

VIA CFTC PORTAL

26 November 2019

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

## **LCH Limited Self-Certification: SwapClear Transfers**

Dear Mr Kirkpatrick

Pursuant to CFTC regulation §40.6(a), LCH Limited (“LCH”), a derivatives clearing organization registered with the Commodity Futures Trading Commission (the “CFTC”), is submitting for self-certification amendments to the SwapClear transfer rules to align with current operational processes.

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

SwapClear allows its clearing clients to request transfers of positions and associated collateral. Currently, Procedures Section 2C (SwapClear Clearing Service) states that if such a transfer request does not lead to a change in beneficial ownership of the underlying contracts, SwapClear will also transfer the aggregate balance of variation margin, next day settlement coupons and fees. While this is true in the majority of cases, there could be scenarios where this would not happen. The proposed rule change removes the ambiguity related to this situation by removing this paragraph. This proposal impacts Clients of both SwapClear Clearing Members and FCM Clearing Members, however, no changes are required to the FCM rulebook as the portfolio transfer section of the FCM rulebook cross-refers to the relevant section of the SwapClear Procedures noted above.

The rule changes will go live on, or after, 12 December 2019.

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

The paragraph related to transfer of the aggregate balance of variation margin, next day settlement coupons and fees in Section 1.15.8 of Procedure Section 2C (SwapClear Clearing Service) has been deleted.

The texts of the rule changes are attached hereto as:

- i. **Appendix I**, Procedures Section 2C

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

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

#### **Part IV: Public Information**

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

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

#### **Part V: Opposing Views**

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

#### **Certification**

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

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

Yours sincerely

  
Julian Oliver  
Chief Compliance Officer  
LCH Limited

**Appendix I**  
Procedures Section 2C



**LCH LIMITED**

**PROCEDURES SECTION 2C**

**SWAPCLEAR CLEARING SERVICE**

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#### 1.15.6 *Rejection of Transfer Request*

For purposes of paragraph (i) of Section 1.15.5 above, the Carrying Clearing Member may be entitled to reject a particular Transfer Request by notifying the Clearing House (in either electronic or written form as prescribed by the Clearing House) only if:

- (a) the Eligible Transferor has failed to satisfy all outstanding obligations that are due and payable to the Carrying Clearing Member and/or its Affiliates, including any requirement for additional collateral that may result from the proposed transfer, where, with the respect to obligations owed to Affiliates of the Carrying Clearing Member by an Eligible Transferor, “**obligations**” shall consist only of those obligations that arise as a result of cross-margining, cross-netting or other similar arrangements with respect to the Transferring SwapClear Contracts of that Eligible Transferor that are being transferred or that Eligible Transferor’s related collateral;
- (b) the transfer of the Transferring SwapClear Contracts of that Eligible Transferor would result in the Eligible Transferor breaching exposure limits with, and/or other risk parameters set by, the Carrying Clearing Member and/or its Affiliates; or
- (c) such rejection is in accordance with terms agreed as between the Carrying Clearing Member and the relevant Eligible Transferor.

#### 1.15.7 *Right to Call Collateral*

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

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

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

solely in connection with the Permitted Transfer. Once the relevant Associated Collateral Balance(s) of the transfer have been notified by the Clearing House to the Receiving Clearing Member, the Receiving Clearing Member may elect to reject the transfer of some or all of such Associated Collateral Balance(s).

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

~~Where: (i) the Clearing House transfers an Associated Collateral Balance pursuant to these Procedures and the Regulations; or (ii) a Permitted Transfer that is an Intra-Day Bulk Transfer does not lead to a change in beneficial ownership, the Clearing House will also transfer the aggregate balance held in respect of variation margin and next day settlement coupons and fees associated with the Transferring SwapClear Contracts, and such transfer shall be reflected in the relevant Clearing Member reports.~~

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

- (a) In respect of an Associated Collateral Balance that is subject to a Deed of Charge entered into between the Carrying Clearing Member and the Clearing House, such transfer shall be effected as follows:
  - (i) the Carrying Clearing Member shall relinquish all rights to such Associated Collateral Balance (including, for the avoidance of doubt, any beneficial interest and/or equity of redemption in respect thereof);
  - (ii) such Associated Collateral Balance shall immediately upon such relinquishment be held by the Clearing House on behalf of the Receiving Clearing Member;
  - (iii) where the Receiving Clearing Member is not an FCM Clearing Member, its rights to such Associated Collateral Balance arising as described in sub-paragraph (a)(ii) above shall become, in respect of the Transferring SwapClear Contracts, subject to the relevant Deed of Charge entered into between the Receiving Clearing Member and the Clearing House (such