



Atlanta Calgary Chicago Houston London New York Singapore

RECEIVED  
CFTC

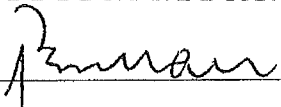
2011 APR 12 PM 2:14

OFFICE OF THE  
SECRETARIAT

**CERTIFICATION:**  
**COMPLIANCE THAT THE ADOPTED RULES COMPLY WITH THE COMMODITY EXCHANGE ACT (CEA) AND THE REGULATIONS THEREUNDER**

ICE Clear Europe Limited, a derivatives clearing organization registered with the Commodities Futures Trading Commission, hereby certifies that the "Proposed Changes to the Clearing Rules" and the "ICE Clear Europe Procedures – CDS Procedures" both relating to Trade Date Clearing for CDS Contracts adopted respectively on 28 March 2011 and 11 April 2011 and effective on the launch of Trade Date Clearing by ICE Clear Europe on 18 April 2011, comply with the Commodity Exchange Act and the regulations thereunder.

In witness whereof, the undersigned has signed this Certification as of the 12<sup>th</sup> day of April 2011.

By: 

Name: Patrick Davis

Title: Company Secretary

Draft 21 March 2011  
Trade Date Clearing



---

**ICE Clear Europe<sup>sm</sup>**

**Clearing Rules**

**[CURRENT PUBLISHED VERSION]**

**Table of Contents**

Part 1	General Provisions.....	1
Part 2	Clearing Membership.....	34
Part 3	Financial Requirements and Payments.....	48
Part 4	Clearing Mechanism.....	52
Part 5	Margin.....	64
Part 6	Position Limits.....	69
Part 7	Settlement and Delivery of Futures.....	70
Part 8	Options.....	73
Part 9	Events of Default.....	76
Part 10	Disciplinary Proceedings.....	<del>87</del> <u>85</u>
Part 11	Guaranty Funds.....	<del>97</del> <u>95</u>
Part 12	Settlement Finality Regulations and Companies Act 1989.....	<del>116</del> <u>114</u>
Part 13	[Not used].....	<del>123</del> <u>121</u>
Part 14	Transition Rules [No longer applicable: available on request.].....	<del>123</del> <u>121</u>
Part 15	Credit Default Swaps.....	<del>124</del> <u>122</u>

The term "Initial Payment" has the meaning set out in Rule 1502(b). means, in relation to a CDS Contract, the payment, if any, specified as the "Initial Payment Amount" (or, in relation to certain CDS Contracts relating to indices, as the "Additional Amount") under the Contract Terms for such CDS Contract and, in relation to a Bilateral CDS Transaction, the payment, usually described therein as the "Initial Payment Amount" or "Additional Amount", payable by one party thereto to the other on the third business day after the trade date of such Bilateral CDS Transaction.

The term "**Insolvency**" means, in relation to any Person: a bankruptcy or winding-up petition being presented; a bankruptcy order being made; a voluntary arrangement being approved; an Insolvency Practitioner being appointed or petition or order being made for such an appointment; a composition or scheme of arrangement being approved by a court or other Governmental Authority; an assignment, compromise or composition being made or approved for the benefit of any creditors or significant creditor; an order being made or resolution being passed for winding up; dissolution; the striking off of that Person's name from a register of companies or other corporate bodies; a distress process being levied or enforced or served upon or against property of that Person; a Governmental Authority making an order pursuant to which any of that Person's securities, property, rights or liabilities are transferred; a Governmental Authority exercising one or more of its stabilisation powers under the Banking Act 2009 in respect of that Person; a trust deed granted by it becoming a protected trust deed (where the terms 'trust deed' and 'protected trust deed' are construed in accordance with section 73(1) of the Bankruptcy (Scotland) Act 1985) and, for CDS Clearing Members only, also any event not otherwise falling within this definition constituting a "Bankruptcy" in respect of such CDS Clearing Member as defined in the Master Agreement between the relevant CDS Clearing Member and the Clearing House; or any event analogous to any of the foregoing in any jurisdiction (always excluding any frivolous or vexatious petition or solvent reorganisation, change of Control or merger notified to the Clearing House in accordance with Rule 204(a)(i)).

The term "**Insolvency Practitioner**" means a receiver, administrator, bank administrator, manager or administrative receiver, trustee in bankruptcy, relevant office-holder (under the Companies Act 1989) or any other Person appointed or with powers in relation to an Insolvency in any jurisdiction.

The term "**Intellectual Property**" means copyright, trade marks, design rights, patents, domain names, database rights and know-how, in each case whether registered or unregistered and including applications to register and rights to apply for registration, and all similar or equivalent rights which may subsist anywhere in the world.

The term "**Investment**" means any 'specified investment' as defined in the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 or any loan, bond, obligation or debenture referenced in a CDS Contract.

The term "**Invoice Back**" means the process by which a Contract of the same Set as an existing Contract is created by the Clearing House pursuant to Rule 104 and Rule 401(a)(vi), with the role of Buying Clearing Member or Selling Clearing Member reversed and, at the Clearing House's discretion, a different price or premium and other terms as are determined by the Clearing House pursuant to Rule 104; and the terms "**Invoiced Back**", "**Invoicing Back**" and other similar expressions shall be construed accordingly.

(b) for Options Contracts: a set of Contracts that are identical as to their terms (including the Investment to which such Contracts relate, contract date and strike price; but excluding any amount paid or to be paid for entry into or writing of a Contract and any amount paid or to be paid in respect of settlement);

(c) for CDS Contracts that are based on an index (including Triggered Restructuring CDS Contract Portions and Component Transactions forming part thereof or, pursuant to the Rules, resulting therefrom), a set of Contracts that are similar as to their terms (including, without limitation, identical as to their terms concerning the reference entities and obligations to which any payment or delivery obligation is linked, series number, fixed rate and scheduled termination date; but which may differ, without limitation, as to any Initial Payment, the 'Trade Date' and any provisions relating to tax or the provision of forms relating to tax); and

(d) for CDS Contracts that are based on a single reference entity, a set of Contracts that are similar as to their terms (including, without limitation, identical as to their terms concerning the reference entity and obligations to which any payment or delivery obligation is linked, fixed rate, scheduled termination date and, where terms are determined by reference to a "Physical Settlement Matrix", referring to the same version of such "Physical Settlement Matrix"; but which may differ, without limitation, as to any Initial Payment, the 'Trade Date' and any provisions relating to tax or the provision of forms relating to tax).

The term "**Settlement Finality Regulations**" means the Financial Markets and Insolvency (Settlement Finality) Regulations 1999.

The term "**Settlement Price**" means the settlement price for any Energy Contract as determined in accordance with the ICE Futures Europe Rules (for Contracts traded on ICE Futures Europe) or by the Clearing House in coordination with ICE Inc. (for Contracts traded on ICE OTC); except that if on any day an Energy Contract ceases to be traded, then the Clearing House may treat as the Settlement Price for such Energy Contract on such day a price determined by the Clearing House at its discretion (or by the relevant Market and accepted by the Clearing House at its discretion), as reflecting the fair market value of such Energy Contract as of the close of trading in such Energy Contract on such day.

The term "**Short**", in respect of an Option, refers to the positions of Persons against whom Put Options and Call Options may be exercised.

The term "**Strike Price**" in respect of an Option, means the price of the relevant Future upon exercise of the Option.

The term "**Summary Disciplinary Committee**" means a summary disciplinary committee established pursuant to Rule 1004(c).

The term "**Surplus Collateral**" means any Permitted Cover transferred to the Clearing House by a Clearing Member that is not required to satisfy the Clearing Member's current or most recently calculated requirements in respect of Margin and Guaranty Fund Contributions.

The term "**Termination Date**" means the date on which a Clearing Member's membership of the Clearing House terminates.

The term "**Trade Date Clearing**" has the meaning given to it in the Procedures.

The term "**Transaction**" means an ICE Futures Europe Transaction, an ICE OTC Transaction or a Bilateral CDS Transaction.

The term "**Transaction Rights or Obligations**" means any rights, liabilities or obligations of a Clearing Member relating to, or arising out of or in connection with any Transaction, whether pursuant to contract, tort, equity, restitution or otherwise, pursuant to the laws of any jurisdiction, which fall or fell due for performance to any Person other than a Customer of the Clearing Member in relation to the Transaction in question ~~(except any right, liability or obligation under a Bilateral CDS Transaction to receive or make an Initial Payment or any performance due prior to the time at which a Contract arises pursuant to Rule 401(a)).~~

The term "**Transferee**" means a Person nominated by a Buyer to whom a transfer or delivery is to be made under an Energy Contract and includes reference to the Buyer where transfer or delivery is to be made to the Buyer.

The term "**Transferor**" means a Person nominated by a Seller by whom a transfer or delivery is to be made under an Energy Contract and includes reference to the Seller where transfer or delivery is to be made by the Seller.

The term "**Tribunal**" means an arbitral tribunal established under Rule 117.

The term "**USD**" means the lawful currency from time to time of the United States of America.

The term "**Variation Margin**" means the cash required to be provided to the Clearing House by Clearing Members in respect of Energy Contracts pursuant to Rule 503(e) and the Procedures.

The term "**Weekly Clearing**" has the meaning given to it in the Procedures.

The term "**Withdrawal Date**" means, if at any time the Clearing House decides to terminate its services, either generally or in relation to a significant part of its business or certain categories of Contract, the date on which that termination will take effect.

#### **Rule 102      *Interpretation***

- (a) Any reference to a statute, statutory provision or rule shall include any notice, order, guidance, example, regulation or subordinate legislation made from time to time under that statute, statutory provision or rule which is in force from time to time. Any reference to a statute or statutory provision shall include such statute or provision as from time to time modified, re-enacted or consolidated from time to time and (so far as liability thereunder may exist or can arise) shall include also any past statute or statutory provision (as from time to time modified, re-enacted or consolidated) which was applicable at the time of any relevant action or omission.
- (b) References to any rules or any agreement are references to such rules or agreement as amended or restated from time to time, provided that such amendments or restatements are made in accordance with these Rules.
- (c) The Interpretation Act 1978 shall apply to these Rules in the same way as it applies to an enactment.

Buying Clearing Member and Selling Clearing Member in accordance with the Procedures in relation to the CDS Contract; and

- (x) in the case of a CDS Contract arising under Rule 903(a)(xii), at the time specified by the Clearing House for the entry into of the relevant CDS Contract, provided that the Clearing House has given notice to the relevant CDS Clearing Member of the particulars of CDS Contracts involved and the price or Initial Payment at which such CDS Contracts will be recorded on the Clearing House's books and records.
- (b) For Energy Contracts only, a contract or contracts shall arise between the Clearing House and the Buyer and/or the Clearing House and the Seller at the moment that an alternative delivery is agreed in respect of a Contract where, pursuant to the Procedures, a new collateral contract arises as a result of the alternative delivery being agreed, at the time and subject to the conditions and effects on existing Contracts specified in the Procedures.
- (c) ~~The Other than as specifically set out in the Procedures, the~~ Clearing House shall be entitled to rely conclusively on the accuracy and authenticity of any and all information and data regarding any Transaction or Contract submitted to the Clearing House by or on behalf of a Market, Deriv/SERV or other data entry facility for CDS Contracts, any Clearing Member or Customer of a Clearing Member, whether or not a Clearing Member or Customer in fact authorised the submission of such information or the details so submitted.
- (d) In the case of a new Contract that forms as a result of another Contract being Invoiced Back pursuant to Rule 401(a)(vi), the new Contract shall be on the same terms as the original Contract, except that the roles of Buying Clearing Member and the Clearing House or, as the case may be, the Selling Clearing Member and the Clearing House shall be reversed and the Clearing House shall be entitled, at its discretion, to determine the price or Initial Payment at which the Contract was bought or sold and any delivery or settlement price.
- (e) In the case of a Contract that forms as a result of another Contract being subject to allocation pursuant to Rule 401(a)(viii), the new Contract shall be on the same terms as the original Contract, except that the identity of the Clearing Member shall be different, in accordance with the allocation instructions received by the Clearing House. The Clearing Member that was party to the original Contract and the Clearing House shall each automatically and immediately be released and discharged from all their rights, liabilities and obligations in respect of the original Contract upon formation of the new Contract.
- (f) Upon request by the Clearing House, a Clearing Member shall promptly confirm or otherwise notify the details of any Contract or Transaction to the Clearing House in such form and manner as the Clearing House requests. Any such confirmation or notification shall not of itself affect the status or terms of any Contract.
- (g) Clearing Members shall designate each Contract as related to one of its Proprietary Accounts or Customer Accounts (if any).

- (h) Where a Clearing Member has appointed a Disclosed Principal Member, the Disclosed Principal Member shall be the Buying Clearing Member or the Selling Clearing Member (as applicable) instead of the relevant Clearing Member in respect of all Contracts arising under this Rule 401 to which that Clearing Member would, but for the requirements of this Rule 401(h), otherwise be party. All provisions of these Rules relating to Contracts shall be construed accordingly.
- (i) In order for a Contract to arise pursuant to:
- (i) Rule 401(a)(i), (ii), (iii), (iv), (v), (vii) or (viii); or
- (ii) Rule 401(a)(vi) in relation to an Energy Contract,
- the Clearing Member in question must be an Energy Clearing Member.
- (j) In order for a Contract to arise pursuant to:
- (i) Rule 401(a)(ix) or (x); or
- (ii) Rule 401(a)(vi) in relation to a CDS Contract,
- the Clearing Member in question must be a CDS Clearing Member.
- (k) On each occasion that the Clearing House gives notice in relation to a CDS Contract pursuant to Rule 401(a)(ix) or Rule 401(a)(x), each affected Clearing Member and/or the Clearing House, as applicable, must submit, in accordance with the Procedures, the terms of the actual or proposed CDS Contract to Deriv/SERV or another service specified by the Clearing House with identical terms as the original submission for clearing or the CDS Contract arising under Rule 401(a)(x), as applicable, adjusted to take into account netting and aggregation of CDS Contracts pursuant to Rule 406.

**Rule 402**      *Contracts only between Clearing Members and Clearing House*

- (a) Each Clearing Member that is party to a Contract shall act as principal and not as agent. In performing its obligations and exercising its rights under these Rules, the Clearing House shall treat the entitlement of Clearing Members to rights pursuant to Contracts to be a full legal and beneficial entitlement and not subject to any Encumbrance in favour of any Person other than the Clearing House (other than pursuant to the Contract Terms).
- (b) Upon the formation of a Contract in accordance with Rule 401, any Clearing Member that has any Transaction Rights or Obligations in relation to the original Transaction shall be automatically and immediately released and discharged from all and any such Transaction Rights or Obligations other than (i) any Transaction Rights or Obligations falling due for performance before the formation of such Contract and (ii) any Transaction Rights or Obligations relating to any Initial Payment under any Bilateral CDS Transaction submitted for Weekly Clearing.
- (c) The liabilities and obligations of the Clearing House pursuant to Contracts extend only to, and are enforceable only by, Clearing Members. Without limiting the generality of the foregoing, the Clearing House shall have no liability or obligation whatsoever to any Customer of a Clearing Member or any client of such a Customer.



practicable, it may take the steps set out in paragraph (ii) below, in relation to the affected CDS Contract(s):

- (i) direct the Clearing Member who was counterparty to the void or voided CDS Contract to enter into a replacement CDS Contract of equal economic terms to the void or voided CDS Contract or sign documentation confirming the validity of an existing CDS Contract, in which case the Clearing Member shall forthwith execute or sign such documentation as is directed by the Clearing House, which documentation may contain any terms specified by the Clearing House, in order to establish a replacement CDS Contract as near as possible of equal terms to the CDS Contract that is void or voided or confirm the validity of an existing CDS Contract; or
- (ii) enter into such contracts for its own account as it considers necessary for the Clearing House to achieve a balanced book of CDS Contracts, in which case:
  - (A) the Clearing Member who was counterparty to the void or voided CDS Contract shall be liable to pay the Clearing House for all of the Clearing House's costs, expenses and losses incurred in establishing such contracts;
  - (B) the Clearing House shall be entitled to retain all Margin and Guaranty Fund Contributions of the Clearing Member that would otherwise be returned or returnable to the Clearing Member as a result of the CDS Contract being voided and apply the same as against any amount due to the Clearing House under Rule 404(c)(ii)(A); and
  - (C) the Clearing House shall be entitled to call additional Margin from the Clearing Member from the time at which the CDS Contract is void until the time that the Clearing House has achieved a balanced book and has been reimbursed in respect of all its costs, expenses and losses incurred in establishing such contracts,

provided that, for the avoidance of doubt, any amounts received by the Clearing House in the process of achieving a balanced book which are in excess of its costs, expenses and losses incurred in establishing such contracts will be repayable to the affected Clearing Member.

- (d) If the Clearing House directs a Clearing Member to enter into a replacement CDS Contract or sign documentation confirming the validity of an existing CDS Contract under Rule 404(c)(i), any failure by the Clearing Member to do so or to take the steps set out in Rule 404(e) at or before the time reasonably specified by the Clearing House shall constitute grounds for the Clearing House declaring an Event of Default in respect of the Clearing Member, regardless of any event or circumstance which might (but for this provision) constitute a Force Majeure Event. If a Clearing Member is restricted or prevented by Applicable Law from entering into or signing a valid replacement CDS Contract or signing documentation confirming the validity of an existing CDS Contract, such restriction or prevention (in conjunction with the failure of the Clearing Member to enter into a replacement CDS Contract or sign effective documentation confirming the validity of an existing CDS Contract where directed to do so by the Clearing House pursuant to Rule 404(c)(i) or to take the steps

set out in Rule 404(e)) shall of itself constitute grounds for the Clearing House declaring an Event of Default in respect of the Clearing Member, regardless of any event or circumstance which might (but for this provision) constitute a Force Majeure Event.

- (e) If, in relation to an Energy Contract, any of the circumstances in Rule 404(a) arises or if, in the case of a CDS Contract only, any of the circumstances set out in Rule 404(b) arises and no replacement CDS Contract is established and the position is not otherwise dealt with pursuant to Rule 404(c), the Clearing House shall immediately notify the affected Clearing Members and any relevant Market. Upon such notification:
- (i) the Clearing House and the Clearing Member shall immediately be released from all rights, liabilities and obligations under any affected Contract;
  - (ii) the affected Contract shall become null and void;
  - (iii) all amounts paid pursuant to the Contract shall immediately be returned by the Clearing Member and the Clearing House to their respective contractual counterparties, in each case without interest;
  - (iv) in the case of an Energy Contract, any Transaction Rights or Obligations shall be deemed never to have been affected by Rule 402(b); and
  - (v) in the case of two CDS Contracts resulting from the same Bilateral CDS Transaction being voided in circumstances in which the Bilateral CDS Transaction itself is not void:
    - (A) each affected Clearing Member ~~must~~shall submit or, as the case may be, resubmit the terms of the Bilateral CDS Transaction to Deriv/SERV or another service specified by the Clearing House;
    - (B) each affected Clearing Member ~~must~~or the Clearing House, as the case may be, shall cancel any submission relating to the proposed CDS Contract made pursuant to Rule 401(k);
    - (C) relevant Bilateral CDS Transactions shall be deemed never to have been terminated; and
    - (D) any Transaction Rights or Obligations shall be deemed never to have been affected by Rule 402(b).
- (f) Nothing in this Rule 404 of itself is intended to result in any Transaction or Transaction Rights or Obligations being void or voided as between the original parties thereto.

**Rule 405**      *Representations and Warranties on Contract Formation*

- (a) In relation to each Contract, the Clearing House will, and will be entitled to, rely on representations and warranties, deemed automatically to arise pursuant to these Rules from each Clearing Member proposing to become party to any Contract, that the Clearing Member is:

**Rule 406**      *Open Contract Positions*

- (a) At the end of each day or at such other frequency as the Clearing House determines at its discretion either generally or in respect of any Clearing Member, the Clearing House will calculate Open Contract Positions in its books and records. Settlement or revaluation of Open Contract Positions and Contracts will take place pursuant to the applicable Contract Terms and, for Energy Contracts, through the Clearing Processing System. The Clearing House shall have no obligation to notify any Clearing Member of Open Contract Positions or Contracts other than through the Clearing Processing System or otherwise in accordance with the Rules and Procedures.
- (b) If a Clearing Member so instructs the Clearing House in accordance with the Procedures, the Clearing House will net particular buy and sell positions (for a Set of Futures) or Long and Short positions (for a Set of Options) within the Clearing Member's Open Contract Position in respect of a Clearing Member's Customer Account.
- (c) Subject to its obligations under Rule 406(b), the Clearing House may at its discretion treat any Energy Contract pursuant to which a Clearing Member is the Buying Clearing Member and another Energy Contract of the same Set pursuant to which the same Clearing Member is the Selling Clearing Member simultaneously as being netted, set off and mutually closed out and terminated upon calculation of the Open Contract Position in respect of such Energy Contracts, subject to the Clearing Member having made all then due payments pursuant to the Contract Terms in respect of such Energy Contracts and to separate treatment of Open Contract Positions in the Clearing Member's Proprietary Account and Customer Account (if any). Where the position as Buying Clearing Member is not of the same size as a position a Selling Clearing Member, the Contracts in question shall be closed out and terminated in part.
- (d) CDS Clearing Members shall elect in accordance with the Procedures between one of three different methods for the aggregation and netting of CDS Contracts (listed in paragraphs (i) to (iii) below), separately in respect of each of its CDS Sub-Accounts. If a CDS Clearing Member has only one CDS Sub-Account, then only one election under this Rule 406(d) is required. Any aggregation and netting of CDS Contracts pursuant to this Rule 406(d) shall take place pursuant to a novation, through termination of the relevant existing CDS Contract ~~or of the same Set or some or all of the relevant existing~~ CDS Contracts of the same Set in the same CDS Sub-Account in consideration for the entry into of a new replacement single CDS Contract, ~~each time at which either: (x) such a CDS Contract arises pursuant to Rule 401(a)(ix) or Rule 401(a)(x), as applicable; or (y) such a CDS Contract to which the CDS Clearing Member is party is voided and duly notified by the Clearing House pursuant to Rule 404(e) (or, to the extent that termination and replacement is necessary in the circumstances, Rule 404(e)(i)) replacing those CDS Contracts so being aggregated and/or netted. Such aggregation and netting will take place at the times, and will affect those CDS Contracts, set out in or determined in accordance with the Procedures, which will provide for aggregation and netting in relation to each CDS Sub-Account at least weekly.~~ The Clearing House and relevant CDS Clearing Member will reflect each aggregation and netting under this Rule 406(d) in the records of Deriv/SERV in accordance with Procedures. Subject to Rule 406(e):

result in one or more CDS Contracts per Set regardless of the election in Rule 406(d), to the extent permitted under the Procedures;

- (iii) following an Event of Default, Part 9 of the Rules shall prevail and apply in relation to all matters concerning aggregation, consolidation, set off, closing out and termination of Contracts;
  - (iv) for the avoidance of doubt, Rule 406(d) is subject to Rule 102(p) and there shall be separate treatment (and no offsetting and close-out or resulting termination nor any aggregation or consolidation) as between (A) any CDS Contract recorded in the Clearing Member's Proprietary Account and (B) any CDS Contract recorded in the Clearing Member's Customer Account (if any);
  - (v) an election under Rule 406(d)(i) or Rule 406(d)(ii) shall not prevent a CDS Clearing Member from requesting that the Clearing House net, set off, consolidate or aggregate any particular CDS Contracts (or parts of any CDS Contracts) in a manner that would be permitted under Rule 406(d)(iii) (if that Rule were applicable to the relevant CDS Sub-Account) nor shall it prevent the Clearing House from accepting any such request;
  - (vi) Rule 406(d) does not affect the definition or calculation of the Open Contract Position of a CDS Clearing Member, nor does it affect any Margin or Guaranty Fund Contribution requirements applicable to a CDS Clearing Member which shall at all times be based upon the Open Contract Position in each Set, notwithstanding the CDS Contracts to which a CDS Clearing Member is party or elections in relation to CDS Sub-Accounts;
  - (vii) if the records of trades in Deriv/SERV do not reflect the CDS Contracts to which a CDS Clearing Member and the Clearing House are party, then the CDS Clearing Member and the Clearing House will together correct the records of Deriv/SERV accordingly; and
  - (viii) where Rule 406(d)(ii) or Rule 406(d)(iii) applies to a CDS Sub-Account, Fixed Amounts for the CDS Contracts recorded in that CDS Sub-Account shall be calculated on the basis of the average Floating Rate Payer Calculation Amounts for the affected period.
- (f) All Intellectual Property in data relating to Transactions, Contracts and Open Contract Positions provided to the Clearing House under these Rules or generated by the Clearing House shall be the property of the Clearing House (except that, in relation to CDS, this shall be subject to any provision to the contrary in any agreement in writing between the Clearing House and a CDS Clearing Member). Such data may be provided by the Clearing House to any Market, Deriv/SERV or any other data entry facility for CDS Contracts and any member of the ICE Group and used by the Clearing House or such other Persons for any commercial or other purpose, subject in each case to the restrictions in Rule 106(a) ~~(and subject, in relation to CDS, to any further restrictions in any agreement in writing between the Clearing House and a CDS Clearing Member)~~. Each Clearing Member's rights in such Intellectual Property shall be automatically assigned to the Clearing House by virtue of this provision as such rights arise. This Rule 406(f) is subject, in relation to CDS, to any further

restrictions in any agreement in writing between the Clearing House and a CDS Clearing Member.

**Rule 407**      *Reporting of Open Contract Positions Carried by Other Clearing Members*

If a Clearing Member (for the purposes of this Rule 407 only, the "**Relevant Clearing Member**") has Customer or proprietary positions in respect of any Contract carried for it by another Clearing Member (for the purposes of this Rule 407 only, the "**Position Holder**"), the Relevant Clearing Member shall give written notice to the Clearing House of the name of the Position Holder and the extent of its position on the Business Day following the Business Day on which a position was carried by the Position Holder.

**Rule 408**      *Transfer of Contracts*

- (a) A Clearing Member shall not assign, allocate or transfer, or create any Encumbrance whatsoever in relation to, any of its rights, liabilities or obligations under a Contract except:
- (i) that all rights and obligations of a Clearing Member pursuant to a Contract may be transferred from one Clearing Member to another Clearing Member with the agreement of each of the two Clearing Members involved and the consent of the Clearing House and relevant Market (if any), subject to such conditions as the Clearing House at its discretion stipulates;
  - (ii) as a result of an allocation resulting in a Clearing Member being the 'Buying Clearing Member' or 'Selling Clearing Member' as such terms are defined in Rule 101;
  - (iii) as a result of an allocation pursuant to Rule 401(a)(viii);
  - (iv) as a result of a CDS Contract arising pursuant to Rule 903(a)(xii) and Rule 401(a)(x); or
  - (v) as a result of a sale or transfer of Contracts pursuant to Rule 902(a)(i).
- (b) Any purported transfer of any rights, liabilities or obligations under a Contract other than in accordance with Rule 408(a) shall be null and void.

**Rule 409**      *Amendment of Contract Terms*

- (a) The terms of any Contract may only be amended, waived or varied with the prior written consent of the Clearing House.

## Part 5 Margin

### Rule 501 *Approved Financial Institutions*

- (a) The Clearing House will maintain a list of Approved Financial Institutions. Only Approved Financial Institutions shall be permitted by the Clearing House:
  - (i) to open and operate, on behalf of Clearing Members, accounts from which the Clearing House can draw amounts pursuant to a direct debit mandate, for the collection of amounts due to the Clearing House from time to time; and
  - (ii) to issue and confirm letters of credit for Clearing Members. Approved Financial Institutions may also act in such other capacity as the Clearing House may approve from time to time.
- (b) All cash transfers made by Clearing Members to or to the order of the Clearing House must be made from an account at an Approved Financial Institution, unless the Clearing House gives its prior written consent to another method being used.
- (c) Clearing Members are given notice that the Clearing House may suspend or terminate the status of an Approved Financial Institution or attach, amend or revoke conditions to the continued status of an Approved Financial Institution. The Clearing House may take such steps if an institution no longer meets all of the requirements of the Clearing House or if the Clearing House determines that it would be advisable for the Clearing House's own protection, the protection of Clearing Members or the protection of a Market to do so.

### Rule 502 *Margin*

- (a) Each Clearing Member shall transfer Permitted Cover to the Clearing House in respect of Margin in such amounts, in such forms and at such times as are required pursuant to this Part 5 and otherwise as may be prescribed by the Clearing House from time to time.
- (b) At any time on which a requirement for Original Margin, Initial Margin or Margin under Rule 502(g) falls due and insufficient Permitted Cover is held, the Clearing Member must initially transfer cash in an Eligible Currency. Thereafter a Clearing Member may substitute such cash Margin with other Permitted Cover by delivery of the replacement Permitted Cover to the Clearing House.
- (c) Variation Margin and Mark-to Market Margin payments may be made by the Clearing House or a Clearing Member only in cash in the Eligible Currency in which the Contract in question is to be or can be settled (for Energy Contracts) or ~~is denominated~~ which is the settlement currency (save where the Procedures require otherwise) (for CDS Contracts) pursuant to the Contract Terms.
- (d) Details of Eligible Currencies and other Permitted Cover that may be used to satisfy Margin obligations will be notified to Clearing Members from time to time by a Circular. The Clearing House may, at its discretion, vary or alter the standard Margin requirements, nature or types of acceptable Eligible Currencies and Permitted Cover, specify proportions or maximum proportions of asset classes or modify any valuation

## Part 15 Credit Default Swaps

Part 15 of the Rules does not apply to Energy Contracts.

### Rule 1501 Definitions

- (a) The term "2010 PD Amending Directive" means Directive 2010/73/EU.
- (b) ~~(a)~~-The term "**Applicable Credit Event**", in relation to a CDS Contract, means any of the Credit Events specified in that CDS Contract as being applicable.
- (c) ~~(b)~~-The term "**CADP**" or "**CDS Alternative Delivery or Settlement Procedure**" has the meaning set out in Rule 1514.
- (d) ~~(c)~~-The term "**CADP Notice**" means a notice delivered to the Clearing House and issued jointly by a Matched CDS Buyer and Matched CDS Seller concerning CADP in respect of a Matched Pair and related Matched CDS Contracts, in the form specified in the Procedures.
- (e) ~~(d)~~-The term "**CDS Buyer**" means a CDS Clearing Member (or, in the circumstances set out in the definition of "Matched Pair", the Clearing House) that is party to a CDS Contract as protection buyer.
- (f) ~~(e)~~-The term "**CDS Procedures**" means the chapter of the Procedures relevant to CDS only.
- (g) ~~(f)~~-The term "**CDS Seller**" means a CDS Clearing Member (or, in the circumstances set out in the definition of "Matched Pair", the Clearing House) that is party to a CDS Contract as protection seller.
- (h) ~~(g)~~-The term "**Component Transaction**", in relation to any CDS Contract, has the meaning given to that term in the relevant Contract Terms.
- (i) ~~(h)~~-The term "**Credit Event Announcement**" means a DC Credit Event Announcement or, where applicable in accordance with the Procedures, a Regional CDS Committee Credit Event Announcement.
- (j) ~~(i)~~-The term "**Determining Body**" means the Credit Derivatives Determinations Committee or the Regional CDS Committee or other relevant body or person with jurisdiction to make the relevant determination under the Credit Derivatives Definitions or the Procedures.
- (k) ~~(j)~~-The term "**Failed Amount**" has the meaning given to that term in Rule 1512.
- (l) ~~(k)~~-The term "**Matched Pair**" means a CDS Buyer and CDS Seller matched by the Clearing House pursuant to Rule 1507 or Rule 1508, as applicable, where the CDS Buyer in such Matched Pair is the "**Matched CDS Buyer**" and the CDS Seller in such Matched Pair is the "**Matched CDS Seller**", provided that the Clearing House shall take the position of CDS Buyer or CDS Seller in any Matched Pair in order to create a Matched Pair for any CDS Seller or CDS Buyer which it is unable to match to another CDS Buyer or CDS Seller (other than the Clearing House), as the case may be.

- (m) ~~(l)~~—The term "**Matched CDS Buyer Contract**" means a CDS Contract (or part thereof) between a Matched CDS Buyer and the Clearing House which is the subject of a Matched Pair having a Floating Rate Payer Calculation Amount equal to the MP Amount relating to that Matched Pair.
- (n) ~~(m)~~—The term "**Matched CDS Contract**" means a Matched CDS Seller Contract or a Matched CDS Buyer Contract.
- (o) ~~(n)~~—The term "**Matched CDS Seller Contract**" means a CDS Contract (or part thereof) between a Matched CDS Seller and the Clearing House which is the subject of a Matched Pair having a Floating Rate Payer Calculation Amount equal to the MP Amount relating to that Matched Pair.
- (p) ~~(o)~~—The term "**MP Amount**" means an amount equal to the portion of a Floating Rate Payer Calculation Amount in respect of which the Clearing House matches a Matched Pair for the purposes of Rule 1507(b) or Rule 1508(a), as applicable.
- (q) ~~(p)~~—The term "**Offer to the Public**" in relation to any Securities in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and any Securities to be offered so as to enable an investor to decide to purchase or subscribe for those Securities, as the same may be varied in that Relevant Member State by any measure implementing the Prospectus Directive in that Relevant Member State.
- (r) ~~(q)~~—The term "**PD Contract**" means a CDS that is a Security (if any) and which is:
- (i) a CDS Contract cleared or proposed to be cleared by the Clearing House;
  - (ii) a CDS on terms identical or similar to a CDS Contract falling under Rule 1501~~(q)~~(i).
- (s) ~~(r)~~—The term "**Prospectus Directive**" means Directive 2003/71/EC (and amendments thereto, including the 2010 PD Amending Directive, to the extent implemented in the Relevant Member State in question) and includes any European Commission regulations thereunder and relevant implementing measures in each Relevant Member State. Any reference to a particular article of the Prospectus Directive shall be deemed to also be a reference to the relevant provision of the relevant implementing measure in each Relevant Member State.
- (t) ~~(s)~~—The term "**Relevant Member State**" means any member state of the European Economic Area which has implemented the Prospectus Directive.
- (u) ~~(t)~~—The term "**Restructuring CDS Contract**" means a CDS Contract (or in respect of a CDS Contract relating to an index, a CDS Contract which is a Component Transaction) in respect of a Reference Entity in relation to which a Credit Event Announcement has been made of the occurrence of a Restructuring Credit Event (and no other Applicable Credit Event) in relation to that Reference Entity and where relevant, the requirement for Publicly Available Information has been satisfied as determined by the Determining Body provided that if, after such Credit Event Announcement has been made, a further Credit Event Announcement is made of the occurrence of an Applicable Credit Event other than Restructuring in relation to that



Reference Entity, such CDS Contract, to the extent that it has not become a Triggered Restructuring CDS Contract Portion, will cease to be a Restructuring CDS Contract and provided further that any Restructuring CDS Contract, to the extent that it is not a Triggered Restructuring CDS Contract Portion, in respect of which an effective Restructuring Credit Event Notice can no longer be delivered (including, at the times and in the circumstances specified in the CDS Procedures, copied to the Clearing House) will cease to be a Restructuring CDS Contract and will thereafter be a CDS Contract subject to the provisions of these Rules.

- (v) ~~(u)~~—The term "**Restructuring Credit Event Notice**" means a Credit Event Notice, describing a Restructuring Credit Event, relating to all or , where ~~applicable~~permitted under Section 3.9 of the Credit Derivatives Definitions, part of the Floating Rate Payer Calculation Amount of a Restructuring CDS Contract to be delivered in accordance with the Contract Terms by a Matched CDS Buyer or Matched CDS Seller (as applicable) to the Matched CDS Buyer or Matched CDS Seller (as applicable) in the Matched Pair and copied to the Clearing House in accordance with Rule 1509(d).
- (w) ~~(v)~~—The term "**Restructuring Reference Entity**" means the Reference Entity in respect of which a Credit Event Announcement has been made in respect of a Restructuring Credit Event.
- (x) ~~(w)~~—The term "**Securities**" means 'securities' within the meaning of article 2(1)(a) of the Prospectus Directive as the same may be varied in any Relevant Member State by any measure implementing the Prospectus Directive in that Relevant Member State; and the term "**Security**" shall be construed accordingly.
- (y) ~~(x)~~—The term "**Triggered Restructuring CDS Contract Portion**" means a Restructuring CDS Contract in respect of which a Restructuring Credit Event Notice has been delivered in accordance with the Contract Terms and these Rules and the Procedures, provided that, where permitted under Section 3.9 of the Credit Derivatives Definitions, if such Restructuring Credit Event Notice specifies an Exercise Amount that is less than the Floating Rate Payer Calculation Amount of the Restructuring CDS Contract, such Restructuring CDS Contract shall be construed, pursuant to Section 3.9 of the Credit Derivatives Definitions, as if the parties had entered into two Restructuring CDS Contracts, one of which will constitute the Triggered Restructuring CDS Contract Portion and has a Floating Rate Payer Calculation Amount equal to the Exercise Amount and the other of which has a Floating Rate Payer Calculation Amount equal to the Floating Rate Payer Calculation Amount outstanding immediately prior to the delivery of the Restructuring Credit Event Notice minus the Exercise Amount.
- (z) ~~(y)~~—The terms "**Auction Cancellation Date**", "**Auction Settlement**", "**Auction Settlement Amount**", "**Convened DC**", "**Credit Derivatives Determinations Committee**", "**Credit Event**", "**Credit Event Notice**", "**DC Credit Event Announcement**", "**DC Resolution**", "**DC Secretary**", "**Deliverable Obligations**", "**Deliver**", "**Delivery**", "**Effective Date**", "**Exercise Amount**", "**Fallback Settlement Method**", "**Floating Rate Payer Calculation Amount**", "**Indicative Quotation**", "**Latest Permissible Physical Settlement Date**", "**No Auction Announcement Date**", "**NOPS Amendment Notice**", "**Notice of Physical Settlement**", "**Notice to Exercise Movement Option**", "**Obligation**", "**Physical Settlement Amount**",

"Publicly Available Information", "Reference Entity", "Restructuring", "Settlement Method" and "Undeliverable Obligations" each have the meaning given to those terms in the Credit Derivatives Definitions.

- (aa) ~~(z)~~ The terms "CDS Default Committee", "Dispute Resolver", "Dispute Resolution Panel", "External Reviewer", "Regional CDS Committee", "Regional CDS Committee Credit Event Announcement" ~~and~~, "Sovereign Contract" and "Trade Date Clearing" each have the meaning given to those terms in the CDS Procedures.
- (bb) ~~(aa)~~ Any term used but not defined in this Part 15 or elsewhere in the Rules shall have the meaning given to that term in the CDS Procedures.

**Rule 1502** *Incorporation of ISDA Master Agreement and Initial Payments*

- (a) The terms of each CDS Contract shall be as follows:
- (i) those of the ISDA 2002 Master Agreement, as published by ISDA (as amended) between the Clearing House and the relevant Clearing Member ("Master Agreement");
  - (ii) ~~in relation to a CDS Contract other than a Restructuring CDS Contract, such quantity, notional and other economic terms (as determined pursuant to the Procedures) as were applicable to the Bilateral CDS Transaction (or portion thereof) that gave rise to the CDS Contract and in relation to a Restructuring CDS Contract, such quantity, notional and other economic terms as result from the operation of these Rules and the Procedures provided that, for any CDS Contract arising under, subject to the provisions of Rule 401(a)(ix), the Initial Payment shall be zero; and~~
  - (iii) the applicable terms set out in the Rules (including, without limitation, the CDS Procedures and the Credit Derivatives Definitions).
- (b) No CDS Contract arising pursuant to Weekly Clearing shall contain any rights or obligations in respect of any Initial Payment. If any Bilateral CDS Transaction submitted for clearing in accordance with Rule 401(a)(ix) Clearing contains any obligation to make an up-front payment (an "Initial Payment") or any other for payment or performance falling due before a CDS Contract arises pursuant to Rule 401(a)(ix), the obligation to make for such Initial Payment, other payment or performance shall remain a direct obligation of the relevant CDS Buyer or CDS Seller (as applicable) to the other Clearing Member, which is or was party to the relevant Bilateral CDS Transaction. The Clearing House shall have no obligation to make or guarantee any Initial Payment or any other in respect of a Bilateral CDS Transaction, other than an Initial Payment under a CDS Contract arising from Trade Date Clearing of any such Bilateral CDS Transaction, or to make or guarantee any payment or performance falling due before a CDS Contract arises pursuant to Rule 401(a)(ix). For the avoidance of doubt, each CDS Contract arising from Trade Date Clearing will include an obligation to pay an Initial Payment constituting a payment obligation of the relevant party thereto reflecting the Initial Payment, if any, under the Bilateral CDS Transaction submitted for Trade Date Clearing and CDS Contracts arising in other circumstances (other than pursuant to Weekly Clearing) may include an

obligation to pay an Initial Payment constituting a payment obligation of the relevant party thereto.

**Rule 1503**    *Prospectus Directive*

- (a) The Clearing House has not authorised, nor does it authorise, the making of any Offer to the Public by any Person of any PD Contract in circumstances in which: (i) an obligation arises for the Clearing House to publish or supplement a prospectus for any such offer; (ii) an obligation arises for the Clearing House to make any other public disclosure or filing required under the Prospectus Directive; or (iii) a "home member state" is determined in respect of the Clearing House for purposes of article 2(1)(m) of the Prospectus Directive. Accordingly, Clearing Members shall not make any such Offer to the Public in relation to PD Contracts.
- (b) Without prejudice to the generality of Rule 1503(a), no Clearing Member shall enter into a PD Contract:
- (i) with the Clearing House;
  - (ii) with another Clearing Member pursuant to CADP; or
  - (iii) with any of its Customers on a back-to-back basis with a contract falling under (i) or (ii),

unless one or more of the following conditions is satisfied:

- (A) in the case of any PD Contract to which the Clearing House is a party, the Clearing Member is a "qualified investor" (as defined in article 2(1)(e) of the Prospectus Directive);
  - (B) in the case of any PD Contract to which the Clearing House is not a party, the Clearing Member and its counterparty are both "qualified investors" (as defined in article 2(1)(e) of the Prospectus Directive);
  - (C) the minimum total consideration is at least ~~€50,000; or~~
    - (1) €50,000, in relation to any Offer to the Public made in a Relevant Member State that has not implemented the 2010 PD Amending Directive; or
    - (2) €100,000, in relation to any Offer to the Public made in a Relevant Member State that has implemented the 2010 PD Amending Directive; or
  - (D) the requirement to publish or supplement a prospectus under the Prospectus Directive otherwise does not apply.
- (c) Notwithstanding any other provision of these Rules, no Clearing Member shall be declared subject to an Event of Default or have its membership terminated or suspended under Rules 208 or 209 for breach of any provision of this Rule 1503 unless:

- (i) a Governmental Authority has determined or published a determination, rule or guidance to the effect that any CDS is or may be characterised as a Security, in which case any breach of this Rule 1503 following such determination or publication shall be actionable as an Event of Default and constitute grounds for termination or suspension of membership under Rules 208 or 209; or
  - (ii) the Clearing House has suffered a loss or is subject to any investigation or proceeding by a Governmental Authority in relation to the Prospectus Directive caused by the Clearing Member's breach of this Rule 1503.
- (d) Neither Rule 1501(qt) nor this Rule 1503 constitutes any agreement, admission or acknowledgement on the part of any Clearing Member or the Clearing House that any CDS is or could be characterised a Security. Rule 1501(qt) and this Rule 1503 are without prejudice to any right of any Clearing Member or the Clearing House to assert, argue or provide evidence that any CDS is not a Security in any arbitration, disciplinary or other legal proceedings or to any Governmental Authority or to publish any view that the Prospectus Directive does or does not apply in relation to any such contract.

**Rule 1504** *Separate treatment of CDS Contracts for Proprietary Account and Customer Account*

CDS Contracts to which a Clearing Member is party (and consequently Open Contract Positions including any Restructuring CDS Contracts, Matched CDS Contracts and Triggered Restructuring CDS Contract Portions) will be separately subject to the application of these Rules for each of the following positions of the Clearing Member:

- (a) Proprietary Account;
- (b) gross protection buyer position on its Customer Account (if any); and
- (c) gross protection seller position on its Customer Account (if any).

**Rule 1505** *Credit Event Notices, Notices of Physical Settlement, NOPS Amendment Notices and Notices to Exercise Movement Option*

- (a) Neither the Clearing House nor any CDS Clearing Member will be entitled to deliver a Credit Event Notice under a CDS Contract in relation to any Applicable Credit Event other than Restructuring.
- (b) Neither the Clearing House nor any CDS Clearing Member will deliver any of the following notices in respect of any CDS Contract unless and until the Clearing House has (or, pursuant to Rule 1507 or Rule 1508, should have) notified CDS Buyers and CDS Sellers of their Matched Pairs and associated MP Amounts and any such notices delivered before that time shall be void and of no effect:
  - (i) a Notice of Physical Settlement or NOPS Amendment Notice in respect of a CDS Contract of a Set in respect of which a Credit Event Announcement has been made in respect of an Applicable Credit Event other than Restructuring; or

- (i) the amount of such Deliverable Obligation is less than the relevant minimum denomination of such Deliverable Obligation; or
- (ii) such Matched CDS Seller is not a permitted transferee under such Deliverable Obligation or the Matched CDS Buyer does not obtain any requisite consent with respect to delivery of loans,

such occurrence shall be treated, in relation to both Matched CDS Contracts, as an illegality or impossibility outside the parties' control for the purpose of Section 9.3 of the Credit Derivatives Definitions. The Matched CDS Buyer shall deliver a notice describing in reasonable detail the facts giving rise to such deemed illegality or impossibility to its Matched CDS Seller and the Clearing House.

- (b) Upon notice being given to the Clearing House by the Matched CDS Buyer under Rule 1513(a), "Cash Settlement" pursuant to the Partial Cash Settlement Terms (set out in Section 9.8 of the Credit Derivatives Definitions, which is amended for these purposes in the Procedures) shall be deemed to apply to the Matched CDS Contracts in respect of the relevant Matched Pair with respect to the Non-Deliverable Obligations as though:

- (i) the Non-Deliverable Obligations were Undeliverable Obligations;
- (ii) the Latest Permissible Physical Settlement Date were the date on which the Matched CDS Buyer gave the relevant notice to the Clearing House as referred to in Rule 1513(a);
- (iii) in the case of Rule 1513(a)(ii), Indicative Quotations were not applicable; and
- (iv) the Matched CDS Buyer were the Calculation Agent.

The Clearing House and the Matched CDS Buyer will settle the Matched Buyer CDS Contract and the Clearing House and the Matched CDS Seller will settle the Matched Seller CDS Contract accordingly as though references to the Physical Settlement Amount in Rules 1509(a) and (b) were references to the Cash Settlement Amount.

**Rule 1514** *CDS Alternative Delivery or Settlement Procedure*

- (a) A Matched CDS Buyer and Matched CDS Seller in any Matched Pair for which the Settlement Method is other than Auction Settlement may, in accordance with the Procedures, elect to settle their rights and obligations in relation to such Matched CDS Contracts between each other outside the Clearing House and other than pursuant to Rule 1507 to Rule 1511 ("**CDS Alternative Delivery or Settlement Procedure**" or "**CADP**"). For CADP to be effective, the Matched CDS Buyer and Matched CDS Seller must jointly provide the Clearing House with a CADP Notice specifying the Matched CDS Contracts and ~~relevant MP Amount~~ the quantity of the related MP Amount intended to be the subject of CADP (which quantity, if the CDS Contracts are ones to which Section 3.9 (*Credit Event Notice after Restructuring*) of the Credit Derivatives Definitions applies, shall be an amount that would be permitted as an Exercise Amount in relation to such Matched CDS Contracts under such section and, otherwise, shall be the entire MP Amount) and obtain the consent of the Clearing House to CADP, which consent will not be unreasonably withheld or delayed. The

Clearing House shall respond to any CADP Notice (including its consent to CADP or otherwise) within one Business Day of receipt thereof.

- (b) With effect from the time that the Clearing House confirms its consent to CADP, the Floating Rate Payer Calculation Amount of the relevant Matched CDS Contracts will be deemed to be reduced by an amount equal to the quantity of the MP Amount ~~(or, where Section 3.9 (Credit Event Notice after Restructuring) of the Credit Derivatives Definitions applies, part thereof, as the case may be)~~ specified in the CADP Notice, as referred to in (a) above. In such circumstances, Rules 1507 to Rule 1511 (inclusive) shall not apply to such Matched CDS Buyer and Matched CDS Seller in respect of the notified reduced amount related to such Matched Pair or the relevant Matched CDS Contracts.
- (c) In such circumstances, the Matched CDS Buyer and Matched CDS Seller shall be liable to satisfy their obligations to each other in respect of such CADP bilaterally pursuant to such arrangements or agreements as they may establish or agree between them.

**Rule 1515    *Separation of Matched Pairs***

- (a) If:-
  - (i) a Credit Event Announcement has been made in respect of an Applicable Credit Event other than a Restructuring; and
  - (ii) settlement of the relevant CDS Contracts is to be made pursuant to the Fallback Settlement Method; and
  - (iii) a subsequent resolution of a Determining Body results in settlement of the relevant CDS Contracts no longer being required to be made pursuant to the Fallback Settlement Method,then:
  - (iv) to the extent that the Clearing House has not by then matched CDS Sellers with CDS Buyers to form Matched Pairs in relation to the relevant CDS Contracts, pursuant to Rule 1507, it shall not do so; and
  - (v) to the extent that the Clearing House has by then matched CDS Sellers with CDS Buyers to form Matched Pairs in relation to the relevant CDS Contracts pursuant to Rule 1507, the Clearing House shall, as soon as reasonably practicable, give notice (the "**Matching Reversal Notice**") to the CDS Seller and CDS Buyer forming each affected Matched Pair of the proposal to reverse such matching and shall thereafter reverse such matching, provided that the Clearing House will not reverse any matching to the extent that the Matched CDS Buyer or Matched CDS Seller has, not later than one Business Day after the Matching Reversal Notice, given notice to the Clearing House in accordance with Rule 1511 or the Procedures (as applicable) that the relevant Matched Pair have settled the relevant Matched CDS Contracts (or part thereof).

**(VIII) CDS PROCEDURES**

**INDEX**

	<b>Page</b>
1. ADDITIONAL DEFINITIONS .....	2
2. ADDITIONAL MEMBERSHIP REQUIREMENTS FOR CDS CLEARING MEMBERS.....	<u>78</u>
3. OTHER PROCEDURES.....	9
4. SUBMISSION AND ACCEPTANCE OF CDS CONTRACTS.....	9
5. CDS DEFAULT COMMITTEE .....	<u>1518</u>
6. REGIONAL CDS COMMITTEES AND DISPUTE RESOLUTION PROCEDURES .....	<u>1720</u>
7. CLEARING HOUSE CDS CONTRIBUTIONS.....	<u>3336</u>
8. CREDIT EVENTS AND PHYSICAL SETTLEMENT .....	<u>3437</u>
9. CLEARED CDS PRODUCTS: ELIGIBLE SETS.....	<u>4851</u>
10. CONTRACT TERMS FOR ALL CDS CONTRACTS .....	<u>4952</u>
11. CONTRACT TERMS FOR ITRAXX EUROPE CONTRACTS .....	<u>5457</u>
12. CONTRACT TERMS FOR SINGLE NAME CDS CONTRACTS .....	<u>6265</u>
13. CONTRACT TERMS FOR SOVEREIGN CONTRACTS .....	<u>6669</u>

## 1. ADDITIONAL DEFINITIONS

- 1.1 The terms "2005 Matrix Supplement", "Accreted Amount", "Accreting Obligation", "Auction Cancellation Date", "Auction Final Price Determination Date", "Bankruptcy", "Calculation Agent", "Credit Event", "Credit Derivatives Determinations Committees", "Confirmation", "Credit Event Backstop Date", "Credit Event Notice", "Credit Event Resolution Request Date", "Dealer", "Deliverable Obligation", "Deliverable Obligation Characteristics", "Delivery", "Delivery Date", "Event Determination Date", "Exercise Cut-Off Date", "Extension Date", "Failure to Pay", "Fallback Settlement Method", "Final List", "Final Price", "Floating Rate Payer Calculation Amount", "Highest", "Indicative Quotation", "Loan", "Movement Option Cut-off Date", "NOPS Amendment Notice", "Not Contingent", "Notice Delivery Period", "No Auction Announcement Date", "Notice of Physical Settlement", "Notice of Publicly Available Information", "Notice to Exercise Movement Option", "Notifying Party", "Obligation", "Physical Settlement Amount", "Physical Settlement Date", "Potential Repudiation/Moratorium", "Publicly Available Information", "Quotation", "Reference Entity", "Reference Obligation", "Repudiation/Moratorium", "Repudiation/Moratorium Extension Condition", "Repudiation/Moratorium Extension Notice", "Restructuring", "Substitute Reference Obligation", "Succession Event", "Succession Event Backstop Date", "Succession Event Notice", "Succession Event Resolution Request Date", "Successor", "Trade Date", "Transaction Auction Settlement Terms", "Transaction Type", "Valuation Date" and "Weighted Average Quotation" each have the meanings given to those terms in the Credit Derivatives Definitions. The terms "DC Secretary", "External Reviewer", "Initial List" and "Website" each have the meanings given to those terms in the DC Rules.
- 1.2 The term "Acceptance Notice" has the meaning set out in paragraph 4.4. means a Weekly Acceptance Notice or a TD Acceptance Notice, as the case may be.
- 1.3 The term "Acceptance Time" has the meaning set out in paragraph 4.5.
- 1.4 The term "Acceleration Supermajority" has the meaning set out in paragraph 6.3(d)(iv).
- 1.5 The term "Administrative Meeting" has the meaning set out in paragraph 6.8(j)(ii)
- 1.6 The term "Advocates" has the meaning set out in paragraph 6.8(k).
- 1.7 The term "Affected CDS Clearing Member" has the meaning set out in paragraph 11.4.
- 1.8 The term "Bilateral CDS Transaction Trade Date" has the meaning set out in the definition of Trade Date Clearing.
- ~~1.9~~ The term "Brief" has the meaning set out in paragraph 6.8(o)(i).
- ~~1.10~~ The term "CDS Committee-Eligible Clearing Member" means a Clearing Member that has been approved by the Clearing House, following consultation with the CDS Risk Committee, for participation in one or more Regional CDS Committees under paragraph 5 and in the CDS Default Committee. The Clearing House may revoke (or reinstate) its approval of any Clearing Member as a CDS Committee-Eligible Clearing Member from time to time based on its determination as to whether a particular Clearing Member has been in compliance with the Rules.
- ~~1.11~~ The term "CDS Committee Procedures" means paragraph 6 of these Procedures.
- ~~1.12~~ The term "CDS Default Committee" means a committee established pursuant to paragraph 5.1.
- ~~1.13~~ The term "CDS Default Committee Member" has the meaning set out in paragraph 5.1.
- ~~1.14~~ The term "CDS Default Committee Participant" has the meaning set out in paragraph 5.1.
- ~~1.15~~ The term "CDS Default Committee Participant List" has the meaning set out in paragraph 5.2.



**CDS PROCEDURES CLEARING**

1.16 ~~1.15~~-The term "**CDS Master Agreement**" means, in relation to any CDS Contract between a CDS Clearing Member and the Clearing House, the Master Agreement between that CDS Clearing Member and the Clearing House.

1.17 ~~1.16~~-The term "**CDS Region**" means a region for which CDS Contracts are cleared by the Clearing House, as determined by the Clearing House.

1.18 ~~1.17~~-The term "**CDS Regional Business Day**" means, with respect to a CDS Region, any day determined in accordance with the location and other parameters designated by the Clearing House as a day on which the business of clearing CDS Contracts may occur in the particular CDS Region.

1.19 ~~1.18~~-The term "**CDS Risk Committee**" means the committee of that name established by the board of the Clearing House.

1.20 ~~1.19~~-The term "**CEN Triggering Period**" means, in relation to any CDS Contracts of a Set in respect of which a Restructuring Credit Event has occurred, the period during which, in accordance with the Contract Terms, a CDS Buyer or CDS Seller may deliver a Restructuring Credit Event Notice in relation to all or part of such CDS Contract, such period starting on the earliest of any of the following:

(a) with respect to a Set of CDS Contracts for which either "Restructuring Maturity Limitation and Fully Transferable Obligation Applicable" or "Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation Applicable" is applicable, on the earlier of:

- (i) the Business Day following publication of the Final List; and
- (ii) the tenth calendar day following the No Auction Announcement Date;

(b) with respect to a Set of Sovereign Contracts or other Set of CDS Contracts for which neither "Restructuring Maturity Limitation and Fully Transferable Obligation Applicable" or "Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation Applicable" is applicable, on the earlier of:

- (i) the Business Day following publication of the Final List; and
- (ii) the tenth calendar day following the No Auction Announcement Date; or

(c) where a Regional CDS Committee Credit Event Announcement has occurred, the tenth calendar day following the date of the actual decision by the relevant Regional CDS Committee to Resolve that a Restructuring Credit Event has occurred for which there is Publicly Available Information, as described in paragraph 6.2(a)(iii),

and such period ending, in any case, on the Exercise Cut-off Date.

1.21 ~~1.20~~-The term "**Chairperson**" has the meaning set out in paragraph 6.1(d).

1.22 ~~1.21~~-The term "**Clearing House DTCC Account**" means the account of the Clearing House at Deriv/SERV which is used by the Clearing House to hold records of all CDS Contracts between the Clearing House and CDS Clearing Members in the Production Accounts.

1.23 ~~1.22~~-The term "**CLS**" means CLS Bank International or any successor thereto.

1.24 ~~1.23~~-The term "**CM1**" has the meaning set out in paragraph 4.1.

1.25 ~~1.24~~-The term "**CM2**" has the meaning set out in paragraph 4.1.

1.26 ~~1.25~~-The term "**Committee Member**" has the meaning set out in paragraph 6.1(b).

- 1.27    ~~1.26~~-The term "**Confidential Material**" has the meanings set out in paragraphs 5.8 and 6.12(a)(i).
- 1.28    ~~1.27~~-The term "**Convened DC Voting Member**" has the meaning given to such term in the DC Rules as published by ISDA from time to time.
- 1.29    ~~1.28~~-The term "**Covered Party**" has the meanings set out in paragraphs 5.8 and 6.12(a).
- 1.30    ~~1.29~~-The term "**Customer Integration Date**" means the first date on which the restrictions in the Rules on the Clearing of Bilateral CDS Transactions and CDS Contracts for Customers cease to apply.
- 1.31    ~~1.30~~-The term "**DC Rules**" means the Credit Derivatives Determinations Committees Rules, as defined as the "Rules" in Section 1.22 of the Credit Derivatives Definitions. For the avoidance of doubt, the term "**Rules**" as defined in the Rules shall not replace, or otherwise affect the interpretation of, the term "**Rules**" in the Credit Derivatives Definitions.
- 1.32    ~~1.31~~-The term "**Dispute Resolution Panel**" has the meaning set out in paragraph 6.5(a).
- 1.33    ~~1.32~~-The term "**Dispute Resolver**" has the meaning set out in paragraph 6.5(b).
- 1.34    ~~1.33~~-The term "**DTCC**" means The Depository Trust and Clearing Corporation or any successor thereto.
- 1.35    ~~1.34~~-The term "**DTCC Failure**" means any circumstances in which DTCC is unable to process all or substantially all Restructuring Credit Event notices/Notices relating to a particular Restructuring Credit Event in the Triggering Accounts in a timely manner, where such failure affects all or substantially all CDS Clearing Members or the Clearing House.
- 1.36    ~~1.35~~-The term "**Effectiveness Convention**" has the meaning set out in paragraph 6.3(g).
- 1.37    ~~1.36~~-The term "**Effectiveness Supermajority**" has the meaning set out in paragraph 6.3(d)(v).
- 1.38    ~~1.37~~-The term "**Electronic Notice Process**" means the process for the delivery and receipt of Restructuring Credit Event Notices and Notices to Exercise Movement Option pursuant to paragraph 8.4(e)(vi) and (vii).
- 1.39    ~~1.38~~-The term "**Eligible Employee**" has the meaning set out in paragraph 5.1.
- 1.40    ~~1.39~~-The term "**Exhibits**" has the meaning set out in paragraph 6.8(o)(ii).
- 1.41    ~~1.40~~-The term "**Existing Supplements**" has the meaning set out in paragraph 10.1(c).
- 1.42    ~~1.41~~-The term "**External RMP**" means all Matched Pairs matched and notified by the Clearing House pursuant to Rule 1508 other than Internal RMPs.
- 1.43    ~~1.42~~-The term "**Fitch**" has the meaning set out in paragraph 2.2(b).
- 1.44    ~~1.43~~-The term "**Fungibility Date**" has the meaning set out in paragraph 11.5(a).
- 1.45    ~~1.44~~-The term "**Internal RMP**" means a Matched Pair matched and notified by the Clearing House pursuant to Rule 1508 in which the same CDS Clearing Member is matched with itself, as a result of one CDS Sub-Account of a CDS Clearing Member being matched with another CDS Sub-Account of the same CDS Clearing Member.
- 1.46    ~~1.45~~-The term "**Issue**" has the meaning set out in paragraph 6.7(a).
- 1.47    ~~1.46~~-The term "**Mandatory Voting Member**" has the meaning set out in paragraph 6.4(a).
- 1.48    ~~1.47~~-The term "**Manual CDS Clearing Member**" has the meaning set out in paragraph 8.4(e)(ix).

- 1.49 1.48-The term "**Manual MP Notice**" has the meaning set out in paragraph 8.4(f)(ii).
- 1.50 1.49-The term "**Manual Notice Process**" means the process for the delivery, receipt and copying to the Clearing House of notices pursuant to paragraph 8.4(f).
- 1.51 1.50-The term "**MCA/STS Changeover Time**" means midnight on the date specified as such by the Clearing House in a Circular, which date must fall at least 30 calendar days after the date of the relevant Circular, 29 November 2010.
- 1.52 1.51-The term "**Moody's**" has the meaning set out in paragraph 2.2(b).
- 1.53 1.52-The term "**NEMO Triggering Period**" means, in relation to any CDS Contracts of a Set in respect of which a Restructuring Credit Event has occurred and for which either "Restructuring Maturity Limitation and Fully Transferable Obligation Applicable" or "Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation Applicable" is applicable, the period starting at 9 a.m. on the day falling one Business Day prior to the relevant Movement Option Cut-off Date for the Set of CDS Contracts and ending on the Movement Option Cut-off Date.
- 1.54 1.53-The term "**New Trade**" has the meaning set out in paragraph 11.3(c)(i)(L).
- 1.55 1.54-The term "**Notification Cut-Off Time**" means
- (a) — with respect to delivery of a Restructuring Credit Event Notice in relation to a CDS Contract of a Set for which either "Restructuring Maturity Limitation and Fully Transferable Obligation Applicable" or "Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation Applicable" is applicable and where:
- (i) a No Auction Announcement Date has occurred which is applicable to such CDS Contracts pursuant to Section 12.12(b) of the Credit Derivatives Definitions on or prior to the Exercise Cut-off Date, 4:30 p.m. on the Business Day immediately following the Exercise Cut-off Date;
- (ii) otherwise, 4:30 p.m. on the third Business Day immediately following the Exercise Cut-off Date;
- (b) with respect to delivery of a Restructuring Credit Event Notice in relation to a Sovereign Contracts or other CDS Contracts of a Set for which neither "Restructuring Maturity Limitation and Fully Transferable Obligation Applicable" or "Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation Applicable" is applicable, 4:30 p.m. on the Business Day immediately following the Exercise Cut-off Date
- (c) with respect to delivery of a Notice to Exercise Movement Option, 4:30 p.m. on the Business Day following the Movement Option Cut-off Date; and
- (d) with respect to delivery of a Notice of Physical Settlement or a NOPS Amendment Notice in relation to a Set of CDS Contracts, 4:30 p.m. on the second Business Day after the last date on which a Notice of Physical Settlement or a NOPS Amendment Notice, as applicable, may be served in respect of the Credit Event in question, pursuant to Section 3.2(c) of the Credit Derivatives Definitions.
- 1.56 1.55-The term "**Old Index**" has the meaning set out in paragraph 4.12.
- 1.57 1.56-The term "**Oral Argument**" has the meaning set out in paragraph 6.8(q).
- 1.58 1.57-The term "**Original Notional Amount**", in relation to any CDS Contract, has the meaning given to that term in the Contract Terms.

## CDS PROCEDURES CLEARING

- 1.59    ~~1.58~~-The term "Panel Member" has the meaning set out in paragraph 6.5(b).
- 1.60    ~~1.59~~-The term **"Permissible Deliverable Obligation"** means a Deliverable Obligation that satisfies Section 2.32(a) or 2.33(a) of the Credit Derivatives Definitions, if applicable.
- 1.61    ~~1.60~~-The terms "Presented Position" and "Presented Positions" have the meaning set out in paragraph 6.8(b).
- 1.62    ~~1.61~~-The term "Primary Panel Member" has the meaning set out in paragraph 6.6(b)(i).
- 1.63    ~~1.62~~-The term **"Production Accounts"** means the accounts in Deriv/SERV for the recording of transaction data in relation to CDS Contracts but excluding the Triggering Accounts or accounts in the Deriv/SERV test environment.
- 1.64    ~~1.63~~-The term "Provider" has the meaning set out in paragraph 6.12(b).
- 1.65    ~~1.64~~-The term "Quorum Majority" has the meaning set out in paragraph 6.3(d)(i).
- 1.66    ~~1.65~~-The term "Quorum Stage 2 Supermajority" has the meaning set out in paragraph 6.3(d)(iii).
- 1.67    ~~1.66~~-The term "Quorum Supermajority" has the meaning set out in paragraph 6.3(d)(ii).
- 1.68    ~~1.67~~-The term **"Regional CDS Clearing Member"** means a CDS Clearing Member that is party to CDS Contracts relevant to a CDS Region.
- 1.69    ~~1.68~~-The term "Regional CDS Committee" has the meaning set out in paragraph 6.1(a).
- 1.70    ~~1.69~~-The term **"Regional CDS Committee Credit Event Announcement"** means with respect to a Reference Entity, an announcement by the Clearing House in a Circular that the relevant Regional CDS Committee has determined that an event that constitutes a Credit Event with respect to a CDS Contract and a Reference Entity (or an Obligation thereof) has occurred in accordance with paragraph 6.2(a)(iii) and has made the other determinations envisaged by that paragraph.
- 1.71    ~~1.70~~-The term "Reimbursement Amount" has the meaning set out in paragraph 6.8(l).
- 1.72    ~~1.71~~-The term "Relevant CDS Default Committee Period" has the meaning set out in paragraph 5.3.
- 1.73    ~~1.72~~-The term "Relevant Period" has the meaning set out in paragraph 6.6(b)(iii).
- 1.74    ~~1.73~~-The terms "Resolve", "Resolved" and "Resolves" have the meaning set out in paragraph 6.10(a) provided that in relation to a resolution of the Credit Derivatives Determinations Committee, such terms shall have the meaning given to them in the Credit Derivatives Definitions.
- 1.75    ~~1.74~~-The term **"Restructuring Matched Pair"** means a Matched Pair created pursuant to Rule 1508 in respect of a Restructuring Credit Event.
- 1.76    The term **"Revocation Right"** will apply in respect of the submission of a Bilateral CDS Transaction for Clearing (a) if one of the Clearing Members for whose account the submission for Clearing is made is a Defaulter or (b) if and to the extent that either CDS Contract which would arise on Clearing would have been void under Rule 403 (if Rule 403 applied to CDS Contracts in addition to Energy Contracts) or capable of being treated as voidable under Rule 404(a) (if Rule 404(a) applied to CDS Contracts in addition to Energy Contracts and the latter being read for purposes of this definition as if the words "in relation only to Energy Contracts," were not set out in any part of Rule 404(a) and "Energy Clearing Members" were read as "CDS Clearing Members") or Rule 404(b).
- 1.77    ~~1.75~~-The term **"RMP Identifier"** means the unique alphanumeric identifier for each External RMP in the Production Accounts.

- 1.78 ~~1.76~~ The term "S&P" has the meaning set out in paragraph 2.2(b).
- 1.79 ~~1.77~~ The term "Single Name Contract" means a SNEC Contract or a Sovereign Contract, as the case may be.
- 1.80 ~~1.78~~ The term "SNEC Contract" has the meaning set out in paragraph 12.2(g).
- 1.81 ~~1.79~~ The term "Sovereign Contract" has the meaning set out in paragraph 13.2(g).
- 1.82 ~~1.80~~ The term "Standard Quorum Number" has the meaning set out in paragraph 6.3(b).
- 1.83 ~~1.81~~ The term "Submission Deadline" has the meaning set out in paragraph 6.8(j)(iii).
- 1.84 ~~1.82~~ The term "Tax" has the same meaning as that given to the term in the relevant Master Agreement.
- 1.85 The term "TD Acceptance Notice" has the meaning set out in paragraph 4.4(a).
- 1.86 ~~1.83~~ The term "Tier 1" has the meaning given to that term in Banking Consolidation Directive.
- 1.87 The term "Trade Date Clearing" means the submission of a Bilateral CDS Transaction on the date on which it is entered into (the "Bilateral CDS Transaction Trade Date"), provided that is a Business Day, or on the immediately following Business Day for Clearing on the day of submission.
- 1.88 The term "Trade Processing Platform" means a person that has satisfied the Clearing House's requirements to act as an agent of one or more CDS Clearing Members in the submission of Bilateral CDS Transactions for Trade Date Clearing, including having entered into an agreement with the Clearing House to act as an "Approved CDS Trade Processing Platform" in relation to such submissions and, in relation to any CDS Clearing Member for which (and, as the case may be, for whose Affiliate) it acts as agent, has obtained that CDS Clearing Member's authorisation in writing to submit Bilateral CDS Transactions for Trade Date Clearing as agent for that CDS Clearing Member and accordingly, such a Trade Processing Platform will be a Representative of such CDS Clearing Member for that purpose until the expiry of not less than one Business Days' written notice to the Clearing House given by such CDS Clearing Member that such Trade Processing Platform is no longer, or is not, authorised to act as its agent and/or Representative. Where an Affiliate of a CDS Clearing Member may submit Bilateral CDS Transactions for the account of that CDS Clearing Member as referred to in paragraph 4.6, any person which, as a Trade Processing Platform, is a Representative of such CDS Clearing Member shall be deemed to be additionally a Representative of such Affiliate for these purposes.
- 1.89 ~~1.84~~ The term "Triggering Account" means a sub-account of the Clearing House DTCC Account, where the transactions recorded in the account are produced through copying data in a Production Account at Deriv/SERV, which sub-account is used solely for the delivery and receipt of Restructuring Credit Event Notices and Notices to Exercise Movement Option between Matched Pairs pursuant to the Electronic Notice Process.
- 1.90 ~~1.85~~ The term "Triggering Period" means the CEN Triggering Period or NEMO Triggering Period, as applicable.
- 1.91 ~~1.86~~ The term "Weekly Acceptance Notice" has the meaning set out in paragraph 4.4(b).
- 1.92 The term "Written Materials" has the meaning set out in paragraph 6.8(o).
- 1.93 The term "Weekly Clearing" means the submission of a Bilateral CDS Transaction for Clearing other than pursuant to Trade Date Clearing.
- 1.94 ~~1.87~~ Capitalised terms used in these Procedures but not defined in this paragraph 1 shall have the meaning given to such terms in the Rules, the relevant CDS Contract (including Credit Derivatives

Definitions and the Master Agreement as amended) or elsewhere in these Procedures (in that order of priority in the event of any conflict).

2. **ADDITIONAL MEMBERSHIP REQUIREMENTS FOR CDS CLEARING MEMBERS**

2.1 Rule 201(i) provides that CDS Clearing Members must meet such additional requirements applicable to CDS Clearing Members as are specified in the Procedures.

2.2 The following additional requirements are specified for the purposes of Rule 201(i):

- (a) It has a minimum of \$5 billion of Tier 1 Capital; provided that this requirement may, at the discretion of the Clearing House, be met by a Controller if such Controller provides a guarantee in accordance with the Finance Procedures.
- (b) At the time of admission, it has a minimum long-term senior unsecured debt rating of at least the following from each of the following rating agencies (or any successor to the rating business thereof) that provides such a rating (with a minimum of one such rating): (A) "A2" from Moody's Investors Service ("Moody's"), (B) "A2" from Standard & Poor's Ratings Services ("S&P"), a division of The McGraw-Hill Companies, Inc., (C) "A2" from Fitch Ratings ("Fitch") or (D) the equivalent rating from any other rating agency that the Clearing House designates from time to time for this purpose; provided that, if such applicant does not have such a rating from any of the foregoing rating agencies, it demonstrates to the Clearing House that it otherwise satisfies, in the discretion of the Clearing House, stringent credit criteria, such satisfaction to be confirmed by an examination of its books and records; provided further that this requirement may, at the discretion of the Clearing House, be met by a Controller of the Clearing Member if such Controller provides a guarantee in accordance with the Finance Procedures; and provided further that this condition may be waived by the Clearing House at the recommendation of the CDS Risk Committee;
- (c) At no time after admission, does it (or, if applicable, ~~its~~ under paragraph 2.2(b), the relevant Controller) have a long-term senior unsecured debt rating below the following from any of the following rating agencies (or any successor to the rating business thereof) or, at the discretion of the Clearing House, does any such rating agency suspend or withdraw such rating: (A) "Baa2" from Moody's, (B) "BBB2" from S&P, (C) "BBB2" from Fitch or (D) the equivalent rating from any other rating agency the Clearing House designates from time to time for this purpose (or, if the first proviso of paragraph 2.2(b) applies, it (or, if applicable under paragraph 2.2(b), ~~its~~ the relevant Controller) ceases to satisfy objective criteria established by the Clearing House at its discretion);
- (d) It demonstrates operational competence in CDS contracts substantially similar (as determined by the Clearing House) to CDS Contracts;
- (e) It is a member of industry organisations related to CDS, as designated by the Clearing House from time to time for this purpose, which as at the date of launch of CDS Clearing by the Clearing House are ISDA and Deriv/SERV;
- (f) It has executed a Master Agreement with the Clearing House substantially in the form specified by the Clearing House from time to time, only with such modifications as are acceptable to the Clearing House at its discretion;
- (g) If it is incorporated or registered in the United States of America, it is an eligible contract participant, as defined in Section 1a(12) of the Commodity Exchange Act (other than paragraph (C) thereof);
- (h) It has executed an agreement concerning Intellectual Property (as referred to in Rule 406(d)) in a form acceptable to the Clearing House;

## CDS PROCEDURES/CLEARING

- (i) If any Bilateral CDS Transactions are registered at Deriv/SERV in the name of an Affiliate of the Clearing Member, it has provided an executed authority, in a form acceptable to the Clearing House, from the relevant Affiliate, pursuant to which the Clearing House is authorised to issue a termination notice to Deriv/SERV in respect of Bilateral CDS Transactions to which the Affiliate is party;
  - (j) It is a member of, or has access to, at least one physical settlement system that is customary for the settlement of all potentially applicable Deliverable Obligations under all CDS Contracts of all Sets which it is authorised to enter into, where such a physical settlement system exists; and
  - (k) If it is not incorporated in England and Wales, it has appointed a service of process agent pursuant to Rule 113(e).
- 2.3 If a Controller Guarantee has been provided, the Clearing Member to which the Controller Guarantee relates shall procure that the Controller:
- (a) at all times complies with the requirements of Rules 202(a)(iii), 202(a)(v), 202(a)(vi), 202(a)(x) and 202(a)(xiii) as if the Controller were a Clearing Member, *mutatis mutandis*;
  - (b) would not breach any of the requirements of Rule 203, were the Controller to be a Clearing Member subject to the requirements of Rules 203, *mutatis mutandis*; and
  - (c) makes all notifications that would be required under Rule 204 if the Controller were a Clearing Member, *mutatis mutandis*.
- 2.4 A CDS Clearing Member shall notify the Clearing House if any relevant rating falls below that specified in paragraph 2.2(b) or (c).
- 2.5 Clearing Members shall notify the Clearing House from time to time in accordance with the Procedures of details of an account at DTCC to which any cash settlement in respect of CDS Contracts are to be made.
- 3. OTHER PROCEDURES**
- 3.1 The Finance Procedures, Membership Procedures, Business Continuity Procedures, Complaints Procedures and CDS Operational Procedures also apply in relation to CDS Contracts and to CDS Clearing Members.
- 4. SUBMISSION AND ACCEPTANCE OF CDS CONTRACTS**
- 4.1 Any Bilateral CDS Transaction which is submitted to the Clearing House by a CDS Clearing Member via electronic means (including any Bilateral CDS Transaction forwarded to the Clearing House by Deriv/SERV or a Trade Processing Platform or other Representative on behalf of a Clearing Member or its Affiliate as described in paragraph 4.6) shall be capable of giving rise to a CDS Contract under Rule 401(a)(ix). Deriv/SERV shall be treated as a Representative of the Clearing Member solely for the purposes of the submission of data relating to Bilateral CDS Transactions submitted for Weekly Clearing. Pursuant to Rule 401(a)(ix) and Rule 1502, if a Bilateral CDS Transaction is so submitted to the Clearing House by the parties thereto, each of which is a CDS Clearing Member ("CM1" and "CM2"), and is accepted by the Clearing House pursuant to an Acceptance Notice (and the other provisions of the Rules complied with): (i) CM1 will be deemed to have entered into a CDS Contract with the Clearing House as its counterparty rather than CM2; and (ii) CM2 will be deemed to have entered into a CDS Contract with the Clearing House as its counterparty in place of CM1. In each case, the CDS Contract will be on the Contract Terms specified in the Rules and Procedures. Rule 402(b) makes provision for the effect of this process on the rights, liabilities and obligations of CM1 and CM2 under the Bilateral CDS Transaction.
- 4.2 Only Clearing Members (including their duly appointed Representatives) may submit Bilateral CDS Transactions to the Clearing House provided that, where a Bilateral CDS Transaction is to be submitted

## CDS PROCEDURES CLEARING

for Trade Date Clearing, it must be submitted by the same Trade Processing Platform acting as duly appointed Representative on behalf of each of the Clearing Members who are party to the Bilateral CDS Contract. Each Business Day, at the exact hours asor during the time periods, as the case may be, from time to time fixed by the Clearing House for Weekly Clearing and Trade Date Clearing, respectively, CDS Clearing Members shall file with the Clearing House or its duly appointed Representatives confirmations, in the manner prescribed in the CDS Operational Procedures (which, in the case of electronic systems that submit matched Bilateral CDS Transactions to the Clearing House, shall be satisfied by confirmatory reports automatically generated by such system that contain the information set forth herein), covering Bilateral CDS Transactions made during the days submitted for Weekly Clearing or Trade Date Clearing, respectively, showing for each Bilateral CDS Transaction:

- (a) the identity of both Clearing Members;
- (b) which side of the Bilateral CDS Transaction each Clearing Member has taken;
- (c) the relevant Set involved;
- (d) the quantity or notional and other economic terms involved;
- (e) whether the Bilateral CDS Transaction is submitted for Trade Date Clearing, in which case it will also include the amount of the Initial Payment (if any) payable, identify the Clearing Member obliged to make such payment and the date on which such payment is to be made; and
- (f) (e)—such other information as may reasonably be required by the Clearing House (such requirement to have been notified previously by the Clearing House) to effect the matching of Bilateral CDS Transactions between the parties.

4.3 If a Bilateral CDS Transaction confirmation of any Clearing Member does not correspond in all material respects with the confirmation of its counterparty to such Bilateral CDS Transaction, the Clearing House may, prior to issuing an Acceptance Notice, reject such Bilateral CDS Transaction and notify the relevant Clearing Members, setting forth the basis of such rejection prior to issuing an Acceptance Notice. If a Bilateral CDS Transaction is submitted for Trade Date Clearing on behalf of the Clearing Member that has not previously confirmed in writing to the Clearing House that it is operationally ready to operate on the basis of Trade Date Clearing, the Clearing House shall reject such Bilateral CDS Transaction for Clearing.

4.4 In relation to any Bilateral CDS Transaction submitted for Clearing:-

- (a) where it is submitted for Trade Date Clearing, the Clearing House shall give notice as soon as reasonably practicable (in a final trade status report or other report identified for the purpose) in accordance with this paragraph 4.4 (a "TD Acceptance Notice") to the Clearing Members submitting such Bilateral CDS Transaction specifying that the Clearing House accepts such Bilateral CDS Transaction for Clearing if such Bilateral CDS Transaction is submitted in accordance with and meets the requirements established by the Rules and these CDS Procedures, provided that the Clearing House may decline to accept or may reject a Bilateral CDS Transaction for Clearing if it determines in good faith that, based on the exercise of prudent risk management standards or in accordance with paragraph 4.4(e), it should not accept or should reject such Bilateral CDS Transaction for Clearing or if it determines that a Revocation Right would apply in respect of such submission for Clearing. Subject to Part 4 of the Rules and this paragraph 4, a TD Acceptance Notice will result in the Clearing Member and the Clearing House entering into a CDS Contract at the Acceptance Time. A Bilateral CDS Transaction may be submitted for Trade Date Clearing between 8:00 a.m. and 6:00 p.m. on its Bilateral CDS Transaction Trade Date, provided that is a Business Day, or between the same times on the immediately following Business Day and will be accepted or rejected by the Clearing House by 6:30 p.m. on the day submitted. A Bilateral CDS Transaction which has been rejected may, if eligible in accordance with the Rules and these CDS Procedures, be re-submitted for Clearing in



## CDS PROCEDURES CLEARING

accordance with this paragraph 4.4(a) or, following recording in Deriv/SERV, paragraph 4.4(b) below. A Bilateral CDS Transaction submitted for Trade Date Clearing after 6:00 p.m. on a Business Day or on a day that is not a Business Day shall, unless withdrawn prior to 8:00 a.m. on the following Business Day by the Trade Processing Platform which submitted it or unless otherwise notified by the Clearing House to the Clearing Member or otherwise stated in a Circular, be deemed to have been submitted for Trade Date Clearing at 8 a.m. on such following Business Day. No TD Acceptance Notice shall result in any Contract arising pursuant to Rule 401(a)(ix) until the relevant Acceptance Time determined under paragraph 4.5. With effect as from the Acceptance Time and unless and until reissued pursuant to paragraph 4.4(f)(i), the TD Acceptance Notice shall be definitive as to any CDS Contracts entered into between the Clearing House and any Clearing Member, regardless of whether any CDS Contract is based on any Bilateral CDS Transaction and regardless of any error. Following the issuance of a TD Acceptance Notice, the Clearing House will promptly submit (for itself and for the Clearing Member which is its counterparty to the relevant CDS Contract) the terms of each new CDS Contract arising on Clearing to Deriv/SERV or another service specified by the Clearing House with identical terms as the original submission for clearing of the relevant Bilateral CDS Transaction (or the CDS Contracts specified in the TD Acceptance Notice, which shall prevail in the event of any conflict with the original submission for clearing) except for the substitution of the Clearing House as the counterparty to each of the Clearing Members and such other different terms as are set out in the Rules, these Procedures and the Contract Terms. In relation to any Bilateral CDS Transaction submitted for Trade Date Clearing and only with respect to the novation of such trades and the resulting creation of CDS Contracts resulting from a TD Acceptance Notice, each Clearing Member will suppress its own processes (and procure that its Representatives suppress their processes) for the submission of the terms of such Bilateral CDS Transaction to Deriv/SERV or another service specified by the Clearing House.

- (b) 4.4 In relation to any Bilateral CDS Transaction submitted for where it is submitted for Weekly Clearing, the Clearing House shall give notice (in a final trade status report or other report identified for the purpose) from time to time in accordance with this paragraph 4.4 (a "Weekly Acceptance Notice") to the Clearing Members submitting such Bilateral CDS Transaction specifying that the Clearing House proposes to accept a Bilateral CDS Transaction for Clearing if such Bilateral CDS Transaction is submitted in accordance with and meets the requirements established by the Rules and these CDS Procedures, provided that the Clearing House may decline to accept a Bilateral CDS Transaction for Clearing if it determines in good faith that, based on the exercise of prudent risk management standards, it should not accept such Bilateral CDS Transaction for Clearing or if it determines that a Revocation Right would apply in respect of such submission for Clearing. Subject to Part 4 of the Rules and this paragraph 4, a Weekly Acceptance Notice will result in the Clearing Member and the Clearing House entering into a CDS Contract at the Acceptance Time. A Weekly Acceptance Notice delivered after 4:00 p.m. on a Business Day or delivered on a day that is not a Business Day shall, unless otherwise notified by the Clearing House to the Clearing Member or otherwise stated in a Circular, be deemed to have been issued on the following Business Day. No Weekly Acceptance Notice shall result in any Contract arising pursuant to Rule 401(a)(ix) until the relevant Acceptance Time determined under paragraph 4.5. Each Clearing Member shall check each Weekly Acceptance Notice that concerns CDS Contracts that it is proposed to enter into at the Acceptance Time and shall promptly notify the Clearing House of any error of which it is aware such that the Weekly Acceptance Notice can be corrected and re-issued prior to the Acceptance Time. With effect as from the Acceptance Time, the Time and unless and until reissued pursuant to paragraph 4.4(f)(i), the Weekly Acceptance Notice shall be definitive as to any CDS Contracts entered into between the Clearing House and any Clearing Member, regardless of whether any CDS Contract is based on any Bilateral CDS Transaction and regardless of any error. After the Acceptance Time, any CDS Contract may only be terminated (other than in accordance with its terms), rescinded or cancelled by the Clearing House: (i) pursuant to Rule 104, Rule 209, Rule 404, Rule 406 or Part 9 of the Rules; (ii) if it is presented with an agreement in writing between two Clearing Members with equally offsetting positions in the same Set and the Clearing House (in which case such equally offsetting CDS Contracts of

## CDS PROCEDURES CLEARING

both Clearing Members will be affected) or (iii) pursuant to CADP under Rule 1514. Any Weekly Acceptance Notice may be revoked by the Clearing House (and not any third party) at the Clearing House's discretion at any time prior to the Acceptance Time but only (a) if a relevant Clearing Member is a Defaulter or (b) if and to the extent that the resulting CDS Contract would have been void under Rule 403 (if Rule 403 applied to CDS Contracts in addition to Energy Contracts) or capable of being treated as voidable under Rule 404(a) (if Rule 403(a) applied to CDS Contracts in addition to Energy Contracts and the latter being read for purposes of this paragraph 4.4 as if the words "in relation only to Energy Contracts," were not set out in any part of Rule 404(a) and "Energy Clearing Members" were read as "CDS Clearing Members") or Rule 404(b) if a Revocation Rights applies in respect of the related submission for Clearing. Following the issuance of ~~ana~~ Weekly Acceptance Notice, each Clearing Member must promptly submit the terms of each new CDS Contract to Deriv/SERV or another service specified by the Clearing House with identical terms as the original submission for clearing of the relevant Bilateral CDS Transaction (or the CDS Contracts specified in the Weekly Acceptance Notice, which shall prevail in the event of any conflict with the original submission for clearing) except for the substitution of the Clearing House as the Clearing Member's counterparty and such other different terms as are set out in the Rules, these Procedures and the Contract Terms, adjusted to take into account netting, aggregation, terminations and replacements of CDS Contracts pursuant to Rule 406.

- (c) After the Acceptance Time, any CDS Contract may only be terminated (other than in accordance with its terms), rescinded or cancelled by the Clearing House: (i) pursuant to Rule 104, Rule 209, Rule 404, Rule 406 or Part 9 of the Rules; (ii) if it is presented with an agreement in writing between two Clearing Members with equally offsetting positions in the same Set and the Clearing House (in which case such equally offsetting CDS Contracts of both Clearing Members will be affected) or (iii) pursuant to CADP under Rule 1514.
- (d) Each Clearing Member acknowledges and agrees that the Clearing House may rely, without additional investigation, on the terms of Bilateral CDS Transactions or apparent Bilateral CDS Transactions submitted by a Trade Processing Platform for Trade Date Clearing that have been designated by such Trade Processing Platform as having been affirmed or confirmed by the relevant parties thereto (including as to the identity of the Clearing Members to be party thereto), and that each Clearing Member shall be party to any CDS Contract arising as a result of such submission. A Clearing Member may give not less than one Business Days' written notice to the Clearing House, in accordance with the Procedures, that a Trade Processing Platform is no longer authorised to submit Bilateral CDS Transactions on its behalf, and following expiry of that notice period, the Clearing House will not accept for Trade Date Clearing any Bilateral CDS Transactions submitted by such Trade Processing Platform that identify such Clearing Member (but without limiting the provisions of this paragraph with respect to any Bilateral CDS Transactions submitted before the expiry of that notice period).
- (e) The Clearing House may establish limits for Bilateral CDS Transactions of various types which may be submitted by a CDS Clearing Member for Trade Date Clearing by reference to the expected change in the Margin requirements which would result from Trade Date Clearing of such Bilateral CDS Transactions and may establish requirements for advance funding by a CDS Clearing Member of all or part of the estimated Margin which would be applicable as a result of the acceptance for Trade Date Clearing of Bilateral CDS Transactions of various types. Such limits or requirements will be set in accordance with the established risk procedures applicable to all Clearing Members (such procedures as determined in consultation with the CDS Risk Committee). Any material change to the factors by reference to which the limits and/or requirements are set will be subject to consultation with the CDS Risk Committee. Such limits and/or requirements may be amended from time to time by the Clearing House (provided that they are set in accordance with such procedures) and need not be identical for, or apply to, all CDS Clearing Members. The Clearing House will give notice from time to time to each CDS Clearing Member of the limits and requirements, if any, applying to that CDS Clearing Member. The Clearing House may, without other reason, reject or refuse to accept for Trade Date

## CDS PROCEDURES CLEARING

Clearing any Bilateral CDS Transaction for which a submitting CDS Clearing Member is not in compliance with such limits and requirements, if any, applying to it. The provisions of this paragraph 4.4(e) are without prejudice and in addition to the Clearing House's powers under Part 6 of the Rules.

(f) If a CDS Contract arising pursuant to the Clearing of a Bilateral CDS Transaction for the account of two Clearing Members does not reflect, subject to the provisions of the Rules and Procedures, the terms of such Bilateral CDS Transaction which were submitted or were intended to be submitted then:

(i) where either the details in the Acceptance Notice did not so reflect the terms of the Bilateral CDS Transaction actually submitted for Clearing or the details of the resulting CDS Contract(s) as recorded in Deriv/SERV do not reflect the Acceptance Notice, the Clearing House will, as appropriate, reissue a corrected Acceptance Notice and/or amend (and thereby correct) the records in Deriv/SERV and may require the affected Clearing Members to make or confirm matching amendments to such records; and

(ii) other than in circumstances falling in (i), the affected Clearing Members may agree among themselves (without reference to or consent from the Clearing House) to submit for Clearing, pursuant to the "Misclear" function made available to the Clearing Members by the Clearing House, a further Bilateral CDS Transaction for the purpose of cancelling (by netting) the continuing rights and obligations resulting from the error, but unless and until they do so, such Clearing Members shall be bound by the terms of the relevant CDS Contracts notwithstanding such error.

4.5 Rule 401(a)(ix) refers to a time to be specified pursuant to the Procedures for the acceptance of CDS Contracts ("**Acceptance Time**"). The For CDS Contracts arising pursuant to Trade Date Clearing, the Acceptance Time shall be the time on a Business Day at which the TD Acceptance Notice was given. The Clearing House will include, in each TD Acceptance Notice, the time at which such notice is given. For CDS Contracts arising pursuant to Weekly Clearing, the Acceptance Time shall be 12:01 a.m. on the calendar day following the Business Day on which the Weekly Acceptance Notice was given or deemed to be given, unless otherwise stated in a Circular or to any Clearing Member with prior notice in writing.

4.6

(a) The Clearing House may accept the submission of Bilateral CDS Transactions for clearing for the account of a Clearing Member from a Representative of such Clearing Member that is an Affiliate of such Clearing Member or from a Trade Processing Platform as the Representative of such Affiliate; provided that such Representative Affiliate is currently designated for this purpose as an authorised Representative of the Clearing Member in accordance with the Membership Procedures and such Trade Processing Platform is currently designated as a Representative of the Clearing Member.

(b) Where a Bilateral CDS Transaction is recorded in the name of an Affiliate of a CDS Clearing Member and is submitted for Clearing to be recorded in the CDS Clearing Member's Proprietary Account:

(i) where Weekly Clearing applies, upon issuance of the relevant Acceptance Notice, the Clearing House is authorised by both CDS Clearing Members (in each case, for itself and, where applicable, on behalf of its Affiliate) to provide a termination notice to DTCC Deriv/SERV in respect of the Bilateral CDS Transaction;

(ii) where Weekly Clearing applies, the Clearing House will enter details of two new CDS Contracts in Deriv/SERV, one in the name of each of the CDS Clearing Members, and each of the CDS Clearing Members will enter details of the new CDS Contract to

## CDS PROCEDURES CLEARING

which it and the Clearing House is a party, in each case in accordance with the Procedures applicable to other Bilateral CDS Transactions;

- (iii) each Clearing Member submitting a Bilateral CDS Transaction to which an Affiliate was party shall be responsible for ensuring that any give-up or novation agreements or back-to-back CDS transactions between it and its Affiliate come in to effect and are properly documented at the appropriate time;
- (iv) for the avoidance of doubt, each relevant Affiliate shall be treated as a non-segregated Customer for purposes of the Rules and, accordingly, the Clearing House is not party to any Contract with the Affiliate and shall have no liability to the Affiliate;
- (v) the ~~Customer~~ Affiliate shall be deemed to be on notice of this provision and shall (in the absence of evidence of a contrary intention under the relevant Bilateral CDS Transaction) be deemed to agree to its application by the ~~Customer~~ Affiliate's conduct in having the relevant Bilateral CDS Transaction submitted for Clearing, so that Rules 402(b) and 404 shall operate in respect of any rights, liabilities or obligations of the Affiliate relating to, or arising out of or in connection with any Bilateral CDS Transaction (whether pursuant to contract, tort, equity, restitution or otherwise, pursuant to the laws of any jurisdiction, which fall or fell due for performance to any Person other than its affiliated Clearing Member in relation to the Bilateral CDS Transaction in question, excluding any right, liability or obligation ~~under a Bilateral CDS Transaction to receive or make an Initial Payment or under a Bilateral CDS Transaction submitted for Weekly Clearing (and accepted for Clearing)~~ and excluding any performance due prior to the time at which a CDS Contract arises pursuant to Rule 401(a)) in the same way as such provisions apply in relation to the Transaction Rights or Obligations of the Clearing Member; and
- (vi) if Rule 404(e)(v) applies, the Bilateral CDS Transaction that must be submitted or, as the case may be, re-submitted to Deriv/SERV and which is deemed never to have been terminated is a Bilateral CDS Transaction to which the Affiliate (and not its affiliated CDS Clearing Member) is party.

- 4.7 Where, prior to the Acceptance Time, any Bilateral CDS Transaction is rejected for Clearing or, where submitted for Weekly Clearing, the Acceptance Notice given in respect of it is revoked, the Transaction Rights or Obligations of the Clearing Members which are party thereto shall be deemed never to have been released and discharged pursuant to Rule 402(b).
- 4.8 The Clearing House will be entitled to assume and will assume that no Credit Event Notice relating to a Credit Event under a Bilateral CDS Transaction submitted for Clearing has been delivered by either party to the other prior to the Acceptance Time for that Bilateral CDS Transaction (other than any deemed delivery of a Credit Event Notice pursuant to a Credit Event Announcement). Each CDS Buyer and CDS Seller upon submitting a Bilateral CDS Transaction for clearing acknowledges and agrees that any Credit Event Notice (other than any deemed delivery of a Credit Event Notice pursuant to a Credit Event Announcement) delivered in relation to a Bilateral CDS Transaction which is accepted for Clearing shall be deemed, at the Acceptance Time, never to have been delivered. This paragraph shall have no effect on any Bilateral CDS Transaction which is not accepted for Clearing.
- 4.9 The Clearing House will be entitled to assume and will assume that no Notice of Physical Settlement under a Bilateral CDS Transaction submitted for Clearing has been delivered by one party to the other prior to the Acceptance Time for that Bilateral CDS Transaction. Each CDS Buyer and CDS Seller upon submitting a Bilateral CDS Transaction for clearing acknowledges and agrees that any Notice of Physical Settlement delivered in relation to a Bilateral CDS Transaction which is accepted for Clearing shall be deemed, at the Acceptance Time, never to have been delivered. This paragraph shall have no effect on any Bilateral CDS Transaction which is not accepted for Clearing.

**CDS PROCEDURES CLEARING**

- 4.10 Nothing in this paragraph 4 of itself is intended to result in any Bilateral CDS Transaction or Transaction Rights or Obligations being void or voided as between the original parties thereto.
- 4.11 Any Bilateral CDS Transaction, which would give rise to two Single Name Contracts on Clearing, where the Reference Entity is one of the CDS Clearing Members submitting the Bilateral CDS Transaction for Clearing or an Affiliate thereof, shall not be eligible for Clearing. CDS Clearing Members shall use reasonable endeavours not to submit for Clearing any Bilateral CDS Transaction which is not, at the time of submission for Clearing, eligible for Clearing pursuant to this paragraph 4.11. CDS Clearing Members shall, subject to the following sentence, notify the Clearing House as soon as reasonably practicable if any Bilateral CDS Transaction submitted by it for Clearing (but in respect of which no Acceptance Notice has become effective) is or becomes ineligible for Clearing pursuant to this paragraph 4.11. Such notification may be delayed for so long as the CDS Clearing Member is prevented by Applicable Laws from disclosing the information on the basis of which the notification is required. Any Bilateral CDS Transaction which is submitted for Clearing but which is, or becomes before the relevant Acceptance Time, ineligible for Clearing may be rejected by the Clearing House before the relevant Acceptance Time (whether or not paragraph 4.11 applied at the time that the Bilateral CDS Transaction was submitted for Clearing).
- 4.12 Bilateral CDS Transactions based on an index where an applicable Credit Event occurs in relation to a Component Transaction ("**Old Index CDS**") shall cease to be eligible to be submitted for Clearing:
- (a) in the case of a Restructuring Credit Event, upon the earlier of:-
    - (i) close of business on the date of publication of the Initial List (if any) relevant for the Component Transaction; and
    - (ii) the close of business of the day on which a No Auction Announcement Date or a Regional CDS Committee Credit Event Announcement relevant to the Set in question occurs;
  - (b) in the case of a Failure to Pay Credit Event or a Bankruptcy Credit Event, if the Acceptance Notice would fall after the earlier of:-
    - (i) the close of business on the calendar day following the Auction Final Price Determination Date with respect to the Component Transaction; and
    - (ii) the close of business of the day on which an Auction Cancellation Date, a No Auction Announcement Date or a Regional CDS Committee Credit Event Announcement relevant to the Set in question occurs; or
  - (c) in any such case, such other time as is notified by the Clearing House in a Circular following consultation with the CDS Risk Committee.

In such circumstances, Bilateral CDS Transactions similar to the Old Index CDS but excluding the Component Transaction affected by the Credit Event will become available for Clearing when, following consultation with the CDS Risk Committee, the relevant Set is notified as available for Clearing by the Clearing House by Circular, which notification will be given as soon as reasonably practicable. For the avoidance of doubt, Bilateral CDS Transactions submitted for Clearing prior to the time specified in paragraphs 4.12(a) will be capable of being accepted for Clearing, notwithstanding any occurrence of an event referred to in paragraph 4.12(a) prior to the time of the relevant Acceptance Notice, subject always to paragraph 4.12(c) and the rest of this paragraph 4.

- 4.13 Bilateral CDS Transactions which would give rise to two Single Name Contracts on Clearing in respect of which an applicable Credit Event occurs in relation to the relevant Reference Entity shall cease to be eligible to be submitted for Clearing:
- (a) For a SNEC Contract in the case of a Restructuring Credit Event, upon the earlier of:-

## CDS PROCEDURES CLEARING

- (i) close of business on the date of publication of the Initial List (if any) relevant for the SNEC Contract; and
  - (ii) the close of business of the day on which a No Auction Announcement Date or a Regional CDS Committee Credit Event Announcement relevant to the Set in question occurs;
- (b) For a SNEC Contract in the case of a Failure to Pay Credit Event or a Bankruptcy Credit Event, if the Acceptance Notice would fall after the earlier of:-
- (i) the close of business on the calendar day following the Auction Final Price Determination Date; and
  - (ii) the close of business of the day on which an Auction Cancellation Date, a No Auction Announcement Date or a Regional CDS Committee Credit Event Announcement relevant to the Set in question occurs; or
- (c) For a Sovereign Contract in the case of a Restructuring Credit Event, upon the earlier of:-
- (i) close of business on the date of publication of the Initial List (if any) relevant for the Sovereign Contract; and
  - (ii) the close of business of the day on which a No Auction Announcement Date or a Regional CDS Committee Credit Event Announcement relevant to the Set in question occurs;
- (d) For a Sovereign Contract in the case of an Applicable Credit Event other than a Restructuring, if the Acceptance Notice would fall after the earlier of:-
- (i) the close of business on the calendar day following the Auction Final Price Determination Date; and
  - (ii) the close of business of the day on which an Auction Cancellation Date, a No Auction Announcement Date or a Regional CDS Committee Credit Event Announcement relevant to the Set in question occurs; or
- (e) in any such case, such other time as is notified by the Clearing House in a Circular following consultation with the CDS Risk Committee.

In the case only of a Restructuring Credit Event, such Bilateral CDS Transactions will again become eligible for Clearing if the Acceptance Notice would fall after:

- (i) close of business on the calendar day following the CDS Regional Business Day following the latest possible Exercise Cut-off Date for the Restructuring Credit Event; or
- (ii) such other time as is notified by the Clearing House in a Circular following consultation with the CDS Risk Committee.

For the avoidance of doubt, Bilateral CDS Transactions submitted for Clearing prior to the time specified in paragraphs 4.13(a) or 4.13(c) will be capable of being accepted for Clearing, notwithstanding any occurrence of an event referred to in any of paragraphs 4.13(a) or 4.13(c) prior to the time of the relevant Acceptance Notice, subject always to paragraph 4.13(e) and the rest of this paragraph 4.

- 4.14 In relation to a Succession Event, if the Clearing House determines that any Bilateral CDS Transaction submitted for Clearing which would give rise to two CDS Contracts on Clearing would have been subject to a Succession Event but will no longer be subject to such Succession Event upon Clearing because of

the Trade Date that would be specified with respect to the related CDS Contract, the Clearing House shall take such action as it deems necessary to ensure that such Succession Event is given effect with respect to such CDS Contracts arising on Clearing, including, without limitation, declining to accept such Bilateral CDS Transaction for Clearing or specifying an alternate Trade Date for purposes of Section 2.1 of the Credit Derivatives Definitions with respect to the relevant CDS Contract or portion thereof.

4.15 CDS Clearing Members shall use reasonable endeavours not to submit any Bilateral CDS Transaction which is not eligible for Clearing pursuant to paragraph 4.12 or 4.13 as at the time such Bilateral CDS Transaction is submitted for Clearing. Each CDS Clearing Member shall notify the Clearing House as soon as reasonably practicable if it is or becomes aware that any Bilateral CDS Transaction submitted by it for Clearing (but in respect of which no Acceptance Notice has become effective) is or becomes ineligible for Clearing pursuant to paragraph 4.12 or 4.13. Any Bilateral CDS Transaction which is submitted for Clearing but which is, or becomes before the relevant Acceptance Time, ineligible for Clearing may be rejected by the Clearing House before the relevant Acceptance Time (whether or not the relevant provision of paragraph 4.12 or 4.13 applied at the time that the Bilateral CDS Transaction was submitted for Clearing). If a Bilateral CDS Transaction was eligible for Clearing at the time it was submitted for Clearing but becomes ineligible for Clearing pursuant to paragraph 4.12 or 4.13 after the time that it was submitted for Clearing, then the Clearing House will use reasonable endeavours not to issue an Acceptance Notice in respect of that Bilateral CDS Transaction.

4.16 If any Bilateral CDS Transaction has been submitted for Clearing, is or becomes, pursuant to paragraph 4.12 or 4.13, ineligible for Clearing before the relevant Acceptance Time and is not rejected by the Clearing House before the relevant Acceptance Time, then:

- (a) In the case of an Old Index CDS where a Restructuring Credit Event has occurred in relation to a Component Transaction and the relevant CEN Triggering Period has not ended at the time that the Clearing House becomes aware of the situation, the Clearing House will endeavour:
  - (i) To allocate the CDS Buyer and CDS Seller (the "**Late Buyer and Seller**") under the resulting Cleared CDS Contracts (the "**Late Cleared CDS Contracts**") into a single Matched Pair for the relevant Component Transaction in respect of an MP Amount equal to the Floating Rate Payer Calculation Amount relating to such Component Transaction; and
  - (ii) To treat the remainder of the Late Cleared CDS Contracts in the same way as other equivalent CDS Contracts of the relevant Set which had already been Cleared;
- (b) In the case of an Old Index CDS where an Applicable Credit Event other than Restructuring has occurred in relation to a Component Transaction, the Clearing House will:
  - (i) Where an Auction is held in respect of the relevant Reference Entity which would have applied to the relevant Component Transaction, (x) notify the Late Buyer and Seller under the Late Cleared CDS Contracts that they will be obliged to settle the rights and obligations arising in respect of the relevant Component Transaction as a result of such Credit Event at the auction price that would have been applicable to the relevant Component Transaction and (y) endeavour to treat the remainder of the Late Cleared CDS Contracts in the same way as other equivalent CDS Contracts of the relevant Set which had already been Cleared; and
  - (ii) Where (i) does not apply and the relevant deadline in section 3.2(c) of the Credit Derivatives Definitions for the delivery of a Notice of Physical Settlement has not passed at the time that the Clearing House becomes aware of the situation, endeavour (x) to allocate the Late Buyer and Seller under the Late Cleared CDS Contracts into a single Matched Pair for the relevant Component Transaction in respect of an MP Amount equal to the Floating Rate Payer Calculation Amount relating to such Component Transaction and (y) to treat the remainder of the Late Cleared CDS

## CDS PROCEDURES CLEARING

Contracts in the same way as other equivalent CDS Contracts of the relevant Set which had already been Cleared;

- (c) In the case of a Bilateral CDS Transaction to which paragraph 4.13 applies, where a Restructuring Credit Event has occurred and the relevant CEN Triggering Period has not ended at the time that the Clearing House becomes aware of the situation, the Clearing House will endeavour to allocate the Late CDS Buyer and CDS Seller under the Late Cleared CDS Contracts into a single Matched Pair in respect of an MP Amount equal to the Floating Rate Payer Calculation Amount of such Bilateral CDS Transaction; and
- (d) In the case of a Bilateral CDS Transaction to which paragraph 4.13 applies, where an Applicable Credit Event other than Restructuring has occurred, the Clearing House will:
  - (i) where an Auction is held in respect of the relevant Reference Entity which would have applied to the Late Cleared CDS Contracts, notify the Late Buyer and Seller under the Late Cleared CDS Contracts that they will be obliged to settle the rights and obligations arising in respect of the Late Cleared CDS Contracts as a result of such Credit Event at the auction price that would have been applicable; and
  - (ii) where (i) does not apply and the relevant deadline in section 3.2(c) of the Credit Derivatives Definitions for the delivery of a Notice of Physical Settlement has not passed at the time that the Clearing House becomes aware of the situation, endeavour to allocate the Late Buyer and Seller under the Late Cleared CDS Contracts into a single Matched Pair in respect of an MP Amount equal to the Floating Rate Payer Calculation Amount of such Bilateral CDS Transaction.

For the avoidance of doubt, if notwithstanding the use of reasonable endeavours to follow the process set out in this paragraph 4.16, the outcome described in this paragraph 4.16 has not resulted, the Clearing House may deal with the situation in other ways in accordance with the Rules or these CDS Procedures.

4.17 Without prejudice to the provisions of paragraph 4.4 which provide for CDS Contracts to arise only at the Acceptance Time, the Trade Date allocated to CDS Contracts arising from a TD Acceptance Notice in relation to a Bilateral CDS Transaction submitted for Trade Date Clearing shall be the Bilateral CDS Transaction Trade Date.

4.18 The Clearing House will, where required in order to give effect to the election of each CDS Clearing Member made pursuant to Rule 406(d), aggregate and net those CDS Contracts of the same Set in the same CDS Sub-Account of such CDS Clearing Member which are eligible for netting pursuant to the CDS Operational Procedures, (a) on a weekly basis as part of the process for Weekly Clearing and (b) on such other dates as the Clearing House may determine. In addition, the Clearing House will aggregate and net relevant CDS Contracts in a CDS Sub-Account (i) when a CDS Contract for such CDS Sub-Account arises pursuant to Rule 401(a)(x) and (ii) when a CDS Contract recorded in such CDS Sub-Account is voided (and such voiding is duly notified by the Clearing House pursuant to Rule 404(e)) or, to the extent that termination and replacement is necessary in the circumstances, Rule 404(c)(i).

## 5. CDS DEFAULT COMMITTEE

- 5.1 The CDS Default Committee shall be comprised of not more than three CDS Committee-Eligible Clearing Members designated in accordance with paragraph 5.2 (each, a "CDS Default Committee Participant"). The CDS Default Committee shall act as a committee of the Clearing House with powers under the Rules pursuant to Rule 114. Each CDS Default Committee Participant shall designate an employee of it or one of its Affiliates with CDS trading experience by notice in writing to the Clearing House (an "Eligible Employee") to serve as its representative on the CDS Default Committee, along with one or more alternates in the event such person is not available on a timely basis (the designated employee or alternate, as applicable, a "CDS Default Committee Member"). A CDS Default



## CDS PROCEDURES CLEARING

Committee Participant may replace its designated CDS Default Committee Member or alternate(s) with an Eligible Employee from time to time by notice in writing to the Clearing House.

- 5.2 The Clearing House shall randomly order all CDS Committee-Eligible Clearing Members into a list (the "CDS Default Committee Participant List"). The procedure for any random ordering for the purposes of this paragraph 5.2 shall be determined by the Clearing House at its discretion. For this purpose, if two or more CDS Committee-Eligible Clearing Members are or become Affiliates, as determined by the Clearing House, they shall be treated as one on the CDS Default Committee Participant List; provided that, notwithstanding the foregoing, CDS Committee-Eligible Clearing Members that are Affiliates but that make separate contributions to the CDS Guaranty Fund shall be treated as separate on the CDS Default Committee Participant List but a maximum of one CDS Default Committee Participant representing all CDS Committee-Eligible Clearing Members that are Affiliates shall be entitled to sit on any CDS Default Committee established in accordance with these Procedures at a particular time.
- 5.3 The CDS Default Committee for the initial Relevant CDS Default Committee Period shall be comprised of the first three CDS Committee-Eligible Clearing Members on the CDS Default Committee Participant List. For each Relevant CDS Default Committee Period thereafter, the then current CDS Default Committee Participants shall cease to be CDS Default Committee Participants and shall be moved to the end of the CDS Default Committee Participant List, and the next three CDS Committee-Eligible Clearing Members on the CDS Default Committee Participant List shall be CDS Default Committee Participants. If at any time, there are fewer than three CDS Committee-Eligible Clearing Members on the CDS Default Committee Participant List, all such CDS Committee-Eligible Clearing Members shall be CDS Default Committee Participants. The "Relevant CDS Default Committee Period" will be six calendar months (i.e., January through June and July through December), unless otherwise specified by the Clearing House.
- 5.4 Any CDS Clearing Member that ceases being a CDS Committee-Eligible Clearing Member shall be removed from the CDS Default Committee Participant List and, if such Clearing Member is serving on the CDS Default Committee at the time of removal, shall be replaced on the CDS Default Committee by the next CDS Committee-Eligible Clearing Member on the CDS Default Committee Participant List. Any Clearing Member that becomes (or resumes being) a CDS Committee-Eligible Clearing Member shall be added to the end of the CDS Default Committee Participant List.
- 5.5 If the Clearing House determines, whether upon the request of such CDS Default Committee Participant or upon the Clearing House's own initiative, that any CDS Default Committee Participant has a conflict or lacks impartiality with regard to an action to be undertaken by the CDS Default Committee (e.g., it or its Affiliate is the subject of the Event of Default), is not available to participate with regard to such actions in a timely manner, or should for any other reason be removed from or not participate in actions to be undertaken by the CDS Default Committee, the Clearing House shall remove such CDS Default Committee Participant and, as promptly as practicable under the circumstances, replace it with the next CDS Committee-Eligible Clearing Member on the CDS Default Committee Participant List and, pending such replacement, the remaining CDS Default Committee Members shall continue to perform the responsibilities of the CDS Default Committee.
- 5.6 To the extent permitted by Applicable Laws, no CDS Default Committee Member or CDS Default Committee Participant shall be liable to the Clearing House, any Defaulter, any other Clearing Member or any other person for any actions taken or not taken in good faith in its role as CDS Default Committee Member or CDS Default Committee Participant.
- 5.7 The CDS Default Committee shall be entitled to:
- (a) assist and advise the Clearing House in determining and executing any transactions under Rules 902 or 903 in CDS only;

- (b) assist the Clearing House in determining (and thereafter adjusting) any sale or transfer prices, target prices or minimum target prices for such CDS;
- (c) assist the Clearing House in relation to the unwinding of any CDS Transactions which fall within paragraphs 4.11, 12.4 or 13.4, and otherwise as provided in the Rules and Procedures in relation thereto;
- (d) provide the Clearing House with recommendations as to how prudently to unwind the Open Contract Positions in CDS Contracts of a Defaulter that was a CDS Clearing Member and the related close-out of CDS and other hedging transactions, if any; and
- (e) without prejudice to the generality of the foregoing, assist and advise the Clearing House in determining whether or not the entry into of any hedging transactions under Rule 902(b) would achieve, or would be likely to achieve, the purpose of an orderly unwind of any Contracts to which a Defaulter is party or a reduction of the risk specified in Rule 902(b).

The minimum target price shall be established by the Clearing House in consultation with the CDS Default Committee (taking into account the results of any prior auctions) as the price, as determined in the reasonable discretion of the Clearing House (taking into account the interests of non-defaulting Clearing Members), at which it would be reasonable for the Clearing House to enter into relevant Contracts or hedging contracts under Rule 902. Any minimum target price so determined by the Clearing House may be adjusted by the Clearing House in consultation with the CDS Default Committee for market changes, and to take into account the result of any sales or auctions under Rules 902 and 903, from the time of the initial determination of the minimum target price to the time any new Contracts are entered into.

- 5.8 Each CDS Default Committee Participant and CDS Default Committee Member (each, for purposes of this paragraph 5.8, a "Covered Party") shall be subject to the provisions of Rule 106 as if it were the Clearing House. Each Covered Party further agrees not to use any information subject to Rule 106 ("**Confidential Material**") for its own benefit or the benefit of any of its Affiliates. In the event that a Covered Party is served with or otherwise subject to legal process (including subpoena or discovery notice) requiring it to testify about, to produce, or otherwise to divulge Confidential Material, to the extent permitted by law the Covered Party subject to such process will as soon as practicable inform the Clearing House so that the Clearing House may seek a protective order, injunction or other remedy. In the event that such protective order, injunction or other remedy has not been obtained and the Covered Party is advised, in the opinion of counsel, that it is legally compelled to disclose any of the Confidential Material, the Covered Party may disclose only such Confidential Material so advised to be disclosed and shall not otherwise disclose Confidential Material.
- 5.9 Each CDS Default Committee Participant and CDS Default Committee Member shall be responsible for its own costs associated with its service in such position.
- 5.10 The Clearing House acknowledges and agrees that it will consider in good faith the recommendations of any CDS Default Committee in relation to matters over which the CDS Default Committee has competence.

## 6. REGIONAL CDS COMMITTEES AND DISPUTE RESOLUTION PROCEDURES

This paragraph 6 is subject to paragraph 6.2(d).

### 6.1 Composition of the Regional CDS Committees

- (a) For each CDS Region, there shall be a committee, governed by this paragraph 6 of these CDS Procedures, responsible for making determinations and resolving disputes related to CDS Contracts for that CDS Region (each, a "Regional CDS Committee"). For each CDS Region, the Clearing House will also determine the location and parameters for determining whether a

day is a CDS Regional Business Day in respect of the relevant CDS Region and the relevant local time.

- (b) Each Regional CDS Committee will consist of one member (each, a **"Committee Member"**) for each Regional CDS Clearing Member. Each Regional CDS Clearing Member shall notify the Clearing House of the identity of its authorised representative who will serve as its Committee Member for a Regional CDS Committee and also of its authorised alternative representative, who may serve as the Regional CDS Clearing Member's Committee Member in the absence of the Regional CDS Clearing Member's authorised representative, and any changes to the identity of its representatives from time to time. The Clearing House will maintain a list of all Regional CDS Clearing Members, their authorised representatives, and associated contact information for each Regional CDS Committee and may rely on the identity of a Regional CDS Clearing Member's authorised representative and authorised alternative representative previously notified to it until the Clearing House receives notice of any changes. Committee Members of Regional CDS Committees may be the same persons as are appointed by ICE Trust U.S. LLC for its regional CDS committees.
- (c) For a particular CDS Region, a **"Regional CDS Clearing Member"** is a CDS Committee-Eligible Clearing Member that meets the applicable criteria established for the relevant CDS Region by the Clearing House, in each case at the time of the relevant vote or other activity under paragraph 6 of these CDS Procedures. If any two or more Regional CDS Clearing Members in a particular CDS Region are or become Affiliates, as determined by the Clearing House, those Regional CDS Clearing Members together are entitled to appoint only a single Committee Member for the relevant Regional CDS Committee. If at any time affiliated Regional CDS Clearing Members in a particular CDS Region have identified more than one Committee Member for the relevant Regional CDS Committee, the affiliated Regional CDS Clearing Members will promptly notify the Clearing House which of the identified authorised representatives and authorised alternative representatives will represent them.
- (d) For each Regional CDS Committee, the Clearing House will from time to time appoint a Committee Member from each Regional CDS Committee to serve as chairperson of the Regional CDS Committee for a term of one year (each, a **"Chairperson"**). If a Chairperson ceases to be a Committee Member of the relevant Regional CDS Committee or notifies the Clearing House of his or her resignation, the Clearing House will appoint another Committee Member to serve as Chairperson of the relevant Regional CDS Committee for the remainder of the outgoing Chairperson's term. Prior service as Chairperson does not disqualify a Committee Member from subsequent terms of service as Chairperson.
- (e) Each Regional CDS Clearing Member shall be responsible for its own costs associated with its participation as a Regional CDS Clearing Member or as a Committee Member unless these CDS Procedures specifically provide otherwise.

**6.2 Role of the Regional CDS Committees.**

- (a) For the relevant CDS Region, the Regional CDS Committee shall, subject to paragraphs 6.2(d) and (e), be responsible for:
  - (i) determining whether a Reference Entity under a CDS Contract has been the subject of a Succession Event and, if so, determining the legally effective date of the Succession Event and the identity of the Reference Entity's Successor(s), if any, provided that such determination will only be made where sufficient information is made available to the Regional CDS Committee to make such determination;
  - (ii) where necessary in respect of a CDS Contract, determining whether a Reference Obligation no longer satisfies the applicable requirements under a CDS Contract and, if so, identifying any Substitute Reference Obligation, provided that such

determination will only be made where sufficient information is made available to the Regional CDS Committee to make such determination;

- (iii) determining (1) whether an event that constitutes a Potential Repudiation/Moratorium with respect to a CDS Contract for which Repudiation/Moratorium is one of the Applicable Credit Events and for which there is Publicly Available Information has occurred with respect to an Obligation of the relevant Reference Entity on or prior to the Scheduled Termination Date of such CDS Contract (determined by reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign (as such terms are defined in the 2005 Matrix Supplement), Tokyo time)) and (2)(x) whether an Applicable Credit Event for which there is Publicly Available Information has occurred with respect to a CDS Contract on or after the Credit Event Backstop Date (determined by reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign (as such terms are defined in the 2005 Matrix Supplement), Tokyo time)) and on or prior to the Extension Date determined by reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign (as such terms are defined in the 2005 Matrix Supplement), Tokyo time)) and, if so, (y) with respect to a notice delivered on or prior to the end of the last day of the Notice Delivery Period (including prior to the Trade Date) to the Regional CDS Committee requesting that the Regional CDS Committee determine a matter pursuant to this paragraph 6.2(a)(iii), the Event Determination Date (which shall be announced by the Clearing House in a Circular) which shall be the first date on which the Regional CDS Committee determines such notice was effective, and on which the relevant CDS Regional Committee was in possession of Publicly Available Information and provided that an Event Determination Date relating to a Restructuring Credit Event will only be deemed to have occurred in respect of any particular Restructuring CDS Contract or part thereof if a relevant party thereto delivers a Restructuring Credit Event Notice relating thereto on or before the Exercise Cut-Off Date;
- (iv) if, where applicable in accordance with these Procedures, a Credit Event Announcement occurred with respect to a Reference Entity (or Obligation thereof) referenced in a CDS Contract and the CDS Contract is to be settled in accordance with the Fallback Settlement Method, resolving any questions presented by one or more Committee Members with respect to such CDS Contract regarding: (1) whether a particular obligation is a Deliverable Obligation or, where relevant, a Permissible Deliverable Obligation; or (2) the Accreted Amount of any Accreting Obligation;
- (v) with respect to a CDS Contract, making any determination requested of it or resolving any disputes referred to it by the Clearing House or its designee or by any Committee Member, excluding (1) making determinations or resolving disputes relating to withholding, gross-up or reimbursement for or on account of any Tax or other Tax matters and (2) resolving disputes that are subject to arbitration pursuant to the Rules or Procedures;
- (vi) if settlement in accordance with the Fallback Settlement Method applies, determining, with respect to a Deliverable Obligation, any specific assignment, novation or other document or any other action that may be necessary, customary or desirable and reasonably requested by either party to a Matched Pair for the purpose of effecting physical settlement and, with respect to a Deliverable Obligation that is a Loan, the documentation customarily used in the relevant market for Delivery of any Deliverable Obligation that is a Loan at that time, as such documentation may be amended to the extent the relevant Regional CDS Committee determines is appropriate, which is consistent with the delivery and payment obligations of the parties under the relevant CDS Contract;

## CDS PROCEDURES CLEARING

- (vii) following the occurrence of a Restructuring Credit Event, determining the form in which any New Trade shall be recorded; and
  - (viii) upon determining, in relation to any CDS Contracts relating to an index, that an Applicable Credit Event has occurred with respect to a Reference Entity in such index, consulting with the Clearing House and with the CDS Risk Committee with a view to the Clearing House's publication on behalf of the Regional CDS Committee to CDS Clearing Members of a recommendation as to the amendments to be made to the terms of current and future CDS Contracts relating to such index which form part of CDS Clearing Members' Open Contract Positions (the "**RCE Solution**"), such RCE Solution to be published by the Clearing House on behalf of the Regional CDS Committee by means of a Circular as soon as reasonably practicable after the determination of the occurrence for the Applicable Credit Event, provided that the Regional CDS Committee shall not recommend an RCE Solution which is unacceptable to the Clearing House or the CDS Risk Committee.
- (b) Subject to paragraph 6.2(d) and (e) the Clearing House shall be responsible for performing any calculations or other determinations required of the Calculation Agent by a CDS Contract, other than those responsibilities specifically delegated to the Regional CDS Committees as provided in paragraph 6.2(a) or as otherwise delegated to the Regional CDS Committees by the Clearing House or as expressly provided otherwise. Any Calculation Agent determination made by the Clearing House under this paragraph 6.2(b) may be disputed by any Committee Member referring the determination to the relevant Regional CDS Committee.
- (c) If there is a question presented to the Regional CDS Committee under paragraph 6.2(a)(iv)(1) with respect to whether a particular obligation is a Deliverable Obligation or a Permissible Deliverable Obligation, as applicable, and the answer to the question may differ based on the date as of which the question is answered (for example, the "Not Contingent" characteristic is at issue and there is a contingency that might cease to exist as of a particular date), the presenter of the question will identify the relevant date.
- (d) Notwithstanding anything to the contrary in this paragraph 6.2 or elsewhere in these CDS Procedures, the Regional CDS Committee shall not consider a question under these CDS Procedures in respect of such CDS Contract (including where new information, relevant to the question to be considered, has become available) unless a request has been previously submitted to ISDA, as DC Secretary, to convene the relevant Credit Derivatives Determinations Committee to resolve the answer to such question for the purposes of the relevant CDS Contract (and where new information as aforesaid has become available, that information has been made available to the DC Secretary with such a request) and ISDA has publicly announced that the relevant Credit Derivatives Determinations Committee has resolved not to determine the answer to such question or the relevant Credit Derivatives Determinations Committee is deemed to have rejected such question as the DC Secretary does not effectively receive agreement from a Convened DC Voting Member to deliberate such question in accordance with Section 2.2(a) of the Credit Derivatives Determinations Committee Rules as published by ISDA from time to time.
- (e) For the avoidance of doubt, any determination by a Credit Derivatives Determinations Committee applicable to a CDS Contract shall be binding on the Clearing House and the relevant Clearing Members that are party to such CDS Contract and shall supersede any prior determination of the same question by the relevant Regional CDS Committee, Dispute Resolver or the Clearing House, as applicable, as provided in Section 9.1(c)(iii) of the Credit Derivatives Definitions (except as expressly stated otherwise in Section 9.1(c)(iii)(B) thereof, interpreted as if the relevant Regional CDS Committee, Dispute Resolver or the Clearing House, as applicable, were the Calculation Agent). In the event there is a pending question before a Regional CDS Committee or Dispute Resolver and the DC Secretary publishes on its Website notice of a Credit Derivatives Determinations Committee being convened to deliberate the same question,

such Regional CDS Committee or Dispute Resolver shall cease considering such question and, in the event the question is raised again with such Regional CDS Committee or Dispute Resolver following such Credit Derivatives Determinations Committee's proceedings, the process of considering such question by such Regional CDS Committee or Dispute Resolver shall start over from the beginning.

- (f) Where the applicable Regional CDS Committee has become entitled to consider the question in accordance with these Procedures:
- (i) a question presented to a Regional CDS Committee concerning whether or not an event constitutes a Credit Event (or, with respect to Repudiation/Moratorium, the event described in Section 4.6(a)(ii) of the Credit Derivatives Definitions) with respect to a CDS Contract which includes a description in reasonable detail of the facts and information required to be included in a Credit Event Notice and a Notice of Publicly Available Information shall be deemed, if the Regional CDS Committee determines that there was such a Credit Event, to be a delivery by the Notifying Party (or one of the Notifying Parties) to the other party of a Credit Event Notice and Notice of Publicly Available Information under all relevant CDS Contracts, whether or not they become CDS Contracts prior to or after such determination or submission, only for the purposes of determining the Credit Event Backstop Date pursuant to Section 1.23 of the Credit Derivatives Definitions and as otherwise provided in these CDS Procedures; and
  - (ii) a question presented to a Regional CDS Committee concerning whether or not an event constitutes a Succession Event with respect to such CDS Contract which includes a description in reasonable detail of the facts required to be included in a Succession Event Notice shall be deemed, if the Regional CDS Committee determines that there was such a Succession Event, to be delivery by one party to the other party of a Succession Event Notice under all relevant CDS Contracts only for the purposes of determining the Succession Event Backstop Date pursuant to Section 2.2(i) of the Credit Derivatives Definitions and as otherwise provided in these CDS Procedures .

**6.3 Meetings of the Regional CDS Committee.**

- (a) The Clearing House or the Chairperson may, and at the request of any two Committee Members the Chairperson will, call a meeting of the Regional CDS Committee on no less than three hours' notice. Meetings may commence at any time between 10:00 a.m. and 6:00 p.m. local time on a CDS Regional Business Day. As part of the notice to Committee Members of the meeting, the Clearing House or the Chairperson, as applicable, shall include a brief description of the circumstances, including (if applicable) which category described in paragraph 6.2(a) the Regional CDS Committee is being asked to consider. Meetings may be held in person or by telephone or videoconference.
- (b) There will be no quorum for holding a meeting of a Regional CDS Committee. The quorum for holding a binding or non-binding vote will be a number of Committee Members equal to the Standard Quorum Number, unless otherwise indicated in these CDS Procedures. **“Standard Quorum Number”** means the greater of (i) 5 and (ii) 50 percent of the Regional CDS Clearing Members for the relevant Regional CDS Committee (rounded down to the nearest whole number).
- (c) Each Committee Member will have a single vote on all matters before the Regional CDS Committee. In addition, each Clearing Member that has appointed a Committee Member agrees that it will cause its Committee Member (or any other person voting on such Committee Member's behalf), when casting a ballot in a binding vote, to vote for the answer that is, in such voter's good faith belief, the proper answer to the question, taking into account any ambiguities in the application of the terms of the CDS Contract to the particular question.

- (d) The voting standards used in these CDS Committee Procedures have the following meanings:
- (i) A **"Quorum Majority"** means that there is a quorum for the vote and at least a majority of voting Committee Members have voted for a particular answer to the question posed.
  - (ii) A **"Quorum Supermajority"** means that there is a quorum for the vote and at least two-thirds of voting Committee Members have voted for a particular answer to the question posed.
  - (iii) A **"Quorum Stage 2 Supermajority"** means that there is a quorum for the vote and at least two-thirds of voting Committee Members have voted for a particular answer to the question posed. For a Quorum Stage 2 Supermajority, the denominator is the greater of (x) the number of Committee Members voting in the vote and (y) the number of Committee Members who voted in the most recent binding vote on the question.
  - (iv) An **"Acceleration Supermajority"** means that there is a quorum for the vote of at least two-thirds of Committee Members on a Regional CDS Committee and all voting Committee Members have voted for holding a binding vote on an Issue or any element thereof on a date earlier than the date described in paragraph 6.7(c).
  - (v) An **"Effectiveness Supermajority"** means that there is a quorum for the vote of at least two-thirds of Committee Members on a Regional CDS Committee and at least three-quarters of voting Committee Members have voted for a particular Effectiveness Convention.

For purposes of each of these voting standards: (1) Committee Members who are present but abstain from voting are neither counted for purposes of determining whether there is a quorum nor counted in the denominator for purposes of determining whether the requisite threshold is met; and (2) Committee Members who are present but vote that they need more time to consider the question are both counted for purposes of determining whether there is a quorum and counted in the denominator for purposes of determining whether the requisite threshold is met.

- (e) A Committee Member may invite one or more employees of the Regional CDS Clearing Member that the Committee Member is representing (or of an Affiliate) to participate in a meeting of the Regional CDS Committee relating to an Issue for which the employee(s) have expertise. The Committee Member may appoint any such employee as its proxy or agent to vote in relation to a particular Issue. If it does so, the Committee Member must give notice of such appointment to the Regional CDS Committee.
- (f) A Regional CDS Committee may seek advice or assistance from outside counsel or other outside experts by a Quorum Majority vote of Committee Members in favour. The costs associated with any such advice or assistance may not exceed \$100,000 per Regional CDS Committee in any one calendar year (or such other amount specified by the Clearing House), without the approval of the Clearing House.
- (g) The decisions of a Regional CDS Committee will be effective at the time of the binding vote, unless the Regional CDS Committee has adopted an applicable Effectiveness Convention, in which case the decision will be effective as provided in the Effectiveness Convention. By an Effectiveness Supermajority vote in favour, a Regional CDS Committee may adopt a convention, or modify an existing convention, for determining when a particular decision is effective in one or more particular contexts or circumstances (an **"Effectiveness Convention"**).
- (h) The Clearing House may make publicly available the answer by which a Regional CDS Committee has Resolved a question with respect to an Issue or any element thereof. A Regional

CDS Committee may make publicly available a written summary of the basis for the Resolution of an Issue (whether at Stage 1, Stage 2 or Stage 3) if such summary is supported by a Quorum Stage 2 Supermajority.

**6.4 Regional CDS Committee Mandatory Voting Members.**

- (a) The Clearing House shall maintain a list of Regional CDS Clearing Members for purposes of identifying Regional CDS Clearing Members whose Committee Member shall be required to participate in all meetings and votes relating to a matter before the Regional CDS Committee (a "Mandatory Voting Member"), absent a written certification to the Clearing House by the relevant Regional CDS Clearing Member that, in its judgment, neither its Committee Member nor anyone else within the Regional CDS Clearing Member's organisation is appropriate to serve in such capacity. A Regional CDS Clearing Member may not provide such a written certification solely on the basis that it does not trade the particular Set at issue.
- (b) For each CDS Region, the Clearing House shall initially list the Regional CDS Clearing Members in random order. The Clearing House shall remove from the list those that cease to be Regional CDS Clearing Members and add to the list in a random position any new Regional CDS Clearing Members. If a Regional CDS Clearing Member serves as a Mandatory Voting Member, it shall be moved to the bottom of the list. The Clearing House will provide an updated list to the Regional CDS Clearing Members promptly after any update. If requested on a Quorum Majority vote by the relevant Regional CDS Committee, the Clearing House shall randomly re-order the list. The procedure for any random ordering for the purposes of this paragraph 6.4(b) shall be determined by the Clearing House at its discretion.
- (c) If a Regional CDS Committee votes, whether binding or non-binding, with respect to:
  - (i) an Issue under one of the sub-clauses in paragraph 6.2(a), including voting not to determine any such Issue or to dismiss such Issue;
  - (ii) an amendment to these CDS Committee Procedures proposed under paragraph 6.11(a); or
  - (iii) an Effectiveness Convention under paragraph 6.3(g);

and fails to achieve a quorum, the Chairperson shall notify the Clearing House, which shall, by proceeding in the order of the list, promptly identify a number of Regional CDS Clearing Members equal to the full quorum required for that vote (e.g., the Standard Quorum Number if the voting standard is a Quorum Majority or a Quorum Supermajority) whose Committee Member shall serve as Mandatory Voting Members for such vote or, in the case of paragraph 6.4(c)(i), until all aspects of the matter requiring the participation of Mandatory Voting Members have been fully Resolved.

**6.5 Role and Composition of the Dispute Resolution Panel.**

- (a) For each CDS Region, the Clearing House may, as provided in this paragraph 6.5, maintain a list (each such list, a "Dispute Resolution Panel") of persons eligible to resolve, in accordance with this paragraph 6, disputes that are referred to Stage 2 procedures described in paragraph 6.8 by the relevant Regional CDS Committee under paragraphs 6.8(a)-6.8(c).
- (b) Each Dispute Resolution Panel will consist of between 3 and 5 persons (each, a "Panel Member") selected in accordance with paragraph 6.5(c). If at any time, there are fewer than 3 Panel Members, the Clearing House shall select additional individuals to be added to the Dispute Resolution Panel in accordance with paragraph 6.5(c). The Panel Member charged with resolving a particular dispute (the "Dispute Resolver") will be selected from the relevant Dispute Resolution Panel in accordance with paragraph 6.6.



- (c) The Clearing House shall nominate one or more individuals to be considered for membership on a Dispute Resolution Panel and shall notify the Committee Members for the relevant Regional CDS Committee of each such nomination. The Clearing House may nominate only individuals that it is satisfied are not current employees or directors of a Regional CDS Clearing Member for the relevant CDS Region or an Affiliate thereof. Unless 3 or more Committee Members for the relevant Regional CDS Committee object to the nomination within 30 days of the date the Clearing House notifies Committee Members of the nomination, the individual will become a Panel Member effective on the later of such 30th day and the date the individual signs an agreement with the Clearing House governing its role as Panel Member for a term specified in the agreement.
- (d) The Clearing House may, and if directed by the relevant Regional CDS Committee as provided in this paragraph 6.5(d) shall, remove a Panel Member by terminating or by not renewing or extending the term of a Panel Member in accordance with the agreement between the Clearing House and the Panel Member; provided that a Panel Member who is then serving as Dispute Resolver may be removed only for cause. If a Panel Member is removed for cause while he or she is serving as Dispute Resolver, or withdraws from service as Dispute Resolver, a replacement Dispute Resolver shall be selected as if the dispute being resolved by the removed Panel Member had been newly referred to Stage 2 for resolution on the date of such Panel Member's removal or withdrawal. The Regional CDS Committee shall consider at least annually whether to direct the Clearing House to remove any Panel Members from the Dispute Resolution Panel for the relevant CDS Region. To so direct the Clearing House:
  - (i) a Quorum Supermajority of Committee Members for the relevant Regional CDS Committee must vote in favour of the removal if the Panel Member is being removed in the middle of his or her term; and
  - (ii) a Quorum Majority of Committee Members for the relevant Regional CDS Committee must vote in favour of the removal if the Panel Member's term is not being renewed or extended.

**6.6 Selection of the Dispute Resolver**

- (a) When a Regional CDS Committee refers a dispute to the Dispute Resolution Panel, the Dispute Resolver will be selected as follows:
  - (i) The Panel Member at the top of the Panel Member list, ordered as described in paragraph 6.6(b), at the time the Regional CDS Committee refers the dispute to the relevant Dispute Resolution Panel will be charged with resolving the dispute, unless that Panel Member has a conflict of interest or material interest or lacks impartiality with regard to resolution of the dispute or is not available to resolve the dispute within the time periods contemplated by the Stage 2 procedures set forth in paragraph 6.8(j). Each Panel Member must notify the Regional CDS Committee and the Clearing House of any such conflict of interest, material interest, lack of impartiality or lack of availability. If more than one question relating to a single Issue is referred to Stage 2 for resolution, then the Panel Member selected under this paragraph 6.6(a) shall be the Dispute Resolver for each such question.
  - (ii) If that Panel Member indicates (or the Clearing House determines) such a conflict of interest or lack of impartiality or availability, the Panel Members on the relevant Dispute Resolution Panel will be charged in the order described in paragraph 6.6(b) to resolve the dispute until a Panel Member is identified without such a conflict or lack of impartiality or availability.
  - (iii) If all Panel Members on the relevant Dispute Resolution Panel indicate (or the Clearing House determines) such a conflict of interest or lack of impartiality or

## CDS PROCEDURES CLEARING

availability, or if there are no Panel Members on the relevant Dispute Resolution Panel, the dispute shall be referred back to the Regional CDS Committee to be resolved in accordance with the Stage 3 procedures described in paragraph 6.9.

- (b) The Panel Members on the Dispute Resolution Panel will be ordered as follows:
- (i) For each CDS Region, the Clearing House shall initially list the Panel Members in random order. At the end of each Relevant Period, the Clearing House shall randomly reorder the Panel Member list for the next Relevant Period. For any Relevant Period, the Panel Member at the top of the initial list for that Relevant Period will be the "Primary Panel Member". A Panel Member is not eligible to be the Primary Panel Member after having been the Primary Panel Member in the prior Relevant Period, unless the individual is the only remaining Panel Member, and the Clearing House shall randomly reorder the Panel Member list for a particular Relevant Period until this requirement is satisfied. The procedure for any random ordering for the purposes of this paragraph 6.6(b) shall be determined by the Clearing House at its discretion.
  - (ii) The Clearing House shall remove from the Dispute Resolution Panel those individuals that cease to be Panel Members during the particular Relevant Period and add to the bottom of the list any new Panel Member. If a Panel Member on a list for a particular Relevant Period serves as a Dispute Resolver, the individual shall be moved to the bottom of the list for that Relevant Period.
  - (iii) The "Relevant Period" will be six calendar months (i.e., January through June and July through December), unless otherwise specified by the Clearing House.
  - (iv) The Clearing House will provide an updated list of Panel Members to the Regional CDS Clearing Members promptly after any update to the Dispute Resolution Panel.

### 6.7 Stage 1 – The Regional CDS Committee with Quorum Supermajority Vote

- (a) When a Regional CDS Committee is asked to consider the application of a particular set of circumstances to a category described in paragraph 6.2(a) (an "Issue"), one or more meetings shall be held where Committee Members will discuss the Issue and attempt to reach a consensus. To facilitate this process, the Regional CDS Committee may hold one or more non-binding votes to gauge the views of the Committee Members. A non-binding vote shall be held whenever called by the Chairperson or requested by two or more Committee Members.
- (b) The Regional CDS Committee will attempt to reach a consensus on the phrasing of one or more questions the answers to which are necessary to Resolve an Issue. If the Regional CDS Committee cannot reach a consensus on the phrasing of any question, any two Committee Members may pose a question to be voted on by the Regional CDS Committee. To the extent practicable, the Regional CDS Committee should endeavour to Resolve through individual questions particular elements of an Issue even if unable to Resolve all elements of such Issue. For example, the Regional CDS Committee might Resolve the determination that a Reference Obligation no longer satisfies the applicable requirements under a CDS Contract even if unable to Resolve the determination of an appropriate Substitute Reference Obligation (or *vice versa*).
- (c) Subject to paragraph 6.7(f), a binding vote on all elements of an Issue shall be held:
  - (i) for an Issue described in paragraph 6.2(a)(iii) or 6.2(a)(iv), on the second CDS Regional Business Day after the CDS Regional Business Day of the initial meeting of the Regional CDS Committee regarding the Issue; and

- (ii) for any other Issue, on the ninth CDS Regional Business Day after the CDS Regional Business Day of the initial meeting of the Regional CDS Committee regarding the Issue;

unless, in the case of paragraph 6.7(c)(i), the date for a binding vote has been delayed by a vote in favour of such delay by a Quorum Supermajority of the Regional CDS Committee and, in the case of paragraph 6.7(c)(ii), the date for a binding vote has been delayed by a vote in favour of such delay by a Quorum Majority of the Regional CDS Committee for the first delay and a vote in favour of such delay by a Quorum Supermajority of the Regional CDS Committee for any subsequent delay.

- (d) A Regional CDS Committee may hold a binding vote on any element of an Issue on a date earlier than the date described in paragraph 6.7(c):
  - (i) on the CDS Regional Business Day of the initial meeting of the Regional CDS Committee regarding the Issue, if an Acceleration Supermajority vote in favour; or
  - (ii) on any subsequent CDS Regional Business Day, if a Quorum Supermajority vote in favour.
- (e) If, in a binding vote, a Quorum Supermajority vote for a particular answer to a question, that question is considered Resolved according to that answer. Once a question has been Resolved, it may not be reconsidered or voted on again by the Regional CDS Committee. For the sake of clarity, if a Regional CDS Committee Resolves that:
  - (i) a Credit Event or a Potential Repudiation/Moratorium for which there is Publicly Available Information has not occurred with respect to a CDS Contract, but Publicly Available Information not considered by the Regional CDS Committee becomes available to the Regional CDS Committee; or
  - (ii) a particular obligation is or is not a Deliverable Obligation or a Permissible Deliverable Obligation as of a particular date, but the analysis would be different if the Deliverable Obligation Characteristics or Credit Derivatives Definitions Section 2.32(a) or 2.33(a), as applicable, were applied on a different date,

a subsequent vote on such Issue is considered a new question rather than reconsideration of the prior question.
- (f) A Regional CDS Committee may, in a binding vote, by a Quorum Majority, decide not to determine the relevant Issue or to dismiss the relevant Issue, in which case the Issue shall be treated as though it had never been raised for consideration by the Regional CDS Committee.

**6.8 Stage 2 – Dispute Resolution**

- (a) An Issue presented to the Regional CDS Committee will be referred to Stage 2 if:
  - (i) the Regional CDS Committee holds a binding vote where a Quorum Supermajority are in favour of referring the Issue to Stage 2, in which case all elements of such Issue that have not been Resolved by the Regional CDS Committee through a binding vote will be referred to Stage 2; or
  - (ii) (unless paragraph 6.7(f) applies) the Regional CDS Committee has not fully Resolved all elements of an Issue through a binding vote within the time period described in paragraph 6.7(c), in which case each element not Resolved will be referred to Stage 2.
- (b) If an Issue is referred to Stage 2, the positions to be presented to the Dispute Resolver (each, a “Presented Position” and, collectively, the “Presented Positions”) in respect of the

elements of an Issue not Resolved by the Regional CDS Committee shall be determined as follows:

- (i) In the case of a question that was phrased to be answered with either "yes" or "no", the Presented Positions shall be both the "yes" and "no" answers.
- (ii) In the case of a question that was not phrased to be answered with either "yes" or "no", the Presented Positions shall include the answer or answers that receive the most votes. If only one answer receives the most votes, the Presented Positions shall also include the answer or answers receiving the next most votes.
- (c) Where the Regional CDS Committee failed to reach a consensus on the phrasing of a question necessary to Resolve one or more elements of an Issue and there was more than one phrasing of a question voted on by the Regional CDS Committee in a binding vote, a Quorum Supermajority may determine the phrasing of the question to be addressed in Stage 2, and in the absence of a Quorum Supermajority favouring a particular phrasing, the Dispute Resolver shall select the phrasing of the question to be addressed in Stage 2.
- (d) The Dispute Resolver for a particular dispute will follow the procedures set forth in this paragraph 6.8 in resolving the dispute. At any time before the Dispute Resolver announces his or her decision with respect to a question, the Regional CDS Committee may withdraw and Resolve the question by holding a vote where a Quorum Stage 2 Supermajority vote for a particular answer to the question. In that case, the Clearing House or the Regional CDS Committee shall notify the Dispute Resolver of the vote that has taken place and, if it receives any such notice from either the Clearing House or the Regional CDS Committee, the Dispute Resolver shall not render a decision on the particular question.
- (e) The Dispute Resolver must, in his or her decision with respect to a question, select without alteration in any way from one of the Presented Positions (except pursuant to paragraph 6.8(c)).
- (f) The Dispute Resolver will communicate to the Regional CDS Committee and the Clearing House in writing which of the Presented Positions he or she has selected with respect to a question, but shall not issue a written opinion explaining his or her reasoning. The decision of the Dispute Resolver will be effective at the time the decision is communicated, unless the time of effectiveness was specifically included in the Presented Position.
- (g) Unless either the Regional CDS Committee has withdrawn and Resolved a question as described in paragraph 6.8(d) or any of the conditions described in paragraph 6.8(h) are met, the Dispute Resolver's decision with respect to a question will Resolve the question.
- (h) A question necessary to Resolve one or more elements of an Issue referred to Stage 2 shall be referred back to the Regional CDS Committee to be Resolved in accordance with the Stage 3 procedures in paragraph 6.9 in any of the following circumstances:
  - (i) the Dispute Resolver does not issue his or her decision with respect to the question within the time period described in paragraph 6.8(j);
  - (ii) the Dispute Resolver has deviated from the requirements set forth in paragraph 6.8(e); or
  - (iii) the Dispute Resolver informs the Regional CDS Committee and the Clearing House that he or she is unable to reach a decision with respect to the question.

In the case of paragraph 6.8(h)(iii), the Dispute Resolver shall not explain his or her reasoning for being unable to reach a decision.

## CDS PROCEDURES CLEARING

- (i) The Clearing House may publish any final decision made by the Dispute Resolver in such detail as the Clearing House deems appropriate by Circular (or another means of communication) where the matter under investigation is considered of relevance to the market in general or in the public interest, provided that any Clearing Member mentioned in the publication shall be afforded an opportunity to comment on the text of the publication during a period of not less than 48 hours prior to publication, such period commencing on a Business Day. The Clearing House may report the findings of any Dispute Resolver and hand over any documents or communicate any information it has acquired whether during the course of any process under these CDS Procedures or otherwise, to other Clearing Organisations, Regulatory Authorities or Governmental Authorities.
  
- (j) The following schedule will apply to the dispute resolution procedures unless modified as described below:
  - (i) Within one CDS Regional Business Day of an Issue being referred to Stage 2, the Dispute Resolver shall, if required by paragraph 6.8(c), select the phrasing of any question necessary to Resolve one or more elements of an Issue and communicate the selected phrasing to the Advocates and the Clearing House.
  
  - (ii) Within two CDS Regional Business Days of an Issue being referred to Stage 2, the Dispute Resolver and the Advocates shall hold an administrative meeting (the "**Administrative Meeting**").
  
  - (iii) Written Materials shall be submitted to the Dispute Resolver no more than five CDS Regional Business Days after the Issue is referred to Stage 2 (the "**Submission Deadline**").
  
  - (iv) Initial Oral Argument shall be heard at a time and on a CDS Regional Business Day specified by the Dispute Resolver, but in no event before the CDS Regional Business Day following the Submission Deadline.
  
  - (v) After the initial Oral Argument and at the option of the Dispute Resolver, additional Oral Argument may be heard at a time and on a CDS Regional Business Day specified by the Dispute Resolver.
  
  - (vi) The Dispute Resolver shall render his or her decision no later than four CDS Regional Business Days after the Submission Deadline.

The schedule for dispute resolution may be modified either (A) by a Quorum Stage 2 Supermajority vote of the Regional CDS Committee in favour of a modification or (B) by the Clearing House as it determines appropriate in light of extenuating circumstances. The Regional CDS Committee or the Clearing House, as applicable, shall as soon as reasonably practicable notify the other and the Dispute Resolver of any schedule modification.

- (k) The Regional CDS Clearing Members who support a particular Presented Position shall identify one or more persons to coordinate their activities, present their arguments to the Dispute Resolver, and participate in Oral Arguments (the "**Advocates**") and shall notify the Clearing House and the Dispute Resolver of the identity and contact details of their Advocates. Advocates may, but need not, be outside counsel selected by the relevant Regional CDS Clearing Members.
  
- (l) Any expenses incurred in connection with the support of a Presented Position during the Stage 2 dispute resolution process, up to a maximum of \$50,000 per Presented Position (or such other amount specified by the Clearing House) (the "**Reimbursement Amount**"), will be borne on a pro rata basis by the Regional CDS Clearing Members for the relevant CDS Region. Any expenses in excess of the Reimbursement Amount shall be borne by the Regional CDS Clearing

## CDS PROCEDURES CLEARING

Member incurring such expense unless the Regional CDS Clearing Members supporting the relevant Presented Position agree otherwise.

- (m) In addition to the Administrative Meeting scheduled under paragraph 6.8(j)(ii), the Dispute Resolver may call other Administrative Meetings, in each case on no less than three hours notice. Administrative Meetings may be commenced at any time between 10:00 a.m. and 6:00 p.m. local time on a CDS Regional Business Day, or at any other time agreed to by the Dispute Resolver and all Advocates. All Advocates must be given the opportunity to be present at each Administrative Meeting. Administrative Meetings may be held in person or by telephone or videoconference.
- (n) At an Administrative Meeting or an Oral Argument, the Dispute Resolver may, subject to the schedule for dispute resolution provided in paragraph 6.8(j), do any of the following:
  - (i) schedule the time and CDS Regional Business Day of an Oral Argument;
  - (ii) establish or alter the place, duration, format or means of an Oral Argument;
  - (iii) alter the page limit of the Brief;
  - (iv) request additional Written Materials or Oral Argument on a particular subject or in response to argument previously made in Written Materials or at Oral Argument; or
  - (v) request or allow witness affidavits as Exhibits or witness testimony at Oral Argument.
- (o) The materials that may be submitted to the Dispute Resolver by the Regional CDS Clearing Members in support of a Presented Position include the following (collectively, the **"Written Materials"**):
  - (i) a brief addressing the question before the Dispute Resolver consisting of no more than twenty single-sided, double-spaced pages in Times New Roman twelve-point font, with one inch margins (the **"Brief"**); and
  - (ii) any exhibits in support of the Brief (the **"Exhibits"**). Unless requested or allowed by the Dispute Resolver, the Exhibits shall not contain any witness affidavits or additional argument.
- (p) While an Issue is before the Dispute Resolver, no director, officer, employee or agent of a Regional CDS Clearing Member, or others acting on behalf of any such director, officer, employee or agent, may communicate with the Dispute Resolver except for the Advocates. There shall be no communications between the Dispute Resolver and an Advocate unless all other Advocates are given the opportunity to be present during such communication. For the avoidance of doubt, written communication (whether transmitted by email, facsimile, or post) between the Dispute Resolver and an Advocate must also be transmitted contemporaneously to all other Advocates.
- (q) The Dispute Resolver shall hold one or more proceedings where the Advocates may orally present argument in favour of their Presented Position (each such proceeding an **"Oral Argument"**). Unless the Dispute Resolver has altered the duration of Oral Argument under paragraph 6.8(n)(ii), the Advocates for each Presented Position shall be allocated an aggregate of one hour in which to present argument. All Advocates must be given the opportunity to be present for the duration of an Oral Argument. Oral Argument may be held in person or by videoconference, or by other means established by the Dispute Resolver under paragraph 6.8(n)(ii). If requested or allowed by the Dispute Resolver, an Oral Argument may include testimony by witnesses.

- (r) The place of expert determination in relation to CDS Contracts shall be London, England. Notwithstanding the foregoing, the Dispute Resolver may, after consultation with the Advocates, conduct an in-person Administrative Meeting or Oral Argument at any location he or she considers appropriate.

**6.9 Stage 3 – The Regional CDS Committee with Quorum Majority Vote.**

- (a) Promptly but in any event within one CDS Regional Business Day after a question has been referred back to the Regional CDS Committee for resolution, as provided in paragraph 6.6(a)(iii) or paragraph 6.8(h), the Clearing House will call a meeting of the Regional CDS Committee for purposes of holding a binding vote from among the Presented Positions to Resolve the question. If a Quorum Majority vote for a particular Presented Position, the question is considered Resolved according to that Presented Position.
- (b) If, at the initial Stage 3 vote on a question, a Quorum Majority is not achieved for any Presented Position, the Clearing House will call a meeting of the Regional CDS Committee on each subsequent CDS Regional Business Day for the purpose of holding a binding vote from among the Presented Positions to Resolve the question until such time as a Quorum Majority vote for a particular Presented Position. If a Quorum Majority vote for a particular Presented Position, the question is considered Resolved according to that Presented Position.
- (c) In the case of votes subsequent to the initial vote, all Regional CDS Clearing Members shall be required to participate in the votes absent a written certification to the Clearing House by the relevant Regional CDS Clearing Member that, in its judgment, neither its Committee Member nor anyone else within the Regional CDS Clearing Member's organisation is appropriate to serve in such capacity. A Regional CDS Clearing Member may not provide such a written certification solely on the basis that it does not trade the particular CDS Contract at issue.

**6.10 Effect of Resolution of Issues by a Regional CDS Committee or Dispute Resolver and Capacity persons acting under this paragraph 6.**

- (a) Under these CDS Committee Procedures, the term "Resolved" means, with respect to an Issue or an element thereof, that the answer to the Issue or such element is binding on all CDS Clearing Members that are party to CDS Contracts of a Set to which such Issue relates and the Clearing House. "Resolve" and "Resolves" will be construed accordingly.
- (b) Any decision made by a Dispute Resolver in accordance with paragraph 6.8(g) shall be binding and enforceable as between affected Clearing Members and the Clearing House.
- (c) Any Regional CDS Committee, Dispute Resolver, Dispute Resolution Panel or External Reviewer shall act as expert and not as arbitrator in connection with any matter over which any of them has competence.
- (d) Notwithstanding any provision of the Procedures or these Rules, no Regional CDS Committee, Dispute Resolver, Dispute Resolution Panel, Credit Derivatives Determinations Committee, External Reviewer or ISDA given powers or rights pursuant to the CDS Procedures shall have competence:
  - (i) to determine whether any Transfer Order should arise, become irrevocable or be otherwise affected by any of the provisions of Part 12 of the Rules or otherwise;
  - (ii) to determine whether any Person is a Participant in the Designated System;
  - (iii) to make any determination that would be inconsistent with any provision of the default rules (as such term is defined in the Companies Act 1989);

- (iv) to make any determination that would be inconsistent with any provision of the Companies Act 1989, the Settlement Finality Regulations, the Financial Collateral Regulations or any other Applicable Law; and
- (v) to adopt or apply any procedure to the extent that the same would conflict with the Human Rights Act 1998 or other Applicable Law.

**6.11 CDS Committee Rule Amendments.**

- (a) Any Regional CDS Committee may recommend an amendment to this paragraph 6 by providing to the Clearing House the text of the amendment along with detail regarding the vote in favour of the recommendation. Any such amendment, if proposed to be adopted by the Clearing House, may only be adopted subject to the requirements of Rule 109.

**6.12 Confidentiality**

- (a) Each of the Regional CDS Clearing Members, Committee Members, Advocates, Panel Members and Dispute Resolver (each, for purposes of this paragraph 6.12, a **"Covered Party"**) shall be subject to the provisions of Rule 106 in relation to Confidential Material as if it were the Clearing House and Rule 106 applied in relation to Confidential Material. Without prejudice to the generality of the foregoing, each Covered Party shall be deemed to have agreed:

- (i) to maintain confidentiality as to all aspects of any procedures under this paragraph 6, including, without limitation, the presentation of any Issue to a Regional CDS Committee, any discussions, deliberations, proceedings or results of any binding or non-binding vote relating to an Issue, any Written Materials or Oral Arguments, or any determinations produced by these proceedings (the **"Confidential Material"**); and
- (ii) not to use any Confidential Material for its own benefit or the benefit of any of its Affiliates.

- (b) In the event that a Covered Party is served with or otherwise subject to legal process (including subpoena or discovery notice) requiring it to testify about, to produce, or otherwise to divulge Confidential Material, to the extent permitted by law the Covered Party subject to such process will as soon as practicable inform the Clearing House and the provider(s) of such Confidential Material or the Regional CDS Clearing Members to which such Confidential Information relates (each a **"Provider"**) (or, if the Covered Party is unsure of the Provider, will inform all Regional CDS Clearing Members for the relevant CDS Region) so that the Clearing House or any Provider may seek a protective order, injunction or other remedy. In the event that such protective order, injunction or other remedy has not been obtained and the Covered Party is advised, in the opinion of counsel, that it is legally compelled to disclose any of the Confidential Material, the Covered Party may disclose only such Confidential Material so advised to be disclosed.

**6.13 Waiver of liability and disclaimer re Regional CDS Committee, Committee Members, Panel Members and Dispute Resolver**

- (a) Each Clearing Member, each Customer of any Clearing Member and the Clearing House shall be deemed to agree:
  - (i) that no Regional CDS Committee, Committee Member, Panel Member or Dispute Resolver and no legal counsel or other third-party professional retained by any Regional CDS Committee, Committee Member, Panel Member or Dispute Resolver in connection with any Regional CDS Committee, Committee Member, Panel Member or Dispute Resolver's performance of its duties under the Rules shall be liable, whether for negligence or otherwise, to any Clearing Member, any Customer of a Clearing



## CDS PROCEDURES CLEARING

Member or the Clearing House for any form of damages, whether direct, indirect, special, consequential or otherwise, that might arise in connection with any Regional CDS Committee, Committee Member, Panel Member or Dispute Resolver's performance of its duties, or any advice given by legal counsel or any other third-party professional retained by any Regional CDS Committee, Committee Member, Panel Member or the Dispute Resolver in connection with any Regional CDS Committee, Committee Member, Panel Member or the Dispute Resolver's performance of its duties, under the Rules, except in the case of gross negligence, fraud or wilful misconduct on the part of the relevant Regional CDS Committee, Committee Member, Panel Member or Dispute Resolver, legal counsel or other third-party professional, as applicable; and

- (ii) to waive any claim, whether for negligence or otherwise, that may arise against any Regional CDS Committee, Committee Member, Panel Member or the Dispute Resolver and any legal counsel or other third-party professional retained by any Regional CDS Committee, Committee Member, Panel Member or the Dispute Resolver in connection with any Regional CDS Committee, Committee Member, Panel Member or the Dispute Resolver's performance of its duties under the Rules, except in the case of gross negligence, fraud or wilful misconduct on the part of the relevant Regional CDS Committee, Committee Member, Panel Member or Dispute Resolver, legal counsel or other third-party professional, as applicable.

- (b) No Regional CDS Committee, Committee Member, Panel Member or Dispute Resolver and no outside legal counsel or other third-party professional retained by any Regional CDS Committee, Committee Member, Panel Member or Dispute Resolver in connection with any Regional CDS Committee, Committee Member, Panel Member or Dispute Resolver's performance of its duties under the Rules shall undertake any duty of care or otherwise be liable to the Clearing House or any Clearing Member or any Customer of any Clearing Member for any form of damages, whether direct, indirect, special, consequential or otherwise, that might arise in connection with any Regional CDS Committee, Committee Member, Panel Member or Dispute Resolver's performance of its duties, or any advice given in connection with any Regional CDS Committee, Committee Member, Panel Member or Dispute Resolver's performance of its duties, under the Rules, except in the case of gross negligence, fraud or wilful misconduct on the part of the relevant Regional CDS Committee, Committee Member, Panel Member or Dispute Resolver, legal counsel or other third-party professional, as applicable. No Regional CDS Committee, Committee Member, Panel Member or Dispute Resolver and no outside legal counsel or other third-party professional retained by any Regional CDS Committee, Committee Member, Panel Member or Dispute Resolver shall undertake any duty or otherwise be liable to the Clearing House or any Clearing Member or any Customer of a Clearing Member for any action, including one based on negligence, that might arise in connection with any Regional CDS Committee, Committee Member, Panel Member or Dispute Resolver's performance of its duties, or any advice given by legal counsel or any other third-party professional retained by any Regional CDS Committee, Committee Member, Panel Member or Dispute Resolver in connection with any Regional CDS Committee, Committee Member, Panel Member or Dispute Resolver's performance of its duties, under the Rules, except in the case of gross negligence, fraud or wilful misconduct on the part of the relevant Regional CDS Committee, Committee Member, Panel Member or Dispute Resolver, legal counsel or other third-party professional, as applicable. Notwithstanding the above, outside legal counsel or a third-party professional retained by a Regional CDS Committee, Committee Member, Panel Member or Dispute Resolver may still be liable to such Regional CDS Committee, Committee Member, Panel Member or Dispute Resolver.

- (c) Nothing in this paragraph 6.13 shall restrict or exclude any liability of any outside legal counsel or third-party professional retained by a Regional CDS Committee, Committee Member, Panel Member or Dispute Resolver to its client or any other person that retained it or paid for its services. This paragraph 6.13 shall apply to any acts or omissions of a Clearing Member only in

its capacity as a Committee Member, Panel Member or member of the Regional CDS Committee. Nothing in this paragraph 6.13 shall restrict or exclude the liability of any Clearing Member under any CDS Contract or otherwise under the Rules.

**7. CLEARING HOUSE CDS CONTRIBUTIONS**

- 7.1 The Clearing House CDS Contributions shall be calculated as set out in this paragraph 7.
- 7.2 On or before the first date on which Clearing Members are required to transfer CDS Guaranty Fund Contributions to the Clearing House, the Clearing House CDS Initial Contribution shall be the EUR equivalent of USD 10 million, calculated at the exchange rate specified in paragraph 2.2 of the Finance Procedures on the first date on which Clearing Members are required to transfer CDS Guaranty Fund Contributions to the Clearing House. Thereafter, the Clearing House may increase the Clearing House CDS Initial Contribution from time to time and shall be obliged on or prior to the first anniversary of the Customer Integration Date to have made an aggregate Clearing House CDS Initial Contribution (including the initial USD 10 million equivalent) of the EUR equivalent of USD 25 million, calculated at the exchange rate specified in paragraph 2.2 of the Finance Procedures on the first anniversary of the Customer Integration Date. Such amounts are subject to any reduction following the application of any amount of Clearing House CDS Initial Contribution pursuant to Rule 1103.
- 7.3 If on or after the first anniversary of the Customer Integration Date, the value, determined in the same way in which the value of Guaranty Fund Contributions is calculated, of the assets constituting the Clearing House CDS Initial Contribution is below the required amount of the Clearing House CDS Initial Contribution because of a decrease in the value of assets representing such Clearing House CDS Initial Contribution (including such decreases that occurred prior to such first anniversary or as the result of investments of the Clearing House CDS Initial Contribution, but excluding decreases resulting from the application of any amount of Clearing House CDS Initial Contribution pursuant to Rule 1103 and excluding any decreases due to exchange rate fluctuations described in paragraph 7.9), the Clearing House shall be required, by the open of business on the following Business Day, to make additional Clearing House CDS Initial Contributions sufficient to cause the assets constituting the Clearing House CDS Initial Contribution to have a value, determined in the same way in which the value of Guaranty Fund Contributions is calculated but excluding the effects of any exchange rate fluctuations as aforesaid, of at least the required amount in EUR of the Clearing House CDS Initial Contribution.
- 7.4 The Clearing House may make Clearing House CDS GF Contributions and, by the second anniversary of the Customer Integration Date, shall be obliged to have made Clearing House CDS GF Contributions (net of any decreases resulting from the application of any amount of Clearing House CDS GF Contributions pursuant to Rule 1103) on or before such second anniversary of the Customer Integration Date of at least the EUR equivalent of USD 25 million, calculated at the exchange rate specified in paragraph 2.2 of the Finance Procedures on the second anniversary of the Customer Integration Date (from time to time, the aggregate amount of Clearing House CDS GF Contributions being reduced by any application of any amount of Clearing House CDS GF Contributions pursuant to Rule 1103 for such period as is permitted under this paragraph 7.4). If, prior to the second anniversary of the Customer Integration Date, the aggregate amount of Clearing House CDS GF Contributions is reduced by any application of any amount of Clearing House CDS GF Contributions pursuant to Rule 1103, the Clearing House shall be required, by the open of business on the following Business Day, to contribute additional Clearing House CDS GF Contributions equal to the amount by which the Clearing House CDS GF Contribution was applied and such additional amount shall constitute part of the Clearing House CDS GF Contribution.
- 7.5 If on or after the second anniversary of the Customer Integration Date, the value, determined in the same way in which the value of Guaranty Fund Contributions is calculated, of the assets constituting the Clearing House CDS GF Contribution is below the required amount of the Clearing House CDS GF Contribution because of a decrease in the value of assets representing such Clearing House CDS GF Contribution (excluding any decreases due to exchange rate fluctuations described in paragraph 7.9) or the application of any amount of Clearing House CDS GF Contribution pursuant to Rule 1103, the

Clearing House shall be required, by the open of business on the following Business Day, to make additional Clearing House CDS GF Contributions sufficient to cause the assets constituting the Clearing House CDS GF Contribution to have a value, determined in the same way in which the value of Guaranty Fund Contributions is calculated but excluding the effects of any exchange rate fluctuations as aforesaid, of at least the required amount in EUR of the Clearing House CDS GF Contribution.

- 7.6 For the purposes of calculating the amount of any application of any amount of Clearing House CDS Contribution pursuant to Rule 1103, the value of the Clearing House CDS Contribution shall be determined in EUR as of the date of such application. Subject to paragraph 7.9, any deficiency of the actual Clearing House CDS Contributions relative to the required amounts at the time of application shall remain the liability of the Clearing House, notwithstanding anything to the contrary in the Rules or Procedures.
- 7.7 The Clearing House may make withdrawals from accounts containing the Clearing House CDS Initial Contribution or Clearing House CDS GF Contribution only to the extent the value of the relevant assets exceeds the required EUR requirement. The Clearing House may substitute assets constituting the Clearing House CDS Contributions only to the extent that assets constituting Guaranty Fund Contributions may be substituted by Clearing Members.
- 7.8 The Clearing House shall have no obligation to contribute any additional Clearing House CDS Contributions in any situation in which final sentence of Rule 209(c) or the final sentence of Rule 209(f) applies in respect of any Clearing Member, except in either case in respect of any due and unpaid amounts at the time of such occurrence.
- 7.9 Notwithstanding any other provision of this paragraph 7, the Clearing House shall not be obliged to top up any amount or part of any Clearing House CDS Contribution as a result of fluctuations in currency exchange rates between USD and EUR compared to the rates at which any EUR requirement for any Clearing House CDS Contribution was calculated, whether to ensure that any Clearing House CDS Contribution equals any USD amount specified in this paragraph 7 or otherwise. Notwithstanding any other provision of this paragraph 7, the Clearing House shall not be entitled to withdraw any amount or part of any Clearing House CDS Contribution as a result of fluctuations in currency exchange rates between USD and EUR compared to the rates at which any EUR requirement for any Clearing House CDS Contribution was calculated, whether to ensure that any Clearing House CDS Contribution equals any USD amount specified in this paragraph 7 or otherwise.

**8. CREDIT EVENTS AND PHYSICAL SETTLEMENT**

**8.1 General**

- (a) This paragraph 8 (including any dispute referred to below) is subject to paragraph 6.

**8.2 Not used.**

**8.3 Notices**

- (a) MP Notices delivered between a Matched CDS Buyer and a Matched CDS Seller shall be delivered in accordance with the terms of the CDS Contract, the Rules and these Procedures and, subject to this paragraph 8.3 and paragraph 8.4, Section 1.10 of the Credit Derivatives Definitions will apply to such notices. The Clearing House shall have no responsibility to any CDS Clearing Member to verify in any manner the contents of any MP Notice received by it.
- (b) In addition to any changes or corrections permitted under the Credit Derivatives Definitions, if the Regional CDS Committee (or applicable Dispute Resolver), where it is entitled under paragraph 6.2(d) to do so, announces that it has Resolved that a particular obligation is not a Deliverable Obligation or, where relevant, a Permissible Deliverable Obligation in respect of a Set of Matched CDS Contracts, a CDS Buyer that has specified such Deliverable Obligation in

its Notice of Physical Settlement or NOPS Amendment Notice for a Matched CDS Contract of such a Set shall have a single opportunity by notice in writing to the Clearing House, copied to the relevant CDS Seller in the Matched Pair, within three CDS Regional Business Days after the date of the relevant actual decision to Resolve (which shall be deemed to be the date of such announcement by the Regional CDS Committee and determined without regard to any Effectiveness Convention or any time of effectiveness specified in a Presented Position), to replace such Deliverable Obligation to the extent it has not been previously Delivered and the Clearing House will be deemed to have given written notice accordingly to such CDS Seller of equivalent changes in respect of any Notice of Physical Settlement or NOPS Amendment Notice it has (or is deemed to have) delivered.

- (c) In addition to the restrictions in Rule 1505, any purported delivery of a Notice to Exercise Movement Option outside the NEMO Triggering Period shall not amount to valid delivery of that notice and shall be disregarded by the Clearing House and Clearing Members.
- (d) The Clearing House will circulate, by e-mail to all relevant CDS Clearing Members prior to the start of the CEN Triggering Period:
  - (i) such details as it has received of CDS Clearing Members' address, fax number, telephone number, e-mail address and any other applicable notice details for the delivery of notices through the Manual Notice Process; and
  - (ii) the fax number and e-mail address of the Clearing House for the delivery of notices or copies or memoranda of notices through the Manual Notice Process or otherwise in connection with the Credit Event in question.

MP Notices delivered by CDS Clearing Members to other CDS Clearing Members or copied to the Clearing House pursuant to the Manual Notice Process or otherwise delivered to the Clearing House in connection with the Credit Event in question must be made to the contact details specified in such e-mail.

#### 8.4 Matched Pairs

- (a) Matched Pairs will not be allocated in respect of any CDS Contracts for which the applicable Settlement Method is "Auction Settlement" following the occurrence of any Applicable Credit Event other than Restructuring.
- (b)
  - (i) For any CDS Sub-Account where CDS Contracts are recorded on a "trade by trade" basis, CDS Contracts will be netted and/or aggregated (as if the CDS Sub-Account were held on a "net" basis) prior to the processing of any Restructuring Credit Event so as to reflect the equivalent of an Open Contract Position in the relevant Set in respect of such CDS Sub-Account.
  - (ii) Following the completion of the process in paragraph 8.4(b)(i), an algorithm shall be used by the Clearing House for purposes of allocating Matched Pairs under Rules 1507 and 1508. This algorithm shall minimise, to the extent reasonably practicable, each of the following:
    - (A) the number of Matched Pairs in respect of which the MP Amount is less than EUR 1,000,000 (or in the case of Sovereign Contracts USD1,000,000) (or such other amount as may be notified by the Clearing House by Circular, after consultation with the CDS Risk Committee) or not an integral multiple of such amount;

CDS PROCEDURES CLEARING

- (B) the number of Matched Pairs into which an individual Clearing Member is matched, provided that the MP Amount for any Matched Pair shall not exceed EUR 50,000,000 (or in the case of Sovereign Contracts USD10,000,000) (or such other amount as may be notified by the Clearing House by Circular, after consultation with the CDS Risk Committee) and further provided that this shall not preclude the same CDS Seller and CDS Buyer being matched with each other in respect of more than one Matched Pair;
  - (C) the overall number of Matched Pairs; and
  - (D) the number of, and notional amounts in, External RMPs.
- (c) For purposes of Rule 1507 and 1508, the Clearing House will allocate to each Matched Pair an MP Amount such that: (i) the sum of all MP Amounts of each CDS Buyer is equal to the aggregate Floating Rate Payer Calculation Amounts of such CDS Buyer in respect of all its CDS Contracts of such Set or Component Transactions of CDS Contracts of the same Set (as applicable); and (ii) the sum of all MP Amounts of each CDS Seller is equal to the aggregate of the Floating Rate Payer Calculation Amounts of such CDS Seller in respect of all its CDS Contracts of such Set or Component Transactions of CDS Contracts of the same Set (as applicable).
- (d) If the Clearing House is obliged to issue Matched Pair Notices pursuant to Rule 1507 or 1508, it will endeavour to do so as soon as reasonably practicable after the date of the last Acceptance Notice after the date on which new Bilateral CDS Transactions relating to the relevant Set become ineligible for Clearing under paragraph 4.12 or 4.13 (as applicable). The Clearing House shall issue Matched Pair Notices pursuant to Rule 1507 following an Applicable Credit Event other than a Restructuring Credit Event prior to 4:30 p.m. on the tenth calendar day following either the No Auction Announcement Date, Auction Cancellation Date or the day on which a Regional CDS Committee Credit Event Announcement relevant to the Set in question occurs, as applicable. The Clearing House shall issue Matched Pair Notices pursuant to Rule 1508 following a Restructuring Credit Event prior to 4:30 p.m. on the Business Day prior to the first day of the CEN Triggering Period. Such Matched Pair Notices may in either case be delivered by the Clearing House by e-mail or fax. If the Clearing House fails to issue Matched Pair Notices by the relevant deadline specified in this paragraph 8.4(d), any Credit Event Notices delivered by Clearing Members directly to the Clearing House after that time must be made by fax or e-mail to the contact details specified in accordance with paragraph 8.3(d).
- (e) Electronic Notice Process for Restructuring Matched Pairs.
- (i) Prior to the start of the Triggering Period, the Clearing House will ensure that there is a Triggering Account open for each CDS Clearing Member in a Restructuring Matched Pair.
  - (ii) Prior to the start of the Triggering Period, the Clearing House will provide each relevant CDS Clearing Member with details of its Triggering Account, including relevant passwords entitling the CDS Clearing Member to have access through Deriv/SERV to such Triggering Account and the records contained therein.
  - (iii) Once details of Restructuring Matched Pairs have been notified by the Clearing House to CDS Clearing Members pursuant to Rule 1508, the Clearing House and relevant CDS Clearing Members will adjust the records of CDS Contracts in the Production Accounts as required by the Clearing House to reflect the creation of such Restructuring Matched Pairs.
  - (iv) The Clearing House and the relevant CDS Clearing Members, acting through their relevant CDS Sub-Accounts to the extent necessary, will, on notification by the

## CDS PROCEDURES CLEARING

Clearing House of the Restructuring Matched Pairs as referred to in Rule 1508, delete from Deriv/SERV details of all CDS Contracts between the relevant CDS Clearing Member and the Clearing House to the extent that the Restructuring Matched Pairs in respect of such CDS Contracts are Internal RMPs. All CDS Contracts referable to such Internal RMPs shall at that time be terminated by operation of this provision, in respect of all future obligations (the consideration for the termination of the Matched CDS Buyer Contract forming part of the Matched CDS Contract to which the Internal RMP relates being the simultaneous termination of the related Matched CDS Seller Contract forming part of such Matched CDS Contract). Thereafter such Internal RMPs shall not be or be treated as Restructuring Matched Pairs or CDS Contracts for the purposes of the Rules or Procedures. Each CDS Clearing Member which is notified of an Internal RMP undertakes to reflect any internal departmental or between-branch payment flows or other arrangements resulting from such Internal RMP in its own internal systems to the extent that it considers this to be appropriate or necessary.

- (v) Prior to the start of the Triggering Period, the Clearing House will create copies of the records of each External RMP in the Triggering Account of each relevant CDS Clearing Member, each such External RMP being identified in the relevant Triggering Account by reference to a serial number which enables CDS Clearing Members to map External RMPs to their CDS Sub-Accounts if they so wish. Triggering Accounts shall not give rise to the creation of any additional CDS Contracts or the duplication of any existing CDS Contracts.
- (vi) Subject to paragraphs 8.4(e)(ix) and 8.4(e)(x):
  - (A) a CDS Clearing Member may only deliver Restructuring Credit Event Notices and Notices to Exercise Movement Option in relation to an External RMP in respect of which it is the Matched CDS Buyer or Matched CDS Seller through Deriv/SERV by delivery of such notice through the Triggering Account; and
  - (B) any Restructuring Credit Event Notice or Notice to Exercise Movement Option delivered in relation to any External RMP through the Production Accounts will be invalid and ineffective.
- (vii) Subject to paragraphs 8.4(e)(ix) and 8.4(e)(x), a Restructuring Credit Event Notice or Notice to Exercise Movement Option delivered by a CDS Clearing Member through its Triggering Account in relation to an External RMP recorded its Triggering Account will, provided that it is delivered within the time limits set for such delivery by the Contract Terms and otherwise satisfies the requirements of the Contract Terms and is submitted properly in accordance with the applicable regulations, rules and procedures of Deriv/SERV, be effective as:
  - (A) a delivery of such Restructuring Credit Event Notice or Notice to Exercise Movement Option (as applicable) by such CDS Clearing Member to the Clearing House in respect of the Matched CDS Buyer Contract or Matched CDS Seller Contract (as the case may be) between such CDS Clearing Member and the Clearing House forming part of the Matched CDS Contract to which such External RMP relates; and
  - (B) a delivery of such Restructuring Credit Event Notice or Notice to Exercise Movement Option (as applicable) by the Clearing House to the other CDS Clearing Member forming the relevant Restructuring Matched Pair in respect of the Matched CDS Seller Contract or Matched CDS Buyer Contract (as the case may be) between such CDS Clearing Member and the Clearing House

## CDS PROCEDURES CLEARING

forming part of the Matched CDS Contract to which such External RMP relates.

The time of delivery of any Restructuring Credit Event Notice or Notice to Exercise Movement Option shall be the time at which DTCC records the Restructuring Credit Event Notice or Notice to Exercise Movement Option, as applicable, as having been delivered.

- (viii) The Clearing House will provide CDS Clearing Members with a daily report during the Triggering Period with details of Restructuring Credit Event Notices and Notices to Exercise Movement Option that have been delivered by or to it pursuant to the Electronic Notice Process, with a separate report or combined report also including details of Restructuring Credit Event Notices and Notices to Exercise Movement Option that have been delivered by it or to it and notified to the Clearing House pursuant to the Manual Notice Process. Without prejudice to the generality of paragraph 8.4(e)(xiv), if the contents of any such report are disputed, paragraph 8.4(f)(iv) applies. At the end of the Triggering Period, the Clearing House and each CDS Clearing Member, to the extent that it has all necessary information, will adjust the records in the Production Accounts of the Matched CDS Contracts to which the External RMPs relate to reflect any Restructuring Credit Event Notices and Notices to Exercise Movement Option (and the consequences of such notices) delivered in relation to those External RMPs at the end of the Triggering Period, including, where appropriate, sub-dividing such Matched CDS Contracts to reflect Triggered Restructuring CDS Contract Portions, pursuant to Section 3.9 of the Credit Derivatives Definitions. If the Manual Notice Process has been used by the CDS Clearing Member, after the end of the Triggering Period, the Clearing House and relevant CDS Clearing Members will also adjust the records in the Production Accounts of the Matched CDS Contracts to which the External RMPs relate to reflect any Restructuring Credit Event Notices and Notices to Exercise Movement Option (and the consequences of such notices) delivered in relation to those External RMPs pursuant to the Manual Notice Process, in accordance with paragraph 8.4(f). After the end of the CEN Triggering Period or NEMO Triggering Period, whichever is the later, and once the process as set out above in this paragraph 8.4(e)(viii) is complete and the Production Accounts have been fully updated, the records in the Triggering Accounts will serve only as a historical record of the service of notices. No settlement of any CDS Contracts will take place through the Triggering Accounts.
- (ix) In addition to as set out in paragraph 8.4(e)(x), a CDS Clearing Member (a "**Manual CDS Clearing Member**") shall be entitled to deliver Restructuring Credit Event Notices and Notices to Exercise Movement Option pursuant to the Manual Notice Process only if it is affected by a significant communications or information technology failure resulting in it being impossible or impractical for such CDS Clearing Member to deliver all or substantially all Restructuring Credit Event Notices or Notices to Exercise Movement Option (as applicable) in accordance with the Electronic Notice Process. If a CDS Clearing Member delivers any Restructuring Credit Event Notice or Notices to Exercise Movement Option (as applicable) in accordance with the Manual Notice Process:
- (A) it will be deemed to represent to the Clearing House that it is affected by a significant communications or information technology failure resulting in it being impossible or impractical for such CDS Clearing Member to deliver all or substantially all Restructuring Credit Event Notices or Notices to Exercise Movement Option (as applicable) in accordance with the Electronic Notice Process;

## CDS PROCEDURES CLEARING

- (B) it must deliver a notice signed by a senior officer (such as managing director or equivalent) of such CDS Clearing Member to the Clearing House certifying that it is affected by a significant communications or information technology failure resulting in it being impossible or impractical for it to deliver all or substantially all Restructuring Credit Event Notices or Notices to Exercise Movement Option (as applicable) in accordance with the Electronic Notice Process and that it has delivered one or more Restructuring Credit Event Notices or Notices to Exercise Movement Option (as applicable) in accordance with the Manual Notice Process promptly and, in any event, within 1 hour of it first doing so in respect of any Restructuring Credit Event (but shall not be required to provide a copy of any Restructuring Credit Event Notices or Notices to Exercise Movement Option (as applicable) until the time specified in paragraph 8.4(f));
- (C) the Clearing House will (1) publish a Circular as soon as reasonably practicable after receiving a notice pursuant to paragraph 8.4(e)(ix)(B) which will name the CDS Clearing Member involved, refer to such CDS Clearing Member as having been subject to a significant communications or information technology failure and specify any amended timelines applicable for the processing of the Restructuring Credit Event in question and (2) notify all CDS Clearing Members of the name of the Manual CDS Clearing Member by fax or e-mail within 1 hour;
- (D) the CDS Clearing Member must use reasonable endeavours to mitigate the effects on other CDS Clearing Members and the Clearing House of it using the Manual Notice Process, with reference to the principle that it is operationally simpler for all CDS Clearing Members to use the Electronic Notice Process and shall use reasonable endeavours to minimise the number of notices it delivers pursuant to the Manual Notice Process;
- (E) the CDS Clearing Member must revert to using the Electronic Notice Process (and cease using the Manual Notice Process) as soon as reasonably practicable;
- (F) the CDS Clearing Member must take reasonable endeavours to ensure that the communications or information technology issue does not recur; and
- (G) if a separate significant communications or information technology failure occurs in respect of the same Restructuring Credit Event, this paragraph 8.4(e)(ix) shall apply in full in respect of that separate failure.

Any CDS Clearing Member in a Restructuring Matched Pair with a Manual CDS Clearing Member must continue to use the Electronic Notice Process unless this paragraph 8.4(e)(ix) separately applies to it. For the avoidance of doubt, and without prejudice to the Clearing House's rights under Part 10 of the Rules or for breach of contract or misrepresentation, any breach by a Clearing Member of the provisions of this paragraph 8.4(e)(ix) shall not cause any Restructuring Credit Event Notice or Notice to Exercise Movement Option delivered otherwise in accordance with the Contract Terms to be invalid or ineffective.

- (x) If DTCC notifies the Clearing House that there has been a DTCC Failure:
  - (A) the Clearing House will (1) publish a Circular as soon as reasonably practicable after receiving such notice stating that a DTCC Failure has occurred, specifying a time (the "**DTCC Failure Time**") at which such DTCC Failure occurred and which may specify any amended timelines



**CDS PROCEDURES CLEARING**

applicable for the processing of the Restructuring Credit Event in question and (2) notify all CDS Clearing Members of the DTCC Failure by fax or e-mail within 1 hour;

- (B) from and including the DTCC Failure Time to but excluding the DTCC Resolution Time (as defined below), the Electronic Notice Process shall cease to be applicable and CDS Clearing Members may only deliver and receive Restructuring Credit Event Notices and Notices to Exercise Movement Option (as applicable) in accordance with the Manual Notice Process;
- (C) the validity of any Restructuring Credit Event Notices and Notice to Exercise Movement Option (as applicable) delivered in accordance with the Electronic Notice Process prior to the DTCC Failure Time will not be affected by the DTCC Failure; and
- (D) all Restructuring Credit Event Notices and Notices to Exercise Movement Option (as applicable) delivered or purported to be delivered in accordance with the Electronic Notice Process at or after the DTCC Failure Time to but excluding the DTCC Resolution Time will not be valid.

If, subsequent to a DTCC Failure, DTCC notifies the Clearing House that the DTCC Failure is no longer in effect:

- (1) the Clearing House will (x) publish a Circular as soon as reasonably practicable after receiving such notice stating the DTCC Failure is no longer in effect and specifying the time at which the Electronic Notice Process is to become available (the "**DTCC Resolution Time**") which time must be at least 30 minutes following the time of publication of the Circular but may be as late as 9 a.m. on a Business Day following the date of the Circular and (y) notify all CDS Clearing Members of the same by fax or e-mail within 1 hour; and
  - (2) subject to 8.4(e)(ix), as from the DTCC Resolution Time, CDS Clearing Members must cease delivering Restructuring Credit Event Notices and Notices to Exercise Movement Option (as applicable) pursuant to the Manual Notice Process and must instead deliver Restructuring Credit Event Notices and Notices to Exercise Movement Option (as applicable) in accordance with the Electronic Notice Process.
- (xi) If a Restructuring Credit Event Notice or Notice to Exercise Movement Option is delivered between a Matched Pair in accordance with the Electronic Notice Process and a separate Restructuring Credit Event Notice or Notice to Exercise Movement Option is delivered as between the same Matched Pair in accordance with the Manual Notice Process, then, subject to paragraph 8.4(e)(xii), the validity or priority of any such Restructuring Credit Event Notice or Notice to Exercise Movement Option in the event of any conflict will be determined in accordance with the Contract Terms.
  - (xii) If the Manual Notice Process is applicable, and a CDS Clearing Member is uncertain as to whether or not a Restructuring Credit Event Notice or Notice to Exercise Movement Option (as applicable) it attempted to deliver under the Electronic Notice Process has actually been delivered, or was delivered prior to the DTCC Failure Time, that CDS Clearing Member shall be entitled to deliver a Restructuring Credit Event Notice or Notice to Exercise Movement Option (as applicable) pursuant to the Manual

Notice Process to its Restructuring Matched Pair (copied to the Clearing House) specifying that such Restructuring Credit Event Notice or Notice to Exercise Movement Option (as applicable) is only to be effective to the extent that the other purported notice was not effective, provided that sufficient details are included of the notice attempted to be made under the Electronic Notice Process to allow the other party to the Restructuring Matched Pair and the Clearing House to identify the communications concerned. If the first Restructuring Credit Event Notice or Notice to Exercise Movement Option (as applicable) to which the attempted delivery related was actually delivered, then any subsequent Restructuring Credit Event Notice or Notice to Exercise Movement Option delivered in accordance with the requirements of this paragraph 8.4(e)(xii) shall be treated as not having been delivered.

- (xiii) If any Restructuring Credit Event Notice or Notice to Exercise Movement Option (as applicable) is delivered pursuant to the Manual Notice Process, CDS Clearing Members shall not re-enter details of that Restructuring Credit Event Notice or Notice to Exercise Movement Option (as applicable) pursuant to the Electronic Notice Process. Any delivery of a second Restructuring Credit Event Notice in such a manner shall be treated as delivery of an additional and separate Restructuring Credit Event Notice between the Restructuring Matched Pair. Any delivery of a second Notice to Exercise Movement Option for the same Triggered Restructuring Contract Portion in such a manner shall be disregarded.
- (xiv) Paragraphs 8.4(f)(iv), (ix), (x), (xi), (xii) and (xiii) (in the latter case in relation to disputes falling under paragraph 8.4(f)(xiii)(B) only) shall apply to notices delivered pursuant to the Electronic Notice Process in the same way as such paragraphs apply to notices under the Manual Notice Process.
- (xv) The timing for processing of Restructuring Credit Event Notices or Notices to Exercise Movement Option (as applicable) after the end of the Triggering Period shall be the same as for the Manual Notice Process, in order to allow for any deliveries to the Clearing House of copies or memoranda of notices pursuant to the Manual Notice Process to be made after the end of the Triggering Period in the same way and pursuant to the same deadlines as for the Manual Notice Process.
- (xvi) For the avoidance of doubt, the Electronic Notice Process does not apply to Notices of Physical Settlement or NOPS Amendment Notices.

(f) Manual Notice Process.

The parties to a Matched Pair must only use the Manual Notice Process to deliver (1) Restructuring Credit Event Notices and Notices to Exercise Movement Option where permitted by paragraphs 8.4(e)(ix) or 8.4(e)(x); and (2) Notices of Physical Settlement and NOPS Amendment Notices. Restructuring Credit Event Notices and Notices to Exercise Movement Option delivered other than by the Electronic Notice Process will only be valid and effective if delivered by fax, e-mail or phone to the relevant contact address or number specified in accordance with paragraph 8.3(d). Notices of Physical Settlement and NOPS Amendment Notices between a Matched CDS Buyer and Matched CDS Seller in a Matched Pair pursuant to Rule 1509 may be delivered in any manner permitted for delivery of such notice in accordance with the terms of the CDS Contract and will only be valid and effective if delivered to the relevant contact address, fax number, telephone number or e-mail address provided in accordance with paragraph 8.3(d) (or as otherwise agreed between the parties in the Matched Pair and the Clearing House). Notwithstanding any provision of the terms of the CDS Contract, any notice under a Matched CDS Contract which is required to be copied or given to the Clearing House in accordance with the Rules must be copied or given to the Clearing House in writing or in any other manner permitted by the Clearing House.

## CDS PROCEDURES CLEARING

On each day on which an MP Notice is served pursuant to the Manual Notice Process:

- (i) Each MP Notice delivered by the Manual Notice Process shall be effective in accordance with Section 12 of the CDS Master Agreement, subject to this paragraph 8.4(f) and Section 1.10 of the Credit Derivatives Definitions.
- (ii) Each CDS Clearing Member in receipt of an MP Notice delivered other than by the Electronic Notice Process (each a "**Manual MP Notice**") or which has served a Manual MP Notice shall deliver a copy of such Manual MP Notice (if it was a written notice) or a written memorandum of such Manual MP Notice (if it was oral) to the Clearing House at or prior to 4:30 p.m. on the day on which the Manual MP Notice was served or purported to be served. Failure to deliver such a copy of a Manual MP Notice to the Clearing House shall not of itself result in the Manual MP Notice being invalid.
- (iii) The Clearing House shall deliver copies of each copy or memorandum of a Manual MP Notice received by it under and in accordance with paragraph 8.4(f)(ii) to both CDS Clearing Members in each relevant Matched Pair at or prior to 6:00 p.m. on the day on which the copy or memorandum was delivered to it.
- (iv) If a CDS Clearing Member wishes to dispute any Manual MP Notice of which a copy or a memorandum was delivered to it by the Clearing House under paragraph 8.4(f)(iii) (or, to the extent that this paragraph 8.4(f)(iv) is applicable pursuant to paragraph 8.4(e)(xiv), wishes to dispute a Credit Event Notice or Notice to Exercise Movement Option referred to in a daily report under paragraph 8.4(e)(vii)), that CDS Clearing Member must inform the Clearing House of the existence of the dispute prior to the Notification Cut-off Time, and will use reasonable endeavours to inform the Clearing House within 1 hour of the report, copy or memorandum (in which the disputed notice is referred to) is first delivered to it by the Clearing House.
- (v) [Not used].
- (vi) Subject to paragraph 8.4(f)(ix) below, neither the failure of any CDS Clearing Member to deliver a copy or memorandum of a Manual MP Notice to the Clearing House nor the failure of the Clearing House to deliver a copy or memorandum of a Manual MP Notice to any CDS Clearing Member of itself shall result in any notice under a CDS Contract being invalid.
- (vii) Notwithstanding any breach of paragraph 8.4(f)(ii) and without prejudice to any liabilities resulting from such breach, a CDS Clearing Member shall inform the Clearing House as soon as practicable upon becoming aware that a copy or memorandum of any Manual MP Notice was not delivered to the Clearing House on time, providing a copy or memorandum of such Manual MP Notice.
- (viii) Where neither CDS Clearing Member in a Matched Pair deliver a copy or memorandum of a Manual MP Notice to the Clearing House until after the Notification Cut-off Time;
  - (A) If such CDS Clearing Members do not dispute that such notice was delivered between themselves correctly in accordance with the Contract Terms (excluding this paragraph 8.4(f)), the Clearing House will permit the parties to settle the relevant CDS Contracts through the clearing system as if the notice had been copied to the Clearing House before the Notification Cut-off Time, provided that the Clearing House is notified of the notice prior to 4:30 p.m. on the Business Day prior to the DTCC event processing end date (as determined by DTCC for the Credit Event in question). With respect to

**CDS PROCEDURES CLEARING**

Restructuring Credit Event Notices or Notices to Exercise Movement Option, the Clearing House shall only permit such settlement in relation to 3 CDS Contracts per CDS Clearing Member per Restructuring Credit Event. Once all 3 allocations have been used, the CDS Clearing Members may either agree to settle directly with each other under Rule 1514 (CDS Alternative Delivery or Settlement Procedure, read for purposes of this paragraph 8.4(f)(viii)(A) only as if Rule 1514 applied to auction and cash settlement in addition to physical settlement) or, without such agreement, pursue a claim against each other in accordance with paragraphs 8.4(f)(ix) to 8.4(f)(xiii); and

- (B) If such CDS Clearing Members do dispute that such notice was delivered between themselves correctly in accordance with the Contract Terms (excluding this paragraph 8.4(f)), ~~paragraph~~paragraphs 8.4(f)(ix) to 8.4(f)(xiii) shall apply.
- (ix) Any dispute between any CDS Clearing Members in a Matched Pair or between any CDS Clearing Member in a Matched Pair and the Clearing House in relation to the effectiveness of any MP Notice or the issue of whether any MP Notice was served shall be resolved by arbitration under Rule 117. The two CDS Clearing Members in a Matched Pair and the Clearing House shall each be deemed to agree to joinder of any separate arbitrations under Rule 117 between either of the two CDS Clearing Members in the Matched Pair and the Clearing House.
- (x) Until such time as any dispute concerning an MP Notice is resolved, the Clearing House shall be entitled to calculate Margin requirements for each of the CDS Clearing Members in a Matched Pair based on the maximum Margin requirement for each of the CDS Clearing Members that could result, in the opinion of the Clearing House, from any reasonably foreseeable outcome of any such dispute.
- (xi) Unless and until such time as any dispute concerning an MP Notice is resolved, the Clearing House shall not be obliged to take any step that would have been required of it were the MP Notice to have been validly served.
- (xii) Upon the rendering of a final decision pursuant to such arbitration, the Clearing House and the relevant CDS Clearing Members shall take such actions with respect to the disputed CDS Contract as the Clearing House determines appropriate to give effect to such decision, which may include, without limitation, effecting settlement pursuant to the Transaction Auction Settlement Terms and termination of the related CDS Contract, creating or increasing the parties' Open Contract Positions, paying any accrued but unpaid Fixed Amounts and/or recalculating the parties' Margin requirements, and the CDS Clearing Members shall perform their respective obligations in accordance with the Clearing House's determinations. Notwithstanding anything to the contrary herein or in any decision pursuant to such arbitration, the Clearing House shall not be obligated to take any other action nor shall the Clearing House be liable for any other damages, including, without limitation, punitive damages, consequential damages, incidental damages, lost profits, attorney's fees or other costs or pre- or post-judgment interest. Any other action or damages required by any such decision shall be the direct obligation of the relevant CDS Clearing Members to each other, and such CDS Clearing Members shall be entitled to pursue directly against each other whatever legal remedies may be available. For the avoidance of doubt, the Clearing House shall have no liability with respect to any such legal remedies between such CDS Clearing Members and the Clearing House shall have no obligation to participate in any related proceeding.
- (xiii) If the Clearing House receives notice, from either the CDS Seller or the CDS Buyer in a Matched Pair, after the Notification Cut-Off Time, in respect of an MP Notice that:

## CDS PROCEDURES CLEARING

- (A) Such MP Notice was allegedly timely delivered between the parties in such Matched Pair but a copy or memorandum thereof was not delivered to the Clearing House before the Notification Cut-Off Time; or
- (B) Such MP Notice is under dispute as to whether it was timely delivered between the parties in such Matched Pair,

then the Clearing House will notify the other party in such Matched Pair as soon as reasonably practicable. Upon such notification by the Clearing House, the CDS Buyer and CDS Seller in such Matched Pair shall be directly liable to each other, and shall be entitled to pursue directly against each other whatever legal remedies may be available, for the difference between (x) their respective Open Contract Positions (or proceeds thereof) in the relevant CDS Contract at the Clearing House by virtue of such notice being invalid against the Clearing House (in the case of (A) above) or by virtue of the Clearing House acting based on its interpretation of the notice it received that was not timely delivered (in the case of (B) above) and (y) what such Open Contract Positions (or proceeds thereof) would have been if a copy of such allegedly valid MP Notice was validly provided to and given effect by the Clearing House at the time, if any, such MP Notice was validly delivered between the parties to the Matched Pair. For the purpose only of pursuing any such legal remedies for the difference between (x) and (y), the CDS Buyer and the CDS Seller in such Matched Pair shall be entitled to enforce the terms of their respective CDS Contracts against each other as if each of them were the counterparty to the other in place of the Clearing House, including the right to have the dispute settled pursuant to arbitration under Rule 117. With respect to the determination of such legal remedies, the validity of any allegedly valid MP Notice as between the relevant CDS Buyer and CDS Seller in the Matched Pair shall be unaffected by whether or not such notice is valid against the Clearing House. For the avoidance of doubt, but without prejudice to any liability or obligation of the Clearing House, the Clearing House shall have no liability with respect to any such MP Notice a copy of which was not timely and properly delivered to the Clearing House or a dispute with respect to which was not timely and properly notified to the Clearing House, including, without limitation, with respect to any such legal remedies between the CDS Buyer and CDS Seller in such Matched Pair, and the Clearing House shall have no obligation to participate in any related proceeding.

### 8.5 **Delivery of Non DVP Obligations and Physical Settlement Amounts:**

The following deadlines apply for the delivery of Non DVP Obligations and Physical Settlement Amounts for purposes of Rule 1510:

- (a) The Matched CDS Buyer shall notify the Clearing House under Rule 1510(a)(i) of readiness to deliver at or prior to 4:30 p.m. on the Business Day prior to the date on which Delivery is scheduled to occur. In such notice, the Matched CDS Buyer shall also specify the amount of any expenses to be payable to the Matched CDS Buyer under paragraph 9.2(c)(vi) of the Credit Derivatives Definitions.
- (b) The Clearing House shall notify the Matched CDS Seller under Rule 1510(a)(ii) of its obligation to pay the Clearing House (of the Physical Settlement Amount in respect of the relevant Non DVP MP Amount and any amounts in respect of expenses notified by the CDS Buyer) pursuant to a request for payment through ECS in accordance with the Finance Procedures. Pursuant to the Finance Procedures, such a request for payment would standardly occur during the evening of the Business Day, or before 8 a.m. on the Business Day following the Business Day, after receipt of the notice referred to in Rule 1510(a)(i) and paragraph 8.5(a).
- (c) The Matched CDS Seller shall pay the Clearing House under Rule 1510(a)(iii) such amounts as are due pursuant to the payment requested through ECS pursuant to the Finance Procedures.

## CDS PROCEDURES CLEARING

Pursuant to the Finance Procedures, payment would standardly be due and payable at 9:00 a.m. on the Business Day immediately following the date on which the Matched CDS Buyer notified the Clearing House of its readiness to deliver under Rule 1510(i) and paragraph 8.5(a), provided that the request for payment through ECS had occurred in a timely manner in accordance with paragraph 8.5(b).

- (d) The Clearing House shall notify the Matched CDS Buyer under Rule 1510(a)(iv) that it has received payment at or prior to 4:30 p.m. on the same Business Day as the Clearing House receives payment under Rule 1510(a)(iii), provided that payment is received by the Clearing House at or prior to 9:00 a.m. on the same Business Day as described in paragraph 8.5(c).
- (e) The Delivery Period shall be 3 Business Days starting on the date following receipt by the CDS Buyer of the notice referred to in Rule 1510(a)(iv) and paragraph 8.5(d) (exclusive of the date of receipt of such notice).
- (f) The Matched CDS Seller shall notify the Clearing House under Rule 1510(a)(vi) that Delivery has occurred by 4:30 p.m. on the same Business Day on which the Matched CDS Seller receives Delivery of the relevant Deliverable Obligations. Notices received after 4:30 p.m. will be deemed received on the next following Business Day, unless the Clearing House agrees otherwise.
- (g) The Clearing House shall be obliged to pay the Physical Settlement Amount (or, where the Matched CDS Seller notified the Clearing House of Delivery in part only, an amount equal to the Delivered Percentage of the Physical Settlement Amount) in respect of the relevant Non DVP MP Amount and any expenses due to the CDS Buyer under paragraph 9.2(c)(vi) of the Credit Derivatives Definitions through payments or transfers through ECS in accordance with the Finance Procedures. Pursuant to the Finance Procedures, payment would standardly be due and payable at 9:00 a.m. on the Business Day following the Business Day on which the Clearing House receives the notice referred to in Rule 1510(a)(vi) and paragraph 8.5(f).
- (h) The first date on which the Matched CDS Seller may serve notice on the Clearing House under Rule 1510(a)(viii) requesting the Clearing House to repay the Physical Settlement Amount in respect of the Non DVP MP Amount, less the Delivered Percentage of such Physical Settlement Amount, is the first Business Day following the end of the Delivery Period.

### **8.6 Disputes Relating to Deliverable Obligations**

- (a) Prior to accepting Delivery of a particular obligation pursuant to a Notice of Physical Settlement or NOPS Amendment Notice, a CDS Seller may challenge whether the obligation is a Deliverable Obligation or, as applicable, a Permissible Deliverable Obligation under the terms of a Matched CDS Contract, unless the obligation is listed and remains listed as a Deliverable Obligation or, as applicable, a Permissible Deliverable Obligation in the Final List of Deliverable Obligations which is applicable to that Matched CDS Contract as of the applicable Delivery Date for such Deliverable Obligation. A challenge may only be made to the Regional CDS Committee to the extent that it is not restricted or prevented by paragraph 6.2(d). Any such challenge must be made in the form of the presentation of an Issue to the relevant Regional CDS Committee.
- (b) Subject to paragraph 8.6(c), any CDS Seller may refuse to accept Delivery of a particular obligation pursuant to a Notice of Physical Settlement or NOPS Amendment Notice if any challenge (as referred to in paragraph 8.6(a)) has been made by that CDS Seller (or any other CDS Clearing Member that is a CDS Seller in relation to CDS Contracts of the same Set) as to whether the obligation is a Deliverable Obligation or, as applicable, a Permissible Deliverable Obligation under the terms of the Matched CDS, until such time as the Determining Body Resolves and announces that such obligation is a Deliverable Obligation or, as applicable, a Permissible Deliverable Obligation under the terms of the Matched CDS Contract, provided

that if the obligation is listed and remains listed as a Deliverable Obligation or, as applicable, a Permissible Deliverable Obligation in the Final List of Deliverable Obligations which is applicable to that Matched CDS Contract as of the applicable Delivery Date for such Deliverable Obligation or, as applicable, a Permissible Deliverable Obligation, no such challenge may delay the acceptance by the CDS Seller of Delivery of such obligation.

- (c) Any CDS Seller proposing to refuse to accept Delivery as referred to in paragraph 8.6(b) must give notice forthwith to the Clearing House and to the Matched CDS Buyer in the relevant Matched Pair, specifying the Matched CDS Contracts to which the refusal relates. Delivery of such notice by the Matched CDS Buyer to the Matched CDS Seller shall constitute notice from the Clearing House to the Matched CDS Buyer of the Clearing House's refusal to accept Delivery of the relevant obligation.
- (d) The Clearing House shall issue a Circular concerning any challenge presented to the relevant Regional CDS Committee as to whether an obligation is a Deliverable Obligation or, as applicable, a Permissible Deliverable Obligation under the terms of a Matched CDS Contract and a further Circular concerning any Resolution thereof by the Regional CDS Committee.
- (e) As they relate to an obligation for which a challenge has been presented (as referred to in paragraph 8.6(a)) as to whether the obligation is a Deliverable Obligation or, as applicable, a Permissible Deliverable Obligation under the terms of a Matched CDS Contract, unless the obligation is listed and remains listed as a Deliverable Obligation or, as applicable, a Permissible Deliverable Obligation in the Final List of Deliverable Obligations or, as applicable, a Permissible Deliverable Obligation which is applicable to that Matched CDS Contract as of the applicable Delivery Date for such Deliverable Obligation or, as applicable, a Permissible Deliverable Obligation, time periods and related rights and remedies relating to settlement, for example, under Sections 9.9 and 9.10 of the Credit Derivatives Definitions and any applicable cap on settlement, shall be suspended for the period commencing on the date the challenge is first presented until the date of the relevant actual decision to Resolve (which shall be the date on which such decision is announced and determined without regard to any Effectiveness Convention or any time of effectiveness specified in a Presented Position) or, if later, the date on which ISDA publicly announces the resolution of the relevant Credit Derivatives Determinations Committee as to whether or not such obligation is a Deliverable Obligation or, as applicable, a Permissible Deliverable Obligation under the terms of a physically settled CDS Contract.

**8.7 Physical Settlement Costs**

- (a) Any payments required in relation to any costs or expenses of settlement of a Matched CDS Contract in accordance with the Fallback Settlement Method (other than the expenses referred to in paragraph 8.5) shall be made in the following manner:
  - (i) where, but for this paragraph 8.7(a), any such payment would fall to be made by the Clearing House to the Matched CDS Buyer or Matched CDS Seller, as though the Matched CDS Seller or the Matched CDS Buyer in the Matched Pair (as applicable, being in any case the person in the Matched Pair to whom payment would not be due from the Clearing House) were designated by the Clearing House to make such payment on its behalf;
  - (ii) where, but for this paragraph 8.7(a), any such payment would fall to be made to the Clearing House by the Matched CDS Buyer or Matched CDS Seller, as though the Matched CDS Seller or the Matched CDS Buyer in the Matched Pair (as applicable, being in any case the person in the Matched Pair to whom payment would but for this paragraph 8.7(a) be due from the Clearing House) were designated by the Clearing House to receive such payment on its behalf;

## CDS PROCEDURES CLEARING

- (iii) where a Matched CDS Seller or Matched CDS Buyer is designated to make payment pursuant to Rule 1509 and this paragraph 8.7(a) and makes a relevant payment direct to the other party in the Matched Pair, the party that made payment shall not be entitled to any reimbursement from the Clearing House in respect of the payment (without prejudice to any rights of any Matched CDS Seller to Matched CDS Buyer where there is a failure to Deliver); and
- (iv) where a Matched CDS Seller or Matched CDS Buyer is designated to receive a payment pursuant to Rule 1509 and this paragraph 8.7(a) and receives a payment direct from the other party in the Matched Pair, the party that received payment shall not be obliged to remit any amount in respect of such payment to the Clearing House (without prejudice to any rights of the Clearing House where there is a failure to Deliver).
- (b) In relation to Non DVP Obligations, the Matched CDS Seller shall be liable to pay to the Clearing House, as referred to in paragraph 8.5(b), the amount of any expenses due to the Matched CDS Buyer pursuant to Section 9.2(c)(vi) of the Credit Derivatives Definitions, as notified to the Clearing House by the Matched CDS Buyer as referred to in paragraph 8.5(a).
- (c) For the avoidance of doubt, the Clearing House shall not be liable to a Matched CDS Buyer or Matched CDS Seller for any of the costs and expenses of settlement of the Matched CDS Buyer or Matched CDS Seller, other than as set out in paragraphs 8.5(g) and 8.7(b).
- (d) If the Clearing House incurs actual costs or expenses of settlement in respect of a Matched CDS Contract, the Matched CDS Seller or the Matched CDS Buyer in the Matched Pair (as applicable, being in any case the person in the Matched Pair that would incur or be liable for such costs or expenses were the Matched Pair to have been a CDS transaction between the Matched CDS Seller and the Matched CDS Buyer) shall be liable to reimburse the Clearing House in respect of such costs or expenses.

### 8.8 Margin in relation to Physical Settlement

- (a) Initial Margin, Mark-to-Market Margin and Physical Settlement Margin shall continue to be called and payable in relation to any CDS Contract or Component Transaction which is to be settled in accordance with the Fallback Settlement Method except to the extent that: (i) the Physical Settlement Amount has been paid to the Clearing House in cleared funds and not returned to the CDS Seller as referred to in Rule 1510 and paragraph 8.5; or (ii) the Physical Settlement Amount has been paid to the relevant CDS Clearing Member in the Matched Pair as designee of the Clearing House and such designee has notified the Clearing House that physical settlement is complete in accordance with Rule 1511.
- (b) Where any Physical Settlement Amount is payable to the Clearing House by a CDS Seller, the Clearing House acknowledges and agrees that, in accordance with Rules 302 and 303, it will apply any Margin or other available funds on account in order to satisfy the obligation to pay the Physical Settlement Amount and shall only call the CDS Seller for additional cash to the extent that relevant Margin is less than the Physical Settlement Amount.
- (c) Margin transferred to the Clearing House by a CDS Clearing Member shall cease to be payable by a CDS Clearing Member (and shall be released by the Clearing House) in respect of any CDS Contract after the time at which the CDS Clearing Member has notified the Clearing House in accordance with Rule 1511 that settlement has, so far as it is aware, occurred successfully.

### 8.9 Auction Settlement and Cash Settlement

Where a CDS Contract is to be settled in circumstances in which Rule 1514 does not apply, relevant cash payments between the Clearing House and CDS Clearing Members will take place through DTCC using



## CDS PROCEDURES CLEARING

CLS, unless otherwise specified by the Clearing House in a Circular prior to the date on which such cash payments are due.

### 8.10 CDS Alternative Delivery or Settlement Procedure

- (a) CADP Notices received by the Clearing House after 15:00 hours will be deemed to have been received on the next Business Day.
- (b) CADP Notices must be submitted in the form published by the Clearing House from time to time.

### 9. CLEARED CDS PRODUCTS: ELIGIBLE SETS

- 9.1 The index series in respect of which CDS Contracts are eligible for Clearing are as notified from time to time by the Clearing House to Clearing Members by Circular. Each index series with an identical maturity and name will initially form a Set.
- 9.2 The Clearing House may add to, amend or make deletions from the list of index series for CDS Contracts eligible for Clearing by issuing a Circular. Any such addition, amendment or deletion, other than the updating of any Index Series following the occurrence of an Applicable Credit Event or Succession Event, shall be made following consultation with the CDS Risk Committee.
- 9.3 CDS Contracts on certain single names are eligible for Clearing, as set out in Circulars published by the Clearing House from time to time, each item mentioned as eligible in any such Circular initially forming a Set. The Clearing House may add to, amend or make deletions from such list, following consultation with the CDS Risk Committee, by issuing a further Circular.
- 9.4 The Clearing House will not make available for Clearing any Set of CDS Contracts which, having made reasonable enquiries, it is aware would not meet the requirements of the exemption granted by the Securities and Exchange Commission, exempting the Clearing House, Clearing Members and certain other third parties from the U.S. Securities Exchange Act of 1934 and the Securities Act of 1933 with respect to cleared CDS. Such requirements include that, in order to be eligible as a Set, the reference entity, the issuer of the reference security, or the reference security must be one of the following, for purposes of laws of the United States: (i) an entity reporting under the Exchange Act, providing Securities Act Rule 144A(d)(4) information, or about which financial information is otherwise publicly available; (ii) a foreign private issuer whose securities are listed outside the United States and that has its principal trading market outside the United States; (iii) a foreign sovereign debt security; (iv) an asset-backed security, as defined in Regulation AB, issued in a registered transaction with publicly available distribution reports; (v) an asset-backed security issued or guaranteed by Fannie Mae, Freddie Mac or Ginnie Mae; or (vi) independent indexes comprised of these entities or securities, provided that an index will not be disqualified if, in the aggregate, reference entities (or reference securities) comprising 80% or more of the index's weighting satisfy the above information conditions with regard to reference entities or reference securities.

### 10. CONTRACT TERMS FOR ALL CDS CONTRACTS

- 10.1 This paragraph 10 specifies additional Contract Terms applicable to all CDS Contracts cleared by the Clearing House to which the Credit Derivatives Definitions apply by virtue of the Contract Terms:
  - (a) Subject to Rule 109, if a Convened DC (as defined in the DC Rules) resolves, pursuant to Section 3.8(a) of the DC Rules, (i) a question of interpretation regarding the provisions of the Protocol (as defined in the DC Rules) or (ii) to make any amendments to Schedule 1 of the Protocol, in each case that affect a CDS Contract, the Clearing House shall, as promptly as practicable, make conforming changes to these CDS Procedures in order to implement such resolutions.

**CDS PROCEDURES CLEARING**

- (b) Section 3.2(c)(i) of the Credit Derivatives Definitions is hereby amended by replacing "or" at the end of sub-paragraph (B) thereof with "and" and adding the following sub-paragraph (C): "(C) the tenth calendar day after the date of the Regional CDS Committee Credit Event Announcement (i.e., determined without regard to any Effectiveness Convention or any time of effectiveness specified in a Presented Position) or the actual decision by the relevant Dispute Resolver to Resolve".
- (c) Any reference in a CDS Contract to the 2003 ISDA Credit Derivatives Definitions (including any reference to the 2003 ISDA Credit Derivatives Definitions as supplemented or otherwise modified, including by incorporation of any additional provisions thereto (howsoever described) (the "**Existing Supplements**")) shall be deemed to be a reference to the 2003 ISDA Credit Derivatives Definitions as so supplemented and as further supplemented by the July 2009 Supplement.
- (d) When a Resolution of the Regional CDS Committee is effective, under paragraph 6, that a Potential Repudiation/Moratorium for which there is Publicly Available Information has occurred on or prior to the Scheduled Termination Date (determined by reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign (as such terms are defined in the 2005 Matrix Supplement), Tokyo time)) in relation to a CDS Contract (the "**Notified CDS Contract**"), as described in paragraph 6, provided that the question presented to the Regional CDS Committee concerning whether or not an event which constitutes a Potential Repudiation/Moratorium for purposes of such CDS Contract has occurred with respect to an Obligation of the relevant Reference Entity includes a description in reasonable detail of the facts and information required to be included in a Repudiation/Moratorium Extension Notice and a Notice of Publicly Available Information in relation to such Potential Repudiation/Moratorium and such question has been validly and properly received by the Regional CDS Committee (the date of such receipt, the "**Valid Receipt Date**") on or prior to the date that is fourteen calendar days after the Scheduled Termination Date of the relevant CDS Contract, the Repudiation/Moratorium Extension Condition will be deemed to be satisfied for the purposes of Section 4.6(d) of the Credit Derivatives Definitions with respect to all CDS Contracts (i) which relate to the same Reference Entity as the Notified CDS Contract, (ii) for which the event which constituted the Potential Repudiation/Moratorium in respect of the Notified CDS Contract would also constitute a Potential Repudiation/Moratorium falling not later than the Scheduled Termination Date (determined by reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign (as such terms are defined in the 2005 Matrix Supplement), Tokyo time)) and (iii) for which the Scheduled Termination Date (determined by reference to Greenwich Mean Time (or, if the Transaction Type of the relevant Reference Entity is Japan Corporate or Japan Sovereign (as such terms are defined in the 2005 Matrix Supplement), Tokyo time)) falls not earlier than fourteen calendar days before the Valid Receipt Date, whether or not such CDS Contracts become CDS Contracts prior to or after the effectiveness of such Resolution.
- (e) Except for purposes of Section 1.23 (*Credit Event Backstop Date*) of the Credit Derivatives Definitions or in respect of a Credit Event comprising a Restructuring Credit Event only, a Credit Event Notice and Notice of Publicly Available Information with respect to a CDS Contract will be deemed to have been effectively delivered by the Notifying Party when the Resolution of the Regional CDS Committee is effective, under paragraph 6, that a Credit Event has occurred for which there is Publicly Available Information, as described in paragraph 6.2(a)(iii), with respect to such CDS Contract. In respect of a Credit Event comprising a Restructuring Credit Event only, any Credit Event Notice specifying such Restructuring Credit Event, which is delivered in accordance with the Rules on or after the Resolution of the Regional CDS Committee is effective, under paragraph 6 of these CDS Procedures, that such Credit Event (for which there was Publicly Available Information) has occurred, shall be deemed to include a sufficient Notice of Publicly Available Information.

## CDS PROCEDURES CLEARING

- (f) Section 1.8(a)(ii)(A)(I)(3)(y) of the Credit Derivatives Definitions is hereby modified by replacing the term "Auction Final Price Determination Date" with the phrase "date that is one Relevant City Business Day prior to the Auction Settlement Date".
- (g) Section 1.30 of the Credit Derivatives Definitions is hereby modified by replacing the term "Auction Final Price Determination Date" in clause (ii) of the last sentence thereof with the phrase "date that is one Relevant City Business Day prior to the Auction Settlement Date".
- (h) Section 1.8(d) of the Credit Derivatives Definitions is hereby modified by replacing "If, in accordance with the provisions above," with "If, in accordance with the provisions above, or if, where applicable in accordance with Procedures, a Regional CDS Committee Credit Event Announcement has occurred and,".
- (i) The Settlement Method will be "Auction Settlement" and the Fallback Settlement Method will be "Physical Settlement" in accordance with paragraph 8 and the Rules.
- (j) Where a Credit Event Announcement has occurred in respect of a CDS Contract, the CDS Buyer may not deliver a Notice of Physical Settlement, and delivery of any Notice of Physical Settlement will not be effective, until such time as the method of settlement for a particular Credit Event becomes the Fallback Settlement Method due to the occurrence of one of the events in Section 12.1 of the Credit Derivatives Definitions and, as referred to in Rule 1505(b), the Clearing House has (or, pursuant to Rule 1508, should have) notified CDS Buyers and CDS Sellers of their Matched Pairs and associated MP Amounts. For the avoidance of doubt, the effectiveness of any Notice of Physical Settlement and obligations relating thereto are subject to the suspension and finality provisions of Sections 6.5 and 9.1(c)(iii) of the Credit Derivatives Definitions. This is in addition to the restrictions on the delivery of a Notice of Physical Settlement set out in paragraph 8.
- (k) In respect of a Regional CDS Committee Credit Event Announcement, the following modifications are made:
  - (i) Section 1.8(a)(ii) of the Credit Derivatives Definitions shall be deemed modified by adding, following the term "DC Credit Event Announcement" the phrase "or Regional CDS Committee Credit Event Announcement, as applicable,";
  - (ii) Section 1.8(a)(ii)(A) of the Credit Derivatives Definitions shall be deemed modified by adding, following the term "Credit Event Resolution Request Date" but before the comma the phrase "or the Event Determination Date Resolved by the Regional CDS Committee (or Dispute Resolver), as applicable";
  - (iii) Section 1.26(a) of the Credit Derivatives Definitions shall be deemed modified by inserting ";" or ";" at the end of subsection (iii) thereof but before the comma and adding the following as a new subsection (iv) at the end thereof:
    - (iv) if a Regional CDS Committee Credit Event Announcement occurs, the date that is 21 calendar days after the date of the actual decision by the relevant Regional CDS Committee (or Dispute Resolver) to Resolve (i.e. determined without regard to any Effectiveness Convention or any time of effectiveness specified in a Presented Position) that a Restructuring Credit Event has occurred for which there is Publicly Available Information, as described in paragraph 6.2(a)(iii) of the CDS Procedures with respect to the relevant CDS Contract,; and
  - (iv) Section 1.26(b) of the Credit Derivatives Definitions shall be deemed modified by inserting ";" or ";" at the end of subsection (ii) thereof but before the period and adding the following as a new subsection (iii) at the end thereof:

**CDS PROCEDURES CLEARING**

“(iii) a Regional CDS Committee Credit Event Announcement occurs, the date that is 21 calendar days after the date of the actual decision by the relevant Regional CDS Committee (or Dispute Resolver) to Resolve (i.e. determined without regard to any Effectiveness Convention or any time of effectiveness specified in a Presented Position) that a Restructuring Credit Event has occurred for which there is Publicly Available Information, as described in paragraph 6.2(a)(iii) of the CDS Procedures with respect to the relevant CDS Contract”.

- (I) Article IX of the Credit Derivatives Definitions is hereby amended by adding new Sections 9.1(e) and (f) as follows:

"(e) In respect of any Bilateral CDS Transaction which is accepted for Clearing, the CDS Buyer and CDS Seller shall be deemed to agree at the Acceptance Time:

- (i) except as otherwise expressly provided in the Rules or the Procedures of the Clearing House, notwithstanding any provision in the Master Agreement between a Clearing Member and the Clearing House that governs the relevant CDS Contract that describes an alternative mechanism for resolving, in the absence of agreement between CDS Buyer and CDS Seller, any matter that is determined by the relevant Regional CDS Committee, any determination by the relevant Regional CDS Committee that is applicable to such CDS Contract shall be binding on CDS Buyer and CDS Seller to the extent that such determination of the Regional CDS Committee is made either by reference to the terms of the Credit Derivatives Definitions or by reference to the terms of any additional provisions published by ISDA and incorporated in the related Confirmation and provided that the effect of such determination would not reverse the most recent determination (if any) of the Credit Derivatives Determinations Committee with regard to such matter:

(A) until such time as the Clearing House publicly announces that such determination of the Regional CDS Committee has been reversed by a subsequent determination of the Regional CDS Committee, if any, (subject to Section 9.1(e)(i)(B) below) or the Credit Derivatives Determinations Committee subsequently reaches a different determination with regard to such matter, provided that such subsequent determination of the Regional CDS Committee or the Credit Derivatives Determinations Committee shall have no effect in relation to any CDS Contract to the extent that a Settlement Date has occurred in relation to it; and/or

(B) unless the effect of such determination of the Regional CDS Committee would be to reverse a prior determination of the Regional CDS Committee or determination that an Event Determination Date has occurred, that has resulted in:

- (I) the identification of one or more Successors;
- (II) the identification of one or more Substitute Reference Obligations; or
- (III) the occurrence of a Physical Settlement Date, as applicable, or to the extent that a Valuation Date, Delivery Date or Termination Date, as applicable, has occurred, in each case, on or prior to the date that the Clearing House publicly announces such determination of the Regional CDS Committee;

**CDS PROCEDURES CLEARING**

- (C) notwithstanding the fact that:
    - (I) the Credit Derivatives Definitions, as supplemented, or the relevant additional provisions published by ISDA and incorporated in the related CDS Contract, as applicable, may require such determination to be made by the Calculation Agent; or
    - (II) in order to reach such determination of the Regional CDS Committee, the relevant Regional CDS Committee may be required to determine one or more factual matters before being able to reach such determination; and
  - (D) notwithstanding any actual or perceived conflict of interest on the part of a Committee Member of the Regional CDS Committee, legal counsel or other third-party professional retained by such Committee Member in connection with such Committee Member's performance of its duties under the Rules;
- (ii) that no Regional CDS Committee, Committee Member, Panel Member or Dispute Resolver is (A) under any obligation to research, investigate, supplement, or verify the veracity of, any information on which the relevant Regional CDS Committee bases its decision and (B) acting as a fiduciary for, or as an advisor to, CDS Buyer or CDS Seller in connection with the relevant CDS Contract;
  - (iii) that, in reaching any determination of the Regional CDS Committee that is applicable to such CDS Contract, none of the relevant Regional CDS Committee, any Committee Member, Panel Member or Dispute Resolver shall be under any requirement to consult with, or individually notify, CDS Buyer or CDS Seller, notwithstanding any provision of the Credit Derivatives Definitions, as supplemented, or of the relevant additional provisions published by ISDA and incorporated in the related Confirmation to the contrary; and
  - (iv) that, where the Regional CDS Committee decides not to determine an Issue or to dismiss an Issue, the CDS Buyer and CDS Seller will treat the Issue as not having been raised for consideration by the Regional CDS Committee."
- (m) For the purposes of Rule 1509 and 1510 and without prejudice to the representations given by the Clearing House and Clearing Members to one another pursuant to the Contract Terms and the Rules, Sections 9.2(a), 9.2(b), 9.2(c)(i) and 9.2(c)(iv) of the Credit Derivatives Definitions shall apply as between the Matched CDS Buyer and the Matched CDS Seller in a Matched Pair, such Matched CDS Buyer and Matched CDS Seller thereby having rights in respect of such representations for the purposes of the Contract (Rights of Third Parties) Act 1999, as though they were the Buyer and Seller respectively and Section 9.2(c)(iv) of the Credit Derivatives Definitions as incorporated in any CDS Contract shall be amended such that:
- (i) where the Clearing House is the designator, it is permitted to designate any Clearing Member specified in Rule 1509 as its designee, notwithstanding that it is not an Affiliate (as defined therein);
  - (ii) the phrase "deliver or receive any Notice of Physical Settlement (or NOPS Amendment Notice), Credit Event Notice, or Notice to Exercise Movement Option, or

**CDS PROCEDURES CLEARING**

Deliver or take Delivery or pay or receive payment of the Physical Settlement Amount" were written in place of the phrase "Deliver or take Delivery"; and

- (iii) the phrase "such delivery, receipt, Delivery or payment" were written in place of the phrase "such Delivery".
- (n) Solely for the purposes of Rules 1512 and 1513, Section 9.8(k) of the Credit Derivatives Definitions is amended by inserting the following at the beginning thereof:
  - (i) "For the purposes hereof, in addition to the requirements of Section 7.10, each firm Quotation shall:
    - (A) be for a transaction with the CDS Buyer (or its designee) (the "**Relevant Buyer**") in which, the Relevant Buyer agrees to Deliver the Deliverable Obligations to the Dealer submitting the firm quotation (the "**Quoting Dealer**"), which transaction shall be governed by documentation that is consistent with market practice applicable to the sale and purchase of Deliverable Obligations on the Valuation Date (which may be determined by the Determining Body), including without limitation a representation that the Quoting Dealer has completed all "know your customer" or similar requirements under all applicable laws, regulations and internal compliance procedures relating to a transaction with the Relevant Buyer and on the Reference Entity;
    - (B) be capable of acceptance by the Relevant Buyer (for such purposes, each firm Quotation must, inter alia, be obtained from a Dealer with whom the Relevant Buyer in its sole and absolute discretion determines that it is able in accordance with all its internal compliance and policy requirements to transact and to Deliver the Deliverable Obligations) and be open for acceptance to the relevant party for at least 30 minutes; and
    - (C) be obtained on the basis that if the Relevant Buyer agrees to Deliver the Deliverable Obligations to such Quoting Dealer on the terms set forth herein, such Quoting Dealer agrees to pay the settlement amount (calculated and payable for this purpose in accordance with the relevant market standard documentation and based on the price so quoted) that would be payable for such Deliverable Obligations to the Relevant Buyer,

provided that:-

(D) if Rule 1512 applies: (I) on the same Business Day that the CDS Buyer (as if it were Calculation Agent) has attempted to obtain all Quotations that the Calculation Agent is required to attempt to obtain in accordance with Section 9.8(k) of the Credit Derivatives Definitions, the CDS Buyer shall offer the Clearing House the opportunity to provide a Quotation as if the Clearing House were a Dealer in accordance with Section 9.8(k) of the Credit Derivatives Definitions; and (II) if the Quotation provided by the Clearing House is higher than any Quotation obtained by the CDS Buyer (as if it were Calculation Agent) from the Dealers in accordance with Section 9.8(k) of the Credit Derivatives Definitions (including, for the avoidance of doubt any Weighted Average Quotation) such Quotation shall be deemed be the Highest Quotation and the CDS Buyer (as if it were Calculation Agent) shall use such Quotation to determine the Final Price; and

(E) if Rule 1513(a)(ii) applies: (I) on the same Business Day that the Matched CDS Buyer (as if it were Calculation Agent) has attempted to obtain all Quotations that the Calculation Agent is required to attempt to obtain in accordance with Section 9.8(k) of

the Credit Derivatives Definitions, the Matched CDS Buyer shall offer the Clearing House the opportunity to provide a Quotation as if the Clearing House were a Dealer in accordance with Section 9.8(k) (as amended) of the Credit Derivatives Definitions; and (II) If the Quotation provided by the Clearing House is higher than any Quotation obtained by the Matched CDS Buyer (as if it were Calculation Agent) from the Dealers in accordance with Section 9.8(k) of the Credit Derivatives Definitions (including, for the avoidance of doubt any Weighted Average Quotation) such Quotation shall be deemed be the Highest Quotation and the Matched CDS Buyer (as if it were Calculation Agent) shall use such Quotation to determine the Final Price.

(ii) Otherwise,"

**11. CONTRACT TERMS FOR ITRAXX EUROPE CONTRACTS**

11.1 This paragraph 11 specifies the additional Contract Terms applicable to all CDS Contracts cleared by the Clearing House of a nature described in paragraph 9.1:

- (a) The provisions of paragraph 11.2 will apply in respect of all such CDS Contracts for which the Acceptance Time falls on or after the MCA/STS Changeover Time.
- (b) In respect of all such CDS Contracts for which the Acceptance Time falls before the MCA/STS Changeover Time, the provisions of paragraph 11.3 will apply until the MCA/STS Changeover Time and thereafter the provisions of paragraph 11.4 will apply.
- (c) The provisions of paragraph 11.5 will apply to all such CDS Contracts, irrespective of the date of the related Acceptance Time.

**11.2 iTraxx Europe (CDS Contracts with Acceptance Time on or after the MCA/STS Changeover Time)**

- (a) Definitions specific to this paragraph 11.2:
  - (i) **"iTraxx Contract"** means a CDS Contract in respect of any Eligible iTraxx Index and governed by any iTraxx Terms Supplement. Subject to the other requirements of these procedures, a CDS Contract will be an iTraxx Contract where the related Bilateral CDS Transaction specifies, as the relevant Index, any Eligible iTraxx Index, whether or not that Bilateral CDS Transaction is itself governed by an iTraxx Terms Supplement.
  - (ii) **"iTraxx Publisher"** means Markit Group Limited or one of its subsidiaries, or any successor sponsor of the Eligible iTraxx Indices it publishes.
  - (iii) **"iTraxx Rules"** means the provisions of the Rules and these CDS Procedures.
  - (iv) **"iTraxx Terms Supplement"** means each of the following: (a) a confirmation in the form of the confirmation (the **"iTraxx Confirmation"**) published on 23 November 2009 incorporating the iTraxx Europe Untranching Standard Terms Supplement as published on 23 November 2009 (the **"Standard iTraxx CDS Supplement"**) or such electronic equivalent thereto as is used by Deriv/Serv and (b) such other document or supplement as may be specified in relation to any Eligible iTraxx Index by the Clearing House including any successor to any of the documents listed in sub-paragraphs (a) or (b) of this definition. For the purpose of each iTraxx Contract, reference in the iTraxx Terms Supplement and the Credit Derivatives Definitions to a **"Credit Derivatives Transaction"** shall be deemed to be references to a CDS Contract and references to an **"iTraxx® Master Transaction"** shall be deemed references to an iTraxx Contract.

- (v) **"Eligible iTraxx Index"** means each particular series and version (of a Set which is eligible for Clearing) of an iTraxx index or sub-index, as published by the iTraxx Publisher, included from time to time in the List of Eligible iTraxx Indices.
- (vi) **"List of Eligible iTraxx Indices"** means the list of Eligible iTraxx Indices, maintained, updated and published from time to time by the Clearing House, specifying the following information with respect to each index: (a) the name and series, including any applicable sub-index designation; (b) the "Effective Date"; (c) one or more eligible "Scheduled Termination Dates" and the applicable "Fixed Rate" for each such date; (d) the Relevant iTraxx Terms Supplement; (e) the versions (and related annex dates) eligible for Clearing; and (f) any inactive versions (and related annex dates), i.e., those that have been determined to be fungible with later versions.
- (vii) **"Relevant iTraxx Terms Supplement"** means, with respect to an Eligible iTraxx Index, the iTraxx Terms Supplement specified for such Eligible iTraxx Index in the List of Eligible iTraxx Indices.

**(b) Terms of the Cleared iTraxx Contract**

- (i) Any capitalised term used in paragraph 11.2 but not defined in paragraph 11.2 or elsewhere in the Rules or Procedures shall have the meaning provided in the Relevant iTraxx Terms Supplement.
- (ii) For purposes of these CDS Procedures, the CDS Region for each iTraxx Contract is the European Region.
- (iii) Each iTraxx Contract will be governed by the Relevant iTraxx Terms Supplement, as modified by this paragraph 11.2, whether or not the relevant Bilateral CDS Transaction was in a form comprising the Relevant iTraxx Terms Supplement. In the event of any inconsistency between the Relevant iTraxx Terms Supplement or the Confirmation (including in electronic form) for an iTraxx Contract and this paragraph 11.2, this paragraph 11.2 will govern.
- (iv) For the purposes of any determination as to whether a Credit Event has occurred in respect of a Reference Entity or an Obligation thereof:
  - (A) at any time up to but excluding June 20, 2009; or
  - (B) if (1) a Credit Event Resolution Request Date occurs or (2) a Credit Event Notice and a Notice of Publicly Available Information are deemed delivered pursuant to paragraph 6.2(f) by a Notifying Party, in either case before June 20, 2009,

the Credit Event Backstop Date with respect to such determination shall be deemed to be the Effective Date.
- (v) For the purposes of any determination as to whether a Succession Event has occurred in respect of a Reference Entity:
  - (A) at any time up to but excluding June 20, 2009; or
  - (B) if (1) a Succession Event Resolution Request Date occurs or (2) a Succession Event Notice is deemed delivered pursuant to paragraph 6.2(f), in either case before June 20, 2009,



the Succession Event Backstop Date with respect to such Reference Entity shall be deemed to be the Effective Date.

(c) **Terms of iTraxx Contracts Governed by Standard iTraxx CDS Supplement**

With respect to each iTraxx Contract for which the iTraxx Confirmation and the Standard iTraxx CDS Supplement forms the Relevant iTraxx Terms Supplement, the following terms will apply:

- (i) The terms of the Standard iTraxx CDS Supplement are hereby amended as follows:
  - (A) by the deletion of paragraph 2 thereof ~~other than in circumstances where, in relation to CDS Contracts arising pursuant to the Rules, an Initial Payment may be payable by or to the Clearing House under a CDS Contract~~ Weekly Clearing;
  - (B) the provisions of paragraph 7.3(a) thereof relating to the transfer of Component Transactions shall be subject to any transfers of or other dealings with the relevant iTraxx Contract (including in particular the provisions of paragraph 7 hereof) by the Clearing House permitted or authorised by the Rules;
  - (C) ~~by adding the following as a new sub-paragraph (c) at the end of Paragraph 7.3 (Transfer and Termination of Component Transactions):~~

"(c) If a Credit Event Announcement is made by the Regional CDS Committee in respect of an Applicable Credit Event, then from and including the calendar day immediately following the date of such Credit Event Announcement, the parties shall take such actions (if any) as shall be necessary to implement the RCE Solution (as defined in the CDS Procedures) published by the Regional CDS Committee in relation to such Credit Event Announcement."; and
  - (D) by the deletion of paragraph 7.7 (*De Minimis Cash Settlement*).
- (ii) The terms of the iTraxx Confirmation are hereby amended as follows:
  - (A) Deleting the words "ISDA Master Agreement" in the fourth line of the first paragraph and replacing it with "CDS Master Agreement";
  - (B) Deleting the fourth paragraph thereof and replacing it with the following: "This Confirmation supplements, forms a part of and is subject to the CDS Master Agreement between the relevant CDS Clearing Member and the Clearing House (the Agreement). All provisions contained in, or incorporated by reference in, the Agreement shall govern this Confirmation except as expressly modified below.";
  - (C) The "Calculation Agent" is the Clearing House, except as expressly provided otherwise in the Rules or the CDS Procedures;
  - (D) The "Source of Relevant Annex" is "Publisher";
  - (E) There are no "Excluded Reference Entities";
  - (F) There are no "Additional terms"; and
  - (G) Deleting the contact details for notices and the account details.

## CDS PROCEDURES CLEARING

- (iii) The following terms will be determined from the iTraxx Confirmation which relates to the particular iTraxx Contract submitted for Clearing:
- (A) Which of the Eligible iTraxx Indices is the "Index", including its version and series number;
  - (B) Which of the eligible Scheduled Termination Dates specified for the Index in the List of Eligible iTraxx Indices is the "Scheduled Termination Date";
  - (C) The "Original Notional Amount";
  - (D) The "Floating Rate Payer";
  - (E) The "Fixed Rate Payer";
  - (F) The "Annex Date";
  - (G) The "Initial Payment Payer", ~~where relevant~~, other than in relation to CDS Contracts arising pursuant to Weekly Clearing; and
  - (H) The "Initial Payment Amount", ~~where relevant~~, other than in relation to CDS Contracts arising pursuant to Weekly Clearing.

### 11.3 iTraxx Europe (CDS Contracts with Acceptance Time before the MCA/STS Changeover Time; provisions applying until the MCA/STS Changeover Time)

- (a) Definitions specific to this paragraph 11.3.
- (i) "iTraxx Contract" means a CDS Contract in respect of any Eligible iTraxx Index and governed by a Master Confirmations Agreement. Subject to the other requirements of these procedures, a CDS Contract will be an iTraxx Contract where the related Bilateral CDS Transaction specifies, as the relevant Index, any Eligible iTraxx Index, whether or not that Bilateral CDS Transaction is itself governed by a Master Confirmations Agreement.
  - (ii) "iTraxx Publisher" means Markit Group Limited or one of its subsidiaries, or any successor sponsor of the Eligible iTraxx Indices it publishes.
  - (iii) "iTraxx Rules" means the provisions of the Rules and these CDS Procedures.
  - (iv) "Master Confirmations Agreement" means each of the following: (a) an iTraxx Master Credit Derivatives Confirmation Agreement including the General Terms Confirmation (the "General Terms Confirmation") as supplemented by the trade details applicable to the relevant iTraxx Master Transaction (the "Master Confirmation") as set forth in the relevant Transaction Supplement (the "Transaction Supplement"), all in the form published by Markit Group Limited (formerly Mark-it Partners Ltd.) as the "Consolidated version dated 18 March 2005" incorporating the changes set out in the Series 2 Amendment Agreement<sup>22</sup> as amended as set out in the form of the amendment agreement published by Markit Group Limited (formerly Mark-it Partners Ltd.) as the "Series 4 Amendment to the iTraxx Master Credit Derivatives Confirmation Agreement dated as of 20 September 2005" or, in the case of the Transaction Supplement, such electronic equivalent thereto as is used by Deriv/SERV (together the "Standard Master Confirmations Agreement") or (b) such other document or supplement as may be specified in relation to any Eligible iTraxx Index by the Clearing House including any successor to any of the documents listed in sub-paragraph (a) of this definition. For the purpose of each iTraxx Contract, reference in the Master Confirmations Agreement and the Credit Derivatives

## CDS PROCEDURES CLEARING

Definitions to a "Credit Derivatives Transaction" shall be deemed to be references to a CDS Contract and references to an "iTraxx® Master Transaction" shall be deemed references to an iTraxx Contract.

- (v) "Eligible iTraxx Index" means each particular series and version (of a Set which is eligible for Clearing) of an iTraxx index or sub-index, as published by the iTraxx Publisher, included from time to time in the List of Eligible iTraxx Indices.
- (vi) "List of Eligible iTraxx Indices" means the list of Eligible iTraxx Indices, maintained, updated and published from time to time by the Clearing House, specifying the following information with respect to each index: (a) the name and series, including any applicable sub-index designation; (b) the "Effective Date"; (c) one or more eligible "Scheduled Termination Dates" and the applicable "Fixed Rate" for each such date; (d) the Relevant Master Confirmations Agreement; (e) the versions (and related annex dates) eligible for Clearing; and (f) any inactive versions (and related annex dates), i.e., those that have been determined to be fungible with later versions.
- (vii) "Relevant Master Confirmations Agreement" means, with respect to an Eligible iTraxx Index, the Master Confirmations Agreement specified for such Eligible iTraxx Index in the List of Eligible iTraxx Indices.

---

### (b) **Terms of the Cleared iTraxx Contract**

- (i) Any capitalised term used in paragraph 11.3 but not defined in paragraph 11.3 or elsewhere in the Rules or Procedures shall have the meaning provided in the Relevant Master Confirmations Agreement.
- (ii) For purposes of these CDS Procedures, the CDS Region for each iTraxx Contract is the European Region.
- (iii) Each iTraxx Contract will be governed by the Relevant Master Confirmations Agreement, as modified by this paragraph 11.3, as though the Clearing House and the relevant CDS Clearing Member had entered into the Relevant Master Confirmations Agreement, whether or not the relevant Bilateral CDS Transaction was in a form comprising the Relevant Master Confirmations Agreement. In the event of any inconsistency between the Relevant Master Confirmations Agreement or the Confirmation (including in electronic form) for an iTraxx Contract and this paragraph 11.3, this paragraph 11.3 will govern.
- (iv) For the purposes of any determination as to whether a Credit Event has occurred in respect of a Reference Entity or an Obligation thereof:
  - (A) at any time up to but excluding June 20, 2009; or
  - (B) if (1) a Credit Event Resolution Request Date occurs or (2) a Credit Event Notice and a Notice of Publicly Available Information are deemed delivered pursuant to paragraph 6.2(f) by a Notifying Party, in either case before June 20, 2009,

the Credit Event Backstop Date with respect to such determination shall be deemed to be the Effective Date.

- (v) For the purposes of any determination as to whether a Succession Event has occurred in respect of a Reference Entity:
  - (A) at any time up to but excluding June 20, 2009; or

**CDS PROCEDURES CLEARING**

- (B) if (1) a Succession Event Resolution Request Date occurs or (2) a Succession Event Notice is deemed delivered pursuant to paragraph 6.2(f), in either case before June 20, 2009,

the Succession Event Backstop Date with respect to such Reference Entity shall be deemed to be the Effective Date.

(c) **Terms of iTraxx Contracts Governed by Standard Master Confirmations Agreement**

With respect to each iTraxx Contract for which the Standard Master Confirmations Agreement forms the Relevant Master Confirmations Agreement, the following terms will apply:

- (i) The terms of the Standard Master Confirmations Agreement are hereby amended as follows:
  - (A) Adding, immediately before the words "each as published by" in the third line of the paragraph numbered 1 of the Master Confirmations Agreement and in the third line of the second paragraph of the General Terms Confirmation, the following: "and the 2009 ISDA Credit Derivatives Determinations Committees, Auction Settlement and Restructuring Supplement to the 2003 ISDA Credit Derivatives Definitions (published on July 14, 2009)";
  - (B) Deleting, in the paragraph numbered 2 of the Master Confirmations Agreement, the phrase "[1992/2002] ISDA Master Agreement ...dated as of [ ]" and replacing it with "CDS Master Agreement";
  - (C) Deleting paragraphs numbered 5, 6.1, 6.2 and 6.3 of the Master Confirmations Agreement in their entirety;
  - (D) Deleting in its entirety the last paragraph of the definition of "Reference Obligation" in the General Terms Confirmation that begins: "If the Index Sponsor publishes a replacement Reference Obligation";
  - (E) Deleting the words "Effective Date" from the final sentence of the first paragraph of the General Terms Confirmation and replacing them with the words "Succession Event Backstop Date";
  - (F) Providing in the General Terms Confirmation that the Calculation Agent is the Clearing House, except as expressly provided otherwise in the Rules, the Credit Derivatives Definitions or the CDS Procedures;
  - (G) Providing in the General Terms Confirmation and Transaction Supplement that there are no Excluded Reference Entities;
  - (H) Adding in paragraph 5 of the General Terms Confirmation, immediately after "Applicable Convention Terms" the phrase "and the Fallback Settlement Method applies in accordance with Section 12.1 of the Credit Derivatives Definitions";
  - (I) Deleting paragraph 6 of the General Terms Confirmation in its entirety;
  - (J) Deleting the square brackets at the beginning and end of paragraph 7.1 of the General Terms Confirmation;
  - (K) The provisions of paragraph 7.3(a) of the General Terms Confirmation relating to the transfer of Component Transactions shall be subject to any

## CDS PROCEDURES CLEARING

transfers of or other dealings with the relevant iTraxx Contract (including in particular the provisions of paragraph 7 hereof) by the Clearing House permitted or authorised by the Rules;

- (L) adding the following as new sub-paragraphs (c) and (d) at the end of Paragraph 7.3 (*Transfer and Termination of Component Transactions*):
- "(c) If a Credit Event Announcement is made other than by the Regional CDS Committee in respect of a Restructuring Credit Event with respect to a Reference Entity (such Reference Entity, a "**Restructured Entity**"), from and including the calendar day immediately following the date of such Credit Event Announcement;
- (i) the Restructured Entity shall be deemed to have been removed from the Index and the Relevant Annex;
- (ii) the Component Transaction relating thereto shall continue in full force and effect between the parties as an independent Credit Derivative Transaction referencing the Restructured Entity with the same economic terms and conditions as the Component Transaction immediately before such Credit Event Announcement, except that this Paragraph 7.3 shall be deemed not to apply (such new Transaction, a "**New Trade**"); and
- (iii) as soon as reasonably practicable after the Credit Event Announcement, the parties shall confirm the terms of the New Trade in their respective booking systems. Unless Resolved otherwise by a relevant Determining Body, such New Trade shall be recorded as a Credit Derivative Transaction referencing solely the Restructured Entity evidenced by a Confirmation for use with the Credit Derivatives Physical Settlement Matrix (as defined in the 2005 Matrix Supplement to the 2003 ISDA Credit Derivatives Definitions published on March 7, 2005) and incorporating the Credit Derivatives Physical Settlement Matrix terms applicable to the relevant Transaction Type for the Restructured Entity; provided that the appropriate version of the Credit Derivatives Physical Settlement Matrix and the relevant Transaction Type shall be selected by the Calculation Agent, acting in good faith and in a commercially reasonable manner, such that the economic terms of the New Trade as closely as possible preserve the economic equivalent of the Component Transaction immediately before the Credit Event Announcement;
- (d) If a Credit Event Announcement is made by the Regional CDS Committee in respect of a Restructuring Credit Event with respect to the Restructured Entity, then from and including the calendar day immediately following the date of such Credit Event Announcement, the parties shall take such actions (if any) as shall be necessary to implement the RCE Solution (as defined in the CDS Procedures) published by the Regional CDS Committee in relation to such Credit Event Announcement.";
- (M) Deleting paragraph 7.4 of the General Terms Confirmation in its entirety; and
- (N) The provisions in the Transaction Supplement relating to Additional Amounts shall be deemed deleted in their entirety ~~other than in circumstances where, for CDS Contracts arising pursuant to the Rules, an Initial Payment may be payable by or to the Clearing House under a CDS Contract~~Weekly Clearing.
- (ii) The following terms will be determined from the Transaction Supplement which relates to the particular iTraxx Contract submitted for Clearing:

## CDS PROCEDURES CLEARING

- (A) Which of the Eligible iTraxx Indices is the "Index", including its version and series number;
- (B) Which of the eligible Scheduled Termination Dates specified for the Index in the List of Eligible iTraxx Indices is the "Scheduled Termination Date";
- (C) The "Original Notional Amount";
- (D) The "Floating Rate Payer";
- (E) The "Fixed Rate Payer";
- (F) The "Additional Amount Payer", where relevant, other than in relation to CDS Contracts arising pursuant to Weekly Clearing; and
- (G) The "Additional Amount", where relevant, other than in relation to CDS Contracts arising pursuant to Weekly Clearing.

### 11.4 **iTraxx Europe (CDS Contracts with Acceptance Time before the MCA/STS Changeover Time; provisions applying after the MCA/STS Changeover Time)**

- (a) All CDS Contracts to which paragraph 11.3 applies and which form part of the Open Contract Position of a Clearing Member as at the MCA/STS Changeover Time will be deemed thereafter to be CDS Contracts on the terms set out in paragraph 11.2 and to which such paragraph applies, as modified below. The Annex Date will be the date of publication of the version of the index referred to in the Relevant Master Confirmations Agreement.
- (b) For the purposes of paragraph 11.4(a), the information in respect of each CDS Contract which would be determined (had the CDS Contract been one falling within paragraph 11.1(a)) by reference to the iTraxx Confirmation relating to the particular iTraxx Contract submitted for Clearing (as referred to in paragraph 11.2(c)) will instead be determined by reference to the CDS Contracts forming the relevant Open Contract Position of the relevant Clearing Member as at the MCA/STS Changeover Time.
- (c) From the MCA/STS Changeover Time, all CDS Contracts of a Set referencing a particular version and series of a particular Eligible iTraxx Index and having a particular Scheduled Termination Date and fixed rate and to which paragraph 11.3 had, up to that moment applied, shall be, and shall be treated as, fully fungible with all CDS Contracts of a Set referencing the same version and series of the same Eligible iTraxx Index having the same Scheduled Termination Date and fixed rate to which paragraph 11.2 applies.

### 11.5 **Updating Index Version of Fungible Contracts After a Credit Event or a Succession Event**

- (a) Where the iTraxx Publisher of an Eligible iTraxx Index publishes one or more subsequent versions or annexes of the relevant series following a Credit Event or a Succession Event with respect to a Reference Entity included in such series, and the Clearing House determines that iTraxx Contracts referencing the earlier version or annex of such series are fungible with iTraxx Contracts referencing a later version or annex of such series that is an Eligible iTraxx Index and so notifies CDS Clearing Members, iTraxx Contracts referencing the earlier version or annex of such series shall become iTraxx Contracts referencing such later version or annex of such series on the date determined by the Clearing House (the "Fungibility Date"). Any iTraxx Contracts referencing the earlier version or annex of such series submitted for clearing after the related Fungibility Date shall, upon acceptance for clearing, become an iTraxx Contract referencing the latest version or annex of such series, as the case may be, that the Clearing House has determined is fungible with such earlier version or annex.

- (b) The Clearing House may determine a different Fungibility Date applicable to individual iTraxx Contracts or groups of iTraxx Contracts or may determine a Fungibility Date applicable to all iTraxx Contracts referencing the earlier version or annex of a series described in paragraph 11.5(a), as it deems appropriate.

**12. CONTRACT TERMS FOR SINGLE NAME CDS CONTRACTS**

12.1 This paragraph 12 specifies the additional Contract Terms applicable to all SNEC Contracts arising on Clearing by the Clearing House of Bilateral CDS Transactions. In the event of any inconsistency between the relevant terms of a Bilateral CDS Transaction submitted for Clearing and this paragraph 12, this paragraph 12 will govern.

12.2 Definitions specific to this paragraph 12.

- (a) **"Eligible SNEC Reference Entities"** means each particular Reference Entity included from time to time in the List of Eligible SNEC Reference Entities by reference to a RED Code. Each RED Code shall be treated as referring to a separate Eligible SNEC Reference Entity.
- (b) **"Eligible SNEC Reference Obligations"** means, with respect to any SNEC Contract Reference Obligation for any Eligible SNEC Reference Entity, the Reference Obligations listed under the heading **"Eligible Reference Obligations"** for such SNEC Contract Reference Obligation and Eligible SNEC Reference Entity in the List of Eligible SNEC Reference Entities.

---

- (c) **"RED Code"** means each of the Reference Entity Database codes (as published by Markit Group Limited or any successor thereto).
- (d) **"List of Eligible SNEC Reference Entities"** means the list of Eligible SNEC Reference Entities, maintained, updated and published from time to time by the Clearing House, specifying the following information with respect to each Eligible SNEC Reference Entity:
  - (i) the name of such Eligible SNEC Reference Entity and the RED Code therefor;
  - (ii) the Relevant Physical Settlement Matrix;
  - (iii) the SNEC Contract Reference Obligation and each Eligible SNEC Reference Obligation therefor; and
  - (iv) each eligible **"Scheduled Termination Date"**.
- (e) **"Permitted SNEC Fixed Rates"** means the Fixed Rates permitted for a SNEC Contract, as determined from time to time by the Clearing House and notified to CDS Clearing Members.
- (f) **"Relevant Physical Settlement Matrix"** means, with respect to a SNEC Contract, the **"Credit Derivatives Physical Settlement Matrix"** applicable to such SNEC Contract, as specified in respect of the relevant Eligible SNEC Reference Entity in the List of Eligible SNEC Reference Entities.
- (g) **"SNEC Contract"** means a single name European corporate credit default swap, in the form of the Standard SNEC Confirmation, in respect of any Eligible SNEC Reference Entity having a combination of characteristics listed as eligible for such Eligible SNEC Reference Entity in, and permitted by, the List of Eligible SNEC Reference Entities.
- (h) **"SNEC Contract Reference Obligations"** means, with respect to any Eligible SNEC Reference Entity, the Reference Obligation(s) therefor which are listed under the heading **"SNEC Contract Reference Obligations"** in the List of Eligible SNEC Reference Entities.

- (i) **"Standard SNEC Confirmation"** means the Credit Derivatives Confirmation for use with the Credit Derivatives Physical Settlement Matrix, as published by ISDA in December 2009, as amended as set out below.

**12.3 Modifications to List of Eligible SNEC Reference Entities**

The Clearing House shall be entitled at any time subject to consultation with the CDS Risk Committee to do the following (such changes affecting only CDS Contracts resulting from Bilateral CDS Transactions not yet Cleared):

- (a) add and/or modify Permitted SNEC Fixed Rates,
- (b) add new Eligible SNEC Reference Entities, and add and/or modify any other entries in any of the fields in the List of Eligible SNEC Reference Entities, or
- (c) update the List of Eligible SNEC Reference Entities to give effect to determinations by the Regional CDS Committee (or applicable Dispute Resolver) or Credit Derivatives Determinations Committee, including, without limitation, determinations of Succession Events or Substitute Reference Obligations.

The Clearing House will notify the CDS Clearing Members by Circular of any such action.

**12.4 Self-referencing CDS**

In addition to the notice requirements contained in Rule 204 and the Membership Procedures, a CDS Clearing Member shall, subject to the following sentence, provide notice to the Clearing House if such CDS Clearing Member or an Eligible SNEC Reference Entity consolidates or amalgamates with, or merges into, or transfers all or substantially all of its assets to, the Eligible SNEC Reference Entity or such CDS Clearing Member, as applicable, or such CDS Clearing Member and an Eligible SNEC Reference Entity are the same entity or are or become Affiliates, or such CDS Clearing Member is subject to an agreement pursuant to which any of the foregoing is reasonably likely to occur. Such notification may be delayed for so long as the CDS Clearing Member is prevented by Applicable Laws from disclosing the information on the basis of which the notification is required. If a CDS Clearing Member is subject to an event or agreement described in this paragraph 12.4 or is party to any CDS Contract resulting from the Clearing of a Bilateral CDS Transaction which, as at the relevant Acceptance Time, was ineligible for Clearing pursuant to paragraph 4.11, the Clearing House may conduct an auction process to terminate all affected CDS Contracts (being the CDS Contracts referencing such Eligible SNEC Reference Entity) of such CDS Clearing Member (the "**Affected CDS Clearing Member**") and enter into equivalent CDS Contracts with other CDS Clearing Members by requesting firm quotations from all such CDS Clearing Members (each auction in such process, an "**SR Auction**"). Prior to determining the CDS Contracts to be subject to any such auction, where the Affected CDS Clearing Member acts as Buying Clearing Member and Selling Clearing Member in respect of CDS Contracts of the same Set, the Clearing House shall, in consultation with the CDS Default Committee as to the transaction sizes of resulting CDS Contracts to be auctioned (as below), net, offset, close out or terminate such CDS Contracts up to the extent that, following such netting, offsetting, closing out or termination, CDS Contracts representing in aggregate the Open Contract Position of the Affected CDS Clearing Member in the relevant Set are recognised. For these purposes, the Clearing House will provide the Affected CDS Clearing Member with a report detailing the CDS Contracts to be subject to netting, offsetting, closing out or termination. Thereafter, the Clearing House and Affected CDS Clearing Member, to the extent that it has all necessary information, will adjust the records in Deriv/SERV to reflect such netting, offsetting, closing out or termination. The Clearing House will hold an auction unless the Clearing House, in its discretion and after consultation with the CDS Risk Committee, believes that the circumstances are such that an auction may be inappropriate, in which case the Clearing House may take such other action in consultation with the CDS Risk Committee as it considers reasonably necessary to achieve its primary aim in these circumstances of addressing the risks resulting from a CDS Clearing Member being party to a CDS Contract where the reference entity is that CDS Clearing Member or one of its Affiliates, while endeavouring, as far as is reasonably practicable in the circumstances without prejudicing the achievement of the primary aim, to avoid materially and adversely affecting the Affected CDS Clearing Member. The Clearing House shall determine the timing and other



## CDS PROCEDURES CLEARING

particular characteristics of each SR Auction in consultation with the CDS Default Committee, including determining the size of the bid/offer spread and/or of the CDS Contracts to be auctioned, whether one or more SR Auctions are to be held and the timing and structure of such auctions (including the frequency at which firm bid and firm offer Quotations will be requested and the transaction size (that is, the Floating Rate Payer Calculation Amount)) and whether CDS Clearing Members (excluding the Affected CDS Clearing Member) will be required (as opposed to requested) to submit actionable quotations in an SR Auction, provided that CDS Clearing Members will not be notified of whether the CDS Contract(s) to be terminated pursuant to such process is for a CDS Clearing Member as CDS Buyer or CDS Seller.

The Clearing House will enter into CDS Contracts with the CDS Clearing Member(s) and in the amount and at the prices determined pursuant to the SR Auction, at which time the corresponding CDS Contracts of the Affected CDS Clearing Member shall be terminated by reference to the prices at which the Clearing House enters into such new CDS Contracts. The Affected CDS Clearing Member, the Clearing House, and the other CDS Clearing Members shall submit to Deriv/SERV the terms of such reduction, termination or new CDS Contract, as applicable and the Affected CDS Clearing Member will bear the cost of the associated bid/offer spread and any reasonable, out-of-pocket costs and expenses of the Clearing House in connection with such SR Auction(s) and its entering into such new CDS Contracts. Amounts owed by the Affected CDS Clearing Member to (or receivable by it from) the Clearing House in connection with any such reduction or termination shall be determined by the Clearing House by reference to the SR Auction(s). In addition, any Initial Payments, Margin, or other payments or deliveries owed (including the dates of settlement with respect thereto) relating to the Open Contract Positions increased, created, reduced or terminated pursuant to this paragraph 12.4 shall be as determined by the Clearing House with reference to the SR Auction(s) in accordance with the Procedures and, notwithstanding any other provision of the Rules, Initial Payments may be owed in respect to CDS Contracts entered into by the Clearing House pursuant to an SR Auction.

If an Affected Clearing Member is a Defaulter, this paragraph 12.4 shall not restrict the rights of the Clearing House to close out, terminate or liquidate any Contract in any other manner in accordance with Part 9 of the Rules.

### 12.5 **Terms of the Cleared SNEC Contract.**

- (a) The CDS Region for each SNEC Contract is the European Region.
- (b) The Standard SNEC Confirmation for each SNEC Contract shall be amended as follows:
  - (i) by deleting, in the second paragraph, the phrase "as supplemented by each of the May 2003 Supplement and the 2005 Matrix Supplement to the 2003 ISDA Credit Derivatives Definitions" and replacing it with the phrase "as supplemented by each of the 2005 Matrix Supplement to the 2003 ISDA Credit Derivatives Definitions and the 2009 ISDA Credit Derivatives Determinations Committees, Auction Settlement and Restructuring Supplement to the 2003 ISDA Credit Derivatives Definitions (published on July 14, 2009)";
  - (ii) by deleting, in the third paragraph, the square brackets and deleting, in the third paragraph, the phrase "the ISDA Master Agreement dated as of [date]" and replacing it with the phrase "CDS Master Agreement";
  - (iii) in part numbered 2, by deleting references to the Initial Payment Payer and the Initial Payment Amount in relation to CDS Contracts arising pursuant to Weekly Clearing and by deleting the ~~either~~ square brackets in such ~~section~~ part;
  - (iv) by deleting parts numbered 4, 5, 6 and 7 in their entirety; and
  - (v) by including a new part 4 as follows: "4. Additional Term: Section 2.31 (*Merger of Reference Entity and Seller*) of the Credit Derivatives Definitions shall not apply."

- (c) The provisions specified below of the Standard SNEC Confirmation for each SNEC Contract shall be completed as follows:
- (i) The "Transaction Type" is Standard European Corporate.
  - (ii) The "Matrix Publication Date" is the date of publication of the Relevant Physical Settlement Matrix.
  - (iii) The "Reference Obligation(s)" are the SNEC Contract Reference Obligation(s) specified in the List of Eligible SNEC Reference Entities with respect to the relevant Eligible SNEC Reference Entity.
  - (iv) The "Calculation Agent" is the Clearing House, except as provided in the Rules.
  - (v) The "Fixed Rate Payer Payment Dates" are March 20, June 20, September 20 and December 20.

- (d) For each SNEC Contract, the following terms will be determined according to the particular Bilateral CDS Transaction submitted for clearing, subject to paragraph 12.4:
- (i) Which of the Eligible SNEC Reference Entities is the "Reference Entity".
  - (ii) Which of the eligible Scheduled Termination Dates specified for the Reference Entity in the List of Eligible SNEC Reference Entities is the "Scheduled Termination Date".
  - (iii) The "Floating Rate Payer Calculation Amount".
  - (iv) The "Floating Rate Payer".
  - (v) The "Fixed Rate Payer".
  - (vi) The "Fixed Rate".

~~For the avoidance of doubt, the Clearing House will take no account of any provisions of the Bilateral CDS Transaction submitted for Clearing which provide for the payment of an Initial Payment Amount and accordingly the relevant SNEC Contracts will not contain any such provisions, as set out in Rule 15/02.~~

- (vii) The "Initial Payment Payer", other than in relation to CDS Contracts arising pursuant to Weekly Clearing; and
- (viii) The "Initial Payment Amount", other than in relation to CDS Contracts arising pursuant to Weekly Clearing.

- (e) Each SNEC Contract will be governed by the terms set out in paragraph 10 and this paragraph 12, whether or not the relevant Bilateral CDS Transaction was in an equivalent form.

## 12.6 Relevant Physical Settlement Matrix Updates

- (a) Where ISDA publishes a version of the Credit Derivatives Physical Settlement Matrix (a "New Matrix") that is subsequent to the version that is specified as the Relevant Physical Settlement Matrix for any SNEC Contract(s) (the "Existing Matrix"), and the Clearing House determines, subject to consultation with the CDS Risk Committee, that a SNEC Contract referring to the New Matrix would be fungible with a SNEC Contract referring to Existing Matrix (the date of such determination, the "Matrix Update Date" and each prior Credit Derivatives Physical Settlement Matrix subject to such determination, a "Superseded Matrix") and so notifies CDS

Clearing Members, such SNEC Contracts shall, as of the close of business on the Matrix Update Date, become SNEC Contracts referencing the New Matrix as the Relevant Physical Settlement Matrix and the List of Eligible SNEC Reference Entities shall be updated accordingly provided that the Clearing House shall not make any such determination where the New Matrix, when compared with the Existing Matrix, contains any change to a term that would apply to such SNEC Contract. Any Bilateral CDS Transaction referencing a Superseded Matrix submitted for Clearing as a SNEC Contract shall, upon acceptance for Clearing, become a SNEC Contract referencing the New Matrix.

- (b) The Clearing House may determine a different Matrix Update Date applicable to individual SNEC Contracts or groups of SNEC Contracts or may determine a Matrix Update Date applicable to all SNEC Contracts referencing a Superseded Matrix, as it deems appropriate.

**12.7 Amendments**

- (a) Where a Bilateral CDS Transaction which, upon Clearing, would give rise to two CDS Contracts which would be SNEC Contracts but for the specification of an Eligible SNEC Reference Obligation as the "Reference Obligation", then the Clearing House shall be entitled at its discretion to treat such Bilateral CDS Transaction, on Clearing, as though it had specified the SNEC Contract Reference Obligation specified for such Eligible SNEC Reference Obligation in the List of Eligible SNEC Reference Entities.

- (b) In addition to the acceptance process described in paragraph 4, the Clearing House's Acceptance Notice to the relevant CDS Clearing Members in relation to the relevant Bilateral CDS Transaction shall include details of any adjustment that will be made by the Clearing House pursuant to this paragraph. Submission of data in relation to CDS Contracts to Deriv/SERV under paragraph 4.4 shall take account of any such adjustments set out by the Clearing House in the Acceptance Notice.

**13. CONTRACT TERMS FOR SOVEREIGN CONTRACTS**

13.1 This paragraph 13 specifies the additional Contract Terms applicable to all Sovereign Contracts arising on Clearing by the Clearing House of Bilateral CDS Transactions. In the event of any inconsistency between the relevant terms of a Bilateral CDS Transaction submitted for Clearing and this paragraph 13, this paragraph 13 will govern.

13.2 Definitions specific to this paragraph 13.

- (a) "**Eligible Sovereign Reference Entities**" means each particular Reference Entity included from time to time in the List of Eligible Sovereign Reference Entities by reference to a RED Code. Each RED Code shall be treated as referring to a separate Eligible Sovereign Reference Entity.
- (b) "**Eligible Sovereign Reference Obligations**" means, with respect to any Sovereign Contract Reference Obligation for any Eligible Sovereign Reference Entity, the Reference Obligations listed under the heading "Eligible Reference Obligations" for such Sovereign Contract Reference Obligation and Eligible Sovereign Reference Entity in the List of Eligible Sovereign Reference Entities.
- (c) "**RED Code**" means each of the Reference Entity Database codes (as published by Markit Group Limited or any successor thereto).
- (d) "**List of Eligible Sovereign Reference Entities**" means the list of Eligible Sovereign Reference Entities, maintained, updated and published from time to time by the Clearing House, specifying the following information with respect to each Eligible Sovereign Reference Entity:
  - (i) the name of such Eligible Sovereign Reference Entity and the RED Code therefor;

- (ii) the Relevant Physical Settlement Matrix;
  - (iii) the Sovereign Contract Reference Obligation and each Eligible Sovereign Reference Obligation therefor;
  - (iv) each eligible "Scheduled Termination Date"; and
  - (v) with respect to any Sovereign Contract relating to such Eligible Sovereign Reference Entity, the currency in which the Floating Rate Payer Calculation Amount must be denominated and the currency to be used for the calculation of Margin.
- (e) **"Permitted Sovereign Fixed Rates"** means the Fixed Rates permitted for a Sovereign Contract, as determined from time to time by the Clearing House and notified to CDS Clearing Members by Circular.
- (f) **"Relevant Physical Settlement Matrix"** means, with respect to a Sovereign Contract, the "Credit Derivatives Physical Settlement Matrix" applicable to such Sovereign Contract, as specified in respect of the relevant Eligible Sovereign Reference Entity in the List of Eligible Sovereign Reference Entities.
- (g) **"Sovereign Contract"** means a single name Standard Western European Sovereign (as defined in the Relevant Physical Settlement Matrix) credit default swap, in the form of the Standard Sovereign Confirmation, in respect of any Eligible Sovereign Reference Entity having a combination of characteristics listed as eligible for such Eligible Sovereign Reference Entity in, and permitted by, the List of Eligible Sovereign Reference Entities.
- (h) **"Sovereign Contract Reference Obligations"** means, with respect to any Eligible Sovereign Reference Entity, the Reference Obligation(s) therefor which are listed under the heading "Sovereign Contract Reference Obligations" in the List of Eligible Sovereign Reference Entities.
- (i) **"Standard Sovereign Confirmation"** means the Credit Derivatives Confirmation for use with the Credit Derivatives Physical Settlement Matrix, as published by ISDA in April 2010, as amended as set out below.

**13.3 Modifications to List of Eligible Sovereign Reference Entities**

The Clearing House shall be entitled at any time subject to consultation with the CDS Risk Committee to do the following (such changes affecting only CDS Contracts resulting from Bilateral CDS Transactions not yet Cleared):

- (a) add and/or modify Permitted Sovereign Fixed Rates,
- (b) add new Eligible Sovereign Reference Entities, and add and/or modify any other entries in any of the fields in the List of Eligible Sovereign Reference Entities, or
- (c) update the List of Eligible Sovereign Reference Entities to give effect to determinations by the European Regional CDS Committee (or applicable Dispute Resolver) or Credit Derivatives Determinations Committee, including, without limitation, determinations of Succession Events or Substitute Reference Obligations.

The Clearing House will notify the CDS Clearing Members by Circular of any such action.

**13.4 Self-referencing CDS**

In addition to the notice requirements contained in Rule 204 and the Membership Procedures, a CDS Clearing Member shall, subject to the following sentence, provide notice to the Clearing House if such

## CDS PROCEDURES CLEARING

CDS Clearing Member consolidates or amalgamates with, or merges into, or transfers all or substantially all of its assets to, an Eligible Sovereign Reference Entity, or such CDS Clearing Member and an Eligible Sovereign Reference Entity are or become Affiliates, or such CDS Clearing Member is subject to an agreement pursuant to which any of the foregoing is reasonably likely to occur. Such notification may be delayed for so long as the CDS Clearing Member is prevented by Applicable Laws from disclosing the information on the basis of which the notification is required. If a CDS Clearing Member is subject to an event or agreement described in this paragraph 13.4 or is party to any CDS Contract resulting from the Clearing of a Bilateral CDS Transaction which, as at the relevant Acceptance Time, was ineligible for Clearing pursuant to paragraph 4.11, the Clearing House may conduct an auction process to terminate all affected CDS Contracts (being the CDS Contracts referencing such Eligible Sovereign Reference Entity) of the Affected CDS Clearing Member and enter into equivalent CDS Contracts with other CDS Clearing Members by means of SR Auctions. Prior to determining the CDS Contracts to be subject to any such auction, where the Affected CDS Clearing Member acts as Buying Clearing Member and Selling Clearing Member in respect of CDS Contracts of the same Set, the Clearing House shall, in consultation with the CDS Default Committee as to the transaction sizes of resulting CDS Contracts to be auctioned (as below) net, offset, close out or terminate such CDS Contracts up to the extent that, following such netting, offsetting, closing out or termination, CDS Contracts representing in aggregate the Open Contract Position of the Affected CDS Clearing Member in the relevant Set are recognised. For these purposes, the Clearing House will provide the Affected CDS Clearing Member with a report detailing the CDS Contracts to be subject to netting, offsetting, closing out or termination. Thereafter, the Clearing House and Affected CDS Clearing Member, to the extent that it has all necessary information, will adjust the records in Deriv/SERV to reflect such netting, offsetting, closing out or termination. The Clearing House will hold an auction unless the Clearing House, in its discretion and after consultation with the CDS Risk Committee, believes that the circumstances are such that an auction may be inappropriate, in which case the Clearing House may take such other action in consultation with the CDS Risk Committee as it considers reasonably necessary to achieve its primary aim in these circumstances of addressing the risks resulting from a CDS Clearing Member being party to a CDS Contract where the reference entity is that CDS Clearing Member or one of its Affiliates, while endeavouring, as far as is reasonably practicable in the circumstances without prejudicing the achievement of the primary aim, to avoid materially and adversely affecting the Affected CDS Clearing Member. The Clearing House shall determine the timing and other particular characteristics of each SR Auction in consultation with the CDS Default Committee, including determining the size of the bid/offer spread and/or of the CDS Contracts to be auctioned, whether one or more SR Auctions are to be held and the timing and structure of such auctions (including the frequency at which firm bid and firm offer Quotations will be requested and the transaction size (that is, the Floating Rate Payer Calculation Amount)) and whether CDS Clearing Members (excluding the Affected CDS Clearing Member) will be required (as opposed to requested) to submit actionable quotations in an SR Auction, provided that CDS Clearing Members will not be notified of whether the Open Contract Position to be terminated pursuant to such process is for a CDS Clearing Member as CDS Buyer or CDS Seller.

The Clearing House will enter into CDS Contracts with the CDS Clearing Member(s) and in the amount and at the prices determined pursuant to the SR Auction, at which time the corresponding CDS Contracts of the Affected CDS Clearing Member shall be terminated by reference to the prices at which the Clearing House enters into such new CDS Contracts. The Affected CDS Clearing Member and the other CDS Clearing Members shall submit to Deriv/SERV the terms of such termination or new CDS Contract, as applicable, and the Affected CDS Clearing Member will bear the cost of the associated bid/offer spread and any reasonable, out-of-pocket costs and expenses of the Clearing House in connection with such SR Auction(s) and its entering into such new CDS Contracts. Amounts owed by the Affected CDS Clearing Member to (or receivable by it from) the Clearing House in connection with any such reduction or termination shall be determined by the Clearing House by reference to the SR Auction(s). In addition, any Initial Payments, Margin, or other payments or deliveries owed (including the dates of settlement with respect thereto) relating to the Open Contract Positions increased, created, reduced or terminated pursuant to this paragraph 13.4 shall be as determined by the Clearing House with reference to the SR Auction(s) in accordance with the Procedures and, notwithstanding any other provision of the Rules, Initial Payments may be owed in respect to CDS Contracts entered into by the Clearing House pursuant to an SR Auction.

If an Affected Clearing Member is a Defaulter, this paragraph 13.4 shall not restrict the rights of the Clearing House to close out, terminate or liquidate any Contract in any other manner in accordance with Part 9 of the Rules.

**13.5 Terms of the Cleared Sovereign Contract.**

- (a) The CDS Region for each Sovereign Contract is the European Region.
- (b) The Standard Sovereign Confirmation for each Sovereign Contract shall be amended as follows:
  - (i) by deleting, in the second paragraph, the phrase "as supplemented by each of the May 2003 Supplement and the 2005 Matrix Supplement to the 2003 ISDA Credit Derivatives Definitions" and replacing it with the phrase "as supplemented by each of the 2005 Matrix Supplement to the 2003 ISDA Credit Derivatives Definitions and the 2009 ISDA Credit Derivatives Determinations Committees, Auction Settlement and Restructuring Supplement to the 2003 ISDA Credit Derivatives Definitions (published on July 14, 2009)";
  - (ii) by deleting, in the third paragraph, the square brackets and deleting, in the third paragraph, the phrase "the ISDA Master Agreement dated as of [date]" and replacing it with the phrase "CDS Master Agreement";
  - (iii) in part numbered 2, by deleting references to the Initial Payment Payer and the Initial Payment Amount in relation to CDS Contracts arising pursuant to Weekly Clearing and by deleting the square brackets in such part-numbered 2;
  - (iv) by deleting parts numbered 4, 5, 6 and 7 in their entirety; and
  - (v) by including a new part 4 as follows:
 

"4. Additional Terms: Section 2.31 (*Merger of Reference Entity and Seller*) of the Credit Derivatives Definitions shall not apply."
- (c) The provisions specified below of the Standard Sovereign Confirmation for each Sovereign Contract shall be completed as follows:
  - (i) The "Transaction Type" is Standard Western European Sovereign.
  - (ii) The "Matrix Publication Date" is the date of publication of the Relevant Physical Settlement Matrix.
  - (iii) The "Reference Obligation(s)" are the Sovereign Contract Reference Obligation(s) specified in the List of Eligible Sovereign Reference Entities with respect to the relevant Eligible Sovereign Reference Entity.
  - (iv) The "Calculation Agent" is the Clearing House, except as provided in the Rules.
  - (v) The "Fixed Rate Payer Payment Dates" are March 20, June 20, September 20 and December 20.
- (d) For each Sovereign Contract, the following terms will be determined according to the particular Bilateral CDS Transaction submitted for clearing:
  - (i) Which of the Eligible Sovereign Reference Entities is the "Reference Entity".
  - (ii) Which of the eligible Scheduled Termination Dates specified for the Reference Entity in the List of Eligible Sovereign Reference Entities is the "Scheduled Termination Date".

- (iii) The "Floating Rate Payer Calculation Amount".
- (iv) The "Floating Rate Payer".
- (v) The "Fixed Rate Payer".
- (vi) The "Fixed Rate", "Fixed Rate".

For the avoidance of doubt, the Clearing House will take no account of any provisions of the Bilateral CDS Transaction submitted for Clearing which provide for the payment of an Initial Payment Amount and accordingly the relevant Sovereign Contracts will not contain any such provisions, as set out in Rule 1502.

- (vii) The "Initial Payment Payer", other than in relation to CDS Contracts arising pursuant to Weekly Clearing; and
- (viii) The "Initial Payment Amount", other than in relation to CDS Contracts arising pursuant to Weekly Clearing.

- (e) Each Sovereign Contract will be governed by the terms set out in paragraph 10 and this paragraph 13, whether or not the relevant Bilateral CDS Transaction was in an equivalent form.

**13.6 Relevant Physical Settlement Matrix Updates**

- (a) Where ISDA publishes a version of the Credit Derivatives Physical Settlement Matrix (a "New Matrix") that is subsequent to the version that is specified as the Relevant Physical Settlement Matrix for any Sovereign Contract(s) (the "Existing Matrix"), and the Clearing House determines, subject to consultation with the CDS Risk Committee, that a Sovereign Contract referring to the New Matrix would be fungible with a Sovereign Contract referring to Existing Matrix (the date of such determination, the "Matrix Update Date" and each prior Credit Derivatives Physical Settlement Matrix subject to such determination, a "Superseded Matrix") and so notifies CDS Clearing Members, such Sovereign Contracts shall, as of the close of business on the Matrix Update Date, become Sovereign Contracts referencing the New Matrix as the Relevant Physical Settlement Matrix and the List of Eligible Sovereign Reference Entities shall be updated accordingly provided that the Clearing House shall not make any such determination where the New Matrix, when compared with the Existing Matrix, contains any change to a term that would apply to such Sovereign Contract. Any Bilateral CDS Transaction referencing a Superseded Matrix submitted for Clearing as a Sovereign Contract shall, upon acceptance for Clearing, become a Sovereign Contract referencing the New Matrix.
- (b) The Clearing House may determine a different Matrix Update Date applicable to individual Sovereign Contracts or Sets of Sovereign Contracts or may determine a Matrix Update Date applicable to all Sovereign Contracts referencing a Superseded Matrix, as it deems appropriate.

**13.7 Amendments**

- (a) Where a Bilateral CDS Transaction which, upon Clearing, would give rise to two CDS Contracts which would be Sovereign Contracts but for the specification of an Eligible Sovereign Reference Obligation as the "Reference Obligation", then the Clearing House shall be entitled at its discretion to treat such Bilateral CDS Transaction, on Clearing, as though it had specified the Sovereign Contract Reference Obligation specified for such Eligible Sovereign Reference Obligation in the List of Eligible Sovereign Reference Entities.
- (b) In addition to the acceptance process described in paragraph 4, the Clearing House's Acceptance Notice to the relevant CDS Clearing Members in relation to the relevant Bilateral CDS Transaction shall include details of any adjustment that will be made by the Clearing House pursuant to this paragraph. Such CDS Clearing Members' resubmission of the terms of such

**CDS PROCEDURES CLEARING**

Bilateral CDS Transaction shall include the adjustments set out by the Clearing House in the Acceptance Notice.



Document comparison by Workshare Professional on 11 April 2011 09:01:50

<b>Input:</b>	
Document 1 ID	PowerDocs://LNDOCS01/663886/11
Description	LNDOCS01-#663886-v11-CDS_Procedures_with_random_changes_and_sovs
Document 2 ID	PowerDocs://LNDOCS01/697281/1
Description	LNDOCS01-#697281-v1-Trade_Date_CDS_Procedures
Rendering set	Unsaved rendering set

<b>Legend:</b>	
<u>Insertion</u>	
Deletion	
<del>Moved from</del>	
<u>Moved to</u>	
Style change	
Format change	
<del>Moved deletion</del>	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

<b>Statistics:</b>	
	Count
Insertions	530
Deletions	539
Moved from	8
Moved to	8
Style change	0
Format changed	0
Total changes	1085