

**VIA EMAIL TO: [SECRETARY@CFTC.GOV](mailto:SECRETARY@CFTC.GOV)**

29 April 2013

Ms. Melissa Jurgens  
Commodity Futures Trading Commission  
1155 21<sup>st</sup> Street NW  
Three Lafayette Centre  
Washington DC 20581

Dear Ms. Jurgens:

Pursuant to CFTC regulation §40.6(a), LCH.Clearnet Limited (“LCH.Clearnet”), a derivatives clearing organization registered with the Commodity Futures Trading Commission (the “CFTC”), is submitting for self-certification rule amendments which clarify LCH.Clearnet’s right to eject cleared contracts that result from the registration of ineligible transactions, for the ForexClear and EnClear services. The rulebook changes will be implemented on 14 May 2013.

The submission cover sheet and rulebook changes are attached hereto as appendices.

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

The rule changes clarify that LCH.Clearnet’s right to eject a cleared contract that results from the registration of an ineligible transaction being presented for clearing and subsequently being accepted by the Clearing House in error, arises only where such transaction was ineligible as it did not meet certain clearly published product eligibility criteria as set out in the General Regulations and FCM Regulations (as applicable). LCH.Clearnet cannot eject a cleared contract under General Regulation 73A(f), FCM Regulation 30(f), or FCM Regulation 50(f), as a result of a clearing member not meeting a membership requirement or an alternative registration condition not being met but being applicable at the time the transaction was presented.

#### **Part II: Description of rule changes**

The General Regulations are modified with the insertion of a definition, and clarifying language in Regulation 73A(f).

The FCM Regulations are modified with clarifying language in Regulation 40(f), and Regulation 50(f).

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

This rule change complies with the requirement of Core Principle D (Risk Management) and the principle of clearing certainty by clarifying the limited circumstances in which a registered trade can be ejected from the clearinghouse as ineligible.

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

LCH.Clearnet has posted a notice of pending certification with the CFTC and a copy of the submission on LCH.Clearnet’s website at: [http://www.lchclearnet.com/rules\\_and\\_regulations/ltcd/proposed\\_rules.asp](http://www.lchclearnet.com/rules_and_regulations/ltcd/proposed_rules.asp).

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

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



## **Certification**

LCH.Clearnet Limited 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 [laurian.cristea@lchclearnet.com](mailto:laurian.cristea@lchclearnet.com).

Yours sincerely,

A handwritten signature in blue ink, appearing to be 'Laurian Cristea', enclosed within a blue oval scribble.

Laurian Cristea  
Senior Vice President, Compliance & Regulation  
US Contact: +1 212.513.5610

**Appendix I**

**Appendix II**

- ForexClear Eligibility Criteria* - With regard to ForexClear Transactions, the **product criteria** [Product Eligibility Criteria](#) set out in [Section 2 of](#) Part B of the Schedule to the ForexClear Regulations.
- ForexClear Matcher* A party which has been notified in writing by the Clearing House to ForexClear Participants from time to time as being a matching provider for the ForexClear Service.
- ForexClear Participants (FXPs)* - ForexClear Clearing Members, and ForexClear Dealers, and “ForexClear Participant” means either of them.
- ForexClear Regulations* - The Regulations entitled as such, applicable to ForexClear Contracts only, from time to time in force.
- ForexClear Service* - The service provided by the Clearing House under the ForexClear Regulations.
- ForexClear Transaction* - A contract, meeting the ForexClear Eligibility Criteria for registration as a ForexClear Contract, entered into between two ForexClear Clearing Members, of which particulars are presented to the Clearing House for registration in the name of ForexClear Clearing Members in accordance with the Regulations. In addition, a ForexClear Transaction shall include an FCM ForexClear Transaction where the relevant ForexClear Clearing Member is an Executing Party.
- GC Trade* - A €GC Trade or a SGC Trade.
- Hedged Account* - Has the meaning assigned to it in the FCM Regulations.
- HKMEx* - The Hong Kong Mercantile Exchange Limited of 1905 International Commerce Centre, 1 Austin Road West, Kowloon, Hong Kong, and such of its affiliates as may operate the HKMEx Trading System from time to time.
- HKMEx Contract* - A Contract entered into by the Clearing House with a HKMEx Service Clearing Member pursuant to the HKMEx Regulations.
- HKMEx Contract Terms* - The terms of a HKMEx Contract as set out in the HKMEx contract specification provided in HKMEx's Rules.
- HKMEx Eligible Product* - A product prescribed from time to time by the Clearing House as eligible for the HKMEx Service.
- HKMEx Non-Clearing Member* - A person other than a HKMEx Service Clearing Member who is party to an agreement with HKMEx allowing such person to be a participant in the HKMEx Trading System and subjecting such person to the provisions of HKMEx's Rules.
- HKMEx Participants* - HKMEx Service Clearing Members and HKMEx Non-Clearing Member.
- HKMEx Regulations* - The Clearing House's Regulations applicable to HKMEx Contracts from time to time in force.
- HKMEx's Rules* - The rules, practices, procedures, trading protocols and arrangements of the HKMEx Trading System as may be

**Regulation 73A** Registration of LCH EnClear OTC Contracts

- (a) An LCH EnClear OTC Clearing Member must submit particulars of an Eligible OTC Trade for registration as an LCH EnClear OTC Contract, through such means as shall be prescribed by the Procedures.
- (b) Without prejudice to the Clearing House's rights under paragraph (f) of this Regulation, an LCH EnClear OTC Clearing Member shall be bound by an LCH EnClear OTC Contract registered in its name pursuant to the presentation of particulars of an Eligible OTC Trade by it or on its behalf, or by an Approved Broker or presented by another LCH EnClear OTC Clearing Member provided that the particulars of such Eligible OTC Trade are submitted to the Clearing House through such means as shall be prescribed by the Procedures.
- (c) Without prejudice to the Clearing House's rights under paragraph (f) of this Regulation, an Eligible OTC Trade, particulars of which are submitted for registration as an LCH EnClear OTC Contract, must meet the eligibility criteria prescribed in these Regulations and the Procedures at the time the particulars of such Eligible OTC Trade are presented to the Clearing House and must continue to meet such criteria at the Registration Time in order to be registered as an LCH EnClear OTC Contract.
- (d) The Clearing House shall be deemed to register an LCH EnClear OTC Contract, in accordance with Regulation 73A in the name of an LCH EnClear OTC Clearing Member at the time prescribed in the LCH EnClear Procedures ("Registration Time").
- (e) For the avoidance of doubt, any transaction of which details have been submitted by or on behalf of, a LCH EnClear OTC Clearing Member or by an Approved Broker for registration as an LCH EnClear OTC Contract which is not so registered shall remain in effect or be terminated, as the case may be, according to any terms agreed between the parties thereto, and the Clearing House (and each other member of the LCH.Clearnet Group and their respective officers, employees and agents) shall have no obligations or liability in relation thereto.
- (f) If at any time after registration of an LCH EnClear OTC Contract the Clearing House determines that the corresponding transaction of which details were submitted for registration ~~was not an Eligible OTC Trade or~~ did not, at the Registration Time, meet the ~~eligibility criteria for registration as an LCH EnClear OTC Contract~~[Product Eligibility Criteria set out in Section 1.2 of Part B of the Schedule to the EnClear OTC Regulations](#), the Clearing House shall, as soon as practicable thereafter, set aside such LCH EnClear OTC Contract. Upon the LCH EnClear OTC Contract being set aside under this Regulation 73A(f), the particulars of the transaction in question shall be deemed never to have been submitted to the Clearing House and such transaction shall remain in effect or be terminated, as the case may be, in accordance with any terms agreed between the parties thereto. Any payment made under, or in respect of, an LCH EnClear OTC Contract set aside under this paragraph shall be repayable to the person who made the payment. Without prejudice to Regulation 39 and its obligations under this Regulation 73A(f), the Clearing House (and each other member of the LCH.Clearnet Group and their respective officers, employees and agents) shall have no liability whatsoever to any person arising out of or in respect of the registration by it in error or otherwise of an LCH EnClear OTC Contract in respect of a transaction which did not meet the eligibility criteria at the Registration Time to enable it to be registered as an LCH EnClear OTC Contract.

- (f) Ineligible Registered FCM ForexClear Transactions.
- (i) If at any time after registration of an FCM ForexClear Contract, the Clearing House determines that the corresponding FCM ForexClear Transaction of which details were submitted for registration did not, at the Registration Time, meet the ~~eligibility criteria~~ [Product Eligibility Criteria set out at Section 2 of Part B of Schedule B](#) for registration as an FCM ForexClear Contract ~~pursuant to the FCM Rulebook~~ in existence at the Registration Time (such an FCM ForexClear Transaction, an “*Ineligible FCM ForexClear Transaction*”), the Clearing House shall, as soon as practicable thereafter set aside such FCM ForexClear Contracts (or the FCM ForexClear Contract and the Non-FCM ForexClear Contract, as the case may be).
- (ii) Ineligible FCM ForexClear Transactions. Upon an FCM ForexClear Contract being set aside under subsection (i) above (such set aside contract, an “*Ineligible FCM ForexClear Contract*”), the Clearing House will notify the FCM Clearing Member party to such Ineligible FCM ForexClear Contract via the ForexClear Matcher that such Ineligible FCM ForexClear Contract has been set aside. The following shall take effect immediately upon the delivery of such notice: (A) such Ineligible FCM ForexClear Contract shall be deemed to be terminated at the time of the notification and shall thereafter have no force or effect; (B) all Variation Margin (if any) paid by the Clearing House or by an FCM Clearing Member in respect of such Ineligible FCM ForexClear Contract shall be retained by the receiving party upon termination; (C) where there is a difference between the value of the Ineligible FCM ForexClear Contract as at the last margin run and the value (as determined by the Clearing House) of that Ineligible FCM ForexClear Contract at the time of the next official settlement rate for the relevant currency pair, then a payment shall be made between the FCM Clearing Members (or one FCM Clearing Member and one Non-FCM Clearing Member, as the case may be) to the original Ineligible FCM ForexClear Transaction equal to such difference; and (D) these payments shall be deemed to satisfy in full the relevant party’s obligations under the Ineligible FCM ForexClear Contract and shall be retained by the receiving party upon termination in accordance with clause (A) of this paragraph as a termination payment.

The Clearing House may not determine an FCM ForexClear Transaction to be an Ineligible FCM ForexClear Transaction after the Valuation Date (as defined in Part A of Schedule B to these FCM Regulations) in respect of the FCM ForexClear Contracts arising from the registration of such FCM ForexClear Transaction has occurred.

The Clearing House shall provide no less than 10 business days’ prior notice (including by email) to FCM Clearing Members providing FCM ForexClear Clearing Services of an amendment to the eligibility criteria for the registration of FCM ForexClear Contracts.

**PART IV – REGULATIONS APPLICABLE TO FCM ENCLEAR CONTRACTS****Regulation 50 Registration of FCM EnClear Contracts**

- (a) An FCM EnClear Clearing Member must submit particulars of an FCM EnClear Transaction for registration as an FCM EnClear Contract, through such means as shall be prescribed by the FCM Procedures.
- (b) Without prejudice to the Clearing House's rights under FCM Regulation 50(f), an FCM EnClear Clearing Member shall be bound by an FCM EnClear Contract registered in its name pursuant to the presentation of particulars of an FCM EnClear Transaction by it or on its behalf, or by an Approved Broker or presented by another FCM EnClear Clearing Member provided that the particulars of such FCM EnClear Transaction are submitted to the Clearing House through such means as shall be prescribed by the FCM Procedures.
- (c) Without prejudice to the Clearing House's rights under FCM Regulation 50(f), an FCM EnClear Transaction, the particulars of which are submitted for registration as an FCM EnClear Contract, must meet the eligibility criteria prescribed in these FCM Regulations and the FCM Procedures at the time the particulars of such FCM EnClear Transaction are presented to the Clearing House and must continue to meet such criteria at the Registration Time in order to be registered as an FCM EnClear Contract.
- (d) The Clearing House shall be deemed to register an FCM EnClear Contract, in accordance with this FCM Regulation 50 in the name of an FCM EnClear Clearing Member at the Registration Time.
- (e) For the avoidance of doubt, any transaction of which details have been submitted by, or on behalf of, an FCM EnClear Clearing Member or by an Approved Broker for registration as an FCM EnClear Contract which is not so registered shall remain in effect or be terminated, as the case may be, according to any terms agreed between the parties thereto, and the Clearing House (and each other member of the LCH.Clearnet Group and their respective officers, employees and agents) shall have no obligations or liability in relation thereto.
- (f) If at any time after registration of an FCM EnClear Contract the Clearing House determines that the corresponding transaction of which details were submitted for registration ~~was not an FCM EnClear Transaction or~~ did not, at the Registration Time, meet the ~~eligibility criteria~~ [Product Eligibility Criteria set out at Section 1.2 of Part B of Schedule C](#) for registration as an FCM EnClear Contract, the Clearing House shall, as soon as practicable thereafter, set aside such FCM EnClear Contract. Upon the FCM EnClear Contract being set aside under this FCM Regulation 50 (f), the particulars of the transaction in question shall be deemed never to have been submitted to the Clearing House and such transaction shall remain in effect or be terminated, as the case may be, in accordance with any terms agreed between the parties thereto. Any payment made under, or in respect of, an FCM EnClear Contract set aside under this paragraph shall be repayable to the person who made the payment. Without prejudice to FCM Regulation 24 and its obligations under this FCM Regulation 50(f), the Clearing House (and each other member of the LCH.Clearnet Group and their respective officers, employees and agents) shall have no liability whatsoever to any person arising out of or in respect of the