

## **VIA CFTC PORTAL**

9<sup>th</sup> February 2024

Mr. Christopher Kirkpatrick  
Commodity Futures Trading Commission  
1155 21<sup>st</sup> Street NW  
Three Lafayette Centre  
Washington, DC 20581

### **LCH Limited (“LCH”) self-certification: changes to the LCH rulebook regarding actions available to a SwapClear Clearing Member after the early termination of one or more transaction(s) between it and its SwapClear Clearing Client**

Dear Mr. Kirkpatrick,

Pursuant to Commodity Futures Trading Commission (“CFTC”) Regulation §40.6(a), LCH, a derivatives clearing organization registered with the CFTC, is submitting for self-certification changes to its rulebook to expand the possible actions available to a SwapClear Clearing Member after the early termination of one or more transaction(s) between such SwapClear Clearing Member and its SwapClear Clearing Client.

#### **Part I: Explanation and analysis**

LCH is proposing to amend section 1.13 of Procedure 2C such that, if an early termination date occurs in respect of one or more transaction(s) between a SwapClear Clearing Member and its SwapClear Clearing Client in respect of which such SwapClear Clearing Member is a party to Related SwapClear Contracts, then it may undertake any of the following actions, subject to the satisfaction of the conditions and requirements, and with the representations, specified under section 1.13 of Procedure 2C:

- present a SwapClear Transaction to LCH for registration of one of the resulting SwapClear Contracts in the SwapClear Clearing Member’s Client Account relating to such SwapClear Clearing Client (such SwapClear Contract, a “New Contract”);
- instruct LCH to transfer the relevant Related SwapClear Contracts and/or New Contracts from its Client Account to its Proprietary Account or the Proprietary Account of another SwapClear Clearing Member or FCM Clearing Member; and/or
- instruct LCH to transfer a SwapClear Contract from its Proprietary Account or the Proprietary Account of another SwapClear Clearing Member or FCM Clearing Member to its Client Account relating to such SwapClear Client.

This compares with the original position under section 1.13 of Procedure 2C, where, if an early termination date occurs in respect of one or more transaction(s) between a SwapClear Clearing Member and its SwapClear Clearing Client in respect of which such SwapClear Clearing Member is a party to Related SwapClear Contracts, then it may **only** instruct LCH to

transfer the relevant Related SwapClear Contracts from its Client Account to its Proprietary Account.

These changes provide greater choice for a SwapClear Clearing Member and ensure closer alignment of such rules with the LCH rules applicable to a FCM Clearing Member providing FCM SwapClear Clearing Services to its FCM Clients.

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

Please see Part I above for a description of the LCH rule changes. These rule changes are included as **Appendix I** in black line form and will be effective not earlier than 26<sup>th</sup> February 2024.

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

LCH reviewed the proposed rule changes against the requirements of the Core Principles and finds it will continue to comply with all the requirements and standards set forth therein. Specifically, this rule change has potential relevance to Core Principle D (Risk Management).

The changes described in this filing ensure that LCH continues to meet the objectives of Core Principle D. The changes do not impact LCH's approach to risk management and the way that it manages risks associated with discharging its obligations as a Derivatives Clearing Organisation. Likewise, the rule changes do not affect the way that LCH manages the exposures from clearing member house or customer positions, nor LCH's management of customer funds. The rule changes provide SwapClear Clearing Members with greater flexibility in terms of requests for transfer of Related SwapClear Contracts, New Contracts and other SwapClear Contracts, and registering SwapClear Contracts into its Client Account, after the occurrence of an early termination date in respect of one or more transaction(s) between it and its SwapClear Clearing Client, which aims to help the SwapClear Clearing Member with effective management of a client default scenario.

## **Part IV: Public Information**

LCH has posted a notice of pending certification with the CFTC and a copy of the submission on LCH's website at: <https://www.lch.com/resources/rulebooks/proposed-rule-changes>.

## **Part V: Opposing Views**

There were no opposing views expressed to LCH by governing board or committee members, members of LCH or market participants.

## **Certification**

LCH hereby certifies to the CFTC, pursuant to the procedures set forth in CFTC Regulation §40.6, that the attached submission complies with the Commodity Exchange Act, as amended, and the regulations promulgated thereunder.

## **Definitions**

Words that begin with a capital letter, but are not defined, in this document shall have the meaning specified in the general regulations of the LCH rulebook, which rulebook is located at [www.lch.com](http://www.lch.com).

Should you have any questions please contact me at [james.woolley@lseg.com](mailto:james.woolley@lseg.com)

Yours sincerely,

A handwritten signature in black ink, appearing to read "J. Woolley". The signature is written in a cursive style with a long, sweeping underline that extends to the right.

James Woolley  
Regulatory Compliance Analyst  
LCH Limited

**Appendix I**  
**Procedures Section 2C**  
**SwapClear Clearing Service**



**LCH LIMITED**

**PROCEDURES SECTION 2C**

**SWAPCLEAR CLEARING SERVICE**

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materially changed, in each case as determined in the Clearing House's sole discretion, the Clearing House may use an alternative interest rate without the consent of such SwapClear Clearing Members.

If the Clearing House chooses an alternative interest rate for the purposes of calculating PAI and Price Alignment Amount pursuant to Section 1.12, it shall notify all SwapClear Clearing Members in writing by delivering a Rate Change Notice.

### 1.13 **Transfer of SwapClear Contracts between Client Accounts and Proprietary Accounts**

1.13.1 If at any time an early termination date (howsoever described) occurs in respect of one or more of the transactions between a SwapClear Clearing Member and a SwapClear Clearing Client (a "Defaulting SCM Client") in respect of which such SwapClear Clearing Member (i) is a party to Related SwapClear Contracts and (ii) at the time of such early termination date, is not a Defaulting SCM, that SwapClear Clearing Member may instruct the Clearing House:

(a) -to transfer the relevant Related SwapClear Contracts from its Client Account to its Proprietary Account or the Proprietary Account of another SwapClear Clearing Member or FCM Clearing Member; or-

(a)(b) to transfer a SwapClear Contract from its Proprietary Account or the Proprietary Account of another SwapClear Clearing Member or FCM Clearing Member to the Defaulting SCM Client's Client Account;

provided that the following conditions precedent are met (in addition to any generally applicable provisions of the Rulebook): neither the SwapClear Clearing Member nor any SwapClear Clearing Member or FCM Clearing Member to or from which the SwapClear Contracts are being transferred pursuant to this section 1.13.1 is a Defaulter.

For the purposes of this Section 1.13.1 ~~below~~ a "Related SwapClear Contract" means, in respect of a transaction between a SwapClear Clearing Member and a ~~SwapClear Clearing Client~~ Defaulting SCM Client which has been terminated on an early termination date, the open position represented by the SwapClear Contract entered into with the Clearing House by such SwapClear Clearing Member on behalf of the relevant ~~SwapClear Clearing Client~~ Defaulting SCM Client on equal and opposite terms to such transaction.

For the avoidance of doubt, if an early termination date occurs, the Clearing House will not require that the Defaulting SCM Client provide its consent to the requested transfer in order for the Clearing House to effect a transfer requested by the SwapClear Clearing Member pursuant to this section 1.13.1.

A transfer pursuant to this Section 1.13.1 will be subject to receipt by the Clearing House of the following:

(a) a copy of the notice from the relevant SwapClear Clearing Member to the relevant SwapClear Clearing Client or from the relevant SwapClear Clearing Client to the relevant SwapClear Clearing Member

designating the relevant early termination date or, if such early termination date has occurred automatically, evidence of the relevant event of default or termination event;

- (b) a copy of a notice served by the relevant SwapClear Clearing Member on the relevant SwapClear Clearing Client alerting that SwapClear Clearing Client of its intention to request a transfer of the relevant Related SwapClear Contracts pursuant to this Section 1.13; and
- (c) an indemnity from the relevant SwapClear Clearing Member in a form suitable to the Clearing House

In connection with this Section 1.13.1, tThe Clearing House will usually arrange a transfer of ~~Related~~ SwapClear Contracts within 24 hours of receipt (to the extent applicable) of the documents listed in paragraphs (a) to (c) above.

1.13.2 In any other circumstance not covered by Section 1.13.1, Section 1.14, Section 1.15 or Regulation 60, a SwapClear Clearing Member may only instruct the Clearing House to transfer a SwapClear Contract from its Client Account to its Proprietary Account in circumstances where the Clearing House has received from the SwapClear Clearing Member:

- (a) evidence of the relevant SwapClear Clearing Client's consent to such transfer in a form suitable to the Clearing House; and
- (b) an indemnity in a form suitable to the Clearing House.

The Clearing House will usually arrange a transfer of any SwapClear Contract to be transferred pursuant to this Section 1.13.2 within 24 hours of receipt (to the extent applicable) of the documents listed in paragraphs (a) and (b) above.

1.13.3 A request from a SwapClear Clearing Member to the Clearing House to carry out any of the actions described in paragraph 1.13.1 above, shall in every case be deemed a representation by the SwapClear Clearing Member to the Clearing House that:

- (a) an early termination date has occurred with respect the relevant transaction between the SwapClear Clearing Member and the SwapClear Clearing Client;
- (b) the SwapClear Clearing Member has provided and will provide (as applicable) any required notices to the Defaulting SCM Client in respect of the early termination date and any other actions it carries out pursuant to section 1.13.1;
- (c) the SwapClear Clearing Member is permitted by its agreement(s) with the Defaulting SCM Client and has authority to effect the transfers and/or registrations specified in the SwapClear Clearing Member's requests to the Clearing House in respect of the Defaulting SCM Client;
- (d) such transfers and/or registrations and all related instructions to the Clearing House are in compliance with Applicable Law; and

(e)(e) the individual making such request or submission (or issuing any related instructions to the Clearing House) is authorized to do so on behalf of the SwapClear Clearing Member.

## 1.14 Indirect Clearing

1.14.1 In circumstances where an early termination date (howsoever described) occurs in respect of all of the transactions between a SwapClear Clearing Member and a SwapClear Clearing Client acting on behalf of Indirect Clearing Clients comprising an Indirect Gross Account in respect of which such SwapClear Clearing Member (i) is a party to Related SwapClear Contracts and (ii) at the time of such early termination date, is not a Defaulting SCM, that SwapClear Clearing Member may instruct the Clearing House to take one of the following steps in respect of each Indirect Clearing Client comprising the Indirect Gross Account:

- (a) in circumstances where the SwapClear Clearing Member notifies the Clearing House of a Backup Client in respect of the relevant Indirect Clearing Client, transfer all of the open Related SwapClear Contracts registered to the Indirect Gross Sub-Account referable to the Indirect Clearing Client to the relevant Indirect Gross Sub-Account referable to the Indirect Clearing Client of the new or existing Indirect Gross Account which the SwapClear Clearing Member has opened in respect of such Backup Client (a "**Client to Client Porting**");
- (b) transfer all of the open Related SwapClear Contracts registered to the Indirect Gross Sub-Account referable to the Indirect Clearing Client to:
  - (i) a new Individual Segregated Account or Custodial Segregated Account opened within the Clearing House by the SwapClear Clearing Member directly on behalf of such Indirect Clearing Client who shall, after such transfer, become a SwapClear Clearing Client in respect of such Client Account; or
  - (ii) a new or existing Omnibus Segregated Account opened within the Clearing House by the SwapClear Clearing Member where such Indirect Clearing Client shall, after such transfer, become a SwapClear Clearing Client in respect of such Omnibus Segregated Account,(each, a "**Direct Account Opening**"); or
- (c) transfer all of the open Related SwapClear Contracts registered to the Indirect Gross Sub-Account referable to the relevant Indirect Clearing Client to its Proprietary Account (an "**Initial Transfer**").

The Clearing House will determine, in respect of each Indirect Clearing Client comprising the Indirect Gross Account, whether a Client to Client Porting, a Direct Account Opening or an Initial Transfer (as applicable) is possible within the period of time considered by the Clearing House (in its sole discretion) to be appropriate in the relevant circumstances. In the event of a determination by