



VIA CFTC PORTAL

5 February 2016

Mr Christopher Kirkpatrick
Commodity Futures Trading Commission
1155 21st Street NW
Three Lafayette Centre
Washington DC 20581

Dear Mr Kirkpatrick:

Pursuant to CFTC regulation §40.6(a), LCH.Clearnet Limited ("LCH.Clearnet"), a derivatives clearing organization registered with the Commodity Futures Trading Commission (the "CFTC"), is submitting for self-certification changes to its rules related to confidentiality during the default management of a Futures Commission Merchant ("FCM") and to remove ambiguity around its rules related to the allocation of losses related to a Treasury Default.

Part I: Explanation and Analysis

LCH.Clearnet proposes to add language to its FCM Regulations which set out that information provided to an FCM Clearing Member during default management in connection with the transfer, or potential transfer, of a Defaulter's FCM Contracts or Collateral are to be kept confidentially. Should the FCM Clearing Member not act as a transferee it will be required to delete the information it received promptly, and confirm this has been done to the Clearing House. This is currently managed through the use of ad-hoc Non-Disclosure Agreements, and the Clearing House now seeks to formalise this in its Rulebook.

LCH.Clearnet also proposes to make changes to its FCM Regulations and General Regulations to remove ambiguity around Treasury Defaults. The changes clarify that losses incurred as a result of the default of a deposit-taking institution are within scope of losses that can be allocated in the event of a Treasury Default. This does not represent a change of scope, but provides clarification.

The changes will go live on, or after, February 23, 2016.

Part II: Description of Rule Changes

FCM Regulation 33(c) has been inserted to clarify that information provided to an FCM Clearing Member in connection with the transfer or potential transfer of a Defaulter's FCM Contracts or Collateral to that non-defaulting FCM Clearing Member shall be treated confidentially. In the event that the FCM Clearing Member does not act as a transferee it shall delete the information it receives promptly, confirming this has been done to the Clearing House.

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FCM Regulation 45(a)(ii) and General Regulation 46A9a(ii) have been amended to clarify that losses incurred as a result of the failure of a deposit-taking institution are within the scope of losses defined as Treasury Default.

The text of the changes to FCM Regulations are attached hereto as **Appendix I** and General Regulations are attached hereto as **Appendix II**.

Part III: Core Principle Compliance

LCH.Clearnet has concluded that compliance with the Core Principles will not be adversely affected by this change.

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-regulations/proposed-rules-changes>

Part V: Opposing Views

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

Certification

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

Should you have any questions please contact me at julian.oliver@lchclearnet.com.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Julian Oliver', written over a circular stamp or watermark.

Julian Oliver
Chief Compliance Officer
LCH.Clearnet Limited



Appendix I
FCM Regulations

**FCM REGULATIONS OF
THE CLEARING HOUSE
LCH.CLEARNET LIMITED**

CHAPTER IX - DISCLOSURE, FEES, RECORDS AND AMENDMENTS

REGULATION 33 DISCLOSURE AND REPORTING

- (a) The Clearing House shall have authority to, on an ongoing basis in the ordinary course of business, supply any information whatsoever concerning an FCM Clearing Member and its trading to:
- (i) an Exchange or an exchange with whom the Clearing House has entered into an agreement pursuant to which the parties have agreed to exchange information as required or contemplated by Exchange Rules,
 - (ii) any Regulatory Body which is entitled to receive or request any such details or information,
 - (iii) a member of the LCH.Clearnet Group,
 - (iv) any other person or body to which the Clearing House is, in its reasonable opinion, legally required to disclose the same,
 - (v) any other person or body to which the Clearing House has agreed to provide such information (including any clearing house, exchange or execution facility or FCM Approved Trade Source System with which the Clearing House has an agreement, and including pursuant to Section 8 (*Disciplinary Procedures*) of the FCM Procedures),
 - (vi) a trade or data repository (including a swap data repository) on an ongoing basis in the ordinary course of business, or
 - (vii) any securities depository or securities settlement system.
- (b) The Clearing House shall also be entitled to supply any information whatsoever concerning an FCM Clearing Member to any person (and the Clearing House will solicit an undertaking from any such person that such person will keep such information confidential) who has provided or may be contemplating entering into arrangements to provide the Clearing House directly or indirectly with stand-by or other finance, insurance cover, guarantee or other financial backing, which the Clearing House has been requested or is legally required to disclose to assist such person in relation to the provision of, or continued provision of, such finance, insurance cover, guarantee or financial backing.
- (c) Where an FCM Clearing Member is a Defaulter, the Clearing House may supply any information relating to FCM Contracts and Collateral (other than where such information is associated with such Defaulter's Proprietary Account) to a non-defaulting FCM Clearing Member in connection with the transfer or potential transfer of the Defaulter's FCM Contracts or Collateral to that non-defaulting FCM Clearing Member. Where an FCM Clearing Member receives information pursuant to this paragraph (c), and other than in the event of regulatory or judicial intervention or where the information is otherwise made public (other than in violation of this paragraph (c)), it shall ensure that it preserves the confidentiality of such information and shall apply equivalent security measures to the information as that which it

applies to its own confidential information. In the event that the FCM Clearing Member that receives the information does not act as a transferee FCM Clearing Member, it shall promptly delete the information it has received in connection with the proposed transfer and immediately confirm such deletion to the Clearing House.

REGULATION 45 SOLVENCY THREATENING TREASURY DEFAULT LOSS

(a) In this FCM Regulation:

“**Calculation Period**” means, in respect of a type of Business, a period of the number of days specified in the “Combined Loss Value” calculation in relation to the Fund Amount of that type of Business and ending on the business day preceding the date on which the Clearing House determines that a Solvency Threatening Treasury Default Loss has occurred (and the terms “Business”, “Combined Loss Value” and “Fund Amount” have the meanings set out in the Default Fund Rules);

“**Margin Weight**” means:

(i) the aggregate of an FCM Clearing Member’s total margin requirement (in respect of all of its Proprietary Accounts and all of its Client Accounts) for each type of Business undertaken by the FCM Clearing Member averaged over the relevant Calculation Period preceding a determination of a Solvency Threatening Treasury Default Loss under Regulation 45(b) below;

divided by

(ii) the total average margin requirement of all FCM Clearing Members and “Clearing Members” under the UK General Regulations during the same period; and

“**Treasury Default**” means, in connection with the Clearing House’s treasury management activities, the default of: (A) an issuer of a debt instrument underlying a treasury management contract; ~~and/or~~ (B) a counterparty to a treasury management contract; and/or (C) (including a deposit-taking institution), as determined by the Clearing House in its sole discretion.

(b) In the event of a Treasury Default, the Clearing House may determine in its sole discretion that a loss has been caused by or arises out of a Treasury Default. If the Clearing House so determines, it must determine the quantum of that loss by ascertaining the gross amount of the loss and reducing it by EUR 15 million. The result is referred to as a “**Solvency Threatening Treasury Default Loss**”.

(c) The Clearing House will, in respect of each FCM Clearing Member, determine an amount of the Solvency Threatening Treasury Default Loss to be allocated to that FCM Clearing Member based on that FCM Clearing Member’s Margin Weight (an “**Allocated Loss**”). The day on which the Clearing House determines that a Solvency Threatening Treasury Default Loss has taken place shall be the determination day for the purposes of establishing the Calculation Period.

(d) The maximum Allocated Loss that each FCM Clearing Member can be allocated is equal to: (i) the total Clearing House treasury investment portfolio immediately prior to the Solvency Threatening Treasury Default Loss, reduced by EUR 15 million; multiplied by (ii) that FCM Clearing Member’s Margin Weight. For the



Appendix II
General Regulations



**GENERAL REGULATIONS OF
LCH.CLEARNET LIMITED**

REGULATION 46A SOLVENCY THREATENING TREASURY DEFAULT LOSS

(a) In this Regulation:

"Calculation Period" means, in respect of a type of Business, a period of the number of days specified in the "Combined Loss Value" calculation in relation to the Fund Amount of that type of Business and ending on the business day preceding the date on which the Clearing House determines that a Solvency Threatening Treasury Default Loss has occurred (and the terms "Business", "Combined Loss Value" and "Fund Amount" have the meanings set out in the Default Fund Rules);

"Margin Weight" means:

(i) the aggregate of a Clearing Member's total margin requirement (in respect of all of its Proprietary Accounts and all of its Client Accounts) for each type of Business undertaken by the Clearing Member averaged over the relevant Calculation Period preceding a determination of a Solvency Threatening Treasury Default Loss under Regulation 46A(b) below;

divided by

(ii) the total average margin requirement of all Clearing Members (including FCM Clearing Members) during the same period; and

"Treasury Default" means, in connection with the Clearing House's treasury management activities, the default of: (A) an issuer of a debt instrument underlying a treasury management contract; ~~and/or~~ (B) a counterparty to a treasury management contract; and/or (C) (including a deposit-taking institution), as determined by the Clearing House in its sole discretion.

(b) In the event of a Treasury Default, the Clearing House may determine in its sole discretion that a loss has been caused by or arises out of a Treasury Default. If the Clearing House so determines, it must determine the quantum of that loss by ascertaining the gross amount of the loss and reducing it by EUR 15 million. The result is referred to as a **"Solvency Threatening Treasury Default Loss"**.

(c) The Clearing House will, in respect of each Clearing Member, determine an amount of the Solvency Threatening Treasury Default Loss to be allocated to that Clearing Member based on that Clearing Member's Margin Weight (an **"Allocated Loss"**). The day on which the Clearing House determines that a Solvency Threatening Treasury Default Loss has taken place shall be the determination day for the purposes of establishing the Calculation Period.

(d) The maximum Allocated Loss that each Clearing Member can be allocated is equal to: (i) the total Clearing House treasury investment portfolio immediately prior to the Solvency Threatening Treasury Default Loss, reduced by EUR 15 million; multiplied by (ii) that Clearing Member's Margin Weight. For the purpose of the calculation of Margin Weight, the margin requirements for any Clearing Member who has become a defaulter at any point prior to the date of allocation, shall be disregarded.