



**VIA EMAIL TO: SECRETARY@CFTC.GOV**

27 February 2014

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 LLC (“LCH.Clearnet”), a derivatives clearing organization registered with the Commodity Futures Trading Commission (the “CFTC”), submits for self-certification changes to its rulebook for the introduction of the Legally Segregation, Operationally Commingled Accounts with Excess (“LSOC with Excess”). These rulebook changes will be implemented and become effective on 14 March 2014.

Please find attached as appendices the Submission Cover Sheet, Matrix of Rulebook Changes, and the relevant changes to the LCH.Clearnet rulebook in blackline form.

**Part I: Explanation and Analysis**

LCH.Clearnet now seeks to amend its rules and related procedures in order to implement the LSOC with Excess model which will be offered in addition to the LSOC without Excess model.

**Establishing the FCM Client Sub Account Balance**

Under LSOC with Excess, the FCM is required in accordance with CFTC regulation § 22.13, at least once per day, to provide LCH.Clearnet with details of how much of the post haircut collateral value at the DCO should be allocated to each customer. In turn, LCH.Clearnet will base each FCM Client Sub Account balance on the amount of collateral allocated to the customer via the FCM’s most recent Collateral Value Report (“CVR”).

The protection provided to the FCM Client Sub Account balance under the LSOC with Excess model is the same as it would be under the LSOC without Excess model. A FCM Client Sub Account balance is used only to meet the initial margin requirements of that customer and, in the event of a default, can be used to cover the losses of that customer only. FCMs will be able to choose whether to adopt the LSOC with Excess model or the existing LSOC without Excess model.

**The Collateral Value Report or CVR**

In the daily CVR, an FCM will list a single USD value for each individual customer. The DCO will implement this post haircut amount as the FCM Client Sub Account balance for each customer. In order to determine if a CVR that an FCM has delivered is compliant, LCH.Clearnet will calculate the sum of all FCM Client Sub Account balances as reported by the FCM. This total must be no greater than the post-haircut value of all customer collateral delivered by the FCM, at that time, to



LCH.Clearnet. Essentially, LCH.Clearnet will determine the post-haircut value of all cleared swaps customer collateral delivered and it is up to the FCM to allocate that value to its clients. If an FCM has allocated more collateral to clients than it has actually delivered to LCH.Clearnet, the report will be rejected and the existing allocation maintained. Reports will also be rejected if client allocations are reduced to the point where a client would be under-margined and a margin call would be needed. It should be noted that FCMs are permitted to provide an updated CVR to LCH.Clearnet at any time throughout the operating day, as long as the report is compliant. CVRs must also contain details of the value of the FCM's buffer (see Preamble Section IV to CFTC Regulation Part 22). This "buffer" amount must always be less than or equal to the amount of the FCM's own assets that it has placed into segregation. Any value that is not allocated to a customer or the firm buffer is treated as Unallocated Excess.

### Margining

When an initial margin settlement is run, LCH.Clearnet will call for additional funds to the extent that customers are undercollateralized. On an intraday basis, the customer's FCM Client Sub Account balance, the FCM's buffer and any available tolerance provided to the FCM are available for the purpose of determining if a customer has sufficient cover to register new transactions. If not, the trade submitted for clearing will be rejected if it is a Block IRS Trade, as defined in the Rulebook. However, initial margin calls made as part of the end-of-day settlement will not be decreased by any tolerance, as FCMs must meet their gross margin requirement as part of the EOD margin settlement process each morning.

When initial margin is collected as part of a call, it must be immediately available to LCH.Clearnet to cover any potential losses, even if a CVR has not been provided. Therefore, the amount of margin called by LCH.Clearnet will be subject to an assumed allocation until a CVR is provided by the FCM. The assumed allocation is necessary so that LCH.Clearnet is able to use the called amount in the event that an FCM were to default prior to delivering a CVR that allocates the called amount. The assumed allocation will be tracked separately from a FCM Client Sub Account balance so that it is clear in the DCO's records to what extent the customer's margin requirement is covered by the assumed collateral allocation and not collateral allocated by the FCM in a CVR. In the event of an FCM default, this delineation would be made apparent to the FCM's Trustee.

The called amount will be allocated rateably to undermargined customers (based on the extent to which they are undermargined), and may be reallocated immediately by the FCM via delivery of a CVR. Until the FCM updates the CVR, LCH.Clearnet will treat the called amount allocated to each customer as "assumed customer property." This means that in the event of a default, the called amount could be used only to cover that customer's losses, but whatever is not required for covering losses would be treated as Unallocated Excess and returned to the Trustee of the defaulted FCM to be distributed.

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

The changes described above are reflected in numerous provision of the rulebook, and fully detailed in the attached Matrix of Rulebook Changes.

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

The rule amendments and other changes described above relate primarily to LCH.Clearnet's compliance with Core Principles D (Risk Management), E (Settlement Procedures), and F (Treatment of Funds). LCH.Clearnet has concluded that its compliance with Core Principles would not be adversely affected by these changes; and that the changes reflected herein will ensure continued compliance with these Core Principles and CFTC Regulation Part 22.

**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/lc/default.asp](http://www.lchclearnet.com/rules_and_regulations/lc/default.asp).

**Part V: Opposing Views**

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

**Certification**

LCH.Clearnet LLC hereby certifies to the Commodity Futures Trading Commission, pursuant to the procedures set forth in Commission regulation §40.6, that this 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,



Laurian Cristea  
Senior Vice President, Compliance & Regulation  
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**Appendix I**  
**Submission Cover Sheet**

**Appendix II**  
**Matrix of Rulebook Changes**

**Rulebook Matrix: Explanation of Changes to the LCH.Clearnet LLC ("LCH") rulebook in connection with the LSOC with Excess model and certain other changes.**

<b>Rulebook Reference:</b>	<b>Nature of change:</b>	<b>Additional Commentary:</b>
<b>Procedures</b>		
2A.3.5.2 2A.5.1	Conforming change. Correction.	<i>Collateral terminology. The 'L' account was included as part of the LSOC project. However, the description of the account is corrected to reflect that it is an internal record-keeping account.</i>
2A.12.5.1	Correction	<i>At the CFTC's request, we removed references to transfers of positions from Proprietary Accounts to client accounts upon a client default</i>
2A.13	Conforming change regarding Proprietary Account Positions Transfers of Affiliate positions.	<i>None.</i>
Appendix 2A.C Appendix 2A.C	Conforming change. Conforming change.	<i>Collateral terminology. Collateral terminology.</i>
3.2.5	Conforming change.	<i>Collateral terminology.</i>
3.4.4	Conforming and clarifying change.	<i>Collateral terminology. The interest/accommodation structure chart was clarified as only applying to Proprietary Accounts of FCM Clearing Members.</i>
Section 4 – Collateral	Certain conforming changes and amendments to reflect operational updates.	<i>Changes in this section relate primarily to terminology changes relating to the delivery and holding of collateral. In addition, as a result of feedback from Ops teams, certain sections have been updated.</i>
4.13	Inclusion of a new section dealing with the delivery and effect of the Collateral Valuation Report and the process for a clearing member to switch from a 'with excess' to a 'without excess' LSOC model.	<i>On a daily basis, clearing members are required to deliver a collateral valuation report (CVR) which details the value of collateral in each sub-account of the clearing member. 4.13 sets out the requirements in relation to the CVR and the associated obligations. In addition, 4.13.3 sets out the process for a clearing member to switch between the two types of available LSOC models.</i>
5.2.6	Conforming change.	<i>Collateral terminology.</i>

<b>Regulations</b>		
Regulation 103(b)	Clarifying change.	<i>None.</i>
Regulation 103(c)	Clarifying change.	<i>To clarify that the Omnibus Client Swaps Account with LCH shall be located in the United States in accordance with Regulation 22.8.</i>
Regulation 103(d)	Conforming change.	<i>Account terminology.</i>
Regulation 103(e)	Conforming change.	<i>Collateral and account terminology.</i>
Regulation 103(h)	Conforming change.	<i>Further conforming changes relating to the delivery and maintenance of collateral and certain other terminology has been refreshed in connection with Part 22 ('LSOC') of the CFTC Rules.</i>
Regulation 103(i)	Conforming change, clarifying change and correction.	<i>Account terminology.</i>
Regulation 103(j)	Conforming change.	<i>Account terminology.</i>
Regulation 106	Confirming change.	<i>Account terminology.</i>
Regulation 106A	New section dealing with the LSOC with Excess and LSOC without Excess and the provisions relating to both models.	<i>The former rules dealing with LSOC without Excess have been combined with LSOC with Excess and included in Regulation 9A.</i>
Regulation 108	Conforming change and correction.	<i>Collateral and account terminology</i>
Regulation 108(d)	Conforming change.	<i>Conforming changes related to Procedures section 2A.12.5.</i>
Regulation 112	Conforming change.	<i>Account terminology</i>
Regulation 117	Conforming change.	<i>Account terminology.</i>
Regulation 205	Conforming change.	<i>Account terminology.</i>
Regulation 401	Conforming change.	<i>Collateral and account terminology.</i>
Regulation 401(e)	Conforming and clarifying change	<i>To clarify that a SwapClear Transaction shall be extinguished upon registration of the corresponding SwapClear Contracts,</i>



**Appendix III**  
**Rulebook Changes**



## Definitions and Interpretation

### I. Definitions:

In the LCH.Clearnet LLC Rulebook (referred to herein as the “**Rulebook**”) the following words and expressions shall have the following meanings, except as the context may otherwise require:

“**Account Manager Executing Party**” means an Executing Party that is eligible under the CEA and the CFTC Regulations to execute Unallocated SwapClear Transactions.

“**Affiliate**” means, with respect to a Clearing Member, any entity that controls, is controlled by or is under common control with such Clearing Member, and the account of which, when carried by the Clearing Member, would be considered a proprietary account pursuant to CFTC Regulation 1.3(y) (or any such successor or replacement regulation).

“**AIP**” has the meaning assigned to it in Regulation 204(b)(iv)(A).

“**Allocation Notice**” has the meaning assigned to it in Regulation 401(m)(iii).

“**Amendment**” has meaning assigned to it in Regulation 321(a).

“**Approved Trade Source System**” means a system or facility, such as an exchange, a clearing house, a swap execution facility, a designated contract market, trade affirmation or routing system or other similar venue or system, approved by the Clearing House for presenting Transactions to the Clearing House. For the avoidance of doubt, the “SwapClear API” is not an Approved Trade Source System.

“**Available Buffer**” means, at any given time, (i) with respect to Buffer held in the Buffer Sub-Account of an Omnibus Client Swaps Account with LCH that is subject to the Without Client Excess Model, Buffer credited therein that is not Encumbered Buffer (as described in Regulation 106A(c)(ii)(A)), and (ii) with respect to Buffer held in the Buffer Sub-Account of an Omnibus Client Swaps Account with LCH that is subject to the With Client Excess Model, Buffer credited therein that is not being used by the Clearing House to offset Margin deficits in the relevant Client Sub-Account (as described in Regulation 106A(d)(iv)).

“**Auction**” means the process of bidding by Clearing Members for an Auction Portfolio prescribed by the Clearing House following consultation with the DMG from time to time in accordance with Regulation 204(b)(iii).

“**Auction Currency**” means in relation to an Auction, the currency of an Auction Portfolio which is the subject of that Auction.

“**Auction Losses**” has the meaning assigned to it in Regulation 204(b)(v)(B).

“**Auction Portfolio**” means (i) a Portfolio; or (ii) a group of Contracts resulting from the splitting of a Portfolio pursuant to Regulation 204(b) including any connected hedging trades concluded by the Clearing House through Risk Neutralization.

“**Automatic Early Termination Event**” means any event set forth in Regulation 203(h) to Regulation 203(o) which satisfies certain criteria (including but not limited to the

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jurisdiction of incorporation of a Clearing Member) that may from time to time be published by the Clearing House in a circular to Clearing Members.

“**Backload Registration Cycle**” has the meaning assigned to such term in the Procedures.

“**Backloaded Trade**” has the meaning assigned to such term in the Procedures.

“**Bankruptcy Code**” means the U.S. Bankruptcy Code.

“**Block IRS Trade**” means a trade the notional amount of which is at or above the minimum block size established by the CFTC pursuant to CFTC Regulation 43.6 for the interest rate asset class and in effect as of the date of submission of such trade to the Clearing House for registration.

“**Buffer**” has the meaning assigned to it in Regulation 106~~A(g)(iv)(Aa)~~.

“**Buffer Sub-Account**” has the meaning assigned to it in Regulation 106~~A(g)(iv)(Aa)~~.

“**Business Day**” means in respect of a Contract (except where specified otherwise in the relevant SwapClear Contract Terms), a day on which the Clearing House is open for business as set forth in the Procedures.

“**Capped Amount**” has the meaning assigned to it in Regulation 302(3).

“**Carrying FCM Clearing Member**” means an FCM Clearing Member carrying an account for a Client, and in respect of which the Contracts and Collateral attributable to such account may be transferred to a Receiving FCM Clearing Member pursuant to Regulation 108 and in accordance with the Procedures.

“**CEA**” means the Commodity Exchange Act.

“**CFTC**” means the Commodity Futures Trading Commission.

“**CFTC Regulations**” means the rules and regulations promulgated by the CFTC.

“**Cleared Swap**” means “Cleared Swap” as such term is defined in CFTC Regulation 22.1 (which, for the avoidance of doubt, shall for the purposes of the Rulebook be deemed to include Contracts).

“**Cleared Swaps Account Class**” means the account class for cleared swaps accounts (as defined in CFTC Regulation 190.01(a)(i)) for purposes of Part 190 of the CFTC Regulations and Section 4d(f) of the CEA.

“**Cleared Swaps Customer Account**” means “Cleared Swaps Customer Account” as such term is defined in CFTC Regulation 22.1.

“**Clearing End-User Notice**” means the “Clearing End-User Notice” as specified by the Clearing House from time to time and as published by the Clearing House on its website or otherwise.

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“**Clearing House**” means LCH.Clearnet LLC whose principal place of business is located at 17 State Street, 28<sup>th</sup> Floor, New York, NY 10004.

“**Clearing Member**” means a person that has been approved by the Clearing House as a “Clearing Member” and for the clearing of one or more categories of Contracts, in accordance with a Clearing Membership Agreement and the Rulebook.

“**Clearing Membership Agreement**” means the agreement so designated under which, inter alia, the Clearing House agrees to make available Clearing Services to a Clearing Member in respect of Contracts together with any ancillary agreements.

“**Clearing Services**” means SwapClear Clearing Services.

“**Client**” means a client of an FCM Clearing Member (but not including Affiliates of such FCM Clearing Member) with positions in Cleared Swaps, including Contracts, on behalf of which the FCM Clearing Member provides Clearing Services and clears Contracts; provided, that any such client is only a Client with respect to its positions in Cleared Swaps.

“**Client Business**” means the provision of Clearing Services by an FCM Clearing Member to its Clients.

“**Client Funds**” means all cash, securities, receivables, rights, intangibles and any other collateral or assets held by an FCM Clearing Member (i.e., not deposited with the Clearing House) on behalf of its Clients.

“**Client-~~Segregated~~ Sub-Account**” means an individual segregated sub-account on behalf of an individual Client, established on the books of the Clearing House as a sub-account of the relevant Omnibus Client Swaps Account with LCH of the relevant FCM Clearing Member, which shall reflect the relevant Margin balance attributable to such sub-account, and the relevant Contracts registered to such sub-account and carried for such Client by its FCM Clearing Member.

“**Client Sub-Account Balance**” means, at any given time, the Margin balance attributable to a Client-~~Segregated~~ Sub-Account of a Client, as determined by the Clearing House in accordance with the Rulebook. For the avoidance of doubt, a Client Sub-Account Balance at no time reflects the value of any Buffer (including Encumbered Buffer) or the value of any Unallocated Excess.

“**Collateral**” means the cash, securities or other collateral or assets deposited with or to be deposited with (as the context may require) the Clearing House by a Clearing Member or otherwise furnished or to be furnished (as the context may require) to a Clearing Member’s Proprietary Account or its Omnibus Client Swaps Account with LCH for the purpose of margining, guaranteeing and/or securing Contracts for such accounts. The Clearing House will only credit deposited securities or other noncash collateral or assets as Collateral to the extent such securities or other noncash collateral or assets are acceptable forms of collateral as set forth in the Procedures or as otherwise explicitly permitted by the Clearing House.

“**Consent Required Clearing Member**” has the meaning assigned to it in the Procedures.

“**Continuing Member**” has the meaning assigned to it in Regulation 316(b).

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“**Contract**” means a SwapClear Contract.

“**Contract Business**” means any transaction, obligation or liability arising out of any Contract.

“**Contract Terms**” means the SwapClear Contract Terms.

“**Contribution**” has the meaning assigned to it in Regulation 303(j).

“**Currency Participant**” means, in respect of a specific SwapClear currency, a Non-Defaulting Clearing Member who at the time the Clearing House declares a Default has SwapClear Contracts for that SwapClear currency registered in its name.

[“CVR” or “Collateral Value Report” has the meaning assigned to it in Regulation 106A\(d\)\(ii\).](#)

“**Deductible**” means, at the time of preparation of a Recourse Certificate, the Capped Amount as defined in Regulation 302(3).

“**Default**” means the issue, in respect of a Clearing Member, of a Default Notice as provided for by Regulation 202 or the occurrence, in respect of a Clearing Member, of an Automatic Early Termination Event.

“**Default Fund**” has the meaning assigned to it in Regulation 301(b).

“**Default Fund Regulations**” means the portion of these Regulations set out in Chapter 3.

“**Default Regulations**” means the portion of these Regulations set out in Chapter 2.

“**Default Loss**” has the meaning assigned to it in Regulation 305(b).

“**Default Management Process**” means the processes of the Clearing House outlined in the Default Regulations, as the same may be supplemented and/or amended from time to time in accordance with the Rulebook.

“**Default Management Process Completion Date**” means the date when the Default Management Process in relation to a Default has been completed as determined by the Clearing House in consultation with the DMG and notified to all Clearing Members.

“**Default Notice**” has the meaning assigned to it in Regulation 202.

“**Default Period**” has the meaning assigned to it in Regulation 303(a).

“**Defaulter**” or “**Defaulting Clearing Member**” means a Clearing Member in respect of whom either (i) the Clearing House has issued a Default Notice under Regulation 202 or (ii) an Automatic Early Termination Event has occurred.

“**Determination Date**” has the meaning assigned to it in Regulation 303(a).

“**Derivatives Clearing Organization**” means an organization designated and registered as such by way of 7 U.S.C.A. § 1a(15).

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“**DF Collateral Agent**” has the meaning assigned to it in Regulation 322(b)(i).

“**DF Security and Intercreditor Agreement**” has the meaning assigned to it in Regulation 322(b)(i).

“**DMG**” means the advisory Default Management Group which relates to both the SwapClear US Service and the SwapClear service of LCH.Clearnet Ltd., established jointly by the Clearing House and LCH.Clearnet Ltd. pursuant to the terms of Regulation 204(i) and the applicable provisions of the rules and regulations of LCH.Clearnet Ltd.

“**Economic Terms**” means that part of the SwapClear Contract Terms designated as Economic Terms by the Clearing House from time to time.

“**Eligible US Trading Venue**” means, in respect of a Clearing Member, a US Trading Venue for which the Clearing House’s records reflect that such Clearing Member has completed the Clearing House’s process for enabling the Clearing Member to be eligible to submit (or have submitted on its behalf) a transaction executed on such US Trading Venue to the Clearing House for registration.

“**Encumbered Buffer**” has the meaning assigned to it in Regulation 106(g)(iv)(A).

“**End of Day**” has the meaning assigned to it in Regulation 117(a)(i).

“**Equal Bid**” has the meaning assigned to it in Regulation 204(b)(iii)(E).

“**Excess Loss**” means the net sum or aggregate of net sums certified to be payable by a Defaulter by a Recourse Certificate less (x) the proportion of the Deductible applicable to Contract Business under Regulation 302(3) and (y) any sums then immediately payable in respect of Default Losses owed by such Defaulter by any insurer or provider of analogous services under any policy of insurance or analogous instrument written in favor of the Clearing House in relation to Default Losses.

“**Excess Margin**” means, (i) in respect of a Client-~~Segregated~~ Sub-Account, the amount (if any) by which the corresponding Client Sub-Account Balance exceeds the Required Margin applicable to the Contracts registered to such Client-~~Segregated~~ Sub-Account, and (ii) in respect of a Clearing Member’s Proprietary Account, the amount (if any) by which the Margin balance of such Proprietary Account exceeds the Required Margin applicable to the Contracts registered to such Proprietary Account, each as determined by the Clearing House in accordance with the Rulebook.

“**Executing Party**” means any party to a swap transaction (including swap transactions which are contingent on or pending clearing), whether executed bilaterally or on or through an Approved Trade Source System, that is presented to the Clearing House as a Transaction and with respect to which each party to such transaction applies to have its respective side of such transaction registered with the Clearing House (through a Clearing Member or on its own behalf as a Clearing Member, as applicable) as a Contract.

“**FCM**” means a futures commission merchant, as defined in the CEA and the CFTC Regulations thereunder, that is registered in such capacity with the CFTC.

“**FCM Clearing Member**” means a Clearing Member registered as an FCM and approved by the Clearing House to clear Contracts on behalf of Clients.

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cleared any Contracts before the most recent Determination Date prior to such assessment time but who commenced or will commence clearing Contracts after such Determination Date.

“**Non-Defaulters’ Contributions**” means the Contributions made by Non-Defaulting Clearing Members.

“**Non-Defaulting Clearing Member**” means any Clearing Member that is not a Defaulter.

“**Non-Porting Client**” has the meaning assigned to it in Section 2A.17.6 of the Procedures.

“**Non-Tolerance Amount**” has the meaning assigned to it in Regulation 303(g).

“**Non-Tolerance Contribution Amount**” has the meaning assigned to it in Regulation 303(i).

“**Non-Tolerance Weight**” has the meaning assigned to it in Regulation 303(h).

“**NPV**” means, at any given time, the mark-to-market value of a Contract, which shall be equal to its net present value, as determined by the Clearing House in its sole discretion in accordance with the Rulebook.

“**Omnibus Client Swaps Account with LCH**” means an omnibus account located in the United States and maintained on the books of the Clearing House in the name of an FCM Clearing Member for the benefit of its Clients, in which all Contracts cleared by such FCM Clearing Member on behalf of such Clients, and all associated Collateral and Margin, will be reflected on the books of the Clearing House. Each Omnibus Client Swaps Account with LCH is a book-entry account, the associated Collateral of which is contained in the LCH Swaps Client Segregated Depository Account. The Clearing House will establish Client-~~Segregated~~ Sub-Accounts within each Omnibus Client Swaps Account with LCH.

“**Omnibus Collateral Value**” means, at any given time in respect of an Omnibus Client Swaps Account with LCH, the aggregate Margin, as determined by the Clearing House in accordance with the Rulebook, attributable to such Omnibus Client Swaps Account with LCH (and regardless of whether such Margin is attributed to a Client Sub-Account, Buffer Sub-Account or Unallocated Excess Sub-Account.

“**Original Contributions**” has the meaning assigned to it in Regulation 204(b)(v)(C).

“**Permitted Depository**” means “Permitted Depository” as such term is defined in CFTC Regulations 22.1 and 22.4.

“**Porting Collateral**” has meaning assigned to it in Regulation 108(a).

“**Porting Contracts**” has meaning assigned to it in Regulation 108(a).

“**Portfolios**” means, in respect of each Contract currency, the Contracts in such currency registered in the name of a Defaulting Clearing Member, and, where relevant, includes any connected hedging trades concluded by the Clearing House through Risk Neutralization.

**“US Trading Venue Transaction”** means, in respect of a Clearing Member, a transaction recorded in the Clearing House’s systems (via applicable messaging from the relevant US Trading Venue, Approved Trade Source System or otherwise) as a transaction that was executed on a swap execution facility or designated contract market that, as at the time of such execution, was an Eligible US Trading Venue in respect of such Clearing Member.

**“Variation Margin”** means the amount payable by a Clearing Member to the Clearing House or by the Clearing House to a Clearing Member, as applicable, in respect of, and in the amount of, the Clearing House’s variation margin requirements (as published from time to time by the Clearing House) in respect of a Contract and with reference to the change in the NPV of such Contract over a particular period of time.

**“Voluntary Payment”** has the meaning assigned to it in Regulation 319.

**“Voluntary Payment Notice”** has the meaning assigned to it in Regulation 319.

**“Withdrawal Date”** means the date upon which the Clearing House determines to withdraw the SwapClear US Service, in accordance with the Rulebook.

**“With Client Excess Model”** has the meaning assigned to it in Regulation 106A(d).

**“Without Client Excess Model”** has the meaning assigned to it in Regulation 106A(c).

**“Worst Case Loss”** means, in respect of an Auction Portfolio or all of the Contracts of a Non-Defaulting Clearing Member denominated in a particular currency, the largest loss which could be incurred by the Clearing House in respect of the relevant group of Contracts, as determined by the Clearing House using the appropriate formula (which in the case of SwapClear Contracts is the SwapClear PAIRS margining algorithm) based on 1250 historical scenarios (5 years history) and a holding period of 5 days.

## Regulation 103 Client Business and Segregated Client Accounts

- (a) Subject to the provisions of the Rulebook, Clearing Services may be provided by an FCM Clearing Member to its Clients on any terms and conditions mutually agreed to by the FCM Clearing Member and the Client; provided, however, that each FCM Clearing Member shall, before providing Clearing Services to any Client, ensure that it has entered into an agreement with that Client, or an Addendum to an existing Agreement with such Client, which, in either case, binds the Client to the applicable provisions of the Rulebook by direct reference to the Rulebook or otherwise, and any such other provisions as shall be agreed from time to time between the Clearing House and Clearing Members, or as may be prescribed by the Clearing House. Upon the registration of a Contract at the applicable Registration Time on behalf of a Client, both the FCM Clearing Member and the applicable Client shall be bound by the obligations under the Rulebook in respect of the relevant Contract on the terms entered into between the FCM Clearing Member and the Clearing House automatically and without any further action by such FCM Clearing Member or Client, which such terms shall, without limitation, incorporate all applicable terms of the Rulebook and the applicable Contract Terms.
- (b) FCM Swaps Client Segregated Depository Accounts.
- (i) Each FCM Clearing Member shall establish and maintain one or more FCM Swaps Client Segregated Depository Accounts on behalf of its Clients, in accordance with applicable provisions of the CEA and the CFTC Regulations, including but not limited to Part 1, Part 22 and Part 190 of the CFTC Regulations, and as further set forth in the Rulebook. ~~The~~Each FCM Swaps Client Segregated Depository Account shall be maintained with a Permitted Depository in accordance with the CEA and the CFTC Regulations and the FCM Clearing Member may commingle ~~assets~~Client Funds of all of its Clients and other Cleared Swaps customers (provided that such assets are deposited or held in connection with Contracts or other Cleared Swaps) in such FCM Swaps Client Segregated Depository Account as a single omnibus account established and maintained in accordance with the CFTC Regulations. The FCM Swaps Client Segregated Depository Account maintained by each FCM Clearing Member shall be treated as part of the Cleared Swaps Account Class and shall be considered a Cleared Swaps Customer Account for purposes of the CFTC Regulations.
- (ii) Client Funds held in an FCM Swaps Client Segregated Depository Account that are deposited by a specific Client shall not be used to purchase, margin or settle any Contract, Cleared Swap or other trade or contract of, or to secure or extend the credit of, any person other than such Client.
- (iii) Client Funds held in an FCM Swaps Client Segregated Depository Account shall not be used to carry trades or positions of the same Client other than in connection with (A) Contracts or (B) other Cleared Swaps cleared through a Derivatives Clearing Organization other than the Clearing House.



- (c) Omnibus Client Swaps Account with LCH.
- (i) Each FCM Clearing Member shall establish and maintain an Omnibus Client Swaps Account with LCH on behalf of its Clients. Clearing Services may be provided by an FCM Clearing Member to its Clients, and Contracts may be entered into by an FCM Clearing Member with the Clearing House on behalf of its Clients only through an Omnibus Client Swaps Account with LCH. Each such Omnibus Client Swaps Account with LCH shall be treated as part of the Cleared Swaps Account Class and shall be considered a Cleared Swaps Customer Account for purposes of the CFTC Regulations. In accordance with CFTC Regulation 22.8, the situs of the Omnibus Client Swaps Account with LCH shall be located in the United States.
  - (ii) Omnibus Client Swaps Accounts with LCH shall be maintained and administered in accordance with the CEA and all applicable CFTC Regulations (including but not limited to Part 1, Part 22 and Part 190 of the CFTC Regulations) and as set forth in the Rulebook.
- (d) Clearing House Segregated Client Account; Client Sub-Accounts; Buffer Sub-Accounts.
- (i) The Clearing House shall establish and maintain an LCH Swaps Client Segregated Depository Account on behalf of Clients, in accordance with applicable provisions of the CEA and the CFTC Regulations, including but not limited to Part 1, Part 22 and Part 190 of the CFTC Regulations. The LCH Swaps Client Segregated Depository Account shall be maintained with a Permitted Depository in accordance with the CEA and the CFTC Regulations and the Clearing House may physically commingle all Collateral furnished on behalf of Clients in the LCH Swaps Client Segregated Depository Account in accordance with the CFTC Regulations. The LCH Swaps Client Segregated Depository Account shall be maintained by the Clearing House separately from any and all assets of the Clearing Members and any other assets that the Clearing House is holding in respect of any persons other than Clients, and shall contain no assets other than the Collateral furnished by FCM Clearing Members in connection with the clearing of Contracts on behalf of their Clients. The LCH Swaps Client Segregated Depository Account maintained by the Clearing House shall be treated as part of the Cleared Swaps Account Class and shall be considered a Cleared Swaps Customer Account for purposes of the CFTC Regulations.
  - (ii) The Clearing House shall establish and maintain on its books and records a Client-~~Segregated~~ Sub-Account in the name and on behalf of each Client of an FCM Clearing Member, as a sub-account of the Omnibus Client Swaps Account with LCH maintained for such FCM Clearing Member. The Clearing House shall reflect on its books and records the Contracts and Margin attributable to each Client-~~Segregated~~ Sub-Account, provided, that the books and records of the Clearing House in this regard shall be based solely on the information provided by the FCM Clearing Member, and the Clearing House shall have no obligation to verify any such information or to investigate independently any such information. Each Client-~~Segregated~~ Sub-Account

shall be considered to be part of the Cleared Swaps Account Class solely for purposes of Part 190 of the CFTC Regulations.

- (iii) The Clearing House shall, in accordance with the provisions of Regulation 106(g), establish and maintain on its books and records a Buffer Sub-Account on behalf of each FCM Clearing Member and its Clients, as a sub-account of the Omnibus Client Swaps Account with LCH maintained for each such FCM Clearing Member.
- (e) Notice of Deficiency in FCM Swaps Client Segregated Depository Account. Whenever an FCM Clearing Member knows or should know that the aggregate amount of funds on deposit in its FCM Swaps Client Segregated Depository Account is less than the total amount of such funds required by the CEA, the CFTC Regulations and the Rulebook to be on deposit, the FCM Clearing Member must report such deficiency immediately by telephone notice, confirmed immediately in writing by facsimile notice, to the Clearing House and the principal office of the CFTC in Washington, DC, to the attention of the Director and the Chief Accountant of the Division of Clearing and Intermediary Oversight, and, if the FCM Clearing Member is a securities broker or dealer, to the Securities and Exchange Commission, in accordance with 17 C.F.R. § 240.17a-11.
- (f) Segregation of Funds.
  - (i) All Client Funds (deposited in connection with Contracts or other Cleared Swaps) shall be separately accounted for and segregated by the relevant FCM Clearing Member as belonging to Clients and shall be held in its FCM Swaps Client Segregated Depository Account in accordance with Section 4d(f) of the CEA and the CFTC Regulations. All such Client Funds must be held by the applicable FCM Clearing Member or deposited with a Permitted Depository, and such funds shall be deposited under an account name which complies with the requirements of CFTC Regulation 22.6 and shows that they are segregated as required by the Rulebook and Part 22 of the CFTC Regulations. Each FCM Clearing Member shall obtain and retain in its files for the period provided in CFTC Regulation 1.31 a written acknowledgment, in accordance with CFTC Regulations 22.5, 1.20 and/or 1.26 (as applicable) from such Permitted Depository that it was informed that the funds deposited in the FCM Clearing Member Segregated Depository Accounts maintained by such Permitted Depository for the FCM Clearing Member are those of Clients and are being held in accordance with the provisions of the CEA, the CFTC Regulations and the Rulebook.
  - (ii) All Collateral held or maintained by the Clearing House to purchase, margin, guarantee, secure or settle Contracts of the Clients of FCM Clearing Members and all money accruing to such Clients as the result of trades, contracts or transactions so carried shall be separately accounted for and segregated as belonging to such Clients, and held in the LCH Swaps Client Segregated Depository Account, in accordance with Section 4d(f) of the CEA and the CFTC Regulations, and the Clearing House shall not hold, use or dispose of such Collateral except as belonging to such Clients. Without limitation, the applicable portion of the value of all such Collateral shall be reflected in the appropriate Client ~~Segregated~~ Sub-Account established for the appropriate

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Client. All Collateral deposited by the Clearing House with a Permitted Depository shall be deposited under an account name which complies with the requirements of CFTC Regulation 22.6 and shows that they are segregated as required by the Rulebook, the CEA and the CFTC Regulations. The Clearing House shall obtain and retain in its files for the period provided by CFTC Regulation 1.31, a written acknowledgment, in accordance with CFTC Regulation 22.5, 1.20 and/or 1.26 (as applicable) from such Permitted Depository that it was informed that the funds deposited in any LCH Swaps Client Segregated Depository Account maintained by the Clearing House are those of Clients of FCM Clearing Members and are being held in accordance with the provisions of the CEA, the CFTC Regulations and the Rulebook.

- (iii) Each FCM Clearing Member shall treat and deal with Client Funds as belonging to the Client on whose behalf such Client Funds are deposited. All Client Funds shall be separately accounted for, and shall not be commingled with the money, securities or property of a Clearing Member or of any other person, or be used to secure or guarantee the trades, contracts or transactions, or to secure or extend the credit, of any person other than the one for whom such Client Funds are held; provided, that all Client Funds may be physically commingled in the same FCM Swaps Client Segregated Depository Account subject to and in accordance with the CEA and the CFTC Regulations; provided, further, that Client Funds may be invested in accordance with Regulation 103(k) and CFTC Regulation 1.25.
- (iv) In no event may Client Funds (deposited or held in connection with Contracts) be held or commingled and deposited with (A) Client Funds in the same account or accounts required to be separately accounted for and segregated pursuant to the provisions of Section 4d(a) of the CEA and the regulations thereunder, or (B) money, securities or property representing the foreign futures or foreign options secured amount held in accordance with CFTC Regulation 30.7.
- (v) In accordance with CFTC Regulation 22.15 (and subject to CFTC Regulation 22.3(d)), the Clearing House shall treat the Margin attributable to each Client as belonging to each such individual Client, and such amount shall be credited to such Client's applicable Client-~~Segregated~~ Sub-Account as provided in the Rulebook, and such amount shall not be used to margin, guarantee, or secure the Contracts or other obligations of the applicable FCM Clearing Member, other Clients or any other person. For the avoidance of doubt and notwithstanding the foregoing, the Clearing House is under no obligation to deal directly with the Client (under the terms of the Rulebook or otherwise) and the Clearing House may deal exclusively with the Clearing Members, and the Clearing House shall have no obligations to any Client under the Rulebook.
- (g) Care of Money and Securities Accruing to Clients. All money received directly or indirectly by, and all money and securities accruing to, an FCM Clearing Member from the Clearing House or from any Clearing Member or from any other person incident to or resulting from any Contracts made by or through such FCM Clearing Member on behalf of any Client shall be considered as accruing to such Client within the meaning of the Rulebook. Such money and securities shall be treated and dealt with as belonging to such Client in accordance with the provisions of the CEA, the CFTC Regulations and the Rulebook. The value of money and securities accruing in

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connection with Clients' Contracts in an Omnibus Client Swaps Account with LCH shall be separately credited to such Client's Client-~~Segregated~~ Sub-Account.

(h) Use of Client Funds Restricted.

- (i) ~~(h) Use of Client Funds Restricted.~~—No FCM Clearing Member shall use, or permit the use of, Client Funds to purchase, margin, or settle the trades, contracts or transactions of, or to secure or extend the credit of, any person other than its Clients. Client Funds held in an FCM Swaps Client Segregated Depository Account shall not be used to carry trades or positions of the same Client other than in connection with Contracts or other Cleared Swaps.
- (ii) Client Funds held in an FCM Swaps Client Segregated Depository Account that are deposited by a specific Client shall not be used to purchase, margin or settle any Cleared Swap or other trade or contract of, or to secure or extend the credit of, any person other than such Client.
- (i) Interest of Clearing Members in Client Funds; Additions and Withdrawals. Regulation 103(f), which prohibits the commingling of Client Funds with the funds or assets of a Clearing Member, shall not be construed to prevent an FCM Clearing Member from having a residual financial interest in Client Funds, segregated as required by the CEA, the CFTC Regulations and the Rulebook and set apart for the benefit of Clients; nor shall such provisions be construed to prevent an FCM Clearing Member from adding to the ~~segregated~~ Client Funds in an FCM Swaps Client Segregated Depository Account such amount or amounts of money from its own funds or unencumbered securities from its own inventory, ~~including Buffer,~~ of the type permitted under Regulation 103(k), as it may deem necessary to ensure that its FCM ~~Clearing Member~~Swaps Client Segregated Depository ~~Accounts~~Account hold at all times, at a minimum, an amount equal to the amount required by the CEA, the CFTC Regulations and the Rulebook. The books and records of an FCM Clearing Member shall at all times accurately reflect its interest in the segregated Client Funds. An FCM Clearing Member may draw upon such Client Funds in the relevant FCM Swaps Client Segregated Depository Account to its own order, to the extent of its actual interest therein, including the withdrawal of securities held in FCM ~~Clearing Member~~Swaps Client Segregated Depository Accounts held by a Permitted Depository; provided, that any such withdrawals do not result in any such account holding less in segregated Client assets than such account is required to contain at such time. Such withdrawal shall not result in Client Funds being used to purchase, margin or carry the trades, contracts or transactions, or extend the credit of any other Client or other person.
- (j) Funds Held in FCM ~~Clearing Member~~Swaps Client Segregated Depository Accounts; Exclusions Therefrom. Money held in FCM ~~Clearing Member~~Swaps Client Segregated Depository Accounts by an FCM Clearing Member shall not include (i) money invested in obligations or stocks of any clearing organization or in memberships in or obligations of any contract market or (ii) money held by any clearing organization which it may use for any purpose other than to purchase, margin, guarantee, secure, transfer, adjust, or settle the Contracts of the Clients of such FCM Clearing Member.
- (k) Investments of Client Funds. An FCM Clearing Member may invest Client Funds, and the Clearing House may invest Collateral held on behalf of Clients, as permitted by and in accordance with the terms and conditions set forth in CFTC Regulation 1.25, which

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## **Regulation 106      Margin; Other Obligations**

- (a) The Clearing House may in accordance with the Procedures require a Clearing Member to furnish it with Margin (by the deposit of Collateral), and to keep the Clearing House furnished with Margin in an amount no less than the Required Margin at all times, such amount determined by the Clearing House in accordance with the Rulebook, as security for the performance by such Clearing Member of its obligations to the Clearing House in respect of all Contracts from time to time registered, or to be registered, in its name. The obligation upon a Clearing Member to furnish Margin to the Clearing House pursuant to this paragraph shall be in addition to any other obligation of the Clearing Member to furnish Margin to the Clearing House pursuant to these Regulations.
- (b) The Clearing House shall establish and modify margin requirements in respect of Contracts from time to time in its sole discretion and as set out in the Procedures. Margin shall be furnished by the Clearing Member in such form and manner and by such time or times as may be prescribed by the Procedures or otherwise communicated to a Clearing Member by the Clearing House.
- (c) Beneficial Ownership of Collateral Furnished.
  - (i) The Clearing House shall be entitled to assume that all Collateral furnished by a Clearing Member to the Clearing House pursuant to these Regulations or under the terms of any agreement made with the Clearing Member are the sole legal and beneficial property of the Clearing Member or are furnished for the purposes of these Regulations with the legal and beneficial owner's unconditional consent and with the authority granted to the Clearing Member to repledge such property to the Clearing House. A Clearing Member may not furnish Collateral to the Clearing House otherwise than in conformance with this paragraph. It shall be accepted by every person (including Clients and SwapClear Dealers) subject to or dealing on the terms of these Regulations that a Clearing Member has such person's unconditional consent to furnish to the Clearing House any securities or other assets of such person in the Clearing Member's possession as Collateral for the purposes of these Regulations.
  - (ii) Each Clearing Member represents and warrants to the Clearing House as at each date on which such Clearing Member furnishes Collateral to the Clearing House pursuant to these Regulations (A) that such Clearing Member is the sole legal and beneficial owner of such Collateral or, as the case may be, such Collateral is so furnished or deposited with the legal and beneficial owner's unconditional consent and with the authority granted to the Clearing Member to repledge such property to the Clearing House, and (B) that the provision to the Clearing House of such Collateral pursuant to these Regulations will not constitute or result in a breach of any trust, agreement or undertaking whatsoever.
  - (iii) The Clearing House may, in its absolute discretion and at any time, require a Clearing Member to furnish other securities or assets to the Clearing House in substitution of any Collateral furnished to the Clearing House pursuant to this Regulation 106.
- (d) The Clearing House shall be entitled to, in its absolute discretion in accordance with the Procedures and without assigning any reason and without prior notice to a Clearing

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Member, modify its margin requirements applicable to a Contract or to call for larger or additional amounts of Initial Margin to be furnished to it by a Clearing Member, either before registration of a Contract or at any time after registration. Without limitation of the foregoing, the Clearing House shall attempt to provide advance notice of the modified margin requirements to the applicable Clearing Member where reasonably practicable. Any Margin called by the Clearing House pursuant to this paragraph shall be furnished by the Clearing Member on demand and in such form as the Clearing House may require.

- (e) The Clearing House shall be entitled at any time to demand immediate provision of Margin from a Clearing Member in an amount deemed necessary by the Clearing House without reference to an NPV in respect of any Contract in the Clearing Member's name, if, in the opinion of the Clearing House, the furnishing of such Margin by the Clearing Member is necessary in the circumstances then prevailing which may be affecting or may in the Clearing House's opinion be likely to affect market conditions or the Clearing Member's performance of its obligations under the terms of such contracts or under the terms of any original or confirmed contract to which the member is party. In this paragraph, "immediate provision" means payment to the Clearing House within one hour of demand.
- (f) Without prejudice to the requirements of paragraph (c) above or any other applicable requirements contained in the Rulebook, the Clearing House may at its absolute discretion accept Collateral in an agreed amount and in a form other than those specified in the Procedures, subject always to the Clearing House's prior assessment as to the appropriateness of such form of Collateral in accordance with its standard risk management procedures and with any special arrangements which the Clearing House may prescribe in each case (including as to valuation and haircut). The Clearing House may at its discretion make an accommodation charge at a special rate.

~~(g) Excess Margin; Buffer; Unallocated Excess.~~

~~(i) This Regulation 106(g) describes certain treatment of Excess Margin, Buffer and Unallocated Excess.~~

~~(ii) Excess Margin in Proprietary Accounts. A Clearing Member is permitted to maintain Excess Margin with the Clearing House in respect of its Proprietary Account. A Clearing Member that is not a Defaulter may request the return of any such Excess Margin at any time, and upon such request the Clearing House shall return such Excess Margin, except, in the case of a Clearing Member which is an FCM Clearing Member, where any Client Segregated Sub Account of such FCM Clearing Member has insufficient Margin to satisfy the Required Margin applicable to it and such Clearing Member does not have sufficient Buffer posted with the Clearing House to satisfy any such deficit. Even where a Clearing Member has not requested the return of its Excess Margin held in a Proprietary Account, the Clearing House may, in its discretion, elect at any time to return any such Excess Margin to the applicable Clearing Member.~~

~~(iii) Restriction on Excess Margin in Client Segregated Sub Accounts on a Day to Day Basis. Excess Margin is not permitted to be maintained in any Client Segregated Sub Account on a day to day basis. However, a Client's Client Segregated Sub Account is permitted to maintain Excess Margin on an~~

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~~intraday basis. Any Excess Margin attributable to a Client's Client Segregated Sub-Account that exists in such sub-account following a daily close of the SwapClear US Service shall be transferred by the Clearing House into an Unallocated Excess sub-account of the applicable Omnibus Client Swaps Account with LCH (such sub-account, with respect to each FCM Clearing Member, the "Unallocated Excess Sub-Account") on the morning of the following Business Day (and as such, such Excess Margin shall become Unallocated Excess); provided, that all sums due from the relevant FCM Clearing Member at such time in respect of the Omnibus Client Swaps Account with LCH have been paid to the Clearing House. If at any time an FCM Clearing Member furnishes Margin to the Clearing House on behalf of a Client in an amount which would cause such Client's Client Segregated Sub-Account to contain Excess Margin, the Clearing House shall be permitted to reject the deposit of any such Excess Margin or to immediately transfer any such Excess Margin back to the FCM Clearing Member.~~

~~(iv) FCM Buffer.~~

~~(A) An FCM Clearing Member is permitted to furnish Collateral that is the property of such FCM Clearing Member (and not any of its Clients) to the Clearing House to be applied to its Omnibus Client Swaps Account with LCH as excess cover for the benefit of all of its Clients (the value of such Collateral at any given time, "Buffer"), and such Buffer shall be recorded by the Clearing House as attributable to such FCM Clearing Member (for the benefit of its Clients) in a sub-account of its Omnibus Client Swaps Account with LCH designated as a Buffer sub-account (such sub-account, with respect to each FCM Clearing Member, the "Buffer Sub-Account"). The Clearing House shall be permitted to apply any portion of an FCM Clearing Member's Buffer (any portion of Buffer when applied, "Encumbered Buffer") to any Client Segregated Sub-Account of such FCM Clearing Member which is in or would become in default.~~

~~(B) At no time shall the Clearing House apply Buffer in an amount that, in respect of a Client, would cause the sum of the Client's Client Sub-Account Balance and the Encumbered Buffer applicable to such Client's Client Segregated Sub-Account at such time (if any) to exceed the amount of Required Margin applicable to it. In the event that any such excess exists (e.g., due to a decrease in Required Margin, the crediting of additional Margin to such Client, or other reasons) with respect to a Client Segregated Sub-Account, the Clearing House shall reduce the amount of Encumbered Buffer applicable to such Client in an amount sufficient to remove any such excess, and any such reduced portion of Encumbered Buffer shall again constitute only Buffer and not Encumbered Buffer.~~

~~(C) Any Encumbered Buffer that is applied to a Client Segregated Sub-Account on a Business Day and remains applied to such sub-account at the opening of the SwapClear US Service on the following Business Day (as necessary to satisfy the applicable Required Margin) shall, at such time, be deemed to become part of the Margin~~

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~~attributable to such Client's Client Segregated Sub Account and thereafter shall no longer constitute Encumbered Buffer or Buffer.~~

~~(D) An FCM Clearing Member that is not a Defaulter may request the return of any of its Buffer that is not Encumbered Buffer at any time, and upon such request the Clearing House shall return such Buffer.~~

~~(E) In the event that an FCM Clearing Member furnishes Collateral to be applied to its Omnibus Client Swaps Account with LCH but does not notify the Clearing House as to whether such Collateral should be attributable to one or more individual Clients, should constitute Buffer, or should constitute Unallocated Excess, then the Clearing House shall treat such Collateral as Buffer and credit it to the FCM Clearing Member's Buffer Sub Account.~~

~~(v) Unallocated Excess:~~

~~(A) The Clearing House shall maintain any Margin attributable to an Unallocated Excess Sub Account (such Margin, the "Unallocated Excess") for the benefit of the Clients of the applicable FCM Clearing Member as a class (the identities and amounts of which shall be recorded by such FCM Clearing Member and not the Clearing House in accordance with this Regulation 106 and other applicable provisions of the Rulebook), segregated in accordance with the CEA and the CFTC Regulations, including Part 22 of the CFTC Regulations. The Clearing House shall treat and record the Unallocated Excess in respect of an FCM Clearing Member on an unallocated basis, and the Clearing House shall not attribute any portions of such Unallocated Excess to the individual Clients of such FCM Clearing Member (although the Unallocated Excess shall be held for the benefit of the applicable Clients as a class (in accordance with Part 22 of the CFTC Regulations), the records of which are kept by the applicable FCM Clearing Member).~~

~~(B) Each FCM Clearing Member that maintains Unallocated Excess in its Unallocated Excess Sub Account on behalf of its Clients shall ensure that its books and records accurately reflect at all times the Client or Clients to which such Unallocated Excess is attributable and the amount attributable to each such Client.~~

~~(C) An FCM Clearing Member is permitted to furnish Collateral on behalf of its Clients to be applied directly to its Unallocated Excess Sub Account, upon its instruction and with the prior written approval of the Clearing House in accordance with the Procedures, and the value of any such Collateral so furnished shall become Unallocated Excess.~~

~~(D) Subject to paragraph (F) below, the Clearing House shall not be permitted to, and shall not, at any time (x) apply any Unallocated Excess as Buffer or to the FCM Clearing Member's Proprietary Account, or (y) except in accordance with an instruction by the applicable FCM Clearing Member, apply it to a Client Segregated Sub Account.~~

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- ~~(E) Upon the request of an FCM Clearing Member, in accordance with the Procedures, the Clearing House will return Unallocated Excess to such FCM Clearing Member. The FCM Clearing Member shall be deemed to represent to the Clearing House, upon making any such request, that any such request complies with the CFTC Regulations and that the returned Unallocated Excess will remain segregated as required under the CFTC Regulations and the Rulebook.~~
- ~~(F) Upon the Default of an FCM Clearing Member, any Unallocated Excess in such FCM Clearing Member's Unallocated Excess Sub Account shall be held by the Clearing House for the benefit of the applicable Clients in accordance with Part 190 of the CFTC Regulations and applicable law, and the Clearing House shall not be permitted to apply any such Unallocated Excess to the obligations of the FCM Clearing Member to the Clearing House (on behalf of its Clients or otherwise) except to the extent required by applicable law and/or directed by the applicable bankruptcy trustee or Regulatory Body in accordance with applicable law.~~

- (g) ~~(h)~~ If, in the sole discretion of the Clearing House, any Collateral which has been furnished to it by a Clearing Member pursuant to these Regulations is no longer either of sufficient value or otherwise acceptable to the Clearing House, the Clearing House shall be entitled to demand further provision of Collateral from such Clearing Member. Such Collateral shall be furnished by such Clearing Member on demand in a form prescribed by the Procedures; provided, that at any time the Clearing House shall be entitled to require the Clearing Member to furnish it with Collateral in a specified form and to demand that the Clearing Member replace the whole or part of any Collateral furnished by a Clearing Member pursuant to these Regulations with collateral in the form of cash.
- (h) ~~(i)~~ Without prejudice to the requirements of paragraph (c) above or any other applicable requirements contained in the Rulebook, and subject to ~~paragraph (g) above~~ Regulation 106A below and the settlement of any other obligations of a Clearing Member to the Clearing House, upon the close-out or termination of a Contract in accordance with the Rulebook, the Clearing House shall return all (or the applicable portion of) Initial Margin attributable to such Contract to the respective Clearing Member to the extent such Initial Margin has become Excess Margin following the close-out or termination of the relevant Contract; provided, that such Clearing Member is not a Defaulter.
- (i) ~~(j)~~ If the Clearing House takes any step under the Default Regulations in relation to a Clearing Member, any sum (including the price due to be paid by the Clearing House in respect of the delivery of any property or currency by or on behalf of the Clearing Member) standing to the credit of any of the Clearing Member's accounts shall be treated as Margin; provided, that under no circumstances will any Margin maintained in an Omnibus Client Swaps Accounts with LCH (in the case of an FCM Clearing Member) be applied to satisfy proprietary obligations of the FCM Clearing Member or any other obligations not related to such FCM Clearing Member's Client Business.
- (j) ~~(k)~~ Each Clearing Member shall be entitled to the return of any amounts due to it (after all obligations of such Clearing Member to the Clearing House have been satisfied) pursuant to the Rulebook.

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- (k) ~~(+)~~ Unless the Clearing House otherwise agrees in writing, Collateral provided to the Clearing House in the form of cash shall not be capable of assignment by any person. Any purported assignment by a Clearing Member (whether by way of security or otherwise) of Collateral in the form of cash shall be void. A Clearing Member shall not otherwise encumber (or seek to encumber) any Collateral in the form of cash.
- (l) ~~(m)~~ Creation of Security Interest. Each Clearing Member hereby grants the Clearing House a first priority security interest in and a first priority and unencumbered first lien upon any and all Collateral, Margin, cash, securities, receivables, rights and intangibles and any other collateral or assets deposited with or transferred to the Clearing House, or otherwise held by the Clearing House (including without limitation all property deposited in or attributable to a Proprietary Account, an Omnibus Client Swaps Account with LCH, the LCH Swaps Client Segregated Depository Account, or any amounts owing to a Clearing Member in a Proprietary Account), including all substitutions for and proceeds of, any such property, in connection with any Contracts cleared for such Clearing Member, its Affiliates or its Clients, as security for unconditional payment and satisfaction of the obligations and liabilities of the Clearing Member to the Clearing House. The Clearing Member agrees to take any and all actions, including but not limited to the execution of any and all documents, requested by the Clearing House in order to perfect, maintain or enforce the security interest granted to the Clearing House hereunder. The Clearing House may exercise any and all rights available to it with respect to the security interest granted hereunder, in accordance with the Rulebook and applicable laws. Notwithstanding the foregoing, in no event shall the Clearing House's security interest in the property attributable to a Clearing Member's Omnibus Client Swaps Accounts with LCH be exercised to satisfy any obligations or liabilities of: (i) such Clearing Member other than in connection with obligations or liabilities relating to such Clearing Member's Omnibus Client Swaps Accounts with LCH; or (ii) a Client with a Client-~~Segregated~~ Sub-Account by application of Margin attributable to the Client-~~Segregated~~ Sub-Account of another Client.
- (m) ~~(n)~~ Each FCM Clearing Member shall ensure that where a Transaction results in the registration of a Contract on behalf of a Client that is of a "non-hedging nature" (as such term is used in Part 39 of the CFTC Regulations), it shall collect and/or remain furnished with additional Client Funds from the relevant Client in respect of such non-hedging Contract in an amount which shall be no less than the minimum percentage as required by the Clearing House and as notified to the relevant FCM Clearing Member from time to time, as further specified in the Procedures.
- ~~(o) — Where the amount of Required Margin applicable to the Contracts of a Clients is increased by the Clearing House, the obligation of the applicable FCM Clearing Member to furnish additional Margin to the Clearing House to satisfy such increased Required Margin shall be discharged by:~~
- ~~(i) — if and to the extent that there is Excess Margin available that is attributable to such Client's Client Segregated Sub-Account, deduction by the Clearing House of amounts from such Excess Margin;~~
- ~~(ii) — if the applicable of clause (i) above is insufficient, by the application of any available Buffer of the applicable FCM Clearing Member (in accordance with the Procedures and Regulation 106(g)(iv)) and/or by delivery by the applicable~~

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~~FCM Clearing Member to the Clearing House of additional Margin on behalf of such Client; and~~

- ~~(iii) — if the obligation of the FCM Clearing Member to satisfy the Required Margin has not been fully discharged pursuant to clauses (i) and (ii) above, by other means (if any) available to the Clearing House in accordance with the Rulebook.~~
- ~~(p) — Where the amount of Required Margin applicable to the Contracts of a Clearing Member's Proprietary Account is increased by the Clearing House, the obligation of the applicable Clearing Member to provide additional Margin to the Clearing House to satisfy such increased Required Margin shall be discharged by:~~
  - ~~(x) — if and to the extent that there is Excess Margin available in the Clearing Member's Proprietary Account, deduction by the Clearing House of amounts from such Excess Margin;~~
  - ~~(y) — delivery by the Clearing Member to the Clearing House of additional Margin; and~~
  - ~~(z) — in the obligation of the Clearing Member to satisfy the Required Margin has not been fully discharged pursuant to clauses (x) and (y) above, by other means (if any) available to the Clearing House in accordance with the Rulebook.~~
- ~~(q) — Clients and Contract positions established for Clients shall be subject to gross margin requirements on all such positions, and each Clearing Member shall require its Clients to satisfy such gross margin requirements. Contract positions established in a Clearing Member's Proprietary Account on its own behalf and for its Affiliates shall be subject to net margin requirements, such that a Clearing Member shall be required to deposit a net margin amount with the Clearing House in connection with all of the Contract positions of itself and its Affiliates. A Clearing Member may impose margin requirements on its Affiliates for which it provides Clearing Services on a net basis, netting the positions and related margin requirements with respect to a single Affiliate or across multiple Affiliates, or a Clearing Member may impose such margin requirements on a gross basis.~~
- (n) ~~(r)~~ A Clearing Member shall provide the Clearing House with all information required under the Procedures regarding its Contracts, Client Funds and Collateral, and shall instruct the Clearing House as to the Contracts and Collateral to be reflected in the applicable Client ~~Segregated~~ Sub-Account. In addition, a Clearing Member shall, as soon as reasonably practicable following a request from the Clearing House, provide the Clearing House with any other information which the Clearing House may reasonably require in relation to the Clients or Affiliates of the Clearing Member, or the clearing of Contracts by such Clearing Member on behalf of its Clients, its Affiliates, or on its own behalf.
- (o) ~~(s)~~ No Clearing Member may withdraw any amount from its Omnibus Client Swaps Account with LCH or its Proprietary Account if such withdrawal would cause the account's Margin balance to be less than the Required Margin then attributable to such Omnibus Client Swaps Account with LCH or Proprietary Account, as applicable, as determined by the Clearing House in accordance with the provisions of the Rulebook;

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provided, further, that the Clearing House may prohibit an FCM Clearing Member from withdrawing any amount from its Proprietary Account if the Client Sub-Account Balance in any of its Client-~~Segregated~~ Sub-Accounts would be less than the Required Margin then attributable to any such Client-~~Segregated~~ Sub-Account and there is an insufficient amount of Buffer available to offset any such deficiencies.

- (p) ~~(+)~~ Each FCM Clearing Member shall ensure that no Client withdraws Client Funds from the FCM Swaps Client Segregated Depository Account unless the “net liquidating value” (as such term is used in Part 39 of the CFTC Regulations) plus the Client Funds attributable to such Client remaining in the FCM Swaps Client Segregated Depository Account after such withdrawal is sufficient to meet the level of Required Margin, as calculated by the Clearing House in respect of all Contracts entered into on behalf of that Client.

## Regulation 106A — Margining of Swap Product Client Accounts: Certain Additional Provisions; Without Client Excess Model; With Client Excess Model

The contents of this Regulation 106A apply only with respect to the clearing and margining of Cleared Swaps.

- (a) Buffer. An FCM Clearing Member is permitted to furnish Collateral that is the property of such FCM Clearing Member (and not of its Clients) to the Clearing House to be attributed to any of its Omnibus Client Swaps Accounts with LCH as excess Margin for the benefit of all of its Clients with positions registered or to be registered in such accounts, and the value of such Collateral as determined by the Clearing House in accordance with the Rulebook (such value, the “Buffer”) shall be recorded by the Clearing House as attributable to such FCM Clearing Member (for the benefit of its Clients) in a sub-account of the applicable Omnibus Client Swaps Account with LCH designated as a Buffer sub-account (each such sub-account, with respect to each FCM Clearing Member, a “Buffer Sub-Account”). The use and application of Buffer in the With Client Excess Model and the Without Client Excess Model is further discussed below in paragraphs (c) and (d), respectively, and in the Procedures.
- (b) Unallocated Excess.
- (q) Any Margin attributable to an Omnibus Client Swaps Account with LCH that is not allocated to a Client Sub-Account or the Buffer Sub-Account therein (such Margin, “Unallocated Excess”) shall be credited by the Clearing House to the Unallocated Excess sub-account (the “Unallocated Excess Sub-Account”) of such Omnibus Client Swaps Account with LCH. The Clearing House shall hold Unallocated Excess for the benefit of the Clients corresponding to such Omnibus Client Swaps Account with LCH as a class (the identities and amounts of which shall be recorded by such FCM Clearing Member and not the Clearing House in accordance with this Regulation 106A and other applicable provisions of the Rulebook), segregated in accordance with the CEA and CFTC Regulations, including Part 22 of the CFTC Regulations. The Clearing House shall treat and record the Unallocated Excess in respect of an Omnibus Client Swaps Account with LCH on an unallocated basis, and the Clearing House shall not attribute any portions of such Unallocated Excess to the individual Clients of such FCM Clearing Member (although the Unallocated Excess shall be held for the benefit of the applicable Clients as a class (in accordance with Part 22 of the CFTC Regulations), the records of which are kept by the applicable FCM Clearing Member).
- (r) Each FCM Clearing Member that maintains Unallocated Excess in any of its Unallocated Excess Sub-Accounts on behalf of its applicable Clients shall ensure that its books and records accurately reflect at all times the Client or Clients to which such Unallocated Excess is attributable and the amount attributable to each such Client.
- (s) Subject to paragraph (v) below, the Clearing House shall not be permitted to, and shall not, at any time (x) apply any Unallocated Excess to the FCM Clearing Member’s Proprietary Account, or (y) except in accordance with

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an instruction (provided in accordance with the Rulebook) by the applicable FCM Clearing Member, apply Unallocated Excess to a Client Sub-Account or to the Buffer Sub-Account.

- (t) Upon the request of an FCM Clearing Member (including as a result of a standing instruction of an FCM Clearing Member) in accordance with the Procedures, the Clearing House will return Unallocated Excess to an FCM Clearing Member. The FCM Clearing Member shall be deemed to represent to the Clearing House, upon making any such request, that any such request complies with the CFTC Regulations and that the returned Unallocated Excess will remain segregated as required under the CFTC Regulations and the Rulebook.
- (u) Upon the default of an FCM Clearing Member, any Unallocated Excess in such FCM Clearing Member's Unallocated Excess Sub-Accounts shall be held by the Clearing House for the benefit of the applicable Clients in accordance with Part 190 of the CFTC Regulations and applicable law, and the Clearing House shall not be permitted to apply any such Unallocated Excess to the obligations of the FCM Clearing Member to the Clearing House (on behalf of its Clients or otherwise) except to the extent required by applicable law and/or directed by the applicable bankruptcy trustee or Regulatory Body in accordance with applicable law.
- (v) Certain additional procedures relating to Unallocated Excess differ based on whether the Omnibus Client Swaps Accounts with LCH to which such Unallocated Excess corresponds is subject to the Without Client Excess Model or the With Client Excess Model, as such models are described in Regulation 106A(c) and Regulation 106A(d) (and in other applicable provisions of the Rulebook).
- (c) Without Client Excess Model. The provisions of this Regulation 106A(c) describe certain components of the Clearing House's model for margining, in accordance with Part 22 of the CFTC Regulations, Omnibus Client Swaps Accounts with LCH in a manner which prohibits the maintenance of Excess Margin in Client Sub-Accounts on a day-to-day basis (such model is referred to in the Rulebook as the "**Without Client Excess Model**"). An alternative model which permits such Excess Margin to be maintained (the With Client Excess Model) is described in Regulation 106A(d). The Without Client Excess Model is the default model that shall apply to an FCM Clearing Member's Omnibus Client Swaps Accounts with LCH, and such model shall apply to all such accounts except where an FCM Clearing Member, to the extent permitted by the Procedures, applies to and is approved by the Clearing House to have one or more of its Omnibus Client Swaps Accounts with LCH treated in accordance with the alternative model (the With Client Excess Model described in Regulation 106A(d)).

The provisions of this Regulation 106A(c) apply only to Omnibus Client Swaps Accounts with LCH that are subject to the Without Client Excess Model.

- (i) Restriction on Excess Margin in Client Sub-Accounts on a Day-to-Day Basis. Excess Margin is not permitted to be maintained in any Client Sub-Account on a day-to-day basis. However, a Client's Client

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Sub-Account is permitted to maintain Excess Margin on an intraday basis. Any Excess Margin attributable to a Client Sub-Account of a Client that exists in such sub-account following a daily close of the Clearing Services shall be transferred by the Clearing House into the corresponding Unallocated Excess Sub-Account on the morning of the following Business Day (and as such, such Excess Margin shall become Unallocated Excess); provided, that all sums due from the relevant FCM Clearing Member at such time in respect of the applicable Omnibus Client Swaps Account with LCH have been paid to the Clearing House. If at any time an FCM Clearing Member furnishes Margin to the Clearing House on behalf of a Client in an amount which would cause such Client's Client Sub-Account to contain Excess Margin, the Clearing House shall be permitted to reject the deposit of any such Excess Margin or to immediately transfer any such Excess Margin back to the FCM Clearing Member.

(ii) Application of Buffer.

(A) The Clearing House shall be permitted to apply any portion of an FCM Clearing Member's Buffer (any portion of Buffer when applied, "Encumbered Buffer") to any Client Sub-Account held by such FCM Clearing Member in the same Omnibus Client Swaps Account with LCH (in which such Buffer is held) which is in or would become in default.

(B) At no time shall the Clearing House apply Buffer in an amount that, in respect of a Client, would cause the sum of the Client's Client Sub-Account Balance and the Encumbered Buffer applicable to such Client's Client Sub-Account at such time (if any) to exceed the amount of Required Margin applicable to such Client Sub-Account. In the event that any such excess exists (e.g., due to a decrease in Required Margin, the crediting of additional Margin attributable to such Client, or other reasons) with respect to a Client Sub-Account, the Clearing House shall reduce the amount of Encumbered Buffer applicable to such Client in an amount sufficient to remove any such excess, and any such reduced portion of Encumbered Buffer shall again constitute only Buffer (and shall no longer be considered Encumbered Buffer).

(C) Any Encumbered Buffer that is applied to a Client Sub-Account on a Business Day and remains applied to such sub-account at the opening of the Clearing Services on the following Business Day (as necessary to satisfy the applicable Required Margin) shall, at such time, be deemed to become part of such Client's Client Sub-Account Balance and shall thereafter no longer constitute Encumbered Buffer or Buffer.

(D) An FCM Clearing Member that is not a defaulter may request the return of any of its Buffer that is not Encumbered Buffer at

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any time in accordance with the Procedures, and upon such request the Clearing House shall return such Buffer.

(E) In the event that an FCM Clearing Member furnishes Collateral to be applied to its Omnibus Client Swaps Account with LCH but does not notify the Clearing House as to whether the Margin in respect of such Collateral should be considered Unallocated Excess or Buffer, and has not notified the Clearing House that such Collateral is attributable to individual Clients, the Clearing House shall treat such Margin as furnished as Buffer and credit it to the FCM Clearing Member's Buffer Sub-Account.

(iii) Unallocated Excess.

(A) An FCM Clearing Member is permitted to furnish Collateral on behalf of its Clients to be applied as Margin directly to the relevant Unallocated Excess Sub-Account, upon its instruction and with the prior written approval of the Clearing House in accordance with the Procedures, and the relevant Margin so furnished shall become Unallocated Excess.

(B) An FCM Clearing Member may provide an instruction (provided in accordance with the Rulebook) to the Clearing House directing it to apply all or a portion of its Unallocated Excess to a Client Sub-Account within the corresponding Omnibus Client Swaps Account with LCH.

(d) With Client Excess Model. The provisions of this Regulation 106A(d) describe certain components of the Clearing House's model for margining, in accordance with Part 22 of the CFTC Regulations, Omnibus Client Swaps Accounts with LCH in a manner which provides for the maintenance of Excess Margin in Client Sub-Accounts on a day-to-day basis (such model is referred to in the Rulebook as the "With Client Excess Model"). FCM Clearing Members may, to the extent provided in the Procedures, apply for the Clearing House's approval to have one or more of its Omnibus Client Swaps Accounts with LCH treated in accordance with the With Client Excess Model. Any Omnibus Client Swaps Account with LCH for which no such approval of the Clearing House has been obtained shall be margined in accordance with the Without Client Excess Model (described in Regulation 106A(c)).

The provisions of this Regulation 106A(d) apply only to Omnibus Client Swaps Accounts with LCH that are subject to the With Client Excess Model.

(i) Excess Margin in Client Sub-Accounts. An FCM Clearing Member is permitted to maintain Excess Margin with the Clearing House in respect of its Client Sub-Accounts, in accordance with the provisions of the Rulebook.

(ii) Collateral Value Reports (CVRs). For each Omnibus Client Swaps Account with LCH maintained by an FCM Clearing Member treated in accordance with the With Client Excess Model, an FCM Clearing Member

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shall provide to the Clearing House, at least once on each Business Day, a “Collateral Value Report” (a “CVR” or “Collateral Value Report”) that is compliant (as determined by the Clearing House in accordance with the Procedures) and that instructs the Clearing House as to the appropriate allocation of the Omnibus Collateral Value attributable to each such Omnibus Client Swaps Accounts with LCH among (A) each Client Sub-Account therein and (B) the Buffer Sub-Account therein. FCM Clearing Members are required to produce and submit CVRs in accordance with Part 22 of the CFTC Regulations and any other applicable law, and such CVRs must be compliant with the Clearing House’s policies regarding CVRs as set forth in the Procedures and as may be set forth, from time to time, in other written materials of the Clearing House made available to FCM Clearing Members. Each FCM Clearing Member shall be fully responsible for all information contained in its CVRs and the Clearing House shall be entitled to rely fully on such information and has no obligation to conduct its own investigation (although it may do so) with respect to such information. The Clearing House shall update its applicable records in accordance with the most recently submitted compliant CVR corresponding to an Omnibus Client Swaps Account with LCH, and the most recent compliant CVR with respect thereto shall supersede any prior CVRs. A CVR will not be compliant if its allocation of the Omnibus Collateral Value would trigger a margin call. Additionally, a CVR may not be used to satisfy a margin call and a CVR that reallocates the Omnibus Collateral Value so as to satisfy a margin call shall not be compliant.

(iii) Assumed Allocation. When an FCM Clearing Member furnishes Margin to an Omnibus Client Swaps Account with LCH for the purposes of satisfying a margin call issued by the Clearing House, such Margin shall be automatically allocated (such allocation, the “Assumed Allocation”) by the Clearing House (A) among each of the Client Sub-Accounts therein having at such time a Client Sub-Account Balance shortfall (in respect of the amount of Required Margin then applicable to each such sub-account) and (B) such allocation shall be made on a pro rata basis based on the amount of shortfall in each such sub-account. An FCM Clearing Member is not permitted to deliver a CVR simultaneously with its deposit of Collateral in satisfaction of a margin call so as to avoid the Assumed Allocation. However, an FCM Clearing Member may subsequently deliver a CVR allocating all or part of the Omnibus Collateral Value in the applicable account and any prior Assumed Allocation shall not limit the ability of subsequently delivered CVRs to allocate the Omnibus Collateral Value in the normal manner as provided in the Rulebook.

(iv) Application of Buffer. The Clearing House will look to Buffer to offset any Client Sub-Account Balance deficits (on an aggregate basis) in the corresponding Omnibus Client Swaps Account with LCH, and will not issue a margin call to an FCM Clearing Member in respect of the amounts of any such deficits to the extent such amounts could be offset by Buffer. An FCM Clearing Member that is not a defaulter may request the return of

any of its Buffer that is not, at such time, being used by the Clearing House in such manner to offset any such Client Sub-Account Balance deficits.

(v) Unallocated Excess.

(A) An FCM Clearing Member is permitted to furnish Collateral on behalf of its Clients to be applied as Margin directly to the relevant Unallocated Excess Sub-Account as set forth in the Procedures. Any Margin furnished by an FCM Clearing Member in respect of an Omnibus Client Swaps Account with LCH that is (1) not furnished in satisfaction of an outstanding margin call and (2) not accompanied by a new and compliant CVR, shall be automatically deemed to be furnished as Unallocated Excess and shall be credited to the applicable Unallocated Excess Sub-Account.

(B) An FCM Clearing Member may deliver a CVR to the Clearing House which has the effect of allocating all or a portion of the applicable Unallocated Excess into Client Sub-Accounts and/or the Buffer Sub-Account in the same Omnibus Client Swaps Account with LCH; provided, that such a CVR delivery may not be used for purposes of allocating Unallocated Excess in order to satisfy a margin call.

(e) Required Margin Increase in a Client Sub-Account Subject to the Without Client Excess Model. If the Required Margin applicable to the Contracts registered to a Client's Client Sub-Account subject to the Without Client Excess Model is increased by the Clearing House and such increase cannot be immediately satisfied by Excess Margin in the corresponding Client Sub-Account Balance, the Client Sub-Account Balance shortfall will be satisfied in whole or in part (as applicable) by (x) the application of any Available Buffer (i.e., Buffer that is not Encumbered Buffer and that is credited to the Buffer Sub-Account within the applicable Omnibus Client Swaps Account with LCH) and (y) any credit extended by the Clearing House (in the Clearing House's sole discretion), including any SwapClear Tolerance.

If the Client Sub-Account Balance shortfall referred to above cannot be fully satisfied with Available Buffer and/or Clearing House credit as set forth above, the obligation of the FCM Clearing Member to satisfy such deficit shall be discharged by:

(A) the applicable FCM Clearing Member furnishing additional Margin to the Clearing House on behalf of the applicable Client; and/or

(B) if the obligation of the FCM Clearing Member to satisfy the Client Sub-Account Balance deficit has not been fully discharged pursuant to clause (A) above, by other means (if any) available to the Clearing House in accordance with the Rulebook.

(f) Required Margin Increase in a Client Sub-Account Subject to the With Client Excess Model. If the Required Margin applicable to the Contracts registered to a Client's Client Sub-Account subject to the With Client Excess Model is increased by the Clearing House and such increase cannot be immediately satisfied by Excess Margin in the corresponding Client Sub-Account Balance, the Client Sub-Account Balance shortfall will be satisfied in whole or in part (as applicable) by (x) any Available Buffer that is credited to the Buffer Sub-Account within the applicable Omnibus Client Swaps Account with LCH and (y) any credit extended by the Clearing House (in the Clearing House's sole discretion), including any SwapClear Tolerance.

If the Client Sub-Account Balance shortfall referred to above cannot be fully satisfied with Available Buffer and/or Clearing House credit as set forth above, the obligation of the FCM Clearing Member to satisfy such deficit shall be discharged by.

(A) the applicable FCM Clearing Member furnishing additional Margin to the Clearing House in respect of the applicable Omnibus Client Swaps Account with LCH (which shall be allocated in accordance with the Assumed Allocation); and/or

(B) if the obligation of the FCM Clearing Member to satisfy the Client Sub-Account Balance deficit has not been fully discharged pursuant to clause (A) above, by other means (if any) available to the Clearing House in accordance with the Rulebook.

## Regulation 108      Transfers of Client and Proprietary Positions

- (a) Transfer of Client Contracts and Collateral. A Receiving FCM Clearing Member may, upon the instruction or at the request of a Client, request (in the manner set out in the Procedures) that the Clearing House transfer to the Receiving FCM Clearing Member some or all of a Client's Contracts registered to its Client-~~Segregated~~ Sub-Account with a Carrying FCM Clearing Member (such Contracts subject to transfer, the "**Porting Contracts**"). Where the Porting Contracts constitute the entire portfolio of a Client's Contracts registered with the Carrying FCM Clearing Member (and only in such case), the Receiving FCM Clearing Member may also request in connection with such transfer the transfer of the Collateral attributable to such Client's Client-~~Segregated~~ Sub-Account (such Collateral, the "**Porting Collateral**"). It is a condition precedent to any transfer described in this paragraph that:
- (i) the Client has not become insolvent (such Client to be presumed to be solvent by the Clearing House unless evidenced to the contrary by the Carrying FCM Clearing Member in the manner set forth in the Procedures or as otherwise reasonably determined by the Clearing House);
  - (ii) neither the Carrying FCM Clearing Member nor the Receiving FCM Clearing Member is a Defaulter (or would become a Defaulter upon the consummation of the transfer);
  - (iii) the Receiving FCM Clearing Member has consented to the transfer of Porting Contracts and, if applicable, the Porting Collateral;
  - (iv) the Clearing House determines that following the transfer, the Receiving FCM Clearing Member shall have satisfied the Required Margin in respect of the Porting Contracts;
  - (v) in the event that the transfer would lead to an increase in Required Margin due from the Carrying FCM Clearing Member to the Clearing House, the Carrying FCM Clearing Member provides sufficient Margin to the Clearing House to satisfy such requirement; and
  - (vi) the Carrying FCM Clearing Member has not rejected such transfer (it being presumed by the Clearing House that the Carrying FCM Clearing Member has not rejected the transfer unless it has rejected it in the manner set forth in the ~~FCM~~-Procedures or as otherwise reasonably determined by the Clearing House).

For purposes of clause (vi) above, the Carrying FCM Clearing Member will be entitled to reject the transfer only if (A) the applicable Client has failed to satisfy all outstanding obligations that are due and payable to the Carrying FCM Clearing Member and its Affiliates, including any increased margin due and payable that may result from the proposed transfer (for this purpose, "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 Porting Contracts of the Client which are being transferred, or the Client's related collateral), (B) the transfer of the Porting Contracts would result in the Client breaching exposure limits with, and/or other risk parameters set by, the Carrying FCM Clearing Member and/or its Affiliates, or (C) such rejection is otherwise in

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accordance with terms agreed as between the Carrying FCM Clearing Member and the relevant Client.

- (b) Additional Provisions Relating to Transfers of Client Collateral. In order to facilitate a transfer pursuant to paragraph (a) above that includes the transfer of Porting Collateral, the Carrying FCM Clearing Member shall notify the Clearing House of the specific Collateral which should constitute the Porting Collateral. The Receiving FCM Clearing Member shall take such actions and provide such information in connection with the transfer as may be required under the Procedures. In the event that the Carrying FCM Clearing Member fails to notify the Clearing House of the specific Collateral which should constitute the Porting Collateral, the Clearing House shall identify and select (in the manner set out in the Procedures) the Collateral it deems appropriate.

Once the Porting Collateral has been identified as set out in the above paragraph, the Receiving FCM Clearing Member may elect to reject the transfer of some or all of the Porting Collateral. Any such rejection in and of itself shall not prevent the transfer of the Porting Contracts, provided, that the conditions set out in clauses (i) through (vi) of Regulation 108(a) are satisfied in relation to such transfer. Following an acceptance by the Receiving FCM Clearing Member to receive a transfer of the Porting Collateral, the Clearing House shall transfer the Porting Collateral that has been identified to and consented by the Receiving FCM Clearing Member. In the event that, for whatever reason, the Clearing House is unable to transfer the Porting Collateral that has been accepted by the Receiving FCM Clearing Member, the Clearing House will not proceed with the transfer of the Porting Contracts.

- (c) Additional Provisions Relating to Transfers of Client Positions.

- (i) Further to the satisfaction of the conditions set out in Regulation 108(a) and (b), and provided that the Clearing House does not determine, in its sole discretion, that a transfer pursuant to Regulation 108(a) cannot be effected under the Rulebook, the Clearing House shall transfer the Porting Contracts into the name of the Receiving FCM Clearing Member on behalf of the relevant Client. The transfer of the Porting Contracts shall occur by novation of all of the Carrying FCM Clearing Member's rights and obligations in respect of such Porting Contracts to the Receiving FCM Clearing Member.
- (ii) In the case where a transfer pursuant to Regulation 108(a) will include the transfer of Porting Collateral in addition to the transfer of Porting Contracts:
- (A) Upon completion of the transfer, the Porting Collateral deposited with or transferred to the Clearing House by the Carrying FCM Clearing Member and held by the Clearing House in respect of the Porting Contracts shall, without limitation, be deemed to have been delivered by the Receiving FCM Clearing Member to the Clearing House and subject to the security interest granted by the Receiving FCM Clearing Member pursuant to Regulation 109(n) and pursuant to its Clearing Membership Agreement. Furthermore, and for the avoidance of doubt, the Carrying FCM Clearing Member shall have no right or entitlement to assert any claim over, or right with respect to, the Porting Collateral transferred.

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- (B) Where all or a portion of the Porting Collateral have been accepted by the Receiving FCM Clearing Member, the transfer of the Porting Contracts and the accepted Porting Collateral shall be deemed to occur simultaneously, and the transfer of the Porting Contracts shall be conditioned on the transfer of the accepted Porting Collateral, and vice versa.
- (C) If the transfer of all Porting Contracts and (if applicable) all accepted Porting Collateral is not completed for any reason, then any actual transfer of Porting Collateral or Porting Contracts that has occurred, as the case may be, shall be deemed not to have occurred, and any actual transfer of Porting Collateral or Porting Contracts that has occurred shall be immediately unwound.

(d) Transfers of Contracts between Proprietary Accounts and Client Accounts of same FCM Clearing Member. If and to the extent permitted under the Procedures, a Clearing Member may:

(i) transfer Contracts from its Proprietary Account to the Proprietary Account of an FCM Clearing Member that is an Affiliate of the transferring FCM Clearing Member;

(ii) ~~(d) Transfers of Contracts between Proprietary Accounts and Client Accounts of same FCM Clearing Member. If and to the extent permitted under the Procedures, a Clearing Member may transfer Contracts between its Proprietary Account and~~ transfer Contracts from accounts of its Clients, ~~and vice versa,~~ to its Proprietary Account upon a client default or otherwise as permitted under and subject to applicable provisions of the CEA and the CFTC Regulations regarding segregation of assets, and in accordance with the Procedures; ~~and~~

(iii) transfer Contracts registered on behalf of its Clients to the Proprietary Account of a different FCM Clearing Member.

(e) Transfers between Proprietary Accounts of Two Clearing Members. To the extent permitted by and in accordance with the Procedures, a Clearing Member may transfer a Contract registered in its Proprietary Account to another Clearing Member's Proprietary Account. In addition to any other requirements or conditions set forth in the Procedures or required by the Clearing House (in its sole discretion), any such transfer is subject to the following conditions:

- (i) the Clearing House shall have received the consent of both Clearing Members to the transfer;
- (ii) neither Clearing Member shall be a Defaulter (or would become a Defaulter upon the consummation of the transfer); and
- (iii) the Clearing House shall have determined that the Clearing Member that is the transferee has sufficient Margin to register such transferred Contract.

(f) Transfers between Client Accounts and Proprietary Accounts of a different Clearing Member. To the extent permitted by and in accordance with the Procedures, Contracts

registered on behalf of Clients may be transferred to the Proprietary Account of a different Clearing Member.

(g) Clearing Member Instructions.

(i) Subject to paragraph (ii) below, but otherwise notwithstanding anything to the contrary in the Rulebook, in making any transfer of Porting Contracts and Porting Collateral pursuant to this Regulation 108, the Clearing House shall be authorized and entitled to rely conclusively on the instructions of and information provided by the relevant Clearing Member(s), which shall be solely responsible for all such instructions and information, including (A) ensuring that the transfer is properly authorized or rejected (as the case may be) and (B) the transfer is being made from the appropriate Client ~~Segregated~~ Sub-Account and that the appropriate account, Contracts and Collateral has been identified, the Clearing House shall have no responsibility or liability therefor.

(ii) The Clearing House shall verify that the Porting Contracts identified to it by the applicable FCM Clearing Member as being the subject of such a transfer correspond to Contracts which, according to its records, are registered in the name of the Carrying FCM Clearing Member on behalf of the relevant Client. In the event that the Clearing House identifies a discrepancy, it will notify the relevant FCM Clearing Member(s) and no transfer will occur pursuant to this Regulation 108 until such time as the Porting Contracts identified to the Clearing House by the relevant FCM Clearing Member(s) can be verified by the Clearing House.

(h) No Assignment of Rights under a Contract. Except as may be permitted by paragraphs (d), (e) and (f) above, expressly permitted by other parts of the Rulebook or as may otherwise be expressly permitted by the Clearing House in writing, rights under a Contract shall not be capable of assignment by a Clearing Member. Any such purported assignment by a Clearing Member, or any purported transfer that is not in compliance with this Regulation 108, shall be void.

(i) Indemnity. The Carrying FCM Clearing Member agrees to indemnify the Clearing House in respect of all liabilities, costs, loss, fees, damages or expenses suffered or incurred by the Clearing House (howsoever arising or occurring) by reason of a proposed transfer being rejected by the Carrying FCM Clearing Member other than pursuant to the grounds set out in the final paragraph of Regulation 108(a).

## Regulation 112      Records and Recordkeeping

- (a) Trading Information. The Clearing House shall make available to a Clearing Member in the manner and by the time prescribed by the Procedures, such details of original contracts presented for registration in the name of that Clearing Member, Contracts registered in that Clearing Member's name, and Collateral furnished by that Clearing Member as may be prescribed in the Procedures.
- (b) Each Clearing Member shall maintain appropriate books and records identifying all pertinent information regarding its Clients and any Affiliates for which it provides Clearing Services and regarding trades made on its own behalf through its Proprietary Account, the Contracts cleared for such Clients, Affiliates, or on its own behalf, as applicable, and the Collateral and Margin balances held in respect of such cleared Contracts. Without limitation of the foregoing, each FCM Clearing Member shall ensure that its books and records accurately reflect at all times the Contracts and Collateral maintained in connection with each Client-~~Segregated~~ Sub-Account for the relevant Clients.
- (c) A Clearing Member shall not be entitled to the return of any particulars, notices or any other documentation presented to the Clearing House pursuant to the Rulebook.
- (d) Record of Investments Regarding Client Funds.
  - (i) Each FCM Clearing Member that invests Client Funds shall keep a record showing the following:
    - (A) The date on which such investments were made;
    - (B) The name of the person through whom such investments were made;
    - (C) The amount of money or current market value of securities so invested;
    - (D) A description of the instruments in which such investments were made, including the CUSIP or ISIN numbers;
    - (E) The identity of the depositories or other places where such instruments are held;
    - (F) The date on which such investments were liquidated or otherwise disposed of and the amount of money or current market value of securities received of such disposition, if any;
    - (G) The name of the person to or through whom such investments were disposed of; and
    - (H) Daily valuation for each instrument and readily available documentation supporting the daily valuation for each instrument. Such supporting documentation must be sufficient to enable auditors to verify the valuations and the accuracy of any information from external sources used in those valuations.



- (ii) When the Clearing House receives documents from its FCM Clearing Members representing or evidencing investment of Client Funds, the Clearing House shall keep a record showing separately for each FCM Clearing Member the following:
  - (A) The date on which such documents were received from the FCM Clearing Member;
  - (B) A description of such documents, including the CUSIP or ISIN numbers; and
  - (C) The date on which such documents were returned to the FCM Clearing Member or the details of disposition by other means.
- (iii) Such records shall be retained in accordance with CFTC Regulation 1.31. No such investments shall be made except in instruments permitted under Regulation 103(k).
- (e) Recordation of Valuation of Instruments Purchased with Client Funds. FCM Clearing Members that invest Client Funds in instruments permitted under Regulation 103(k) shall include such instruments in their FCM Clearing Member Segregated Depository Account records and reports at values which at no time exceed their then current market value, determined as of the close of the market on the date for which such computation is made.
- (f) FCM ~~Clearing Member~~Swaps Client Segregated Depository Accounts; Daily Computation and Record.
  - (i) Each FCM Clearing Member must compute as of the close of the previous Business Day:
    - (A) the aggregate amount of Client Funds on deposit in its FCM ~~Clearing Member~~Swaps Client Segregated Depository Accounts on behalf of Clients;
    - (B) the amount of such Client Funds required by the CEA, the CFTC Regulations and the Rulebook to be on deposit in its FCM ~~Clearing Member~~Swaps Client Segregated Depository Accounts on behalf of such Clients; and
    - (C) the amount of the FCM Clearing Member's residual interest in such Client Funds.
  - (ii) In computing the aggregate amount of funds required to be in its FCM ~~Clearing Member~~Swaps Client Segregated Depository Accounts, an FCM Clearing Member may offset any net deficit in a particular Client's account against the then current market value of readily marketable securities, less applicable percentage deductions (i.e., "securities haircuts") as set forth in Rule 15c3-1(c)(2)(vi) of the Securities and Exchange Commission (17 CFR § 241.15c3-1(c)(2)(vi)), held for the same customer's account. The FCM Clearing Member must maintain a security interest in the securities, including a written authorization to liquidate the securities at the FCM Clearing Member's

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## Regulation 117      **Default or Bankruptcy of the Clearing House**

(a) Clearing House Default. Each of the following events shall constitute an “**LCH Default**”:

- (i) the Clearing House fails to make an undisputed payment or collateral delivery to a Clearing Member (other than a Clearing Member that is a Defaulter) that is due and payable or deliverable under a Contract in accordance with the Rulebook and such Clearing Member has delivered written notice to the Clearing House of such failure, and either (A) such failure has not been remedied by the close of business (as specified in Section 2A.2.2 of the Procedures) on the thirtieth day (or, in the event that such thirtieth day is not a Business Day, the immediately following Business Day) following the date when the obligation to pay fell due (such time on such day, the “**End of Day**”) or (B) the Clearing House has provided written notice (by electronic circular) to all Clearing Members that it cannot remedy such failure and that it intends to pursue a bankruptcy or liquidation; or
- (ii) the Clearing House commences a voluntary case or other procedure seeking or proposing liquidation, administration, receivership, voluntary arrangement or a scheme of arrangement, or other similar relief with respect to itself or to its debts under any bankruptcy, insolvency, regulatory, supervisory or similar law, or if the Clearing House takes corporate action to authorize any of the foregoing in any such case other than for the purposes of corporate restructuring (including any consolidation, amalgamation or merger); or
- (iii) if any of the foregoing cases or procedures referred to in paragraph (ii) above is commenced in relation to the Clearing House, and any such procedure (A) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for the winding-up or liquidation of the Clearing House or (B) is not dismissed, discharged, stayed or restrained within 30 days of the institution of such procedure.

For the avoidance of doubt, a payment or delivery to a Clearing Member by the Clearing House under a Contract is due and payable in accordance with the Rulebook, for purposes of paragraph (i) above, only to the extent that the obligations of the Clearing House in respect of such Contract are not limited, modified, cancelled, terminated, discharged or otherwise altered by any applicable provisions of the Rulebook (including, *e.g.*, Regulation 109, Regulation 320 and the Default Regulations).

(b) Default Notice; LCH Default Time; Termination Date.

- (i) Notice. The Clearing House shall publish notice of an LCH Default (and specifying the Termination Date in accordance with paragraph (iii) below) by electronic circular simultaneously to all Clearing Members, and shall promptly thereafter publish notice of such LCH Default prominently on its website:
  - (A) in the case of an LCH Default under Regulation 117(a)(i)(A), at the End of Day, or, at the discretion of the Clearing House, at an earlier time on such day;

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- (B) in the case of an LCH Default under Regulation 117(a)(i)(B), at the time the Clearing House provides the notice referred to therein;
  - (C) in the case of an LCH Default under Regulation 117(a)(ii), as promptly as practicable following the event referred to in Regulation 117(a)(ii); or
  - (D) in the case of an LCH Default under Regulation 117(a)(iii), as promptly as practicable following the event referred to in Regulation 117(a)(iii).
- (ii) LCH Default Time. The “**LCH Default Time**” means:
- (A) in the case of an LCH Default under Regulation 117(a)(i)(A), at the time of transmission of the electronic notice delivered in accordance with paragraph (i)(A) above, or, in the event that no such notice is delivered despite the requirement of the Clearing House to so deliver it in accordance with paragraph (i)(A) above, at the End of Day;
  - (B) in the case of an LCH Default under Regulation 117(a)(i)(B), at the time of transmission of the electronic notice delivered in accordance with such Regulation 117(a)(i)(B);
  - (C) in the case of an LCH Default under Regulation 117(a)(ii), at the time the event referred to in Regulation 117(a)(ii) occurs, notwithstanding whether or not the Clearing House has published notice in accordance with paragraph (i)(C) above; or
  - (D) in the case of an LCH Default under Regulation 117(a)(iii), at the time the event referred to in Regulation 117(a)(iii) occurs, notwithstanding whether or not the Clearing House has published notice in accordance with paragraph (i)(D) above.
- (iii) Termination Date. The “**Termination Date**” shall be the first Business Day immediately following the date of the LCH Default Time determined in accordance with paragraph (ii) above.
- (c) Upon the LCH Default Time. Effective as of the LCH Default Time:
- (i) the Clearing House shall no longer accept Transactions submitted to it for clearing or register any Contracts;
  - (ii) all open Contracts, regardless of whether such Contracts are related to House Business or Client Business, shall be terminated immediately upon and as of the LCH Default Time;
  - (iii) neither the Clearing House nor any Clearing Member shall be obliged to make any further payments or deliveries under any Contract between them which would, but for this Regulation 117, have accrued on or after the LCH Default Time other than by settlement of the Termination Amount, and any obligations to make further payments or deliveries which would otherwise have accrued shall be satisfied by settlement (whether by payment, set off or otherwise) of the Termination Amount; and

- (iv) all other payment and delivery obligations, present or future, (other than as set out in paragraph (iii) above) in relation to any Contracts and any other obligations pursuant to the Rulebook shall be payable or deliverable as of the Termination Date and in accordance with the provisions of this Regulation 117.

The Clearing House shall, to the extent possible, return or redeliver all amounts received after the LCH Default Time in respect of a Clearing Member's attempted registration of any Contract after the LCH Default Time.

- (d) Set Off and Netting. Following an LCH Default in accordance with this Regulation 117:

- (i) Each Clearing Member shall, as promptly as reasonably practicable on or after the Termination Date, but in any event within ninety days of the Termination Date (such ninetieth day, the "**Final Calculation Date**"), determine as of the Termination Date, (A) the value of each Contract (including its losses or gains associated with each Contract) and (B) the value of all other amounts which it owes to the Clearing House and which the Clearing House owes to it, in each case whether present or future, liquidated or unliquidated, actual or contingent, pursuant to the Contract Terms and in accordance with this Regulation 117(d), and promptly provide such determination to the Clearing House. In the case of an FCM Clearing Member, all obligations between the Clearing House and the FCM Clearing Member in respect of the FCM Clearing Member's Omnibus Client Swaps Account with LCH shall be set off and netted separately on a Client ~~Segregated~~-Sub-Account by Client-~~Segregated~~ Sub-Account basis, in accordance with the CEA and the CFTC Regulations, from any other obligations between the Clearing House and such FCM Clearing Member.

- (ii) Each Clearing Member shall calculate the value, as of the Termination Date, of:

- (A) the obligation of the Clearing Member or the Clearing House to pay Variation Margin;
- (B) the obligation of the Clearing House to repay or redeliver any Collateral, without applying any haircuts to the valuation of the applicable collateral held as Collateral;
- (C) the obligation of the Clearing House to repay such Clearing Member an amount equal to its Contribution, as adjusted in accordance with the Default Fund Regulations;
- (D) in the event that the Clearing Member is a Cash Gainer as at the last successful margin run prior to the LCH Default Time, the value of any Cash Gainer Adjustments under Regulation 318; and
- (E) any other amounts that may be due to or from either the Clearing Member or the Clearing House to or from the other in relation to the Rulebook.

- (iii) The value of the loss or gain (as the case may be) associated with each Contract as referred to in paragraph (d)(i)(A) above shall include (i) losses or gains in

**Regulation 205      Discharge of Defaulter's Rights and Liabilities; Multiple Accounts; Treatment of Variation Margin**

- (a) Upon the discharge of the Defaulter's rights and liabilities under or in respect of all Contracts to which it is party the process set forth in this Regulation 205 shall, subject to any contrary provision in Regulation 301, be completed by the Clearing House.
- (i) There shall be calculated all sums payable by or to the Defaulter in respect of the Clients of the Defaulter and each corresponding Client—~~Segregated~~ Sub-Account, separately on a Client—~~Segregated~~ Sub-Account by Client ~~Segregated~~ Sub-Account basis. In connection therewith the Clearing House shall have sole discretion with respect to the allocation of any available Buffer or the reallocation of any Encumbered Buffer in calculating such net sums.
- (ii) There shall be calculated all sums payable, other than in connection with Clients, by or to the Defaulter:
- (A) in respect of all Contracts (other than Contracts held on behalf of Clients);
- (B) in respect of any other sum due under the Rulebook;
- (C) in respect of any sum due relating to any breach of the Rulebook; and
- (D) in respect of any amount due from the Defaulter to the Clearing House in connection with any other business between the Defaulter and the Clearing House.
- (iii) The sum or sums so payable calculated under paragraphs (i) and (ii) above shall be aggregated or set off so as to produce as many net sums as required by Regulations 205(b) and (c) below and as required by applicable law.
- (iv) Each such net sum:
- (A) if payable by the Defaulter to the Clearing House, shall be set off against any Margin standing to the credit of the Defaulter's applicable account so as to produce a further net sum, or shall be aggregated with any debit balance of the Defaulter's applicable account, or
- (B) if payable by the Clearing House to the Defaulter, shall be aggregated with any Margin standing to the credit of the Defaulter's applicable account, or shall be set off against any debit balance of the Defaulter's applicable account so as to produce a further net sum.
- (v) Where an amount is payable by the Clearing House to the Defaulter in respect of a balance on its Proprietary Account(s), and there are amounts due to the Clearing House in respect of one or more Omnibus Client Swaps Accounts with LCH of such Defaulter, the balance of the Proprietary Account(s) may be applied to meet the shortfall in any such Omnibus Client Swaps Accounts with LCH in any way the Clearing House may determine in its sole discretion;

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- (vi) In the event that the Clearing House elects to close out and liquidate Contracts attributable to Clients of the Defaulter, the Clearing House shall allocate any costs associated with such closing out and liquidation process (including hedging costs (including gains and losses associated with hedging transactions) and liquidation/auction costs and losses) among Clients whose positions were liquidated, by allocation to such Clients' Client-~~Segregated~~ Sub-Accounts in the manner set out in Section 2A.17.6 of the Procedures and in accordance with Parts 22 and 190 of the CFTC Regulations and any other applicable law; and
  - (vii) With respect to any Unallocated Excess maintained in the Unallocated Excess Sub-Account of the Defaulter, the Clearing House shall not be permitted to apply any such Unallocated Excess to the obligations of the Defaulter to the Clearing House (on behalf of the Defaulter's Clients or otherwise) or take any such Unallocated Excess into account for purposes of determining net sums under this Regulation 205, except to the extent required or permitted by applicable law or directed by the applicable bankruptcy trustee or Regulatory Body in accordance with applicable law.
- (b) Further Interpretation of this Regulation 205.
- (i) For the purposes of paragraph (a)(ii) of this Regulation 205 the Clearing House may assess the sum payable by or to the Defaulter in respect of any breach of the Rulebook in such reasonable manner as it thinks fit, subject to the CFTC Regulations or other applicable law.
  - (ii) In Regulation 205(a)(iv) the "Defaulter's applicable account" means:
    - (A) with regard to a net sum produced by reference to Contracts registered in one or more Client-~~Segregated~~ Sub-Account held on behalf of an individual Client of the Defaulter, such Client-~~Segregated~~ Sub-Account, or (if there is more than one) all such Client-~~Segregated~~ Sub-Accounts combined;
    - (B) with regard to a net sum produced by reference to Contracts registered in one or more Proprietary Accounts of the Defaulter, that Proprietary Account or those Proprietary Accounts combined and (if the Clearing House has elected in accordance with Regulation 205(c) below) any other accounts of the Defaulter with the Clearing House; and
    - (C) with regard to a net sum produced by reference to one or more accounts of the Defaulter other than Omnibus Client Swaps Accounts with LCH and other than Proprietary Accounts, such other account or those other accounts combined, and (if the Clearing House has elected in accordance with Regulation 205(c) below) Proprietary Accounts.
- (c) Multiple Accounts of Defaulter.
- (i) Where the Defaulter has more than one account with the Clearing House, the Defaulter's accounts shall be combined for the purpose of Regulations 205 and 206 as follows:

- (A) an account which is an Omnibus Client Swaps Account with LCH of the Defaulter may only be combined with other Omnibus Client Swaps Accounts with LCH of the Defaulter; provided, that no account which is a Client ~~Segregated~~ Sub-Account of a Client may be combined with any other account, including any Client ~~Segregated~~ Sub-Account of another Client of the Defaulter, other than another Client ~~Segregated~~ Sub-Account of the same Client held with the Defaulter; and
- (B) an account which is a Proprietary Account of the Defaulter may be combined with any other Proprietary Accounts of the Defaulter and (if the Clearing House so elects) any other accounts of the Defaulter relating to any other business between the Defaulter and the Clearing House (subject to Regulations 205(a)(v) and 205(c)(ii)).

Notwithstanding anything in the Rulebook to the contrary, in no circumstances may an account which is an Omnibus Client Swaps Account with LCH of the Defaulter (or any other type of account for a Client) be combined with any other account of the Defaulter, other than, to the extent permitted by the CEA and the CFTC Regulations, other Client accounts of the Defaulter that are in the same customer account class (as such term is used in the CEA and the CFTC Regulations).

- (ii) Notwithstanding any provisions in the Rulebook to the contrary, any loss which relates to business between the Defaulter and the Clearing House which is not related to Contracts and is not otherwise governed by the Rulebook may not be treated as a Default Loss, whether or not Margin has been applied in respect of such loss. Nothing in this Regulation 205(c)(ii) requires the Clearing House to apply Margin in respect of any such loss instead of any other amount referred to in Regulation 205(a)(i) or (a)(ii), except that the Clearing House may not apply Margin in respect of any such loss to the extent that doing so would give rise to an Excess Loss.
- (d) Variation Margin Payments Following Default of FCM Clearing Member. Following a Default by an FCM Clearing Member, the Clearing House will to the extent permitted by applicable law (including Part 190 of the CFTC Regulations and applicable bankruptcy law), credit Variation Margin on a gross basis to each individual Client ~~Segregated~~ Sub-Account.

## CHAPTER 4 – SWAPCLEAR REGULATIONS

### **Regulation 401      SwapClear Transactions; Registration of SwapClear Contracts; Novation and Post-Novation Compression**

- (a) A SwapClear Transaction may be presented to the Clearing House for registration as two SwapClear Contracts (in accordance with the other provisions of the Rulebook).
- (b) Where a SwapClear Transaction is presented to the Clearing House, the Clearing House shall, where applicable in accordance with paragraph (c) below and the Procedures, request the consent of each applicable Clearing Member with whom a SwapClear Contract shall be registered as a result thereof. Upon each relevant Clearing Member providing its consent, such SwapClear Transaction shall be deemed to have been “submitted” (as such term is defined and used in the Procedures) to the Clearing House for registration. Any consent shall be provided in accordance with the Procedures.
- (c) A Clearing Member which has been nominated to clear a SwapClear Contract arising from the registration of a SwapClear Transaction on behalf of a third party Executing Party, other than a SwapClear Dealer, will (only where such SwapClear Transaction is not a US Trading Venue Transaction) be notified by the Clearing House of the relevant SwapClear Transaction and shall choose whether to grant or refuse consent to the registration of such SwapClear Transaction and the SwapClear Contracts resulting from such SwapClear Transaction. Unless provided otherwise in the Procedures, in all circumstances other than those set out in the foregoing sentence and in respect of a SwapClear Transaction that is a US Trading Venue Transaction, the consent of a Clearing Member to the registration of the relevant SwapClear Transaction will occur automatically and without the need for any further action by such Clearing Member.
- (d) The Clearing House shall register or reject the registration of two SwapClear Contracts in respect of a SwapClear Transaction presented for registration subject to, and in accordance with, these Regulations and the Procedures as quickly as would be technologically practicable if fully automated systems were used (the standard required in Part 39 of the CFTC Regulations); provided, that:
  - (i) both sides of the relevant SwapClear Transaction have been properly presented and submitted for clearing by (or on behalf of the) the Executing Parties;
  - (ii) the relevant SwapClear Transaction meets the eligibility criteria prescribed in the Rulebook at the time the particulars of the SwapClear Transaction are presented to the Clearing House and continues to meet such criteria at the Registration Time;
  - (iii) such SwapClear Contract is consented to by the relevant Clearing Member (to the extent such consent is required) in accordance with paragraph (c) above and Section 2A.3.2 of the Procedures;
  - (iv) the applicable Clearing Member has paid or transferred, upon request of the Clearing House and in accordance with Regulation 106 and such other applicable provisions of the Rulebook, all Required Margin in respect of such SwapClear Contract prior to registration (taking into account any available

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SwapClear Tolerance, if any); provided that it such Required Margin need not be furnished prior to registration as a condition to the registration of such SwapClear Contract unless such SwapClear Contract results from a SwapClear Transaction that is a Block IRS Trade; and

- (v) all the conditions applicable (under the terms of the Rulebook) for the registration of the other SwapClear Contract deriving from the relevant SwapClear Transaction have been satisfied.
- (e) From the time of registration by the Clearing House of two SwapClear Contracts (the “**Registration Time**”) in respect of a SwapClear Transaction in accordance with the Procedures:
  - (i) ~~where the Executing Parties in respect of~~ such SwapClear Transaction ~~are Clearing Member(s), those Clearing Members~~ shall be extinguished and replaced by the corresponding SwapClear Contracts, and the parties to such SwapClear Transaction shall be released and discharged from all rights and obligations ~~thereunder~~ under such SwapClear Transaction which fall due for performance on or after the Registration Time ~~and, in all other cases, the rights and obligations of the Executing Parties to the SwapClear Transaction shall be governed by the applicable terms or agreements among such relevant parties (including any applicable rules of an Approved Trade Source System);~~ and
  - (ii) each relevant Clearing Member will become bound by the obligations under the Rulebook in respect of the applicable SwapClear Contract with the Clearing House automatically and without any further action on its part, on terms that, without limitation, incorporate all applicable terms of the Rulebook and Schedule 4A to these Regulations (including the SwapClear Contract Terms applicable to the relevant SwapClear Contract).
- (f) The Economic Terms shall be such that (A) a Clearing Member paying (or clearing on behalf of a person paying) Rate X and receiving (or clearing on behalf of a person receiving) Rate Y under a SwapClear Transaction shall have such rights against, and owe such obligations to, the Clearing House under the corresponding SwapClear Contract registered by it in respect of such SwapClear Transaction as further provided for in the final paragraph of this paragraph (f) and (B) shall be such that a SwapClear Clearing Member paying (or clearing on behalf of a person paying) Rate Y and receiving (or clearing on behalf of a person receiving) Rate X under a SwapClear Transaction shall have such rights against, and owe such obligations to, the Clearing House under the corresponding SwapClear Contract registered by it in respect of such SwapClear Transaction as further provided for in the final paragraph of this paragraph (f).

In this paragraph (f), a reference to the “rights” and “obligations” is a reference to rights and obligations, falling due for exercise or performance after the Registration Time, and which are the same in nature and character as the rights or obligations set out in the Economic Terms of the corresponding SwapClear Transaction (it being assumed, for this purpose, that such SwapClear Transaction was a legal, valid, binding and enforceable obligation of the parties thereto and that the Economic Terms thereof were as presented to the Clearing House for registration), notwithstanding the change in the

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person entitled to them or obliged to perform them, and subject to any change thereto as a result of the operation of the Standard Terms. In this sub-paragraph (f), a reference to “paying” means either paying under a SwapClear Transaction that is an existing swap transaction or “agreeing to pay” under a SwapClear Transaction that is contingent on clearing.

- (g) If at any time after registration of a SwapClear Contract, the Clearing House determines that the corresponding SwapClear Transaction of which details were presented for registration did not, at the Registration Time, meet the SwapClear Product Eligibility Criteria in existence at the Registration Time (an “**Ineligible SwapClear Transaction**”), the Clearing House shall, as soon as practicable thereafter, set aside both SwapClear Contracts arising from such Ineligible SwapClear Transaction. Upon a SwapClear Contract (an “**Ineligible SwapClear Contract**”) being set aside under this paragraph (g), the Clearing House will notify the SwapClear Clearing Member party to such Ineligible SwapClear Contract via the Approved Trade Source System through which details of the relevant Ineligible SwapClear Transaction were originally presented to the Clearing House that such Ineligible SwapClear Contract has been set aside. The following shall take effect immediately upon the delivery of such notice: (i) such Ineligible SwapClear Contract shall be deemed to be terminated at the time of the notification and shall thereafter have no force or effect; (ii) all Variation Margin (if any) paid by the Clearing House or by a Clearing Member in respect of such Ineligible SwapClear Contract shall be retained by the receiving party upon termination; (iii) where there is a difference between the value of the Ineligible SwapClear Contract as at the last margin run and the value (as determined by the Clearing House) of that Ineligible SwapClear Contract at the time when the Ineligible SwapClear Contract is set aside, a payment shall be made between the SwapClear Clearing Members to the original Ineligible SwapClear Transaction equal to such difference; and (iv) these payments shall be deemed to satisfy in full the relevant party’s obligations under the Ineligible SwapClear Contract and shall be retained by the receiving party upon termination as a termination payment.
- (h) Notwithstanding anything to the contrary in this Rulebook, the Clearing House may decline to register a SwapClear Transaction as a SwapClear Contract where it considers such action advisable for its own protection or the protection of the relevant market; provided, that the Clearing House may (subject to the provisions of the Rulebook) register any SwapClear Contract which reduces the risk exposure of the Clearing House and the applicable SwapClear Clearing Member, as determined in the discretion of the Clearing House. The Clearing House may, subject to paragraph (d) above and without assigning any reason, make the registration of any SwapClear Transaction subject to any conditions stipulated by the Clearing House including the furnishing of additional ~~cover~~Margin by any SwapClear Clearing Member in whose name any such SwapClear Transaction is to be registered.
- (i) Any SwapClear Transaction of which details have been presented for registration and which are not so registered will be governed by the applicable terms or agreements among such relevant parties (including any applicable rules of an Approved Trade Source System), and the Clearing House shall have no obligations or liability in relation thereto.

- (j) If a SwapClear Transaction is revoked, avoided or otherwise declared invalid for any reason after particulars of it have been accepted by the Clearing House for registration, such revocation, avoidance or invalidity shall not affect any SwapClear Contract arising under this Regulation 401 or any other applicable provision of the Rulebook.
- (k) In the case of a SwapClear Contract registered by the Clearing House pursuant to Regulation 202(i), the Registration Time shall be deemed to be the time chosen by the Clearing House whereupon this Regulation 401 shall take effect.
- (l) Compression Available to Clearing Members. Notwithstanding any other provision of these Regulations, if one or more SwapClear Contracts registered by a Clearing Member in accordance with the Rulebook has substantially the same Economic Terms as one or more other SwapClear Contracts previously registered for the account of such Clearing Member, and all such SwapClear Contracts are either registered on the Clearing Member's own behalf or registered on behalf of the same Client then, to the extent permitted in the Procedures, the Clearing Member may request that the Clearing House compress and combine all such SwapClear Contracts by terminating the relevant existing SwapClear Contracts and compressing them into one SwapClear Contract reflecting the aggregate economic terms, or the net economic terms, as the case may be, of the original SwapClear Contracts. Where neither of the SwapClear Contracts deriving from the registration of a SwapClear Transaction are held on behalf of a Client or an Affiliate (*i.e.*, both SwapClear Contracts are registered to the applicable Clearing Members' Proprietary Account but are not held on behalf of an Affiliate in either case), those SwapClear Contracts may not be compressed pursuant to this Regulation 401(l). For purposes of this Regulation 401(l), two or more SwapClear Contracts may be deemed by the Clearing House to have "substantially the same Economic Terms" if they are based on the same underlying currencies and the Clearing House considers them, in its sole discretion, to have substantially the same fundamental economic attributes which influence the amount, value date and direction of all coupon cash flows. Two or more SwapClear Contracts that are compressed under the terms of this Regulation 401(l) shall be aggregated if the position of the Clearing Member (on its own behalf or on behalf of the relevant Client) is in the same direction on each such SwapClear Contract (*i.e.*, obligations to make payment aggregated and rights to receive payment aggregated), such that the SwapClear Contract that replaces the compressed SwapClear Contracts shall have a notional amount equal to the total notional amount of the compressed SwapClear Contracts. Two or more SwapClear Contracts that are compressed under the terms of this Regulation 401(l) shall be netted if the position of the Clearing Member (on its own behalf or on behalf of the relevant Client) is in the opposite direction on two or more of each such SwapClear Contracts (*i.e.*, obligations to make payment netted against rights to receive payment), such that the SwapClear Contract (if any) that replaces the compressed SwapClear Contracts shall have a notional amount equal to the net notional amount of the compressed SwapClear Contracts; provided, that in the event that the net notional amount is equal to zero such compression shall result in no replacement SwapClear Contracts. The Clearing House shall determine (in its sole discretion) whether SwapClear Contracts that are the subject of a request for compression from the Clearing Member may be compressed and, if such SwapClear Contracts are compressed, the Clearing House shall determine the resulting notional amount of the SwapClear Contract(s) (if any) that replaces the compressed SwapClear Contracts, and such determination shall be binding on the

Clearing Member, absent manifest error. It is a condition for compression of SwapClear Contracts that the amount of ~~cover~~ Margin that the Clearing House requires in respect of the original SwapClear Contracts is equal to that which is required by the Clearing House in respect of the replacement SwapClear Contract(s).

- (m) Unallocated SwapClear Transactions. In accordance with all other applicable provisions of the Rulebook, an FCM Clearing Member may register a SwapClear Contract subject to post-registration allocation on behalf of an Account Manager Executing Party in accordance with the following provisions:
- (i) A SwapClear Transaction executed by or on behalf of an Account Manager Executing Party and subject to post-registration allocation (such transaction, an “**Unallocated SwapClear Transaction**”) shall be notified to the Clearing House as such at the time it is submitted or presented to the Clearing House.
  - (ii) The SwapClear Contract registered on behalf of an Account Manager Executing Party that results from an Unallocated SwapClear Transaction (an “**Unallocated SwapClear Contract**”) shall be registered in a suspense sub-account of the applicable FCM Clearing Member’s Omnibus Client Swaps Account with LCH (such sub-account, the “**SwapClear Suspension Sub-Account**”).
  - (iii) Following registration of an Unallocated SwapClear Contract, the applicable FCM Clearing Member must notify the Clearing House (the “**Allocation Notice**”), prior to the close of the clearing of SwapClear Contracts on the Business Day in which the Unallocated SwapClear Contract was registered, of the applicable Client-~~Segregated~~ Sub-Accounts to which portions of the Unallocated SwapClear Contract should be allocated and the applicable portions of the Unallocated SwapClear Contract to be allocated to each such Client-~~Segregated~~ Sub-Account. The Allocation Notice must provide for the allocation of the full notional amount of the Unallocated SwapClear Contract. The Allocation Notice is delivered through Markitwire, the SwapClear API and/or such other means as may be approved by the Clearing House and notified to Clearing Members.
  - (iv) Following receipt of an Allocation Notice, the Clearing House shall
    - (A) close out the outstanding Unallocated SwapClear Contract and simultaneously register two or more (as applicable) SwapClear Contracts to the same SwapClear Suspension Sub-Account, which such newly registered SwapClear Contracts shall have the same Economic Terms as the Unallocated SwapClear Contract except that they shall have lower notional values corresponding to the allocation instructions provided in the Allocation Notice (which notional values shall, in the aggregate, equal the notional value of the Unallocated SwapClear Contract); and
    - (B) following the actions described in paragraph (A) above, transfer each of the newly registered SwapClear Contracts resulting from the cancellation of the Unallocated SwapClear Contract to the applicable

~~December 2013~~ February 2014

Client-~~Segregated~~ Sub-Accounts in accordance with the Allocation Notice.

Where an Allocation Notice directs the entire notional amount of an Unallocated SwapClear Contract to be allocated to a single Client-~~Segregated~~ Sub-Account, then the Clearing House shall not take the steps described above in this paragraph (iv) and shall instead transfer the Unallocated SwapClear Contract to the applicable Client-~~Segregated~~ Sub-Account following receipt of the Allocation Notice. In no event can Unallocated SwapClear Contracts be further allocated once they are transferred from the SwapClear Suspension Sub-Account.

By delivering an Allocation Notice to the Clearing House, the FCM Clearing Member shall be deemed to have instructed the Clearing House to take the steps referred to in this paragraph (iv).

- (v) The allocation of Unallocated SwapClear Contracts as set forth above is subject to all other applicable provisions of the Rulebook, including the furnishing by the applicable FCM Clearing Member of adequate Margin, at or prior to the submission of the Allocating Notice, in respect of each of the applicable Client ~~Segregated~~ Sub-Accounts to which an Unallocated SwapClear Contract is to be allocated. If adequate Margin is not so furnished in respect of each such Client ~~Segregated~~ Sub-Account, the Clearing House may, in its sole discretion, delay the allocation and transfer of all or any portions of the Unallocated SwapClear Contract and may take any other actions permitted under the Rulebook.
- (vi) An FCM Clearing Member that submits and clears Unallocated SwapClear Transactions must comply with the applicable provisions of the CFTC Regulations (including CFTC Regulation 1.35 and CFTC Regulation 1.73) and all other applicable law, and shall be responsible for ensuring that Account Manager Executing Parties clearing through it shall be in compliance therewith. Upon an FCM Clearing Member executing an Unallocated SwapClear Transaction and upon delivering an Allocation Notice, such FCM Clearing Member is deemed to represent to the Clearing House that such transaction and allocation are in accordance with properly authorized instructions and are in compliance with applicable CFTC Regulations and other applicable law.

As a precondition of registering a SwapClear Contract, the Clearing House may require the Clearing Member in whose name such SwapClear Contract is to be registered to provide no later than the time of “submission” or “deemed submission” of the SwapClear Transaction to which the SwapClear Contract relates (and thereafter maintain) sufficient Margin in respect of such SwapClear Contract. In determining whether sufficient Margin for registration is available, the Clearing House will take into account any available Buffer, MER and SwapClear Tolerance. Available Buffer or MER will always be applied prior to taking into account any available SwapClear Tolerance.

Upon a SwapClear Transaction being submitted to the Clearing House for registration and the conditions to registration specified in Regulation 401 having been satisfied in respect of the related SwapClear Contracts, the SwapClear clearing system will respond, after processing, with a message confirming the registration. The registration notification message will be sent using the clearing member reporting system (including by way of the originating Approved Trade Source System). The definitive report of a registered SwapClear Contract will be shown within the clearing member reporting system (see Section 2C.1.3) on the SwapClear clearing member reporting account.

#### 2A.3.5.2 *Backloaded Trades:*

A SwapClear Transaction that has a Trade Date of greater than ten calendar days prior to the date of submission is considered a Backloaded Trade by the Clearing House (a “**Backloaded Trade**”). Due to the nature of Backloaded Trades, Clearing Members should note that a relatively large amount of Margin is required in order to register such trades. The Clearing House provides the facility for Clearing Members to load such eligible existing SwapClear Transactions through an Approved Trade Source System. Where the Clearing House approves additional Approved Trade Source Systems for these purposes, it will notify Clearing Members via a member circular. Backloading requires bilateral agreement between the relevant Executing Parties and the granting of acceptance by the Clearing Member(s) of the full particulars required by the Clearing House for each such SwapClear Transaction.

At least once every Business Day, the Clearing House will carry out a process for the registration of Backloaded Trades (each a “**Backload Registration Cycle**”) which have been presented for clearing or with respect to which the Clearing House has received the one or more Necessary Consents, if any. Following each Backload Registration Cycle, the Clearing House will calculate the increase in incremental ~~cover~~ [Margin](#) required to register the Backloaded Trade(s) and will notify each relevant SwapClear Clearing Member (the “**Backload Margin Call**”). The Backload Margin Call will be for the entire amount of incremental ~~cover~~ [Margin](#) required in connection with the Backloaded Trade(s), and the Backload Margin Call cannot be satisfied by and will not take into account SwapClear Tolerance (i.e., SwapClear Tolerance is not available for this purpose), or any available MER Cover or any form of excess ~~cover~~ [Margin](#) (other than that which has been expressly allocated for that purpose, as described in the paragraph below). In connection with a Backload Margin Call, following the time that a SwapClear Clearing Member is required to deliver to the Clearing House the ~~cover~~ [Margin](#) associated with such Backload Margin Call (the “**Backload Margin Call Deadline**”), the Clearing House will issue such SwapClear Clearing Member a subsequent margin call to deliver ~~cover~~ [Margin](#) in respect of any

increase in SwapClear Tolerance utilisation as of the time of the Backload Margin Call Deadline (if any).

Where an individual SwapClear Clearing Member determines that the Backloaded Trade(s) that it is submitting for registration will lead to an aggregate change (be it either an increase or decrease) in the net present value of its portfolio of SwapClear Contracts in excess of a threshold amount (the “**Individual Backload Value Threshold**”) as published by the Clearing House from time to time, it shall notify the Clearing House before the end of the Business Day preceding the Backload Registration Cycle. In the event that the Clearing House does not receive such notification and the change in net present value of the SwapClear Clearing Member’s portfolio of SwapClear Contracts is in excess of the Individual Backload Value Threshold the Clearing House may, in its sole discretion, exclude that SwapClear Clearing Member from the entire Backload Registration Cycle or postpone or cancel the entire Backload Registration Cycle.

Where a SwapClear Clearing Member notifies the Clearing House of a change in net present value in excess of the Individual Backload Value Threshold, the Clearing House shall inform the SwapClear Clearing Member whether it will be required to pre-fund the Backload Margin Call and, if so, how it should be delivered such that it will be made available for a Backload Registration Cycle.

In the event that the aggregate Backload Margin Call required from all SwapClear Clearing Members participating in a Backload Registration Cycle is in excess of a pre-determined threshold amount (the “**Aggregate Backload Margin Threshold**”) as published by the Clearing House from time to time, the Clearing House may postpone or cancel the relevant Backload Registration Cycle.

Where the Clearing House postpones or cancels a Backload Registration Cycle it shall notify those SwapClear Clearing Members that were intending to participate in the Backload Registration Cycle.

Backloaded Trades received by the Clearing House in advance of a Backload Registration Cycle will be ‘parked’ until the next Backload Registration Cycle (whether that Backload Registration Cycle is on the same Business Day or the following Business Day).

In order for the registration of the Backloaded Trades included in a Backload Registration Cycle to complete, ~~cover for margin~~ [Margin](#) from each SwapClear Clearing Member (and each FCM Clearing Member, if applicable) which is party to a Backloaded Trade within that Backload Registration Cycle must be provided as required to the Clearing House in advance.

A Backloaded Trade which has been presented for clearing (or with respect to which the Clearing House has received the one or more Necessary Consents, if any) shall be deemed to have been submitted by the SwapClear Clearing Member(s) or the SwapClear Clearing Member and the FCM Clearing Member (as the case may be) for registration by the Clearing House at such time that the Clearing House determines that sufficient ~~cover~~ [Margin](#) has been provided to register that Backloaded Trade.

## 2A.4.2 Position-Keeping Accounts

### Clearing Member Accounts

The account types are: H for House Business (Proprietary Account); and C for segregated Client Business (an Omnibus Client Swaps Account with LCH). A Clearing Member's SwapClear Contract positions are also recorded within the SwapClear clearing system in SwapClear Accounts.

All registered SwapClear Contracts will be identifiable to Clearing Members via SwapClear reporting (see Section 2A.1.3). Each SwapClear Contract will also be assigned a unique trade identifier. The Clearing Member reporting functionality also allows Clearing Members to identify all SwapClear Contracts registered in their name.

## 2A.5 Financial Accounts

Clearing Member accounts have financial accounts associated with them. These accounts are, inter alia, used to record cash balances and securities/documentary credits. Information contained within position-keeping accounts is consolidated into financial accounts as follows:

### 2A.5.1 Relationship with Position-Keeping Accounts

Trading Account	Financial Account		
H	House	H	Proprietary Account
C	Client	C	LCH Swaps Client Segregated Depository Account
L	Client	L	<del>LCH Swaps Client Segregated Depository Account used for</del> <a href="#">The Clearing House's internal record-keeping account used to record Variation Margin Flows</a>

[The C account is a Cleared Swaps Customer Account.](#)

### 2A.5.2 Other Financial Accounts

At the Clearing House's discretion, further financial accounts, used only to record financial balances, may be opened as follows:

	Code
Buffer accounts (House), used for holding additional cash in relation to Proprietary business	B
Buffer accounts (Client), used for holding additional cash in relation to Client Business	E



[The E account is a Cleared Swaps Customer Account.](#)

**2A.6 SwapClear Contract Valuation**

**2A.6.1 Net Present Value (NPV)**

The Clearing House will calculate the NPV (as defined in the Regulations) of each eligible SwapClear Contract using the Clearing House's zero coupon yield curves.

It is a condition of registration that sufficient Margin, as determined by the Clearing House, be furnished to the Clearing House to satisfy the Clearing House's Margin requirements for each SwapClear Contract (taking into account, for these purposes, available SwapClear Tolerance, if any), except that such Margin shall be required to be furnished prior to registration as a condition thereto only if such SwapClear Contract results from a SwapClear Transaction that is a Block IRS Trade.

All SwapClear Contracts credited to a Clearing Member will, on submission to the Clearing House, be marked-to-market, in accordance with Regulation 402. The NPV so determined must, subject to intra-day Registration (see Section 2A.3.5), be paid by the Clearing Member in cash in the currency of the SwapClear Contract. Where a SwapClear Transaction is registered intra-day, and the NPV is covered with non-cash collateral, the Clearing House will, the following Business Day, require payment of the full cash amount.

**2A.6.2 Zero Coupon Yield Curve Construction**

The Clearing House will determine, at its sole discretion, appropriate instruments, points and market prices for the construction of zero coupon curves and portfolio valuation. Details of the construction method and Instruments used are available on request from the Clearing House Risk Management Department at +1 (212) 513-5654, but may be subject to change without prior notification.

**2A.6.3 Official Quotations**

Zero Coupon Yield curves will use prices and rates taken at:

(All times quoted are in London time except where otherwise indicated.)

AUD	12:00
CAD	15:00 (New York City time)
CHF LIBOR & OIS	16:30
CZK	16:30
DKK	16:30
EURO	
LIBOR	16:30

<u>Time</u> (all references below are to New York City Time)	<u>Partial Transfer</u>	<u>Full Transfer (with Collateral)</u>	<u>Full Transfer (without Collateral)</u>
	Collateral from the Carrying FCM Clearing Member or the Receiving FCM Clearing Member required to enable the transfer.	from the Receiving FCM Clearing Member required to enable the transfer.	from the Receiving FCM Clearing Member required to enable the transfer.
Day 3: 09:00	Clearing House transfers SwapClear Contracts.	Clearing House transfers SwapClear Contracts and associated Porting Collateral.	Clearing House transfers SwapClear Contracts.

The timings and processes listed in the table above may be amended from time to time by the Clearing House in its full discretion via Member Circular.

#### 2A.12.5 Transactions in Respect of Clients or Affiliates in Default to Clearing Member

This Section describes certain transactions that, under certain conditions, can be carried out by a Clearing Member in respect of one of its Clients or one of its Affiliates that has defaulted in its obligations to the Clearing Member.

A request or instruction from a Clearing Member to the Clearing House to carry out a transaction described in Sections 2A.12.5.1 or 2A.12.5.2 below shall in every case be deemed a representation by the Clearing Member to the Clearing House that (i) the affected Client or Affiliate is in default of its obligations to the Clearing Member, (ii) the Clearing Member has provided and will provide (as applicable) any required notices to the Client or Affiliate of its default and the Clearing Member's transactions effected under Sections 2A.12.5.1 and/or 2A.12.5.2 below, and (iii) the Clearing Member is permitted by its agreements with the Client or Affiliate and applicable law, and has authority to effect the transactions specified in the Clearing Member's requests and/or instructions to the Clearing House in respect of such Client or Affiliate. Clearing Members are not permitted to effect or attempt to effect a transaction described in Sections 2A.12.5.1 or 2A.12.5.2 below where the preceding representations are not satisfied.

Notwithstanding anything to the contrary contained in this Section 2A.12.5, the transactions described in this section are subject to all applicable provisions of the CEA and the CFTC Regulations (including without limitation Part 22 thereof).

##### 2A.12.5.1 Transfers between Proprietary Accounts and Client Accounts of the Same FCM Clearing Member

Pursuant to Regulation 108(d), an FCM Clearing Member may, in connection with a defaulted Client, transfer a SwapClear Contract from the applicable Client

Segregated Sub-Account to its Proprietary Account, ~~or transfer a SwapClear Contract from its Proprietary Account to the applicable Client Segregated Sub-Account,~~ provided that the following conditions are met (in addition to any other generally applicable provisions of the Rulebook):

- (a) the representations described above in Section 2A.12.5 are not or would not be breached;
- (b) satisfactory evidence of the Client's default in its obligations to the FCM Clearing Member is presented to the Clearing House, which evidence may be, to the extent permitted by the Clearing House in its sole discretion, nothing other than the FCM Clearing Member's instruction to effect the transfer (provided that the Clearing House shall be entitled to request additional evidence in its discretion);
- (c) at all times the FCM Clearing Member maintains sufficient Margin in its Proprietary Account and the applicable Client Segregated Sub-Account, taking into account that ~~(i) the FCM Clearing Member may request that Collateral held in the Proprietary Account be transferred to a client account in connection with a transfer of a SwapClear Contract from the Proprietary Account to a Client Segregated Sub-Account (Collateral held in the client account may in no circumstances be transferred to a Proprietary Account), and (ii) collateral transfers may not be requested by the FCM Clearing Member in connection with a transfer of a SwapClear Contract from a Client Segregated Sub-Account to the Proprietary Account;~~ and
- (d) on demand from the Clearing House, an indemnity from the FCM Clearing Member in a form suitable to the Clearing House is provided to the Clearing House.

The Clearing House will typically (but shall not be required to) transfer the relevant SwapClear Contract within 24 hours of receipt of the above.

A SwapClear Contract transferred in this manner shall be through novation, ~~from the Client to the FCM Clearing Member in the case of a transfer from a Client Segregated Sub-Account to the Proprietary Account, and from the FCM Clearing Member to the Client in the case of a transfer from a Proprietary Account to a Client Segregated Sub-Account.~~

#### 2A.12.5.2 SwapClear Contracts Entered into on Behalf of Defaulted Clients

An FCM Clearing Member may register, in the name of a defaulted Client but without the direction of such Client, SwapClear Contracts (including hedging and/or compression transactions) to such Client's Client Segregated Sub-Account under the following conditions (in addition to any other generally applicable provisions of the Rulebook):

- (a) the representations described above in Section 2A.12.5 are not or would not be breached;

Member. FCM Clearing Members interested in providing these services to their Clients should contact the Clearing House's SwapClear Client Services department.

#### 2A.13 **Proprietary Account Position Transfers**

The SwapClear clearing system provides functionality for the transfer of positions from a Clearing Member's Proprietary Account, either in respect of SwapClear Contracts held on a Clearing Member's own behalf or in respect of SwapClear Contracts held on behalf of an Affiliate, to another Clearing Member. In either case, any such transfer may only occur if the Clearing Member receiving such positions is an Affiliate of the Clearing Member transferring such positions.

A Clearing Member who wishes to effect a position transfer to another Clearing Member should contact the Clearing House Risk Management Department. Transfers will only be effected once adequate Margin has been furnished by both parties to the transfer. [Transfers of Affiliate positions shall not be permitted to another Clearing Member's Proprietary Account unless such Affiliate is an Affiliate of the Clearing Member receiving the transferring position.](#)

See Section 2A.12.5 above regarding transfers between Proprietary Accounts and Client accounts.

##### 2A.13.1 **Legal Documentation**

The Clearing House will provide standard legal documentation for the transfer of positions. The transfer must be authorized by both parties and by individuals with appropriate signing authority.

##### 2A.13.2 **Position Transfer Notice Period**

The Clearing House will usually require five (5) Business Days' notice ahead of an intended transfer.

#### 2A.14 **Amendment of Trade References**

Sometimes Clearing Members wish to change their own trade reference numbers/codes by which they identify trades registered in the SwapClear US Service. Subject to any such Clearing Member meeting all the Clearing House's requirements, including under these Procedures, the Clearing House will, as part of its service to Clearing Members, amend its records in order to reflect any such change. Such change has no effect whatsoever on the terms of any registered SwapClear Contract or any other obligations of the Clearing Member party to such contract.

##### 2A.14.1 **Trade Reference Amendment Request Form**

The Clearing House requires a completed Trade Amendment Request Form (in the form prescribed by the Clearing House) to be submitted by any Clearing Member wishing to amend a trade reference. The form must be signed by two authorized signatories of the Clearing Member and must set out the required full details of each registered trade in respect of which the Clearing Member wishes to change its trade reference. Evidence of such signing authority may be required by the Clearing House. All parts of the form must be properly and fully completed, including the requested

**APPENDIX 2A.B  
CLIENT – PARTIAL TRANSFER FORM**



**CLIENT - PARTIAL TRANSFER FORM**

**V.1.0: August 2012**

*Terms used in this form are as defined in LCH.Clearnet LLC's Rulebook unless defined herein.*

<b>To:</b>	LCH.Clearnet LLC		
<b>From:</b>	Receiving FCM Clearing Member		
<b>Date:</b>			

We, .....[insert name of Receiving FCM Clearing Member] (the “Receiving FCM Clearing Member”), have received a request from ..... [insert name of transferring Client] (the “Client”) to transfer part of its portfolio of SwapClear Contracts from its Carrying FCM Clearing Member to us. We hereby request the transfer of the SwapClear Contracts as identified below pursuant to Regulation 108 and these Procedures.

Please insert the LCH trade IDs of the transferring SwapClear Contracts, using the Schedule below:

*\*\*Please insert the LCH trade ID and Approved Trade Source (ATS) ID of the transferring SwapClear Contracts.*

*\*\*Please append a list of additional SwapClear Contracts to this form, if required.*

LCH Trade ID	ATS Trade ID

**Signatories for and on behalf of the Receiving FCM Clearing Member:**

We acknowledge and confirm the above and are authorized to sign for and on behalf of the Receiving FCM Clearing Member.

1.				
	(Authorized Signatory)	Name	Position	Date
2.				
	(Authorized Signatory)	Name	Position	Date

**Signatories for and on behalf of the transferring Client:**

To: Receiving FCM Clearing Member

We acknowledge and confirm:

- i. the request to transfer as detailed above;
- ii. that LCH.Clearnet LLC will contact our Carrying FCM Clearing Member in relation to this transfer and will disclose our identity to such Carrying FCM Clearing Member;
- iii. that, in accordance with the Rulebook, LCH.Clearnet LLC is entitled to rely conclusively on the instructions and information received from the Receiving FCM Clearing Member and the Carrying FCM Clearing Member and shall have no liability or responsibility therefor;
- iv. that the transfer detailed above may require that additional ~~cover~~Margin be paid to LCH.Clearnet LLC (and/or by us to the Receiving FCM Clearing Member listed above and/or our Carrying FCM Clearing Member), and that LCH.Clearnet LLC is not required to effect the transfer if it has not received adequate ~~cover~~Margin in respect of the transfer or if any of the other conditions set forth in the Rulebook applicable to the transfer are unsatisfied;
- v. that in order for the transfer detailed above to be effected, we will be required to satisfy any requirements as between ourselves and the Carrying FCM Clearing Member and/or its Affiliates at the time of, or arising as a result of, such transfer, to the extent the Rulebook states that such requirements must be satisfied in order for the transfer to be effected, including, without limitation, any outstanding obligations that are due and payable to the Carrying FCM Clearing Member and/or its Affiliates at the time of, or arising as a result of, such transfer, as provided for in the Rulebook; and
- vi. that we are authorized to make these acknowledgements and confirmations and do so on behalf of the Client listed above in accordance with the Regulations.

For and on behalf of the Client:

Authorized signatory		Authorized signatory
Date		Date


All forms should be returned to LCH.Clearnet LLC for the attention of Client Services.

Email: [swapclearclientservices@lchclearnet.com](mailto:swapclearclientservices@lchclearnet.com)

Telephone: +1 212 513 8265

SwapClear Client Services 17 State Street, 28 <sup>th</sup> Floor New York NY 10004
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**APPENDIX 2A.C  
CLIENT – FULL TRANSFER FORM**

		<b>CLIENT - FULL TRANSFER FORM</b>	
		<b>V.1.0: August 2012</b>	
<i>Terms used in this form are as defined in LCH.Clearnet LLC's Rulebook unless defined herein</i>			
<b>To:</b>	LCH.Clearnet LLC		
<b>From:</b>	Receiving FCM Clearing Member		
<b>Date:</b>			

We, .....[insert name of Receiving FCM Clearing Member] (the “Receiving FCM Clearing Member”) have received a request from ..... [insert name of transferring Client] (the “Client”) to transfer its entire portfolio of SwapClear Contracts from ..... [insert name of its Carrying FCM Clearing Member] (the “Carrying FCM Clearing Member”) to us. We hereby request the transfer of all the SwapClear Contracts of the Client pursuant to Regulation 108 and the Procedures.

Please insert Name of Carrying FCM Clearing Member:

.....

Please tick the relevant box below to confirm whether the Client wishes to transfer Porting Collateral in accordance with Regulation 108.

<input type="checkbox"/>	The Client wishes to transfer Collateral
<input type="checkbox"/>	The Client does NOT wish to transfer Collateral

**Signatories for and on behalf of the Receiving FCM Clearing Member:**

We acknowledge and confirm the above and are authorized to sign for and on behalf of the Receiving FCM Clearing Member.

1.				
	(Authorized Signatory)	Name	Position	date
2.				
	(Authorized Signatory)	Name	Position	date

**Signatories for and on behalf of the transferring Client:**

**To:** Receiving FCM Clearing Member

We acknowledge and confirm:

- i. the request to transfer as detailed herein;

- ii. that our Carrying FCM Clearing Member shall not be permitted to register additional SwapClear Contracts on our behalf during the period commencing at the end of the SwapClear service operating hours on the day on which it received notice that a Client Full Transfer Form has been received and ending at the time at which the relevant transfer (including the transfer of the relevant Porting Collateral, if applicable) is actually effected or is rejected;
- iii. that LCH.Clearnet LLC will contact our Carrying FCM Clearing Member in relation to this transfer and will disclose our identity to such Carrying FCM Clearing Member;
- iv. that, in accordance with the Rulebook, LCH.Clearnet LLC is entitled to rely conclusively on the instructions and information received from the Receiving FCM Clearing Member and the Carrying FCM Clearing Member and shall have no liability or responsibility therefor;
- v. that the transfer detailed above may require that additional ~~cover~~Margin be paid to LCH.Clearnet LLC (and/or by us to the Receiving FCM Clearing Member listed above) even where Porting Collateral are transferred, and that LCH.Clearnet LLC is not required to affect the transfer if it has not received adequate ~~cover~~Margin in respect of the transfer or if any of the other conditions set forth in the Rulebook applicable to the transfer are unsatisfied;
- vi. that, where we have requested the transfer of Porting Collateral, (x) we should contact our Carrying FCM Clearing Member to ensure that they contact LCH.Clearnet LLC to identify the correct Porting Collateral to be transferred, and (y) where our Carrying Clearing Member does not so identify the correct Porting Collateral available for transfer, LCH.Clearnet LLC is permitted to propose the Collateral that will constitute the Porting Collateral as it deems appropriate, subject to our consent to transfer such Porting Collateral in accordance with Regulation 108(b);
- vii. that in order for the transfer detailed above to be effected, we will be required to satisfy any requirements as between ourselves and the Carrying FCM Clearing Member and/or its Affiliates at the time of, or arising as a result of, such transfer, to the extent the Rulebook states that such requirements must be satisfied in order for the transfer to be effected, including, without limitation, any outstanding obligations that are due and payable to the Carrying FCM Clearing Member and/or its Affiliates at the time of, or arising as a result of, such transfer, as provided for in the Rulebook; and
- viii. that we are authorized to make these acknowledgements and confirmations and do so on behalf of the Client listed above in accordance with the Regulations.

For and on behalf of the Client:

Authorized signatory		Authorized signatory
Date		Date

All forms should be returned to LCH.Clearnet LLC for the attention of Client Services.

Email: [swapclearclientservices@lchclearnet.com](mailto:swapclearclientservices@lchclearnet.com)

Telephone number: +1 212 513 8265

SwapClear Client Services  
 17 State Street, 28<sup>th</sup> Floor  
 New York NY 10004

Schedule of transferring SwapClear Contracts:

\*\*Please insert the LCH trade ID and Approved Trade Source (ATS) ID of one or more transferring SwapClear Contracts in order that LCH.Clearnet LLC can determine the identity of the relevant Carrying FCM Clearing Member.

LCH Trade ID	ATS Trade ID



### 3.2.2 PPS Mandate

Each Clearing Member is required to complete a standard form PPS Mandate (see Appendix 3A) for each bank branch at which they wish to operate an account before clearing can commence. The original of the mandate must be signed by a person with the appropriate authority within the Clearing Member institution and then forwarded to the relevant bank. A copy must also be forwarded at the same time to the Clearing House Membership Department.

### 3.2.3 Morning PPS Calls

Clearing Members' liabilities are calculated overnight. Should the relevant liability not be covered by acceptable forms of Collateral held by the Clearing House (see Section 3.3), any shortfall is called through PPS with separate calls made for each currency. It is the responsibility of each Clearing Member to ensure that its PPS bank(s) meets all payment instructions received from the Clearing House. Confirmation of payments, as notified, must be received by the Clearing House from the relevant PPS bank(s) by 09:00 hours, or within one hour of a subsequent call on the day on which the PPS call is made. Payments will only be recognized for this purpose if the relevant PPS bank (i) has performed its concentration function (being the transfer of net funds from the PPS bank to a central account in the name of the Clearing House) (ii) has made such payments, and (iii) any time permitted by the relevant payment settlement system for the recall of any such payment has expired.

### 3.2.4 Payments Due to Clearing Members

Where payments are due to a Clearing Member, Payments will be recognized as soon as payment instructions in respect of that payment have been given to a PPS bank. For this purpose, a payment instruction will only be recognized to the extent that the Clearing House has taken steps to transfer to the PPS bank any such sums as may be necessary to enable that payment instruction to be performed by the PPS bank.

### 3.2.5 Intraday PPS Calls

The intraday margin call by the Clearing House is for intraday ~~cover~~[Margin](#) payments. The Clearing House must receive confirmation of payment from the Clearing Member's nominated PPS bank(s) within one hour of receipt of the intraday margin call by the relevant bank branch.

Failure of a bank to confirm a PPS call within one hour may result in the Clearing Member being declared in Default. Late confirmation of PPS calls may be reported to the regulators of the Clearing House.

### 3.2.6 Auto repay

Clearing Members may request that they are automatically repaid any excess cash balances that remain on their accounts at the end of each day. Clearing Members must contact Treasury Operations in order to have auto-repay applied to their accounts at [collateral.ops.us@lchclearnet.com](mailto:collateral.ops.us@lchclearnet.com) or +1 (212) 513-5642.

### 3.4.4 Interest/Accommodation Structure

Application of <del>Cover</del> Collateral	Type of <del>Cover</del> Collateral					
	Credit Variation Margin	Performance Bonds	Securities	Cash	Foreign Cash	Forward Cash
Initial & Variation margin after offset	No charge or payment	Charge 0.10%	Charge 0.10%	Pay/Charge relevant rate	Pay/Charge relevant rate of <del>cover</del> Collateral currency	No charge or payment
Excess or Surplus	No charge or payment	No charge or payment	No charge or payment	Pay/Charge relevant rate	Pay/Charge relevant rate	No charge or payment

**Note:**

1. "Foreign Cash" means cash in a currency other than that of the liability.
2. "Forward Cash" means cash which has been credited to an account for later value, e.g. an amount called via PPS for next-day value.
3. [This Section 3.4.4 only applies to Proprietary Accounts of FCM Clearing Members.](#)

### 3.4.5 Payment of Interest and Charges

Interest and accommodation charges (other than PAI) are calculated on a daily basis and the resultant monthly total is posted to each Clearing Member's relevant Margin accounts at the beginning of the following calendar month.

The net invoice value for each currency is posted to the relevant Margin account for value on the second working day of the month succeeding the month in which the charges arose.

The invoice provides detail in respect of:

- (a) interest due to be credited or debited; and
- (b) accommodation charges.

### 3.5 Taxes

Payments of interest (including PAI) to a House or Client financial account or in accordance with Regulation 306 shall be made free and clear and without deduction or withholding for or on account of any Tax provided that the proper Internal Revenue Service forms were submitted pursuant to Section 1.4.1(c) and such deduction or withholding is not otherwise required by law. If deduction or withholding is required by law, interest payments shall be net of such deduction or withholding. The Clearing House shall remit such withheld amounts to the relevant taxing authority, and shall provide the Clearing Member an official receipt (or a certified copy), or other documentation reasonably acceptable to the Clearing Member, evidencing such payment to such authorities.

If (i) the Clearing House is required by any applicable law to make any deduction or withholding from payments of interest (including PAI) on account of any Tax; (ii) the

undertaking that, on the Default of an FCM Clearing Member, it will not utilize Collateral furnished on behalf of a Client which has been passed to it by an FCM Clearing Member, before utilizing any other form of Collateral the Clearing House may hold.

#### 4.1.3 General Information

The Clearing House is, in its sole discretion, entitled to determine what will be acceptable to it as Collateral and to determine when a security will cease to be acceptable as Collateral.

If any instrument or security, lodged in accordance with any of the following procedures, is in any way found to be unacceptable, it will immediately be given a zero value in the Clearing Member's Margin account with the Clearing House. Replacement Collateral may be required immediately from the Clearing Member.

#### Instructions

The Clearing House accepts instructions to lodge, release and transfer cash and securities solely via the Collateral Management system. However, in the event of an outage of the Collateral Management system, Clearing Members will be able to lodge and release securities by emailed instructions to the Clearing House at the following address:

- Email to: [collateral.ops.us@lchclearnet.com](mailto:collateral.ops.us@lchclearnet.com)
- Treasury Operations can be contacted on +1 (212) 513-5642

Originals of emailed instructions need to be sent into the Clearing House within fourteen days [for contingency purposes](#).

Clearing Members will be notified of a Collateral Management system outage via Member Circular that will notify Clearing Members of the switch to contingency arrangements. Each Clearing Member should then revert to the email forms for securities found in the appendices to this Section 4. Normal service hours and deadlines will apply to emailed instructions. Clearing Members will be notified via Member Circular when normal service resumes.

The Clearing House is entitled to act upon Collateral Management system instructions and emailed instructions or communications appearing to have been issued by, on behalf of, or have come from, a Clearing Member. These will be accepted by the Clearing House as genuine, even if, for example, they are later found:

- to be inaccurate, whether in whole or in part; or
- not to have been given by the Clearing Member or a client or with the authority of the Clearing Member or client.

The Clearing House will only accept delivery of securities in accordance with the process set forth in this Section 4 of the Procedures, and will not sell, exchange for cash or purchase securities for Clearing Members, except in so far as it is acting under its Default Regulations and related Regulations or in relation to the rules of an Approved Trade Source System.

The Clearing House reserves the right to change the information required on instructions received via the Collateral Management system, whenever the Clearing House, in its sole discretion, considers that it would be appropriate.

#### **Excess ~~collateral~~ Margin Maintained in Proprietary Account**

~~In the event that the Clearing House at any time determines that it is holding excess collateral (as defined below) from a Clearing Member~~ accordance with Regulation 106A(c), FCM Clearing Members are permitted to maintain Excess Margin in their Proprietary Accounts (regardless of whether any such FCM Clearing Member has elected to have one or more of its Omnibus Client Swaps Account with LCH subject to the With Excess Client Model), but subject to the right of the Clearing House, in its sole discretion, to return such Excess Margin to the FCM Clearing Member. Alternatively, the Clearing House may notify such Clearing Member of the intention to levy a charge in respect of ~~excess collateral~~ Excess Margin with effect from such date as is notified to the Clearing Member. In the event that the Clearing Member does not remove ~~excess collateral~~ Excess Margin before the date so notified, the Clearing House may, in its discretion, charge such Clearing Member at the rate of 1 basis point per day until ~~excess collateral~~ Excess Margin is removed by the Clearing Member through use of a release instruction. Payment of this charge shall be collected on a monthly basis through that Clearing Member's PPS account. This charge applies only to Collateral lodged with respect to Contracts registered to the FCM Clearing Member's Proprietary Account.

For the purposes of this section, "excess collateral" means that Collateral identified by the Clearing House as being Collateral over and above that which is required by the Clearing House in order to cover the obligations to the Clearing House of that Clearing Member. The Clearing House shall have absolute discretion to decide whether and to what extent it is holding ~~excess collateral~~ Excess Margin at any time.

The ability of FCM Clearing Members to maintain Excess Margin in its Client Sub-Accounts is governed by the provisions of the Rulebook, including Regulation 106A.

#### **4.1.4 Lodgment of Non-Cash Collateral as Replacement for Cash Collateral**

This Section 4.1.4 applies only to Proprietary Accounts of Clearing Members. Clearing Members should note that they must give Treasury Operations no less than two (2) Business Days notice of their intention to lodge non-cash Collateral with a value of \$75 million or more, and which is reasonably likely to have the effect that cash of a similar value is repayable by the Clearing House to that Clearing Member as a result of such lodgment. In the event that a Clearing Member seeks to withdraw such non-cash Collateral without giving such notice, the Clearing House may decline to release such cash Collateral until the end of the required notice period. Clearing Members should contact Treasury Operations for further information (collateral.ops.us@lchclearnet.com).

#### **4.1.5 Force Majeure**

The Clearing House will not be liable for any failure, hindrance or delay in the performance (in whole or in part) of any of its obligations to Clearing Members with regard to instruments or securities accepted as Collateral where such failure, hindrance or delay arises from causes beyond the control of the Clearing House, such

as, but not limited to, the failure, whether partial or total, interruption or suspension of any depository or custodian or other service (“**depository**”) that the Clearing House is using, the termination or suspension of the Clearing House’s membership or use of the depository or any variation of the depository’s operational timetable, whether or not occasioned by action of the depository operator or other party, or any embargo, unavailability or restriction of bank transfer systems or wires, malfunction or overload of the depository or other emergency. This provision is without prejudice to the force majeure provisions of Clearing Members’ agreements with the Clearing House.

#### 4.1.6 **Regulatory and Supervisory Information**

In every case, the Clearing House will be entitled to supply a securities depository with all the information it requires for any purposes relating to a Clearing Member, or to securities received by the Clearing House from a Clearing Member which are or may at any time have been held by the depository. Securities will be lodged and held within such depository or other systems as the Clearing House may select or allow, subject to the conditions of such systems and to any applicable law and regulations as well as to the terms of the Rulebook.

#### 4.1.7 **Interest Payments**

The Clearing House will remit interest amounts, taking into account any withheld tax, to Clearing Members’ PPS banks on the appropriate value date. These are processed using “Tender” sub-accounts designated “I” for house or “L” for segregated client.

### 4.2 **Securities**

#### 4.2.1 **General Information**

Securities must be lodged with a relevant Clearing House custodian (a list of the relevant participating custodians is available at [http://www.lchclearnet.com/risk\\_management/llc/benefits\\_of\\_the\\_collateral\\_management\\_system.asp](http://www.lchclearnet.com/risk_management/llc/benefits_of_the_collateral_management_system.asp); for more information on custodians, please contact the Clearing House’s Treasury Operations).

#### 4.2.2 **Settlement Procedures – Securities**

All transactions to deposit or withdraw from the Clearing House will be executed free of payment.

#### 4.2.3 **Instructions via the Collateral Management System**

The Clearing House will action instructions input and authorized via the Collateral Management system. The details input on the Collateral Management system will form the basis of the matching instruction sent to the relevant CSD/custodian. Clearing Members must ensure that the details are input correctly in order to avoid unmatched transactions.

It is the responsibility of each Clearing Member to input a cancellation request of any incorrectly input instruction and then subsequently input the correct details in a new instruction. Please note that it may not be possible to cancel an instruction, please see Section 6.8 below for further details.

The Clearing House will update the status of the instruction in the Collateral Management system in relation to the status of the instruction at the CSD/Custodian. On settlement of the transaction the Clearing House will reflect the balance of the securities on the relevant Clearing Member's account and provide value for the purposes of ~~cover~~ [Margin](#).

The Clearing House will notify each Clearing Member of the relevant account details for matching. Each Clearing Member should contact the Clearing House's Treasury Operations to establish the correct place(s) of settlement for a particular security.

The Clearing House will not be liable for any losses of a Clearing Member or third party caused by non-settlement or a delay in settlement as a result of the actions or omissions of a CSD/custodian or such Clearing Member (save for any liability which by law may not be excluded).

#### 4.2.4 **Instruction deadlines**

Clearing Members may input security instructions via the Collateral Management system at any time. Instructions will only be actioned by the Clearing House during operational hours.

The Treasury Operations operational hours are: Monday to Friday, 08:00 to 18:00 hours.

Instruction deadlines for same day settlement:

CSD/custodian	Deadline for instructions
Citibank N.A., JPMorgan Chase Bank N.A., and Bank of New York Mellon	14:30 Fed/DTC

The Clearing House will input matching instructions to the relevant CSD/custodian for same day settlement when the instructions are received prior to the deadlines above.

#### 4.2.5 **Deliveries to and from local markets**

The Clearing House is bound by the settlement deadlines of the relevant CSD/custodian, Clearing Members should refer to the relevant CSD/custodian for these deadlines. Note that for transactions from local markets the settlement deadline may be earlier than the Clearing House hours of operation and should therefore be instructed the day before settlement date (i.e., on S-1). Instructions to the Clearing House must be provided at least one hour before the market deadline for same day settlement.

#### 4.3 **Lodging securities**

Lodge instructions must be input via the Collateral Management system prior to the deadlines above for same day settlement. Settled transactions will be added to Clearing Member's ~~cover~~ [Margin](#) balances following settlement.

Lodge instructions for future settlement dates will be instructed same day if received prior to the deadlines. Instructions received after the deadlines will be instructed the following day.

#### 4.4 **Releasing securities**

##### 4.4.1 **Release where sufficient ~~cover~~ Margin is available**

Release instructions input via the Collateral Management system prior to the deadlines above for same day settlement will be removed from the Clearing Member's ~~cover~~ Margin balance on instruction.

##### 4.5 **Release where sufficient ~~cover~~ Margin is unavailable**

Release instructions must be input via the Collateral Management system ~~before 12:00 hours~~. The Clearing Member will then be called for additional cash Collateral. Following confirmation of the cash call the settlement instruction will be sent to the CSD/custodian and removed from the Clearing Member's ~~cover~~ Margin balance.

#### 4.6 **Substitutions**

Substitutions may be input via the Collateral Management system and will be actioned same day if input prior to the deadlines above.

Each Clearing Member must input the relevant lodge instruction(s) first and then link the associated release instruction(s) to the lodge instruction(s).

#### 4.7 **Transfers**

Transfer instructions may be input via the Collateral Management system and will be actioned same day during operational hours.

**Note:** transfers are only permitted between mnemonics of the same Clearing Member and are subject to client segregation rules.

#### 4.8 **Settlement Cancellations**

Clearing Members may request cancellation of an instruction via the Collateral Management system. The Clearing House will cancel any instruction that has not yet been processed. The Clearing House will use its reasonable best efforts to cancel any settlement instructions already sent to the CSD/custodian but cannot guarantee that the transaction will not settle.

#### 4.9 **Instructions**

The status of an instruction can be monitored via the Collateral Management system. Statuses reflect the status of the instruction at the Clearing House and not at the CSD/custodian. Please refer to the Collateral Management system User Guide for status definitions.

the amount of funds requested and whether such FCM Clearing Member is requesting the return of Buffer or Unallocated Excess, and any other information reasonably requested by the Clearing House. The end of day report delivered to the FCM Clearing Member by the Clearing House shall constitute conclusive evidence of the amount of any Buffer or Unallocated Excess returned to such FCM Clearing Member during that day, unless the Clearing House determines such report contained an error and subsequently delivers an amended report or other notice to the FCM Clearing Member in respect of such amounts.

Regulation 106~~(e)~~A contains additional provisions relating to Buffer, Encumbered Buffer and Unallocated Excess.

#### 4.13 Collateral Value Reports

In accordance with Regulation 106A(d), an FCM Clearing Member that has elected to adopt the With Client Excess Model is required to provide the Clearing House with an eligible CVR (Collateral Value Report as defined in the Regulations) at least once per Business Day.

##### 4.13.1 Contents of the Collateral Value Report

The CVR should contain details of the following:

- (a) **Client Sub-Account Balance:** The value of Margin delivered for and on behalf of each Client and its respective Client Sub-Account.
- (b) **Buffer:** The value of Buffer lodged in the Buffer Sub-Account.

All values provided in a CVR must be the post haircut value in USD (or such other currency as agreed in writing by the Clearing House).

Where the CVR does not contain information for all of the Clients of an FCM Clearing Member, the Clearing House will assume that the Client Sub-Account Balance for those Clients that are not included have not changed from that which is reflected in its books and records (either through delivery of a previous CVR or as a result of an Assumed Allocation).

Unallocated Excess may be allocated to a Client Sub-Account or to a Buffer Sub-Account through the submission of a CVR. Any Margin that is furnished to the Clearing House but which is not allocated in a CVR will be treated as Unallocated Excess.

##### 4.13.2 Eligibility of the Collateral Value Report

The CVR constitutes a notification to the Clearing House of the allocation of Margin that has been furnished by an FCM Clearing Member to one of its Omnibus Client Swaps Account with LCH. Therefore, a CVR will be considered ineligible where the CVR details the aggregate value of the Margin lodged in each applicable Client Sub-Account to exceed the total Margin currently available in respect of such Omnibus Swaps Client Account with LCH.

Following determination of the value of Margin allocated to each Client Sub-Account, the Clearing House will then assess whether the amount of Buffer



detailed in the CVR is correct based on the residual amount of Margin that it has received. In the event that the amount of Buffer detailed in the CVR is greater than the amount of Margin (not including all Margin which has been allocated to the relevant Client Sub-Account Balances, as set out in the CVR) delivered to that FCM Clearing Member's Omnibus Swaps Client Account with LCH, the Clearing House will not reject the CVR but will reduce, in its books and records, the value of Buffer held for that FCM Clearing Member. In such a case, the Clearing House will thereafter notify the FCM Clearing Member that such a modification to the balance of the Buffer Sub-Account has been applied.

Any CVR that would generate, or is submitted in order to avoid, a margin call will be ineligible and will be rejected by the Clearing House. Where a CVR details a Client Sub-Account Balance which is lower than the amount of Required Margin applicable to such Client Sub-Account, the Clearing House will assume that the shortfall is covered by Buffer (provided that sufficient Buffer is available to be so applied) and will modify the applicable accounts appropriately. In such a case, the Clearing House will thereafter notify the FCM Clearing Member of the application of the relevant modifications.

CVRs will only be accepted by the Clearing House during the time when the Clearing Services are open. Any CVRs submitted when the Clearing Services are closed will be rejected and will have to be re-submitted in order to be accepted by the Clearing House.

Ineligible CVRs will be rejected by the Clearing House. In the event that a CVR is deemed ineligible by the Clearing House, the Clearing House will notify the relevant FCM Clearing Member so that a replacement CVR can be delivered.

#### 4.13.3 Election of With Client Excess Model or Without Client Excess Model

As described in Regulation 106A, the Without Client Excess Model is the default model that applies to each Omnibus Swaps Client Account with LCH.

In the event that an FCM Clearing Member wishes to adopt the With Client Excess Model with respect to one or more of its Omnibus Swaps Client Accounts with LCH, it must notify the Clearing House's Client Services ([swapclear.clientservices@lchclearnet.com](mailto:swapclear.clientservices@lchclearnet.com)). Following receipt of such notification the Clearing House will notify the FCM Clearing Member that such election has been accepted and such acceptance shall become effective from the time that the FCM Clearing Member delivers an eligible CVR.

In the event that an FCM Clearing Member no longer wishes to operate under the With Client Excess Model it must provide the Clearing House with written notice of its intention to use the Without Client Excess Model. On the morning of the third Business Day following receipt of the FCM Clearing Member's notice, the Clearing House will transfer any Excess Margin in the FCM Clearing Member's Client Sub-Accounts to the Unallocated Excess Sub-Account. Buffer will remain in the Buffer Sub-Account. Once all Excess Margin has been transferred to the Unallocated Excess Sub-Account, the Without Client Excess Model will be put into effect with respect to the relevant FCM Omnibus Swaps Client Account with LCH, and the FCM Clearing Member will no longer be able to post or maintain Excess Margin in the FCM Client Sub-Accounts therein.

Please note that the Clearing House's primary data center is not located in its offices, and so an evacuation thereof will not affect Clearing Members' ability to access IT applications.

#### 5.2.6 ~~Cover~~Margin Calling

In order to simplify the Treasury process, it is likely that a number of routine Treasury Procedures may be amended or suspended. These may include, but are not limited to:

- (a) the acceptance/release of securities and guarantees;
- (b) the conversion of currencies; and
- (c) the ability to cover liabilities in currencies other than their original currency.

#### 5.2.7 **Registration of Contracts**

The Clearing House reserves the right, at its discretion, to amend the timing of registration as it deems necessary. In the event that registration is to be delayed, the Clearing House will notify Clearing Members as soon as practically possible.

#### 5.2.8 **New Address for Document Delivery**

Following invocation of the Business Continuity Plans, the Clearing House will provide new address details for document delivery and will arrange to have its mail forwarded to its office recovery site.

#### 5.2.9 **Permanent Change of Address**

If an incident is so serious that the Clearing House is unable to reoccupy its offices, Clearing Members will be informed of the proposed new office location and contact numbers prior to occupation of the premises. This information will be communicated via the methods described in Section 5.2.1.

Clearing Members will be informed of the date when the new arrangements will take effect.

#### 5.2.10 **Return to Normal**

When the Clearing House is able to resume a normal service a message will be disseminated using the methods described in Section 5.2.1 above. Assuming that it has been possible to return to the Clearing House's offices the following message will be broadcast:

"The Clearing House has returned to its offices. Please revert to normal contact telephone numbers and procedures."

If normal working is being resumed at a site other than the Clearing House's offices, Clearing Members will already have been informed of the new office location and contact numbers see – Section 5.2.1 above. The following message will be broadcast: