.
- 1.51 The term "**Original Annex Date**" means:
  - (a) in respect of an iTraxx Contract, the first date of publication of the series of the Eligible iTraxx Index referred to in the relevant CDS Trade Particulars submitted for Clearing or, with respect to each iTraxx Contract arising pursuant to Rule 401(a)(vi) or (xi), determined from the data provided by the Clearing House to the Clearing Member or Sponsored Principal, as the case may be, prior to the time at which such CDS Contract arose; and
  - (b) in respect of a CDX.NA Contract, the first date of publication of the series of the Eligible CDX.NA Index referred to in the relevant CDS Trade Particulars submitted for Clearing or, with respect to each CDX.NA Contract arising pursuant to Rule 401(a)(vi) or (xi), determined from the data provided by the Clearing House to the Clearing Member or Sponsored Principal, as the case may be, prior to the time at which such CDS Contract arose.
- 1.52 The term "**Original Notional Amount**", in relation to any CDS Contract, has the meaning given to that term in the Contract Terms.
- 1.53 The term "**Party**", in paragraph 8.2, means a party to a CDS Contract.
- 1.54 The term "**Permitted Deliverable Obligation**" means, in respect of a 2003-type CDS Contract, a Deliverable Obligation that satisfies Section 2.32(a) or 2.33(a) of the 2003 Credit Derivatives Definitions, if applicable and, in respect of a 2014-type CDS Contract, a Deliverable Obligation that satisfies Section 3.31(a) or 3.32(a) of the 2014 Credit Derivatives Definitions, if applicable.
- 1.55 The term "**Protocol Effective Date**" means the first "Amendment Effective Date", as such term is defined in the 2014 CDD Protocol.
- 1.56 The term "**Protocol Excluded Corporate Reference Entity**" means each Eligible Single Name Reference Entity that is a Standard European Corporate (as specified in the List of Eligible Single Name Reference Entities) and is an Excluded Reference Entity (as defined in the 2014 CDD Protocol).
- 1.57 The term "**Rate of Exchange**" means the rate of exchange for the purchase of or conversion into the Contractual Currency, including any associated premiums or costs of exchange payable in connection with the same.
- 1.58 The term "**Relevant CDS Default Committee Period**" has the meaning set out in paragraph 5.3.
- 1.59 The term "**any Relevant Jurisdiction**" means, with respect to a party, each jurisdiction (a) in which the party is incorporated, organised, managed and controlled or considered to have its seat, (b) where an Office through which the party is acting for purposes of a CDS Contract is

located, (c) in or from which the party submits CDS Trade Particulars to the Clearing House for Clearing and (d) in relation to any payment, from or through which such payment is made.

- 1.60 The term "**Relevant Restructuring Credit Event**" means, in respect of a 2003-type CDS Contract, any Restructuring and, in respect of a 2014-type CDS Contract, an M(M)R Restructuring.
- 1.61 The term "**Restructured Entity**" has the meaning set out in paragraph 9.5.
- 1.62 The term "**Restructuring Credit Event Notice**" means a Credit Event Notice in respect of a Relevant Restructuring Credit Event.
- 1.63 The term "**Restructuring Matched Pair**" or "**RMP**" means a Matched Pair created pursuant to Rule 1508 in respect of a Relevant Restructuring Credit Event.
- 1.64 The term "**Revocation Right**" will apply in respect of the submission of CDS Trade Particulars for Clearing:
- (a) if one of the Clearing Members or Sponsored Principals for whose account the submission for Clearing is made is a Defaulter;
  - (b) if and to the extent that either CDS Contract which would arise at the Acceptance Time would have been void under Rule 403 (if Rule 403 applied to CDS Contracts in addition to F&O Contracts) or capable of being treated as voidable under Rule 404(a) (if Rule 404(a) applied to CDS Contracts in addition to F&O Contracts and the latter being read for purposes of this definition as if the words "in relation only to F&O Contracts" were not set out in any part of Rule 404(a) and "Energy Clearing Members" were read as "CDS Clearing Members" and including Sponsored Principals) or Rule 404(b); or
  - (c) if CDS Trade Particulars submitted by a Clearing Member or Sponsored Principal do not correspond in all material respects with the CDS Trade Particulars submitted by the other Clearing Member or Sponsored Principal.
- 1.65 The term "**RMP Deadline Time**" means:
- (a) subject to (b) below, 11.59 p.m. on the latest of:
    - (i) the third Business Day following the DC Restructuring Announcement Date;
    - (ii) the second Business Day following the DTCC Reversioning Date, if any or, if earlier, the first Business Day following the CH Reversioning Date, if any; and
    - (iii) the date of publication by ISDA or DC Secretary of the Final List; or
  - (b) with respect to:
    - (i) a Set of 2003-type CDS Contracts for which either "Restructuring Maturity Limitation and Fully Transferable Obligation Applicable" or "Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation Applicable" is applicable, if a No Auction Announcement Date has been announced pursuant to section 12.12(a) of the 2003 Credit Derivatives Definitions;
    - (ii) a Set of 2014-type CDS Contracts for which the relevant Credit Event is an M(M)R Restructuring, if a No Auction Announcement Date has been announced pursuant to section 6.11(a) of the 2014 Credit Derivatives Definitions; or

- (iii) a Set of 2003-type CDS Contracts for which neither "Restructuring Maturity Limitation and Fully Transferable Obligation Applicable" nor "Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation Applicable" is applicable, if a No Auction Announcement Date has been announced pursuant to section 12.12 of the 2003 Credit Derivatives Definitions, the later of:
    - (A) 11.59 p.m. on the ninth calendar day following the No Auction Announcement Date; and
    - (B) the second Business Day following the DTCC Reversioning Date, if any, or, if earlier, the first Business Day following the CH Reversioning Date, if any.
- 1.66 The term "**RMP Matched Table**" means the data file, in computer-readable format, containing details of all RMPs, Matched Pairs and MP Amounts and the CDS Contracts and Matched CDS Buyers and Matched CDS Sellers to which they relate and reflecting the RMP Matching Reports, all in relation to the allocation of Matched Pairs pursuant to Rule 1508 following a Relevant Restructuring Credit Event.
- 1.67 The term "**RMP Matching Report**" means the report given by the Clearing House, as referred to in paragraph 6.3(e), to each Matched CDS Buyer and Matched CDS Seller, respectively, identifying the RMPs and allocations of Matched Pairs and the associated MP Amounts affecting the Open Contract Position of that Matched CDS Buyer and Matched CDS Seller, respectively, which report comprises Matched Pair Notices for purposes of Rule 1508 in respect of each Matched Pair.
- 1.68 The term "**Scheduled Settlement Date**" means a date on which a payment or delivery is to be made under paragraph 8.2 with respect to a CDS Contract.
- 1.69 The term "**Short Selling Regulation**" means Regulation (EU) no. 236/2012 of the European Parliament and of the Council dated 14 March 2012 on short selling and certain aspects of credit default swaps.
- 1.70 The term "**Single Name Contract**" means a CDS Contract having, as the Reference Entity, an Eligible Single Name Reference Entity.
- 1.71 The term "**Stamp Tax**" means any stamp, registration, documentation or similar tax.
- 1.72 The term "**Tax**" means any present or future tax, levy, impost, duty, charge, assessment or fee of any nature (including interest, penalties and additions thereto) that is imposed by any government or other taxing authority in respect of any payment under a CDS Contract other than a Stamp Tax.
- 1.73 The term "**Tax Event**" has the meaning specified in paragraph 8.2(e)(ii).
- 1.74 The term "**Tax Event Upon Merger**" has the meaning specified in paragraph 8.2(e)(ii).
- 1.75 The term "**Tier 1**" has the meaning given to that term in Banking Consolidation Directive.
- 1.76 The term "**Triggering Period**" means the CEN Triggering Period ending on the Exercise Cut-Off Date applicable to a Buyer or NEMO Triggering Period, as applicable.
- 1.77 The term "**US CDS Clearing Member**" means a CDS Clearing Member or applicant that would become a CDS Clearing Member that is (i) an FCM/BD or (ii) any other Person organised or incorporated under the laws of the United States of America or a state thereof.



- 1.78 These CDS Procedures are 'Procedures' as defined in the ICE Clear Europe rules (the "**Rules**") and are subject to the Rules, including, without limitation, Rule 102. Capitalised terms used in these CDS Procedures but not defined in this paragraph 1 shall have the meaning given to such terms in the Rules, the relevant CDS Contract (including the Applicable Credit Derivatives Definitions) or elsewhere in these CDS Procedures (in that order of priority in the event of any conflict).
- 1.79 Subject to paragraph 1.81 below, these CDS Procedures, and all non-contractual obligations arising out of or in connection with them, are governed by and shall be construed in accordance with English law and any Dispute under these CDS Procedures will be subject to arbitration under Rule 117.
- 1.80 Solely as between an FCM/BD Clearing Member and the Clearing House, paragraphs 3 and 6.7 of these CDS Procedures inasmuch as they relate solely to an issue or matter concerning:
- (a) the pledging, transfer, holding, use and segregation of Pledged Collateral provided by an FCM/BD Clearing Member (or other property, excluding for the avoidance of doubt the Contracts themselves recorded in such an Account, recorded in a Customer Account or Proprietary Account that is designated as an account in respect of which Pledged Collateral may be provided by an FCM/BD Clearing Member); and/or
  - (b) the application of any net sum owed in favour of the FCM/BD Clearing Member in respect of a Customer Account or Proprietary Account that is designated as an account in respect of which Pledged Collateral may be provided,

and, solely to the extent relevant to interpreting the foregoing provisions in such circumstances, relevant definitions and interpretative provisions in paragraph 1 of these CDS Procedures (such provisions, together or separately "Pledged Collateral Matters") shall be governed by and construed in accordance with the laws of the State of New York and, as applicable, the federal law of the United States of America.

- 1.81 For the avoidance of doubt, paragraph 1.80 is an exception to paragraph 1.79 and Rule 102(s) which provide that the CDS Procedures and Rules respectively shall be governed by and construed in accordance with the laws of England and Wales. For the avoidance of doubt, without limitation and notwithstanding paragraph 1.80, the following are governed by and shall be construed in accordance with the laws of England and Wales in their entirety without any exception and shall in no circumstances constitute a Pledged Collateral Matter:
- (a) all of the provisions of these CDS Procedures relating to the Designated System;
  - (b) any Dispute or issue arising as between a Non-FCM/BD Clearing Member or Sponsored Principal on the one hand and the Clearing House on the other hand;
  - (c) any Dispute or issue arising in respect of a Customer Account or Proprietary Account that is not designated as an account in respect of which Pledged Collateral may be provided;
  - (d) any matter relating to Pledged Collateral of a Non-FCM/BD Clearing Member or Sponsored Principal;
  - (e) any Pledged Collateral provided by an FCM/BD Clearing Member or Sponsored Principal pursuant to an English law Pledged Collateral Addendum; and
  - (f) the Contract Terms of all Contracts.

- 1.82 Where a dispute between an FCM/BD Clearing Member and the Clearing House relates to one or more Pledged Collateral Matters, notwithstanding the provisions of Rule 117, solely the allegations or claims relating to the Pledged Collateral Matters in such dispute shall be heard and



determined exclusively in any New York federal court sitting in the Borough of Manhattan of the City of New York, provided, however, that if such federal court does not have jurisdiction over such allegations or claims, such allegations or claims shall be heard and determined exclusively in any New York state court sitting in the Borough of Manhattan of the City of New York (such Courts, together, "**New York Courts**"). Consistent with the preceding sentence, the Clearing House and each FCM/BD Clearing Member hereby:

- (a) submits to the exclusive jurisdiction of the New York Courts solely in respect of allegations or claims relating to Pledged Collateral Matters; and
- (b) agrees that service of process will be validly effected by sending notice in accordance with Rule 113.

1.83 All allegations or claims other than those over which the New York Courts have exclusive jurisdiction pursuant to paragraph 1.82 shall be finally and exclusively determined by way of arbitration pursuant to Rule 117. It is expressly recognised that for Disputes between an FCM/BD Clearing Member and the Clearing House containing both allegations or claims over which the New York Courts have exclusive jurisdiction pursuant to paragraph 1.82 and other allegations or claims, it may be necessary to have both New York Court proceedings and arbitral proceedings. The submission of a party to the jurisdiction of a New York Court and/or the taking of a step by a party in proceedings before a New York Court, where in any such instance the New York Court has exclusive jurisdiction pursuant to paragraph 1.82 does not amount to a waiver by that party of its right to commence or participate in arbitral proceedings in accordance with Rule 117. The submission of a party to arbitration under Rule 117 or in respect of any Dispute does not amount to a waiver by that party of its right to have allegations or claims in relation to which the New York Courts have exclusive jurisdiction pursuant to paragraph 1.82 heard in the New York Courts.

1.84 Nothing in paragraphs 1.79 to 1.85 precludes the Clearing House from bringing an action to enforce a judgment from any New York Court or award of any arbitral tribunal in any court of competent jurisdiction.

1.85 EACH CLEARING MEMBER AND THE CLEARING HOUSE HEREBY IRREVOCABLY WAIVES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY DISPUTE ARISING OUT OF, UNDER OR IN CONNECTION WITH THESE CDS PROCEDURES OR ANY MATTER CONTEMPLATED BY THEM. EACH CLEARING MEMBER AND THE CLEARING HOUSE HEREBY:

- (a) CERTIFIES THAT NO REPRESENTATIVE OF ANY OTHER PERSON BOUND BY THESE RULES HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF ANY SUCH DISPUTE, SEEK TO ENFORCE THE FOREGOING WAIVER; AND
- (b) ACKNOWLEDGES THAT IT HAS BEEN INDUCED TO ENTER INTO THESE RULES, ALL CONTRACTS AND ALL OTHER TRANSACTIONS CONTEMPLATED BY THESE RULES, AS APPLICABLE, BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN PARAGRAPHS 1.79 TO 1.85.

1.86 In these CDS Procedures all references to timings or time of day are to Greenwich Mean Time (GMT) (without counting for British Summer Time (BST)), unless indicated otherwise.

## 2. **ADDITIONAL MEMBERSHIP REQUIREMENTS FOR CDS CLEARING MEMBERS**

2.1 Rule 201(i) provides that CDS Clearing Members must meet such additional requirements applicable to CDS Clearing Members as are specified in the Procedures.

2.2 The following additional requirements are specified for the purposes of Rule 201(i) as requirements that a CDS Clearing Member must satisfy in order to attain or maintain such status:

- (a) It must have a minimum of \$50 million of Capital, such requirement being satisfied in accordance with Rule 206 and the Finance Procedures (which allow Capital requirements, at the discretion of the Clearing House, to be met by a Controller which has executed a Controller Guarantee). For purposes of the application of this paragraph 2.2(a) to a US CDS Clearing Member that is not an FCM/BD, Capital shall be its net capital as determined pursuant to a risk adjusted capital calculation methodology acceptable to the Clearing House.
- (b) If it is or would be a US CDS Clearing Member, it is regulated for capital adequacy (the "**Regulatory Capital Requirement**") by a competent authority such as the FCA, PRA, CFTC, SEC, Banque de France, Bundesbank, Bundesanstalt für Finanzdienstleistungsaufsicht, Swiss Federal Banking Commission, U.S. Federal Reserve Board, U.S. Office of the Comptroller of the Currency, or any other Regulatory Authority the Clearing House designates from time to time for this purpose, or it is an Affiliate of an entity that satisfies the Regulatory Capital Requirement and is subject to consolidated holding company group supervision.
- (c) A CDS Clearing Member must have executed an agreement concerning Intellectual Property (as referred to in Rule 406(g)) in a form acceptable to the Clearing House.
- (d) A CDS Clearing Member must be a user of Deriv/SERV or such other service as is specified by the Clearing House.
- (e) If any CDS Trade Particulars are submitted for Clearing which relate to a Bilateral CDS Transaction registered at Deriv/SERV in the name of an Affiliate of a CDS Clearing Member, the CDS Clearing Member must have provided an executed authority, in a form acceptable to the Clearing House, from the relevant Affiliate, pursuant to which the Clearing House is authorised to terminate the records in Deriv/SERV in respect of Bilateral CDS Transactions to which the Affiliate is party.
- (f) A CDS Clearing Member must be a member of, or have access to, at least one physical settlement system, other than any settlement system only required for Asset Package Delivery, that is customary for the settlement of all potentially applicable Deliverable Obligations under all CDS Contracts of all Sets which it is authorised to enter into, where such a physical settlement system exists.

2.3 In the case of a US CDS Clearing Member, if at any time and for so long as it has a required contribution to the CDS Guaranty Fund that exceeds 25% of its Excess Net Capital, the Clearing House may (in addition to imposing any other applicable restrictions under Part 2 of the Rules or otherwise under the Rules or Procedures) require such US CDS Clearing Member to provide additional Margin under Rule 502(g) and/or prepay and maintain with the Clearing House an additional contribution (the "**Prepaid Contribution**") to the CDS Guaranty Fund equal to the maximum CDS Assessment Contribution under Rule 1106 that would be applicable to it at such time if it were terminating its membership of the Clearing House following an Event of Default or Events of Default where CDS Guaranty Fund Contributions have been applied. Payment of the Prepaid Contribution shall not limit such US CDS Clearing Member's obligations to make additional contributions to the CDS Guaranty Fund as otherwise required by the Rules, provided that if such a US CDS Clearing Member terminates its membership of the Clearing House it may apply the Prepaid Contribution to its obligation to make CDS Assessment Contributions up to its maximum contribution under Rule 1106. Notwithstanding anything to the contrary herein, except in the case of an Event of Default with respect to such a US CDS Clearing Member, the Prepaid Contribution will not be deemed to be part of the CDS Guaranty Fund for purposes of the application of funds therefrom until such time as it is applied to the US CDS Clearing Member's

obligations to make additional contributions to the CDS Guaranty Fund as provided in the preceding sentence.

- 2.4 For purposes of Rule 205(a)(iii), a US CDS Clearing Member that is not an FCM/BD Clearing Member shall provide to the Clearing House a copy of such forms as the Clearing House may determine to be necessary on a comparable schedule to that which an FCM/BD Clearing Member would be required to follow in filing such forms with its Regulatory Authorities.

### 3. CERTAIN PROVISIONS RELATING TO MARGIN AND OTHER PROCEDURES

- 3.1 The CDS Price Alignment Amount will be calculated daily, including in respect of weekends and currency holidays, based upon the applicable overnight rate notified by the Clearing House from time to time to CDS Clearing Members for each of the currencies in which Mark-to-Market Margin is paid.
- 3.2 The CDS Price Alignment Amount will be calculated by the Clearing House in respect of CDS Notional Margin Balance relating to CDS Contracts as recorded by the Clearing House (on a 'trade by trade', 'gross' or 'net' basis) as referred to in Rule 406(d).
- 3.3 The Daily Aggregate CDS Price Alignment Amount, if any, in any currency will be payable by the Clearing House (if positive) or the Clearing Member (as to the absolute value thereof if negative), as the case may be, in accordance with Part 3 of the Rules and the Finance Procedures.
- 3.4 The Finance Procedures, Membership Procedures, Business Continuity Procedures and Complaint Resolution Procedures and (to the extent specified in paragraph 3 of the General Contract Terms) the General Contract Terms also apply in relation to CDS Contracts and to CDS Clearing Members.

[3.5 CDS Clearing Members will be required to provide email sign off to the Clearing House by 12.30pm on the Business Day that is the closing day of the weekly cycle, or at such other time or date as specified by the Clearing House.](#)

### 4. SUBMISSION AND ACCEPTANCE OF CDS CONTRACTS

- 4.1 Any CDS Trade Particulars which are submitted to the Clearing House by a CDS Clearing Member (or, in respect of an Individually Segregated Sponsored Account, a Sponsored Principal with authorisation to clear CDS) via a CDS Trade Execution/Processing Platform or other Representative on behalf of a Clearing Member (or such a Sponsored Principal) (or its Affiliate as described in paragraph 4.5) shall be capable of giving rise to a CDS Contract under Rule 401(a)(ix). Deriv/SERV shall be treated as a Representative of the CDS Clearing Member (or Sponsored Principal) (and any Affiliate, if applicable) solely for the purposes of the submission of CDS Trade Particulars for Clearing. Pursuant to Rule 401(a)(ix) and Rule 1502, if CDS Trade Particulars are so submitted to the Clearing House by the relevant CDS Clearing Members (or, in respect of an Individually Segregated Sponsored Account, Sponsored Principals with authorisation to clear CDS), being respectively protection buyer and protection seller under such CDS Trade Particulars, and are accepted by the Clearing House pursuant to an Acceptance Notice: (i) such protection buyer will be deemed to have entered into a CDS Contract with the Clearing House as its counterparty in place of such protection seller; and (ii) such protection seller will be deemed to have entered into a CDS Contract with the Clearing House as its counterparty in place of such protection buyer. In each case, the CDS Contract will be on the Contract Terms specified in the Rules and Procedures. Rule 402(b) makes provision for the effect of this process on rights, liabilities and obligations under any CDS Trade Particulars.
- 4.2 Only CDS Clearing Members (including their duly appointed Representatives) or Sponsored Principals with authorisation to clear CDS may submit CDS Trade Particulars to the Clearing House.

- 4.3 CDS Trade Particulars submitted for Clearing must be provided in an electronic format using the relevant interface designated for such purposes when presenting the trade to the Clearing House or the transaction submission system of the relevant CDS Trade Execution/Processing Platform (or such other format as is used by the Clearing House or a CDS Trade Execution/Processing Platform for such purposes from time to time as is notified to CDS Clearing Members) and include:
- (a) the identity of both Clearing Members (or, in respect of an Individually Segregated Sponsored Account, a Sponsored Principal) (or, in the case of CDS Trade Particulars submitted pursuant to paragraph 4.4(h), the single Clearing Member);
  - (b) the position of each Clearing Member or Sponsored Principal as protection seller or protection buyer (or in the case of CDS Trade Particulars submitted pursuant to paragraph 4.4(h), whether a Clearing Member is to act as protection seller or protection buyer in respect of the CDS Contract to be recorded in one of its Customer Position Accounts and whether it is to act as protection seller or protection buyer in respect of the CDS Contract to be recorded in its Proprietary Position Account);
  - (c) the relevant Set involved, including:
    - (i) in the case of CDS Trade Particulars relating to an Eligible Single Name Reference Entity that is a Standard European Corporate (as defined in the Relevant Physical Settlement Matrix, but excluding any Protocol Excluded Corporate Reference Entity):
      - (A) submitted for Clearing prior to the Protocol Effective Date, that the 2003 Credit Derivatives Definitions apply;
      - (B) submitted for Clearing on or after the Protocol Effective Date, that the 2014 Credit Derivatives Definitions apply; and
    - (ii) in the case of CDS Trade Particulars relating to an Eligible Single Name Reference Entity that is a Standard European Financial Corporate, Standard Western European Sovereign, Standard European Senior Non Preferred Financial Corporate (each as defined in the Relevant Physical Settlement Matrix) or Protocol Excluded Corporate Reference Entity:
      - (A) submitted for Clearing prior to the 2014 CDD Implementation Date, that the 2003 Credit Derivatives Definitions apply,
      - (B) submitted for Clearing on or after the 2014 CDD Implementation Date, whether the 2003 Credit Derivatives Definitions apply, failing which the 2014 Credit Derivatives Definitions will apply;
  - (d) the quantity or notional and other economic terms involved;
  - (e) the Customer Position Account, if any, in which a resulting CDS Contract is to be recorded, failing which it will be recorded in the Proprietary Position Account;
  - (f) the relevant CDS Sub-Account;
  - (g) the amount of the Initial Payment (if any) payable, the identity of the Clearing Member or Sponsored Principal obliged to make such payment and the date for payment; and
  - (h) such other information as may reasonably be required by the Clearing House (such requirement to have been notified previously by the Clearing House).

- 4.4 In relation to any CDS Trade Particulars submitted for Clearing:

- (a) The Clearing House shall, subject to paragraphs 4.17 and 4.18, if such CDS Trade Particulars are submitted in accordance with and meet the requirements established by the Rules and these CDS Procedures, give notice the sooner of (i) on a real-time basis and (ii) as soon as reasonably practicable (in a final trade status report or other report identified for the purpose) in accordance with this paragraph 4.4 (an "**Acceptance Notice**") to the relevant Clearing Members or Sponsored Principals (including by notice to a CDS Trade Execution/Processing Platform which submitted the relevant CDS Trade Particulars) specifying that the Clearing House has accepted such CDS Trade Particulars for Clearing, provided that the Clearing House may decline to accept or may reject CDS Trade Particulars for Clearing if it determines in good faith that, based on the exercise of prudent risk management standards or in accordance with paragraph 4.4(d), it should not accept or should reject such CDS Trade Particulars for Clearing or if it determines that a Revocation Right would apply in respect of such submission for Clearing. Subject to Part 4 of the Rules and this paragraph 4, an Acceptance Notice will result in the relevant Clearing Member or Sponsored Principal and the Clearing House entering into a CDS Contract at the Acceptance Time. The Acceptance Notice shall be definitive as to any CDS Contracts entered into between the Clearing House and any Clearing Member or Sponsored Principal, regardless of any error. Acceptance Notices will be given by electronic message.

This sub-paragraph applies only in respect of CDS Trade Particulars relating to a Bilateral CDS Transaction already recorded in Deriv/SERV at the time of submission. Clearing Members shall only submit CDS Trade Particulars in relation to such Bilateral CDS Transactions provided that, at the time the Bilateral CDS Transaction was entered into it was not agreed by the parties that the Bilateral CDS Transaction would be submitted for clearing. The Clearing House shall, subject to paragraph 4.17, if such CDS Trade Particulars are submitted in accordance with and meet the requirements established by the Rules and these CDS Procedures, give notice as soon as reasonably practicable (in a final trade status report or other report identified for the purpose) in accordance with this paragraph 4.4 (a "**Preliminary Notice**") to the relevant Clearing Members or Sponsored Principals (including by notice to a CDS Trade Execution/Processing Platform which submitted the relevant CDS Trade Particulars) specifying that the Clearing House is minded to accept such CDS Trade Particulars for Clearing, provided that the Clearing House may decline to issue such a notice if it determines in good faith that, based on the exercise of prudent risk management standards, it should not accept such CDS Trade Particulars for Clearing or if it determines that a Revocation Right would apply in respect of such submission for Clearing, following which the Clearing House shall give notice the sooner of (i) on a real-time basis or (ii) as soon as reasonably practicable (in any report identified for this purpose) specifying that the Clearing House has not accepted such CDS Trade Particulars for Clearing. CDS Trade Particulars will be subject to such pre-submission review and processing by the relevant CDS Trade Execution/Processing Platform as the Clearing House shall designate, and shall not be deemed to be formally submitted, received, accepted or rejected until such time as is designated for the completion of such pre-submission review and processing, to the extent permitted under Applicable Laws. Acceptance of CDS Trade Particulars for Clearing shall, in addition to the other criteria set forth herein, be subject to receipt by the Clearing House of any advance funding of Margin as may be required by the Clearing House in connection with the CDS Trade Particulars. Each Clearing Member or Sponsored Principal shall check each Preliminary Notice that concerns CDS Contracts that it is proposed to enter into at the Acceptance Time and shall promptly notify the Clearing House of any error of which it is aware. The parties' agreement to submit the Bilateral CDS Transaction for clearing shall be effective as of the Acceptance Time and at no time prior to that. An Acceptance Notice in respect of CDS Trade Particulars to which this sub-paragraph applies shall not be issued until after the completion of any applicable pre-submission review and processing and receipt of such Margin.

CDS Trade Particulars may be submitted between 8:00 a.m. and 6:00 p.m. on a Business Day and will be accepted or rejected by the Clearing House by 6:30 p.m. on the day



submitted. CDS Trade Particulars submitted after 6:00 p.m. on a Business Day or on a day that is not a Business Day shall, unless withdrawn prior to 8:00 a.m. on the following Business Day by the CDS Trade Execution/Processing Platform which submitted it or unless otherwise notified by the Clearing House to the Clearing Member or Sponsored Principal or unless a Revocation Right exists and is exercised or unless otherwise stated in a Circular, be deemed to have been submitted at 8:00 a.m. on such following Business Day. If the Trade Date specified in the CDS Trade Particulars is not a Business Day, then the relevant CDS Trade Particulars will be rejected.

Following the issuance of an Acceptance Notice, the Clearing House will, using the DTCC Process, promptly (i) submit to Deriv/SERV or another service specified by the Clearing House (for itself, for the relevant Clearing Members or Sponsored Principals and for any relevant Customer) the terms of each new CDS Contract arising at the Acceptance Time (and any related Customer-CM CDS Transaction), adjusted to take into account netting, aggregation, terminations and replacements of CDS Contracts pursuant to Rule 406, where applicable and (ii) terminate, if applicable, the record in Deriv/SERV of any relevant Bilateral CDS Transaction. Each Clearing Member, Sponsor, Sponsored Principal and Customer will suppress its own processes (and procure that its Representatives suppress their processes) for such submission and termination.

- (b) After the Acceptance Time, any CDS Contract may only be terminated (other than in accordance with its terms), rescinded or cancelled by the Clearing House:
  - (i) pursuant to Rule 104, Rule 209, Rule 404, Rule 406 or Part 9 of the Rules;
  - (ii) if the Clearing House is presented with an agreement in writing to terminate between a CDS Buyer and CDS Seller with equally offsetting positions in the same Set and the Clearing House also agrees (in which case such equally offsetting CDS Contracts of the CDS Buyer and CDS Seller will be terminated);  
or
  - (iii) pursuant to CADP under Rule 1514.
- (c) Each Clearing Member and Sponsored Principal acknowledges and agrees that the Clearing House may rely, without additional investigation, on the data in CDS Trade Particulars submitted by a CDS Trade Execution/Processing Platform for Clearing that has been designated by such CDS Trade Execution/Processing Platform as having been affirmed or confirmed by the relevant parties thereto (including as to the identity of the Clearing Members or Sponsored Principals specified therein), and that the relevant Clearing Member or Sponsored Principal shall be party to any CDS Contract arising as a result of such submission. A Clearing Member or Sponsored Principal may give not less than one Business Day's written notice to the Clearing House, in accordance with the Procedures, that a CDS Trade Execution/Processing Platform is no longer authorised to submit CDS Trade Particulars on its behalf, and following expiry of that notice period, the Clearing House will not accept for Clearing any CDS Trade Particulars submitted by such CDS Trade Execution/Processing Platform that identify such Clearing Member or Sponsored Principal (but without limiting the provisions of this paragraph with respect to any CDS Trade Particulars submitted before the expiry of that notice period).
- (d) The Clearing House may establish limits for CDS Trade Particulars of various types which may be submitted by a CDS Clearing Member or Sponsored Principal for Clearing based on the impact on the Margin requirements and may require advance funding by a CDS Clearing Member or Sponsored Principal of all or part of the estimated Margin which would be applicable as a result of the acceptance for Clearing of such CDS Trade Particulars. Such limits or requirements will be set in accordance with the established risk procedures applicable to all Clearing Members or Sponsored Principals (such procedures as determined in consultation with the CDS [Product](#) Risk Committee). Any material change to the factors by reference to which the [limits](#) and/or requirements are set will be

subject to consultation with the CDS [Product](#) Risk Committee. Such limits and/or requirements may be amended from time to time by the Clearing House (provided that they are set in accordance with such procedures) and need not be identical for, or apply to, all CDS Clearing Members or Sponsored Principals. The Clearing House will give notice from time to time to each CDS Clearing Member and Sponsored Principal of the limits and requirements, if any, applying to that CDS Clearing Member or Sponsored Principal. The Clearing House may, without other reason, reject or refuse to accept for Clearing any CDS Trade Particulars for which a submitting CDS Clearing Member or Sponsored Principal is not in compliance with such limits and requirements, if any, applying to it. The provisions of this paragraph 4.4(d) are without prejudice and in addition to the Clearing House's powers under Part 6 of the Rules.

- (e) If a CDS Contract and/or a Customer-CM CDS Transaction do not reflect, subject to the provisions of the Rules and Procedures, the data in the CDS Trade Particulars which were submitted or were intended to be submitted for Clearing, then:
- (i) where either the details in the Acceptance Notice did not so reflect the data in the CDS Trade Particulars actually submitted for Clearing or the details of the resulting CDS Contract(s) or Customer-CM CDS Transaction(s) as recorded in Deriv/SERV do not reflect the Acceptance Notice, the Clearing House will, as appropriate, reissue a corrected Acceptance Notice and/or amend (and thereby correct) the records in Deriv/SERV (including, where appropriate, any records in Deriv/SERV of any Customer-CM CDS Transaction) and may require the affected Clearing Member(s), Sponsor(s), Sponsored Principal(s) and any Customer(s) to make or confirm matching amendments to such records; and
  - (ii) other than in circumstances falling in (i), the affected CDS Buyer and CDS Seller may agree among themselves (or the affected Clearing Member, if there is only one Clearing Member that has become party to two CDS Contracts) (in either case, without reference to or consent from the Clearing House) to submit for Clearing, pursuant to the "Misclear" function made available by the Clearing House, further CDS Trade Particulars for the purpose of cancelling (by netting) the continuing rights and obligations resulting from the error, but unless and until they do so, such CDS Buyer and CDS Seller and, where applicable, Customers, shall be bound by the terms of the relevant CDS Contracts and Customer-CM CDS Transactions notwithstanding such error.
- (f) This paragraph 4.4(f) applies only to CDS Contracts arising pursuant to Rule 401(a)(xi). The Clearing House will provide affected Clearing Members and Sponsored Principals with CDS Trade Particulars which will give rise to CDS Contracts pursuant to Rule 401(a)(xi) on the Business Day of price submission. Provided that the Clearing House is not notified of any error or dispute relating to the CDS Trade Particulars prior to the Acceptance Time, such CDS Trade Particulars will be used by the Clearing House for the purposes of booking new CDS Contracts. The Clearing House will be deemed to have issued an Acceptance Notice specifying the time of deemed issue as the Acceptance Time when it gives notice to the affected Clearing Member or Sponsored Principal that it has recorded the new CDS Contract in its systems. [A CDS Clearing Member may designate another CDS Clearing Member that is an Affiliate to accept such CDS Contracts in lieu of it, by entering into an agreement in the form prescribed by the Clearing House.](#)
- (g) Where a Clearing Member submits CDS Trade Particulars for one of its Customer Accounts, the CDS Contract, if any, arising at the Acceptance Time will be recorded in the CDS Sub-Account and DTCC Account specified by the relevant Clearing Member, in accordance with Rule 401(g). Pursuant to Rule 401(m), in the case of Non-FCM/BD CDS Clearing Members, a Customer-CM CDS Transaction shall be established (or any pre-existing transaction between the Customer and Clearing Member shall be replaced or amended and restated as a Customer-CM CDS Transaction) at the Acceptance Time in



respect of the related CDS Contract, such Customer-CM CDS Transaction being on the terms provided in the Rules and the CDS Standard Terms. The relevant Clearing Member shall also specify the relevant corresponding DTCC Account.

- (h) A single Clearing Member may submit CDS Trade Particulars which would, on acceptance for Clearing, give rise to a CDS Contract for one of its Customer Accounts and a CDS Contract for its Proprietary Account and, for the purposes of this paragraph 4, will be treated as two Clearing Members in relation to such submission, one as protection buyer and one as protection seller.

#### 4.5

- (a) The Clearing House may accept the submission of CDS Trade Particulars for Clearing for the account of a Clearing Member or Sponsored Principal from a Representative of such Clearing Member or Sponsored Principal that is an Affiliate of such Clearing Member or Sponsored Principal or from a CDS Trade Execution/Processing Platform as the Representative of such Affiliate, provided that such Affiliate is then designated for this purpose as an authorised Representative of the Clearing Member or Sponsored Principal in accordance with the Membership Procedures and such CDS Trade Execution/Processing Platform is then designated as a Representative of the Clearing Member or Sponsored Principal.
- (b) Where CDS Trade Particulars relate to an Affiliate of a CDS Clearing Member or Sponsored Principal and are submitted for Clearing for the account of that CDS Clearing Member or Sponsored Principal:
  - (i) the Clearing House is, in addition to other rights, authorised by such Clearing Member (on behalf of its Affiliate) to provide a termination notice to Deriv/SERV in respect of any related Bilateral CDS Transaction;
  - (ii) the Clearing Member or Sponsored Principal is responsible for ensuring that any give-up or novation agreements, other back-to-back CDS transactions or agency relationships between it and its Affiliate come in to effect and are properly documented at the appropriate time;
  - (iii) unless the Affiliate is a Sponsored Principal the Clearing House is not party to such Contract with the Affiliate and the provisions of Rule 111 concerning exclusions of liability shall apply;
  - (iv) Rules 402(b) and 404 shall apply as though the Affiliate was the Clearing Member or Sponsored Principal referred to therein;
  - (v) the Affiliate shall be deemed to have agreed to provide the CDS Clearing Member or Sponsored Principal and Clearing House with such authority as would have been provided (if such Affiliate were a Customer pursuant to the CDS Standard Terms or the Rules) to amend the records of Deriv/SERV; and
  - (vi) the Affiliate shall (in the absence of evidence of a contrary intention under any relevant Bilateral CDS Transaction) be deemed to be on notice of this provision and to have agreed to the application of this provision by virtue of the Affiliate's conduct in having the relevant CDS Trade Particulars submitted for Clearing.

- 4.6 The Clearing House will be entitled to assume and will assume that no Credit Event Notice relating to a Credit Event under a Bilateral CDS Transaction for which CDS Trade Particulars are submitted for Clearing has been delivered by either party to the other prior to the relevant Acceptance Time (other than, in relation to any CDS Trade Particulars which would give rise to 2003-type CDS Contracts, any deemed delivery of a Credit Event Notice pursuant to a DC Credit Event Announcement). Each CDS Buyer and CDS Seller upon submitting CDS Trade Particulars

for Clearing acknowledges and agrees that any Credit Event Notice (other than, in relation to any CDS Trade Particulars which would give rise to 2003-type CDS Contracts, any deemed delivery of a Credit Event Notice pursuant to a DC Credit Event Announcement) delivered in relation to the relevant Bilateral CDS Transaction for which CDS Trade Particulars are accepted for Clearing shall be deemed, at the Acceptance Time, never to have been delivered. This paragraph shall have no effect on any Bilateral CDS Transaction for which CDS Trade Particulars are not accepted for Clearing.

- 4.7 The Clearing House will be entitled to assume and will assume that no Notice of Physical Settlement under a Bilateral CDS Transaction for which CDS Trade Particulars are submitted for Clearing has been delivered by one party to the other prior to the relevant Acceptance Time. Each CDS Buyer and CDS Seller upon submitting CDS Trade Particulars relating to a Bilateral CDS Transaction for Clearing acknowledges and agrees that any Notice of Physical Settlement delivered in relation to such a Bilateral CDS Transaction shall be deemed, at the Acceptance Time, never to have been delivered. This paragraph shall have no effect on any Bilateral CDS Transaction for which CDS Trade Particulars are not accepted for Clearing.
- 4.8 Any CDS Trade Particulars which would give rise to two Single Name Contracts at the Acceptance Time shall not be eligible for Clearing where the Reference Entity is one of the CDS Clearing Members or Sponsored Principals submitting the CDS Trade Particulars for Clearing or a Group Company thereof (or is the Customer in respect of the CDS Sub-Account in which a CDS Contract would be recorded or a Group Company thereof). Neither CDS Clearing Members nor Sponsored Principals shall submit for Clearing any CDS Trade Particulars which are not, at the time of submission for Clearing, eligible for Clearing pursuant to this paragraph 4.8. Customers shall not take any action which would lead to the submission for Clearing of any CDS Trade Particulars which are not, at the time of submission for Clearing, eligible for Clearing pursuant to this paragraph 4.8 as a result of the Reference Entity being such Customer or one of its Group Companies. If, but only for so long as, it is not prevented from doing so by Applicable Law, a CDS Clearing Member or Sponsored Principal shall notify the Clearing House as soon as reasonably practicable if any CDS Trade Particulars submitted by it for Clearing (but in respect of which no Acceptance Notice has become effective) are or become ineligible for Clearing pursuant to this paragraph 4.8. If, but only for so long as, it is not prevented from doing so by Applicable Law, a Customer shall notify its CDS Clearing Member as soon as reasonably practicable if it becomes aware that any CDS Trade Particulars submitted for Clearing (but in respect of which no Acceptance Notice has become effective) are or become ineligible for Clearing pursuant to this paragraph 4.8 as a result of the Reference Entity being such Customer or one of its Group Companies. Any CDS Trade Particulars which are submitted for Clearing but which are, or become before the relevant Acceptance Time, ineligible for Clearing may be rejected by the Clearing House before the relevant Acceptance Time (whether or not paragraph 4.8 applied at the time that the CDS Trade Particulars were submitted for Clearing). This restriction shall not apply where the CDS Trade Particulars are submitted to close out an Affected SR Contract.
- 4.9 CDS Trade Particulars for Old Index CDS shall cease to be eligible to be submitted for Clearing:
- (a) in the case of a Relevant Restructuring Credit Event occurring in relation to a Component Transaction, upon the earlier of:
    - (i) close of business on the DC Restructuring Announcement Date; and
    - (ii) the close of business on the day on which a No Auction Announcement Date relevant to the Set in question occurs;
  - (b) in the case of any other Applicable Credit Event occurring in relation to a Component Transaction, if the Acceptance Notice would fall after the earlier of:
    - (i) the close of business on the calendar day following the Auction Final Price Determination Date with respect to the Component Transaction; and

- (ii) the close of business of the day on which an Auction Cancellation Date or a No Auction Announcement Date relevant to the Set in question occurs; or
- (c) in any such case, at such other time as is notified by the Clearing House in a Circular following consultation with the CDS [Product](#) Risk Committee.

In such circumstances, CDS Trade Particulars similar to the Old Index CDS but excluding the Component Transaction affected by the Credit Event will become available for Clearing when, following consultation with the CDS [Product](#) Risk Committee, the relevant Set is notified as available for Clearing by the Clearing House by Circular, which notification will be given as soon as reasonably practicable. For the avoidance of doubt, CDS Trade Particulars submitted for Clearing prior to the time specified in paragraph 4.9(a) will be capable of being accepted for Clearing, notwithstanding any occurrence of an event referred to in paragraph 4.9(a) prior to the time of the relevant Acceptance Notice, subject always to paragraph 4.9(c) and the rest of this paragraph 4.

4.10 CDS Trade Particulars which would give rise to two Single Name Contracts at the Acceptance Time in respect of which an Applicable Credit Event occurs in relation to the relevant Reference Entity shall cease to be eligible to be submitted for Clearing:

- (a) in the case of a Relevant Restructuring Credit Event, upon the earliest of:
  - (i) close of business on the DC Restructuring Announcement Date, provided that the Clearing House may, in consultation with the CDS [Product](#) Risk Committee, designate by Circular any later date; and
  - (ii) the close of business of the day on which a No Auction Announcement Date relevant to the Set in question occurs;
- (b) in the case of any other Applicable Credit Event, if the Acceptance Notice would fall after the earlier of:
  - (i) the close of business on the calendar day following the Auction Final Price Determination Date; and
  - (ii) the close of business of the day on which an Auction Cancellation Date or a No Auction Announcement Date relevant to the Set in question occurs; or
- (c) in any such case, at such other time as is notified by the Clearing House in a Circular following consultation with the CDS [Product](#) Risk Committee.

In the case only of a Relevant Restructuring Credit Event, such CDS Trade Particulars will again become eligible for Clearing if the Acceptance Notice would fall after:

- (i) close of business on the calendar day following the Business Day following the latest possible Exercise Cut-off Date for the Restructuring Credit Event; or
- (ii) such other time as is notified by the Clearing House in a Circular following consultation with the CDS [Product](#) Risk Committee.

For the avoidance of doubt, CDS Trade Particulars submitted for Clearing prior to the time specified in paragraph 4.10(a) will be capable of being accepted for Clearing, notwithstanding any occurrence of an event referred to in any of paragraph 4.10(a) prior to the time of the relevant Acceptance Notice, subject always to paragraph 4.10(c) and the rest of this paragraph 4.

4.11 In relation to a Succession Event, in respect of a 2003-type CDS Contract, or circumstances giving rise to a Successor and a Succession Date, in respect of a 2014-type CDS Contract, if the Clearing House determines that any actual, hypothetical or potential transaction reflected in CDS

Trade Particulars submitted for Clearing would have been subject to a Succession Event or such circumstances, as the case may be, but will no longer be subject to such Succession Event or circumstances after the Acceptance Time because of the Trade Date that would be specified with respect to the related CDS Contract, the Clearing House shall take such action as it deems necessary to ensure that such Succession Event is given effect or such circumstances are given effect, as the case may be, with respect to such CDS Contracts arising at the Acceptance Time, including, without limitation, declining to accept such CDS Trade Particulars for Clearing or specifying an alternate Trade Date for purposes of Section 2.1 of the Applicable Credit Derivatives Definitions with respect to the relevant CDS Contract or portion thereof.

- 4.12 CDS Clearing Members, Sponsors, Sponsored Principals and Customers shall use reasonable endeavours not to submit any CDS Trade Particulars which are not eligible for Clearing pursuant to paragraph 4.9, 4.10, 7.2 or 7.3 as at the time such CDS Trade Particulars are submitted for Clearing. Each CDS Clearing Member, Sponsor and Sponsored Principal shall notify the Clearing House as soon as reasonably practicable if it is or becomes aware that any CDS Trade Particulars submitted by it for Clearing (but in respect of which no Acceptance Notice has become effective) are or become ineligible for Clearing pursuant to paragraph 4.9, 4.10, 7.2 or 7.3. Any CDS Trade Particulars which are submitted for Clearing but which are, or become before the relevant Acceptance Time, ineligible for Clearing may be rejected by the Clearing House before the relevant Acceptance Time (whether or not the relevant provision of paragraph 4.9, 4.10, 7.2 or 7.3 applied at the time that the CDS Trade Particulars were submitted for Clearing). If CDS Trade Particulars were eligible for Clearing at the time they were submitted for Clearing but become ineligible for Clearing pursuant to paragraph 4.9, 4.10, 7.2 or 7.3 after the time that they were submitted for Clearing, then the Clearing House will use reasonable endeavours not to issue an Acceptance Notice in respect of those CDS Trade Particulars.
- 4.13 If any CDS Trade Particulars have been submitted for Clearing, are or become, pursuant to paragraph 4.9 or 4.10, ineligible for Clearing before the relevant Acceptance Time and are not rejected by the Clearing House before the relevant Acceptance Time, then:
- (a) in the case of an Old Index CDS where a Relevant Restructuring Credit Event has occurred in relation to a Component Transaction and the Exercise Cut-Off Date applicable to the CDS Buyer has not occurred at the time that the Clearing House becomes aware of the situation, the Clearing House will endeavour:
    - (i) to allocate the CDS Buyer and CDS Seller (the "**Late Buyer and Seller**") under the resulting Cleared CDS Contracts (the "**Late Cleared CDS Contracts**") into a single Matched Pair for the relevant Component Transaction in respect of an MP Amount equal to the Floating Rate Payer Calculation Amount relating to such Component Transaction; and
    - (ii) to treat the remainder of the Late Cleared CDS Contracts in the same way as other equivalent CDS Contracts of the relevant Set which had already been Cleared;
  - (b) in the case of an Old Index CDS where an Applicable Credit Event other than a Relevant Restructuring Credit Event has occurred in relation to a Component Transaction, the Clearing House will:
    - (i) where an Auction is held in respect of the relevant Reference Entity which would have applied to the relevant Component Transaction, (x) notify the Late Buyer and Seller under the Late Cleared CDS Contracts that they will be obliged to settle the rights and obligations arising in respect of the relevant Component Transaction as a result of such Credit Event at the auction price that would have been applicable to the relevant Component Transaction and (y) endeavour to treat the remainder of the Late Cleared CDS Contracts in the same way as other

- equivalent CDS Contracts of the relevant Set which had already been Cleared;  
and
- (ii) where (i) does not apply and, in relation to a 2003-type CDS Contract, the relevant deadline in section 3.2(c) of the 2003 Credit Derivatives Definitions for the delivery of a Notice of Physical Settlement has not passed or, in relation to a 2014-type CDS Contract, the NOPS Cut-off Date has not passed, in either case at the time that the Clearing House becomes aware of the situation, endeavour (x) to allocate the Late Buyer and Seller under the Late Cleared CDS Contracts into a single Matched Pair for the relevant Component Transaction in respect of an MP Amount equal to the Floating Rate Payer Calculation Amount relating to such Component Transaction and (y) to treat the remainder of the Late Cleared CDS Contracts in the same way as other equivalent CDS Contracts of the relevant Set which had already been Cleared;
- (c) in the case of CDS Trade Particulars to which paragraph 4.10 applies, where a Relevant Restructuring Credit Event has occurred and the Exercise Cut-off Date applicable to the CDS Buyer has not occurred at the time that the Clearing House becomes aware of the situation, the Clearing House will endeavour to allocate the Late Buyer and Seller under the Late Cleared CDS Contracts into a single Matched Pair in respect of an MP Amount equal to the Floating Rate Payer Calculation Amount of such CDS Trade Particulars; and
  - (d) in the case of CDS Trade Particulars to which paragraph 4.10 applies, where an Applicable Credit Event other than a Relevant Restructuring Credit Event has occurred, the Clearing House will:
    - (i) where an Auction is held in respect of the relevant Reference Entity which would have applied to the Late Cleared CDS Contracts, notify the Late Buyer and Seller under the Late Cleared CDS Contracts that they will be obliged to settle the rights and obligations arising in respect of the Late Cleared CDS Contracts as a result of such Credit Event at the auction price that would have been applicable; and
    - (ii) where (i) does not apply and, in relation to a 2003-type CDS Contract, the relevant deadline in section 3.2(c) of the 2003 Credit Derivatives Definitions for the delivery of a Notice of Physical Settlement has not passed or, in relation to a 2014-type CDS Contract, the NOPS Cut-off Date has not passed, in either case at the time that the Clearing House becomes aware of the situation, endeavour to allocate the Late Buyer and Seller under the Late Cleared CDS Contracts into a single Matched Pair in respect of an MP Amount equal to the Floating Rate Payer Calculation Amount of such CDS Trade Particulars.

For the avoidance of doubt, if notwithstanding the use of reasonable endeavours to follow the process set out in this paragraph 4.13, the outcome described in this paragraph 4.13 has not resulted, the Clearing House may deal with the situation in other ways in accordance with the Rules or these CDS Procedures.

- 4.14 The Clearing House will, where required in order to give effect to the election of each CDS Clearing Member or Sponsored Principal made pursuant to Rule 406(d), aggregate and net those CDS Contracts of the same Set in the same CDS Sub-Account of such CDS Clearing Member or Sponsored Principal which are eligible for netting: (a) on a weekly basis as part of its process for Clearing Bilateral CDS Transactions already recorded in Deriv/SERV; and (b) on such other dates as the Clearing House may determine. In addition, the Clearing House will aggregate and net relevant CDS Contracts in a CDS Sub-Account which are eligible for netting: (i) when a CDS Contract for such CDS Sub-Account arises pursuant to Rule 401(a)(vi), (x) or (xi); and (ii) when a CDS Contract recorded in such CDS Sub-Account is voided (and such voiding is duly notified by



the Clearing House pursuant to Rule 404(e)) or, to the extent that termination and replacement is necessary in the circumstances, Rule 404(c)(i).

- 4.15 Where, in connection with Clearing, the Clearing House is to use the DTCC Process to submit, amend or terminate the records in Deriv/SERV of any CDS Contract or Customer-CM CDS Transaction so far as those records relate to a Customer of a Clearing Member (in relation to any Customer, the "relevant Clearing Member"), the Clearing House will submit, amend or terminate such records on behalf of the relevant Clearing Member and Customer.
- 4.16 Where, in connection with Clearing, the Clearing House is to use the DTCC Process to submit, amend or terminate the records in Deriv/SERV of any CDS Contract or Customer-CM CDS Transaction recorded in an Individually Segregated Sponsored Account, the Clearing House will submit, amend or terminate such records on behalf of the relevant Sponsored Principal (and, if it is a Non-FCM/BD Clearing Member, the Sponsor).
- 4.17 The Clearing House will accept or reject CDS Trade Particulars submitted for Clearing within the following timeframes:
- (a) for transactions that are executed competitively on or subject to the rules of a CDS Trade Execution/Processing Platform or Market and transactions executed on an EEA CDS Trade Execution/Processing Platform or Market within the sooner of: (i) 10 seconds from receiving the CDS Trade Particulars from the CDS Trade Execution/Processing Platform or Market; and (ii) as quickly after execution as would be technologically practicable if fully automated systems were used.
  - (b) for transactions not executed on or subject to the rules of a CDS Trade Execution/Processing Platform or Market within the sooner of (i) 60 seconds from receiving the information on the cleared derivative transaction from the counterparties and (ii) as quickly after submission to the Clearing House as would be technologically practicable if fully automated systems were used.
  - (c) for transactions executed non-competitively on or subject to the rules of a designated contract market, swap execution facility or other similar CDS Trade Execution/Processing Platform or Market in a non-EEA jurisdiction as quickly after submission to the Clearing House as would be technologically practicable if fully automated systems were used.

The Clearing House will accept all such CDS Trade Particulars within such timeframes: (i) that are submitted to the Clearing House by the parties in accordance with Applicable Laws, (ii) for which the executing parties are both either CDS Clearing Members or Sponsored Principals with authorisation to clear CDS or have clearing arrangements in place with a CDS Clearing Member (iii) for which the executing parties identify the Clearing House as the intended clearing house, and (iv) that satisfy the criteria of the Clearing House as set out herein and in the Rules (which criteria shall be non-discriminatory across trading venues).

- 4.18 Each FCM/BD CDS Clearing Member and Sponsored Principal that is an FCM/BD must accept or reject each CDS Trade Particulars submitted by or for it as quickly as would be technologically practicable if fully automated systems were used and (to the extent such CDS Trade Particulars have not already been submitted to the Clearing House at the time of acceptance by such Clearing Member or Sponsored Principal) must submit such CDS Trade Particulars to the Clearing House as quickly following such acceptance (or execution, if executed directly by such Clearing Member or Sponsored Principal) as would be technologically practicable if fully automated systems were used. For the avoidance of doubt, acceptance or rejection of any CDS Trade Particulars by a Clearing Member or Sponsored Principal does not constitute acceptance or the issuance of an Acceptance Notice by the Clearing House. For the avoidance of doubt, this paragraph 4.18 shall apply in addition to paragraph 4.17.

## 5. CDS DEFAULT COMMITTEE

- 5.1 The CDS Default Committee shall be comprised of not more than three CDS Committee-Eligible Clearing Members designated in accordance with paragraph 5.2 (each, a "**CDS Default Committee Participant**"). The CDS Default Committee shall act as a committee of the Clearing House with powers under the Rules pursuant to Rule 114. Each CDS Default Committee Participant shall designate an employee of it or one of its Affiliates with CDS trading experience by notice in writing to the Clearing House (an "**Eligible Employee**") to serve as its representative on the CDS Default Committee, along with one or more alternates in the event such person is not available on a timely basis (the designated employee or alternate, as applicable, a "**CDS Default Committee Member**"). A CDS Default Committee Participant may replace its designated CDS Default Committee Member or alternate(s) with an Eligible Employee from time to time by notice in writing to the Clearing House.
- 5.2 A Clearing Member may be approved to be a CDS Committee-Eligible Clearing Member only if it meets the following conditions: (a) in the event that it has one or more Affiliates that are CDS Clearing Members, it has the longest period of membership of the Clearing House among such Affiliates; (b) it has a London-based CDS trading desk; and (c) it is deemed appropriate to be a CDS Default Committee Member by the Clearing House at its discretion. The Clearing House maintains a list of all CDS Committee-Eligible Clearing Members (the "**CDS Default Committee Participant List**"), which was initially created by randomly ordering all CDS Committee-Eligible Clearing Members at the time. The procedure for maintaining the CDS Default Committee Participant List (including adding CDS Clearing Members to, removing CDS Clearing Members from or changing the order of Clearing Members on the CDS Default Committee Participant List) may be determined from time to time by the Clearing House at its discretion. CDS Clearing Members may provide information to the Clearing House of relevance to their own inclusion or omission or order on the list, which shall not be binding on the Clearing House. Without limiting Rule 106(b) or its discretions in this paragraph 5.2, the Clearing House may also share the CDS Default Committee Participant List with any other Clearing Organisation.
- 5.3 Subject to any adjustments made pursuant to this paragraph, the CDS Default Committee for each Relevant CDS Default Committee Period shall be comprised of the first three CDS Committee-Eligible Clearing Members on the CDS Default Committee Participant List at that time. Upon cessation of the Relevant CDS Default Committee Period, the then current CDS Default Committee Participants shall cease to be CDS Default Committee Participants and shall be moved to the end of the CDS Default Committee Participant List. If a CDS Committee-Eligible Clearing Member considers that it is unable to take part in the CDS Default Committee for the Relevant CDS Default Committee Period for which it is due to take part, it may request to postpone its participation in the CDS Default Committee for a Relevant CDS Default Committee Period. The Clearing House may at its discretion approve the request and, if such request is approved: (a) that CDS Committee-Eligible Clearing Member will be listed so as to take part in the CDS Default Committee for the next Relevant CDS Default Committee Period as one of the three CDS Default Committee Participants; and (b) one of the next three CDS Committee-Eligible Clearing Members on the CDS Default Committee Participant List will be selected by the Clearing House at its discretion to take part in the CDS Default Committee during that Relevant CDS Default Committee Period. The CDS Default Committee Participant List will be amended accordingly. If at any time there are fewer than three CDS Committee-Eligible Clearing Members on the CDS Default Committee Participant List, all such CDS Committee-Eligible Clearing Members shall be CDS Default Committee Participants. The "**Relevant CDS Default Committee Period**" will be six calendar months (i.e., January through June and July through December), unless otherwise specified by the Clearing House.
- 5.4 Any CDS Clearing Member that ceases being a CDS Committee-Eligible Clearing Member or becomes a Defaulter or is suspended or receives or serves a termination notice of its membership shall be removed from the CDS Default Committee Participant List and, if such Clearing Member is serving on the CDS Default Committee at the time of removal, shall be replaced on the CDS Default Committee by the next CDS Committee-Eligible Clearing Member on the CDS Default Committee Participant List. Any Clearing Member that becomes (or resumes being) a CDS



Committee-Eligible Clearing Member shall be added to the end of the CDS Default Committee Participant List. The CDS Default Committee Participant List will be amended accordingly.

- 5.5 If the Clearing House determines, whether upon the request of such CDS Default Committee Participant or upon the Clearing House's own initiative, that any CDS Default Committee Participant has a conflict or lacks impartiality with regard to an action to be undertaken by the CDS Default Committee (e.g., it or its Affiliate is the subject of the Event of Default), is not available to participate with regard to such actions in a timely manner, or should for any other reason be removed from or not participate in actions to be undertaken by the CDS Default Committee, the Clearing House shall remove such CDS Default Committee Participant and, as promptly as practicable under the circumstances, replace it with the next CDS Committee-Eligible Clearing Member on the CDS Default Committee Participant List and, pending such replacement, the remaining CDS Default Committee Members shall continue to perform the responsibilities of the CDS Default Committee. The CDS Default Committee Participant List will be amended accordingly.
- 5.6 The Clearing House hereby gives notice that, since the CDS Default Committee acts as part of the governance of the Clearing House, the CDS Default Committee Members and CDS Default Committee Participants shall take the benefit of all exclusions and limitations of liability available to the Clearing House under the Rules or Applicable Laws.
- 5.7 The CDS Default Committee shall be entitled to:
- (a) assist and advise the Clearing House in determining and executing any transactions under Part 9 of the Rules in CDS only;
  - (b) assist the Clearing House in determining (and thereafter adjusting) any sale or transfer prices, target prices or minimum target prices for such CDS;
  - (c) assist the Clearing House in relation to the unwinding of any CDS Contracts which fall within paragraphs 4.8 or 11.5, and otherwise as provided in the Rules and Procedures in relation thereto;
  - (d) provide the Clearing House with recommendations as to (i) how prudently to unwind the Open Contract Positions in CDS Contracts of a Defaulter that was a CDS Clearing Member or Sponsored Principal that was authorised to clear CDS (relating to any Customer Account Positions and Proprietary Account Positions); (ii) how to implement the Default Portability Rules, if applicable; and (iii) the related close out of CDS and other hedging transactions, if any; and
  - (e) without prejudice to the generality of the foregoing, assist and advise the Clearing House in determining whether or not the entry into of any hedging transactions under Part 9 of the Rules would achieve, or would be likely to achieve, the purpose of an orderly unwind of any Contracts to which a Defaulter is party or a reduction of the risk specified in Part 9 of the Rules.

The minimum target price shall be established by the Clearing House in consultation with the CDS Default Committee (taking into account the results of any prior auctions) as the price, as determined in the reasonable discretion of the Clearing House (taking into account the interests of non-defaulting Clearing Members), at which it would be reasonable for the Clearing House to enter into relevant Contracts or hedging contracts under Part 9 of the Rules. Any minimum target price so determined by the Clearing House may be adjusted by the Clearing House in consultation with the CDS Default Committee for market changes, and to take into account the result of any sales or auctions under Part 9 of the Rules, from the time of the initial determination of the minimum target price to the time any new Contracts are entered into.

- 5.8 CDS Clearing Members agree and acknowledge that each CDS Default Committee Participant and CDS Default Committee Member (each, for purposes of this paragraph 5.8, a "**Covered Party**")

shall be subject to the provisions of Rule 106 as if it were the Clearing House. Each CDS Clearing Member shall ensure that each Covered Party nominated by it agrees not to use any information subject to Rule 106 ("**Confidential Material**") for its own benefit or the benefit of any of its Affiliates, and if so requested by the Clearing House, executes any documentation specified by the Clearing House ~~acknowledging~~acknowledging the same.

- 5.9 CDS Clearing Members agree and acknowledge that each CDS Default Committee Participant and CDS Default Committee Member shall be responsible for its own costs associated with its service in such position.
- 5.10 The Clearing House acknowledges and agrees that it will consider in good faith the recommendations of any CDS Default Committee in relation to matters over which the CDS Default Committee has competence.

## 6. CREDIT EVENTS AND PHYSICAL SETTLEMENT

### 6.1 Old Index CDS and Restructuring

In relation to each CDS Contract which is an Old Index CDS where a Relevant Restructuring Credit Event has occurred in relation to a Component Transaction, the Clearing House (for itself and on behalf of each relevant CDS Clearing Member, Sponsor, Sponsored Principal and Customer) will submit relevant data to Deriv/SERV as soon as practicable after the DTCC Reversioning Date in order to record the relevant New Trades and any related Customer-CM CDS Transactions.

### 6.2 Notices

- (a) MP Notices delivered between a Matched CDS Buyer, the Clearing House and a Matched CDS Seller shall be delivered in accordance with the terms of the relevant CDS Contract, Part 15 of the Rules and these CDS Procedures. Subject to this paragraph 6.2 and paragraph 6.3, Section 1.10 of the 2003 Credit Derivatives Definitions in respect of 2003-type CDS Contracts and Section 1.38 of the 2014 Credit Derivatives Definitions in respect of 2014-type CDS Contracts will apply to MP Notices and all other Credit Event Notices, Notices to Exercise Movement Option, Notices of Physical Settlement, NOPS Amendment Notices, Asset Package Delivery Notices and other notices provided for by the Applicable Credit Derivatives Definitions delivered under a CDS Contract (and, pursuant to Rule 113, the provisions of Section 1.10 of the 2003 Credit Derivatives Definitions and Section 1.38 of the 2014 Credit Derivatives Definitions, as the case may be, prevail over the general timings and processes for notices set out in Rule 113). Any Manual MP Notices (including memoranda of telephone notices) and all other Credit Event Notices, Notices to Exercise Movement Option, Notices of Physical Settlement, NOPS Amendment Notices, Asset Package Delivery Notices and other notices provided for by the Applicable Credit Derivatives Definitions under a CDS Contract shall be copied or sent to the following e-mail address of the Clearing House: [cdscen@theice.com](mailto:cdscen@theice.com) or the following fax number: +44 (0) 207 979 0119. The Clearing House shall have no responsibility to any CDS Buyer or CDS Seller to verify in any manner the contents of any MP Notice received by it.
- (b) The Clearing House will circulate, by e-mail to all relevant CDS Clearing Members and Sponsored Principals prior to the start of the CEN Triggering Period or, where Physical Settlement applies (other than following a Relevant Restructuring Credit Event) in accordance with Rule 1507, prior to 4:30 p.m. on the tenth calendar day following the No Auction Announcement Date or Auction Cancellation Date, as applicable:
- (i) such details as it has received of CDS Clearing Members' and Sponsored Principals' address, fax number, telephone number, e-mail address and any other

applicable notice details for the delivery of notices through the Manual Notice Process; and

- (ii) the fax number and e-mail address of the Clearing House for the delivery of notices or copies or memoranda of notices through the Manual Notice Process or otherwise in connection with the Credit Event in question (if different from those specified in paragraph 6.2(a)).

Manual MP Notices delivered to CDS Buyers or CDS Sellers or to or copied to the Clearing House and any other notices, notifications or communications (other than Electronic Notices) delivered to the Clearing House or any CDS Buyers or CDS Sellers in connection with the Credit Event in question must be made to the contact details specified in paragraph 6.2(a) or otherwise in such manner as is specified by the Clearing House in the e-mail circulated pursuant to this 6.2(b).

### 6.3 Matched Pairs

- (a) Matched Pairs will not be allocated in respect of any CDS Contracts for which the applicable Settlement Method is "Auction Settlement" following the occurrence of any Applicable Credit Event other than a Relevant Restructuring Credit Event.
- (b)
  - (i) For any CDS Sub-Account where CDS Contracts are recorded on a "trade by trade" basis or a "gross" basis (as referred to in Rule 406(d)), CDS Contracts will be netted and/or aggregated (as if the CDS Sub-Account were held on a "net" basis) prior to the processing of any Relevant Restructuring Credit Event so as to reflect the equivalent of an Open Contract Position in the relevant Set in respect of such CDS Sub-Account.
  - (ii) The Clearing House will, as soon as reasonably practicable following the completion of the process in paragraph 6.3(b)(i), use an algorithm for purposes of allocating Matched Pairs under Rules 1507 and 1508. This algorithm shall minimise, to the extent reasonably practicable, each of the following:
    - (A) the number of Matched Pairs in respect of which the MP Amount is less than EUR 1,000,000 (or in the case of Sovereign Contracts USD 1,000,000) (or such other amount as may be notified by the Clearing House by Circular, after consultation with the CDS [Product](#) Risk Committee) or not an integral multiple of such amount;
    - (B) the number of Matched Pairs into which an individual CDS Buyer or CDS Seller is matched, provided that the MP Amount for any Matched Pair shall not exceed EUR 50,000,000 (or in the case of Sovereign Contracts USD10,000,000) (or such other amount as may be notified by the Clearing House by Circular, after consultation with the CDS [Product](#) Risk Committee) and further provided that this shall not preclude the same CDS Seller and CDS Buyer being matched with each other in respect of more than one Matched Pair;
    - (C) the overall number of Matched Pairs; and
    - (D) the number of, and notional amounts in Matched Pairs where the CDS Buyer and CDS Seller are different Persons.
- (c) For purposes of Rule 1507 and 1508, the Clearing House will allocate to each Matched Pair an MP Amount such that: (i) the sum of all MP Amounts of each CDS Buyer is equal to the aggregate Floating Rate Payer Calculation Amounts of such CDS Buyer in respect

of all its CDS Contracts of the same Set or Component Transactions of CDS Contracts of the same Set (as applicable); and (ii) the sum of all MP Amounts of each CDS Seller is equal to the aggregate of the Floating Rate Payer Calculation Amounts of such CDS Seller in respect of all its CDS Contracts of the same Set or Component Transactions of CDS Contracts of the same Set (as applicable).

- (d) In the case of the allocation of Matched Pairs under Rule 1508, the Clearing House will, as soon as reasonably practicable, provide each CDS Clearing Member and Sponsored Principal with an Open Contract Position in the relevant Set with an RMP Matching Report. Each CDS Clearing Member or Sponsored Principal to whom an RMP Matching Report is delivered shall check that the RMP Matching Report reflects their netted Contracts for each CDS Sub-Account with the Clearing House in respect of each Set that is subject to the Relevant Restructuring Credit Event. Any CDS Clearing Member or Sponsored Principal which believes that the RMP Matching Report does not so reflect its net Open Contract Position shall notify the Clearing House of the same as soon as possible. If an error is notified to or noticed by the Clearing House, the Clearing House will: (i) provided that it has the time to do so, issue a replacement RMP Matching Report to any affected CDS Clearing Member or Sponsored Principal; or (ii) take any other such steps as may be required to correct the error.
- (e) Matched Pair Notices.
- (i) If the Clearing House is obliged to issue Matched Pair Notices pursuant to Rule 1507 or 1508, it will endeavour to do so as soon as reasonably practicable after the latest date on which an Acceptance Notice would, in the ordinary course, be issued in respect of any CDS Trade Particulars relating to the relevant Set which had been submitted for Clearing before the relevant Set became ineligible for Clearing under paragraph 4.9 or 4.10 (as applicable).
- (ii) Matched Pair Notices may be delivered by the Clearing House by e-mail or fax or by posting to a secure section of the Clearing House's website which only the Clearing House and the relevant CDS Clearing Member or Sponsored Principal may view, such that confidentiality (to the extent required under the Rules) is maintained. The Clearing House will give each CDS Buyer and CDS Seller reasonable notice of any method of delivery to be used other than the Clearing House's secure website, unless a particular CDS Buyer and CDS Seller and the Clearing House mutually agree upon an alternative form of notice being used. The Matched Pair Notice will be effective when received by, or available on the secure section of the Clearing House's website for inspection by, the relevant CDS Clearing Members and Sponsored Principals, as applicable.
- (iii) The Clearing House shall issue Matched Pair Notices pursuant to Rule 1507 following an Applicable Credit Event other than a Relevant Restructuring Credit Event prior to 4:30 p.m. on the tenth calendar day following the No Auction Announcement Date or Auction Cancellation Date, as applicable.
- (iv) The Clearing House shall issue Matched Pair Notices to CDS Buyers and CDS Sellers pursuant to Rule 1508 following a Relevant Restructuring Credit Event prior to the RMP Deadline Time, in the form of the RMP Matching Report for each CDS Buyer and CDS Seller. Where there is a CH Reversioning Date, the Clearing House will, in its own systems, reversion Old Index CDS to exclude the relevant Component Transaction in respect of which a Relevant Restructuring Credit Event has occurred and record such Component Transaction in the form of a New Trade, in each case on the CH Reversioning Date.
- (v) As soon as practicable after the issue of the RMP Matching Reports, the Clearing House will for itself, for Matched CDS Buyers and Matched CDS Sellers and for any Customers, terminate the records in the DTCC Accounts of all CDS

Contracts and any related Customer-CM CDS Transactions which are the subject of the relevant RMP Matching Report and, using the DTCC Process, input matching records of CDS Contracts and any related Customer-CM CDS Transactions in the DTCC Accounts to reflect the creation of the RMPs shown by the RMP Matching Reports. Each relevant CDS Clearing Member, Sponsor, Sponsored Principal and Customer shall cease to take any action which would result in any of the records of relevant CDS Contracts and any related Customer-CM CDS Transactions in the DTCC Accounts being amended after 12 noon on the day of the RMP Deadline Time, unless otherwise agreed with the Clearing House. The Clearing House and each relevant CDS Clearing Member, Sponsor and Sponsored Principal shall use their best endeavours to rename trade identifiers in the DTCC Accounts appropriately and to ensure that the records of each affected CDS Contract to which it is party and any related Customer-CM CDS Transactions are "confirmed and certain" within the DTCC Accounts prior to that time. If the records of CDS Contracts and any related Customer-CM CDS Transactions which are so input into the DTCC Accounts by the Clearing House using the DTCC Process do not reflect the RMPs shown by the RMP Matching Reports, the Clearing House will amend (and thereby correct) such records in the DTCC Accounts and may require the affected Clearing Members, Sponsor, Sponsored Principals or Customers to make or confirm matching amendments to such records. Clearing Members, Sponsor, Sponsored Principals and their Customers will be bound by the records originally so input unless and until they are so amended.

- (vi) The Clearing House shall, in the case of the allocation of Matched Pairs pursuant to Rule 1508, upload the RMP Matched Table to Deriv/SERV and issue confirmed RMP Matching Reports to CDS Buyers and CDS Sellers setting out the details of the Matched Pairs that have been recorded in the DTCC Accounts, as soon as reasonably practicable but in any event not later than the RMP Deadline Time (provided that the Clearing House shall not be treated as being in breach of any obligation to any CDS Buyer or CDS Seller if it is not able to do so as a result of a failure of DTCC). The Clearing House, CDS Clearing Members, Sponsored Principals and Customers recognise and acknowledge that in certain circumstances outside the control of the Clearing House, the CEN Triggering Period applicable to the CDS Seller and the CDS Buyer may be a period of fewer than two and five Business Days, respectively.
- (vii) In accordance with and to the extent permitted under Rule 1505(b), if the Clearing House fails to issue Matched Pair Notices or the RMP Matching Reports and to upload the RMP Matched Table by the relevant time, being the RMP Deadline Time or the time specified in paragraph 6.3(e)(iii), as applicable, CDS Buyers and CDS Sellers may deliver Credit Event Notices, Notices to Exercise Movement Option, Notices of Physical Settlement, NOPS Amendment Notices and Asset Package Delivery Notices (as applicable) directly to the Clearing House until such time as the Matched Pair Notices or RMP Matching Reports, as applicable, have been issued or the RMP Matched Table, as applicable, has been uploaded. Such notices must be made by fax or e-mail to the contact details specified in accordance with paragraph 6.2(a).
- (f) Electronic Notice Process for Restructuring Matched Pairs.
  - (i) Subject to paragraphs 6.3(e)(vii), 6.3(f)(v), 6.3(f)(vi) and Rule 1505(b):
    - (A) a CDS Clearing Member, Sponsor, Sponsored Principal or Customer (if any) may deliver Restructuring Credit Event Notices and Notices to Exercise Movement Option, but only in the form of an Electronic Notice through Deriv/SERV in accordance with the specific procedures of



DTCC which are provided for the delivery of such notices through the DTCC Accounts; and

- (B) any Restructuring Credit Event Notice or Notice to Exercise Movement Option delivered otherwise than in accordance with such procedures as an Electronic Notice will be invalid and ineffective.
- (ii) The Clearing House, each CDS Clearing Member, Sponsor, Sponsored Principal and Customer acknowledges that, subject to paragraph 6.3(f)(vi): (x) an Electronic Notice delivered to the Clearing House in relation to a Matched CDS Buyer Contract or a Matched CDS Seller Contract recorded in such CDS Clearing Member's, Sponsor's or Sponsored Principal's DTCC Account, or (y) an electronic notice delivered by a Customer in respect of a Customer-CM CDS Transaction, provided that it is delivered within the time limits set for such delivery by the Contract Terms and otherwise satisfies the requirements of the Contract Terms and is submitted properly in accordance with the applicable regulations, rules and procedures of Deriv/SERV, is intended to result (1) where (x) applies, in a corresponding Electronic Notice being created by Deriv/SERV and delivered (or if such corresponding Electronic Notice is not created and delivered, it shall be deemed to have been created and delivered) on behalf of the Clearing House to the other party in the Matched Pair in respect of the Matched CDS Seller Contract or Matched CDS Buyer Contract, as applicable, and (2) where (y) applies, in an Electronic Notice being simultaneously delivered also to the Clearing House, through the DTCC Process, in respect of the related CDS Contract and in a corresponding Electronic Notice being created by Deriv/SERV and delivered (or if such corresponding Electronic Notice is not created and delivered, it shall be deemed to have been created and delivered) on behalf of the Clearing House to the other party in the Matched Pair in respect of the Matched CDS Seller Contract or Matched CDS Buyer Contract, as applicable. Where a CDS Clearing Member or Sponsor receives (or has been deemed to receive) such an Electronic Notice from the Clearing House in respect of a CDS Contract recorded in a Customer Account, the relevant Customer will be deemed to have received the same Electronic Notice in respect of the relevant CDS Contract, where it is a Customer of an FCM/BD Clearing Member or is a Sponsored Principal, or an equivalent Electronic Notice from the relevant CDS Clearing Member in respect of the related Customer-CM CDS Transaction where it is a Customer (other than a Sponsored Principal) of a Non-FCM/BD Clearing Member. Where a Non-FCM/BD CDS Clearing Member delivers such an Electronic Notice to the Clearing House in respect of a CDS Contract recorded in its Customer Account, an equivalent Electronic Notice will be deemed to have been delivered at the same time by the relevant Customer to such CDS Clearing Member in respect of the related Customer-CM CDS Transaction or by the relevant Sponsored Principal to the Clearing House in respect of such CDS Contract.

The time of delivery of both such Electronic Notices in respect of both the Matched CDS Buyer Contract and Matched CDS Seller Contract which are the subject of the same Matched Pair shall be deemed to be the same and shall be the time that DTCC records as being the time at which the first Electronic Notice was processed. An Electronic Notice which is or is deemed to be validly delivered in accordance with these CDS Procedures shall be treated as valid delivery of a Restructuring Credit Event Notice or Notice to Exercise Movement Option for purposes of the Applicable Credit Derivatives Definitions and Contract Terms of the relevant CDS Contract and any related Customer-CM CDS Transaction.

- (iii) If, but only if, the Clearing House has received, before the end of the relevant Triggering Period, either (A) the notice required under paragraph 6.3(f)(v)(B)(2)

from any CDS Clearing Member or (B) a notification of a DTCC Failure, as referred to in paragraph 6.3(f)(vi), then, by 6:00 p.m. on the day of such notice or notification and each subsequent day of the relevant Triggering Period, the Clearing House will provide Matched CDS Buyers and Matched CDS Sellers with a report containing details of Electronic Notices that have been delivered by or to it, with a separate report or combined report also including details of any Manual MP Notices that have been delivered by or to it and notified to the Clearing House. Without prejudice to the generality of paragraph 6.3(f)(x), if the contents of any such report are disputed, paragraph 6.3(g)(iv) applies.

- (iv) At the end of each Triggering Period, the Clearing House will, where such records have not already been adjusted to the following effect by DTCC, adjust the records in the DTCC Accounts of the Matched CDS Contracts (and any related Customer-CM CDS Transactions) to which the RMPs relate to reflect any Restructuring Credit Event Notices and Notices to Exercise Movement Option (and the consequences of such notices) delivered during the relevant Triggering Period, including: (A) where appropriate, sub-dividing such Matched CDS Contracts (and any related Customer-CM CDS Transactions) to reflect Triggered Restructuring CDS Contract Portions; and (B) taking such steps as are necessary for Triggered Restructuring CDS Contract Portions for which the relevant Restructuring Credit Event Notices and Notices to Exercise Movement Option (if any) that were delivered through the Manual Notice Process or Electronic Notice Process settle through the same processes. To the extent that the Clearing House adjusts any records in the DTCC Accounts at the end of the CEN Triggering Period applicable to the CDS Buyer, the Clearing House will update the RMP Matched Table to reflect such adjustments.
- (v) Rights and obligations to use the Manual Notice Process.
- (A) In addition to the circumstances set out in paragraph 6.3(f)(vi), a CDS Clearing Member or Sponsored Principal who gives notice under this paragraph 6.3(f)(v) (a "**Manual Notifier**") (but not, for the avoidance of doubt, any Customer other than a Sponsored Principal in respect of an Individually Segregated Sponsored Account) shall be entitled to deliver Restructuring Credit Event Notices and Notices to Exercise Movement Option pursuant to the Manual Notice Process only if it is affected by a significant communications or information technology failure resulting in it being impossible or impractical for such CDS Clearing Member or Sponsored Principal to deliver all or substantially all Restructuring Credit Event Notices or Notices to Exercise Movement Option (as applicable) in accordance with the Electronic Notice Process on the last day of the relevant NEMO Triggering Period or CEN Triggering Period applicable to it as protection buyer or protection seller.
- As between a CDS Clearing Member and its Customer (if any), the delivery or receipt by that CDS Clearing Member to or from the Clearing House of a Restructuring Credit Event Notice or a Notice to Exercise Movement Option in respect of a CDS Contract recorded in its Customer Account shall have the same effect as though such CDS Clearing Member had delivered or received, to or from the Clearing House, an Electronic Notice of the same under paragraph 6.3(f)(ii).
- (B) If a Manual Notifier delivers any Restructuring Credit Event Notice or Notice to Exercise Movement Option (as applicable) in accordance with the Manual Notice Process, then:
- (1) it will be deemed to represent to the Clearing House that it is affected by a significant communications or information



technology failure resulting in it being impossible or impractical for such Manual Notifier to deliver all or substantially all Restructuring Credit Event Notices or Notices to Exercise Movement Option (as applicable) in accordance with the Electronic Notice Process;

- (2) it must deliver a notice, in or substantially in the form provided by the Clearing House on the Clearing Member-accessible section of its website for such purpose, signed by a senior officer (such as managing director or equivalent) of such Manual Notifier to the Clearing House, certifying only that it is affected by a significant communications or information technology failure resulting in it being impossible or impractical for it to deliver all or substantially all Restructuring Credit Event Notices or Notices to Exercise Movement Option (as applicable) in accordance with the Electronic Notice Process and that it has delivered one or more Restructuring Credit Event Notices or Notices to Exercise Movement Option (as applicable) in accordance with the Manual Notice Process, such notice to be delivered promptly and, in any event, within 1 hour of such Manual Notifier first so delivering a Restructuring Credit Event Notice or Notice to Exercise Movement Option in respect of any Relevant Restructuring Credit Event (but the Manual Notifier shall not be required to provide a copy of any Restructuring Credit Event Notices or Notices to Exercise Movement Option (as applicable) until the time specified in paragraph 6.3(g));
- (3) the Clearing House will (x) publish a Circular as soon as reasonably practicable after receiving a notice pursuant to paragraph 6.3(f)(v)(B)(2) which will name the Manual Notifier involved, refer to such Manual Notifier as having been subject to a significant communications or information technology failure and specify any amended timelines applicable for the processing of the Relevant Restructuring Credit Event in question and (y) notify all CDS Clearing Members and Sponsored Principals with Open Contract Positions in the relevant Set of the name of the Manual Notifier by fax or e-mail within 1 hour;
- (4) the Manual Notifier must use reasonable endeavours to mitigate the effects on other CDS Clearing Members and Customers and the Clearing House of it using the Manual Notice Process, with reference to the principle that it is operationally simpler for all CDS Clearing Members and Customers to use the Electronic Notice Process and shall use reasonable endeavours to minimise the number of notices it delivers pursuant to the Manual Notice Process;
- (5) the Manual Notifier must revert to using the Electronic Notice Process (and cease using the Manual Notice Process) as soon as reasonably practicable;
- (6) the Manual Notifier must take reasonable endeavours to ensure that the communications or information technology issue does not recur; and

- (7) if a separate significant communications or information technology failure occurs affecting the same or another CDS Clearing Member or Sponsored Principal in respect of the same Relevant Restructuring Credit Event, this paragraph 6.3(f)(v) shall apply in full in respect of that separate failure.
- (C) Where, as a consequence of a Restructuring Credit Event Notice being delivered pursuant to the Manual Notice Process, the records of the relevant Triggered Restructuring CDS Contract Portion(s) in the DTCC Accounts are not the same as the records thereof held by the Clearing House: (1) the Clearing House and Matched CDS Buyer and Matched CDS Seller or, if applicable, the relevant CDS Clearing Member and the relevant Customer or, if applicable, the relevant Sponsor and Sponsored Principal will use all reasonable endeavours to reconcile the records as soon as possible; and (2) if agreement as to such reconciliation has not been reached within two Business Days of the Clearing House first notifying the Matched CDS Buyers and Matched CDS Seller involved of the inconsistency between the two sets of records, the matters will be resolved as disputes between the Clearing House and each of the Matched CDS Buyer and Matched CDS Seller in accordance with paragraph 6.3(g)(ix) to 6.3(g)(xii).
- (D) Any CDS Clearing Member (and any relevant Sponsored Principal, Sponsor or Customer) in a Restructuring Matched Pair with a Manual Notifier must continue to use the Electronic Notice Process unless this paragraph 6.3(f)(v) separately applies to it. For the avoidance of doubt, and without prejudice to the Clearing House's rights under Part 10 of the Rules or for breach of contract or misrepresentation, any breach by a CDS Clearing Member, Sponsored Principal, Sponsor or Customer of the provisions of this paragraph 6.3(f)(v) shall not cause any Restructuring Credit Event Notice or Notice to Exercise Movement Option delivered otherwise in accordance with the Contract Terms to be invalid or ineffective.
- (vi) If DTCC notifies the Clearing House that there has been a DTCC Failure:
- (A) the Clearing House will (1) publish a Circular as soon as reasonably practicable after receiving such notice stating that a DTCC Failure has occurred, specifying a time (the "**DTCC Failure Time**") at which such DTCC Failure occurred and which may specify any amended timelines applicable for the processing of the Relevant Restructuring Credit Event in question and (2) notify all Matched CDS Buyers and Matched CDS Sellers of the DTCC Failure by fax or e-mail within 1 hour;
- (B) from and including the DTCC Failure Time to but excluding the DTCC Resolution Time (as defined below), the Electronic Notice Process shall cease to be applicable and Matched CDS Buyers and Matched CDS Sellers may only deliver and receive Restructuring Credit Event Notices and Notices to Exercise Movement Option (as applicable) in respect of a Matched CDS Contract in accordance with the Manual Notice Process;
- (C) the validity of any Restructuring Credit Event Notices and Notices to Exercise Movement Option (as applicable) delivered in accordance with the Electronic Notice Process prior to the DTCC Failure Time will not be affected by the DTCC Failure; and
- (D) all Restructuring Credit Event Notices and Notices to Exercise Movement Option (as applicable) delivered or purported to be delivered

in accordance with the Electronic Notice Process at or after the DTCC Failure Time to but excluding the DTCC Resolution Time will not be valid.

If, subsequent to a DTCC Failure, DTCC notifies the Clearing House that the DTCC Failure is no longer in effect:

- (1) the Clearing House will (x) publish a Circular as soon as reasonably practicable after receiving such notice stating the DTCC Failure is no longer in effect and specifying the time at which the Electronic Notice Process is to become available (the "**DTCC Resolution Time**") which time must be at least 30 minutes following the time of publication of the Circular but may be as late as 9 a.m. on a Business Day following the date of the Circular and (y) notify all Matched CDS Buyers and Matched CDS Sellers of the same by fax or e-mail within 1 hour; and
  - (2) subject to paragraph 6.3(f)(v), as from the DTCC Resolution Time, Matched CDS Buyers and Matched CDS Sellers must cease delivering Restructuring Credit Event Notices and Notices to Exercise Movement Option (as applicable) pursuant to the Manual Notice Process and must instead deliver Restructuring Credit Event Notices and Notices to Exercise Movement Option (as applicable) in accordance with the Electronic Notice Process.
- (vii) If a Restructuring Credit Event Notice or Notice to Exercise Movement Option is delivered between a Matched Pair in accordance with the Electronic Notice Process and a separate Restructuring Credit Event Notice or Notice to Exercise Movement Option is delivered as between the same Matched Pair in accordance with the Manual Notice Process, then, subject to paragraph 6.3(f)(viii), the validity or priority of any such Restructuring Credit Event Notice or Notice to Exercise Movement Option in the event of any conflict will be determined in accordance with the Contract Terms.
- (viii) If the Manual Notice Process is applicable, and a Matched CDS Buyer or Matched CDS Seller is uncertain as to whether or not a Restructuring Credit Event Notice or Notice to Exercise Movement Option (as applicable) that it or its Customer (if any) attempted to deliver under the Electronic Notice Process has actually been delivered, or was delivered prior to the DTCC Failure Time, the Matched CDS Buyer or Matched CDS Seller shall be entitled to deliver a Restructuring Credit Event Notice or Notice to Exercise Movement Option (as applicable) pursuant to the Manual Notice Process to its Restructuring Matched Pair (copied to the Clearing House) specifying that such Restructuring Credit Event Notice or Notice to Exercise Movement Option (as applicable) is only to be effective to the extent that the other purported notice was not effective, provided that sufficient details are included of the notice attempted to be made under the Electronic Notice Process to allow the other party to the Restructuring Matched Pair and the Clearing House to identify the communications concerned. If the first Restructuring Credit Event Notice or Notice to Exercise Movement Option (as applicable) to which the attempted delivery related was actually delivered, then any subsequent Restructuring Credit Event Notice or Notice to Exercise Movement Option delivered in accordance with the requirements of this paragraph 6.3(f)(viii) shall be treated as not having been delivered.
- (ix) If any Restructuring Credit Event Notice or Notice to Exercise Movement Option (as applicable) is delivered pursuant to the Manual Notice Process, neither CDS

Clearing Members, Sponsors, Sponsored Principals nor Customers shall re-enter details of that Restructuring Credit Event Notice or Notice to Exercise Movement Option (as applicable) pursuant to the Electronic Notice Process (without prejudice to the obligation of Matched CDS Buyers and Matched CDS Sellers to reflect such notices pursuant to the "Notify" function made available by Deriv/SERV). Any delivery of a second Restructuring Credit Event Notice in such a manner shall be treated as delivery of an additional and separate Restructuring Credit Event Notice pursuant to the Electronic Notice Process. Any delivery of a second Notice to Exercise Movement Option for the same Triggered Restructuring CDS Contract Portion in such a manner shall be disregarded.

- (x) Paragraphs 6.3(g)(iv), (ix), (x), (xi), (xii) and (xiii) (in the latter case in relation to disputes falling under paragraph 6.3(g)(viii)(B) only) shall apply to notices delivered pursuant to the Electronic Notice Process in the same way as such paragraphs apply to notices under the Manual Notice Process.
- (xi) For the avoidance of doubt, the Electronic Notice Process does not apply to Notices of Physical Settlement, NOPS Amendment Notices or Asset Package Delivery Notices.
- (g) Manual Notice Process.

Matched CDS Buyers and Matched CDS Sellers must only use the Manual Notice Process to deliver (1) MP Notices that are Restructuring Credit Event Notices and Notices to Exercise Movement Option where permitted by paragraphs 6.3(f)(v) or 6.3(f)(vi); (2) Notices to Exercise Movement Option where permitted by paragraph 6.3(g)(xi); and (3) Notices of Physical Settlement, NOPS Amendment Notices and Asset Package Delivery Notices. A Restructuring Credit Event Notice or Notice to Exercise Movement Option delivered other than by the Electronic Notice Process will only be valid and effective if (x) it is, or is substantially, in the form (or in the case of a telephone notice, contains the information required by the form) provided by the Clearing House on the section of its website accessible to Clearing Members for such purpose and (y) it is delivered by fax, e-mail or telephone to the relevant contact address or number specified in accordance with paragraph 6.2(b). Notices of Physical Settlement, NOPS Amendment Notices and any Asset Package Delivery Notice between a Matched CDS Buyer and Matched CDS Seller in a Matched Pair pursuant to Rule 1509 may be delivered in any manner permitted for delivery of such notice in accordance with the terms of the CDS Contract and will only be valid and effective if delivered to the relevant contact address, fax number, telephone number or e-mail address provided in accordance with paragraph 6.2(b) (or as otherwise agreed between the parties in the Matched Pair and the Clearing House). Notwithstanding any provision of the terms of the CDS Contract, any notice under a Matched CDS Contract which is required to be copied or given to the Clearing House in accordance with the Rules must be copied or given to the Clearing House in writing or in any other manner permitted by the Clearing House. Only a Matched CDS Buyer or Matched CDS Seller may deliver a Manual MP Notice to the Clearing House.

On each day on which a Manual MP Notice is served:

- (i) Each Manual MP Notice shall be effective, subject to this paragraph 6.3(g) and, in respect of a 2003-type CDS Contract, Section 1.10 of the 2003 Credit Derivatives Definitions or, in respect of a 2014-type CDS Contract, Section 1.38 of the 2014 Credit Derivatives Definitions. Rule 1509 applies in full in respect of each Manual MP Notice.
- (ii) Each Matched CDS Buyer or Matched CDS Seller in receipt of a Manual MP Notice or which has served a Manual MP Notice shall deliver a copy of such Manual MP Notice (if it was a written notice) or a written memorandum of such

Manual MP Notice (if it was oral) to the Clearing House at or prior to 5:00 p.m. on the day on which the Manual MP Notice was served or purported to be served. Any memorandum of a notice given by telephone must be in the same form as a written notice.

- (iii) The Clearing House shall deliver copies of each copy or memorandum of a Manual MP Notice received by it under and in accordance with paragraph 6.3(g)(ii) to both Matched CDS Buyer and Matched CDS Seller in each relevant Matched Pair at or prior to 6:00 p.m. on the day on which the copy or memorandum was delivered to it.
- (iv) If a Matched CDS Buyer or Matched CDS Seller wishes to dispute any Manual MP Notice of which a copy or a memorandum was delivered to it by the Clearing House under paragraph 6.3(g)(iii), or, to the extent that this paragraph 6.3(g)(iv) is applicable pursuant to paragraph 6.3(f)(x), wishes to dispute a Restructuring Credit Event Notice or Notice to Exercise Movement Option referred to in a report under paragraph 6.3(f)(ii), that Matched CDS Buyer or Matched CDS Seller must inform the Clearing House of the existence of the dispute prior to the Notification Cut-off Time, and will use reasonable endeavours to inform the Clearing House within 1 hour of the time at which the report, copy or memorandum (in which the disputed notice is referred to) is first delivered to it by the Clearing House.
- (v) Subject to paragraph 6.3(g)(ix) below, neither the failure of any CDS Clearing Member to deliver a copy or memorandum of a Manual MP Notice to the Clearing House nor the failure of the Clearing House to deliver a copy or memorandum of a Manual MP Notice to any Matched CDS Buyer or Matched CDS Seller of itself shall result in any notice under a CDS Contract being invalid.
- (vi) Notwithstanding any breach of paragraph 6.3(g)(ii) and without prejudice to any liabilities resulting from such breach, a Matched CDS Buyer or Matched CDS Seller shall inform the Clearing House as soon as practicable upon becoming aware that a copy or memorandum of any Manual MP Notice was not delivered to the Clearing House on time, providing a copy or memorandum of such Manual MP Notice.
- (vii) To the extent that they are able to do so, the Matched CDS Buyer and Matched CDS Seller in a Restructuring Matched Pair where one has delivered to the other a Restructuring Credit Event Notice or a Notice to Exercise Movement Option pursuant to the Manual Notice Process shall reflect the delivery and receipt of such notices using the "Notify" function provided by Deriv/SERV.
- (viii) Where neither the Matched CDS Buyer nor the Matched CDS Seller in a Matched Pair delivers a copy or memorandum of a Manual MP Notice to the Clearing House until after the Notification Cut-off Time;
  - (A) if such Matched CDS Buyer and Matched CDS Seller do not dispute that such notice was delivered between themselves correctly in accordance with the Contract Terms (excluding this paragraph 6.3(g)), the Matched CDS Buyer and Matched CDS Seller may either agree to settle directly with each other under Rule 1514 (CDS Alternative Delivery or Settlement Procedure, read for purposes of this paragraph 6.3(g)(viii)(A) only as if Rule 1514 applied to auction and cash settlement in addition to physical settlement) or, without such agreement, pursue a claim against each other in accordance with paragraphs 6.3(g)(ix) to 6.3(g)(xiii); and

- (B) if such Matched CDS Buyer and Matched CDS Seller do dispute that such notice was delivered between themselves correctly in accordance with the Contract Terms (excluding this paragraph 6.3(g)), paragraphs 6.3(g)(ix) to 6.3(g)(xiii) shall apply.
- (ix) Any dispute between any Matched CDS Buyer and Matched CDS Seller or between any Matched CDS Buyer or Matched CDS Seller and the Clearing House in relation to the effectiveness of any MP Notice or the issue of whether any MP Notice was served shall be resolved by arbitration under Rule 117. The Matched CDS Buyer and Matched CDS Seller and the Clearing House shall each be deemed to agree to joinder of any separate arbitrations under Rule 117 between either of Matched CDS Buyer or Matched CDS Seller in the Matched Pair and the Clearing House.
- (x) Until such time as any dispute concerning an MP Notice is resolved, the Clearing House shall be entitled to calculate Margin requirements for each of the Matched CDS Buyer or Matched CDS Seller based on the maximum Margin requirement for each of the Matched CDS Buyer or Matched CDS Seller that could result, in the opinion of the Clearing House, from any reasonably foreseeable outcome of any such dispute.
- (xi) Unless and until such time as any dispute concerning an MP Notice is resolved, neither the Clearing House nor any Clearing Member, Sponsor or Sponsored Principal in respect of a Customer-CM CDS Transaction shall be obliged to take any step that would have been required of it were the MP Notice to have been validly served. If any matter relating to a Restructuring Credit Event Notice (or alleged Restructuring Credit Event Notice) is disputed, then any Notice to Exercise Movement Option or purported Notice to Exercise Movement Option in relation to the CDS Contract under dispute may only be delivered pursuant to the Manual Notice Process. In such instances, the preconditions to using the Manual Notice Process (other than those set out in this paragraph 6.3(g)(xi)) and other requirements set out in paragraph 6.3(f)(v) shall not apply.
- (xii) Upon the rendering of a final decision pursuant to such arbitration, the Clearing House and the relevant Matched CDS Buyer and Matched CDS Seller shall take such actions with respect to the disputed CDS Contract as the Clearing House determines appropriate to give effect to such decision, which may include, without limitation, effecting settlement pursuant to the Transaction Auction Settlement Terms or relevant Parallel Auction Settlement Terms (if any) and termination of the related CDS Contract, creating, decreasing or increasing the parties' Open Contract Positions, paying any accrued but unpaid Fixed Amounts and/or recalculating the parties' Margin requirements, and the Matched CDS Buyer and Matched CDS Seller shall perform their respective obligations in accordance with the Clearing House's determinations. Notwithstanding anything to the contrary herein or in any decision pursuant to such arbitration, the Clearing House shall not be obligated to take any other action nor shall the Clearing House be liable for any other damages, including, without limitation, punitive damages, consequential damages, incidental damages, lost profits, attorney's fees or other costs or pre- or post-judgment interest. Any other action or damages required by any such decision shall be the direct obligation of the relevant Matched CDS Buyer and Matched CDS Seller to each other, and such Matched CDS Buyer and Matched CDS Seller shall be entitled to pursue directly against each other whatever legal remedies may be available. For the avoidance of doubt, the Clearing House shall have no liability with respect to any such legal remedies between such Matched CDS Buyer and Matched CDS Seller and the Clearing House shall have no obligation to participate in any related proceeding.



- (xiii) If the Clearing House receives notice, from either the Matched CDS Seller or Matched CDS Buyer in a Matched Pair, after the Notification Cut-Off Time, in respect of an MP Notice that:
- (A) Such MP Notice, being a Manual MP Notice, was allegedly timely delivered between the parties in such Matched Pair but a copy or memorandum thereof was not delivered to the Clearing House before the Notification Cut-Off Time; or
  - (B) Such MP Notice is under dispute as to whether it was timely delivered between the Matched CDS Buyer and Matched CDS Seller in such Matched Pair,

then the Clearing House will notify the other party in such Matched Pair as soon as reasonably practicable. Upon such notification by the Clearing House, the Matched CDS Buyer and Matched CDS Seller shall be directly liable to each other, and shall be entitled to pursue directly against each other whatever legal remedies may be available, for the difference between (x) their respective Open Contract Positions (or proceeds thereof) in the relevant CDS Contract at the Clearing House by virtue of such notice being invalid against the Clearing House (in the case of (A) above) or by virtue of the Clearing House acting based on its interpretation of the notice it received that was not timely delivered (in the case of (B) above) and (y) what such Open Contract Positions (or proceeds thereof) would have been if a copy of such allegedly valid MP Notice was validly provided to and given effect by the Clearing House at the time, if any, such MP Notice was validly delivered between the parties to the Matched Pair. For the purpose only of pursuing any such legal remedies for the difference between (x) and (y), the Matched CDS Buyer and the Matched CDS Seller shall be entitled to enforce the terms of their respective CDS Contracts against each other as if each of them were the counterparty to the other in place of the Clearing House, including the right to have the dispute settled pursuant to arbitration under Rule 117. With respect to the determination of such legal remedies, the validity of any allegedly valid MP Notice as between the relevant Matched CDS Buyer and Matched CDS Seller shall be unaffected by whether or not such notice is valid against the Clearing House. For the avoidance of doubt, but without prejudice to any liability or obligation of the Clearing House, the Clearing House shall have no liability with respect to any such MP Notice a copy of which was not timely and properly delivered to the Clearing House or a dispute with respect to which was not timely and properly notified to the Clearing House, including, without limitation, with respect to any such legal remedies between the Matched CDS Buyer and Matched CDS Seller, and the Clearing House shall have no obligation to participate in any related proceeding.

#### 6.4 **Delivery of Non DVP Obligations and Physical Settlement Amounts:**

The following deadlines apply for the delivery of Non DVP Obligations and Physical Settlement Amounts for purposes of Rule 1510:

- (a) The Matched CDS Buyer shall notify the Clearing House under Rule 1510(a)(i) of readiness to deliver at or prior to 4:30 p.m. on the Business Day prior to the date on which Delivery is scheduled to occur. In such notice, the Matched CDS Buyer shall also specify the amount of any expenses to be payable to the Matched CDS Buyer under Section 9.2(c)(vi) of the 2003 Credit Derivatives Definitions or Section 11.2(c)(vi) of the 2014 Credit Derivatives Definitions, as applicable.



- (b) The Clearing House shall notify the Matched CDS Seller under Rule 1510(a)(ii) of its obligation to pay the Clearing House the Physical Settlement Amount in respect of the relevant Non DVP MP Amount and any amounts in respect of expenses notified by the CDS Buyer pursuant to a request for payment through "ECS" as defined in and in accordance with the Finance Procedures. Pursuant to the Finance Procedures, such a request for payment would standardly occur during the evening of the Business Day, or before 8 a.m. on the Business Day following the Business Day, after receipt of the notice referred to in Rule 1510(a)(i) and paragraph 6.4(a).
- (c) The Matched CDS Seller shall pay the Clearing House under Rule 1510(a)(iii) such amounts as are due pursuant to the payment requested through ECS pursuant to the Finance Procedures. Pursuant to the Finance Procedures, payment would standardly be due and payable at 9:00 a.m. on the Business Day immediately following the date on which the Matched CDS Buyer notified the Clearing House of its readiness to deliver under Rule 1510(a)(i) and paragraph 6.4(a), provided that the request for payment through ECS had occurred in a timely manner in accordance with paragraph 6.4(b).
- (d) The Clearing House shall notify the Matched CDS Buyer under Rule 1510(a)(iv) that it has received payment at or prior to 4:30 p.m. on the same Business Day as the Clearing House receives payment under Rule 1510(a)(iii), provided that payment is received by the Clearing House at or prior to 9:00 a.m. on the same Business Day as described in paragraph 6.4(c).
- (e) The Delivery Period shall be three Business Days starting on the date following receipt by the CDS Buyer of the notice referred to in Rule 1510(a)(iv) and paragraph 6.4(d) (exclusive of the date of receipt of such notice).
- (f) The Matched CDS Seller shall notify the Clearing House under Rule 1510(a)(vi) that Delivery has occurred by 4:30 p.m. on the same Business Day on which the Matched CDS Seller receives Delivery of the relevant Deliverable Obligations. Notices received after 4:30 p.m. will be deemed received on the next following Business Day, unless the Clearing House agrees otherwise.
- (g) The Clearing House shall be obliged to pay the Physical Settlement Amount (or, where the Matched CDS Seller notified the Clearing House of Delivery in part only, an amount equal to the Delivered Percentage of the Physical Settlement Amount) in respect of the relevant Non DVP MP Amount and any expenses due to the CDS Buyer under Section 9.2(c)(vi) of the 2003 Credit Derivatives Definitions or Section 11.2(c)(vi) of the 2014 Credit Derivatives Definitions, as applicable, through payments or transfers through ECS in accordance with the Finance Procedures. Pursuant to the Finance Procedures, payment would standardly be due and payable at 9:00 a.m. on the Business Day following the Business Day on which the Clearing House receives the notice referred to in Rule 1510(a)(vi) and paragraph 6.4(f).
- (h) The first date on which the Matched CDS Seller may serve notice on the Clearing House under Rule 1510(a)(viii) requesting the Clearing House to repay the Physical Settlement Amount in respect of the Non DVP MP Amount, less the Delivered Percentage of such Physical Settlement Amount, is the first Business Day following the end of the Delivery Period.

## 6.5 Disputes Relating to Deliverable Obligations

- (a) Prior to accepting Delivery of a particular obligation pursuant to a Notice of Physical Settlement or NOPS Amendment Notice or, pursuant to an Asset Package Delivery Notice, of a particular Asset Package in lieu of any Prior Deliverable Obligation or Package Observable Bond specified in the Notice of Physical Settlement or NOPS Amendment Notice, a CDS Seller may challenge whether the obligation, Prior Deliverable Obligation or Package Observable Bond, as the case may be, is a Deliverable Obligation

or, as applicable, a Permitted Deliverable Obligation under the terms of a Matched CDS Contract, unless the obligation, Prior Deliverable Obligation or Package Observable Bond is listed and remains listed as a Deliverable Obligation or, as applicable, a Permitted Deliverable Obligation in the Final List of Deliverable Obligations which is applicable to that Matched CDS Contract as of the applicable Delivery Date for such Deliverable Obligation. A challenge may only be made to the relevant Credit Derivatives Determinations Committee pursuant to paragraph 3.3(d) of the DC Rules.

- (b) Subject to paragraph 6.5(c), any CDS Seller may refuse to accept Delivery of a particular obligation or Asset Package pursuant to a Notice of Physical Settlement or NOPS Amendment Notice or Asset Package Delivery Notice, as the case may be, if any challenge (as referred to in paragraph 6.5(a)) has been made by that CDS Seller (or any other Person that is a CDS Seller in relation to CDS Contracts of the same Set) as to whether the obligation or relevant Prior Deliverable Obligation or Package Observable Bond, as the case may be, is a Deliverable Obligation or, as applicable, a Permitted Deliverable Obligation under the terms of the CDS Contract, until such time as the relevant Credit Derivatives Determinations Committee Resolves and announces that such obligation, Prior Deliverable Obligation or Package Observable Bond, as the case may be, is a Deliverable Obligation or, as applicable, a Permitted Deliverable Obligation under the terms of the CDS Contract, provided that if the obligation, Prior Deliverable Obligation or Package Observable Bond, as the case may be, is listed and remains listed as a Deliverable Obligation or, as applicable, a Permitted Deliverable Obligation in the Final List of Deliverable Obligations which is applicable to that CDS Contract as of the applicable Delivery Date for such Deliverable Obligation or, as applicable, Permitted Deliverable Obligation, no such challenge may delay the acceptance by the CDS Seller of Delivery of such obligation or Asset Package, as the case may be.
- (c) Any Matched CDS Seller proposing to refuse to accept Delivery as referred to in paragraph 6.5(b) must give notice forthwith to the Clearing House and to the Matched CDS Buyer in the relevant Matched Pair, specifying the Matched CDS Contracts to which the refusal relates. Delivery of such notice by the Matched CDS Buyer to the Matched CDS Seller shall constitute notice from the Clearing House to the Matched CDS Buyer of the Clearing House's refusal to accept Delivery of the relevant obligation.
- (d) As they relate to an obligation for which a challenge has been presented (as referred to in paragraph 6.5(a)) as to whether the obligation is (i) a Deliverable Obligation or, as applicable, a Permitted Deliverable Obligation under the terms of a CDS Contract, unless the obligation is listed and remains listed as a Deliverable Obligation or, as applicable, a Permitted Deliverable Obligation in the Final List of Deliverable Obligations or (ii) as applicable, a Permitted Deliverable Obligation which is applicable to that CDS Contract as of the applicable Delivery Date for such Deliverable Obligation or, as applicable, Permitted Deliverable Obligation, time periods and related rights and remedies relating to settlement, for example, under Sections 9.9 and 9.10 of the 2003 Credit Derivatives Definitions or Sections 9.7 and 9.8 of the 2014 Credit Derivatives Definitions and any applicable cap on settlement, shall be suspended for the period commencing on the date the challenge is first presented until the date of the relevant actual decision to Resolve (which shall be the date on which such decision is announced and determined without regard to any time of effectiveness specified in a "Presented Position", as defined in the DC Rules) or, if later, the date on which ISDA or DC Secretary publicly announces the resolution of the relevant Credit Derivatives Determinations Committee as to whether or not such obligation is a Deliverable Obligation or, as applicable, a Permitted Deliverable Obligation under the terms of a physically settled CDS Contract.
- (e) This provision does not prevent a party from exercising any of its rights under Rule 117.

## 6.6 Physical Settlement Costs

- (a) Any payments required in relation to any costs or expenses of settlement of a Matched CDS Contract in accordance with the Fallback Settlement Method (other than the expenses referred to in paragraph 6.4) shall be made in the following manner:
- (i) where, but for this paragraph 6.6(a), any such payment would fall to be made by the Clearing House to the Matched CDS Buyer or Matched CDS Seller, as though the Matched CDS Seller or the Matched CDS Buyer in the Matched Pair (as applicable, being in any case the person in the Matched Pair to whom payment would not be due from the Clearing House) were designated by the Clearing House to make such payment on its behalf;
  - (ii) where, but for this paragraph 6.6(a), any such payment would fall to be made to the Clearing House by the Matched CDS Buyer or Matched CDS Seller, as though the Matched CDS Seller or the Matched CDS Buyer in the Matched Pair (as applicable, being in any case the person in the Matched Pair from whom payment would be due to the Clearing House) were designated by the Clearing House to receive such payment on its behalf;
  - (iii) where a Matched CDS Seller or Matched CDS Buyer is designated to make payment pursuant to Rule 1509 and this paragraph 6.6(a) and makes a relevant payment direct to the other party in the Matched Pair, the party that made payment shall not be entitled to any reimbursement from the Clearing House in respect of the payment (without prejudice to any rights of any Matched CDS Seller to Matched CDS Buyer where there is a failure to Deliver); and
  - (iv) where a Matched CDS Seller or Matched CDS Buyer is designated to receive a payment pursuant to Rule 1509 and this paragraph 6.6(a) and receives a payment direct from the other party in the Matched Pair, the party that received payment shall not be obliged to remit any amount in respect of such payment to the Clearing House (without prejudice to any rights of the Clearing House where there is a failure to Deliver).
- (b) In relation to Non DVP Obligations, the Matched CDS Seller shall be liable to pay to the Clearing House, as referred to in paragraph 6.4(b), the amount of any expenses due to the Matched CDS Buyer pursuant to Section 9.2(c)(vi) of the 2003 Credit Derivatives Definitions, or Section 11.2(c)(vi) of the 2014 Credit Derivatives Definitions, as applicable as notified to the Clearing House by the Matched CDS Buyer as referred to in paragraph 6.4(a).
- (c) For the avoidance of doubt, the Clearing House shall not be liable to a CDS Buyer or CDS Seller for any of the costs and expenses of settlement of the CDS Buyer or CDS Seller, other than as set out in paragraphs 6.4(g) and 6.6(b).
- (d) If the Clearing House incurs actual costs or expenses of settlement in respect of a Matched CDS Contract, the Matched CDS Seller or the Matched CDS Buyer in the Matched Pair (as applicable, being in any case the person in the Matched Pair that would incur or be liable for such costs or expenses were the Matched Pair to have been a CDS transaction between the Matched CDS Seller and the Matched CDS Buyer) shall be liable to reimburse the Clearing House in respect of such costs or expenses.

## 6.7 Margin in relation to Physical Settlement

- (a) Initial Margin, Mark-to-Market Margin and Physical Settlement Margin shall continue to be called and payable in relation to any CDS Contract or Component Transaction which is to be settled in accordance with the Fallback Settlement Method except to the extent that: (i) the Physical Settlement Amount has been paid to the Clearing House in accordance with Rule 301(f) and the Finance Procedures and not returned to the CDS Seller as referred to in Rule 1510 and paragraph 6.4; or (ii) the Physical Settlement

Amount has been paid to the relevant CDS Buyer or CDS Seller as designee of the Clearing House and such designee has notified the Clearing House that physical settlement is complete in accordance with Rule 1511.

- (b) Where any Physical Settlement Amount is payable to the Clearing House by a CDS Seller, the Clearing House acknowledges and agrees that, in accordance with Rules 302 and 303, it will apply any Margin or other available funds on account in order to satisfy the obligation to pay the Physical Settlement Amount and shall only call the CDS Seller for additional cash to the extent that relevant Margin is less than the Physical Settlement Amount.
- (c) Margin transferred to the Clearing House by a Matched CDS Buyer or Matched CDS Seller shall cease to be payable by a Matched CDS Buyer or Matched CDS Seller (and shall be released by the Clearing House) in respect of any CDS Contract after the time at which the Matched CDS Buyer or Matched CDS Seller has notified the Clearing House in accordance with Rule 1511 that settlement has, so far as it is aware, occurred successfully.

#### 6.8 CDS Alternative Delivery or Settlement Procedure

- (a) CADP Notices received by the Clearing House after 15:00 hours will be deemed to have been received on the next Business Day.
- (b) CADP Notices must be submitted in the form published by the Clearing House from time to time.

#### 7. CLEARED CDS PRODUCTS: ELIGIBLE SETS

7.1 The index series in respect of which CDS Contracts are eligible for Clearing are as notified from time to time by the Clearing House by Circular. Each index series with an identical maturity and name will initially form a Set.

7.2 The Clearing House may add to, amend or make deletions from the list of index series for CDS Contracts eligible for Clearing by issuing a Circular. Any such addition, amendment or deletion, other than the updating of any index series following the occurrence of an Applicable Credit Event or Succession Event, shall be made following consultation with the CDS [Product](#) Risk Committee, by issuing a further Circular, provided that the Clearing House shall not be required to consult in advance with the CDS [Product](#) Risk Committee for a deletion or suspension of a Set from such list in circumstances in which issuance of an Acceptance Notice in respect of CDS Trade Particulars or Clearing of CDS Contracts referring to such Set would be in breach of a restriction made under the Short Selling Regulation or of any other Applicable Law.

7.3 CDS Contracts on certain single names are eligible for Clearing, as set out in Circulars published by the Clearing House from time to time, each item mentioned as eligible in any such Circular initially forming a Set. The Clearing House may add to, amend or make deletions from such list, following consultation with the CDS [Product](#) Risk Committee, by issuing a further Circular, provided that the Clearing House shall not be required to consult in advance with the CDS [Product](#) Risk Committee for a deletion or suspension of a Set from such list in circumstances in which issuance of an Acceptance Notice in respect of CDS Trade Particulars or Clearing of CDS Contracts referring to such Set would be in breach of a restriction made under the Short Selling Regulation or of any other Applicable Law.

7.4 CDS Contracts in relation to an index series comprise a number of separate Component Transactions, each of which may, subject to the Rules and Procedures, be a 2003-type CDS Contract or a 2014-type CDS Contract. Where there is a distinction in the application of the Rules and Procedures or the Applicable Credit Derivatives Definitions as between a 2003-type CDS Contract and a 2014-type CDS Contract, the Rules and Procedures shall apply separately to each

such Component Transaction that is a 2003-type CDS Contract or a 2014-type CDS Contract, respectively.

## 8. CONTRACT TERMS FOR ALL CDS CONTRACTS

8.1 This paragraph 8 specifies additional Contract Terms applicable to all CDS Contracts cleared by the Clearing House to which the Applicable Credit Derivatives Definitions apply by virtue of the Contract Terms:

- (a) Subject to Rule 109, if a Convened DC (as defined in the DC Rules) resolves, pursuant to Section 3.8(a) of the DC Rules: (i) a question of interpretation regarding the provisions of the “**July 2009 Protocol**” (as defined in the DC Rules); or (ii) to make any amendments to Schedule 1 of the July 2009 Protocol, in each case that affects a 2003-type CDS Contract, the Clearing House shall, as promptly as practicable, make conforming changes to these CDS Procedures in order to implement such resolutions in respect of 2003-type CDS Contracts.
- (b) Any reference in a 2003-type CDS Contract to the 2003 ISDA Credit Derivatives Definitions (including any reference to the 2003 ISDA Credit Derivatives Definitions as supplemented or otherwise modified, including by incorporation of any additional provisions thereto (howsoever described) shall be deemed to be a reference to the 2003 ISDA Credit Derivatives Definitions as so supplemented and as further supplemented by the July 2009 Supplement.
- (c) With respect to:
  - (i) any 2003-type CDS Contract, Section 1.8(a)(ii)(A)(I)(3)(y) of the 2003 Credit Derivatives Definitions is hereby modified by replacing the term "Auction Final Price Determination Date" with the phrase "date that is one Relevant City Business Day prior to the Auction Settlement Date";
  - (ii) any 2014-type CDS Contract, for the purposes only of Section 1.16(a)(ii)(A)(II) of the 2014 Credit Derivatives Definitions, Section 1.17 of the 2014 Credit Derivatives Definitions is hereby modified by replacing the term "Auction Final Price Determination Date" with the phrase "date that is one Relevant City Business Day prior to the Auction Settlement Date"; and
  - (iii) in respect of any 2014-type CDS Contract which forms part of an Open Contract Position of a Clearing Member as at the NTCE Protocol Effective Date or is cleared on or after the NTCE Protocol Effective Date, the Applicable Credit Derivatives Definitions shall be deemed to include the 2019 NTCE Supplement.
- (d) Section 1.30 of the 2003 Credit Derivatives Definitions is hereby modified by replacing the term "Auction Final Price Determination Date" in clause (ii) of the last sentence thereof with the phrase "date that is one Relevant City Business Day prior to the Auction Settlement Date".
- (e) Section 4.6(d) of the Applicable Credit Derivatives Definitions is hereby modified by the deletion of "(i)" and by the deletion of the entirety of sub-section (ii) thereof.
- (f) The Settlement Method will be "Auction Settlement" and the Fallback Settlement Method will be "Physical Settlement" in accordance with paragraph 6 and the Rules.
- (g) Where a DC Credit Event Announcement has occurred in respect of a CDS Contract, neither the CDS Buyer nor any relevant Customer (if any) of the CDS Buyer may deliver a Notice of Physical Settlement, and delivery of any Notice of Physical Settlement will not be effective, until such time as the method of settlement for a particular Credit Event becomes the Fallback Settlement Method due to the occurrence of one of the events set



out in, with respect to 2003-type CDS Contracts, Section 12.1 of the 2003 Credit Derivatives Definitions or, with respect to 2014-type CDS Contracts, Section 6.1 of the 2014 Credit Derivatives Definitions and, as referred to in Rule 1505(b), the Clearing House has (or, pursuant to Rule 1508, should have) notified CDS Buyers and CDS Sellers of their Matched Pairs and associated MP Amounts. For the avoidance of doubt, the effectiveness of any Notice of Physical Settlement and obligations relating thereto is subject to the suspension and finality provisions of, in respect of any 2003-type CDS Contract, Sections 6.5 and 9.1(c)(iii) of the 2003 Credit Derivatives Definitions and, in respect of any 2014-type CDS Contract, Sections 10.1 and 10.2 of the 2014 Credit Derivatives Definitions. This is in addition to the restrictions on the delivery of a Notice of Physical Settlement set out in paragraph 6.

- (h) For the purposes of Rules 1509 and 1510 and without prejudice to the representations given by the Clearing House and Clearing Members or Sponsored Principals to one another pursuant to the Contract Terms and the Rules, with respect to any 2003-type CDS Contract, Sections 9.2(a), 9.2(b), 9.2(c)(i) and 9.2(c)(iv) of the 2003 Credit Derivatives Definitions and, with respect to any 2014-type CDS Contract, Sections 11.2(a), 11.2(b), 11.2(c)(i) and 11.2(c)(iv) of the 2014 Credit Derivatives Definitions shall apply as between the Matched CDS Buyer and the Matched CDS Seller in a Matched Pair, such Matched CDS Buyer and Matched CDS Seller thereby having rights in respect of such provisions for the purposes of the Contracts (Rights of Third Parties) Act 1999, as though they were the Buyer and Seller respectively and Section 9.2(c)(iv) of the 2003 Credit Derivatives Definitions as incorporated in any 2003-type CDS Contract and Section 11.2(c)(iv) of the 2014 Credit Derivatives Definitions as incorporated in any 2014-type CDS Contract shall be amended such that:
- (i) where the Clearing House is the designator, it is permitted to designate any CDS Clearing Member or Sponsored Principal specified in Rule 1509 as its designee, notwithstanding that it is not an Affiliate (as defined therein);
  - (ii) the phrase "deliver or receive any Notice of Physical Settlement (or NOPS Amendment Notice or Asset Package Delivery Notice), Credit Event Notice, or Notice to Exercise Movement Option, or Deliver or take Delivery or pay or receive payment of the Physical Settlement Amount" were written in place of the phrase "Deliver or take Delivery"; and
  - (iii) the phrase "such delivery, receipt, Delivery or payment" were written in place of the phrase "such Delivery".
- (i) In respect of:
- (i) any 2003-type CDS Contract, Sections 9.3, 9.4, 9.5 and 9.6 of the 2003 Credit Derivatives Definitions shall apply as between the relevant CDS Clearing Member or Sponsored Principal and the Clearing House; and
  - (ii) any 2014-type CDS Contract, Sections 9.1, 9.2, 9.3 and 9.4 of the 2014 Credit Derivatives Definitions shall apply as between the relevant CDS Clearing Member or Sponsored Principal and the Clearing House.
- (j) Solely for the purposes of Rules 1512 and 1513, Section 9.8(k) of the 2003 Credit Derivatives Definitions and Section 9.6(k) of the 2014 Credit Derivatives Definitions (each, for the purposes of, and as amended by, the amendment below, the "**Amended Section**") is amended by inserting the following at the beginning thereof:
- (i) "For the purposes hereof, in addition to the requirements of Section 7.10, each firm Quotation shall:

- (A) be for a transaction with the CDS Buyer (or its designee) (the "**Relevant Buyer**") in which the Relevant Buyer agrees to Deliver the Deliverable Obligations to the Dealer submitting the firm quotation (the "**Quoting Dealer**"), which transaction shall be governed by documentation that is consistent with market practice applicable to the sale and purchase of Deliverable Obligations on the Valuation Date (which may be determined by the relevant Credit Derivatives Determinations Committee), including without limitation a representation that the Quoting Dealer has completed all "know your customer" or similar requirements under all applicable laws, regulations and internal compliance procedures relating to a transaction with the Relevant Buyer and on the Reference Entity;
- (B) be capable of acceptance by the Relevant Buyer (for such purposes, each firm Quotation must, inter alia, be obtained from a Dealer with whom the Relevant Buyer in its sole and absolute discretion determines that it is able in accordance with all its internal compliance and policy requirements to transact and to Deliver the Deliverable Obligations) and be open for acceptance to the relevant party for at least 30 minutes; and
- (C) be obtained on the basis that if the Relevant Buyer agrees to Deliver the Deliverable Obligations to such Quoting Dealer on the terms set forth herein, such Quoting Dealer agrees to pay the settlement amount (calculated and payable for this purpose in accordance with the relevant market standard documentation and based on the price so quoted) that would be payable for such Deliverable Obligations to the Relevant Buyer,

provided that:

- (D) if Rule 1512 applies: (I) on the same Business Day that the CDS Buyer (as if it were Calculation Agent) has attempted to obtain all Quotations that the Calculation Agent is required to attempt to obtain in accordance with the Amended Section, the CDS Buyer shall offer the Clearing House the opportunity to provide a Quotation as if the Clearing House were a Dealer in accordance with the Amended Section; and (II) if the Quotation provided by the Clearing House is higher than any Quotation obtained by the CDS Buyer (as if it were Calculation Agent) from the Dealers in accordance with the Amended Section (including, for the avoidance of doubt any Weighted Average Quotation) such Quotation shall be deemed to be the Highest Quotation and the CDS Buyer (as if it were Calculation Agent) shall use such Quotation to determine the Final Price; and
- (E) if Rule 1513(a)(ii) applies: (I) on the same Business Day that the Matched CDS Buyer (as if it were Calculation Agent) has attempted to obtain all Quotations that the Calculation Agent is required to attempt to obtain in accordance with the Amended Section, the Matched CDS Buyer shall offer the Clearing House the opportunity to provide a Quotation as if the Clearing House were a Dealer in accordance with the Amended Section; and (II) if the Quotation provided by the Clearing House is higher than any Quotation obtained by the Matched CDS Buyer (as if it were Calculation Agent) from the Dealers in accordance with the Amended Section (including, for the avoidance of doubt any Weighted Average Quotation) such Quotation shall be deemed be the Highest Quotation and the Matched CDS Buyer (as if it were



Calculation Agent) shall use such Quotation to determine the Final Price.

(ii) Otherwise,".

**8.2 The following additional provisions shall apply to all CDS Contracts:**

**(a) Part 1: Obligations**

(i) General Conditions.

- (A) Each Party will make each payment or delivery specified in each CDS Contract to be made by it, subject to the other provisions of the Rules and the provisions of the Clearing Membership Agreement or, in the case of a Sponsored Principal, the Sponsored Principal Clearing Agreement or, in the case of a Sponsor, the Sponsor Agreement.
- (B) Each obligation of the Clearing House to a CDS Clearing Member (or Sponsored Principal) under paragraph 8.2(a)(i)(A) above is subject to the condition precedent that no Event of Default has been declared in respect of that CDS Clearing Member (or Sponsored Principal or its Sponsor).
- (C) Each obligation of the Clearing Member or Sponsored Principal under paragraph 8.2(a)(i)(A) above is subject to the condition precedent that no Insolvency in respect of the Clearing House or Failure to Pay in respect of the Clearing House has occurred.

(ii) Deduction or Withholding for Tax.

- (A) *Deduction.* All payments pursuant to a CDS Contract will be made without any deduction or withholding for or on account of any Tax unless such deduction or withholding is required by any Applicable Law, as modified by the practice of any relevant governmental revenue authority, then in effect.
- (B) *Gross-Up by the Clearing Member or Sponsored Principal.* If the Clearing Member or Sponsored Principal is so required to deduct or withhold, then the Clearing Member or Sponsored Principal will:
  - (1) promptly notify the Clearing House of such requirement;
  - (2) pay to the relevant authorities the full amount required to be deducted or withheld (including the full amount required to be deducted or withheld from any additional amount paid by the Clearing Member or Sponsored Principal to the Clearing House pursuant to this paragraph 8.2(a)(ii)) promptly upon the earlier of determining that such deduction or withholding is required or receiving notice that such amount has been assessed against the Clearing House;
  - (3) promptly forward to the Clearing House an official receipt (or a certified copy), or other documentation reasonably acceptable to the Clearing House, evidencing such payment to such authorities; and
  - (4) subject to paragraph 8.2(a)(ii)(C), pay to the Clearing House, in addition to the payment to which the Clearing House is

otherwise entitled pursuant to the relevant CDS Contract, such additional amount as is necessary to ensure that the net amount actually received by the Clearing House (free and clear of any Tax, whether assessed against the Clearing Member or Sponsored Principal or the Clearing House) will equal the full amount the Clearing House would have received had no such deduction or withholding been required.

- (C) *Gross-Up by the Clearing Member or Sponsored Principal; exception.* A Clearing Member or Sponsored Principal will not be required to pay any additional amount to the Clearing House pursuant to paragraph 8.2(a)(ii)(B) to the extent that it would not be required to be paid but for (1) a present or former connection between the jurisdiction of the taxing authority imposing such Tax and the Clearing House, (2) any failure by the Clearing House to provide to the relevant Clearing Member or Sponsored Principal such forms and documents as are required to be provided under paragraph 8.2(d)(i), provided this sub-paragraph (2) shall only apply if the relevant Clearing Member or Sponsored Principal has notified the Clearing House in writing of such failure and the Clearing House has failed to provide such forms or documents within 5 Business Days after the receipt of such notice or (3) the failure of a representation made by the Clearing House pursuant to paragraph 8.2(c)(ii) to be accurate and true (unless the failure under this sub-paragraph (3) would not have occurred but for (a) any action taken by a taxing authority, or brought in a court of competent jurisdiction (regardless of whether such action is taken or brought with respect to a Party to the relevant CDS Contract) or (b) a Change in Tax Law, that in each case occurs after the Clearing House and the Clearing Member or Sponsored Principal enter into the relevant CDS Contract (or, if applicable, the date that the Clearing House amends the relevant CDS Contract in accordance with the Rules to account for such Change in Tax Law).

In the event that the failure under sub-paragraph (3) of the preceding paragraph would not have occurred but for the reasons described under subclause (a) or (b) thereof, the Clearing House shall use reasonable endeavours to provide to the Clearing Member or Sponsored Principal a new representation (to the extent that it is appropriate) for the purpose of paragraph 8.2(c)(ii), promptly after learning of such failure (so long as the provision of such representation would not, in the Clearing House's judgment, materially prejudice the legal or commercial position of the Clearing House).

Notwithstanding any other provision under the Rules or these Procedures, a Clearing Member or Sponsored Principal will be required to pay additional amounts to (or otherwise indemnify) the Clearing House pursuant to paragraph 8.2 for any Tax imposed or collected pursuant to Sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986, as amended (the "**Code**"), any current or future regulations or official interpretations thereof, any agreement entered into pursuant to Section 1471(b) of the Code, or any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement entered into in connection with the implementation of such Sections of the Code ("**FATCA**"), except to the extent that such Tax would not have been imposed on the payment to the Clearing House but for the failure of the Clearing House to satisfy

the applicable requirements to establish that such payment is exempt from withholding under FATCA.

For the purpose of this paragraph 8.2(a)(ii)(C) only, Change in Tax Law shall have the following meaning:

"**Change in Tax Law**" means the enactment, promulgation, execution or ratification of, or any change in or amendment to, any law (or in the application or official interpretation of any law).

- (D) *No Gross-Up by the Clearing House.* If the Clearing House is so required to deduct or withhold, then the Clearing House will, in each case to the extent that it is reasonably able to do so:
- (1) promptly notify the Clearing Member or Sponsored Principal of such requirement;
  - (2) pay to the relevant authorities the full amount required to be deducted or withheld promptly upon the earlier of determining that such deduction or withholding is required or receiving notice that such amount has been assessed against the Clearing Member or Sponsored Principal; and
  - (3) promptly forward to the Clearing Member or Sponsored Principal an official receipt (or a certified copy) evidencing such payment to such authorities.

In no circumstances shall the Clearing House be required to pay any amount in addition to the payment to which the Clearing Member or Sponsored Principal is otherwise entitled pursuant to the CDS Contract in respect of any such deduction or withholding. However, the Clearing House will, at the Clearing Member's or Sponsored Principal's expense, use reasonable endeavours to cooperate with the Clearing Member or Sponsored Principal to seek any credit or remission or other relief available with respect to any such Tax so deducted or withheld (so long as such cooperation would not, in the Clearing House's judgment, materially prejudice the legal or commercial position of the Clearing House).

- (E) *Liability of the Clearing House.* If:
- (1) the Clearing House is required by any Applicable Law, as modified by the practice of any relevant governmental revenue authority, to make any such deduction or withholding;
  - (2) the Clearing House does not so deduct or withhold; and
  - (3) a liability resulting from such Tax is assessed directly against the Clearing House,

then, except to the extent the Clearing Member or Sponsored Principal has satisfied or then satisfies the liability resulting from such Tax, the Clearing Member or Sponsored Principal will promptly pay to the Clearing House the amount of such liability (including any related liability for interest or penalties).

- (F) *Liability of the Clearing Member or Sponsored Principal.* If:

- (1) the Clearing Member or Sponsored Principal is required by any Applicable Law, as modified by the practice of any relevant governmental revenue authority, to make any such deduction or withholding in respect of which the Clearing Member or Sponsored Principal would be required to pay an additional amount pursuant to paragraph 8.2(a)(ii);
- (2) the Clearing Member or Sponsored Principal does not so deduct or withhold; and
- (3) a liability resulting from such Tax is assessed directly against the Clearing House,

then, except to the extent the Clearing Member or Sponsored Principal has satisfied or then satisfies the liability resulting from such Tax, the Clearing Member or Sponsored Principal will promptly pay to the Clearing House the amount of such liability (including any related liability for interest or penalties).

(b) **Part 2: Termination Provisions**

- (i) The Automatic Early Termination Provisions of this paragraph 8.2(b)(i) will not apply to the Clearing House and will apply to the Clearing Member or Sponsored Principal only if it (or in the case of a Sponsored Principal, its Sponsor) is incorporated in Switzerland or any other jurisdiction as the Clearing House may by notice or Circular specify (the entity incorporated in Switzerland or such other jurisdiction being the "**Swiss or Other Entity**"), provided, however, that with respect to an event of Bankruptcy described in part (v) of the definition of Bankruptcy in the Rules or, to the extent analogous thereto, part (ix) of that definition of Bankruptcy, the Automatic Early Termination Provisions (as defined below) will only apply if the relevant proceeding is instituted in or petition is presented to, a competent court or authority in the jurisdiction in which the Swiss or Other Entity is incorporated or organised or has its head or home office or has the offices through which it enters into, or acts as Sponsor in respect of, CDS Contracts.
- (ii) All open CDS Contracts of a CDS Clearing Member or Sponsored Principal to which these Automatic Early Termination Provisions apply shall be immediately terminated upon the occurrence, with respect to that CDS Clearing Member or Sponsored Principal (or, in the case of a Sponsored Principal, its Sponsor) which is the Swiss or Other Entity, of an event of Bankruptcy described in parts (i), (iii), (vi), (vii) of the definition of Bankruptcy in the Rules or, to the extent analogous thereto, part (ix) of that definition of Bankruptcy and as of the time immediately preceding the institution of the relevant proceeding or the presentation of the relevant petition upon the occurrence of an event of Bankruptcy described in parts (iv) or (v) of the definition of Bankruptcy in the Rules or, to the extent analogous thereto, part (ix) of that definition of Bankruptcy (the "**Automatic Early Termination Provisions**").
- (iii) The occurrence of any event of Bankruptcy specified in paragraph 8.2(b)(ii) above resulting in the termination of CDS Contracts pursuant to paragraph 8.2(b)(ii) above shall automatically and without the need for any action by the Clearing House constitute an Event of Default with respect to the relevant CDS Clearing Member or Sponsored Principal. The Clearing House shall be deemed to have declared such Event of Default immediately upon the occurrence of such Event of Default but shall nonetheless be obliged to issue a Default Notice to

the Defaulter and provide any copies of such Default Notice required pursuant to Rule 902 upon becoming aware of any such Event of Default.

(c) **Part 3: Representations and Warranties**

(i) *Payer Tax Representation.* On each date on which a CDS Contract is entered into, the Clearing Member or Sponsored Principal will represent to the Clearing House that it is not required by any Applicable Law, as modified by the practice of any relevant governmental revenue authority of any Relevant Jurisdiction, to make any deduction or withholding for or on account of any Tax from any payment (other than interest payable pursuant to Rule 301(g)) to be made by it to the Clearing House pursuant to any CDS Contract. In making this representation, it may rely on:

- (A) the accuracy of any representations made by the Clearing House pursuant to paragraph 8.2(c)(ii);
- (B) the satisfaction of the agreement contained in paragraph 8.2(d)(i)(A)(1) or paragraph 8.2(d)(i)(A)(2) and the accuracy and effectiveness of any document provided by the Clearing House pursuant to paragraph 8.2(d)(i)(A)(1) or paragraph 8.2(d)(i)(A)(2); and
- (C) the satisfaction of the agreement of the Clearing House contained in paragraph 8.2(d)(ii),

except that it will not be a breach of this representation where reliance is placed on sub-paragraph (B) above and the Clearing House does not deliver a form or document under paragraph 8.2(d)(i)(A)(2) by reason of material prejudice to its legal or commercial position.

(ii) *Payee Tax Representations.* On each date on which a CDS Contract is entered into, but only where the Clearing Member or Sponsored Principal (or any entity into which the Clearing Member or Sponsored Principal is disregarded for U.S. federal income tax purposes) is a US entity or branch, the Clearing House will represent (and such representation will be deemed to be repeated at all times until the termination of all CDS Contracts between the Clearing House and that Clearing Member or Sponsored Principal) to such Clearing Member or Sponsored Principal that:

- (A) it is a duly formed limited company as defined in the Companies Acts of 1985 and 2006 with its registered office for the purposes of the Companies Acts of 1985 and 2006 situated in England and Wales; and
- (B) it is a (1) "non-US branch of a foreign person" as that term is used in Section 1.1441-4(a)(3)(ii) of the United States Treasury Regulations and (2) "foreign person" as that term is used in Section 1.6041-4(a)(4) of the United States Treasury Regulations.

(iii) *Clearing House Warranties.* On each date on which a CDS Contract is entered into, the Clearing House will warrant to the CDS Clearing Member (or Sponsored Principal) that is party to such CDS Contract that:

- (A) *Status.* The Clearing House is duly organised and validly existing under the laws of England and Wales.
- (B) *Powers.* The Clearing House has the power to enter into the CDS Contract and to deliver and to perform its obligations under the CDS

Contract and has taken all necessary action to authorise such execution, delivery and performance.

- (C) *No Violation or Conflict.* Such entry into, delivery and performance do not violate or conflict with any Applicable Law applicable to the Clearing House, any provision of its articles or memorandum of association or any order or judgment of any court or other Governmental Authority applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets.
- (D) *Consents.* All governmental and other consents that are required to have been obtained by the Clearing House with respect to the CDS Contract have been obtained and are in full force and effect and all conditions of any such consents have been complied with.
- (E) *Obligations Binding.* The Clearing House's obligations under the CDS Contract constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application and to other matters which are standardly excluded, restricted or qualified in legal opinions (regardless of whether enforcement is sought in a proceeding in equity or at law)).
- (F) *Absence of Certain Events.* No Insolvency or Failure To Pay has occurred and is continuing in respect of the Clearing House and no such circumstance or event would occur as a result of the Clearing House's entering into or performing its obligations under the Rules or any CDS Contract.
- (G) *No Agency.* The Clearing House is entering into each CDS Contract as principal and not as agent of any person or entity.
- (H) *Relationship between the parties.*
- (1) The Clearing House has made its own independent decisions to enter into CDS Contracts and as to whether the entry into of CDS Contracts is appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary;
  - (2) The Clearing House is not relying on any communication (written or oral) of the Clearing Member or Sponsored Principal (or its Sponsor) which is party to a CDS Contract as investment advice or as a recommendation to enter into the CDS Contract, it being understood that information and explanations related to the terms and conditions of a CDS Contract will not be considered investment advice or a recommendation to enter into a CDS Contract;
  - (3) No communication (written or oral) received from such Clearing Member or Sponsored Principal (or its Sponsor) will be deemed to be an assurance or guarantee as to the expected results of that CDS Contract;
  - (4) The Clearing House is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks



of the CDS Contract and it is also capable of assuming, and assumes, the risks of the CDS Contract; and

(5) The Clearing House is not acting as a fiduciary for or an adviser to such CDS Clearing Member or Sponsored Principal (or its Sponsor) in respect of the CDS Contract.

(I) *Absence of Litigation.* There is not pending or, to the knowledge of the Clearing House, threatened against it any action, suit or proceeding at law or in equity or before any court, tribunal, governmental body, agency or official or any arbitrator that is likely to affect the legality, validity or enforceability against it of any CDS Contract or its ability to perform its obligations under any CDS Contract.

The remedies of rescission and termination are hereby disclaimed and waived by each Clearing Member, Sponsor and Sponsored Principal in respect of any breach by the Clearing House of any of the above warranties.

(d) **Part 4: Agreements**

Each Party agrees with the other (or in the case of (ii) below, the Clearing House agrees with the Clearing Member or Sponsored Principal) that, so long as either Party has or may have any obligation under any CDS Contract with the other Party or under any related Credit Support Document to which it is a Party:

(i) *Furnish Specified Information.*

(A) It will deliver to the other Party or, in certain cases under paragraph (2) below, to such government or taxing authority as the other Party reasonably directs:

(1) any forms, documents or certificates relating to taxation specified in paragraph 8.2(d)(i)(B) below; and

(2) upon reasonable demand by such other Party (or, in the case of the Clearing Member or Sponsored Principal, upon reasonable request in writing by the Clearing Member or Sponsored Principal), any form or document that may reasonably be required or reasonably requested in writing (and, in the case of a Clearing Member, any such form or document must be reasonably requested in writing) in order to allow such other Party or its Credit Support Provider to make payment pursuant to any CDS Contract or any applicable Credit Support Document without any deduction or withholding for or on account of any Tax or with such deduction or withholding at a reduced rate (so long as the completion, execution or submission of such form or document would not materially prejudice the legal or commercial position of the Party in receipt of such demand or request (or, in the case of the Clearing House, so long as the Clearing House reasonably believes that the completion, execution or submission of such form or document would not materially prejudice the legal or commercial position of the Clearing House)), with any such form or document to be accurate and completed in a manner reasonably satisfactory to such other Party and to be executed and to be delivered with any reasonably required certification (or, in the case of any such form or document to be furnished by the Clearing House, with any such form or document to be



as accurate as the Clearing House is reasonably able to make it and to be executed in a manner reasonably satisfactory to the Clearing House and to be delivered with any reasonably required certification which the Clearing House is reasonably able to deliver),

in each case by the date specified in paragraph 8.2(d)(i)(A)(2) or 8.2(d)(i)(B) or, if none is specified or in the case of any form, document or certificate to be furnished by the Clearing House, as soon as reasonably practicable.

- (B) For the purposes of paragraph 8.2(d)(i)(A) above, where the Clearing Member or Sponsored Principal is a US entity or branch, the Clearing House agrees to deliver an executed United States Internal Revenue Service Form W-8BEN (or successor thereto) promptly after the date on which that Clearing Member or Sponsored Principal first becomes a CDS Clearing Member or Sponsored Principal with authorisation to clear CDS and promptly upon learning that any form previously provided by the Clearing House has become obsolete or incorrect.
- (ii) *Maintain Authorisations.* The Clearing House will use all reasonable efforts to maintain in full force and effect all consents of any governmental or other authority that are required to be obtained by it with respect to the Clearing of any CDS Contracts.
- (iii) *Tax Agreement.* It will give notice of any failure of a representation made by it under paragraph 8.2(c)(ii) to be accurate and true promptly upon learning of such failure.
- (iv) *Payment of Stamp Tax.* The Clearing Member or Sponsored Principal will pay any Stamp Tax and any excise, sales, or value added Tax and any other similar Tax levied or imposed upon it or in respect of its execution or performance of any CDS Contract to which it is a Party by any jurisdiction, and will indemnify the Clearing House against any Stamp Tax and any excise, sales, or value added Tax and any other similar Tax (to the extent, in the case of any value added Tax, that the Clearing House is not able, in the Clearing House's opinion (acting reasonably) to obtain credit for, reclaim or recover such value added Tax) levied or imposed upon the Clearing House or in respect of the Clearing House's execution or performance of any CDS Contract to which that Clearing Member or Sponsored Principal is a Party by any jurisdiction.
- (e) **Part 5: Transfer**
- (i) The Clearing House may transfer any rights or obligations of the Clearing House in or under any CDS Contract where such transfer is effected by the Clearing House in accordance with the Rules.
- (ii) If a Tax Event, a Tax Event Upon Merger or a Merger Without Assumption occurs, then the Clearing House will not unreasonably withhold or delay its Consent to, or stipulate unreasonable conditions on a transfer under Rule 408(a)(i). The Clearing House acknowledges its obligations under Applicable Laws and the Rules to have transparent and non-discriminatory rules, based on objective criteria, governing access and to process applications for membership expeditiously and fairly based on objective criteria. The Clearing House acknowledges that any applicant for membership following a Tax Event that is an Affiliate of the Clearing Member or Sponsored Principal will be deemed to have satisfied those of the membership criteria relating to the group of the applicant, to the extent that the Clearing Member or Sponsored Principal has

already demonstrated satisfaction of such requirements and these requirements continue to be met on an ongoing basis. As a result, the membership application process for such applicant will be subject to slightly reduced due diligence (given the knowledge already in possession of the Clearing House in relation to the relevant group) and, consequently, such application, if complete, is likely to be subject to a quicker approval process compared with an application by a person that is not an Affiliate of a Clearing Member or Sponsored Principal. For the purposes of this paragraph 8.2(e)(ii) only, Tax Event, Tax Event Upon Merger and Merger Without Assumption shall have the following meanings:

**"Tax Event."** Due to (A) any action taken by a taxing authority, or brought in a court of competent jurisdiction, after a CDS Contract is entered into (regardless of whether such action is taken or brought with respect to a Party to the relevant CDS Contract) or (B) a Change in Tax Law, the Clearing Member or Sponsored Principal will, or there is a substantial likelihood that it will, on the next succeeding Scheduled Settlement Date be required to pay to the other Party an additional amount pursuant to paragraph 8.2(a)(ii)(B)(4) (except in respect of interest payable pursuant to Rule 301(g)).

**"Tax Event Upon Merger."** The Clearing Member or Sponsored Principal on the next succeeding Scheduled Settlement Date will be required to pay an additional amount pursuant to paragraph 8.2(a)(ii)(B)(4) (except in respect of interest payable pursuant to Rule 301(g)) as a result of a Party consolidating or amalgamating with, or merging with or into, or transferring all or substantially all its assets (or any substantial part of the assets comprising the business conducted by it as of the date on which that Clearing Member or Sponsored Principal first becomes a CDS Clearing Member or Sponsored Principal) to, or reorganising, reincorporating or reconstituting into or as, another entity where such action does not constitute a Merger Without Assumption.

**"Merger Without Assumption."** The Clearing Member or Sponsored Principal consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to, or reorganises, reincorporates or reconstitutes into or as, another entity and, at the time of such consolidation, amalgamation, merger, transfer, reorganisation, reincorporation or reconstitution, the resulting, surviving or transferee entity fails to assume all the obligations of such Clearing Member or such Sponsored Principal under the CDS Contract to which it or its predecessor was a party.

(f) **Part 6: Contractual Currency**

- (i) *Payment in the Contractual Currency.* Each payment under any CDS Contract will be made in the relevant currency specified in the Contract Terms for that CDS Contract for that payment (the "**Contractual Currency**").
- (ii) *Judgments.* To the extent permitted by Applicable Law, if any judgment or order expressed in a currency other than the Contractual Currency is rendered (A) for the payment of any amount owing in respect of that CDS Contract, (B) for the payment of any amount relating to any early termination in respect of that CDS Contract or (C) in respect of a judgment or order of another court for the payment of any amount described in sub-paragraph (A) or (B) above, the Party seeking recovery, after recovery in full of the aggregate amount to which such Party is entitled pursuant to the judgment or order, will be entitled to receive immediately from the other Party the amount of any shortfall of the Contractual Currency received by such Party as a consequence of sums paid in such other currency and will refund promptly to the other Party any excess of the Contractual Currency received by such Party as a consequence of sums paid in

such other currency if such shortfall or such excess arises or results from any variation between the Rate of Exchange at which the Contractual Currency is converted into the currency of the judgment or order for the purpose of such judgment or order and the Rate of Exchange at which such Party is able, acting in good faith and using commercially reasonable procedures in converting the currency received into the Contractual Currency, to purchase the Contractual Currency with the amount of the currency of the judgment or order actually received by such Party.

- (iii) *Separate Indemnity.* To the extent permitted by Applicable Law, the indemnity in this paragraph 8.2(f) constitutes a separate and independent obligation from the other obligations in the Rules, will be enforceable as a separate and independent cause of action, will apply notwithstanding any indulgence granted by the Party to which any payment is owed and will not be affected by judgment being obtained or claim or proof being made for any other sums payable in respect of any CDS Contract.
- (iv) *Evidence of Loss.* For the purpose of this paragraph 8.2(f), it will be sufficient for a Party to demonstrate that it would have suffered a loss had an actual exchange or purchase been made.

(g) **Part 7: Miscellaneous**

*Characterisation Notice.* If, subject always to the representations given by each Party in relation to any CDS Contract (including without limitation those in Section 9.1(b)(i) of the 2003 Credit Derivatives Definitions and in Section 11.1(b)(i) of the 2014 Credit Derivatives Definitions), as applicable and to the legal, tax, financial accounting and regulatory treatment of any CDS Contract as a derivative as a matter of English law or regulation, either Party elects to treat a CDS Contract for any other tax, financial accounting or regulatory purpose as other than a derivative financial instrument or loan, such Party shall use reasonable efforts promptly to notify the other Party in writing of such election. For this purpose, a notice that contains information that identifies which types of CDS Contracts between the parties are subject to such election shall be sufficient.

(h) **Part 8: General Terms**

Each CDS Contract shall include the following terms and conditions set out in the General Contract Terms Procedures as part of its Contract Terms as if the same were set out herein and applied to CDS Contracts, *mutatis mutandis*: paragraphs 3.3, 3.4(d), 3.5, 3.9, 3.10, 3.15 and 3.16. In the event of any conflict or inconsistency between any two provisions of the terms set out or referred to herein, the following order of priority shall apply:

- (i) first, these CDS Procedures other than the portion of these CDS Procedures referred to in (ii) below; and
- (ii) second, the relevant paragraph of the General Contract Terms Procedures.

9. **CONTRACT TERMS FOR ITRAXX EUROPE CONTRACTS**

9.1 This paragraph 9.1 specifies the additional Contract Terms applicable to all iTraxx Contracts cleared by the Clearing House of a nature described in paragraph 7.1:

- (a) The provisions of paragraph 9.2 will apply in respect of all such CDS Contracts for which the Original Annex Date falls on or after the Protocol Effective Date.

- (b) The provisions of paragraph 9.3 will apply in respect of all such CDS Contracts for which the Acceptance Time falls on or after the Protocol Effective Date but for which the Original Annex Date falls before the Protocol Effective Date.
- (c) The provisions of paragraph 9.4 will apply in respect of all such CDS Contracts for which the Acceptance Time falls on or after the MCA/STS Changeover Time and before the Protocol Effective Date, for the period up to the Protocol Effective Date.
- (d) The provisions of paragraph 9.5 will apply in respect of all such CDS Contracts for which the Acceptance Time falls before the MCA/STS Changeover Time, for the period up to the MCS/STS Changeover Time.
- (e) The provisions of paragraph 9.6 will apply in respect of all such CDS Contracts for which the Acceptance Time falls before the MCA/STS Changeover Time, for the period on and after the MCA/STS Changeover Time up to the Protocol Effective Date.
- (f) The provisions of paragraph 9.7 will apply in respect of all such CDS Contracts for which the Acceptance Time falls before the Protocol Effective Date, for the period on and after the Protocol Effective Date.
- (g) The provisions of paragraph 9.8 will apply to all such CDS Contracts as at the NTCE Protocol Effective Date.
- (h) The provisions of paragraph 9.9 will apply to all such CDS Contracts, irrespective of the date of the related Acceptance Time.

## 9.2 **iTraxx Europe (CDS Contracts with Original Annex Date on or after the Protocol Effective Date)**

- (a) Definitions specific to this paragraph 9.2:
  - (i) **"iTraxx Contract"** means a CDS Contract in respect of any Eligible iTraxx Index and governed by any iTraxx Terms Supplement. Subject to the other requirements of these CDS Procedures, a CDS Contract will be an iTraxx Contract where the related CDS Trade Particulars submitted for Clearing specify, as the relevant index, any Eligible iTraxx Index, whether or not those CDS Trade Particulars themselves incorporated or are governed by an iTraxx Terms Supplement.
  - (ii) **"iTraxx Publisher"** means Markit Group Limited or one of its subsidiaries, or any successor sponsor of the Eligible iTraxx Indices it publishes.
  - (iii) **"iTraxx Terms Supplement"** means:
    - (A) In relation to any CDS Trade Particulars in respect of an iTraxx Contract submitted for Clearing on or after the NTCE Protocol Effective Date, each of the following: (a) a confirmation in the form of the confirmation (the **"iTraxx 2020 Confirmation"**) published on or about [ ] 2020 incorporating the iTraxx Europe Untranching Standard Terms Supplement as published on the same date (the **"Standard iTraxx 2020 CDS Supplement"**) or such electronic equivalent thereto as is used by Deriv/SERV and (b) such other document or supplement as may be specified in relation to any Eligible iTraxx Index by the Clearing House including any successor to any of the documents listed in subparagraphs (a) or (b) of this definition.
    - (B) In relation to any other iTraxx Contract to which this paragraph 9.2 applies, each of the following: (a) a confirmation in the form of the

confirmation (the "**iTraxx 2014 Confirmation**") published on or about 20 September 2014 incorporating the iTraxx Europe Untranchéd Standard Terms Supplement as published on the same date (the "**Standard iTraxx 2014 CDS Supplement**") or such electronic equivalent thereto as is used by Deriv/SERV and (b) such other document or supplement as may be specified in relation to any Eligible iTraxx Index by the Clearing House including any successor to any of the documents listed in sub-paragraphs (a) or (b) of this definition.

- (C) For the purpose of each iTraxx Contract, reference in the iTraxx Terms Supplement and the 2014 Credit Derivatives Definitions to a "Credit Derivative Transaction" shall be deemed to be references to a CDS Contract and references to an "iTraxx® Master Transaction" shall be deemed references to an iTraxx Contract.
- (iv) "**Eligible iTraxx Index**" means each particular series and version (of a Set which is eligible for Clearing) of an iTraxx index or sub-index, as published by the iTraxx Publisher, included from time to time in the List of Eligible iTraxx Indices.
- (v) "**List of Eligible iTraxx Indices**" means the list of Eligible iTraxx Indices, maintained, updated and published from time to time by the Clearing House, specifying the following information with respect to each index: (a) the name and series, including any applicable sub-index designation; (b) the "Effective Date"; (c) one or more eligible "Scheduled Termination Dates" and the applicable "Fixed Rate" for each such date; (d) the Relevant iTraxx Terms Supplement; (e) the versions (and related annex dates) eligible for Clearing; and (f) any inactive versions (and related annex dates), i.e., those that have been determined to be fungible with later versions.
- (vi) "**Relevant iTraxx Terms Supplement**" means, with respect to an Eligible iTraxx Index, the iTraxx Terms Supplement specified for such Eligible iTraxx Index in the List of Eligible iTraxx Indices.
- (b) **Terms of the Cleared iTraxx Contract**
- (i) Any capitalised term used in paragraph 9.2 but not defined in paragraph 9.2 or elsewhere in the Rules or Procedures shall have the meaning provided in the Relevant iTraxx Terms Supplement.
- (ii) Each iTraxx Contract will be governed by the Relevant iTraxx Terms Supplement, as modified by this paragraph 9.2, whether or not the relevant CDS Trade Particulars were in a form comprising the Relevant iTraxx Terms Supplement. In the event of any inconsistency between the Relevant iTraxx Terms Supplement or the Confirmation (including in electronic form) for an iTraxx Contract and this paragraph 9.2, this paragraph 9.2 will govern.
- (c) **Terms of iTraxx Contracts Governed by Standard iTraxx 2020 CDS Supplement or Standard iTraxx 2014 CDS Supplement**

With respect to each iTraxx Contract for which the iTraxx 2020 Confirmation and the Standard iTraxx 2020 CDS Supplement or the iTraxx 2014 Confirmation and the Standard iTraxx 2014 CDS Supplement forms the Relevant iTraxx Terms Supplement, the following terms will apply:

- (i) The terms of the Standard iTraxx 2020 CDS Supplement or the Standard iTraxx 2014 CDS Supplement, as applicable, are hereby amended as follows:

- (A) by the deletion of paragraph 2 thereof in relation to CDS Contracts arising pursuant to the Clearing of CDS Trade Particulars in respect of Bilateral CDS Transactions already recorded in Deriv/SERV;
  - (B) by the addition in paragraph 2 thereof, in relation to CDS Contracts arising other than pursuant to the Clearing of CDS Trade Particulars in respect of Bilateral CDS Transactions already recorded in Deriv/SERV, of the line entry: "**Initial Payment Date**: the first Business Day immediately following the Trade Date or, if later, the first Business Day immediately following the issuance of the Acceptance Notice by the Clearing House in relation to this Transaction";
  - (C) the provisions of paragraph 5.2 (a) thereof relating to the transfer of Component Transactions shall be subject to any transfers of or other dealings with the relevant iTraxx Contract (including in particular the provisions of paragraph 6 hereof) by the Clearing House permitted or authorised by the Rules;
  - (D) the provisions of paragraph 5.2(b)(ii) thereof shall be amended by adding at the end, immediately after "(such new Transaction, a **New Trade**)" the following: "and except that the Reference Obligation for the purposes of the New Trade will be the preferred Single Name Contract Reference Obligation for the Restructured Entity in question, if so specified by the Clearing House following consultation with the CDS [Product](#) Risk Committee.";
  - (E) by the deletion of paragraph 5.5 (*De Minimis Cash Settlement*) thereof; and
  - (F) by the deletion of paragraph 5.7 (*Restriction on Delivery of Credit Event Notice and Successor Notice*) thereof.
- (ii) The terms of the iTraxx 2020 Confirmation or the iTraxx 2014 Confirmation, as applicable, are hereby amended as follows:
- (A) Deleting the words "ISDA Master Agreement" in the fourth line of the first paragraph and replacing it with "Rules and Procedures of ICE Clear Europe";
  - (B) Treating the 2014 Credit Derivatives Definitions (as defined therein) as though it had the meaning ascribed to it in the Rules and Procedures of the Clearing House;
  - (C) Deleting the fourth paragraph thereof and replacing it with the following: "This Confirmation supplements, forms a part of and is subject to the Rules and Procedures of ICE Clear Europe (the "**Agreement**"). All provisions contained in, or incorporated by reference in, the Agreement shall govern this Confirmation except as expressly modified below.";
  - (D) The "Calculation Agent" is the Clearing House, except as expressly provided otherwise in the Rules or the CDS Procedures;
  - (E) There are no "Additional terms"; and
  - (F) Deleting the contact details for notices and the account details.



- (iii) The following terms will be determined from the relevant CDS Trade Particulars submitted for Clearing or, with respect to each iTraxx Contract arising pursuant to Rule 401(a)(vi) or (xi), determined from the data provided by the Clearing House to the Clearing Member or Sponsored Principal, as the case may be, prior to the time at which such CDS Contract arose:
- (A) Which of the Eligible iTraxx Indices is the "Index", including its version and series number;
  - (B) Which of the eligible Scheduled Termination Dates specified for the Index in the List of Eligible iTraxx Indices is the "Scheduled Termination Date";
  - (C) The "Original Notional Amount";
  - (D) The "Floating Rate Payer";
  - (E) The "Fixed Rate Payer";
  - (F) The "Annex Date";
  - (G) The "Initial Payment Payer", other than in relation to CDS Contracts arising pursuant to the Clearing of CDS Trade Particulars in respect of Bilateral CDS Transactions already recorded in Deriv/SERV; and
  - (H) The "Initial Payment Amount", other than in relation to CDS Contracts arising pursuant to the Clearing of CDS Trade Particulars in respect of Bilateral CDS Transactions already recorded in Deriv/SERV.

9.3 **iTraxx Europe (CDS Contracts for which the Acceptance Time falls on or after the Protocol Effective Date but with Original Annex Date before the Protocol Effective Date).**

- (a) Definitions specific to this paragraph 9.3:
- (i) **"iTraxx Contract"** means a CDS Contract in respect of any Eligible iTraxx Index and governed by any iTraxx Legacy Terms Supplement. Subject to the other requirements of these CDS Procedures, a CDS Contract will be an iTraxx Contract where the related CDS Trade Particulars submitted for Clearing specify, as the relevant index, any Eligible iTraxx Index, whether or not those CDS Trade Particulars themselves incorporated or are governed by an iTraxx Legacy Terms Supplement.
  - (ii) **"iTraxx Publisher"** means Markit Group Limited or one of its subsidiaries, or any successor sponsor of the Eligible iTraxx Indices it publishes.
  - (iii) **"iTraxx Legacy Terms Supplement"** means:
    - (A) In relation to any CDS Trade Particulars in respect of an iTraxx Contract submitted for Clearing on or after the NTCE Protocol Effective Date, each of the following: (a) a confirmation in the form of the confirmation (the **"iTraxx 2020 Legacy Confirmation"**) published on or about [ ] 2020 incorporating the iTraxx Europe Legacy Untranch Standard Terms Supplement as published on the same date (the **"Standard iTraxx 2020 Legacy CDS Supplement"**) or such electronic equivalent thereto as is used by Deriv/SERV and (b) such other document or supplement as may be specified in relation to any Eligible iTraxx Index by the



Clearing House including any successor to any of the documents listed in sub-paragraphs (a) or (b) of this definition.

- (B) In relation to any other iTraxx Contract to which this paragraph 9.3 applies, each of the following: (a) a confirmation in the form of the confirmation (the "**iTraxx 2014 Legacy Confirmation**") published on or about 20 September 2014 incorporating the iTraxx Europe Legacy Untranching Standard Terms Supplement as published on the same date (the "**Standard iTraxx 2014 Legacy CDS Supplement**") or such electronic equivalent thereto as is used by Deriv/SERV and (b) such other document or supplement as may be specified in relation to any Eligible iTraxx Index by the Clearing House including any successor to any of the documents listed in sub-paragraphs (a) or (b) of this definition.
- (C) For the purpose of each iTraxx Contract, reference in the iTraxx Legacy Terms Supplement and the Applicable Credit Derivatives Definitions to a "Credit Derivative Transaction" shall be deemed to be references to a CDS Contract and references to an "iTraxx® Master Transaction" shall be deemed references to an iTraxx Contract.
- (iv) "**Eligible iTraxx Index**" means each particular series and version (of a Set which is eligible for Clearing) of an iTraxx index or sub-index, as published by the iTraxx Publisher, included from time to time in the List of Eligible iTraxx Indices.
- (v) "**List of Eligible iTraxx Indices**" means the list of Eligible iTraxx Indices, maintained, updated and published from time to time by the Clearing House, specifying the following information with respect to each index: (a) the name and series, including any applicable sub-index designation; (b) the "Effective Date"; (c) one or more eligible "Scheduled Termination Dates" and the applicable "Fixed Rate" for each such date; (d) the Relevant iTraxx Legacy Terms Supplement; (e) the versions (and related annex dates) eligible for Clearing; and (f) any inactive versions (and related annex dates), i.e., those that have been determined to be fungible with later versions.
- (vi) "**Relevant iTraxx Legacy Terms Supplement**" means, with respect to an Eligible iTraxx Index, the iTraxx Legacy Terms Supplement specified for such Eligible iTraxx Index in the List of Eligible iTraxx Indices.
- (b) Terms of the Cleared iTraxx Contract
  - (i) Any capitalised term used in paragraph 9.3 but not defined in paragraph 9.3 or elsewhere in the Rules or Procedures shall have the meaning provided in the Relevant iTraxx Legacy Terms Supplement.
  - (ii) Each iTraxx Contract will be governed by the Relevant iTraxx Legacy Terms Supplement, as modified by this paragraph 9.3, whether or not the relevant CDS Trade Particulars were in a form comprising the Relevant iTraxx Legacy Terms Supplement. In the event of any inconsistency between the Relevant iTraxx Legacy Terms Supplement or the Confirmation (including in electronic form) for an iTraxx Contract and this paragraph 9.3, this paragraph 9.3 will govern.
- (c) Terms of iTraxx Contracts Governed by Standard iTraxx 2020 Legacy CDS Supplement or the Standard iTraxx 2014 Legacy CDS Supplement

With respect to each iTraxx Contract for which the iTraxx 2020 Legacy Confirmation and the Standard iTraxx 2020 Legacy CDS Supplement or the iTraxx 2014 Legacy Confirmation

and the Standard iTraxx 2014 Legacy CDS Supplement forms the Relevant iTraxx Legacy Terms Supplement, the following terms will apply:

- (i) The terms of the Standard iTraxx 2020 Legacy CDS Supplement or the Standard iTraxx 2014 Legacy CDS Supplement, as applicable, are hereby amended as follows:
  - (A) by the deletion of paragraph 2 in both Section A and Section B thereof in relation to CDS Contracts arising pursuant to the Clearing of CDS Trade Particulars in respect of Bilateral CDS Transactions already recorded in Deriv/SERV;
  - (B) by the addition in paragraph 2 in both Section A and Section B thereof, in relation to CDS Contracts arising other than pursuant to the Clearing of CDS Trade Particulars in respect of Bilateral CDS Transactions already recorded in Deriv/SERV, of the line entry: "**Initial Payment Date:** the first Business Day immediately following the Trade Date or, if later, the first Business Day immediately following the issuance of the Acceptance Notice by the Clearing House in relation to this Transaction";
  - (C) the provisions of paragraph 5.2(a) in both Section A and Section B thereof relating to the transfer of Component Transactions shall be subject to any transfers of or other dealings with the relevant iTraxx Contract (including in particular the provisions of paragraph 6 hereof) by the Clearing House permitted or authorised by the Rules;
  - (D) the provisions of paragraph 5.2(b)(ii) in both Sections A and B thereof shall be amended by adding at the end, immediately after "(such new Transaction, a New Trade)" the following: "and except that the Reference Obligation for the purposes of the New Trade will be the preferred Single Name Contract Reference Obligation for the Restructured Entity in question, if so specified by the Clearing House following consultation with the CDS [Product](#) Risk Committee.";
  - (E) by the deletion of paragraph 5.4 (*De Minimis Cash Settlement*) in both Section A and Section B thereof; and
  - (F) by the deletion of paragraph 3 (*Restriction on Delivery of Credit Event Notice, Successor Notice and Succession Event Notice*) in Section C thereof.
- (ii) The terms of the iTraxx 2020 Legacy Confirmation or the iTraxx 2014 Legacy Confirmation, as applicable, are hereby amended as follows:
  - (A) Deleting the words "ISDA Master Agreement" in the fourth line of the first paragraph and replacing it with "Rules and Procedures of ICE Clear Europe";
  - (B) Treating the 2003 Credit Derivatives Definitions and the 2014 Credit Derivatives Definitions (each as defined therein) as though they had the meanings ascribed to those terms in the Rules and Procedures of the Clearing House;
  - (C) Deleting the fifth paragraph thereof and replacing it with the following: "This Confirmation supplements, forms a part of and is subject to the Rules and Procedures of ICE Clear Europe (the "**Agreement**"). All

provisions contained in, or incorporated by reference in, the Agreement shall govern this Confirmation except as expressly modified below.";

- (D) The "Calculation Agent" is the Clearing House, except as expressly provided otherwise in the Rules or the CDS Procedures;
  - (E) There are no "Additional terms"; and
  - (F) Deleting the contact details for notices and the account details.
- (iii) The following terms will be determined from the relevant CDS Trade Particulars submitted for Clearing or, with respect to each iTraxx Contract arising pursuant to Rule 401(a)(vi) or (xi), determined from the data provided by the Clearing House to the Clearing Member or Sponsored Principal, as the case may be, prior to the time at which such CDS Contract arose:
- (A) Which of the Eligible iTraxx Indices is the "Index", including its version and series number;
  - (B) Which of the eligible Scheduled Termination Dates specified for the Index in the List of Eligible iTraxx Indices is the "Scheduled Termination Date";
  - (C) The "Original Notional Amount";
  - (D) The "Floating Rate Payer";
  - (E) The "Fixed Rate Payer";
  - (F) The "Annex Date";
  - (G) The "Initial Payment Payer", other than in relation to CDS Contracts arising pursuant to the Clearing of CDS Trade Particulars in respect of Bilateral CDS Transactions already recorded in Deriv/SERV; and
  - (H) The "Initial Payment Amount", other than in relation to CDS Contracts arising pursuant to the Clearing of CDS Trade Particulars in respect of Bilateral CDS Transactions already recorded in Deriv/SERV.

9.4 **iTraxx Europe (CDS Contracts with Acceptance Time on or after the MCA/STS Changeover Time and before the Protocol Effective Date: provisions applying until the Protocol Effective Date).**

- (a) Definitions specific to this paragraph 9.4:
  - (i) **"iTraxx Contract"** means a CDS Contract in respect of any Eligible iTraxx Index and governed by any iTraxx Terms 2009 Supplement. Subject to the other requirements of these CDS Procedures, a CDS Contract will be an iTraxx Contract where the related CDS Trade Particulars submitted for Clearing specify, as the relevant index, any Eligible iTraxx Index, whether or not those CDS Trade Particulars themselves incorporated or are governed by an iTraxx Terms 2009 Supplement.
  - (ii) **"iTraxx Publisher"** means Markit Group Limited or one of its subsidiaries, or any successor sponsor of the Eligible iTraxx Indices it publishes.
  - (iii) **"iTraxx Terms 2009 Supplement"** means each of the following: (a) a confirmation in the form of the confirmation (the **"iTraxx 2009 Confirmation"**)

published on 23 November 2009 incorporating the iTraxx Europe Untranchéd Standard Terms Supplement as published on 23 November 2009 (the "**Standard iTraxx 2009 CDS Supplement**") or such electronic equivalent thereto as is used by Deriv/SERV and (b) such other document or supplement as may be specified in relation to any Eligible iTraxx Index by the Clearing House including any successor to any of the documents listed in sub-paragraphs (a) or (b) of this definition. For the purpose of each iTraxx Contract, reference in the iTraxx Terms 2009 Supplement and the Credit Derivatives Definitions to a "Credit Derivative Transaction" shall be deemed to be references to a CDS Contract and references to an "iTraxx® Master Transaction" shall be deemed references to an iTraxx Contract.

- (iv) "**Eligible iTraxx Index**" means each particular series and version (of a Set which is eligible for Clearing) of an iTraxx index or sub-index, as published by the iTraxx Publisher, included from time to time in the List of Eligible iTraxx Indices.
  - (v) "**List of Eligible iTraxx Indices**" means the list of Eligible iTraxx Indices, maintained, updated and published from time to time by the Clearing House, specifying the following information with respect to each index: (a) the name and series, including any applicable sub-index designation; (b) the "Effective Date"; (c) one or more eligible "Scheduled Termination Dates" and the applicable "Fixed Rate" for each such date; (d) the Relevant iTraxx Terms 2009 Supplement; (e) the versions (and related annex dates) eligible for Clearing; and (f) any inactive versions (and related annex dates), i.e., those that have been determined to be fungible with later versions.
  - (vi) "**Relevant iTraxx Terms 2009 Supplement**" means, with respect to an Eligible iTraxx Index, the iTraxx Terms 2009 Supplement specified for such Eligible iTraxx Index in the List of Eligible iTraxx Indices.
- (b) Terms of the Cleared iTraxx Contract
- (i) Any capitalised term used in paragraph 9.4 but not defined in paragraph 9.4 or elsewhere in the Rules or Procedures shall have the meaning provided in the Relevant iTraxx Terms 2009 Supplement.
  - (ii) Each iTraxx Contract will be governed by the Relevant iTraxx Terms 2009 Supplement, as modified by this paragraph 9.4, whether or not the relevant CDS Trade Particulars were in a form comprising the Relevant iTraxx Terms 2009 Supplement. In the event of any inconsistency between the Relevant iTraxx Terms 2009 Supplement or the Confirmation (including in electronic form) for an iTraxx Contract and this paragraph 9.4, this paragraph 9.4 will govern.
  - (iii) For the purposes of any determination as to whether an Applicable Credit Event has occurred in respect of a Reference Entity or an Obligation thereof:
    - (A) at any time up to but excluding June 20, 2009; or
    - (B) if a Credit Event Resolution Request Date occurs before June 20, 2009, the Credit Event Backstop Date with respect to such determination shall be deemed to be the Effective Date.
  - (iv) For the purposes of any determination as to whether a Succession Event has occurred in respect of a Reference Entity:
    - (A) at any time up to but excluding June 20, 2009; or

- (B) if a Succession Event Resolution Request Date occurs before June 20, 2009,

the Succession Event Backstop Date with respect to such Reference Entity shall be deemed to be the Effective Date.

(c) Terms of iTraxx Contracts Governed by Standard iTraxx 2009 CDS Supplement

With respect to each iTraxx Contract for which the iTraxx 2009 Confirmation and the Standard iTraxx 2009 CDS Supplement forms the Relevant iTraxx Terms 2009 Supplement, the following terms will apply:

- (i) The terms of the Standard iTraxx 2009 CDS Supplement are hereby amended as follows:
- (A) by the deletion of paragraph 2 thereof in relation to CDS Contracts arising pursuant to the Clearing of CDS Trade Particulars in respect of Bilateral CDS Transactions already recorded in Deriv/SERV;
  - (B) the provisions of paragraph 7.3(a) thereof relating to the transfer of Component Transactions shall be subject to any transfers of or other dealings with the relevant iTraxx Contract (including in particular the provisions of paragraph 6 hereof) by the Clearing House permitted or authorised by the Rules;
  - (C) the provisions of paragraph 7.3(b)(ii) thereof shall be amended by adding at the end, immediately after "(such new Transaction, a New Trade)" the following: "and except that the Reference Obligation for the purposes of the New Trade will be the preferred Single Name Contract Reference Obligation, as applicable, for the Restructured Entity in question, if so specified by the Clearing House following consultation with the CDS Product Risk Committee."; and
  - (D) by the deletion of paragraph 7.7 (*De Minimis Cash Settlement*).
- (ii) The terms of the iTraxx 2009 Confirmation are hereby amended as follows:
- (A) Deleting the words "ISDA Master Agreement" in the fourth line of the first paragraph and replacing it with "Rules and Procedures of ICE Clear Europe";
  - (B) Deleting the fourth paragraph thereof and replacing it with the following: "This Confirmation supplements, forms a part of and is subject to the Rules and Procedures of ICE Clear Europe (the "**Agreement**"). All provisions contained in, or incorporated by reference in, the Agreement shall govern this Confirmation except as expressly modified below.";
  - (C) The "Calculation Agent" is the Clearing House, except as expressly provided otherwise in the Rules or the CDS Procedures;
  - (D) The "Source of Relevant Annex" is "Publisher";
  - (E) There are no "Excluded Reference Entities";
  - (F) There are no "Additional terms"; and

- (G) Deleting the contact details for notices and the account details.
- (iii) The following terms will be determined from the relevant CDS Trade Particulars submitted for Clearing or, with respect to each iTraxx Contract arising pursuant to Rule 401(a)(vi) or (xi), determined from the data provided by the Clearing House to the Clearing Member or Sponsored Principal, as the case may be, prior to the time at which such CDS Contract arose:
  - (A) Which of the Eligible iTraxx Indices is the "Index", including its version and series number;
  - (B) Which of the eligible Scheduled Termination Dates specified for the Index in the List of Eligible iTraxx Indices is the "Scheduled Termination Date";
  - (C) The "Original Notional Amount";
  - (D) The "Floating Rate Payer";
  - (E) The "Fixed Rate Payer";
  - (F) The "Annex Date";
  - (G) The "Initial Payment Payer", other than in relation to CDS Contracts arising pursuant to the Clearing of CDS Trade Particulars in respect of Bilateral CDS Transactions already recorded in Deriv/SERV; and
  - (H) The "Initial Payment Amount", other than in relation to CDS Contracts arising pursuant to the Clearing of CDS Trade Particulars in respect of Bilateral CDS Transactions already recorded in Deriv/SERV.

9.5 **iTraxx Europe (CDS Contracts with Acceptance Time before the MCA/STS Changeover Time; provisions applying until the MCA/STS Changeover Time)**

- (a) Definitions specific to this paragraph 9.5:
  - (i) **"iTraxx Contract"** means a CDS Contract in respect of any Eligible iTraxx Index and governed by a Master Confirmations Agreement. Subject to the other requirements of these CDS Procedures, a CDS Contract will be an iTraxx Contract where the CDS Trade Particulars submitted for Clearing specify, as the relevant Index, any Eligible iTraxx Index, whether or not those CDS Trade Particulars themselves incorporate or are governed by a Master Confirmations Agreement.
  - (ii) **"iTraxx Publisher"** means Markit Group Limited or one of its subsidiaries, or any successor sponsor of the Eligible iTraxx Indices it publishes.
  - (iii) **"Master Confirmations Agreement"** means each of the following: (a) an iTraxx Master Credit Derivatives Confirmation Agreement including the General Terms Confirmation (the **"General Terms Confirmation"**) as supplemented by the trade details applicable to the relevant iTraxx Master Transaction (the **"Master Confirmation"**) as set forth in the relevant Transaction Supplement (the **"Transaction Supplement"**), all in the form published by Markit Group Limited (formerly Mark-it Partners Ltd.) as the "Consolidated version dated 18 March 2005 incorporating the changes set out in the Series 2 Amendment Agreement" as amended as set out in the form of the amendment agreement published by Markit Group Limited (formerly Mark-it Partners Ltd.) as the "Series 4 Amendment to the iTraxx Master Credit Derivatives Confirmation Agreement dated as of 20 September 2005" or, in the case of the Transaction Supplement,



such electronic equivalent thereto as is used by Deriv/SERV (together the "**Standard Master Confirmations Agreement**") or (b) such other document or supplement as may be specified in relation to any Eligible iTraxx Index by the Clearing House including any successor to any of the documents listed in subparagraph (a) of this definition. For the purpose of each iTraxx Contract, reference in the Master Confirmations Agreement and the Credit Derivatives Definitions to a "**Credit Derivative Transaction**" shall be deemed to be references to a CDS Contract and references to an "iTraxx® Master Transaction" shall be deemed references to an iTraxx Contract.

- (iv) "**Eligible iTraxx Index**" means each particular series and version (of a Set which is eligible for Clearing) of an iTraxx index or sub-index, as published by the iTraxx Publisher, included from time to time in the List of Eligible iTraxx Indices.
  - (v) "**List of Eligible iTraxx Indices**" means the list of Eligible iTraxx Indices, maintained, updated and published from time to time by the Clearing House, specifying the following information with respect to each index: (a) the name and series, including any applicable sub-index designation; (b) the "Effective Date"; (c) one or more eligible "Scheduled Termination Dates" and the applicable "Fixed Rate" for each such date; (d) the Relevant Master Confirmations Agreement; (e) the versions (and related annex dates) eligible for Clearing; and (f) any inactive versions (and related annex dates), i.e., those that have been determined to be fungible with later versions.
  - (vi) "**Relevant Master Confirmations Agreement**" means, with respect to an Eligible iTraxx Index, the Master Confirmations Agreement specified for such Eligible iTraxx Index in the List of Eligible iTraxx Indices.
- (b) Terms of the Cleared iTraxx Contract
- (i) Any capitalised term used in paragraph 9.5 but not defined in paragraph 9.5 or elsewhere in the Rules or Procedures shall have the meaning provided in the Relevant Master Confirmations Agreement.
  - (ii) Each iTraxx Contract will be governed by the Relevant Master Confirmations Agreement, as modified by this paragraph 9.5, as though the Clearing House and the relevant CDS Clearing Member or Sponsored Principal had entered into the Relevant Master Confirmations Agreement, whether or not the relevant CDS Trade Particulars were in a form comprising the Relevant Master Confirmations Agreement. In the event of any inconsistency between the Relevant Master Confirmations Agreement or the Confirmation (including in electronic form) for an iTraxx Contract and this paragraph 9.5, this paragraph 9.5 will govern.
  - (iii) For the purposes of any determination as to whether an Applicable Credit Event has occurred in respect of a Reference Entity or an Obligation thereof:
    - (A) at any time up to but excluding June 20, 2009; or
    - (B) if a Credit Event Resolution Request Date occurs before June 20, 2009, the Credit Event Backstop Date with respect to such determination shall be deemed to be the Effective Date.
  - (iv) For the purposes of any determination as to whether a Succession Event has occurred in respect of a Reference Entity:
    - (A) at any time up to but excluding June 20, 2009; or



- (B) if a Succession Event Resolution Request Date occurs before June 20, 2009,

the Succession Event Backstop Date with respect to such Reference Entity shall be deemed to be the Effective Date.

(c) **Terms of iTraxx Contracts Governed by Standard Master Confirmations Agreement**

With respect to each iTraxx Contract for which the Standard Master Confirmations Agreement forms the Relevant Master Confirmations Agreement, the following terms will apply:

- (i) The terms of the Standard Master Confirmations Agreement are hereby amended as follows:
- (A) Adding, immediately before the words "each as published by" in the third line of the paragraph numbered 1 of the Master Confirmations Agreement and in the third line of the second paragraph of the General Terms Confirmation, the following: "and the 2009 ISDA Credit Derivatives Determinations Committees, Auction Settlement and Restructuring Supplement to the 2003 ISDA Credit Derivatives Definitions (published on July 14, 2009)";
  - (B) Deleting, in the paragraph numbered 2 of the Master Confirmations Agreement, the phrase "[1992/2002] ISDA Master Agreement ....dated as of [ ]" and replacing it with "Rules and Procedures of ICE Clear Europe";
  - (C) Deleting paragraphs numbered 5, 6.1, 6.2 and 6.3 of the Master Confirmations Agreement in their entirety;
  - (D) Deleting in its entirety the last paragraph of the definition of "Reference Obligation" in the General Terms Confirmation that begins: "If the Index Sponsor publishes a replacement Reference Obligation";
  - (E) Deleting the words "Effective Date" from the final sentence of the first paragraph of the General Terms Confirmation and replacing them with the words "Succession Event Backstop Date";
  - (F) Providing in the General Terms Confirmation that the Calculation Agent is the Clearing House, except as expressly provided otherwise in the Rules, the Credit Derivatives Definitions or the CDS Procedures;
  - (G) Providing in the General Terms Confirmation and Transaction Supplement that there are no Excluded Reference Entities;
  - (H) Adding in paragraph 5 of the General Terms Confirmation, immediately after "Applicable Convention Terms" the phrase "and the Fallback Settlement Method applies in accordance with Section 12.1 of the Credit Derivatives Definitions";
  - (I) Deleting paragraph 6 of the General Terms Confirmation in its entirety;
  - (J) Deleting the square brackets at the beginning and end of paragraph 7.1 of the General Terms Confirmation;
  - (K) The provisions of paragraph 7.3(a) of the General Terms Confirmation relating to the transfer of Component Transactions shall be subject to any transfers of or other dealings with the relevant iTraxx Contract

(including in particular the provisions of paragraph 6 hereof) by the Clearing House permitted or authorised by the Rules;

- (L) adding the following as new sub-paragraph (c) at the end of Paragraph 7.3 (*Transfer and Termination of Component Transactions*):
- "(c) If a Credit Event Announcement is made in respect of a Restructuring Credit Event with respect to a Reference Entity (such Reference Entity, a "**Restructured Entity**"), from and including the calendar day immediately following the date of such Credit Event Announcement:
- (i) the Restructured Entity shall be deemed to have been removed from the Index and the Relevant Annex;
  - (ii) the Component Transaction relating thereto shall continue in full force and effect between the parties as an independent Credit Derivative Transaction referencing the Restructured Entity with the same economic terms and conditions as the Component Transaction immediately before such Credit Event Announcement, except that this Paragraph 7.3 shall be deemed not to apply (such new Transaction, a "**New Trade**"); and
  - (iii) as soon as reasonably practicable after the Credit Event Announcement, the parties shall confirm the terms of the New Trade in their respective booking systems. Unless Resolved otherwise by a relevant Determining Body, such New Trade shall be recorded as a Credit Derivative Transaction referencing solely the Restructured Entity evidenced by a Confirmation for use with the Credit Derivatives Physical Settlement Matrix (as defined in the 2005 Matrix Supplement to the 2003 ISDA Credit Derivatives Definitions published on March 7, 2005) and incorporating the Credit Derivatives Physical Settlement Matrix terms applicable to the relevant Transaction Type for the Restructured Entity; provided that the appropriate version of the Credit Derivatives Physical Settlement Matrix and the relevant Transaction Type shall be selected by the Calculation Agent, acting in good faith and in a commercially reasonable manner, such that the economic terms of the New Trade as closely as possible preserve the economic equivalent of the Component Transaction immediately before the Credit Event Announcement.";
- (M) Deleting paragraph 7.4 of the General Terms Confirmation in its entirety; and
- (N) The provisions in the Transaction Supplement relating to Additional Amounts shall be deemed deleted in their entirety for CDS Contracts arising pursuant to the Clearing of CDS Trade Particulars in respect of Bilateral CDS Transactions already recorded in Deriv/SERV.
- (ii) The following terms will be determined from the Transaction Supplement which relates to the particular iTraxx Contract submitted for Clearing:
- (A) Which of the Eligible iTraxx Indices is the "Index", including its version and series number;

- (B) Which of the eligible Scheduled Termination Dates specified for the Index in the List of Eligible iTraxx Indices is the "Scheduled Termination Date";
- (C) The "Original Notional Amount";
- (D) The "Floating Rate Payer";
- (E) The "Fixed Rate Payer";
- (F) The "Additional Amount Payer", other than in relation to CDS Contracts arising pursuant to the Clearing of CDS Trade Particulars in respect of Bilateral CDS Transactions already recorded in Deriv/SERV; and
- (G) The "Additional Amount", other than in relation to CDS Contracts arising pursuant to the Clearing of CDS Trade Particulars in respect of Bilateral CDS Transactions already recorded in Deriv/SERV.

**9.6 iTraxx Europe (CDS Contracts with Acceptance Time before the MCA/STS Changeover Time; provisions applying on and after the MCA/STS Changeover Time up to the Protocol Effective Date)**

- (a) All CDS Contracts to which paragraph 9.5 applies and which form part of the Open Contract Position of a Clearing Member as at the MCA/STS Changeover Time will be deemed thereafter up to the Protocol Effective Date to be CDS Contracts on the terms set out in paragraph 9.4 and to which such paragraph applies, as modified below. The "Annex Date" will be the date of publication of the version of the index referred to in the Relevant Master Confirmations Agreement.
- (b) For the purposes of paragraph 9.6(a), the information in respect of each CDS Contract which would be determined (had the CDS Contract been one falling within paragraph 9.1(c)) for the purposes of the iTraxx 2009 Confirmation by reference to the CDS Trade Particulars submitted for Clearing (as referred to in paragraph 9.4(c)) will instead be determined by reference to the CDS Contracts forming the relevant Open Contract Position of the relevant Clearing Member as at the MCA/STS Changeover Time.
- (c) From the MCA/STS Changeover Time up to the Protocol Effective Date, all CDS Contracts of a Set referencing a particular version and series of a particular Eligible iTraxx Index and having a particular Scheduled Termination Date and fixed rate and to which paragraph 9.5 had, up to that moment applied, shall be, and shall be treated as, fully fungible with all CDS Contracts of a Set referencing the same version and series of the same Eligible iTraxx Index having the same Scheduled Termination Date and fixed rate to which paragraph 9.4 applies.

**9.7 iTraxx Europe (CDS Contracts with Acceptance Time before the Protocol Effective Date; provisions applying after the Protocol Effective Date).**

- (a) All CDS Contracts to which paragraph 9.4 or paragraph 9.6 applies and which form part of the Open Contract Position of a Clearing Member as at the Protocol Effective Date will be deemed thereafter to be CDS Contracts on the terms set out in paragraph 9.3 and for which the Relevant iTraxx Legacy Terms Supplement is described in paragraph 9.3(a)(iii)(B), as modified below and as may be amended by the provisions of paragraph 9.8 on and following the NTCE Protocol Effective Date.
- (b) For the purposes of paragraph 9.7(a), the information in respect of each CDS Contract which would be determined (had the CDS Contract been one falling within paragraph 9.1(b)) for the purposes of the iTraxx 2014 Confirmation by reference to the CDS Trade

Particulars submitted for Clearing (as referred to in paragraph 9.3(c)) will instead be determined by reference to the CDS Contracts forming the relevant Open Contract Position of the relevant Clearing Member or Sponsored Principal, as the case may be, as at the Protocol Effective Date.

- (c) From the Protocol Effective Date, all CDS Contracts of a Set referencing a particular version and series of a particular Eligible iTraxx Index and having a particular Scheduled Termination Date and fixed rate and to which paragraph 9.4 or paragraph 9.6 had, up to that moment, applied shall be, and shall be treated as, fully fungible with all CDS Contracts of a Set referencing the same version and series of the same Eligible iTraxx Index and having the same Scheduled Termination Date and fixed rate to which paragraph 9.3 applies.

#### 9.8 **iTraxx Contracts that are or include Component Transactions that are 2014-type CDS Contracts as at the NTCE Protocol Effective Date**

Notwithstanding anything to the contrary herein, each iTraxx Contract which is or is deemed to be a 2014-type CDS Contract or which includes a Component Transaction which is or is deemed to be a 2014-type CDS Contract and forms part of the Open Contract Position of a Clearing Member as at the NTCE Protocol Effective Date will be deemed on and following the NTCE Protocol Effective Date to be amended to reference, in the case of an iTraxx Contract falling within paragraph 9.1(a), the iTraxx 2020 Confirmation and the Standard iTraxx 2020 CDS Supplement as the Relevant iTraxx Terms Supplement and, in the case of an iTraxx Contract falling within paragraph 9.1(b) or deemed to be on the terms set out in paragraph 9.3, the iTraxx 2020 Legacy Confirmation and the Standard iTraxx 2020 Legacy CDS Supplement as the Relevant iTraxx Legacy Terms Supplement, in each case in lieu of the Relevant iTraxx Terms Supplement or Relevant iTraxx Legacy Terms Supplement applicable before the NTCE Protocol Effective Date

#### 9.9 **Updating Index Version of Fungible Contracts After a Credit Event or a Succession Event**

- (a) Where the iTraxx Publisher of an Eligible iTraxx Index publishes one or more subsequent versions or annexes of the relevant series following a Credit Event or, in respect of a Component Transaction which is a 2003-type CDS Contract, a Succession Event or, in respect of a Component Transaction which is a 2014-type CDS Contract, the determination of a Successor with respect to a Reference Entity included in such series, and the Clearing House determines that iTraxx Contracts referencing the earlier version or annex of such series are fungible with iTraxx Contracts referencing a later version or annex of such series that is an Eligible iTraxx Index and so notifies CDS Clearing Members and Sponsored Principals by Circular, iTraxx Contracts referencing the earlier version or annex of such series shall become iTraxx Contracts referencing such later version or annex of such series on the date determined by the Clearing House (the "**Fungibility Date**"). Any iTraxx Contracts referencing the earlier version or annex of such series submitted for Clearing after the related Fungibility Date shall, upon acceptance for Clearing, become an iTraxx Contract referencing the latest version or annex of such series, as the case may be, that the Clearing House has determined is fungible with such earlier version or annex.
- (b) The Clearing House may determine a different Fungibility Date applicable to individual iTraxx Contracts or groups of iTraxx Contracts or may determine a Fungibility Date applicable to all iTraxx Contracts referencing the earlier version or annex of a series described in paragraph 9.9(a), as it deems appropriate.

### 10. **CONTRACT TERMS FOR CDX NORTH AMERICA CONTRACTS**

- 10.1 This paragraph 10.1 specifies the additional Contract Terms applicable to all CDX.NA Contracts cleared by the Clearing House of a nature described in paragraph 7.1:

- (a) The provisions of paragraph 10.2 will apply in respect of all such CDS Contracts for which the Original Annex Date falls on or after the Protocol Effective Date.
- (b) The provisions of paragraph 10.3 will apply in respect of all such CDS Contracts for which the Acceptance Time falls on or after the Protocol Effective Date but for which the Original Annex Date falls before the Protocol Effective Date.
- (c) The provisions of paragraph 10.4 will apply to all such CDS Contracts that are 2014-type CDS Contracts as at the NTCE Protocol Effective Date.
- (d) The provisions of paragraph 10.5 will apply to all such CDS Contracts, irrespective of the date of the related Acceptance Time.

10.2 **CDX North America (CDS Contracts with Original Annex Date on or after the Protocol Effective Date)**

- (a) Definitions specific to this paragraph 10.2:
  - (i) "**CDX.NA Contract**" means a CDS Contract in respect of any Eligible CDX.NA Index and governed by any CDX.NA Terms Supplement. Subject to the other requirements of these CDS Procedures, a CDS Contract will be a CDX.NA Contract where the related CDS Trade Particulars submitted for Clearing specify, as the relevant index, any Eligible CDX.NA Index, whether or not those CDS Trade Particulars themselves incorporated or are governed by a CDX.NA Terms Supplement.
  - (ii) "**CDX.NA Publisher**" means Markit North America, Inc., as successor to CDX IndexCo LLC, or any successor sponsor of the Eligible CDX Indices it publishes.
  - (iii) "**CDX.NA Terms Supplement**" means:
    - (A) In relation to any CDS Trade Particulars in respect of a CDX.NA Contract submitted for Clearing on or after the NTCE Protocol Effective Date, each of the following: (a) a confirmation in the form of the confirmation (the "**CDX.NA 2020 Confirmation**") published on [ ] 2020 incorporating the CDX Untranching Transactions Standard Terms Supplement as published on the same date (the "**Standard CDX.NA 2020 CDS Supplement**") or such electronic equivalent thereto as is used by Deriv/SERV and (b) such other document or supplement as may be specified in relation to any Eligible CDX.NA Index by the Clearing House including any successor to any of the documents listed in sub-paragraphs (a) or (b) of this definition
    - (B) In relation to any other CDX.NA Contract to which this paragraph 10.2 applies, each of the following: (a) a confirmation in the form of the confirmation (the "**CDX.NA 2014 Confirmation**") published on 22 September 2014 incorporating the CDX Untranching Transactions Standard Terms Supplement as published on the same date (the "**Standard CDX.NA 2014 CDS Supplement**") or such electronic equivalent thereto as is used by Deriv/SERV and (b) such other document or supplement as may be specified in relation to any Eligible CDX.NA Index by the Clearing House including any successor to any of the documents listed in sub-paragraphs (a) or (b) of this definition.
    - (C) For the purpose of each CDX.NA Contract, reference in the CDX.NA Terms Supplement and the 2014 Credit Derivatives Definitions to a "Credit Derivative Transaction" shall be deemed to be references to a

CDS Contract and references to a "Master Transaction" shall be deemed references to a CDX.NA Contract.

- (iv) **"Eligible CDX.NA Index"** means each particular series and version (of a Set which is eligible for Clearing) of a CDX.NA index or sub-index, as published by the CDX.NA Publisher, included from time to time in the List of Eligible CDX.NA Indices.
  - (v) **"List of Eligible CDX.NA Indices"** means the list of Eligible CDX.NA Indices, maintained, updated and published from time to time by the Clearing House, specifying the following information with respect to each index: (a) the name and series, including any applicable sub-index designation; (b) the "Effective Date"; (c) one or more eligible "Scheduled Termination Dates" and the applicable "Fixed Rate" for each such date; (d) the Relevant CDX.NA Terms Supplement; (e) the versions (and related annex dates) eligible for Clearing; and (f) any inactive versions (and related annex dates), i.e., those that have been determined to be fungible with later versions.
  - (vi) **"Relevant CDX.NA Terms Supplement"** means, with respect to an Eligible CDX.NA Index, the CDX.NA Terms Supplement specified for such Eligible CDX.NA Index in the List of Eligible CDX.NA Indices.
- (b) **Terms of the Cleared CDX.NA Contract**
- (i) Any capitalised term used in paragraph 10.2 but not defined in paragraph 10.2 or elsewhere in the Rules or Procedures shall have the meaning provided in the Relevant CDX.NA Terms Supplement.
  - (ii) Each CDX.NA Contract will be governed by the Relevant CDX.NA Terms Supplement, as modified by this paragraph 10.2, whether or not the relevant CDS Trade Particulars were in a form comprising the Relevant CDX.NA Terms Supplement. In the event of any inconsistency between the Relevant CDX.NA Terms Supplement or the Confirmation (including in electronic form) for a CDX.NA Contract and this paragraph 10.2, this paragraph 10.2 will govern.
- (c) **Terms of CDX.NA Contracts Governed by Standard CDX.NA 2020 CDS Supplement or Standard CDX.NA 2014 CDS Supplement**

With respect to each CDX.NA Contract for which the CDX.NA 2020 Confirmation and the Standard CDX.NA 2020 CDS Supplement or the CDX.NA 2014 Confirmation and the Standard CDX.NA 2014 CDS Supplement forms the Relevant CDX.NA Terms Supplement, the following terms will apply:

- (i) The terms of the Standard CDX.NA 2020 CDS Supplement or the Standard CDX.NA 2014 CDS Supplement, as applicable, are hereby amended as follows:
  - (A) by the deletion of paragraph 2 thereof in relation to CDS Contracts arising pursuant to the Clearing of CDS Trade Particulars in respect of Bilateral CDS Transactions already recorded in Deriv/SERV;
  - (B) by the addition in paragraph 2 thereof, in relation to CDS Contracts arising other than pursuant to the Clearing of CDS Trade Particulars in respect of Bilateral CDS Transactions already recorded in Deriv/SERV, of the line entry: "**Initial Payment Date**: the first Business Day immediately following the Trade Date or, if later, the first Business Day immediately following the issuance of the Acceptance Notice by the Clearing House in relation to this Transaction";



- (C) the provisions of paragraph 5.5 thereof relating to the transfer of Component Transactions shall be subject to any transfers of or other dealings with the relevant CDX.NA Contract (including in particular the provisions of paragraph 6 hereof) by the Clearing House permitted or authorised by the Rules;
  - (D) by the deletion of paragraph 5.8 (*Restriction on Delivery of Credit Event Notice and Successor Notice*) thereof; and
  - (E) The Clearing House is deemed to be an "Index Party" for the purposes of the Standard CDX.NA 2020 CDS Supplement or the Standard CDX.NA 2014 CDS Supplement, as the case may be.
- (ii) The terms of the CDX.NA 2020 Confirmation and the CDX.NA 2014 Confirmation, as applicable, are hereby amended as follows:
- (A) Deleting the words "ISDA Master Agreement" in the fourth and fifth line of the first paragraph and replacing it with "Rules and Procedures of ICE Clear Europe";
  - (B) Treating the 2014 Credit Derivatives Definitions (as defined therein) as though it had the meaning ascribed to it in the Rules and Procedures of the Clearing House;
  - (C) Deleting the third paragraph thereof and replacing it with the following: "This Confirmation supplements, forms a part of and is subject to the Rules and Procedures of ICE Clear Europe (the "**Agreement**"). All provisions contained in, or incorporated by reference in, the Agreement shall govern this Confirmation except as expressly modified below.";
  - (D) The "Calculation Agent" is the Clearing House, except as expressly provided otherwise in the Rules or the CDS Procedures;
  - (E) The "Effective Date" is the date specified in the List of Eligible CDX.NA Indices for the relevant Index;
  - (F) The "Fixed Rate" is the rate specified in the List of Eligible CDX.NA Indices for the relevant Index and Scheduled Termination Date;
  - (G) "De Minimis Cash Settlement" is not applicable;
  - (H) There are no "Additional terms"; and
  - (I) Deleting the contact details for notices and the account details.
- (iii) The following terms will be determined from the relevant CDS Trade Particulars submitted for Clearing or, with respect to each CDX.NA Contract arising pursuant to Rule 401(a)(vi) or (xi), determined from the data provided by the Clearing House to the Clearing Member or Sponsored Principal, as the case may be, prior to the time at which such CDS Contract arose:
- (A) Which of the Eligible CDX.NA Indices is the "Index", including its version and series number;
  - (B) Which of the eligible Scheduled Termination Dates specified for the Index in the List of Eligible CDX.NA Indices is the "Scheduled Termination Date";



- (C) The "Original Notional Amount";
- (D) The "Floating Rate Payer";
- (E) The "Fixed Rate Payer";
- (F) The "Annex Date";
- (G) The "Initial Payment Payer", other than in relation to CDS Contracts arising pursuant to the Clearing of CDS Trade Particulars in respect of Bilateral CDS Transactions already recorded in Deriv/SERV; and
- (H) The "Initial Payment Amount", other than in relation to CDS Contracts arising pursuant to the Clearing of CDS Trade Particulars in respect of Bilateral CDS Transactions already recorded in Deriv/SERV.

10.3 **CDX North America (CDS Contracts for which the Acceptance Time falls on or after the Protocol Effective Date but with Original Annex Date before the Protocol Effective Date).**

- (a) Definitions specific to this paragraph 10.3:
  - (i) "**CDX.NA Contract**" means a CDS Contract in respect of any Eligible CDX.NA Index and governed by any CDX.NA Legacy Terms Supplement. Subject to the other requirements of these CDS Procedures, a CDS Contract will be a CDX.NA Contract where the related CDS Trade Particulars submitted for Clearing specify, as the relevant index, any Eligible CDX.NA Index, whether or not those CDS Trade Particulars themselves incorporated or are governed by a CDX.NA Legacy Terms Supplement.
  - (ii) "**CDX.NA Publisher**" means Markit North America, Inc., as successor to CDX IndexCo LLC, or any successor sponsor of the Eligible CDX Indices it publishes.
  - (iii) "**CDX.NA Legacy Terms Supplement**" means:
    - (A) In relation to any CDS Trade Particulars in respect of a CDX.NA Contract submitted for Clearing on or after the NTCE Protocol Effective Date, each of the following: (a) a confirmation in the form of the confirmation (the "**CDX.NA 2020 Legacy Confirmation**") published on [ ] 2020 incorporating the CDX Legacy Untranching Transaction Standard Terms Supplement as published on the same date (the "**Standard CDX.NA 2020 Legacy CDS Supplement**") or such electronic equivalent thereto as is used by Deriv/SERV and (b) such other document or supplement as may be specified in relation to any Eligible CDX.NA Index by the Clearing House including any successor to any of the documents listed in sub-paragraphs (a) or (b) of this definition.
    - (B) In relation to any other CDX.NA Contract to which this paragraph 10.3 applies, each of the following: (a) a confirmation in the form of the confirmation (the "**CDX.NA 2014 Legacy Confirmation**") published on 22 September 2014 incorporating the CDX Legacy Untranching Transaction Standard Terms Supplement as published on the same date (the "**Standard CDX.NA 2014 Legacy CDS Supplement**") or such electronic equivalent thereto as is used by Deriv/SERV and (b) such other document or supplement as may be specified in relation to any Eligible CDX.NA Index by the Clearing House including any successor to any of the documents listed in sub-paragraphs (a) or (b) of this definition.

- (C) For the purpose of each CDX.NA Contract, reference in the CDX.NA Legacy Terms Supplement and the Applicable Credit Derivatives Definitions to a "Credit Derivative Transaction" shall be deemed to be references to a CDS Contract and references to a "Master Transaction" shall be deemed references to a CDX.NA Contract.
- (iv) "**Eligible CDX.NA Index**" means each particular series and version (of a Set which is eligible for Clearing) of a CDX.NA index or sub-index, as published by the CDX.NA Publisher, included from time to time in the List of Eligible CDX.NA Indices.
- (v) "**List of Eligible CDX.NA Indices**" means the list of Eligible CDX.NA Indices, maintained, updated and published from time to time by the Clearing House, specifying the following information with respect to each index: (a) the name and series, including any applicable sub-index designation; (b) the "Effective Date"; (c) one or more eligible "Scheduled Termination Dates" and the applicable "Fixed Rate" for each such date; (d) the Relevant CDX.NA Legacy Terms Supplement; (e) the versions (and related annex dates) eligible for Clearing; and (f) any inactive versions (and related annex dates), i.e., those that have been determined to be fungible with later versions.
- (vi) "**Relevant CDX.NA Legacy Terms Supplement**" means, with respect to an Eligible CDX.NA Index, the CDX.NA Legacy Terms Supplement specified for such Eligible CDX.NA Index in the List of Eligible CDX.NA Indices.
- (b) Terms of the Cleared CDX.NA Contract
- (i) Any capitalised term used in paragraph 10.3 but not defined in paragraph 10.3 or elsewhere in the Rules or Procedures shall have the meaning provided in the Relevant CDX.NA Legacy Terms Supplement.
- (ii) Each CDX.NA Contract will be governed by the Relevant CDX.NA Legacy Terms Supplement, as modified by this paragraph 10.3, whether or not the relevant CDS Trade Particulars were in a form comprising the Relevant CDX.NA Legacy Terms Supplement. In the event of any inconsistency between the Relevant CDX.NA Legacy Terms Supplement or the Confirmation (including in electronic form) for a CDX.NA Contract and this paragraph 10.3, this paragraph 10.3 will govern.
- (c) Terms of CDX.NA Contracts Governed by Standard CDX.NA 2020 Legacy CDS Supplement or Standard CDX.NA 2014 Legacy CDS Supplement

With respect to each CDX.NA Contract for which the CDX.NA 2020 Legacy Confirmation and the Standard CDX.NA 2020 Legacy CDS Supplement or the CDX.NA 2014 Legacy Confirmation and the Standard CDX.NA 2014 Legacy CDS Supplement, forms the Relevant CDX.NA Legacy Terms Supplement, the following terms will apply:

- (i) The terms of the Standard CDX.NA 2020 Legacy CDS Supplement or the Standard CDX.NA 2014 Legacy CDS Supplement, as applicable, are hereby amended as follows:
- (A) by the deletion of paragraph 2 in both Section A and Section B thereof in relation to CDS Contracts arising pursuant to the Clearing of CDS Trade Particulars in respect of Bilateral CDS Transactions already recorded in Deriv/SERV;
- (B) by the addition in paragraph 2 in both Section A and Section B thereof, in relation to CDS Contracts arising other than pursuant to the Clearing

- of CDS Trade Particulars in respect of Bilateral CDS Transactions already recorded in Deriv/SERV, of the line entry: "**Initial Payment Date**: the first Business Day immediately following the Trade Date or, if later, the first Business Day immediately following the issuance of the Acceptance Notice by the Clearing House in relation to this Transaction";
- (C) the provisions of paragraph 3 in Section C thereof relating to the transfer of Component Transactions shall be subject to any transfers of or other dealings with the relevant CDX.NA Contract (including in particular the provisions of paragraph 6 hereof) by the Clearing House permitted or authorised by the Rules;
  - (D) by the deletion of paragraph 5 (*Restriction on Delivery of Credit Event Notice, Successor Notice and Succession Event Notice*) in Section C thereof; and
  - (E) The Clearing House is deemed to be an "Index Party" for the purposes of the Standard CDX.NA 2020 Legacy CDS Supplement or the Standard CDX.NA 2014 Legacy CDS Supplement, as the case may be.
- (ii) The terms of the CDX.NA 2020 Legacy Confirmation or the CDX.NA 2014 Legacy Confirmation, as applicable, are hereby amended as follows:
- (A) Deleting the words "ISDA Master Agreement" in the fifth line of the first paragraph and replacing it with "Rules and Procedures of ICE Clear Europe";
  - (B) Treating the 2003 Credit Derivatives Definitions and the 2014 Credit Derivatives Definitions (each as defined therein) as though they had the meanings ascribed to those terms in the Rules and Procedures of the Clearing House;
  - (C) Deleting the third paragraph thereof and replacing it with the following: "This Confirmation supplements, forms a part of and is subject to the Rules and Procedures of ICE Clear Europe (the "**Agreement**"). All provisions contained in, or incorporated by reference in, the Agreement shall govern this Confirmation except as expressly modified below.";
  - (D) The "Calculation Agent" is the Clearing House, except as expressly provided otherwise in the Rules or the CDS Procedures;
  - (E) The "Effective Date" is the date specified in the list of Eligible CDX.NA Indices for the relevant Index;
  - (F) The "Fixed Rate" is the rate specified in the List of Eligible CDX.NA Indices for the relevant Index and Scheduled Termination Date;
  - (G) "De Minimis Cash Settlement" is not applicable;
  - (H) There are no "Additional terms"; and
  - (I) Deleting the contact details for notices and the account details.
- (iii) The following terms will be determined from the relevant CDS Trade Particulars submitted for Clearing or, with respect to each CDX.NA Contract arising pursuant to Rule 401(a)(vi) or (xi), determined from the data provided by the

Clearing House to the Clearing Member or Sponsored Principal, as the case may be, prior to the time at which such CDS Contract arose:

- (A) Which of the Eligible CDX.NA Indices is the "Index", including its version and series number;
- (B) Which of the eligible Scheduled Termination Dates specified for the Index in the List of Eligible CDX.NA Indices is the "Scheduled Termination Date";
- (C) The "Original Notional Amount";
- (D) The "Floating Rate Payer";
- (E) The "Fixed Rate Payer";
- (F) The "Annex Date";
- (G) The "Initial Payment Payer", other than in relation to CDS Contracts arising pursuant to the Clearing of CDS Trade Particulars in respect of Bilateral CDS Transactions already recorded in Deriv/SERV; and
- (H) The "Initial Payment Amount", other than in relation to CDS Contracts arising pursuant to the Clearing of CDS Trade Particulars in respect of Bilateral CDS Transactions already recorded in Deriv/SERV.

#### 10.4 **CDX.NA Contracts that are or include Component Transactions that are 2014-type CDS Contracts as at the NTCE Protocol Effective Date**

Notwithstanding anything to the contrary herein, each CDX.NA Contract which is or is deemed to be a 2014-type CDS Contract or which includes a Component Transaction which is or is deemed to be a 2014-type CDS Contract and forms part of the Open Contract Position of a Clearing Member as at the NTCE Protocol Effective Date will be deemed on and following the NTCE Protocol Effective Date to be amended to reference, in the case of a CDX.NA Contract falling within paragraph 10.1(a), the CDX.NA 2020 Confirmation and the Standard CDX.NA 2020 CDS Supplement as the Relevant CDX.NA Terms Supplement and, in the case of a CDX.NA Contract falling within paragraph 10.1(b), the CDX.NA 2020 Legacy Confirmation and the Standard CDX.NA 2020 Legacy CDS Supplement as the Relevant CDX.NA Legacy Terms Supplement, in each case in lieu of the Relevant CDX.NA Terms Supplement or Relevant CDX.NA Legacy Terms Supplement applicable before the NTCE Protocol Effective Date

#### 10.5 **Updating Index Version of Fungible Contracts after a Credit Event or a Succession Event**

- (a) Where the CDX.NA Publisher of an Eligible CDX.NA Index publishes one or more subsequent versions or annexes of the relevant series following a Credit Event or, in respect of a Component Transaction which is a 2003-type CDS Contract, a Succession Event or, in respect of a Component Transaction which is a 2014-type CDS Contract, the determination of a Successor with respect to a Reference Entity included in such series, and the Clearing House determines that CDX.NA Contracts referencing the earlier version or annex of such series are fungible with CDX.NA Contracts referencing a later version or annex of such series that is an Eligible CDX.NA Index and so notifies CDS Clearing Members and Sponsored Principals by Circular, CDX.NA Contracts referencing the earlier version or annex of such series shall become CDX.NA Contracts referencing such later version or annex of such series on the date determined by the Clearing House (the "**Fungibility Date**"). Any CDX.NA Contracts referencing the earlier version or annex of such series submitted for Clearing after the related Fungibility Date shall, upon acceptance for Clearing, become a CDX.NA Contract referencing the latest version or

annex of such series, as the case may be, that the Clearing House has determined is fungible with such earlier version or annex.

- (b) Where a new version of the CDX.NA Terms Supplement (a “**New Standard Terms**”) is published as of a date that is subsequent to the date of the version that is specified as the Relevant CDX.NA Terms Supplement for any CDX.NA Contract(s) (the “**Existing Standard Terms**”), and the Clearing House determines that CDX.NA Contracts referencing the Existing Standard Terms are fungible with CDX.NA Contracts referencing the New Standard Terms, and so notifies CDS Clearing Members and Sponsored Principals by Circular, CDX.NA Contracts referencing the Existing Standard Terms shall become CDX.NA Contracts referencing the New Standard Terms on the date determined by the Clearing House (the “**Standard Terms Update Date**” and each prior CDX.NA Terms Supplement subject to such determination, a “**Superseded Standard Terms**”). Any CDS Trade Particulars referencing a Superseded Standard Terms submitted for clearing as a CDX.NA Contract shall, upon acceptance for clearing, become a CDX.NA Contract referencing the New Standard Terms.
- (c) The Clearing House may determine a different Fungibility Date or Standard Terms Update Date applicable to individual CDX.NA Contracts or groups of CDX.NA Contracts or may determine a Fungibility Date or Standard Terms Update Date applicable to all CDX.NA Contracts referencing the earlier version or annex of a series described in paragraphs 10.5(a) or 10.5(b), as it deems appropriate.

## 11. **CONTRACT TERMS FOR SINGLE NAME CDS CONTRACTS**

11.1 This paragraph 11.1 specifies the additional Contract Terms applicable to all Single Name Contracts cleared by the Clearing House:

- (a) The provisions of paragraph 11.6 will apply in respect of all Single Name CDS Contracts.
- (b) The provisions of paragraph 11.7 will apply in respect of STEC Contracts that are 2003-type CDS Contracts immediately prior to the Protocol Effective Date.
- (c) The provisions of paragraph 11.8 will apply in respect of all Single Name Contracts (other than Single Name Contracts for which the Relevant Transaction Type is "Standard Western European Sovereign") that are 2014-type CDS Contracts and form part of the Open Contract Position of a Clearing Member as at the NTCE Protocol Effective Date.

And for these purposes:

- (d) All STEC Contracts with Acceptance Time prior to the Protocol Effective Date will be 2003-type CDS Contracts prior to Protocol Effective Date.
- (e) All STEC Contracts with Acceptance Time on or following the Protocol Effective Date will be 2014-type CDS Contracts.
- (f) All Non-STEC Contracts with Acceptance Time prior to the 2014 CDD Implementation Date will be 2003-type CDS Contracts and will remain 2003-type CDS Contracts on and following the 2014 CDD Implementation Date.
- (g) All Non-STEC Contracts with Acceptance Time on or following the 2014 CDD Implementation Date will be 2014-type CDS Contracts, unless the 2003 Credit Derivatives Definitions are specified as applying in the CDS Trade Particulars, in which case they will be 2003-type CDS Contracts.

The provisions of paragraphs 11.2, 11.3, 11.4 and 11.5 will apply to all Single Name Contracts, irrespective of the date of the related Acceptance Time.

11.2 In the event of any inconsistency between the relevant data in CDS Trade Particulars submitted for Clearing and this paragraph 11, this paragraph 11 will govern.

11.3 **Definitions specific to this paragraph 11.**

- (a) **"Eligible Single Name Reference Entities"** means each particular Reference Entity included from time to time in the List of Eligible Single Name Reference Entities by reference to a RED Code. Each RED Code shall be treated as referring to a separate Eligible Single Name Reference Entity.
- (b) **"Eligible Single Name Reference Obligations"** means, with respect to any Single Name Contract Reference Obligation for any Eligible Single Name Reference Entity, the Reference Obligations listed under the heading "Eligible Reference Obligations" (which may include "No Reference Obligation" or "NoRefOb", indicating that no obligation is specified as a Reference Obligation) for such Single Name Contract Reference Obligation and Eligible Single Name Reference Entity in the List of Eligible Single Name Reference Entities.
- (c) **"List of Eligible Single Name Reference Entities"** means the list of Eligible Single Name Reference Entities, maintained, updated and published from time to time by the Clearing House, specifying the following information with respect to each Eligible Single Name Reference Entity:
  - (i) the name of such Eligible Single Name Reference Entity and the RED Code therefor;
  - (ii) the Relevant Physical Settlement Matrix distinguishing, where applicable, between 2003-type CDS Contracts and 2014-type CDS Contracts;
  - (iii) the Standard Single Name Confirmation distinguishing, where applicable, between 2003-type CDS Contracts and 2014-type CDS Contracts;
  - (iv) the Single Name Contract Reference Obligation distinguishing, where applicable, between 2003-type CDS Contracts and 2014-type CDS Contracts and each Eligible Single Name Reference Obligation therefor;
  - (v) the Relevant Transaction Type distinguishing, where applicable, between 2003-type CDS Contracts and 2014-type CDS Contracts; and
  - (vi) each eligible "Scheduled Termination Date" distinguishing, where applicable, between 2003-type CDS Contracts and 2014-type CDS Contracts.
- (d) **"Permitted Single Name Fixed Rates"** means the Fixed Rates permitted for a Single Name Contract, as determined from time to time by the Clearing House and notified to CDS Clearing Members and Sponsored Principals.
- (e) **"RED Code"** means each of the Reference Entity Database codes (as published by Markit Group Limited or any successor thereto).
- (f) **"Relevant Physical Settlement Matrix"** means, with respect to a Single Name Contract, the "Credit Derivatives Physical Settlement Matrix" applicable to such Single Name Contract, as specified in respect of the relevant Eligible Single Name Reference Entity in the List of Eligible Single Name Reference Entities.
- (g) **"Relevant Transaction Type"** means with respect to an Eligible Single Name Reference Entity, the "Transaction Type" applicable to Single Name Contracts in respect of such



Eligible Single Name Reference Entity, as specified in respect of the relevant Eligible Single Name Reference Entity in the List of Eligible Single Name Reference Entities;

- (h) **"STEC Contract"** means a CDS Contract in the form of the relevant Standard Single Name Confirmation having as the Reference Entity a Standard European Corporate (as specified in the List of Eligible Single Name Reference Entities, but excluding any Protocol Excluded Corporate Reference Entity) resulting from CDS Trade Particulars specifying as a Reference Entity an Eligible Single Name Reference Entity and having a combination of characteristics listed as eligible for such Eligible Single Name Reference Entity in, and permitted by, the List of Eligible Single Name Reference Entities.
- (i) **"Non-STEC Single Name Contract"** means a CDS Contract in the form of the relevant Standard Single Name Confirmation having as the Reference Entity a Standard European Financial Corporate, Standard Western European Sovereign, Standard European Senior Non Preferred Financial Corporate (each as specified in the List of Eligible Single Name Reference Entities) or Protocol Excluded Corporate Reference Entity resulting from CDS Trade Particulars specifying as a Reference Entity an Eligible Single Name Reference Entity and having a combination of characteristics listed as eligible for such Eligible Single Name Reference Entity in, and permitted by, the List of Eligible Single Name Reference Entities.
- (j) **"Single Name Contract Reference Obligations"** means, with respect to any Eligible Single Name Reference Entity and distinguishing, where applicable, between 2003-type CDS Contracts and 2014-type CDS Contracts, the Reference Obligation(s) therefor (which may indicate "No Reference Obligation" or "NoRefOb", indicating that no obligation is specified as a Reference Obligation and which may indicate, in respect of 2014-type CDS Contracts, an identifier for a Standard Reference Obligation of such Reference Entity of the applicable Seniority Level which is specified from time to time on the SRO List) which are listed from time to time under the heading "Single Name Contract Reference Obligations" in the List of Eligible Single Name Reference Entities.
- (k) **"Standard Single Name Confirmation"** means the Credit Derivatives Confirmation for use with the Relevant Physical Settlement Matrix, as specified in respect of the relevant Eligible Single Name Reference Entity in the List of Eligible Single Name Reference Entities, as amended as set out below.

#### 11.4 Modifications to List of Eligible Single Name Reference Entities

The Clearing House shall be entitled at any time subject to consultation with the CDS [Product Risk Committee](#) to determine that it will do the following (such changes only affecting CDS Contracts entered into after the time of such determination):

- (a) add and/or modify Permitted Single Name Fixed Rates,
- (b) add new Eligible Single Name Reference Entities, and add and/or modify any other entries in any of the fields in the List of Eligible Single Name Reference Entities, or
- (c) update the List of Eligible Single Name Reference Entities to give effect to determinations by the Credit Derivatives Determinations Committee, including, without limitation, determinations of Succession Events, Successors or Substitute Reference Obligations.

The Clearing House will ~~give notice by Circular of~~ [update the relevant information relating to CDS Contracts on its website, after taking](#) any such action.

#### 11.5 Self-referencing CDS

In addition to the notice requirements contained in Rule 204 and the Membership Procedures, a CDS Clearing Member (including in its capacity as Sponsor) or Sponsored Principal shall, subject



to the following sentence, provide notice to the Clearing House if (i) such CDS Clearing Member or Sponsored Principal or an Eligible Single Name Reference Entity consolidates or amalgamates with, or merges into, or transfers all or substantially all of its assets to, the Eligible Single Name Reference Entity or such CDS Clearing Member or Sponsored Principal, as applicable, or such CDS Clearing Member or Sponsored Principal and an Eligible Single Name Reference Entity are the same entity or are or become Group Companies in respect of one another, or such CDS Clearing Member or Sponsored Principal is subject to an agreement pursuant to which any of the foregoing is reasonably likely to occur or (ii) any of the foregoing occurs in respect of an Eligible Single Name Reference Entity and one of the CDS Clearing Member's Customers (including any Sponsored Principal) in respect of which a CDS Contract exists with the Eligible Single Name Reference Entity as the reference entity (any such Customer, for the purposes of this paragraph 11.5, an "**Affected Customer**"). Such notification may be delayed for so long as the CDS Clearing Member or Sponsored Principal is prevented by Applicable Laws from disclosing the information on the basis of which the notification is required. A Customer, including a Sponsored Principal, shall notify its Clearing Member if it becomes an Affected Customer with respect to any CDS Contract or Customer-CM CDS Transaction, provided that such notification may be delayed for so long as the Customer is prevented by Applicable Laws from disclosing the information on the basis of which the notification is required. If a CDS Clearing Member (including in its capacity as Sponsor) or its Affected Customer or a Sponsored Principal is subject to an event or agreement described in this paragraph 11.5 or is party to any CDS Contract (or related Customer-CM CDS Transaction) resulting from the Clearing of CDS Trade Particulars which, as at the relevant Acceptance Time, were ineligible for Clearing pursuant to paragraph 4.8 regardless of whether or not the Clearing House receives any notification required under this paragraph 11.5, the Clearing House may conduct an auction process to terminate all the CDS Contracts of such Clearing Member or Sponsored Principal referencing such Eligible Single Name Reference Entity where (i) above applies or all CDS Contracts of such Clearing Member, or in respect of which such Clearing Member is a Sponsor, referencing such Eligible Single Name Reference Entity which are recorded in one of its Customer Accounts for which the Customer (including any Sponsored Principal) is the Affected Customer where (ii) above applies (all such CDS Contracts being the "**Affected SR Contracts**") (for the purposes of this paragraph 11.5, such Clearing Member or Sponsored Principal being the "**Affected CDS Clearing Member**") (and any related Customer-CM CDS Transactions) and enter into equivalent CDS Contracts with other CDS Clearing Members by requesting firm quotations from all such CDS Clearing Members (each auction in such process, an "**SR Auction**"). Prior to determining the CDS Contracts to be subject to any such auction, where the Affected CDS Clearing Member acts as Buying Counterparty and Selling Counterparty in respect of Affected SR Contracts of the same Set, the Clearing House shall, in consultation with the CDS Default Committee as to the transaction sizes of resulting CDS Contracts to be auctioned (as below), net, offset, close out or terminate such Affected SR Contracts to the extent appropriate for the purposes of the SR Auction and permitted by the Rules. For these purposes, the Clearing House will provide the Affected CDS Clearing Member with a report detailing the CDS Contracts to be subject to netting, offsetting, closing out or termination. Thereafter, the Clearing House (and the Affected CDS Clearing Member and any Affected Customer) to the extent that they have all necessary information, will adjust the records in Deriv/SERV to reflect such netting, offsetting, closing out or termination. The Clearing House will hold an auction unless the Clearing House, in its discretion and after consultation with the CDS [Product Risk Committee](#), believes that the circumstances are such that an auction may be inappropriate, in which case the Clearing House may take such other action in consultation with the CDS [Product Risk Committee](#) as it considers reasonably necessary to achieve its primary aim in these circumstances of addressing the risks resulting from a CDS Clearing Member or Sponsored Principal being party to a CDS Contract where the reference entity is that CDS Clearing Member or Sponsored Principal or one of its Affected Customers or one of their Group Companies, while endeavouring, as far as is reasonably practicable in the circumstances without prejudicing the achievement of the primary aim, to avoid materially and adversely affecting the Affected CDS Clearing Member or any of its Customers. The Clearing House shall determine the timing and other particular characteristics of each SR Auction in consultation with the CDS Default Committee, including determining the size of the bid/offer spread and/or of the CDS Contracts to be auctioned, whether one or more SR Auctions are to be held and the timing and structure of such auctions (including the frequency at which firm bid and firm offer Quotations will be requested and the transaction size (that is, the Floating Rate Payer Calculation Amount)) and whether CDS Clearing Members (excluding the Affected CDS Clearing Member) will be required (as opposed to requested) to submit actionable quotations in an SR Auction, provided that CDS

Clearing Members will not be notified of whether the CDS Contract(s) to be terminated pursuant to such process is for an Affected CDS Clearing Member as CDS Buyer or CDS Seller.

The Clearing House will enter into CDS Contracts with the CDS Clearing Member(s) and in the amount and at the prices determined pursuant to the SR Auction, at which time the corresponding CDS Contracts of the Affected CDS Clearing Member and any related Customer-CM CDS Transactions shall be terminated by reference to the prices at which the Clearing House enters into such new CDS Contracts. A CDS Clearing Member may designate another CDS Clearing Member that is an Affiliate (provided that neither is the Affected CDS Clearing Member) to accept such CDS Contracts in lieu of it, by entering into an agreement in the form prescribed by the Clearing House. The Clearing House, for itself and on behalf of the relevant Clearing Members and any Customers, using the DTCC Process, shall submit to Deriv/SERV the terms of such reduction, termination or new CDS Contracts, as applicable. As between the Clearing House and the Affected CDS Clearing Member, the Affected CDS Clearing Member will bear the cost of the associated bid/offer spread and any reasonable, out-of-pocket costs and expenses of the Clearing House in connection with such SR Auction(s) and its entering into such new CDS Contracts. Amounts owed by the Affected CDS Clearing Member to (or receivable by it from) the Clearing House in connection with any such reduction or termination shall be determined by the Clearing House by reference to the SR Auction(s). In addition, any Initial Payments, Margin, or other payments or deliveries owed (including the dates of settlement with respect thereto) relating to the Open Contract Positions increased, created, reduced or terminated pursuant to this paragraph 11.5 shall be as determined by the Clearing House with reference to the SR Auction(s) in accordance with the Procedures and, notwithstanding any other provision of the Rules, Initial Payments may be owed in respect to CDS Contracts entered into by the Clearing House pursuant to an SR Auction.

If an Affected CDS Clearing Member is a Defaulter, this paragraph 11.5 shall not restrict the rights of the Clearing House to close out, terminate or liquidate any Contract in any other manner in accordance with Part 9 of the Rules.

## 11.6 Single Name CDS Contracts.

- (a) Terms of the cleared Single Name Contracts
  - (i) The Standard Single Name Confirmation for each Single Name Contract shall be amended as follows:
    - (A) In respect of a 2003-type CDS Contract, by deleting, in the second paragraph, the phrase "as supplemented by each of the May 2003 Supplement and the 2005 Matrix Supplement to the 2003 ISDA Credit Derivatives Definitions" and replacing it with the phrase "as supplemented by each of the 2005 Matrix Supplement to the 2003 ISDA Credit Derivatives Definitions and the 2009 ISDA Credit Derivatives Determinations Committees, Auction Settlement and Restructuring Supplement to the 2003 ISDA Credit Derivatives Definitions (published on July 14, 2009)";
    - (B) by deleting, in the third paragraph, the square brackets and deleting, in the third paragraph, the phrase "the ISDA Master Agreement dated as of [date]" and replacing it with the phrase "Rules and Procedures of ICE Clear Europe";
    - (C) in part numbered 2,
      - (1) in relation to CDS Contracts arising pursuant to the Clearing of CDS Trade Particulars in respect of Bilateral CDS Transactions already recorded in Deriv/SERV, by deleting references to the Initial Payment Payer and the Initial Payment Amount and by deleting the square brackets in such part; and

- (2) in relation to CDS Contracts arising other than pursuant to the Clearing of CDS Trade Particulars in respect of Bilateral CDS Transactions already recorded in Deriv/SERV, by adding immediately after the line entry: "Initial Payment Amount", the line entry: "**Initial Payment Date**: the first Business Day immediately following the Trade Date or, if later, the first Business Day immediately following the issuance of the Acceptance Notice by the Clearing House in relation to this Transaction";
- (D) (1) In respect of a 2014-type CDS contract by deleting parts numbered 4, 5, 6, 7, 8 and 9 in their entirety;
- (2) In respect of a 2003-type CDS Contract by deleting parts numbered 4, 5, 6 and 7 in their entirety;
- (E) (1) In respect of a 2014-type CDS contract, by including a new part 4 as follows:
- "4. Additional Term: Section 11.4 (*Merger of Reference Entity and Seller*) of the 2014 Credit Derivatives Definitions shall not apply."; and
- (2) In respect of a 2003-type CDS Contract, by including a new part 4 as follows:
- "4. Additional Term: Section 2.31 (*Merger of Reference Entity and Seller*) of the 2003 Credit Derivatives Definitions shall not apply."
- (ii) The provisions specified below of the Standard Single Name Confirmation for each Single Name Contract shall be completed as follows:
- (A) The "Transaction Type" is the Relevant Transaction Type.
- (B) The "Matrix Publication Date" is the date of publication of the Relevant Physical Settlement Matrix.
- (C) (1) In respect of a 2014-type CDS Contract, "Standard Reference Obligation" is specified as not applicable and the "Reference Obligation(s)" are the Single Name Contract Reference Obligation(s) specified from time to time in the List of Eligible Single Name Reference Entities with respect to the relevant Eligible Single Name Reference Entity.
- (2) In respect of a 2003-type CDS Contract, the "Reference Obligation(s)" are the Single Name Contract Reference Obligation(s) specified from time to time in the List of Eligible Single Name Reference Entities with respect to the relevant Eligible Single Name Reference Entity.
- (D) The "Calculation Agent" is the Clearing House, except as provided in the Rules.
- (E) The "Fixed Rate Payer Payment Dates" are March 20, June 20, September 20 and December 20.

- (iii) For each Single Name Contract, the following terms will be determined according to the particular CDS Trade Particulars submitted for Clearing, subject to paragraph 11.7 or, with respect to each Single Name Contract arising pursuant to Rule 401(a)(vi) or (xi), according to the CDS Trade Particulars provided by the Clearing House to the Clearing Member or Sponsored Principal, as the case may be, prior to the time at which such CDS Contract arose:
- (A) Which of the Eligible Single Name Reference Entities is the "Reference Entity".
  - (B) Which of the eligible Scheduled Termination Dates specified for the Reference Entity in the List of Eligible Single Name Reference Entities is the "Scheduled Termination Date".
  - (C) The "Floating Rate Payer Calculation Amount".
  - (D) The "Floating Rate Payer".
  - (E) The "Fixed Rate Payer".
  - (F) The "Fixed Rate".
  - (G) The "Initial Payment Payer", other than in relation to CDS Contracts arising pursuant to the Clearing of CDS Trade Particulars in respect of Bilateral CDS Transactions already recorded in Deriv/SERV; and
  - (H) The "Initial Payment Amount", other than in relation to CDS Contracts arising pursuant to the Clearing of CDS Trade Particulars in respect of Bilateral CDS Transactions already recorded in Deriv/SERV.
- (iv) Each Single Name Contract will be governed by the terms set out in paragraph 8 and this paragraph 11, whether or not the relevant CDS Trade Particulars were in an equivalent form.

**11.7 STEC Contracts that are 2003-type CDS Contracts; provisions applying on and after the Protocol Effective Date.**

- (a) All STEC Contracts that are 2003-type CDS Contracts and which form part of the Open Contract Position of a Clearing Member as at the Protocol Effective Date will be deemed thereafter to be STEC Contracts that are 2014-type CDS Contracts, and the Standard Single Name Confirmation for each such STEC Contract shall be the Credit Derivatives Confirmation for use with the Relevant Physical Settlement Matrix as specified in respect of the relevant Eligible Single Reference Entity in the List of Eligible Single Name Reference Entities immediately following the Protocol Effective Date, as modified below.
- (b) For the purposes of paragraph 11.7(a), the information in respect of each STEC Contract which would be determined (had the STEC Contract been one falling within paragraph 11.1(d)) for the purposes of the Standard Single Name Confirmation by reference to the CDS Trade Particulars submitted for Clearing (as referred to in paragraph 11.6(a)) will instead be determined by reference to the STEC Contracts forming the relevant Open Contract Position of the relevant Clearing Member or Sponsored Principal, as the case may be, as at the Protocol Effective Date.
- (c) From the Protocol Effective Date, all STEC Contracts of a Set referencing a particular Single Name Reference Entity and particular Single Name Contract Reference Obligation(s) and having a particular Scheduled Termination Date and fixed rate and to which paragraph 11.1(c) had, up to that moment applied, shall be, and shall be treated as, fully fungible with all STEC Contracts of a Set referencing the same Single Name

Reference Entity and particular Single Name Contract Reference Obligation(s) and having the same Scheduled Termination Date and fixed rate to which paragraph 11.1(d) applies.

**11.8 Single Name Contracts (other than Single Name Contracts for which the Relevant Transaction Type is "Standard Western European Sovereign") that are 2014-type CDS Contracts as at the NTCE Protocol Effective Date**

Each Single Name Contract which (i) is not a Single Name Contract for which the Relevant Transaction Type is "Standard Western European Sovereign", (ii) is or is deemed to be a 2014-type CDS Contract and (iii) forms part of the Open Contract Position of a Clearing Member as at the NTCE Protocol Effective Date will be deemed on and following the NTCE Protocol Effective Date to be a Single Name Contract referencing the Relevant Physical Settlement Matrix which would have applied to it if CDS Trade Particulars in respect of such Single Name Contract had been submitted for Clearing on the NTCE Protocol Effective Date, subject to any later New Matrix that may be treated as referenced by such Single Name Contract pursuant to paragraph 11.9. This paragraph will take effect regardless of whether any relevant transaction record in Deriv/SERV is updated to reflect it.

**11.9 Relevant Physical Settlement Matrix Updates**

- (a) Where ISDA publishes a version of the Credit Derivatives Physical Settlement Matrix (a "**New Matrix**") and/or a new version of a Credit Derivatives Confirmation for use with a version of a Credit Derivatives Physical Settlement Matrix (a "**New Confirmation**") that is subsequent to the version that is specified as a Relevant Physical Settlement Matrix and/or Standard Single Name Confirmation, respectively for any Single Name Contract(s) (the "**Existing Matrix**" and "**Existing Confirmation**", respectively), and the Clearing House determines, subject to consultation with the CDS [Product](#) Risk Committee, that a Single Name Contract referring to the New Matrix and/or New Confirmation would be fungible with a Single Name Contract referring to the Existing Matrix and/or Existing Confirmation respectively (the date of such determination, the "**Matrix Update Date**" and "**Confirmation Update Date**", respectively and each prior Credit Derivatives Physical Settlement Matrix and/or Credit Derivatives Confirmation subject to such determination, a "**Superseded Matrix**" and "**Superseded Confirmation**", respectively) and so notifies CDS Clearing Members and Sponsored Principals by Circular, such Single Name Contracts shall, as of the close of business on the Matrix Update Date and/or Confirmation Update Date, respectively, become Single Name Contracts referencing the New Matrix as the Relevant Physical Settlement Matrix and/or the New Confirmation as the Standard Single Name Confirmation, respectively, and the List of Eligible Single Name Reference Entities shall be updated accordingly, provided that the Clearing House shall not make any such determination where the New Matrix and/or New Confirmation, when compared with the Existing Matrix and/or Existing Confirmation, respectively, contains any change to a term that would apply to such Single Name Contract. Any CDS Trade Particulars referencing a Superseded Matrix and/or Superseded Confirmation submitted for Clearing as a Single Name Contract shall, upon acceptance for Clearing, give rise to a Single Name Contract referencing the New Matrix and/or New Confirmation, respectively.
- (b) The Clearing House may determine a different Matrix Update Date and/or Confirmation Update Date applicable to individual Single Name Contracts or groups of Single Name Contracts or may determine a Matrix Update Date and/or Confirmation Update Date applicable to all Single Name Contracts referencing a Superseded Matrix and/or Superseded Confirmation, respectively, as it deems appropriate.

**11.10 Amendments**

- (a) Where CDS Trade Particulars, after the Acceptance Time, would give rise to two CDS Contracts which would be Single Name Contracts but for the specification of an Eligible Single Name Reference Obligation as the "Reference Obligation", then the Clearing House shall be entitled at its discretion to treat such CDS Trade Particulars, at the

Acceptance Time, as though they had specified the Single Name Contract Reference Obligation specified for such Eligible Single Name Reference Obligation in the List of Eligible Single Name Reference Entities.

- (b) In addition to the acceptance process described in paragraph 4, the Clearing House's Acceptance Notice to the relevant CDS Clearing Member(s) or Sponsored Principal(s) in relation to the relevant CDS Trade Particulars shall include details of any adjustment that will be made by the Clearing House pursuant to this paragraph. Submission of data in relation to CDS Contracts to Deriv/SERV under paragraph 4.4 shall take account of any such adjustments set out by the Clearing House in the Acceptance Notice.

**(III) MEMBERSHIP PROCEDURES**

**INDEX**

1.	Application Process.....	2
2.	Resignation Process.....	2
3.	Capital Requirements.....	2
4.	Matters Requiring Notification by Clearing Members.....	3



## 1. APPLICATION PROCESS

- 1.1 The membership application process is set out in detail in Rule 201. An application for clearing membership must be made by completing an application form and delivering a partially executed Clearing Membership Agreement ("CMA"). An application for a Clearing Member to become a Sponsor must be made by completing an application form and delivering a partially executed Sponsor Agreement ("SA"). An application to become a Sponsored Principal must be made by completing an application form and delivering a partially executed Sponsored Principal Clearing Agreement ("SPCA"). For UK companies, because the CMA, SA or SPCA is a deed, signatures of two directors or one director and the company secretary are required. Evidence of authority of signatories will be required by the Clearing House. For non-UK companies, local requirements are applicable. The Clearing House will liaise with an applicant to ensure that the application form and supporting documentation is complete. The Clearing House is not currently charging an application fee.
- 1.2 On receipt of a completed application form, the Clearing House will undertake a due diligence and a review process. As part of its application, an applicant must have provided the information requested on the application form to the Clearing House.
- 1.3 Applications will formally be considered by the Board or the Executive Risk Committee.
- 1.4 The Clearing House may also grant approval to an applicant conditional upon satisfying certain requirements, provided that the applicant has expressed its intention to meet such requirements and provided evidence of its ability to do so.
- 1.5 Clearing Members who wish to have an additional Membership Category or become a Sponsor must go through a separate membership process, under which any additional criteria applicable to the new Membership Category or to Sponsors will be assessed in the same manner and pursuant to the same procedures as for new membership applicants.
- 1.6 For additional membership, capital and notification requirements specific to CDS Clearing Members, please refer to the CDS Procedures. For additional membership, capital and notification requirements specific to FX Clearing Members, please refer to the FX Procedures.
- 1.7 Clearing Members trading on particular Markets must also meet the requirements of the relevant Markets.
- 1.8 These Membership Procedures apply to CDS Clearing Members, F&O Clearing Members and FX Clearing Members.
- 1.9 These Membership Procedures are 'Procedures' as defined in the ICE Clear Europe rules (the "**Rules**") and are subject to the Rules, including, without limitation, Rule 102. These Membership Procedures, and all non-contractual obligations arising out of or in connection with them, are governed by and shall be construed in accordance with English law and any Dispute under these Membership Procedures will be subject to arbitration under Rule 117.

## 2. RESIGNATION PROCESS

- 2.1 The membership termination process is set out in detail in Rule 209.

## 3. CAPITAL REQUIREMENTS

- 3.1 All Clearing Members are subject to a minimum Capital requirement of USD10 million. CDS Clearing Members are subject to additional minimum Capital requirements as set out in the CDS Procedures. FX Clearing Members are subject to additional minimum Capital requirements as set out

in the FX Procedures. Requirements may be satisfied in USDs or in other currency equivalents. Changes to the minimum capital requirements will be notified by Circular.

- 3.2 Additional Capital requirements may be imposed on particular Clearing Members pursuant to Rules 206 and 602 and on Sponsored Principals pursuant to Part 19 of the Rules.
- 3.3 As set out in the Rules, “Capital” with respect to a Non-FCM/BD Clearing Member includes “own funds”, as such term is defined in the Capital Requirements Regulation (Regulation (EU) No 575/2013) and applicable on a stand-alone (non-consolidated) basis and subject to the limits and deductions set out therein and, in relation to matters reserved for member states, as implemented in the United Kingdom, whether or not the relevant Clearing Member is subject to the Capital Requirements Regulation or the Capital Requirements Directive (Directive 2013/36/EU) or the supervision of the FCA or PRA. For FCM/BD Clearing Members, “Capital” means its “adjusted net capital” as defined in CFTC Rule 1.17. Capital, as a general matter, includes fully-paid ordinary and preference share capital, retained reserves and, for some purposes and subject to limits, subordinated debt that is perpetual or repayable ~~on 5-years or~~with more ~~notice~~than one year outstanding. “**Tier 1 Capital**”, as defined in the Capital Requirements Regulation, is a subset of Capital excluding subordinated debt, among others.
- 3.4 A Clearing Member or Sponsored Principal with any doubt in relation to whether a particular balance sheet item counts as Capital or Tier 1 Capital should refer to the relevant definitions in the Capital Requirements Regulation or CFTC Rules and raise any queries with the Clearing House.
- 3.5 The Clearing House has discretion to accept other balance sheet items or financial comfort as acceptable Capital. Clearing Members or Sponsored Principals who wish to re-structure their Capital in any of the below ways should contact the Clearing House’s membership department. Any non-standard acceptable Capital requirement is subject to assessment by the Clearing House’s risk department. The following are potential methods Clearing Members or Sponsored Principals may use to re-structure their Capital:
- (a) **Subordinated Loans:** Where a Clearing Member or Sponsored Principal uses subordinated loans not falling within the definition of “own funds” under the Capital Requirements Regulation to meet its minimum Capital requirement, or in order to cover more than ~~50~~25% of its Capital requirement, the Clearing House will require a written undertaking from the Clearing Member or Sponsored Principal and the Lender that the loan(s) will not be repaid without the prior consent of the Clearing House;
- ~~(b) **Irrevocable Letters of Credit:** The Clearing House may at its discretion, but in any case only up to a maximum of 50% of the minimum Capital requirement, recognise funds committed to the Clearing House under an irrevocable letter of credit from a third party issuing bank, on terms acceptable to the Clearing House, in lieu of Capital; and~~
- (b) ~~(e)~~-**Controller Guarantee:** The Clearing House may, at its discretion, accept a Controller Guarantee from a Controller of the Clearing Member or Sponsored Principal which Controller would, if it were a Clearing Member or Sponsored Principal, meet applicable Capital requirements without the Clearing House exercising any of its discretions. The form of Controller Guarantee must be in the form specified by the Clearing House; and
- (c) **Additional Cash or Collateral:** The Clearing House may, at its discretion, require a Clearing Member to post additional cash or collateral in addition to the normal margin requirements.

#### 4. MATTERS REQUIRING NOTIFICATION BY CLEARING MEMBERS

- 4.1 In the table below, details are provided of notifications that should be made to the Clearing House. Notifications should be made at or before the time specified, in accordance with the Rules and these

Procedures and including the required contents or on the required form. If no form is referred to in the Table below, notification should be made to the Clearing House in writing.

- 4.2 In the Notification column in the table below, “R” refers to the Rules. The items marked \* require formal written notification under Rule 113(c). Other matters do not require follow-up notification in writing unless requested by the Clearing House. Matters notified or actioned electronically through the Clearing House's systems do not require formal notifications to be made to the Clearing House unless specified below. Various of the notification requirements set out below also apply to Sponsored Principals by virtue of Part 19 of the Rules.

	Notification	Periodicity of Submission	Requirements and form
<b>A</b>	<b>Financial and Regulatory Notifications</b>		
1.	Annual audited financial statements including: profit and loss account, balance sheet and auditors report –R205(a)(i)	Within 90 days of the end of the Clearing Member’s or relevant Controller’s fiscal year	In original format. Sent to the attention of the Clearing House’s membership department. If any such material is other than a routine periodic return, statement or report required under Applicable Laws, a written statement is required setting out, to the extent known, the reasons why the Clearing Member or Controller is filing it must also be filed with the Clearing House.
2.	Quarterly financial statement <u>or other equivalent statement as agreed with the Clearing House</u> including: management profit and loss accounts and balance sheet – R205(a)(ii)	Within <del>30</del> <u>45</u> days of the end of each quarter <u>or within 45 days of the end of the Clearing Member's reporting period, as applicable</u>	Drawn up in accordance with Applicable Laws and Accounting Standards or otherwise following the requirements of the Clearing House.
3.	Copy of financial returns, reports, statements and notices provided to Regulatory Authority – R205(a)(iii)	As soon as provided to Regulatory Authority	If any materials provided are not routine periodic financial returns, statements or reports, then the Clearing Member or relevant Controller must produce a written statement setting out the reasons for filing it.
	<b>Note: for FCA or PRA regulated Clearing Members, financial returns will be obtained direct from the FCA or PRA - Rule 205(b)</b>		
<b>B</b>	<b>Risk-related Disclosures</b>		
1.	Failure to meet any obligation to transfer or pay any margin requirements of a Clearing Organisation* – R204(a)(vi)	Immediately in this section in all cases	Full particulars by email to <a href="mailto:ieclear@theice.com">ieclear@theice.com</a> , followed by a telephone call via the Clearing House’s helpdesk at 020 7065 7600 and confirmation in writing.
2.	Failure to comply with any applicable financial requirements of any Governmental		

	Notification	Periodicity of Submission	Requirements and form
	Authority, Regulatory Authority, Exchange, Clearing Organisation or Delivery Facility* – R204(a)(vii)		
3.	Insolvency* (affecting a Clearing Member or any of its Controllers or Affiliates) – R204(a)(viii) & R1207		A copy must also be sent in writing to the Bank of England pursuant to Part 12 of the Rules.
4.	Financial or commercial difficulty* – R204(a)(x)		
5.	Force Majeure Event (occurrence and cessation) – R112(b)(i) & R112(b)(vi) & Business Continuity Procedures		
6.	Ceasing to have sufficient Capital* – R204(a)(iii) & R206		
7.	Reduction of Capital by more than 10% from latest financial statement or any reduction of Capital prior to any payment, loan, distribution or redemption of Capital* – R204(a)(iv) & R204(a)(v)		
8.	Any “early warning” or similar matter required to be notified to a Regulatory Authority – R204(a)(xi)		
	Note: for FCA or PRA regulated Clearing Member notifications under R 204(a)(xiii) of any matter, circumstance or change of occurrence of previously furnished statements or information supplied in connection with the Clearing Member's application shall only be required if a notification is also required to the FCA or PRA under the Principles for Business in the FCA or PRA Rules - R 204(b)(ii).		
<b>C</b>	<b>Changes to Contact and Company Details</b>		
1.	Change of Legal Name*	Within three Business Days of the change	Any changes to company details should be notified to the membership department by email to: Iceclear@theice.com and/or mailing it to the Clearing House registered address.

	Notification	Periodicity of Submission	Requirements and form
2.	Change of Address (registered address, mailing/operations address or address for service in England)*		Include copy of document from relevant Governmental Authority, where applicable.
3.	Change of contact details for Clearing Member (telephone number, fax number or website)		Where the change is time sensitive, this should be backed up by a telephone call via the Clearing House's helpdesk at: 020 7065 7600.
4.	Change of contact details for key personnel or change of key personnel including the board of directors of a Clearing Member	As soon as possible. Allow two Business Days for changes to become effective	
5.	Change to emergency contact details		
6.	Change to e-mail address for the delivery of Circulars	As soon as practical and as often as necessary. Allow two Business Days for changes to become effective	
7.	Change to details for downloading monthly volumes from the Clearing House's website	Promptly and without delay. Allow two Business Days for changes to become effective	
8.	Change of Approved Financial Institution for Nominated Customer Bank Accounts or Nominated Proprietary Bank Accounts*	At least five Business Days' advance notice	
9.	Change to clearing activity or list of markets that the Clearing Member clears	Immediately	
10.	Change of Account number or other details*	At least five Business Days' advance notice	
11.	Changes to " <b>Eligible Persons</b> " (e.g. exchange members that a Clearing Member clears for) including suspension of a clearing	At least one week's advance written notice prior to the Business Day on which a Clearing Member proposes to begin or cease	Any changes to Eligible Persons should be notified to the membership department by completing the relevant "Supplementary Eligible Persons Form" or "Termination Letter", as appropriate, and emailing it to: <a href="mailto:iceclear@europaice.europaicemembership@theice.com">iceclear@europaice.europaicemembership@theice.com</a> and/or mailing it to the Clearing House registered

	Notification	Periodicity of Submission	Requirements and form
	arrangement with an Eligible Person	providing such clearing services to an Eligible Person.  The timing stated in this Table applies in addition to, and separately from, any other relevant timings for notifications requirements for Eligible Persons specified in any Clearing Membership Agreement.	address.
<b>D</b>	<b>Changes to Corporate Details</b>		
1.	Change of legal status or registered number*	14 days in advance, where possible. At latest, within three Business Days of change	<p>Any changes to company details should be notified to the membership department by email to: <a href="mailto:iceclear@theice.com">iceclear@theice.com</a> and/or mailing it to the Clearing House registered address.</p> <p>Where the change is time sensitive, this should be backed up by a telephone call via the Clearing House's helpdesk at: 020 7065 7600.</p>
2.	Changes to constitutive documents* (e.g. Memorandum and Articles of Association)	Immediately	
3.	Change to regulatory or authorised status, or applicable licences* (e.g. name of the lead regulator, contact name at regulator, status, regulator's identification code/number)	Immediately	
4.	Change to the VAT or other tax status or VAT number*	Immediately	
5.	Change to the nature of the Clearing Member's business including any Insolvency of the Clearing Member or	Immediately	

	Notification	Periodicity of Submission	Requirements and form
	its shareholders or any death of a substantial shareholder*		
6.	Change to authorised signatories	As soon and as often as practicable Allow two Business Days for change to become effective	
7.	Change to power of attorney, appointment of any agent or Representative or other authorisation including the board of directors of a Clearing Member* - R202(a)(xv)	Original terms will bind the Clearing Member until not less than five business days after written notice of the change has been received.	
8.	Proposed changes of control* – R204(a)(i)	As soon as possible	
9.	Changes of Control, substantial (10%) shareholders or group organisational structure* – R204(a)(i)	In advance of the change. Where detailed advanced notice is impossible, where possible, the Clearing House should be contacted in advance and informed of the nature of the impending change	
10.	Change to internal organisational chart		
11.	Change to corporate authority or powers to enter into and perform the obligations of a Clearing Member including changes to the board of directors of a Clearing Member	Immediately	
12.	Changes to memberships of futures and/or options exchanges or clearing houses*		
13.	Changes to any Delivery Facility status (e.g. status as a User under the Network Code)*		
	Note: for FCA or PRA regulated Clearing Member notifications under R 204(a)(i) of any proposed change in control, notification shall only be required if a notification is also required to the FCA or PRA under the FCA or PRA Rules. In such cases, the relevant Clearing Member should provide the Clearing House contemporaneously with a copy of all submissions sent to the FCA or PRA in respect		



	Notification	Periodicity of Submission	Requirements and form
	of that change of control – R 204(b)(i)		
<b>E</b>	<b>Ad Hoc Legal Notifications</b>		
1.	Breach of Clearing House rules – R204(a)(xii)	As soon as identified	<p>Any changes should be notified to the membership department by email to: Icecleareurope@theice.com and iceeuropemembership@theice.com and/or mailing it to the Clearing House registered address.</p> <p>Where the change is time sensitive, this should be backed up by a telephone call via the Clearing House's helpdesk at: 020 7065 7600.</p>
2.	Termination of Clearing Membership Agreement or of membership as a Clearing Member * – R209(a)(iii) & R209(c)(i)	<del>No</del> Taking effect no less than <del>three months' advance notice, if termination is not for cause.</del> Otherwise, as specified in and allowed <u>30 Business Days after the date of the Termination Notice Time or pursuant to the Rules R917(c).</u>	
3.	Rejection upon application or expulsion from any futures and or options, securities or commodities exchange or clearing house	As soon as identified and detailing the full particulars of the breach	
4.	Disciplinary matters or events in any Markets cleared by the Clearing Member*		
5.	Any loss, liability, damage, injury, delay, cost or expense incurred under the terms of the Contract in relation to tender, delivery or physical settlement.* – R111(c)(xiii)(D)	Within seven Business Days of either the day on which documents must be taken up and paid for by the Buyer or the Buyer must take delivery of the Deliverable or Investment, whichever is the earlier	
6.	Any positions carried by another Clearing Member (Position Holder)* – R407	The Business Day following the Business Day on which a position was carried by the Position Holder	
7.	Breach of Position Limit – R204(a)(ii) & R602(a)(i)	Immediately	

	Notification	Periodicity of Submission	Requirements and form
8.	Event of Default or any financial or commercial difficulty giving rise to the risk of an Event of Default* – R204(a)(ix) & R204(a)(x)	Immediately	
9.	Breach of Applicable Law* R204(a)(xii)	Without delay	
10.	Termination by an FCM/BD Clearing Member or close out of an Open Contract Position in any class of Customer Account as a result of an Event of Default or similar event with respect to that FCM/BD Customer –R1604(b)	Through ICE Systems	
11.	Any possible action, suit or proceeding against the Clearing House* – R111(d)	As soon as reasonably practicable	
12.	Anything relating to the Clearing Member of which the Clearing House would reasonably expect notice, including any matter, circumstance, change or occurrence which would cause a statement previously furnished pursuant to Rule 204 or any information supplied in connection with the Clearing Member's application for membership or otherwise to be inaccurate, incomplete or superseded* – R204(a)(xiii)	Without delay	
<b>G</b>	<b>Clearing Procedures</b>		
1.	Any event, system-related issue or anything else that would prevent the Clearing Member from operating timely	Immediately	Clearing Members should contact the Clearing House by email at <a href="mailto:Icecleareurope@theice.com">Icecleareurope@theice.com</a> or by a telephone call via the Clearing House's helpdesk at: 020 7065 7600.

	Notification	Periodicity of Submission	Requirements and form
	and accurately on the Markets cleared. Clearing Procedures paragraph 1.3.		
2.	Notification of system errors or processing errors in relation to ICE Systems. Clearing Procedures paragraph 2.2(g) & (h).		Clearing Members should contact the Clearing House's operations department.
<b>H</b>	<b>[Intentionally Omitted]</b>		
<b>I</b>	<b>Complaint Resolution Procedures</b>		
1.	Any complaint must be notified to the Clearing House. Complaint Resolution Procedures paragraphs 2 & 3.	Within 12 months from the date on which the Complainant becomes aware of the circumstances giving rise to the Complaint unless the Complainant can show reasonable grounds for delay	A Complaint should be made in writing, signed on behalf of the Complainant, marked "Complaints Resolution Procedure" and sent to the Complaints Handling Officer at the Clearing House or by e-mail to <a href="mailto:iceclearurope@theice.com">iceclearurope@theice.com</a>
2.	Complainant must notify the Clearing House in writing whether it accepts the proposals or requires that the Complaint be referred to the Commissioner. Complaint Resolution Procedures paragraph 6.	Within fifteen Business Days of receipt of notice of the outcome of the Clearing House Investigation	
<b>J</b>	<b>Business Continuity Procedures</b>		
1.	Clearing Member is affected by a Business Continuity Event. Business Continuity Procedures paragraphs 2.1 & 2.2.	Immediately	ICE must be contacted either by the Help Desk on +44 (0) 20 7065 7600 or <a href="mailto:iceuops@theice.com">iceuops@theice.com</a> .  The Clearing Member must provide the following information: (a) the name of Clearing Member; (b) the name and contact details of person at the Clearing Member who is authorised to take action and decisions on its behalf; (c) details of nature of the problem; (d) expected time when the problem is expected to be over or mitigated; and (e) any assistance or forbearance requested of the

	Notification	Periodicity of Submission	Requirements and form
			Clearing House.
2.	Member ceases to be affected by a Business Continuity Event. Business Continuity Procedures paragraph 2.3.		

**(VI) COMPLAINT RESOLUTION PROCEDURES****INDEX**

1.	General Introduction.....	2	
2.	Eligible Complaints.....	2	
3.	Making a Complaint.....	3	
4.	Investigation of Complaints by the Clearing House.....	4	
	5.	Result of the Investigation.....	<u>46</u>
	6.	Referral to the Commissioner.....	<u>46</u>
	7.	The Commissioner's Investigation.....	<u>57</u>
	8.	Result of the Investigation.....	<u>68</u>
	9.	Record-Keeping.....	<u>79</u>
	10.	Exclusion of Liability.....	<u>79</u>
	11.	Confidentiality.....	<u>79</u>

## 1. GENERAL INTRODUCTION

- 1.1 As ~~a recognised clearing house under the Financial Services and Markets Act 2000~~ an authorised central counterparty under EMIR, the Clearing House is required to ~~put in place effective arrangements for the investigation and resolution of complaints arising in connection with the performance of, or its failure to perform, any of its regulatory functions (any such matter, a “Complaint”).~~ ~~These arrangements must~~ have accessible, transparent and fair rules for the prompt handling of complaints. These Complaint Resolution Procedures include procedures for a Complaint ~~complaint~~ to be fairly and impartially investigated by a person ~~Person~~ independent of the Clearing House (the “Investigator Commissioner”) and for the Investigator ~~Commissioner~~ to report on the result of his investigation to both the Clearing House and the person ~~Person~~ making the Complaint ~~complaint~~ (“Complainant”). ~~The arrangements must~~ These Complaint Resolution Procedures also confer on the Investigator ~~Commissioner~~ the power to recommend, if appropriate, that the Clearing House: (i) makes a compensatory payment to the Complainant; and/or (ii) remedies the matter complained of.
- 1.2 The Clearing House has adopted these Complaints ~~Complaint~~ Resolution Procedures. In general terms, the key stages of the Complaints ~~Complaint~~ Resolution Procedures are:
- (a) ~~an Eligible Complaint (as defined in paragraph 2.1)~~ a complaint must be submitted in writing;
  - (b) ~~if the complaint is an Eligible Complaint (as defined in paragraph 2.1),~~ at first instance, the Clearing House will appoint an investigator in accordance with paragraph 4.5 (the “Investigator”) to investigate the Eligible Complaint and attempt to resolve it. If the Complainant is dissatisfied with the Clearing House’s Investigator’s response or proposals to redress the Eligible Complaint, the Complainant may request that the Clearing House refer the Eligible Complaint to ~~an independent Complaints~~ the Commissioner ~~(the “Commissioner”), who will be~~ appointed by the Clearing House;
  - (c) the Commissioner, if he determines that the referral is of an Eligible Complaint, will investigate the matter in accordance with the Commissioner’s Terms of Reference;
  - (d) following due consideration, the Commissioner will produce a report outlining his recommendations which will be copied to the Clearing House and the Complainant; and
  - (e) if the Commissioner recommends a compensatory payment and/or remedial action, the Clearing House will consider and may act upon such recommendation.
- 1.3 There is no restriction on who can bring a Complaint ~~complaint~~, although any Complaint ~~complaint~~ must be an Eligible Complaint in order to be capable of being handled in accordance with these Complaints ~~Complaint~~ Resolution Procedures. These Complaints ~~Complaint~~ Resolution Procedures do not limit the Clearing House from considering or refraining from considering ~~any Complaint~~ at its discretion any complaint which is not an Eligible Complaint pursuant to either these Complaints ~~Complaint~~ Resolution Procedures or any such other procedures as it may determine.
- 1.4 These Complaints ~~Complaint~~ Resolution Procedures apply in relation to ~~ICE-Clear Europe~~ complaints made by Clearing Members.
- 1.5 These Complaints ~~Complaint~~ Resolution Procedures are 'Procedures' as defined in the ~~ICE-Clear Europe Clearing Rules (the “Rules”)~~ and are subject to the Rules, including, without limitation, Rule 102. These Complaints ~~Complaint~~ Resolution Procedures, and all non-contractual obligations arising out of or in connection with them, are governed by and will be construed in accordance with English law and any Dispute under these Complaints ~~Complaint~~ Resolution Procedures will be subject to arbitration under Rule 117.

## 2. ELIGIBLE COMPLAINTS

- 2.1 “**Eligible Complaints**” are **Complaints**complaints against the Clearing House or any of its Directors, officers, employees, agents or committees (or any individual committee member) arising in connection with: (i) the manner in which ~~it~~the Clearing House has performed, ~~or its~~; or (ii) the failure of the Clearing House to perform; or (ii) the manner in which the Clearing House has failed to perform, any of its regulatory functions as defined by section 291(3) of FSMA.
- 2.2 A **Complaint**complaint will not be an Eligible Complaint if it:
- (a) relates to:
    - (i) the Clearing House’s relationship with its Directors, officers, employees; or committees (or any individual committee member);
    - (ii) the content of the ~~Clearing House’s~~ Rules; or
    - (iii) a decision against which the Complainant has the right to appeal under Part 10 of the Rules;
  - (b) is in any way connected with or arising out of a contractual or commercial dispute involving the Clearing House and is not connected in any way with the manner in which the Clearing House has performed or failed to perform any of its regulatory functions;
  - (c) is made outside the period of 12 months from the date on which the Complainant becomes aware of the circumstances giving rise to the **Complaint**complaint unless the Complainant can show reasonable grounds for delay; or
  - (d) is of a frivolous or vexatious nature or amounts to an abuse of process.
- 2.3 A **Complaint**complaint connected with, or which arises out of, any form of continuing action by the Clearing House under Part 10 of the Rules or in relation to an Event of Default will not be investigated by the Commissioner until the action has been completed.

## 3. MAKING A COMPLAINT

- 3.1 A **Complaint**complaint must be made in writing, marked “**Complaints**Complaint Resolution ~~Procedure~~Procedures” and shall be sent only to:

Complaints Handling Officer  
 ICE Clear Europe Limited  
 Milton Gate  
 60 Chiswell Street  
 Moorgate  
 LONDON  
 EC1Y 4SA

or by e-mail to: icecleareurope-complaints@theice.com.

- 3.2 The **Complaint**complaint must be signed on behalf of the Complainant, and in any case where it is made by a company, partnership or other body corporate, must be signed by a director or equivalent officer with appropriate authority.
- 3.3 If a **Complaint**complaint is made orally, the Complainant will be required to put its **Complaint**complaint in writing. The Clearing House will not be obliged to investigate any



~~Complaint~~complaint unless and until the Complainant has submitted a written ~~Complaint~~complaint in accordance with these ~~Complaints~~Complaint Resolution Procedures.

- 3.4 The written ~~Complaint~~complaint should include sufficient information to allow the Clearing House to identify properly the Contracts or other matters to which the ~~Complaint~~complaint relates, the activities complained of, and the basis for any alleged loss or other detriment caused to the Complainant. If insufficient information is provided, the Clearing House may request further information and the ~~Complaint~~complaint will not be investigated further until such information is provided.
- 3.5 The Clearing House's and Commissioner's costs and expenses in relation to any ~~Complaint~~complaint will be paid by the Clearing House. The Clearing House will not seek to recover any costs and expenses from Complainants in relation to any ~~Complaint~~complaint unless it can be shown that the ~~Complaint~~complaint was frivolous and vexatious.
- 3.6 If the Clearing House considers, at its discretion, that the issues raised by any Eligible Complaint could be resolved through an alternative process to an investigation, including mediation or, among other things, conducting meetings or corresponding with the Complainant and providing further information, assurances or undertakings, the Clearing House will have four weeks from the date of receipt of the Eligible Complaint to see if the Eligible Complaint can be resolved by that approach. If the Eligible Complaint has not been resolved within those four weeks, then the investigation of the Eligible Complaint will proceed as set out in paragraph 4 below.

#### 4. INVESTIGATION OF COMPLAINTS BY THE CLEARING HOUSE

- 4.1 The Clearing House will acknowledge the ~~Complaint~~complaint promptly and in any case within 5 Business Days of receipt (other than in the cases where the process described in paragraph 3.6 takes place when the period will end 5 Business Days after the end of the four week period specified in paragraph 3.6) and include a copy of these ~~Complaints~~Complaint Resolution Procedures and details of the Commissioner in its acknowledgement.

4.2 Where the Clearing House considers that another recognised body or authorised person (as each such term is defined in the Financial Services and Markets Act 2000) is entirely or partly responsible for the subject matter of a complaint, the Clearing House may refer the complaint, or the relevant part of it, to that recognised body or authorised person pursuant to Rule 115 and in accordance with the process set out in paragraph 4.3.

4.3 Where the Clearing House decides to refer a complaint to another recognised body or authorised person, it must:

- (a) inform the Complainant in writing promptly and in any case within 5 Business Days that it would like to refer all or part of the complaint to another recognised body or authorised person and obtain the Complainant's written consent to do so;
- (b) if the Complainant consents to the referral, refer the complaint to that other recognised body or authorised person in writing promptly and in any case within 5 Business Days of receipt of consent;
- (c) inform the Complainant in writing promptly and in any case within 5 Business Days that the complaint has been referred and include adequate contact details of any individual responsible for handling the complaint at the other recognised body or authorised person; and
- (d) continue to deal with any part of the complaint not referred to the other recognised body or authorised person, in accordance with these Complaint Resolution Procedures.

4.4 ~~4.2~~ Where the Clearing House considers that it has received a ~~Complaint~~complaint which is not an Eligible Complaint, it will inform the Complainant that it proposes not to investigate the ~~Complaint~~complaint for the reason specified as soon as possible and in any event within 15 Business

Days (other than in the cases where the process described in paragraph 3.6 takes place, when the period will end 15 Business Days after the end of the four week period specified in paragraph 3.6). Within 15 Business Days of receiving such notification, the Complainant may require the Clearing House to refer the ~~Complaint~~complaint to the Commissioner. If the Commissioner considers the ~~Complaint~~complaint to be an Eligible Complaint, he will require the Clearing House to investigate the matter.

4.5 ~~4.3~~ Having received an Eligible Complaint, the Clearing House will appoint as Investigator a suitably senior member of staff ~~of the Clearing House~~ who has not previously been involved in the matter and who is not the subject of the ~~Complaint~~Eligible Complaint and who has had no personal interest or involvement in the matter (other than as a result of he or she being an employee or appointee of the Clearing House), who is not otherwise conflicted. The Clearing House will notify the Complainant of that appointment, including the name and job title of the Investigator, within 15 Business Days of receiving the Eligible Complaint (other than in the cases where the process described in paragraph 3.6 takes place, when the period will end 15 Business Days after the end of the four week period specified in paragraph 3.6).

4.6 ~~4.4~~ In considering whether ~~a~~an Eligible Complaint made against the Clearing House is upheld, the Investigator must consider whether the Clearing House's conduct, in relation to its regulatory functions as defined by s.291(3) of FSMA, amounted to:

- (a) a failure to act fairly;
- (b) a failure to perform its regulatory functions having regard to all the circumstances of the case;
- (c) a lack of care or a mistake; or
- (d) an act of fraud, bad faith or negligence.

If the Investigator finds that the Clearing House's conduct did amount to one of the behaviours listed at (a) to (d) above, the ~~Complaint~~complaint must be upheld in part or in whole. However, if the Investigator does not find that such conduct took place, the Eligible Complaint must be rejected.

4.7 ~~4.5~~ Where, in the opinion of the Clearing House, any Eligible Complaint is connected with or arises out of the same or similar facts or circumstances in respect of which an outstanding or otherwise unresolved ~~Complaint~~complaint has been made under these ~~Complaints~~Complaint Resolution Procedures, the Clearing House may, in its discretion and upon giving notice in writing to any Complainant or Complainants so concerned, join such Eligible Complaints so that they may be addressed in the same investigation and/or any final response. The Clearing House will not, in such circumstances, be required to disclose the identity of a Complainant or facts that in its opinion would be likely to reveal such a ~~person's~~Person's identity when notifying any individual Complainant of such a joinder ~~or in the~~. The Investigator will similarly not be required to disclose any such information when drafting his report. This paragraph ~~4.5~~4.7 shall not restrain any disclosure by the Clearing House under Rule 106.

4.8 ~~4.6~~ Where, in the opinion of the Clearing House, any Eligible Complaint is connected with or arises out of the same or similar facts or circumstances in respect of which there is an ~~on-going~~ongoing or otherwise unresolved disciplinary matter, delivery dispute, investigation, appeal, arbitration or court ~~proceedings~~proceeding, the Clearing House may, in its discretion and upon giving notice in writing to any Complainant or Complainants, delay consideration of the Eligible Complaint until the relevant matter is completed. Within 15 Business Days of any such matter being completed, the Clearing House will send written notification to the Complainant that the matter has been completed so that the Complainant can decide whether it wishes the investigation of the Eligible Complaint to proceed. The Complainant must notify the Clearing House in writing within 15 Business Days of receipt of that notification if it wishes the investigation of the Eligible Complaint to proceed.

- [4.9](#) ~~4.7~~ The Investigator will carry out an initial assessment of the time period that the Investigator considers will be required to complete his investigation. That assessment will consider, *inter alia*, the scope and complexity of the [Eligible](#) Complaint, the number of witnesses involved and the scale of any document collection and review. It is expected that the Investigator will produce a report on most [Eligible](#) Complaints within 12 weeks of the date of the notice of appointment of the Investigator having been sent to the Complainant. Where the Investigator determines that a longer period is required to complete the investigation, the Investigator will notify the Complainant of that longer period within 10 Business Days of the date of the notice of appointment of the Investigator having been sent to the Complainant.
- [4.10](#) ~~4.8~~ Where the Investigator is not able to complete his investigation within the relevant period of either: (i) 12 weeks; or (ii) any such longer period notified pursuant to paragraph ~~4.7~~[4.9](#), he will notify the Complainant no later than two weeks before the expiry of the relevant period and state when he expects to complete his investigation.
- [4.11](#) ~~4.9~~ If the investigation has not been resolved within the relevant period of either: (i) 12 weeks; (ii) any such longer period notified pursuant to paragraph ~~4.7~~[4.9](#); or (iii) any period for investigation extended pursuant to paragraph ~~4.8~~[4.10](#), the Complainant may request that the ~~Complaint~~[complaint](#) be referred to the Commissioner. The Complainant's request for referral must include the reasons for requesting referral of the [Eligible](#) Complaint to the Commissioner, a copy of which must be provided to the Clearing House. Within 10 Business Days of being provided with the Complainant's request for referral, the Clearing House must either (i) make submissions to the Commissioner, with a copy provided to the Complainant, as to ~~whether~~[why](#) the Clearing House should be permitted to conclude its own investigation of the [Eligible](#) Complaint before the Commissioner accepts the referral of the [Eligible](#) Complaint; or (ii) notify the Commissioner that it does not oppose the referral of the [Eligible](#) Complaint. Within 10 Business Days of receipt of submissions or notification from the Clearing House, the Commissioner will inform the Complainant and the Clearing House in writing whether he accepts the referral of the [Eligible](#) Complaint or defers it to allow the Investigator to complete his investigation, together with the reasons for that decision. Where the Commissioner defers acceptance of the referral, he will designate a date by which the investigation must be completed. If the investigation is not completed by the designated date, the Complainant may make a further request for referral of the [Eligible](#) Complaint to the Commissioner which will be subject to the procedure set out in this paragraph ~~4.9~~[4.11](#).
- [4.12](#) ~~4.10~~ Where the Complainant requests that the [Eligible](#) Complaint is referred to the Commissioner pursuant to paragraph ~~4.9~~[4.11](#), the Commissioner will delay consideration of the [Eligible](#) Complaint for a defined period in order to allow the Investigator to complete his investigation, if informed by the Clearing House that: (i) the [Eligible](#) Complaint arises from any form of continuing action, disciplinary proceedings, [delivery dispute, investigation](#), appeal or other process under Part 10 of the Rules; (ii) the [Eligible](#) Complaint shares its subject matter with ~~an~~[a disciplinary proceeding, delivery dispute, investigation, appeal](#), arbitration, ~~or court or disciplinary proceeding or other process under Part 10 of the Rules~~ which could affect the outcome of the ~~Complaint;~~[complaint](#); (iii) the Investigator will be able to complete his report within two weeks of the Complainant exercising its right to require referral of the [Eligible](#) Complaint to the Commissioner; or (iv) ~~it~~[the Eligible Complaint](#) relates to an Event of Default where default proceedings remain ongoing. The Commissioner will notify the Complainant in writing in any case where consideration of the [Eligible](#) Complaint is to be delayed.
- [4.13](#) ~~4.11~~ Where the Commissioner does investigate ~~an~~[an Eligible](#) Complaint in respect of which the Investigator has not completed his report, the Investigator will provide the Commissioner with any existing draft of his report and will cooperate with the Commissioner on the terms of paragraph 7.6.
- [4.14](#) ~~4.12~~ The Clearing House or the Investigator may obtain professional advice in assisting [with](#) and advising ~~with~~[on](#) any [Eligible](#) Complaint as appropriate. That advice will be solely for the benefit of the Clearing House and the Clearing House will not be required to waive any legal privilege over that advice.

## 5. RESULT OF THE INVESTIGATION

The Investigator will send the Clearing House and the Complainant a copy of his report outlining his conclusions together with any recommendations for remedial action. The remedial action ~~taken~~recommended may include, but is not ~~be~~-limited to, offering an apology, taking steps to rectify the error, ~~the offer of~~offering a compensatory payment on an *ex gratia* basis, or a combination of the above. If ~~an~~an Eligible Complaint is rejected, the Investigator will give his reason for doing so.

## 6. REFERRAL TO THE COMMISSIONER

6.1 The Complainant must notify the Clearing House in writing within 15 Business Days of receipt of the Investigator's report whether the Complainant rejects the Investigator's report and requires that the Eligible Complaint be referred to the Commissioner. If the Complainant wishes to refer the Eligible Complaint to the Commissioner, the Complainant must state the reason in writing for its continued dissatisfaction and rejection of the Investigator's report.

6.2 Failure by the Complainant to make such notification to the Clearing House within 15 Business Days will result in the Eligible Complaint not being referable to the Commissioner and ceasing to be an Eligible Complaint.

6.3 In requiring the Clearing House to refer any Eligible Complaint to the Commissioner pursuant to these ~~Complaints~~Complaint Resolution Procedures, the Complainant will be deemed to agree to be bound by and be subject to these ~~Complaints~~Complaint Resolution Procedures and, as a result, accepts that any recommendation made by the Commissioner to the Clearing House, if adopted by the Clearing House, will be in full and final resolution and settlement of the Eligible Complaint and all associated rights and claims. The Complainant therefore accepts and agrees that he cannot use any other dispute resolution procedure ~~whether by, appeal process, arbitration, mediation~~ or court process as provided in any other part of the Rules or the Clearing Membership Agreement.

## 7. THE COMMISSIONER'S INVESTIGATION

7.1 The Commissioner will acknowledge receipt of any ~~Complaint~~complaint referred to him within 15 Business Days of receipt, giving a proposed timetable for the completion of his investigation other than as provided in paragraph 7.2.

7.2 Where a ~~Complaint~~complaint has been referred to the Commissioner pursuant to paragraph ~~4.24.4~~, the Commissioner must determine as soon as practicable, and in any event within 15 Business Days of the referral of the ~~Complaint~~complaint, whether the ~~Complaint~~complaint is an Eligible Complaint. If the Commissioner determines that a ~~Complaint~~complaint is not an Eligible Complaint, he will give notice to the Complainant(s) and the Clearing House of his determination and will not be obliged to continue investigating the complaint.

7.3 ~~The~~Where the Commissioner has determined a complaint to be an Eligible Complaint, the Commissioner will produce a final response to the Eligible Complaint within 12 weeks of the date of the acknowledgement of receipt of the Eligible Complaint having been sent to the Complainant. However, where the Commissioner is unable to complete his investigation within that 12 week period, he will notify the Complainant and state when he expects the investigation will be completed.

7.4 In considering whether ~~an~~an Eligible Complaint made against the Clearing House is upheld, the Commissioner must consider whether the Clearing House's conduct, in relation to its regulatory functions as defined by s.291(3) of FSMA, amounted to:

- (a) a failure to act fairly;
- (b) a failure to perform its regulatory functions having regard to all the circumstances of the case;

- (c) a lack of care or a mistake; or
- (d) an act of fraud, bad faith or negligence.

If the Commissioner finds that the Clearing House's conduct did amount to one of the behaviours listed at (a) to (d) above, the [Eligible](#) Complaint will be upheld in part or in whole. However, if the Commissioner does not find that such conduct took place, the ~~Complaint~~[complaint](#) will be rejected.

- 7.5 Where, in the opinion of the Commissioner, any Eligible Complaint referred to him is connected with or arises out of the same or similar facts or circumstances as another Eligible Complaint already referred to him, he may, in his discretion and upon giving notice in writing to any Complainants so concerned, join such Eligible Complaints so that they may be addressed in the same investigation and ~~or~~ any final response. The Commissioner will not disclose the identity of a Complainant or facts that would be likely to reveal such a ~~person's~~[Person's](#) identity when notifying any individual Complainant of such a joinder or ~~in his~~[when](#) drafting ~~of his~~ final response.
- 7.6 The Clearing House and the Complainant will each make every effort to provide the Commissioner with all reasonable cooperation, including access to its ~~staff~~[directors, officers, committees, employees and any other staff \(including, where appropriate, suppliers, contractors or other Persons to whom any function has been outsourced and their staff\)](#), documents, records and information except where to do so would jeopardise any legal privilege. However, the Clearing House and Commissioner will have regard to the confidentiality of information (such as that given to the Clearing House under confidentiality arrangements) as outlined in paragraph 11.
- 7.7 The Clearing House is not prevented from taking or continuing to take such action, or further action, as it considers appropriate during the investigation by the Commissioner in relation to any matter which is related in any way to a ~~Complaint~~[complaint](#) or Complainant.
- 7.8 If the appointed Commissioner is unable to consider the ~~Complaint~~[complaint](#) due to a conflict of interest, illness or other unavoidable commitments, the Commissioner must nominate an alternate, appointment of which alternate Commissioner is subject to the Clearing House's prior written approval. The [Clearing House will inform the](#) Complainant ~~will be informed~~ of any such appointment [in writing as soon as possible and in any event no later than 5 Business Days from the date of appointment.](#)
- 7.9 Any alternate Commissioner must himself meet the requirements for being the Commissioner and will be required to be bound by these ~~Complaints~~[Complaint](#) Resolution Procedures and to conduct the investigation on behalf of the Commissioner. The alternate Commissioner will have the same powers and rights as the Commissioner and must conduct the investigation in accordance with these ~~Complaints~~[Complaint](#) Resolution Procedures.
- 7.10 During the course of his investigation, the Commissioner may:
- (a) permit and/or request both the Complainant and the Clearing House to provide appropriate documentation, evidence as well as oral or written submissions in relation to any specific matters that arise in relation to the [Eligible](#) Complaint;
  - (b) make further requests of all relevant parties and/or take whatever action is considered appropriate which might assist in considering the [Eligible](#) Complaint and confirming its factual accuracy including, where reasonable and at the Clearing House's expense, appointing or seeking the advice of independent external advisers or experts;
  - (c) require the parties to co-operate; and
  - (d) otherwise, conduct the investigation as he sees fit.

7.11 The Commissioner may appoint a ~~person~~Person to conduct any part of an investigation on his behalf, but subject to his direction. That ~~person~~Person must be independent of the Clearing House and Complainant.

7.12 The Commissioner will ensure that, before he concludes an investigation and makes a report, any ~~person~~Person who may be the subject of criticism in it is given notice of, and the opportunity to respond to, that criticism. The Commissioner must take into account any representations made by such ~~persons~~Person.

## 8. RESULT OF THE INVESTIGATION

8.1 The Commissioner must prepare a report on his investigation and send it to both the Clearing House and the Complainant, giving reasons for any recommendations made. The Commissioner can recommend that the Clearing House takes remedial action including, but not limited to, offering an apology, taking steps to rectify the error, ~~the offer of~~offering a compensatory payment on an *ex gratia* basis, or a combination of the above. The Clearing House must consider the Commissioner's report and recommendations and inform the Commissioner and the Complainant in writing within 15 Business Days of receipt of the Commissioner's report, either of any steps it proposes to take in response to the report or giving of the reasons as to why it is not carrying out any recommended remedial action.

8.2 If the Commissioner upholds the Eligible Complaint, the Clearing House may, in its discretion, publish part ~~of~~for all of the Commissioner's report on its website or send it to all Clearing Members by Circular. Where the Clearing House chooses to publish part or all of the Commissioner's report, it may, at its discretion, publish only an anonymised version of that report.

8.3 The Clearing House may, where it considers appropriate to do so, disclose to third parties, such as other Regulatory Authorities, any information which it receives in connection with the ~~Complaint~~complaint or which ~~is~~it obtained from the Complainant in the course of a subsequent investigation. Such disclosures are subject to Rule 106 of the Rules.

8.4 The Clearing House may instigate disciplinary proceedings at any time as a result of the Clearing House's investigation or matters surrounding any ~~Complaint~~complaint.

## 9. RECORD-KEEPING

A copy of all documents and materials relating to ~~Complaints~~complaints must be sent by the Investigator and the Commissioner to the Clearing House. The Clearing House will retain such documents and materials for a minimum of ten years.

## 10. EXCLUSION OF LIABILITY

The Commissioner will not be liable to the Clearing House or any Complainant for any loss (direct or otherwise), damage or injury arising from any act, omission or negligence on his part, save in the case of fraud, death, personal injury or any other liability which by law cannot be excluded.

## 11. CONFIDENTIALITY

Subject to paragraph 8.3, the Investigator, the Commissioner, the Clearing House and any Complainant must each observe the strict confidentiality of the investigation of any ~~Complaint,~~all complaint. All information provided (to the extent it has not been made public in the Commissioner's report) and all communications made for the purpose of the investigation will be subject to Rule 106.





**(VII) GENERAL CONTRACT TERMS**

**INDEX**

**PART I: GENERAL CONTRACT TERMS**

1.	INTERPRETATION.....	1
2.	ECONOMIC TERMS.....	1
3.	STANDARD TERMS.....	1

*[Different first page setting changed from off in original to on in modified.]*

## INTRODUCTION

These Contract Terms Procedures set out certain terms and conditions of Contracts. The terms described in Part I (General Contract Terms) below apply to Contracts as part of their Contract Terms. Part I of these Contract Terms Procedures applies: (i) in relation to all F&O Contracts; and (ii) in relation to CDS Contracts and FX Contracts to the extent specified in the CDS Procedures and FX Procedures respectively.

Certain other Contract Terms: (i) for ~~ICE Endex F&O~~ Contracts are set out in the ~~ICE Endex~~ relevant Market Rules; (ii) for ~~ICE Futures Europe~~ Contracts are set out in the ~~ICE Futures Europe~~ Rules; (iii) for ~~ICE Futures US~~ Contracts are set out in the ~~ICE Futures US~~ Rules; (iv) for ~~Financials & Softs~~ Contracts are set out in the ~~LIFFE Rules or the ICE Futures Europe Rules, as applicable~~; (v) for CDS Contracts are set out in the CDS Procedures; and (vi) for FX Contracts are set out in the FX Procedures; (vii) for ~~ICE Endex UK~~ Contracts are set out in the ~~ICE Endex UK~~ Rules; (viii) for ~~ICE Natural Gas Continental Spot~~ Contracts are set out in the ~~ICE Endex Continental~~ Rules; and (ix) for ~~IFAD~~ Contracts are set out in the ~~IFAD~~ Rules. See the definition of "Contract Terms" for further details.

## PART I: GENERAL CONTRACT TERMS

### 1. INTERPRETATION

1.1 Words and expressions used in this Part shall have the same meaning as in the Rules, unless otherwise expressly defined in this Part.

### 2. ECONOMIC TERMS

2.1 The economic terms of a Contract ("Economic Terms") shall be derived from the information presented to the Clearing House in relation to the corresponding Transaction in accordance with the Rules.

2.2 The Economic Terms comprise:

- (a) proposed Selling Counterparty (or fixed rate payer) (but excluding the identity of the Clearing House as Seller pursuant to any Contract) or proposed Buying Counterparty (or floating rate payer) (but excluding the identity of the Clearing House as Buyer pursuant to any Contract);
- (b) Contract Set;
- (c) quantity;
- (d) delivery date or period (where applicable);
- (e) settlement date (where applicable);
- (f) exercise date (where applicable);
- (g) fixed price or traded price (as the case may be); and
- (h) floating price (where applicable).

2.3 The Clearing House and Clearing Member shall pay when due all amounts that fall due for payment pursuant to the Economic Terms or otherwise pursuant to the Contract Terms.

### 3. STANDARD TERMS

3.1 The following standard terms ("**Standard Terms**") shall apply to all Contracts:

*[Different first page setting changed from off in original to on in modified.]*

*[Different first page setting changed from off in original to on in modified.]*

## CONTRACT TERMS

### (a) **Payment of stamp duty and other taxes**

- (i) All payments due under a Contract shall be made by the Clearing Member free and clear and without deduction or withholding for or on account of any tax, unless required by Applicable Law. If such a deduction or withholding is required by Applicable Law to be made by a Clearing Member, the amount due from the Clearing Member shall be increased to an amount which (after making such deduction or withholding) leaves an amount equal to the payment which would have been due had no deduction or withholding been required.
- (ii) The Clearing Member will be responsible for ensuring that any stamp duty or other similar tax levied or imposed upon it or its Customer in respect of any Contract to which it is a party that is applicable in any jurisdiction is duly paid.
- (iii) The Clearing House shall make any payments due to a Clearing Member net of any deduction or withholding for or on account of any tax it is required to make from such payments.
- (iv) The Clearing Member shall indemnify the Clearing House against any stamp duty or other tax levied or imposed upon the Clearing House in any jurisdiction in respect of the Clearing House's entry into, execution or performance of, or payment or delivery pursuant to, any Contract.

### (b) **Payments**

- (i) The Clearing House shall effect daily settlement to market of Contracts and shall calculate Open Contract Positions in accordance with the Rules. The Exchange Delivery Settlement Price, Strike Price and any other relevant prices (where applicable) shall be determined in accordance with the Rules and Market Rules.
- (ii) Payments under, and in respect of, each Contract shall be calculated by the Clearing House and shall be made by, or to, the Clearing Member in accordance with the Rules.
- (iii) Each instruction made by the Clearing House to an Approved Financial Institution pursuant to Rule 302 shall be deemed to be made pursuant to the Contract Terms for each Contract of a Set for which a Clearing Member has an Open Contract Position. In respect of each Contract and instruction under Rule 302, the Clearing Member shall be deemed to make instructions to the Clearing House to place at the disposal of the Clearing House, by way of book entry on the accounts of the Clearing House or an Approved Financial Institution, all amounts as are or become payable pursuant to the Contract, all amounts due in respect of Margin for Contracts of the relevant Set and all amounts as are instructed by the Clearing House in connection with the Contract or Contract Set pursuant to Rule 302.

### (c) **Rules**

- (i) Each Contract shall be subject to the Rules, which shall form a part of and be incorporated by reference into, the Contract Terms. In the event of any conflict between the Contract Terms and the Rules or any other document, Rule 102(f) shall apply.
- (ii) In particular, in respect of each Contract, the Clearing Member and Clearing House shall:

*[Different first page setting changed from off in original to on in modified.]*

[Different first page setting changed from off in original to on in modified.].

## CONTRACT TERMS

- (A) observe, comply with and be bound by the Rules (as amended in accordance with the Rules from time to time);
- (B) be subject to and bound by all of the provisions, dispositions, transfers and requirements of the Rules in relation to payment, title, rights, obligations, liabilities, property (whether tangible or intangible) and Margin;
- (C) be subject to and bound by all representations, warranties, agreements and acknowledgements that arise pursuant to the Rules from time to time;
- (D) be subject to any requirement imposed as a result of a request, decision, determination, direction, sanction, requirement, award or discretion that the Clearing House is entitled to make, exercise or impose pursuant to the Rules;
- (E) be responsible for the actions and omissions of its Representatives as set out in the Rules; and
- (F) if an Event of Default is declared in respect of it, to be bound by the Rules as a Defaulter.

### (d) **Customers and Third Party Rights**

- (i) Except as otherwise provided in the Rules for FCM Clearing Members, each party will act as principal and not as agent in respect of each Contract (in the case of the Clearing Member, whether such Contract is for the Clearing Member's own account or is undertaken as a result of an order from another member of a Market or from a Customer or from any other person or arises as a result of a pre-existing contract of, or obligation of the Clearing Member towards, any third party).
- (ii) Clearing Member represents and warrants that a contractually binding agreement is in place with any Customer in respect of whom it acts as Clearing Member in relation to any Contract, pursuant to which such Customer agrees that: (i) (only if the Clearing Member is not an FCM Clearing Member), the Clearing Member acts as principal in respect of the Contract; and (ii) the Customer has no recourse, whether under contract, tort or otherwise under Applicable Laws, against the Clearing House in respect of the Contract or pursuant to the Rules.
- (iii) The Clearing Member acknowledges and agrees that the Clearing House does not have any obligations to Persons other than Clearing Counterparties, as set out further in Rule 111. Contractual and other provision for any consequences for a Customer or counterparty (other than the Clearing House) of the Clearing Member of any Contract arising, existing or being settled or subject to delivery between the Clearing House and the Clearing Member (including, without limitation, effective and enforceable arrangements for any Corresponding Contract or Agency Relationship with any Customer and Transferor/Transferee arrangements) shall not be the responsibility of the Clearing House.
- (iv) A person who is not a party to a Contract shall have no rights under or in respect of such Contract. Rights of third parties to enforce any term of any Contract pursuant to the Contracts (Rights of Third Parties) Act 1999 or otherwise are expressly excluded.

### (e) **Offer, Acceptance and Formalities**

- (i) The parties agree that each Contract that is not void *ab initio* shall be deemed to have been subject to an offer by the Clearing House accepted by the Clearing Member

[Different first page setting changed from off in original to on in modified.].

*[Different first page setting changed from off in original to on in modified.]*

## CONTRACT TERMS

immediately upon its formation pursuant to the Rules. No Contract shall require any written instrument or document be signed, delivered or executed or electronic or other entry to be made in any record or book in order for it to arise and become binding on the parties, save as specified in Part 4 of the Rules.

- (ii) Notwithstanding (i) above, if at any time, it is necessary or desirable to better implement or protect the rights and obligations of any party to a Contract, each party shall, at its own expense, use all reasonable endeavours to enter into and execute all documents reasonably required to so implement or protect. In such circumstances, each party shall also procure that any necessary third party shall promptly execute and deliver such documents and perform such acts as may reasonably be required for the purpose of giving full effect to any Contract.

(f) **Warranties**

The Clearing Member represents and warrants that:

- (i) neither the execution nor performance of the Contract by or on behalf of the Clearing Member or the Clearing House will breach or conflict with any provision of the memorandum of incorporation, articles of association, by-laws, partnership agreement, limited liability company agreement or any other organisational document of the Clearing Member, or with any agreement or Applicable Law which is binding upon or affects the Clearing Member;
- (ii) the Clearing Member and signatories acting on its behalf each have full power and all necessary authority to enter into the Contract and perform any act that may be required pursuant to the Contract and pursuant to the Rules in respect of the Contract; and
- (iii) the Clearing Member has complied with its obligations as a Clearing Member, is duly organised and validly existing under Applicable Laws of the jurisdiction of its incorporation and is in good standing under such Applicable Laws.

The Clearing Member acknowledges that the Clearing House will not review nor be responsible for reviewing any provision of the Clearing Member's memorandum of incorporation, articles of association, by-laws, partnership agreement, limited liability company agreement or any other organisational document of the Clearing Member, any agreement to which the Clearing Member is party or any Applicable Law which is binding upon or affects the Clearing Member with a view to determining the authority of the Clearing Member to enter into any Contract.

(g) **Assignment and transfer**

No Clearing Member may, at any time, assign any of its rights or transfer by novation any of its rights and obligations under any Contract to a third party unless (i) such transfer occurs pursuant to the Rules; or (ii) the Clearing House provides its prior written consent. Each Contract shall bind, and enure to the benefit of, the parties and their authorised successors and assignees.

(h) **Default Interest**

Interest shall be charged to the Clearing Member on any unpaid but due amount from the date on which the amount becomes due and payable until the date of payment at 1% above the rate per annum which is the cost (without proof or evidence of any actual cost) to the Clearing House if it were to fund or itself funded the relevant amount, compounded daily.

*[Different first page setting changed from off in original to on in modified.]*

*[Different first page setting changed from off in original to on in modified.]*

## CONTRACT TERMS

(i) **No Partnership or Agency**

Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent or principal of another party, nor authorise any party to make or enter into any commitments for or on behalf of any other party. This does not affect the relationship of agency between a Disclosed Principal Member and a Clearing Member which has appointed it or any relationship of agency between an FCM Clearing Member and its Customer.

(j) **Severance**

If any provision of a Contract (or part of any provision) is found by any Court or other Governmental Authority to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of that Contract, and the validity and enforceability of the other provisions of that Contract shall not be affected.

(k) **Liability**

The Clearing Member shall indemnify and hold harmless the Clearing House in respect of any Contract in accordance with the provisions of the Rules relating to indemnity and liability. The liability of the Clearing House and its Representatives under any Contract shall be subject to all the exclusions on liability set out in the Rules.

(l) **Disputes**

Any and all disputes arising out of or in connection with a Contract, including any dispute as to the existence, validity or termination of any Contract, shall be resolved pursuant to the dispute resolution procedures set out in Rule 117. In the event of any conflict between a provision of these Contract Terms and Rule 117, the provisions of Rule 117 shall prevail.

(m) **Termination**

The Contract shall terminate automatically only in accordance with and at the times specified in the Rules.

(n) **Governing Law**

These Contract Terms Procedures, and all non-contractual obligations arising out of or in connection with them, are governed by and shall be construed in accordance with English law and any Dispute under these Contract Terms Procedures will be subject to arbitration under Rule 117.

(o) **Waiver**

Any waiver of any right or consent under a Contract is only effective if it is in writing and signed by the waiving or consenting party, and applies only in the circumstances for which it is given and to the Contract concerned and shall not prevent the party who is giving it from subsequently relying on the relevant provision. No delay or failure to exercise any right under a Contract shall operate as a waiver. No single or partial exercise of any right under a Contract shall prevent any further exercise of the same or any other right under that Contract or any other Contract.

(p) **Entire Agreement**

The Clearing Member warrants to the Exchange and Clearing House that, in entering into each Contract, it does not rely on any statement, representation, assurance or warranty of the Exchange or Clearing House or any other party other than as expressly set out in the Contract

*[Different first page setting changed from off in original to on in modified.]*

*[Different first page setting changed from off in original to on in modified.]*

## CONTRACT TERMS

Terms. The Clearing Member agrees and undertakes to the Clearing House that its only rights and remedies available arising out of or in connection with a Contract or their subject matters shall be solely for breach of contract, in accordance with the Contract Rules. Nothing in this paragraph or elsewhere in the Contract Rules shall limit or exclude any liability for fraud, death or personal injury or for any other liability which by law cannot be excluded.

(g) Amendments

The terms of any Contract may be amended by the Clearing House in the same way as the Clearing House may amend the Rules, in accordance with Rule 109.

*[Different first page setting changed from off in original to on in modified.]*